

DELHI HC RESTRAINS ENCASHMENT OF BANK GUARANTEE BY MAHANADI COALFIELDS, FOR PERCEIVED BREACH UNDER FUEL SUPPLY AGREEMENT BY GENCO



The Hon'ble Delhi High Court, on 31.10.2022, in a Writ Petition filed by the Suspended Director of Sinnar Thermal Power Limited (GENCO), restrained Axis Bank Limited from taking any steps till the next date of hearing, pursuant to the invocation of Bank Guarantee by Mahanadi Coalfields Limited (MCL), on account of the alleged failure of the GENCO in fulfilling its obligations under a Fuel Supply Agreement (FSA) between MCL and the GENCO for its Power Project at Nashik.

The Writ Petition came to be filed by the Suspended Director of the GENCO, as NCLT Delhi had declared moratorium on the GENCO and initiated the Corporate Insolvency Resolution Process (CIRP), however, the Hon'ble NCLAT, by its interim order, in an appeal preferred by the Suspended Director, against the said Moratorium Order, restrained Interim Resolution Professional (IRP) from taking any steps under CIRP and permitted the Suspended Director of the GENCO to engage with the Ministry of Power, on the issue of rehabilitation of the Stressed Power Project.

The Hon'ble High Court took note of the Hon'ble NCLAT's Order and that the GENCO has been engaging with the Ministry of Power for revival of its Stressed Power Project. The Hon'ble High further noted that no coal block was allocated to the GENCO's Power Plant by MSL and therefore found that prima facie MCL's coercive measures for a perceived failure on part of the GENCO to fulfil its obligations under the FSA, would not sustain in light of the given circumstances.

The Suspended Director of the GENCO was represented by Mr. Vikas Singh, Senior Advocate instructed by SKV Law Offices' team led by Mr. Shri Venkatesh (Managing Partner), Mr. Bharath Gangadharan (Senior Associate), Mr. Jayant Bajaj (Associate) and Mr. Siddharth Nigotia (Associate).

We thank Mr. Suraj Das Rajguru for giving us the opportunity to represent the Petitioner in the above Petition.

The Order passed by the High Court can be accessed [here](#).