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

+ O.M.P.(I) (COMM.) 48/2020

TOTO OUT SOURCING SOLUTIONS PVT. LTD. (PREVIOUSLY
KNOW AS KARNATAKA AVIATION SUPPORT SERVICE PVT.
LTD.) Petitioner

Through: Mr. Samar Kachwaha, Mr. R.
Sudhinder and Mr. Nikhil Kr. Singh,
Adv.

versus

AIRPORT AUTHORITY OF INDIA,
BANGALORE

..... Respondent

Through: Mr. Anil Kathuria, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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25.02.2020

This petition has been filed by the petitioner with the following prayers:

“In light of the facts and circumstances stated herein above, it is therefore most humbly prayed before this Hon'ble Court that it may be pleased to:

a) Restrain the Respondent from acting contrary to Arbitral Award dated 18.01.2020, inter-alia by issuing any demand or taking any coercive measure, to recover the sum of Rs. 47, 26,925/- (Rupees Forty Seven Lacs Twenty Six Thousand Nine Hundred Twenty Five Only) representing levy of service tax on licence fees for the period of 10.09.2004 to 31.03.2006.

b) Direct the Respondent to release/return the Bank Guarantee No. 53/2016 dated 07.12.2016 in favour of

Airport Authority of India, Bangalore drawn on Canara Bank amounting to Rs. 70 Lakhs to the Petitioner;

c) Pending grant of provisions in terms of prayer (b), pass an injunction restraining the Respondent to invoke/ encash the Bank Guarantee No. 53/2016 dated 07.12.2016 in favour of Airport Authority of India, Bangalore drawn on Canara Bank amounting to Rs. 70 Lakhs till final disposal of the instant petition.

d) Pass any other order in favour of the Petitioner that this Hon'ble Court may deem fit in the interest of justice.”

It is the case of the petitioner that the *inter-se* disputes between the parties have been adjudicated by the learned Arbitrator who has allowed the claims with regard to certain demands made by the respondent herein in lieu of service tax on the licence fee.

Mr. Anil Kathuria, learned counsel appearing for the respondent states that the impugned communication dated February 5, 2020 was issued by the respondent to the petitioner only for the reason that the challenge to the award may not become infructuous if the bank guarantee is allowed to expire.

He states that the respondent intends to challenge the award on or before April 18, 2020 by filing a petition under Section 34 of the Arbitration and Conciliation Act, 1996, when limitation as prescribed in Section 34 shall expire. He also states, till such time, the interest of the respondent be protected.

This submission of learned counsel for the respondent is agreeable to Mr. Samar Kachwaha, learned counsel for the petitioner and accordingly the petition is disposed of extending the interim order which was passed by this court on February 18, 2020 till April 25, 2020, within which period, it is

expected, the respondent shall get the petition listed and seek appropriate orders.

Petition stands disposed of.

Dasti under the signatures of Court Master.

V. KAMESWAR RAO, J

FEBRUARY 25, 2020/jg