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

+ **ARB. A. (COMM.) 23/2018**

MICROMAX INFORMATICS LIMITED Petitioner

Through: Mr Mudit Sharma and Mr Mukesh
Kumar, Advocates.

versus

**SHIVI ENTERPRISES (MR. MUKESH JOHARI
SOLE PROPRIETOR)** Respondent

Through: Mr Anukul Raj, Ms Nikita Raj and
Mr Pradeep Kumar Singh, Advocates.

**CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU**

ORDER
% **03.05.2018**

IA No.6016/2018

1. Allowed, subject to all just exceptions.

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2. The petitioner has filed the present petition under Section 37(2) of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, challenging the order dated 12.03.2018 passed by the Arbitral Tribunal accepting the petitioner's plea under Section 16 of the Act that the Arbitral Tribunal has no jurisdiction to adjudicate the disputes that have arisen between the petitioner and the respondent ("Shivi Distributors").

3. The petitioner is not aggrieved by the said direction. The petitioner is essentially aggrieved by the order passed by the Arbitral Tribunal to the

extent that it permits Shivi Enterprises to file a fresh or an amended statement of claims restricting the claims to the disputes between Shivi Enterprises and the petitioner.

4. This Court is not persuaded to accept that the present petition is maintainable at this stage, as the petitioner is not aggrieved by the order under Section 16 of the Act accepting the petitioner's contention that the Arbitral Tribunal had no jurisdiction to entertain the disputes between Shivi Distributors and the petitioner. Insofar as the direction passed by the Arbitral Tribunal permitting Shivi Enterprises to file an amended statement of claims is concerned, no interference is called for at this stage. First of all, for the reason that the direction, passed by the Arbitral Tribunal, is not an order which falls within the scope of Section 37(2) of the Act inasmuch as it is not a direction accepting the challenge to the jurisdiction of the Arbitrator. Admittedly, the petitioner does not seek to assail the Arbitral Tribunal's order that it does not have the jurisdiction to decide disputes between Shivi Enterprises and the petitioner.

5. Secondly, this Court also finds no infirmity with the direction of the Arbitral Tribunal to permit Shivi Enterprises to file a fresh or an amended statement of claims restricting the disputes to those between Shivi Enterprises and the petitioner. This direction was passed pursuant to the objection raised by the petitioner, which was accepted by the Arbitral Tribunal.

6. It is also seen that this Court had allowed the application filed by Shivi Enterprises under Section 11 of the Act and referred the disputes to the

Sole Arbitrator. Thereafter, Shivi Enterprises filed an application (IA No.2391/2018) seeking clarification that it was entitled to also raise disputes relating to its sister concern (Shivi Distributors), which was not accepted. Thus, the Arbitral Tribunal is required to consider only the disputes between Shivi Enterprises and the petitioner.

7. The appeal is, accordingly, dismissed.

VIBHU BAKHRU, J

MAY 03, 2018
MK