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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P. (COMM) 1/2024, I.A. 131/2024, 132/2024 & 133/2024**

BHARTIYA RAIL BIJLEE COMPANY LTD Petitioner
Through: Mr. Adarsh Tripathi, Mr. Vikram S.
Baid and Mr. Ajitesh Garg, Advs. (M.
8397056155)

versus

TECHNOFAB ENGINEERING LTD. Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **04.01.2024**

1. This hearing has been done through hybrid mode.
2. The present petition under Section 34 of the Arbitration and Conciliation Act, 1996 has been filed challenging the impugned award dated 24th July, 2023, titled '*M/s. Technofab Engineering Ltd. v. Bhartiya Rail Bijlee Company Ltd.*' The same arises out of the dispute in respect of a contract between the Petitioner and Respondent.
3. The Petitioner in the present case is engaged in the business of generation of electricity and other allied activities. It is averred that vide award of work dated 16th September, 2010, two contracts regarding agreement for supply and agreement for erection were entered into between the Petitioner and the Respondent. As per the Petition, under the Contract for Erections, main equipment and mandatory spares were not supplied which lead to 8.8% of the total scope of work being pending which amounts to more than Rs. 53 Lacs. Thereafter it is stated that the Respondents refused



to work and invoked arbitration on 26th December, 2018. On 6th December, 2019, an application under section 17 of the Arbitration and Conciliation Act was filed, wherein the Tribunal observed that since two Bank Guarantees for securing advance payment have been encashed, the interim order will be confined to encashment of Bank Guarantees of Rs. 30.6 Lacs.

4. There were claims filed by the Respondent and counter claims by the Petitioner. Claims of the Respondent regarding release of withheld retention money, release of payments against unpaid invoices, return of entire amounts under the Performance Bank Guarantee and Insurance premium from April, 2014 till 2017, were allowed partially and counter claims of the Petitioner were dismissed by a three members' Tribunal. It was held that Respondents were entitled to an award of more than Rs. 2.10 crores with simple interest from the date of termination of contract which is 6th August, 2018. In addition to that the Petitioner was directed to pay costs of the arbitration proceedings of more than Rs. 31.80 lacs to the Respondent. Thereafter, the present petition was filed challenging the said award.

5. Ld. counsel for the Petitioner submits that post the filing of the present petition, disputes between the parties have been settled vide agreement dated 26th December, 2023. In view thereof, he wishes to withdraw the present petition.

6. The petition is dismissed as withdrawn. Parties shall be bound by the settlement. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

JANURARY 04, 2024/dk/ks