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

+ **O.M.P.(I) (COMM.) 82/2018**

CENTRE FOR DEVELOPMENT OF
TELEMATICS

..... Petitioner

Through: Mr Gaurav Sarin, Mr Mukul Chandra,
Mr Sandeep Chatterjee, Mr Harish
Kumar and Mr Abhishek Manchanda,
Advocates.

versus

XALTED INFORMATION SYSTEMS
PVT. LTD.

..... Respondent

Through: Mr Gaurav Pachnanda, Senior
Advocate with Mr Aditya Gupta, Ms
Anusha Jagadheesh, Ms Eshna
Kumar, Mr Lzafeer ahmad and Mr
Abhay Pratap, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.05.2018

1. The petitioner has filed the present petition under Section 9 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying for certain measures of interim protection. The said petition was listed for hearing on 21.02.2018 and this Court had passed an *ad interim* order restraining the respondent from dealing with or using the Source Code and SRS of the software developed pursuant to or in connection with the MoU, in any manner, till the next date of hearing.

2. Mr Pachnanda, learned Senior Counsel appearing for the respondent states that the interim relief as sought for by the petitioner is not maintainable as, at best, the petitioner would be entitled to rendition of

accounts. He also points out that the petitioner had specifically prayed for an order in respect of SRS 3.7.1 and that the order dated 21.02.2018 ought to be read as limited to the SRS 3.7.1.

3. Mr Sarin, learned counsel appearing for the petitioner contends that the petitioner is seeking to restrain the respondent against the use or exploitation of any software developed on the basis of the SRS developed pursuant to the MoU between the parties. He states that the respondent should also be restrained from marketing other versions which were developed prior to the SRS 3.7.1.

4. The present petition was entertained as the Arbitral Tribunal had terminated the arbitral proceedings holding that the disputes were not arbitrable. By a separate passed order today in Arb. A. (COMM.) 6/2018, the order passed by the Arbitral Tribunal terminating the arbitral proceedings has been set aside and the parties are now required to agitate the disputes before the Arbitral Tribunal.

5. It is also relevant to note that the *ad interim* order dated 21.02.2018 was passed *ex parte*. Since the relief sought before this Court was limited to SRS 3.7.1, the *ad interim* order dated 21.02.2018 must be read as restricted to the said relief. However, this would not preclude the petitioner from seeking any further relief before the Arbitral Tribunal. It would be equally open for the respondent to seek vacation or modification of the said order or any further relief that it may be advised.

6. The order dated 21.02.2018 shall continue for a further period of six weeks from today. Both the parties are at liberty to approach the Arbitral

Tribunal to seek further orders or to seek modification/vacation of the said order. Needless to state that any such prayer would be considered on its merits uninfluenced by any observations made by this Court.

7. All contentions of the parties are reserved.
8. The petition is disposed of.
9. Order *dasti*.

MAY 30, 2018
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VIBHU BAKHRU, J