

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 28.01.2020

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.30447 of 2019

and

W.M.P. Nos.30459 & 30462 of 2019

Smartgen Infra Pvt Ltd.
Door -1-90/5/C, Plot 38,
RK Plaza, 2nd Floor,
Vittal Rao Nagar, Madhapur,
Hyderabad 500081, India.
Represented by its CEO,
Mr.R.Vijaykumar

.... Petitioner

Vs.

1. NLC India Ltd
(Formerly Neyveli Lignite Corporation Ltd),
Having its Registered Office At Egmore complex,
First Floor, No.8, Mayor Sathyamurthy Road,
FSD, Chetpet, Chennai - 600 031.
2. The Bank Manager,
State Bank of India, SME Branch, HACA BHAVAN,
OPP: Public Gardens, Saifabad,
Hyderabad-500004.
Also at: 16, College Lane
Nungambakkam, Chennai,
TamilNadu - 600 006.
3. Ergo Exergy Technologies incorporation,
465, Rue St. Jun, Porte 1000 Montreal,
Quebec H2Y 2R6, Canada.
Rep by its Director.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus or any other appropriate Writ, order or direction in the nature of a MANDAMUS directing the 1st respondent to cancel and return the Bank Guarantee dated 20.04.2019 bearing Ref.No.0505519BG0001372 in view of cancellation of the subject tender and pass such

further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Petitioner : Mr.Sathish Parasaran,
Senior Counsel,
For R.Parthasarathy

For Respondents : Mr.N.Nithianandam (for R1)
Mr.R.Imayavaramban
for M/s.Ramalingam Associates (for R2)

ORDER

The writ petition has been filed for a direction to the first respondent to cancel and return the bank guarantee bearing Ref.No.0505519BG0001372 in view of the cancellation of the tender. At this stage, since a representation is made by the learned Senior Counsel Mr.Sathish Parasaran that the writ petition itself is to be withdrawn by them, I am not going into the merits of the case.

2. In the order dated 24.10.2019 passed by this Court, it is stated as follows:

'8. Having regard to the rival submissions made in the light of the aforesaid legal position, in order to protect the interests of the contesting parties till these applications are decided finally, the Second Respondent, viz., the Bank Manager, State Bank of India, SME Branch, Hyderabad, shall immediately invest the amount payable under the Bank Guarantee in an interest fetching Fixed Deposit in the same Bank in the name of the Registrar General of this Court initially for a period of one year and renewable automatically, awaiting further orders of this Court in these applications. The original receipt of the Fixed Deposit shall be handed over by the Second Respondent to the Registrar General of this Court by 14.11.2019 for safe custody under written acknowledgement and copies of the same shall be given to the petitioner and the the First Respondent'.

3. Pursuant to the said directions, an amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only) had been deposited to

the credit of 'The Registrar General, High Court of Judicature at Madras' on 15.11.2019. This bears account No.38922112253.

4. In view of the fact that the writ petition is being withdrawn today and in view of the fact that the said amount of Rs.50,00,000/- (Rupees Fifty Lakhs Only) has been paid to Neyveli Lignite Corporation India Ltd which is the first respondent herein, which fact is also acknowledged by the learned counsel for the first respondent, it would only be proper to issue a direction to The Registrar General, High Court of Judicature at Madras to return the original Fixed Deposit for a sum of Rs.50,00,000/- (Rupees Fifty Lakhs Only), dated 15.11.2019, bearing account No.38922112253 back to the petitioner with proper acknowledgement and identification and thereafter, the petitioner may present the same before the second respondent, namely, State Bank of India, Nungambakkam, Chennai and the said bank which is also represented by learned counsel may pay back the Fixed Deposit amount to the petitioner herein.

5. Learned counsel for the petitioner has also made the following endorsement:

'The present writ petition is being withdrawn, since the Bank Guarantee amount has been paid. The writ may be therefore withdrawn with liberty given to the petitioner to receive the receipt for Fixed deposit from the Registrar General, High Court'.

6. In view of the same, the writ petition is disposed of as withdrawn. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The NLC India Ltd
(Formerly Neyveli Lignite Corporation Ltd),
Having its Registered Office At Egmore complex,
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2. The Bank Manager,
State Bank of India, SME Branch, HACA BHAVAN,
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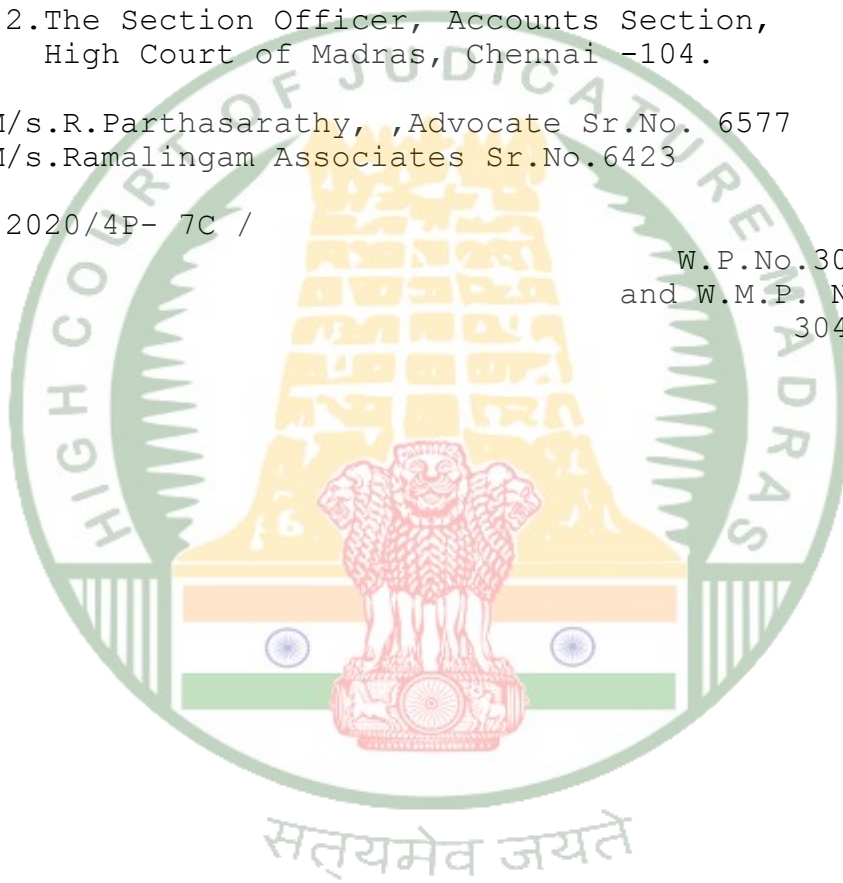
Copy to : 1.The Registrar General,
High Court of Madras, Chennai -104.

2.The Section Officer, Accounts Section,
High Court of Madras, Chennai -104.

+1 cc to M/s.R.Parthasarathy, ,Advocate Sr.No. 6577
+2 cc to M/s.Ramalingam Associates Sr.No.6423

AKM/04.02.2020/4P- 7C /

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