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

+ O.M.P. (COMM) 63/2016, IAs 3699-3700/2016

TRINATH KHERA, SOLE PROP. ST. DIVYAL Petitioner

Through: Petitioner in person with
Mr. Kshitiz Khera, Adv.

versus

ADITYA BIRLA NUVO LIMITED

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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21.03.2016

IA 3699/2016

Exemption allowed subject to all just exceptions.

Application stands disposed of.

IA 3700/2016

For the reasons stated in the application, the delay of 16 days in refiling the petition is condoned.

Application stands disposed of.

O.M.P. (COMM) 63/2016

The challenge in this petition is primarily to an observation made by the learned Arbitrator to claim No. 16 during the process of cross-

examination of the petitioner. The same reads as under:-

“CLAIM NO. 16:-

In Claim no. 16 the Claimant has stated in para 17.3 that the Respondent had purchased goods from other sources for their retail outlets, channels and corporate purposes and had thus violated the clause of the agreement by purchasing goods from other sources for making gift sets. He has further stated in para 17.4 that he is entitled to ask the Respondent to render accounts in respect thereof.

The Claimant has not in claim no. 16 of the statement of claim sought any relief of the rendition of accounts. In any case, despite my repeated queries the Claimant has not been able to tell as to from where the Respondent had purchased goods and which were the goods purchased in the absence of which I feel that the Claimant is trying to make a fishing inquiry about the business of the Respondent which in my opinion is not permissible. Without any specific relief and clear particulars of the same, the Claimant cannot be permitted to make such a fishing inquiry.”

The petitioner who appears in person states that by the aforesaid observation the learned Arbitrator has conclusively determined the claim No. 16 against the petitioner. He states that the respondents are yet to lead their evidence.

As the observation has come during the process of cross-examination, the petitioner would be at liberty to argue claim No. 16 at the time of final hearing. If the petitioner is still aggrieved, he would be at liberty to challenge the same after the final award.

With the aforesaid observations, the petition is dismissed.

V. KAMESWAR RAO, J

MARCH 21, 2016/radhika