

\$~28

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **O.M.P.(I) (COMM.) 16/2020, I.A. 982/2020**  
**POWER MAX (INDIA) PVT. LTD**

..... Petitioner

Through: Mr. Manish Srivastava, Mr. Rijul  
Taneja and Ms. Shivangi, Advs.

versus

**JINDAL URBAN WASTE MANAGEMENT (GUNTUR) LTD. &  
ANR.**

..... Respondent

Through: Mr. Manoj K. Singh, Mr. Vijay Singh  
and Mr. Anurag Abhishek, Advs. for  
R-1  
Dr. Kumar Jwala, Mr. Rajiv Singh  
and Ms. Suruchi, Advs. for R-2

**CORAM:**  
**HON'BLE MR. JUSTICE V. KAMESWAR RAO**  
**ORDER**  
% **24.01.2020**

**I.A. 982/2020 (for exemption)**

Exemption allowed subject to all just exceptions.

Application stands disposed of.

**O.M.P.(I) (COMM.) 16/2020**

1. The present petition has been filed by the petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 with the following prayers:

*“In view of the facts and circumstances as stated above, it is most respectfully prayed that this Hon'ble Court may be pleased to pass an order:*

*(a) Restraining Respondent No. 1, its agents, officers,*

*employees etc. from invoking and/ or encashing Bank Guarantee(s) as detailed Paragraph No. 11*

*herein above issued by Respondent No.2 and*

*(b) Restraining Respondent No. 2, its agents, officers, employees etc. from making any payment to Respondent No. 1 under Bank Guarantee(s) as detailed in Paragraph No. 11 herein above; and/ or In alternative, if amount is already released by the Respondent no. 2 in favour of the Respondent no. 1 under Advance Bank Guarantee(s) as detailed Paragraph No. 11,*

*(c) Direct the Respondent No. 1, its agents, officers, employees etc. to pay and deposit the complete amount received under Bank Guarantee(s) as detailed in Paragraph No. 11 to the Petitioner; and/ or*

*(d) ad-interim reliefs in terms of prayer (a) to (b) above.*

*(e) for costs;*

*(f) Pass any such other or further orders as may be deemed fit by this Hon'ble Court in facts and circumstances of the present case.”*

2. The only submission made by Mr. Manish Srivastava, learned counsel appearing for the petitioner is that the invocation of Bank Guarantees is not in accordance with the terms thereof, inasmuch as the Bank Guarantees contemplates invocation only in the eventuality of any loss, damages, cost, charges caused to the purchaser due to the non fulfilment of terms by the seller. In this regard, he has drawn my attention to the invocation letters dated January 20, 2020.

3. After hearing the counsel for some time, Mr. Manoj K. Singh, learned counsel appearing for the respondent No.1 states as per his instructions the invocation letters dated January 20, 2020 shall be withdrawn and fresh invocation letters shall be issued by the respondent No.1 by adding appropriate words like loss / damages / cost or charges.
4. Noting the said submission, the petition is disposed of, having become infructuous. Liberty is with the petitioner to challenge the fresh invocation in accordance with law.
5. *Dasti* under the signature of the Court Master.

**V. KAMESWAR RAO, J**

**JANUARY 24, 2020/aky**