

**Before the Appellate Tribunal for Electricity**  
(Appellate Jurisdiction)

**Appeal no. 113 of 2014 &**  
**IA No. 427 of 2014, IA no. 428 of 2014**  
**and IA no. 206 of 2014**

**Dated : 10<sup>th</sup> November, 2014**

**Present: Hon'ble Mr. Justice M. Karpaga Vinayagam, Chairperson**  
**Hon'ble Mr. Nayan Mani Borah, Technical Member (P&NG)**

**Filatex India Ltd. ...Appellant(s)**

**Versus**

**Gail (India) Ltd. & Anr. ...Respondent(s)**

Counsel for the Appellant(s) : Mr. Buddy A. Ranganadhan  
Mr. Aman Gupta

Counsel for the Respondent(s) : Mr. Ajit Pudussery  
Mr. Shailesh Suman

**ORDER**

We have heard the Learned Counsel for the parties.

This Appeal has been filed challenging the Interim Order dated 21.04.2014 passed by the Petroleum Board. We have heard the arguments of both the parties in this Appeal. By our order dated 28.05.2014, we have reserved judgment. At this stage i.e. before the pronouncement of the judgment in this Appeal, it is brought to the notice of this Tribunal through IA no. 427 of 2014 that the Delhi High Court in WP No. 3698/2013 allowed the Writ Petition filed by the Respondent by the order dated 11.09.2014 holding the Model Guidelines issued by the Petroleum Board to be bad, and

on this basis, the Applicant/Respondent has filed this Application in IA no. 427 and IA no. 428 of 2014 praying for the dismissal of the Appeal contending that the Appeal has become infructuous as the Model Guidelines are held to be invalid and seeking for the permission to the Respondent/Applicant to keep the Letter of Credit alive till the final decision is taken by the Petroleum Board or, alternatively, seek for permission to encash the Letter of Credit issued.

We have heard Mr. Buddy A. Rangahadhan, the Learned Counsel for the Applicant/Respondent in this Appeal. It is submitted that the Appellant challenged the impugned order not only in respect of the Model Guidelines but also in respect of certain other issues and, therefore, they must be allowed to argue in respect of their other issues. The Learned Counsel for the Applicant/Respondent further submits that the prayer (b) in IA No. 428 of 2014 in this respect for permission for encashment of the Letter of Credit be allowed in favour of the Applicant.

In view of the fresh development that has taken place, we feel it appropriate before disposing of the Appeal on the basis of the High Court order, to give liberty to the Respondent/Appellant to raise all the other points except the issue relating to the Model Guidelines before the Petroleum Board while passing the final order. In that event, the Petroleum Board (PNGRB) will consider comprehensively all the points raised and pass the final order in accordance with the law. It is submitted by the Applicant that these points have not been earlier raised by the Respondent before the Board. Hence, it is made clear that we are not expressing any opinion on these points. Since we give

liberty to raise these points before the Petroleum Board, Petroleum Board will consider all these points and decide the case, according to law, while passing the final order as directed by the High Court.

Thus, the prayer as appeared at (b) in IA no. 428 of 2014 is allowed. Accordingly, the Appeal is disposed of.

**(Nayan Mani Borah)**  
**Technical Member (P&NG)**

**(Justice M. Karpaga Vinayagam)**  
**Chairperson**

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