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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 30.06.2020

LPA 152/2020 & CM APPL.12203/2020 (Stay)

INDIAN OIL CORPORATION LTD

.....Appellant

versus

ASHWINI MEHRA RESOLUTION

PROFESSIONAL OF PUNJ LLOYD & ORS.Respondents

Advocates who appeared in this case:

For the Appellant : Mr. V.N. Koura, Ms. Mona Aneja and Mr.
Anupam Roy, Advocates

For the Respondents : Mr. Rajiv Nayar, Senior Advocate with Mr.
Kartik Nayar, Ms. Anindita Roychowdhury, Mr.
Piyush Mishra, Ms. Vatsala Rai and Mr. Raghav
Chadha, Advocates for R-1

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

JUDGMENT

SIDDHARTH MRIDUL, J. (via Video Conferencing)

1. The present Letters Patent Appeal, instituted on behalf of the appellant/Indian Oil Corporation Limited (IOCL), assails the judgment and order dated 17.04.2020 rendered by the learned Single Judge of

this Court in Writ Petition (Civil) No. 2966/2020 titled as '*Ashwini Mehra vs. Indian Oil Corporation Ltd. & Ors.*', whereby it was observed as follows:-

“8. In the circumstances, Mr. Nayar only seeks a limited amnesty for his client by way of a restraint against the IOCL, from encashing the aforesaid three bank guarantees, till expiry of one week from lifting of the lockdown, imposed by the Central Government, which is presently in force till 3 May, 2020.

9. On this submission being put to him, Mr. Koura, even while expressing his difficulty in conceding thereto, submits that even if this Court is inclined to grant in such limited relief to the petitioner, it ought to be clarified that such relief is granted to the petitioner only in view of the stalemate, with respect to the petitioner's inability to move the NCLT at present, and should not be treated as an expression of opinion, even tentative, regarding the merits of the case or the entitlement, of the petitioner, to any injunction against invocation or encashment of the bank guarantees as sought.

10. The submission appears, to me, to be eminently reasonable.

11. Mr. Nayar, too, does not object thereto.

12. In this view of the matter, I do not think it is necessary to keep this writ petition pending any further before this Court. Accordingly, this writ petition is disposed of by granting limited relief, to the petitioner, to the extent that, till the expiry of period of one week from the lifting of the lockdown, imposed by the Central Government, consequent to n-COVID-2019 pandemic, the IOCL shall remain enjoined from encashing/invoking the aforesaid three bank guarantees, i.e. Bank Guarantee No. 0346415BG0000105 dated 9th December, 2015 for an amount of Rs.14,73,82,051/- issued by Respondent No.2, Bank Guarantee No. 160127IBGA00005 dated 25th February, 2016 for an amount of

Rs.29,47,64,102/- and Bank Guarantee No.160127IBGA00014 dated 19th April, 2016 issued by Respondent No. 3 for an amount of Rs.49,44,58,134/-, till the expiry of one week from the lifting of the lockdown imposed by the Central Government, which is presently in force till 3rd May, 2020.

13. It is made absolutely clear that this Court has not entered into the merits of the matter, though this Court has recorded the submissions of Mr. Nayar, and that no observation in this order should be treated as a reflection, even *prima facie*, regarding the merits of the case or the entitlement of the petitioner, to any injunction against invocation or encashment of the bank guarantees in question.”

2. As recorded in a previous order sheet dated 19.06.2020, it is an admitted position that consequent upon the lifting of the lockdown, the Resolution Professional/respondent Mr. Ashwini Mehra has instituted an appropriate proceeding before the learned National Company Law Tribunal (for short ‘NCLT’) *qua* the dispute that constituted the subject matter of the subject writ petition.

3. It is further an admitted position that, the proceedings instituted on behalf of the Resolution Professional/respondent are pending adjudication before the learned NCLT, wherein the Indian Oil Corporation Ltd., the appellant herein, is also appearing.

4. In the circumstances, the limited amnesty granted to the Resolution Professional/respondent by way of an order of restraint against the Indian Oil Corporation Limited, the appellant, from encashing the subject bank guarantees, has worked itself out pursuant

to the lifting of the lockdown and the pendency of the proceeding before the learned NCLT.

5. In view of the forgoing, the present appeal instituted on behalf of the Indian Oil Corporation Ltd., has been rendered infructuous.

6. However, it is made clear that we have not made any observation, even *prima facie*, regarding the merits of the case or the entitlement of the Resolution Professional/respondent to any injunction against the invocation or encashment of the subject bank guarantees in the present *lis*.

7. No further directions are called for.

8. With the above directions, the appeal is dismissed as having become infructuous and disposed of accordingly. The pending application also stands disposed of.

9. A copy of this order be provided to the learned counsel appearing on behalf of the parties, electronically and also be uploaded on the website of this Court forthwith.

SIDDHARTH MRIDUL
(JUDGE)

TALWANT SINGH
(JUDGE)

JUNE 30, 2020
dn/as