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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO(OS) (COMM) 28/2020 and CM APPL. 4945-46/2020**
M/S METRO BUILDERS (ORISSA) PVT LTD Appellant
Through: Mr. Narender Hooda, Senior Advocate
with Mr. Simranjeet Singh, Advocate
versus
INDIAN OIL CORPORATION LTD Respondent
Through: Mr. Anish Dayal and Mr. Siddharth
Vaid, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

% **07.02.2020**

1. The appellant/petitioner is aggrieved by an order dated 20.11.2019, passed by the learned Single Judge, whereby a petition moved by it, purportedly for condonation of delay of 111 days in re-filing a Section 34 petition filed by it under the Arbitration & Conciliation Act, 1996 (in short 'A&C Act') assailing an Arbitral Award dated 10.08.2018, has been dismissed.

2. Under the impugned order, the learned Single Judge has treated refiling of the petition by the counsel for the appellant/petitioner as fresh filing on the ground that the original petition filed on 22.12.2018, was not taken back from the Registry for curing the defects pointed out and instead, fresh filing took place on 27.05.2019. The said fresh filing was held to be beyond the prescribed period of limitation, as clarified by the Supreme Court in Simplex Infrastructure Ltd. vs. Union of India (UOI) reported as **2019(2) SCC 455**.

3. After addressing arguments for some time, Mr. Hooda, learned Senior Advocate appearing for the appellant/petitioner states on instructions that the appellant/petitioner may be permitted to withdraw the present appeal while reserving its right to seek its remedies, as may be available to it in law.

4. Without making any observations on such a course of action if at all available to the appellant/petitioner or on the merits/demerits of the pleas that may be taken by it in this regard and further, while reserving the right of the respondent to oppose such a petition as the appellant/petitioner may file, the present appeal is disposed of as not pressed alongwith the pending applications.

HIMA KOHLI, J

ASHA MENON, J

FEBRUARY 07, 2020

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