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

+ OMP (ENF.) (COMM.) 180/2021, EX.APPL.(OS) 1165/2023,
1464/2023, 1681/2023 & 210/2024

JETPUR SOMNATH TOLLWAYS
PRIVATE LIMITED

.....Decree Holder

Through: Mr. Jayant Mehta, Sr. Advocate
with Mr. Samar Kachwaha, Ms.
Tara Shahani, Ms. Akanksha
Mohan, Ms. Aanya Saluja and Mr.
Pratyush Khanna, Advocates.

versus

NATIONAL HIGHWAYS
AUTHORITY OF INDIA

.....Judgement Debtor

Through: Mr. Manish K. Bishnoi, Mr.
Khubaib Shakeel and Ms. Pallavii
Singh, Advocates.
Mr. Dharmendra Rautray, Ms.
Ginny J. Rautray, Mr. Navdeep
Singh, Ms. Devika Thakur and Mr.
Ranvijay Singh, Advocates for
Intervenors.

+ OMP (ENF.) (COMM.) 32/2024, EX.APPL.(OS) 190/2024 &
EX.APPL.(OS) 460/2024

IRON TRIANGLE LIMITED

.....Decree Holder

Through: Mr. Dharmendra Rautray, Ms.
Ginny J. Rautray, Mr. Navdeep
Singh, Ms. Devika Thakur and Mr.
Ranvijay Singh, Advocates.

versus



NATIONAL HIGHWAYS AUTHORITY
OF INDIA & ANR.

.....Judgement Debtors

Through: Mr. Manish K. Bishnoi, Mr. Khubaib Shakeel and Ms. Pallavii Singh, Advocates for JD-1.
Mr. Jayant Mehta, Sr. Advocate with Mr. Samar Kachwaha, Ms. Tara Shahani, Ms. Akanksha Mohan, Ms. Aanya Saluja and Mr. Pratyush Khanna, Advocates for JD-2.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
23.07.2024

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OMP (ENF.) (COMM.) 32/2024

1. After some hearing, Mr. Dharmendra Rautray, learned counsel for the decree-holder – Iron Triangle Limited, seeks liberty to withdraw these enforcement proceedings, with liberty to agitate the decree-holder's claims against respondent No.2 - Jetpur Somnath Tollways Private Limited.
2. Mr. Rautray and Mr. Jayant Mehta, learned Senior Counsel for Jetpur Somnath Tollways Private Limited, submit that disputes between them inter se are pending adjudication before an Arbitral Tribunal. Mr. Rautray submits that the disputes, which are the subject matter of these proceedings, will be referred to the same Arbitral Tribunal, in accordance with law.
3. The enforcement proceedings are closed, leaving all rights and



contentions of the parties open for adjudication before the learned Arbitral Tribunal.

EX.APPL.(OS) 327/2023 & EX.APPL.(OS) 737/2023 (intervention applications) in OMP (ENF.) (COMM.) 180/2021

In view of the order passed above in OMP (ENF.) (COMM.) 32/2024, Mr. Dharmendra Rautray, learned counsel for the applicant, seeks permission to withdraw these applications.

The applications are dismissed as withdrawn.

OMP (ENF.) (COMM.) 180/2021, EX.APPL.(OS) 1165/2023, 1464/2023, 1681/2023 & 210/2024

1. The present petition has been filed under Section 36 of the Arbitration and Conciliation Act, 1996, seeking enforcement of an arbitral award dated 31.03.2021, further corrected on 31.07.2021. The arbitral tribunal adjudicated upon various disputes between the parties arising out of a Concession Agreement dated 07.02.2011, and a majority award was passed in favour of the decree-holder on 31.03.2021.
2. By order dated 27.02.2023, the judgment debtor was directed to deposit the entire amount payable in terms of the award, along with up-to-date interest and to place on record a calculation sheet in support of the amount quantified.
3. The judgment debtor, *vide* EX.APPL.(OS) 210/2024 had sought refund of a sum of Rs. 57.77 crores, out of the amount deposited by it in Court, as the same was in excess of the awarded amount, as per the judgment debtor's computation. *Vide* order dated 07.02.2024, the decree-holder consented to a sum of Rs. 39,26,96,628/-, with *pro rata* accrued interest, being released to the judgment debtor. Consequently, a net sum



of Rs.40,37,90,020.84/- was released to the judgment debtor.

4. The balance amount claimed by the judgment debtor i.e., Rs. 18,50,03,371.70/- is disputed by the decree holder.

5. Since the award in question is presently under challenge before this Court in O.M.P.(COMM.) 5/2022, learned counsel for the parties agree that in the meantime, further adjudication in the present enforcement petition may be deferred, with the following directions:

- a. Without prejudice to the decree holder's rights and contentions, a sum of Rs. 18,50,03,371.70/- (alongwith *pro rata* accrued interest) be released to the judgment debtor. Mr. Manish K. Bishnoi, learned counsel for the judgment debtor, undertakes that the judgment debtor shall make up any shortfall, alongwith interest, for any sums due from it under the award. This amount shall be released to the judgment debtor to its bank account bearing No. 2734201000037, IFSC code No. CNRB0002734.
- b. Without prejudice to the judgment debtor's rights and contentions, the balance amount lying deposited with the Court, inclusive of interest, shall be released to the decree-holder, against a bank guarantee to be furnished to the satisfaction of the learned Registrar General of this Court, which is to be kept alive during the pendency of the judgment debtor's petition under Section 34 of the Arbitration and Conciliation Act, 1996, or till such time that this Court directs.
- c. The funds shall be released electronically to the following bank account of the decree-holder:



Bank Account Name	Jetpur Somnath Tollways Pvt. Ltd.
CIF ID	1I3HG6B
Bank Account No.	729LIABIFPARKINR
Bank Name and Address	DBS Bank India Limited – Cantonment, Trichy Branch No. 1, FIRST Floor, Alexendria Rd. Cantonment, Tiruchirappalli, Tamil Nadu, 620001
Bank IFSC Code	DBSS0IN0729
MICR Code	620641007

- d. The parties' rights and contentions in relation to sums payable under the award stand deferred to await adjudication of O.M.P.(COMM.) 5/2022.
- e. Parties have the liberty to move the Court in the interim, if circumstances so justify.
6. It is made clear that this order has been passed with the consent of learned counsel for the parties.
7. List the petition, alongwith O.M.P.(COMM.) 5/2022, on 21.11.2024.

PRATEEK JALAN, J

JULY 23, 2024
"SS/Bhupi"/