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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.1326 OF 2018

Reliance Alternative Investments Fund ..Petitioner
Vs.
Max Flex and Imaging Systems Ltd. & Ors. ..Respondents

Mr.Haresh Jagtiani, Senior Advocate, with Mr.Siddhesh Bhole, Mr.Ryan Mendes, Mr.Deepam Rangwani i/b. Mr.Siddhesh Bhole for Petitioner.
Mr.Dinesh Purandare, Mr.Kunal Mehta with Ms.Henna Daulat i/b. M/s.Crawford Bayley & Co. for Respondents No.1.
Mr.V.A. Thorat, Senior Advocate, with Mr.Atharva Dandekar i/b. Mr.Abhijeet Marathe for Respondent Nos.2 to 4.

CORAM : G.S. KULKARNI, J.

DATE : 8th JANUARY, 2019

P.C.:

This petition under Section 34 of the Arbitration and Conciliation Act, 1996 (for short, "ACA") which assails an award dated 14 September 2018 passed by the learned sole arbitrator, was heard on 10 December 2018, when the Court had passed an order recording that the petition would be taken up for final disposal at the admission stage.

2. Thereafter on the further adjourned dates the petition was heard by this Court. During the course of hearing, considering the nature of the award as made by the learned arbitrator and as impugned in the above petition, it was thought appropriate that the parties should make an attempt to resolve the issues and more particularly considering

paragraph 52 of the impugned arbitral award.

3. Accordingly, learned Senior Counsel for the parties fairly conceded to this position that the issues as arisen in the petition can be resolved. On 20 December 2018 as the parties were in the process of discussion to resolve the issues, the hearing of this petition was adjourned to 7 January 2019. It is on this background, the matter is listed today.

4. Learned Senior Counsel for the parties have placed on record minutes of the order dated 8 January 2019 in terms of which it is stated that the present petition can be disposed of. The minutes of the order are signed for identification by the Advocates appearing for the parties. The minutes of the order are taken on record and marked "**X**" for identification.

5. As stated in the minutes of the order in the intervening period, the petitioner issued a notice dated 14th December 2018 making a fresh invocation for reference of the disputes and differences between the parties to arbitration. The parties have also agreed that Mr.Snehal Shah, Advocate, who was earlier appointed as an arbitrator and who has passed the impugned award dated 14 September 2018, would act as an arbitrator. The petitioner has agreed to file a fresh statement of claim within two weeks from today as set out in paragraph 5 of the minutes of

the order. In paragraph 4 of the minutes of the order, the parties have also agreed that they will not raise the issues of *res-judicata* and/or estoppel, relating only to the claim arising out of the invocation of Put option as agitated by the Claimant in the arbitral reference filed by the petitioner-M/s. Reliance Alternative Investment Fund – Private Equity Scheme I against the respondents. It is further agreed that all questions, factual or legal including in relation to the invocation notice, are kept open. In my considered opinion, the parties have arrived at a fair consensus for re-agitation of the disputes before the arbitral tribunal.

6. Needless to observe that all contentions of the parties on merits of the matter are expressly kept open, to be decided by the arbitral tribunal as a fresh statement of claim is being filed by the petitioner.

7. Accordingly, this petition is required to be disposed of in terms of the minutes of the order and the above observations. It is accordingly disposed of. No costs.

8. The Court appreciates the efforts taken by the learned Senior Counsel for the parties and Mr.Purandare, learned Counsel appearing for the respondent in resolving the issues.

[G.S. KULKARNI, J.]