Claim No: SCT 274/2022

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS

BETWEEN

MINTAL

Claimant

and

MAFTMAFT

Defendant

ORDER WITH REASONS OF H.E. JUSTICE NASSIR AL `33NASSER

UPON the Defendant's Acknowledgment of Service dated 20 July 2022 setting out its intention to contest the DIFC Courts' jurisdiction

AND UPON this Claim having been called on 28 July 2022 for a Jurisdiction Hearing before H.E. Justice Nassir Al Nasser, with the Claimant's and the Defendant's representatives in attendance

IT IS HEREBY ORDERED THAT:

1. The Defendant's contest to the DIFC Courts' jurisdiction is granted.

2. The DIFC Courts has no jurisdiction to hear and determine this claim.





Issued by:
Ayesha Bin Kalban
SCT Registrar and Registrar
Date: 1 August 2022
At: 9am

SCHEDULE OF REASONS

1. The Claimant is Mintal (the "Claimant"), a company located and registered in Karachi, Pakistan filing a claim against the Defendant regarding unpaid invoices.

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

3. On 6 July 2022, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal claiming unpaid invoices in the sum of USD 60,884.

4. On 20 July 2022, the Defendant filed its Acknowledgment of Service contesting the jurisdiction of the DIFC Courts.

5. The Defendant submits that the claim made by the Claimant against the Defendant is invalid as the Agreement signed by the Claimant and the Defendant was voided and replaced by the Agreement signed on 30 December 2020 by the Claimant and MaftMaftn which is a Tunisian based company.

6. Therefore, the Defendant submits that the claim shall be dismissed for lack of jurisdiction as the Agreement between the parties is governed by Pakistani Law.

7. In response, the Claimant submits that the Contracts entered with Maftn Maft(being MaftnMaftand MaftnMaft) are as follows:

a. Customisation and platform services agreement dated 30 March 2020 (effective from the date of signing 4 April 2020 executed between the Claimant and the Defendant ("Service Agreement 1")

b. Customisation and platform services agreement dated 1 July 2020 (effective from the date of signing 29 July 2020 executed between the Claimant and the Defendant ("Service Agreement 2")

c. Customisation and platform services agreement dated 30 March 2020 (effective from the date of signing around 30 December 2020 executed between the Claimant and the Defendant ("Service Agreement 3").

8. The Claimant submits that Service Agreement 3 was executed to facilitate the MaftnMaftin order for it to be able to process the payments to the Claimant in a quicker and smoother manner. Therefore, the Claimant submits that Service Agreement 3 reproduced everything there was in

Service Agreement 1. Furthermore, addendums were added thereunder, and their effective dates of which are 20 December 2020 ("Addendum 1), dated 22 January 2021 and effective from 18 February 2021 ("Addendum 2") and effective from 20 February 2021 ("Addendum 3"). The Claimant submits that Addendum 1 reproduced everything therein from Service Agreement 2.

9. Addendum 1 effective on 20 December 2020 provides that the parties to this Addendum are the Claimant and MaftnMaftwhich is a Tunisian entity. Therefore, since the Claimant admitted that Addendum 1 reproduced everything in Service Agreement 2, then the Addendum amended the Agreements and transferred the rights from one entity which is Maftn Maft(the Defendant) to another which is MaftnMaft.

10. Therefore, due to the Amendments made by the parties, I find that MaftnMaftis no longer a contractual party to any of the Agreements and Addendums.

11. The Agreements and Addendums only provided the Governing Law, which is the Pakistani Law, but was silent in relation to jurisdiction.

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

(a)

"(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)

(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)

(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; . . .

(d)

(e) Any claim or action over which the Courts have jurisdiction in accordance with DIFC Laws and DIFC Regulations. . .

. . . 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. Therefore, in the absence of any written Agreement between the parties to agree on the Jurisdiction of the DIFC Courts pursuant to Article 5(A) of the JAL, I find that the parties have no relation with the DIFC and have not agreed in writing to `opt-in' to the Jurisdiction of the DIFC Courts.

14. In light of the above finding, the Claim must be dismissed henceforth.