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

+ O.M.P.(I) 234/2015

HUAWEI TELECOMMUNICATIONS (INDIA) CO. PVT. LTD.

..... Petitioner

Through Mr.Devashish Bharuka, Adv. with
Mr.Abraham C. Mathews, Adv.

versus

ASHUTOSH RAJENDER RAI

..... Respondent

Through None

CORAM:

HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER

% **07.04.2016**

On 15th December, 2015, the following order was passed in Arb. P.
No.399/2015:-

“Reply has not been filed till date. The right to file the same is closed.

The arbitration clause was invoked on 14.07.2015. No arbitrator has been appointed within the stipulated time. In terms of dicta of the Supreme Court in *Deep Trading Co. Vs. Indian Oil Corpn.* (2013) 4 SCC 35, the respondent has lost its right to appoint an Arbitrator. In the circumstances, Ms. Madhurima Mridul, Advocate (Mobile No.9810175151) is appointed as the Arbitrator. The parties shall appear before the learned Arbitrator on 23.12.2015. The Arbitrator's fee shall be payable as per the Arbitration and Conciliation (Amendment) Ordinance, 2015.

The petition stands disposed off in the above terms.”

I have been informed by the learned counsel for the petitioner that the appeal filed against the said order has been dismissed. Earlier, prior to that, the review application filed was also dismissed as withdrawn. Under these circumstances, since the Arbitral Tribunal has already entered into reference, the interim order as passed on 26th May, 2015 is made absolute during the arbitration proceedings. Liberty is granted to the respondent to move an application under Section 17 of the Act for modification/vacation of the said interim order before the Arbitrator, if necessary, which shall be decided by the Arbitrator as per its own merit.

The petition is accordingly disposed of.

MANMOHAN SINGH, J.

APRIL 07, 2016/ka