THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

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

IN THE SMALL CLAIMS TRIBUNAL OF DIFC COURTS

BEFORE H.E. JUSTICE OMAR AL MUHAIRI

Between

GAUTAMA SHIPPING LTD

Claimant/Respondent

v

GAZSI SHIPPING AND LOGISTICS LLC & GEFEN FZCO

Defendants/Applicants

ORDER OF H.E. JUSTICE OMAR AL MUHAIRI

UPON hearing the Respondent/Claimant and the Applicants/Defendants

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

IT IS HEARBY 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

Parties

1. The Respondent/Claimant is Gautama Shipping LTD, a international company.

2. The Applicants/Defendants are Gazsi Shipping & Logistics LLC and Gefen FZCO. The First Applicant/Defendant, Gazsi Shipping & Logistics LLC, is a company located within Dubai but not registered with the DIFC. The Second Applicant/Defendant, GefenFZCO is a company registered within JAFZA.

Background and the Preceding History

3. The underlying dispute arose over detention and port storage charges incurred against 16 shipping containers which are owned by the Claimant but allegedly abandoned by the Defendants in the Jebel Ali port.

4. The Claimant submits two documents entitled "Bill of Lading" to show the relationship between the parties with regard to these shipping containers. The First Defendant seemingly agreed to ship and return the 20 containers owned by the Claimant, with a company named Goar Shipping Line LLC acting as the delivery agent. The First Defendant then made an agreement with the Second Defendant regarding shipping and return of the same 20 containers.

5. The Claimants allege that the Defendants failed to clear 16 of the 20 containers from the Jebel Ali port. This failure resulted in significant detention and port storage fees being charged against the containers.

6. On 11 April 2016, the Claimant filed a claim in the DIFC Courts' Small Claims Tribunal (the "SCT") for reimbursement of the charges required to clear and return the remaining containers. The Claimant claimed a total of USD $113,696.17 against the Defendants.

7. Both of the Defendants responded to the claim by contesting the jurisdiction of the DIFC Courts over the dispute.

8. On 25 April 2016 I heard submissions of the Claimant and the Defendants.

Particulars and Defence

9. The Claimant makes no argument regarding the DIFC Courts' jurisdiction over the claim in their Claim File nor did the Claimant's representative make any argument in favour of the DIFC Courts' jurisdiction during the Jurisdiction Hearing.

10. The First Defendant responded to the claim indicating intent to contest the jurisdiction of the DIFC Courts, arguing that they were only a booking party in the matter and that the real dispute is between the Claimant and the Second Defendant.

11. The Second Defendant responded to the claim also indicating intent to contest the jurisdiction of the DIFC Courts. The Second Defendant argues that they are not a DIFC entity, instead they are registered within JAFZA. Further, they argue that they have not accepted DIFC Courts' jurisdiction and are not a contractual party with the Claimant. They assert that the dispute is between the Claimant and the First Defendant.

Finding

12.Based on the submissions and the arguments at the Jurisdiction Hearing, it is clear that this dispute does not fall within the jurisdiction of the DIFC Courts.

13. The Rules of the DIFC Courts ("RDC") 53.2 require that the SCT hear only cases that fall "within the jurisdiction of the DIFC Courts."

14. The jurisdiction of the DIFC Courts is determined by the judicial authority law, Dubai Law No. 12 of 2004, Article 5(A), as amended, which provides a number of limited gateways through which the DIFC Courts have jurisdiction over a claim. Of those gateways, only a few could relate to this dispute, namely that there is jurisdiction in:

> (a) 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 which 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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> (b) 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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> (c) Any claim or action over which the Courts have jurisdiction in accordance with DIFC Laws and DIFC Regulations; or
>
> (d) 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 provision.

15. There is no evidence in the case showing that any of these various gateways apply. The parties are not DIFC entities and the agreements at issue were not performed or meant to be performed within the DIFC. The events giving rise to the dispute were not related to the DIFC. The parties did not agree to opt in to the DIFC Courts' jurisdiction nor do any other DIFC Laws or Regulations provide jurisdiction over this claim.

16. Therefore, the Claimant's claim must be dismissed as the DIFC Courts lack jurisdiction over the matter. The Defendants' application to contest jurisdiction is therefore granted.

17. Each party shall bear their own costs.

Issued by:

Maha Al Mehairi

Judicial Officer

Date of issue: 27 April 2016

At: 10am