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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 9926/2018 & CM No. 38671/2018

CPS OIL AND GAS EQUIPMENTS PVT. LTD. Petitioner

Through: Mr Manik Dogra with Mr Siddharth
Das, Advocates.

versus

OIL AND NATURAL GAS CORPORATION
LIMITED

..... Respondent

Through: Mr Akshay Amritanshu, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **01.11.2018**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a) Issue a writ, order or direction quashing the Show Cause Notice bearing No. DLH/ OEC/MM /CPS /Enquiry /2018 dated 17.07.2018 and the proceedings emanating therefrom in respect to the Purchase Order bearing No. 4050009739 dated 13.01.2015, Tender No. ZNEKC14002/2014-15 dated 10.06.2014 and Tender No.ZNEMC 15001/2015-16 dated 17.08.2015 issued by the Petitioner.”

2. The petitioner is, essentially, aggrieved by the Show Cause Notice dated 17.07.2018 (hereafter ‘the impugned SCN’) issued by the respondent corporation (ONGC) calling upon the petitioner to show cause as to why it should not be barred from participating in future tenders or dealing with ONGC. The petitioner claims that the impugned SCN is not sustainable as

prior to the issuance of the impugned SCN, a Show Cause Notice dated 17.03.2017 based on allegations identical to the ones as stated in the impugned SCN, was issued. The petitioner had responded to the same to the satisfaction of ONGC.

3. Mr Dogra, learned counsel appearing for the petitioner states that the petitioner's response to the earlier Show Cause Notice was accepted and proceedings against the petitioner were dropped (or kept in abeyance). He contends that once having accepted the petitioner's explanation in respect to the allegations, it is now no longer open for ONGC to recommence proceedings on the same allegations.

4. In addition, he submits that the allegations made in the petition are *ex facie* untenable and, therefore, the impugned SCN is liable to be quashed.

5. The learned counsel appearing for ONGC contests the aforesaid contention. He submits that the proceedings in respect of the earlier Show Cause Notice had been kept in abeyance to carry out certain investigations and, therefore, the impugned SCN was issued after the investigations were completed. He states that since no additional facts were found during the investigations, the impugned SCN is in the same terms of the earlier Show Cause Notice. He also submits that the petitioner had taken contrary stands in its responses to queries raised by ONGC.

6. This Court does not consider it apposite to examine the rival contentions in these proceedings, as the matter is still at the stage of a show cause notice. ONGC has issued the impugned SCN to afford the petitioner an opportunity to meet the allegations. Concededly, it would be open for the petitioner to take advance all contentions before ONGC. It is also seen that

the allegation that the petitioner had submitted contradictory responses is not one of the allegations made in the impugned SCN.

7. At this stage, learned counsel for ONGC states that a fresh show cause notice would be issued to the petitioner and a decision would be taken after examining the petitioner's response and affording the petitioner an opportunity to be heard.

8. In view of the above statement, impugned SCN is deemed to be withdrawn. ONGC is at liberty to issue a fresh show cause notice and pass an appropriate order after affording the petitioner a reasonable opportunity of being heard.

9. Needless to state that all contentions of the petitioner are open including the contention that it is not open for ONGC to issue a second show cause notice on the same grounds as the earlier show cause notice.

10. The petition is disposed of in the aforesaid terms. The pending application is, accordingly, disposed of.

VIBHU BAKHRU, J

NOVEMBER 01, 2018
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