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

+ CS(COMM) 1059/2016 & IAs No.672/2018 (of D-4 for leave to defend) & 673/2018 (of D-4 for condonation of 8 days delay in re-filing leave to defend) & 277/2018 (of D-4 u/S 8 r/w S-5 of Arbitration Act)

IFCI FACTORS LIMITED ..... Plaintiff  
Through: Mr. Anupam Srivastava and Mr.  
Dhairya Gupta, Advs.

Versus

NET 4 COMMUNICATIONS LIMITED & ORS ..... Defendants  
Through: Mr. Prashant Mehta and Mr. Gaurav  
Malik, Advs. for D-4.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **17.01.2019**

1. The plaintiff has sued under Order XXXVII of the Code of Civil Procedure, 1908 (CPC) for recovery of Rs.21,14,98,947.54 paise.
2. Summons for appearance and on appearance being entered, summons for judgment were ordered to be issued and application for leave to defend has been filed on behalf of defendant No.4 Net 4 India Limited.
3. The counsel for the defendant No.4 states that defendant No.1 Net 4 Communications Limited is in liquidation before the Calcutta High Court and the defendant No.2 Amarjit Singh Sawhney has expired in September, 2017. With respect to the defendant No.3 Jasjit Singh Sawhney, the counsel for the defendant No.4 states that he has no instructions.

4. The counsel for the plaintiff states that the defendant No.4 has filed leave to defend application on 4<sup>th</sup> December, 2017, when the time for filing leave to defend application expired on 3<sup>rd</sup> December, 2017.
5. The counsel for defendant No.4 states that 3<sup>rd</sup> December, 2017 was a Sunday and the counsel for the plaintiff confirms.
6. Thus, it cannot be said that the leave to defend application has been filed beyond the time prescribed for filing thereof.
7. The defendant No.4 has also filed an application under Section 8 of the Arbitration and Conciliation Act, 1996.
8. The counsel for the plaintiff states that the parties be referred to arbitration.
9. The parties are accordingly referred to arbitration.
10. The suit is disposed of.
11. The court fees paid on the plaint less Rs.20,000/- be refunded to the plaintiff and a certificate in this respect be issued and handed over to the counsel for the plaintiff.

**RAJIV SAHAI ENDLAW, J.**

**JANUARY 17, 2019**

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