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

\+ CS(COMM) 872/2017 & I.A.594/2018 (u/O 39 Rule 4 CPC by D-1), I.A. 2511/2018 (Delay of 8 days in filing reply), I.A.15384/2017 (u/O XXXIX R 1 and 2 CPC)

IL&FS FINANCIAL SERVICES LTD. ..... Plaintiff

Through: Mr. Sandeep Sethi, Sr. Advocate with Mr. Nikhil Nayyar, Ms. Pritha Srikumar, Ms. Neha Mathew & Mr. Dhananjay Baijal, Advocates

versus

PTC INDIA LIMITED AND ORS. ..... Defendants

Through: Mr. Basra Prabhu Patil, Sr. Advocate with Mr. Ravi Kishore & Mr. Deepak Jaiswal, Advocates for D-1
Ms. Manita Verma, Advocate for D-3
Mr. Jitendra Kr. Singh, Standing Counsel for D-4

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

<u>O R D E R</u>

% 22.02.2018

1. After arguments, it is agreed that the suit and the pending applications can be disposed of and the same are disposed of with the following consent order:-

(i) The subject Bank Guarantee dated 04.08.2016 bearing No.00007IG160000045 issued by the defendant No.2 bank/Indian Bank through its G-41, Connaught Circus

Branch, New Delhi will be renewed by the plaintiff for one year at a time and renewal will take place of the subject Bank Guarantee at least 30 days prior to its expiry and under intimation to the defendant No.2. Bank Guarantee will remain renewed for the period of the adjudication of the claims which the defendant No.1 may have as against plaintiff No.2. It is also clarified that if no claims are initiated by the defendant No.1 against the plaintiff No.2, whether through arbitration proceedings or by filing any other appropriate proceedings in a civil court within one year from today, then, in such circumstances the plaintiff will not have the obligation to renew the Bank Guarantee further.

(ii) In view of the fact that plaintiff No.2 has agreed to keep on renewing the Bank Guarantee as stated above, this Bank Guarantee will not be encashed by the defendant No.1 except in accordance with the terms of the present order or in case the defendant No.1 is successful in establishing its claims in a court of law or in arbitration, then, for satisfaction of such claims on being finally adjudicated, the defendant No.1 can encash the Bank Guarantee and the defendant No.2-bank will be liable to pay the amount of Bank Guarantee in such circumstances to the defendant No.1.

(iv) It is also made clear that this Court has expressed no opinion whatsoever on the merits of the cases of the respective parties with respect to any claims or counter claims and such aspects will be decided by the concerned Court or by the arbitrator without in any manner being influenced by the present order.

2. Suit is accordingly disposed of in terms of the aforesaid consent order leaving parties to bear their own costs. All pending applications will also be disposed of accordingly.

VALMIKI J. MEHTA, J

FEBRUARY 22, 2018
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