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

% *Date of Decision: 14th September, 2023*

+ O.M.P.(I) (COMM.) 302/2023

A C HUMIDIN AIR SYSTEM PVT LTD Petitioner
Through: Mr. Shreshth Jain, Advocate

versus

SHAPOORJI PALLONJI AND COMPANY PVT LTD AND
SHOPOORJI QATAR WLL (JV) Respondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

I.A. 17817/2023 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

O.M.P.(I) (COMM.) 302/2023 and I.A. 17818/2023 (stay)

3. This petition has been filed by the Petitioner under Section 9 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as '1996 Act') seeking restraint against the Respondent, its officials, agents and representatives from invoking the Performance Bank Guarantee (PBG) bearing No. 11870000819 drawn on Punjab National Bank for a sum of Rs.25,00,000/-.
4. Factual score to the extent necessary is that Petitioner is a Company incorporated under the Companies Act, 2013 and Respondent is a Joint Venture which had issued a Sub-Contract dated 09.06.2018 for supply of ventilation fans required by Respondent at



ITPO Complex at Pragati Maidan, New Delhi. The Contract was entered into between the parties on 09.06.2018 and the value of the work under the amended Contract was to the tune of Rs.8,14,23,073/-. According to the Petitioner, it supplied the technical data shield, requisite drawings, inspection test plan, material delivery schedule, GST registration certificate etc. to the Respondent immediately after issue of the Letter of Intent.

5. In order to secure the performance of the Contract, Respondent required the Petitioner to furnish a PBG. Accordingly, the Petitioner furnished a PBG dated 01.08.2019 for 5% of the Contract value with a validity period of two years. The Bank Guarantee ('BG') was given by Oriental Bank of Commerce (now Punjab National Bank) in favour of the Respondent as a beneficiary. Petitioner avers that there was no time frame fixed for performance of the contract and Petitioner has been performing its part of the contract and supplying ventilation fans without any fault or delay. Despite this, after a span of almost one and a half years, Respondent stopped placing orders or taking delivery of the fans already manufactured. Respondent is in breach of the contractual terms and despite several e-mails of the Petitioner that it is facing financial losses everyday as Respondent is refusing to pick up nearly 156 fans, lying with the Petitioner, no steps were taken by the Respondent to fulfill its obligations.

6. Learned counsel for the Petitioner contends that being itself in breach, Respondent has illegally and wrongfully written to the Bank on 31.07.2023 invoking the PBG, which amounts to fraud on the Petitioner. Petitioner is running into losses on account of the breach of the sub-contract by the Respondent and if the PBG is encashed, the



entire business of the Petitioner would come to a standstill. Thus the encashment of PBG be restrained as this would be inequitable to the Petitioner.

7. It is further contended that initially the business relationships between the parties were extremely cordial and Respondent after inspection and receipt of proforma invoice had made payment to the Petitioner to the tune of Rs.40,98,797/- but thereafter, disputes started when Respondent failed to make payment against invoice dated 03.11.2020 for the longest time. Once the fans are manufactured, Respondent cannot shirk its liability to take delivery, more so, when the goods are perishable in nature and prone to rusting, if kept for a long time. Learned counsel therefore prays that Respondent be restrained from invoking the PBG bearing No. 11870000819 drawn on Punjab National Bank for a sum of Rs.25,00,000/-.

8. I have heard the learned counsel for the Petitioner and examined his contentions.

9. Law on invocation/encashment of unconditional bank guarantees is no longer *res integra*. It is settled that invocation/encashment of unconditional bank guarantees is not interdicted as a general rule and Courts must be reluctant in injuncting the encashment. It is equally settled that bank guarantee is an independent contract between the Bank and the beneficiary and invocation is not conditional on the disputes between the parties under the main contract except where those disputes are a pre-condition of invocation. Bank is not concerned with the disputes between the parties to the contract and is bound to honour the onerous obligation when the beneficiary invokes a bank guarantee. In law, there are few exceptions



to this rule i.e. fraud, which is egregious, injustice when irretrievable and equities when special. It is only in these circumstances, which must be pleaded and established, that a Court would be justified in interdicting the invocation of an unconditional bank guarantee. Certainly, the law recognizes distinction between an unconditional and a conditional BG and as held by the Supreme Court in ***Vinitec Electronics Private Ltd. v. HCL Infosystems Ltd., (2008) 1 SCC 544***, where the terms of BG disclose a condition for invocation, it is conditional and if conditions are not met or fulfilled, injunction may follow, however, in case of an unconditional BG unless the exceptions are made out, injunction is not granted. I may in this context refer to the judgment of the Supreme Court in ***Gujarat Maritime Board v. Larsen and Toubro Infrastructure Development Projects Limited and Another, (2016) 10 SCC 46***, where the Supreme Court examining a BG furnished by the Bank held as follows:-

“12. An injunction against the invocation of an absolute and an unconditional bank guarantee cannot be granted except in situations of egregious fraud or irretrievable injury to one of the parties concerned. This position also is no more res integra. In Himadri Chemicals Industries Ltd. v. Coal Tar Refining Co., (2007) 8 SCC 110, at para 14: (SCC pp. 117-18)

“14. From the discussions made hereinabove relating to the principles for grant or refusal to grant of injunction to restrain enforcement of a bank guarantee or a letter of credit, we find that the following principles should be noted in the matter of injunction to restrain the encashment of a bank guarantee or a letter of credit:

(i) While dealing with an application for injunction in the course of commercial dealings, and when an unconditional bank guarantee or letter of credit is given or accepted, the beneficiary is entitled to realise such a bank guarantee or a letter of credit in terms thereof irrespective of any pending disputes relating to the terms of the contract.



(ii) *The bank giving such guarantee is bound to honour it as per its terms irrespective of any dispute raised by its customer.*

(iii) *The courts should be slow in granting an order of injunction to restrain the realisation of a bank guarantee or a letter of credit.*

(iv) *Since a bank guarantee or a letter of credit is an independent and a separate contract and is absolute in nature, the existence of any dispute between the parties to the contract is not a ground for issuing an order of injunction to restrain enforcement of bank guarantees or letters of credit.*

(v) *Fraud of an egregious nature which would vitiate the very foundation of such a bank guarantee or letter of credit and the beneficiary seeks to take advantage of the situation.*

(vi) *Allowing encashment of an unconditional bank guarantee or a letter of credit would result in irretrievable harm or injustice to one of the parties concerned."*

10. In ***Vinitec Electronics (supra)***, the Supreme Court referring to the celebrated decision in ***U.P. State Sugar Corporation v. Sumac International Ltd., (1997) 1 SCC 568*** and other judgments on the subject held as under:-

"11. The law relating to invocation of bank guarantees is by now well settled by a catena of decisions of this Court. The bank guarantees which provided that they are payable by the guarantor on demand is considered to be an unconditional bank guarantee. When in the course of commercial dealings, unconditional guarantees have been given or accepted the beneficiary is entitled to realise such a bank guarantee in terms thereof irrespective of any pending disputes. In U.P. State Sugar Corpn. v. Sumac International Ltd. [(1997) 1 SCC 568] this Court observed that: (SCC p. 574, para 12)

"12. The law relating to invocation of such bank guarantees is by now well settled. When in the course of commercial dealings an unconditional bank guarantee is given or accepted, the beneficiary is entitled to realise such a bank guarantee in terms thereof irrespective of any pending disputes. The bank giving such a guarantee is bound to honour it as per its terms irrespective of any dispute raised by its customer. The very purpose of giving such a bank guarantee would otherwise be



defeated. The courts should, therefore, be slow in granting an injunction to restrain the realisation of such a bank guarantee. The courts have carved out only two exceptions. A fraud in connection with such a bank guarantee would vitiate the very foundation of such a bank guarantee. Hence if there is such a fraud of which the beneficiary seeks to take advantage, he can be restrained from doing so. The second exception relates to cases where allowing the encashment of an unconditional bank guarantee would result in irretrievable harm or injustice to one of the parties concerned. Since in most cases payment of money under such a bank guarantee would adversely affect the bank and its customer at whose instance the guarantee is given, the harm or injustice contemplated under this head must be of such an exceptional and irretrievable nature as would override the terms of the guarantee and the adverse effect of such an injunction on commercial dealings in the country. The two grounds are not necessarily connected, though both may coexist in some cases.”

12. *It is equally well settled in law that bank guarantee is an independent contract between bank and the beneficiary thereof. The bank is always obliged to honour its guarantee as long as it is an unconditional and irrevocable one. The dispute between the beneficiary and the party at whose instance the bank has given the guarantee is immaterial and of no consequence. In BSES Ltd. v. Fenner India Ltd. [(2006) 2 SCC 728] this Court held: (SCC pp. 733-34, para 10)*

“10. There are, however, two exceptions to this rule. The first is when there is a clear fraud of which the bank has notice and a fraud of the beneficiary from which it seeks to benefit. The fraud must be of an egregious nature as to vitiate the entire underlying transaction. The second exception to the general rule of non-intervention is when there are ‘special equities’ in favour of injunction, such as when ‘irretrievable injury’ or ‘irretrievable injustice’ would occur if such an injunction were not granted. The general rule and its exceptions has been reiterated in so many judgments of this Court [Ed.: See e.g. U.P. State Sugar Corpn. v. Sumac International Ltd., (1997) 1 SCC 568 at pp. 574-77, paras 12-16; State of Maharashtra v. National Construction Co., (1996) 1 SCC 735 at p. 741, para 13. See also United Commercial Bank v. Bank of India, (1981) 2 SCC 766; Centax (India) Ltd. v. Vinmar Impex Inc., (1986) 4 SCC 136.] , that in U.P. State Sugar Corpn. v. Sumac International Ltd. [(1997) 1 SCC 568] (hereinafter ‘U.P. State Sugar Corpn. [(1997) 1 SCC 568]’) this Court, correctly declared that the law was ‘settled’.”

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14. *In Mahatma Gandhi Sahakra Sakkare Karkhane v. National Heavy Engg. Coop. Ltd. [(2007) 6 SCC 470] this Court observed: (SCC p. 471b-d)*

“If the bank guarantee furnished is an unconditional and irrevocable one, it is not open to the bank to raise any objection whatsoever to pay the amounts under the guarantee. The person in whose favour the guarantee is furnished by the bank cannot be prevented by way of an injunction from enforcing the guarantee on the pretext that the condition for enforcing the bank guarantee in terms of the agreement entered into between the parties has not been fulfilled. Such a course is impermissible. The seller cannot raise the dispute of whatsoever nature and prevent the purchaser from enforcing the bank guarantee by way of injunction except on the ground of fraud and irretrievable injury.

What is relevant are the terms incorporated in the guarantee executed by the bank. On careful analysis of the terms and conditions of the guarantee in the present case, it is found that the guarantee is an unconditional one. The respondent, therefore, cannot be allowed to raise any dispute and prevent the appellant from encashing the bank guarantee. The mere fact that the bank guarantee refers to the principal agreement without referring to any specific clause in the preamble of the deed of guarantee does not make the guarantee furnished by the bank to be a conditional one.”

*(Paras 22 and 28)
(emphasis supplied)*

11. Coming home, a Co-ordinate Bench of this Court in ***CRSC Research and Design Institute Group Co. Ltd. v. Dedicated Freight Corridor Corporation of India Limited and Others, 2020 SCC OnLine Del 2100***, culled out principles to be kept in mind while examining the request for restraining invocation of unconditional BGs, from the judgment of the Supreme Court in ***Vinitec Electronics (supra)***, as follows:-

“26. *The following principles clearly emerge from the decision in Vinitec Electronics, (2008) 1 SCC 544:*

(i) Bank guarantees, which are payable on demand by the guarantor, are unconditional bank guarantees.



(ii) *Unconditional bank guarantees entitled the guarantor to realisation thereof, irrespective of any pending disputes. In fact, disputes between the guarantor, and the parties, at whose instance the bank has given the guarantee, are immaterial and of no consequence. Enforcement of the guarantee cannot be enjoined on the pretext that the condition for enforcing the bank guarantee, in terms of the agreement between the parties, has not been fulfilled. What is relevant are the terms incorporated in the guarantee (and not those in the agreement between the parties). The mere fact that the bank guarantee refers to the principal agreement, without referring to any specific clause, does not make the bank guarantee conditional.*

(iii) *Courts should, therefore, be slow in injunction realisation of unconditional bank guarantees.*

(iv) *The only exceptions, to this general rule, are where there exist/exists*

(a) fraud of an egregious nature, or

(b) irretrievable injustice resulting to the parties, at whose instance the bank gave the guarantee, were the injunction not granted, or

(c) special equities, of which the possibility of irretrievable injustice is itself one.

(v) "Irretrievable injustice", for this purpose, has to be of such an exceptional nature as would override the terms of the guarantee and the adverse effect of the grant of such injunction on commercial dealings in the country."

12. The judgment was upheld by the Division Bench of this Court in ***CRSC Research and Design Institute Group Co. Ltd. v. Dedicated Freight Corridor Corporation of India Limited and Others, 2020 SCC OnLine Del 1526*** observing as under:-

"7. The settled law with respect to grant of an injunction which has the effect of restraining encashment of a bank guarantee, is (a) when in the course of commercial dealings an unconditional bank guarantee is given or accepted, the beneficiary is entitled to realize such a bank guarantee in terms thereof irrespective of any pending disputes; (b) the Bank giving such a guarantee is bound to honour it as per its terms, irrespective of any dispute raised by its customer; (c) the very purpose of giving such a bank guarantee would otherwise be defeated; (d) the Courts should therefore be slow in granting an injunction to restrain the realization of such a bank guarantee; (e) the Courts have carved out only two exceptions



i.e. (i) a fraud in connection with such a bank guarantee would vitiate the very foundation of such a bank guarantee - if there is such a fraud of which the beneficiary seeks to take the advantage, he can be restrained from doing so; fraud has to be an established fraud which the bank knows of and the evidence must be clear, both as to the fact of fraud and as to the bank's knowledge; and, (ii) the second exception relates to cases where allowing the encashment of an unconditional bank guarantee would result in irretrievable harm or injustice to one of the parties concerned; since in most cases payment of money under such a bank guarantee would adversely effect the bank and its customers at whose instance the guarantee is given, the harm or injustice contemplated under this head must be of such an exceptional and irretrievable nature as would override the terms of the guarantee and the adverse effect of such an injunction on commercial dealings in the country; it must be proved to the satisfaction of the Court that there would be no possibility whatsoever of the recovery of the amount from the beneficiary, by way of restitution.

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15. We are unable to agree with the contention of the senior counsel for the appellant that this Court, when approached for the interim measure of interference with unequivocal, absolute and unconditional BGs, is required to interpret the contract and/or form a prima facie opinion whether the beneficiary of the BGs has wrongfully invoked the BGs. Such exercise, in our view, is to be done in a substantive proceeding to be initiated by the appellant for recovery of the monies of the BGs, if averred to have been wrongly taken by the respondent No. 1 by encashment of BGs. If any interim relief is also claimed in the said substantive proceedings, the need for taking a prima facie view, will arise therein; however not while dealing with an application for the interim measure of restraining invocation/encashment of BGs. In the said proceedings, no question of taking a prima facie view arises and the enquiry is confined to, whether on the basis of the documents, a case of fraud of egregious nature in the matter of obtaining/furnishing BGs, is made out. As far as the argument of the senior counsel for the appellant, of special equities is concerned, the same is but a facet of the second exception aforesaid of irretrievable harm or injustice. Needless to state that from the entire arguments of the senior counsel for the appellant, no case of fraud of egregious nature in the matter of making/obtaining of the BGs is made out. All that emerges is that there are disputes between the appellant and the respondent No. 1 and it is not even whispered that the respondent No. 1 built the entire charade of entering into the contract, only to obtain BGs and to profiteer from the appellant. With respect to the ground urged by the senior counsel for the appellant, of special equities, the Solicitor General has stated that the appellant is a



Chinese entity and if ultimately in arbitration, which has already commenced between the parties, the monies are found due to the respondent No. 1 from the appellant, the respondent No. 1 would have no means or ways available to it for recovering the same from the appellant and/or to enforce the arbitral award in China. On the contrary, it is contended that the respondent No. 1 is a Public Sector Undertaking and the monies, if ultimately found due to the appellant from the respondent No. 1, can always be recovered by the appellant from the respondent No. 1.

16. Fraud, as an exception to the rule of non-interference with encashment of BGs, is not any fraud but a fraud of an egregious nature, going to the root i.e. to the foundation of the bank guarantee and an established fraud. The entire case of the appellant, we are afraid, fails to qualify so. The Single Judge has written at length on the subject and save for as aforesaid, we need not say more.

17. Irretrievable injustice, as an exception to the rule of non-interference with encashment of BGs, is again not a mere loss, which any person at whose instance bank guarantee is furnished, suffers on encashment thereof. It is always open to such person to sue for recovery of the amount wrongfully recovered. What has to be proved and made out to obtain an injunction against encashment, is that it will be impossible to recover the monies so wrongfully received by encashment. There is not even a whisper to this effect, neither in the pleadings nor in the arguments.”

13. In light of the aforementioned judgments, it would be pertinent to examine the PBG in question in the present case, in order to ascertain if it is conditional or unconditional and for ready reference, relevant covenants are as under:-

“The Bank Absolutely, unconditionally and irrevocably undertakes and covenants to pay the Contractor, without demur or protest, any sum or sums which may from time

(a) to time be demanded in writing by the Contractor to a maximum aggregate sum of Rs. 25,00,000/- (Rs. Twenty Five Lakh Only), forthwith on demand from the Contractor and in any event within 24 hours of receiving written demand from the Contractor.

(b) without reference or notice to the SUPPLIER;

(c) notwithstanding any notice or direction given by the SUPPLIER not to pay such sum or sums;



(d) without making any enquiry into the Contractor's entitlement to make such demand; and

(e) Without any set-off counter-claim or deduction.”

14. From a reading of the covenants of the PBG, it is clear that the Bank undertook absolutely, unconditionally and irrevocably to pay to the beneficiary, without demur or protest any sum or sums, which may from time to time be demanded by the beneficiary to a maximum of Rs.25 lacs forthwith on demand in writing and ‘*without reference or notice to the Supplier*’; ‘*notwithstanding any notice or direction given by the Supplier not to pay such sum or sums*’; ‘*without making any enquiry into Contractor's entitlement to make such demand*’ and ‘*without any set-off counter-claim or deduction*’. The PBG is unconditional in nature and the Bank is bound to honour the obligation, as and when the beneficiary seeks encashment of the same. In view of the unequivocal and unambiguous language of the PBG in question, this Court is unable to agree with the Petitioner that the encashment deserves to be restrained.

15. It is further evident from the e-mail dated 31.08.2023, which is the invocation letter that the invocation is strictly in consonance with the terms of the PBG, wherein Respondent has written to the Bank that Petitioner has failed to fulfill the purpose for which the PBG was given and therefore the BG may be encashed. The disputes between the parties as to which of the two parties is in breach of the contractual terms or responsible for non-payment and/or for failure to lift the stocks etc. can only be subject matter of arbitral proceedings and/or any other forum, where they can be adjudicated on merits, but cannot form the basis of injunction against invocation of an unconditional PBG. Clearly, the case of the Petitioner, as pleaded and argued, does



not fall under the exceptions to the rule, as Petitioner has only averred that Respondent has failed to pickup the stock lying manufactured, which may result in the same being sold as scrap and/or that financial loss is being caused, apart from alleging breach of contractual obligations by the Respondent. To my mind, these pleadings are not sufficient to reach a threshold of egregious fraud or special equities. The alleged financial loss, is a ground which has been consistently negated by the Courts as a reason to interdict invocation of unconditional and irrevocable BGs and in this context, I may usefully allude to the judgment of this Court in ***Kuber Enterprises v. Doosan Power Systems India Pvt. Ltd. and Another, 2021 SCC OnLine Del 5049:-***

“14. The last submission of Mr. Panda, to justify the prayer for injunction against invocation of the Bank Guarantee, is that the petitioner is in dire financial straits. He also draws attention to the financial defects being faced by his client and submits that if the Bank Guarantee is permitted to be invoked, his client would be “deoxygenated” and that several of its employees would be laid off. In the submission of Mr. Panda, the parent company of Respondent 1 is presently facing severe financial constraints, and that Respondent 1 is dependent on the parent company. In these circumstances, he submits, an additional ground for a restraint against the respondents from invoking the Bank Guarantee is that the Bank Guarantee would act as a security, in the event of an award in the arbitral proceedings favourable to the petitioner. Otherwise, he submits, if the respondents are allowed to invoke the Bank Guarantee, there would be no security which would serve to ensure that, were the petitioner to succeed in arbitration, the award could be enforced, given the precarious financial condition of the respondents.

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17. *Re. prayer for stay of invocation of bank guarantee:*

18. *Admittedly, the Bank Guarantee provided by the petitioner to the respondents is unconditional. Stay of invocation of an unconditional bank guarantee can be granted only in exceptional circumstances. This Court in SES Energy Services India*



Ltd. v. Vedanta Limited, 2021 SCC OnLine Del 4196 has noted these exceptions and observed thus:—

“9. In cases where the bank guarantee is unconditional, the law recognizes only three circumstances in which Courts could injunct invocation or encashment of the bank guarantee. These three circumstances, essentially, dovetail into two, with the pronouncement of Courts in that regard. The three circumstances, in which the Courts may interfere, and may injunct the invocation of unconditional bank guarantees, is where there is egregious fraud, special equity exists, or where irretrievable injustice or prejudice is likely to result, if the bank guarantee is invoked or encashed. The latter two circumstances have been treated, by the Supreme Court, as well as by the Division Bench of this Court in CRSC Research and Design Institute Group Co. Ltd. v. Dedicated Freight Corridor Corporation of India Ltd., 2020 SCC OnLine del 1526 to be interconnected, in that special equities would be set to exist if the invocation of the bank guarantee would result in irretrievable injustice to the opposite party. The following passage, from BSES Ltd. v. Fenner India Ltd., (2006) 2 SCC 728 neatly encapsulates this position:

“10. There are, however, two exceptions to this rule. The first is when there is a clear fraud of which the bank has notice and a fraud of the beneficiary from which it seeks to benefit. The fraud must be of an egregious nature as to vitiate the entire underlying transaction. The second exception to the general rule of non-intervention is when there are ‘special equities’ in favour of injunction, such as when ‘irretrievable injury’ or ‘irretrievable injustice’ would occur if such an injunction were not granted. The general rule and its exceptions has been reiterated in so many judgments of this Court, that in U.P. State Sugar Corpn. v. Sumac International Ltd., (1997) 1 SCC 568 that this Court, correctly declared that the law was ‘settled’.”

(Italics and underscoring in original)

19. Additionally, in para 72 of the report in Svenska Handlesbaken v. Indian Charge Chrome, (1994) 1 SCC 502, a bench of three Hon'ble Judges of the Supreme Court has held that mere irretrievable injustice, in the absence of established fraud, does not make out a case for injuncting invocation of an unconditional bank guarantee. Having said that, a bench of two Hon'ble Judges, in Hindustan Steelworks Construction Co. Ltd. v. Tarapore & Co., (1996) 5 SCC 34 held, after noticing and interpreting Svenska Handlesbaken, that, in Svenska Handlesbaken, the Court was “not called upon to decide whether apart from the case of fraud there can



be any other exceptional case wherein the Court can interfere in the matter of encashment of a bank guarantee". As such, it was held, "not much importance" could be attached "to the use of the word 'and' in the observation that 'it cannot be interfered with unless there is fraud and irretrievable injustice involved in the case". Vinitec Electronics Private Limited v. HCL Infosystems Limited, (2008) 1 SCC 544 and BSES Ltd. hold that special equities, if pleaded as ground for stay of invocation of bank guarantee, should be in the nature of irretrievable injustice.

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28. Similarly, Mr. Panda's submission regarding the financial condition in which his client is placed, and the hardship that it would have to undergo, were the Bank Guarantee to be invoked, as also its reference to the allegedly precarious financial condition of the respondents, cannot constitute grounds to stay invocation of the Bank Guarantee. Mr. Panda sought to submit that the Bank Guarantee, if allowed to remain in place, would secure the dues of the petitioner against the respondents which, otherwise, may be frustrated, given the financial condition of the respondents."

16. Therefore, the ground of financial constraints urged by the Petitioner to support its case for restraining the encashment of PBG, cannot enure to its advantage in view of the settled law that financial constraint, hardship or loss cannot insulate an unconditional PBG from encashment as a threshold of irretrievable harm or injury or special equities is much higher. For all the aforesaid reasons, this Court rejects the contentions of the Petitioner and no interference is warranted in the impugned action of the Respondent.

17. Petition is devoid of merit and is accordingly dismissed along with pending application.

JYOTI SINGH, J

SEPTEMBER 14, 2023/kks/shivam