(2020) 07 CAL CK 0027

In the Calcutta High Court

Case No : Writ Petitions (WP) No. 5929(W) Of 2020, Civil Application (CAN) No. 4072 Of 2020

M/s. Indian Explosive Pvt. Ltd. & Anr. APPELLANT

Vs

Union Of India & Ors. RESPONDENT

Date of Decision : 14-07-2020

Acts Referred:

Citation : (2020) 07 CAL CK 0027

Hon'ble Judges : Debangsu Basak, J

Bench : Single Bench

Advocate : Aniruddha Chatterjee, Kushal Chatterjee, Subhankar Chakraborty, Saptarshi Bhattacharya, Pradip Kumar Dutta, Sudhakar Prasad, Pradipta Bose

Judgement

The petitioners seek release of a bank guarantee furnished by in favour of Coal India Limited (CIL).

Learned advocate for the petitioner submits that, the petitioner discharged all obligations of the contract under which the petitioner furnished the bank

guarantee. He submits that, except a dispute of Rs.1,76,25,470/-, the respondent is obliged to release the concerned bank guarantee. He draws the

attention of the Court to the fact that, the bank guarantee is for the value of Rs.4,61,00,000/-. He submits that, the petitioner is ready and willing to

furnish a bank guarantee for the disputed sum of Rs.1,76,25,470/- by tomorrow and that upon such bank guarantee being furnished, the existing bank

guarantee of Rs.4,61,00,000/- be released.

Learned senior advocate for CIL submits that, in any event the sum of Rs.1,76,25,470/- should be secured to the satisfaction to CIL. Only upon

appropriate security being furnished the existing bank guarantee of Rs.4,61,00,000/- should be directed to be released.

It appears from the records made available to Court that, the petitioner participated in a tender process for supply of cartridge explosives floated by

CIL on January 31, 2005. On running contract was awarded to the petitioner in August 4, 2005. By and under such a contract, a bank guarantee was

required to be furnished for a sum of Rs.4,61,00,000/- which the petitioner did. The bank guarantee is unconditional. The petitioner kept such

guarantee live. The bank guarantee is valid till July 16, 2020. CIL issued several letters including one letter dated October 3/9, 2019 calling upon the

petitioner to renew the bank guarantee. CIL thereafter issued a letter dated May 18, 2020 requiring the petitioner to renew such bank guarantee. In

the correspondence, CIL informed the petitioner that, there was a deduction made by Western Coalfields Limited for a sum of Rs.1,76,25,470/-. In the

last series of correspondence between the parties, CIL informed the petitioner that in the event the bank guarantee for the sum of Rs.4,61,00,000/-

was not renewed by July 16, 2020, then CIL will invoke such bank guarantee.

It appears from the correspondence exchanged between the parties that, apart from a sum of Rs.1,76,25,470/-, there is no other subsisting dispute.

Therefore, in my view, interest of justice would be subserved at the interim stage by accepting the suggestion of the petitioner. The petitioner will

deposit the bank guarantee of a sum of Rs.1,76,25,470/- by tomorrow i.e. July 15, 2020 with CIL to the satisfaction of CIL. Upon such bank guarantee

being furnished by the petitioner to the satisfaction of CIL, the bank guarantee for the sum of Rs.4,61,00,000/- presently subsisting in favour of CIL

will be released by CIL forthwith thereafter.

The new bank guarantee will be valid for a period of six months initially will be kept renewed from time to time till disputes between the petitioner and

CIL stands resolved or until further orders of the Court, whichever is earlier.

At the invitation of parties, let affidavit-in- opposition be filed within three weeks from date; reply thereto, if any, be filed a week thereafter. The writ

petition will be treated as 'ready for hearing' immediately on completion of the time period prescribed for filing affidavits.

