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

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Judgment delivered on: 09.10.2020

+ CM(M) 445/2020 & CM APPL.21999/2020 (Stay)

ASHUTOSH RAZDAN

..... Petitioner

versus

NETCOM SOFTECH PRIVATE LIMITED & ORS...Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Sanjeev Kumar Sharma and Mr. Rajiv Dalal,
Advocates.

For the Respondent: Mr. T.K.A. Padmanabhan, Advocate.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 11.03.2020 whereby the Trial Court has held that the Suit filed by the petitioner is not a commercial dispute within the meaning of Section 2(1)(c) of the Commercial Courts Act, 2015 (hereinafter referred to as the Act).
3. Learned counsel for the petitioner submits that the Trial Court has not adverted to the facts averred in the plaint or the defence of the respondents and has passed a very cryptic order without adverting to the factual matrix.

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to HMJ Sanjeev Sachdeva.

CM(M) 445/2020

Page 1

4. Perusal of the plaint shows that petitioner has made several averments and contended that the dispute between the parties pertain to a shareholder agreement as also a joint venture agreement and has also specifically stated that the suit is covered under Section 2(1)(c) of the Act.

5. The impugned order shows that the Trial Court has merely in one paragraph recorded that petitioner has not been able to point out as to how the suit is a commercial dispute within the meaning of Section 2(1)(c) of the Act and thereafter the Court has formulated the question for consideration in the order i.e. as to whether the transaction between the parties, which is subject matter of the suit, could be considered as a commercial dispute.

6. Thereafter the Trial Court has extracted provisions of Section 2(1)(c) of the Act and referred to the judgments of the High Court as also of the Supreme Court and thereafter simply held that in view of the above the suit is not a commercial dispute. The Trial Court has not even adverted to the factual matrix or the averments made in the plaint to return a finding as to how the suit is not a commercial dispute within the meaning of Section 2(1)(c) of the Act.

7. Since the order is bereft of any reasoning, same cannot be sustained and is accordingly set aside. The matter is remitted to the Trial Court to reconsider the question formulated by the Trial Court itself in the impugned order as to whether the dispute is a commercial dispute or not in the context of the factual matrix. Trial Court shall

pass a reasoned order.

8. Parties shall appear before the concerned District & Sessions Judge on 10.11.2020 who shall reassign the matter back to the concerned Trial Court.

9. It is clarified that this Court has neither considered nor opined on the merits of the contention of the petitioner that the dispute is a commercial dispute. Trial Court is at liberty to consider the same afresh, in accordance with law, without being influenced by anything stated in this order.

10. Petition is accordingly disposed of in the above terms.

11. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

OCTOBER 09, 2020

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