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

+ **CS(COMM) 136/2023**

BENTLEY SYSTEMS INC & ANR. Plaintiffs

Through: Mr. Shantanu Sahay, Ms. Imon Roy, Ms. Shreya Shukla and Ms. Vareesha Irfan, Advs.

Versus

OFFSHORE ENGINEERING DESIGN AND ENERGY CONSULTANTS PRIVATE LIMITED OCEANERGY & ANR. Defendants

Through: Mr. Ajay Singh, Mr. Amit Kumar, Mr. Vivek Kumar Singh and Mr. Animesh Mishra, Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT (ORAL)

03.08.2023

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CS(COMM) 136/2023 and IA 14304/2023 (Order XXIII Rule 3 of the CPC)

1. The dispute between the parties stands settled and a joint application, i.e. IA 14304/2023, under Order XXIII Rule 3 of the Code of Civil Procedure, 1908 (CPC) stands filed by the parties. The terms of settlement read thus:

“a. The Defendants acknowledge that the Plaintiff is the owner of all intellectual property rights subsisting in their various software programs, especially but not limited to SACS, Microstation, and Staad.Pro, and the Defendants undertake to use genuine/authorized versions of the Plaintiffs' software programs.

b. The Defendants have agreed to procure the below mentioned software programs as part of the Settlement.



Types and Versions of Software Program	Quantity	Time Period of Procurement
SACS Offshore Structure Advance with Select	2	At the time of disposal of the present suit
STAAD.Pro Perpetual with Select	3	Same as above
SACS Offshore Structure advance/ultimate-Subscription	3	Within 3 months of the disposal of the suit
SACS Offshore Structure advance/ultimate-Subscription	3	Within 6 months of the disposal of the suit
Open Plant/STAAD Pro-Subscription	1	Same as above

c. The Defendants have already raised the purchase order with an authorised Bentley reseller namely, Mahavir Traders, in respect of the below-mentioned software programs:

- i) SACS Offshore Structure Advance with Select - 2Nos.
- ii) STAAD.Pro Perpetual with Select - 3 Nos.

A copy of the said Purchase Order issued by Offshore ENGINEERING Design and Energy Consultants Pvt. Ltd. In favour of Mahavir Traders is annexed herewith as Annexure- A.

d. The Defendants further agree to release the Purchase Orders with respect to the other purchases within the stipulated timeframe, as mentioned in paragraph 1 (b) of the present agreement.

e. The Defendants further agree that in case required and agreed between the parties, they can raise a combined Purchase Order at the time of the disposal of the present suit.

f. The Defendants undertake that they shall ensure that the upfront payments to the software reseller are made strictly in terms of the Purchase order without fail.

g. The Defendants agree that the Defendants and their agents, franchisees, servants, and all others acting on their behalf, refrain from directly or indirectly copying, reproducing, storing, installing, and/or using pirated/unlicensed software



programs of Plaintiff Software Programs (along with their various version versions such as "SACS, Staad.Pro, Microstation") developed by the Plaintiff in any manner that may amount to infringement of the Plaintiff's copyright subsisting in its software programs and software related documentation, except according to the procedure established by law.

h. Parties agree that in case either party fails and/or refuses to comply with any of the terms mentioned in the present application and any of its documents, the aggrieved party shall have the right to approach this Hon'ble Court to enforce its rights as well as the defaulting party's duties, including initiating execution proceedings.

i. The Plaintiff acknowledges that, by virtue of the present settlement between the parties, all claims and allegations made by the Plaintiff as part of the present suit stand settled. The Plaintiff agrees not to initiate any civil or criminal prosecution or institute any complaint against any of the Defendants in respect of any or all facts which constitute the whole or part of the cause of action of the present suit. The terms of the present clause will not apply in case the Defendants are found to be in breach of any of the terms of the present settlement application.

j. Plaintiffs agrees to refrain from any disparagement, defamation, libel, or slander of any of the Defendants (including the executive management team and the members of the Board of Directors) and agrees to refrain from any tortious interference with the contracts and relationships of the Defendants with any third party either in past or in future. The Defendants, on their part, agree to refrain from any disparagement, defamation, libel, or slander of Plaintiffs.

k. The Plaintiff acknowledges that during the execution of the *ex parte* order dated March 10, 2023, passed by this Hon'ble Court, the entire proceedings were duly video-graphed. As per Defendants, the aforesaid videorecording might contain sensitive data/information regarding the Computer Systems and data/information contained therein. The Plaintiff confirm that they do not possess a copy of the above-mentioned videography and the same is with the Learned Local Commissioner. The Plaintiff hereby, vide this settlement agreement, state that they shall have no objection if the Hon'ble Court directs the Learned Local Commissioner to suitably return the above-mentioned clip of videography to the Defendants for destruction purposes."



2. The parties are represented by their respective learned Counsel, who undertake on behalf of their respective clients to be bound by the terms of settlement. The Court has perused the terms of settlement and finds them to be in order.

3. Mr. Vivek Kumar Singh, learned Counsel for the defendants seeks that the compact discs, which were recorded by the learned Local Commissioner on 16 March 2023 may be returned to the defendants, inasmuch as this is one of the terms of settlement.

4. In the event the compact discs/other storage media are with the learned Local Commissioner, the defendants may obtain a copy from him. However, if they stand deposited with the Registry of this Court, the Registry is directed to return the Compact Discs/other storage media to the defendants on their approaching the Registry in that regard.

5. Accordingly, the dispute does not survive for consideration. Both parties shall remain bound by the terms of settlement.

6. The suit is accordingly decreed as per the aforesaid terms of settlement executed between the parties by which they shall remain bound.

7. The plaintiffs are entitled to refund of 50% of the court fee deposited by them.

8. Needless to say, once the equipments of computer system are



returned to the defendants as per the terms of settlement, they would be entitled to use the system as they deem fit.

9. The application also stands disposed of.

C.HARI SHANKAR, J

AUGUST 3, 2023

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