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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RFA(OS) 2/2011

JSL LTD

..... Appellant

Through: Mr.Abhimanyu Bhandari and
Ms.Aakansha Munjhal, Advocates

versus

ARIBA INC & ORS

..... Respondents

Through: Mr.Mukul Talwar, Advocate

RFA(OS) 3/2011

JSL LTD

..... Appellant

Through: Mr.Abhimanyu Bhandari and
Ms.Aakansha Munjhal, Advocates

versus

ARIBA INC & ORS

..... Respondents

Through: Mr.Mukul Talwar, Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE S.P.GARG

ORDER

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21.11.2011

1. Conceding that the averments in the complaints fall short of attracting the law declared by the Supreme Court in the decision reported as (1995) 1 SCC 478 New Horizons Ltd. & Anr. Vs. UOI & Ors. as also (2005) 5 SCC 465 TECHNIP SA Vs. SMS Holding (P) Ltd. & Ors. learned counsel for the appellant suggests that the appellant be permitted to withdraw the two RFA (OS) Nos.2/2011 & 3/2011

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appeals with liberty granted to file an application under Order 6 Rule 17 of the Code of Civil Procedure to amend the plaint and expand the pleadings qua respondent No.2, impleaded as defendant No.2 in both suits.

2. Learned counsel states that if as a result of the amendments sought to be incorporated, the appellant can expand the scope of the pleadings in the suit attracting the law declared by the Supreme Court in the two decisions noted above, it may be clarified that in said eventuality the appellant would be entitled to seek fresh impleadment of 'ARIBA INC.', impleaded as defendant No.2 in CS(OS) No.650/2009 and CS(OS) No.660/2009.

3. Granting liberty to the appellant to withdraw the two appeals, it is clarified that the appellant would be permitted to seek amendment of the plaint(s) and if the averments would attract the law declared in the decision in New Horizon's case (supra) and TECHNIP's case (supra), it would be open to the appellant to seek fresh impleadment of 'ARIBA INC.' as a party defendant in the two suits.

4. Learned counsel for the second respondent Sh.Mukul Talwar urges that it may be recorded that if the amendment is allowed and as a result 'ARIBA INC.' is re-impleaded as a defendant No.2, it would be treated that for purposes of limitation, suit would be deemed to be instituted against said party on the date the application for amendment is filed.

5. We leave said aspect to be considered by the learned Single Judge, who would be guided by Section 21 of the

Limitation Act 1963.

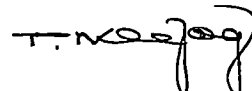
6. The appeal(s) are disposed of as not pressed; noting as above.

7. No costs.

CM No.453/2011 in RFA (OS) No.2/2011

CM Nos.457/2011 & 459/2011 in RFA (OS) No.3/2011

Disposed of as infructuous.



PRADEEP NANDRAJOG, J.



S.P. GARG, J.

NOVEMBER 21, 2011

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