THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

**In the name of His Highness Sheikh Mohammed Bin Rashid Al Maktoum,
Ruler of Dubai**

**IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS
BEFORE H.E. JUSTICE NASSIR AL NASSER**

BETWEEN

MADIGAN

Claimant

and

MADRA

Defendant

Hearing : **20 April 2022**
Judgment : **28 April 2022**

JUDGMENT OF H.E. JUSTICE NASSIR AL NASSER

UPON this claim being filed on 7 March 2022

AND UPON a Hearing being held before H.E. Justice Nassir Al Nasser on 20 April 2022 with the Claimant's and the Defendant's representatives in attendance

AND UPON reading the submissions and evidence filed and recorded on the Court file

IT IS HEREBY ORDERED THAT:

1. The Defendant shall pay the Claimant the sum of AED 133,218.75, plus 9% post judgment interest per annum from the date of this Judgment until the date of full payment.

2. The Defendant shall pay the Claimant the Court fees in the sum of AED 6,665.45.

Issued by:
Ayesha Bin Kalban
SCT Registrar
Date of issue: 28 April 2022
At: 11am

THE REASONS

The Parties

1. The Claimant is Madigan (the "Claimant"), a company registered in Dubai, UAE.

2. The Defendant is Madra (the "Defendant"), a company registered in Dubai, UAE.

Background and the Preceding History

3. The underlying dispute is in regard to the alleged non-payment of invoices issued to the Defendant by the Claimant pursuant to a purchase order in the total amount of AED 45,269.36 (the "Invoices"). The Claimant filed its claim with the DIFC Courts' Small Claims Tribunal (the "SCT") on 7 March 2022 seeking recovery of the sum of AED 45,269.36 (the "Claim").

4. On 14 March 2022, the Defendant filed its defence by way of email.

5. Thereafter, in accordance with the Rules of the DIFC Courts, a Consultation was held before SCT Judge Maitha Al Shehhi with both parties' representatives in attendance. However, the parties failed to reach a settlement.

6. Thereafter, a Hearing was then held before me on 20 April 2022, at which the Claimant's and the Defendant's representatives attended.

The Claim

7. The Claimant's case is that it had entered into a credit agreement with the Defendant (the "Credit Agreement") pursuant to which the Claimant was to supply the Defendant with materials in accordance with the Defendant's local purchase order (the "Local Purchase Order").

8. The Claimant supplied the Defendant with materials from 15 November 2020 to 9 May 2021. However, the Defendant failed to pay the Claimant the total sum of AED 45,269.36.

The Defence

9. The Defendant, by way of email, submitted that it contests the jurisdiction of the DIFC Courts. The Defendant's letter states the following:

> "due to the non-existence of the arbitration clause in our contract, we believe that DIFC Courts has no jurisdiction over this case and it should be referred to Dubai Courts."

10. The Defendant failed to file any defence in relation to the merits of the case.

Jurisdiction

11. The Defendant has failed to properly contest the Jurisdiction of the DIFC Courts, by way of indicating its intention to do at the time of filing the Acknowledgment of Service. This hearing before me was not a jurisdiction hearing, but a hearing listed to discuss the merits of the claim. However, I shall determine the Jurisdiction issue raised by the Defendant, and will then proceed to set out my findings on merits.

12. Article of 5(A)(1) and (2) of the JAL sets out the DIFC Courts' jurisdiction over:

> "(a) Civil or commercial claims and actions to which the DIFC or any DIFC Body, DIFC Establishment or Licensed DIFC Establishment is a party;
>
> (b) Civil or commercial claims and actions arising out of or relating to a contract or promised contract, whether partly or wholly concluded, finalised or performed within DIFC or will be performed or is supposed to be performed within DIFC pursuant to express or implied terms stipulated in the contract;
>
> (c) Civil or commercial claims andactions arising out of or relating to any incident or transaction which has been wholly or partly performed within DIFC and is related to DIFC activities; . . .
>
> (e) Any claim or action over which the Courts have jurisdiction in accordance with DIFC Laws and DIFC Regulations. . .
>
> (2). . . civil or commercial claims or actions where the parties agree in writing to file such claim or action with [the DIFC Courts] whether before or after the dispute arises, provided that such agreement is made pursuant to specific, clear and express provisions.

13. The parties are both companies registered outside the jurisdiction of the DIFC, however, by virtue of the Terms of Business, I note that the parties have agreed to `opt-in' to the jurisdiction of the DIFC Courts pursuant to clause 16, which reads as follows:

> . "we reserve the right to take legal action to recover any unpaid amount which has become due and owing or goods provided and/or work performed. These terms of business, and the entire relationship between the parties, are all subject to and governed by the Laws of the Dubai International Financial Centre (DIFC). In the event of a dispute arising out of or in connection with, these terms of business or any work performed or goods supplied thereunder, the parties agree, by executing these terms that such claims will be bought before the DIFC Courts and all such disputes shall be subject to the exclusive jurisdiction of the DIFC Courts."

14. The Defendant's Managing Director had signed the Credit Application Form on 13 February 2020 which states that:

> "I confirm I am authorised to complete this credit application for & on behalf of the company named above, whilst also understanding and agreeing to the trading terms of Miun and implication of their content."

15. Therefore, I am of the view that the DIFC Courts have the jurisdiction to hear and determine this claim.

Findings

16. I turn to the merits of the Claim before me. The Defendant has provided the Claimant with several Local Purchase Orders, and the Claimant proceeded to supply the materials as relevant to each Order.

17. The Defendant had an obligation pursuant to the Credit Application form to settle the invoices. However, the Defendant failed to do so.

18. The Claimant provided copies of the unpaid invoices and the Statement of Account which reflects that the amount due and owing to the Claimant amounts to AED 45,269.36.

19. The Defendant failed to provide any documentation through the eRegistry portal and failed to provide any defence at the hearing, and solely relied on its arguments in regard to jurisdiction.

20. Therefore, I find that the Defendant is liable to pay the Claimant the sum of AED 45,269.36 plus the Court fees in the sum of AED 2,265