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

BEFORE SCT JUDGE MARIAM DEEN

BETWEEN

HANEUL LTD

Claimant

and

HANELLE INDUSTRY FZCO

Defendant

Hearing:**16 August 2017**

Judgment:**23 August 2017**

JUDGMENT OF SCT JUDGE MARIAM DEEN

Transcribed from the oral judgment delivered on 16 August, revised and approved by the Judge.

UPON the Claim Form being filed on 27 July 2017

AND UPON the Defendant indicating its intention to contest jurisdiction on 30 July 2017

AND UPON a Jurisdiction Hearing having been held before SCT Judge Mariam Deen on 16 August 2017, with the Claimant and Defendant's representative being in attendance

AND UPON reviewing the documents and evidence submitted in the Court file

IT IS HEREBY ORDERED THAT:

1.The Defendants' application to contest jurisdiction is granted.

2. The DIFC Courts have no jurisdiction to hear and determine this claim and the claim is therefore dismissed.

3. Each party shall bear their own costs.

THE REASONS:

1.The Claimant's case is that he had agreed to provide a service to the Defendant in May 2009 and had been providing that service between October 2009 and October 2015. It is alleged that the Defendant has only made partial payments for the service received by it and has failed to settle his account with the Claimant, with AED 90,276.03 remaining outstanding.

2. Rule 53.2 of the Rules of the DIFC Courts ("RDC") requires that the Small Claims Tribunal ("SCT") hear only cases that fall "*within the jurisdiction of the DIFC Courts*."

3. The jurisdiction of the DIFC Courts is determined by Article 5(A) of the judicial authority law, Dubai Law No. 12 of 2004, as amended, which provides a number of limited gateways through which the DIFC Courts have jurisdiction over a claim, which are, as relevant:

> "(a) Civil or commercial claims and actions to which the DIFC or any DIFC Body, DIFC Establishment or Licensed DIFC Establishment is a party;
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> (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;
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> (c) Civil or commercial claims and actions 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;
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> .
>
> (e) Any claim or action over which the Courts have jurisdiction in accordance with DIFC Laws and DIFC Regulations.

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(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."

4. Neither party is, or was, a DIFC registered or licensed entity.

5. The parties acknowledge that their transactions were not partly or wholly performed within the DIFC, nor did they relate to DIFC activities.

6. In the absence of sufficient nexus between the Claim and the DIFC, the DIFC Courts may still have jurisdiction over the Claim if it can be shown that the parties sought to `opt in' to the jurisdiction of the DIFC Courts, pursuant to Article 5(A)(2) of the Judicial Authority Law. However, during the course of the Hearing it was accepted by both parties that there was never any agreement to `opt in' to DIFC Courts' jurisdiction, in fact, there was no written agreement between the parties at all.

7. For cases to be heard in the SCT they must fall within the DIFC Courts' jurisdiction, as addressed above, and the case must also be appropriate for the SCT. As there is no DIFC Courts' jurisdiction, it follows that there cannot be jurisdiction for the SCT to hear the dispute.

8. Therefore, the Defendants' application to contest jurisdiction is granted and the merits of the case shall not be considered.

9. The parties shall bear their own costs.

Issued by:

Lema Hatim

SCT Judge

Date of Issue: 23 August 2017

At: 12pm