IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 1568 OF 2021

IN

COMMERCIAL ARBITRATION PETITION NO. 406 OF 2019

Leighton India Contractors Private Limited (Formerly known as Leighton Contractors (India) Pvt. Ltd. ... Applicant

<u>In the matter between</u>

Oil and Natural Gas Corporation Ltd. ... Petitioner

vs.

Leighton India Contractors Private Limited (Formerly known as Leighton Contractors (India) Pvt. Ltd. ... Respondent

Mr. Srinivas Deshmukh a/w. Mr Ramesh Rajput i/b. M/s. Mulla & Mulla & CBE and Mr. Nikhil Rathod from the Applicant / Org. Respondent.

Mr. Hemant Prabhulkar i/b. Jurisperitus a/w. Mr. S. J. Rao authorised Officer of the Petitioner (ONGC)

CORAM : A. K. MENON, J.
DATED : 24th AUGUST, 2021.

P.C. :

1. By this interim application the applicant-original respondent in the Arbitration Petition seeks to renew bank guarantee in a sum of 178,21,50,000/- issued in favour of the petitioner and furnished pursuant to

order dated 5th September, 2019 passed in Notice of Motion No. 831 of 2019 in the above Commercial Arbitration Petition. It is submitted that the bank guarantee expires on 16th September, 2021 is proposed to be renewed for further period of two years. In view of the order directing providing incremental guarantees to cover interest accrued on the original amount of Rs. 150 crores, the applicant seeks leave to furnish a bank guarantee of different bank in a sum of Rs.33,52,22,415/- to secure covers interest from 17th September, 2021 upto 16th September, 2023.

2. At the hearing of the application today both learned counsel state that they have arrived at a consensual arrangement and have reduced that to writing in the form of consent terms of even date whereby they have agreed that the bank guarantee issued by Standard Chartered Bank shall be renewed for a further period of two years in a sum of 178,21,50,000/- with its validity extended upto 16th September, 2023. It is also agreed that the applicant will now provide a Supplemental Bank Guarantee issued by HSBC Limited in a sum of Rs.33,52,22,415/- to secure interest from 17th September, 2021 to 16th September, 2023.

3. Consent terms tendered today are signed by parties and Advocates. Signatories are present and have confirmed execution of the consent terms and I accordingly pass the following order :

(i) There will be an order in terms of the consent terms taken on record and marked "A" for identification.

(ii) Extension of bank guarantee in terms of the minutes issued by Standard Chartered Bank shall be furnished on or before 6th September, 2021.

(iii) Likewise supplemental bank guarantee per clause 5(b) of the consent terms to be issued by HSBC shall also be furnished on or before 6th September, 2021.

(iv) Parties shall ensure that the guarantees are unconditional and without demur or protest.

(v) Interim Application disposed in the above terms.

(vi) All concerned to act on an authenticated copy of this order.

(A. K. MENON, J.)