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

+ W.P.(C) 12319/2018

NOIDA SOFTWARE TECHNOLOGY PARK
LTD.

..... Petitioner

Through: Mr Vivek Chib, Ms Ruchira Goel, Ms
Pracheta Kar, Mr Asik Ahmed, Mr
Vikramaditya and Mr Kaushal
Sharma, Advocates.

versus

STAR INDIA PVT. LTD.

..... Respondent

Through: Mr Rajeev Nayyar, Sr. Advocate with
Mr Raj Shekhar Rao, Mr Sidharth
Chopra, Mr Saurabh Srivastava, Ms
Shilpa Gupta, Mr Utsav Trivedi, Mr
Sharavan Sahani, Mr Ranjeet Singh
Sidhu, Ms Vaarish Sawlani and Ms
Krutika, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.11.2018

CM No. 47739/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 12319/2018 & CM No.47738/2018

3. The petitioner has filed the present petition impugning an order dated 03.10.2018 passed by the Telecom Disputes Settlement and Appellate Tribunal (hereafter 'TDSAT'), whereby the respondent's application has

been allowed. The reliefs, which were sought by the respondent in its application are set out below:-

“(a) Direct the Respondent to disclose the complete list of assets owned by it along with the bank account details and sources of income, if any;

(b) Direct the Respondent to disclose copies of all its bank statements for the duration 1.04.2014 till date.

(c) Direct the Directors of the Respondent to also make a full and true disclosure of all their assets and to make a true disclosure of their bank statements for the period commencing 1.4.2014 till date;

Pass any other and further orders in favour of the Petitioner, as this Hon’ble Tribunal may deem fit and proper.”

4. The respondent has instituted proceedings before the TDSAT for recovery of a sum of ₹5.11 crores (approximately) claimed to be due from the petitioner. The said petition was filed on 11.07.2018 and was admitted by TDSAT on 13.07.2018. It was thereafter listed on 19.07.2018.

5. On 19.07.2018, the petition was heard on the question of maintainability of the said petition and the petitioner was granted four weeks time to file a reply. The matter was, thereafter, listed on 06.09.2018.

6. In the meanwhile, the respondent filed an application, *inter alia*, praying for discovery of assets of the petitioner and its Directors as set out above.

7. The petitioner and the application were, thereafter, listed on 13.09.2018. On the said date, the learned counsel for the petitioner unequivocally stated that the petitioner did not wish to file a reply to the application filed by the respondent. However, the counsel sought further

time to file a reply to the main petition. This request was acceded to and the petitioner was directed to file the reply by 21.09.2018. The matter was, thereafter, taken up for hearing on 28.09.2018 and on 03.10.2018, the impugned order was passed on the said date.

8. According to the petitioner, TDSAT has no jurisdiction to pass an order calling upon the petitioner to disclose its assets. This is stoutly contested by the learned counsel for the respondent.

9. This court is unable to readily accept that TDSAT does not have the jurisdiction to call upon the petitioner to disclose its assets. In terms of Section 16(2) of the Telecom Regulatory Authority of India Act, 1997, TDSAT has the same jurisdiction as a civil court while trying a suit in respect of certain matters. More importantly, remedy under Article 226 of the Constitution of India is a discretionary remedy and this court is of the view that exercise of such discretion to interfere with the direction of disclosure of assets is not warranted.

10. It is relevant to note that the petitioner is a private company and is otherwise required to file its final accounts with the Registrar of Companies periodically. TDSAT has noted in the impugned order that the petitioner has declined to make its books of accounts public after the year 2013 -2014. TDSAT has also observed that the respondent had made a *prima facie* case.

11. The respondent also alleges that the petitioner has diverted its assets to related parties. In view of the above, there is little doubt that direction to the respondent to disclose its complete list of assets, is warranted. The petitioner has also been asked to disclose its bank account details and source of income as there is serious allegation that the petitioner has diverted its

funds to related parties.

12. It is also seen that the directions have been given to the Directors of the petitioner to make full disclosure. However, the said Directors have not challenged the impugned order and, thus, no interference with the said direction is warranted at the petitioner's instance.

13. It also appears that the petitioner is attempting to delay the proceedings before the TDSAT as despite sufficient opportunities, the petitioner has failed to file a reply to the main petition.

14. This Court is of the view that given the conspectus of facts, it would not be apposite for this Court to entertain this petition.

15. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

NOVEMBER 16, 2018
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