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

+ O.M.P.(I) (COMM.) 301/2024

BESCO LIMITED (WAGON DIVISION)Petitioner

Through: Mr. Anirudh Bakhru, Mr. Ankit
Banati and Ms. Vasundhara Bakhru,
Advocates.

versus

UNION OF INDIARespondent

Through: Ms. Arunima Dwivedi, CGSC
(through VC) along with Ms. Pinky
Pawar, Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

09.12.2024

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1. The present petition under Section 9 of the Arbitration and Conciliation Act, 1996 was filed by the petitioner being aggrieved by a letter dated 27.08.2024, whereby, some recovery proceedings were sought to be initiated by the respondent against the petitioner in respect of steel supplied by the respondent for the purpose of execution of the work.
2. *Vide* order dated 06.09.2024, this Court, took note of the fact that the terms of the agreement were modified *vide* letter dated 19.07.2024, in terms of which, the contract was short-closed without any financial repercussions, and which also contemplated that the petitioner would return all 'free supply' items to the respondent. This Court expressed its *prima facie* view that the letter dated 27.08.2024 was contrary to the amended terms as contained in the letter dated 19.07.2024. Consequently, the operation and effect of the letter dated 27.08.2024 was stayed.
3. Subsequently, *vide* communication dated 03.12.2024 issued by the



respondent (Ministry of Railways), the recovery letter dated 27.08.2024 (with which the petitioner was aggrieved and which impelled the petitioner to file the present petition) has been withdrawn and cancelled. The communication dated 03.12.2024 reads as under :-

*“Government of India
Ministry of Railways
(Railway Board)*

*3, Koilaghat Street
Kolkata-700001*

e-mail: Srsisrlybdkol@gmail.com

Date : 03.12.2024

No. DRS(I&S)/BESCO(W)/2024

*To
The PFA(RBC)
Eastern Railway
Fairlie Place.
Kolkata-700001
Sir,*

Sub: Withdrawal and cancellation of letters referred under

*Ref: 1. Recovery Letter No. DRS/WGN/Steel Holding/Pt.XXII dated
27.08.2024.*

2. Letter No. DRS/WGN/Steel Holding/Pt.XXII dtd.20.09.24

*The above referred letters at sr. no. 1 & 2, issued by this office previously
are hereby withdrawn and stand cancelled.*

This is for your kind information and necessary action accordingly.

Enclo : Letters referred to above.

*(S. Bhattacharya)
Director RS(I&S)/RB/KOL”*

4. The same was followed by letter dated 05.12.2024 which reads as under:-

“No. DRS(I&S)/BESCO(W)/2024

Date: 05.12.2024

*To
M/s BESCOW(W.D)LTD
8, AnilMaitra Road
Kolkata-700019*



Dear Sir,

Subject : Transfer of Free supply Steel Lying at the premises of M/s. BESCO Ltd (WD) against Wagon Contract No. 2007/RS(I)/954/78/1778 dated 13.07.15.

*Ref: (1) Amendment No. XVI dated 19.07.24
(2) Transfer Order No. 11293 dated 30.09.2024 for transfer of free supply steel from M/s Besco Ltd (WD) to M/s. Braithwaite & Co. Ltd.
(3) This office letter No. DRS(I&S)/BESCO(W)/2024 dated 03.12.2024*

Vide reference (2) above, transfer order was issued by this office for transfer of free supply steel lying in your premises against the Wagon Contract referred to above, to M/s BWT. However, it is seen that M/s. BWT has not yet started lifting of the same from your premises. The matter is being pursued with M/s. BWT in respect of early lifting. Simultaneously, other channels are also being explored, especially with Zonal Railways, to get the material shifted suitably. In due course of time, free supply steel items lying in your premises shall be lifted soon.

Further, the recovery letter dated 27.08.2024 issued by this office, has been withdrawn and cancelled vide letter under reference (3) eliminating the root cause of dispute. So, there is no dispute as such remaining in respect of the subject matter. This office has already initiated best possible action to get the material shifted from your premises suitably at an early date and your BGs shall also be returned. Till such time, co-operation from your side is highly solicited please.

Thanking you

*--SD--
(S. Bhattacharya)
Director RS (I&S)
Railway Board/Kol"*

5. Learned counsel for the respondent assures that requisite follow-up action shall be taken in terms of the letter dated 05.12.2024, *inter-alia* for return of the bank guarantee(s) as stated therein.

6. In the circumstances, since the grievance set out in the present petition stands satisfied, no further orders are required to be passed in the present



petition. The same is, accordingly, disposed of.

DECEMBER 9, 2024/r

SACHIN DATTA, J