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

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**Date of decision: 30.10.2019**

+ ARB.P. 569/2019 & I.A. 15035/2019

KARNI COMMUNICATIONS PRIVATE LIMITED..... Petitioner

Through: Ms. Mumtaz Bhalla, Ms. Sahiba Ahluwalia &  
Mr. Himanshu Vij, Advocates

versus

HAICHENG VIVO MOBILE (INDIA) PRIVATE LIMITED

..... Respondent

Through: Mr. Amish Aggarwala & Mr. P.K. Bhardwaj,  
Advocates

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**JYOTI SINGH, J. (ORAL)**

1. Learned counsel for the respondent submits that he does not wish to press the argument made by him on the last date of hearing that he was prevented from filing the reply by the Dealing Assistant at the filing counter. In view of the statement made by the counsel for the respondent, this Court does not find the necessity of entering into this controversy.

2. The sealed cover, in terms of order dated 01.10.2019 has been sent to the Court. The sealed cover is taken on record and will form a part of the record. However, the same is not being opened, in view of the statement of the counsel for the respondent.

3. Reply filed by the respondent is on record.

4. This is a petition filed on behalf of the petitioner under Section 11(6) of the Arbitration & Conciliation Act, 1996 ('Act') seeking appointment of Arbitral Tribunal comprising of a Sole Arbitrator for resolution of disputes in

accordance with Clause 27 of the Distributor Agreements; or in the alternative nominating the Arbitrator on behalf of the Respondent in accordance with Clause 27 of the Distributor Agreements.

5. Learned counsel for the respondent in his reply has taken a categorical stand that the earlier Arbitrator nominated by the respondent, Mr. Abhinav S. Aggarwala, has resigned as a nominated Arbitrator vide letter dated 22.09.2019. It is the stand of the respondent that the respondent has now nominated Mr. Koka Raghava Rao, Senior Advocate as its nominee Arbitrator vide letter dated 23.09.2019. It is further submitted in the reply that the respondent has received acceptance from the said Arbitrator vide his email dated 23.09.2019.

6. Learned counsel appearing for the petitioner submits that the petitioner has no objection to the said Senior Advocate being appointed as a nominee Arbitrator of the respondent. Let the two nominee Arbitrators of the parties appoint a third Arbitrator to preside over the Arbitral Tribunal within a period of three weeks from today.

7. The Arbitrators so appointed will give disclosure under Section 12 of the Act before entering upon reference.

8. Fee of the Arbitral Tribunal shall be as per the Fourth Schedule of the Act. Arbitration will be conducted under the aegis of Delhi International Arbitration Centre and as per the rules framed thereunder.

9. The petition, along with the pending application, is disposed of in the above terms.

**JYOTI SINGH, J**

**OCTOBER 30, 2019**

Rd/