



दिल्ली DELHI

D 459332

ARBITRATION PROCEEDINGS OF DOMAIN NAME

"iilm.edu.in"

Ram Krishna & Sons Charitable Trust
AND

... Complainant

IILM Business School

... Respondents

**TERMINATION OF PROCEEDINGS UNDER SECTION 32 OF THE
ARBITRATION AND CONCILIATION ACT, 1996**

- 1) The present Arbitral Tribunal was formed by the undersigned being nominated as the Arbitrator in the aforesaid matter by the National Internet eXchange of India (NIXI) and in pursuance thereof the undersigned on 14/08/07 issued notices to both the parties and had

directed the complainant through their counsel M/s Anand & Anand to serve a hard copy of the complaint on to the Respondents.

That the Arbitral Tribunal vide its order dated 14/08/07 had fixed 18/08/07 as the date for holding a Preliminary Meeting. There after an email was received from M/s Anand & Anand, counsels for complainants requesting the postponement of hearing from 18/08/07 to some other day in the coming week. The said email had been copied to the respondents as well. Since there was no response from the side of the respondents till 20/08/07 the Arbitral Tribunal reschedule the meeting from 18th August 2007 to 21st August 2007 and a notice thereof was sent to both the parties.

That in the morning of 21/08/07 the Tribunal received a letter No. 16089 (G-1) from the counsels of complainant M/s Anand & Anand stating *interalia* that in view of the orders passed by the Hon'ble Delhi High Court in CS(OS) 1308/2007 in I.A.No. 8005/2007 they are withdrawing the said complaint. However, on the appointed date one Mr. Jogesh Sahu appeared on behalf of the respondent. The Tribunal enquired from Mr. Sahu as to whether the Respondents have received copy of the complaint from M/s Anand and Anand for which he stated that he is not aware of the receipt of the same and

would get back to the Tribunal. The Tribunal also queried from him as to the receipt of any communication no 16089(G-1) dated 20/08/07 from the side of the complainant for which again he could not give any satisfactory reply. The Tribunal supplied a copy of the said letter to Mr. Sahu the AR of the respondent. The AR of the Respondents also stated that owners of the respondent are abroad and so is their counsel and he requested 10 days time for seeking instructions. He was accordingly given time till 5th of September 2007 to send his reply to the letter dated 20/08/07 sent by Anand and Anand counsels of the complainants and also clarify the position regarding receipt of a hard copy of the complaint.

The Arbitral Tribunal vide its order dated 21/08/07 directed the complainants to supply a copy of order passed by the Hon'ble Delhi High Court in IA 445/07 in CSOS No.1308/07 dated 30.7.07. by 30th August 2007 and a copy thereto was dispatched to them. As Respondents were present before the Tribunal on 21/08/07 a copy of the order was given to them after obtaining receipt thereof.

That on 30th August 2007 the Ld. Counsels for the complainant supplied a photo copy of the orders passed by the Hon'ble Delhi High Court in IA 445/07 in CSOS No. 1308/07 dated 30.7.07.



- 6) That after going through this the said order it is apparent that the parties have a ongoing litigation pending in the Delhi High Court and in view of the same the complainant withdrew their complaint vide their letter dated 20/08/07.
- 7) That as detailed supra on 21/08/07 the copy of the letter as aforestated had been given to the AR of the Respondent who had undertaken to send his response thereto and had also undertaken to send his response as to the receipt of the hard copy of the complaint. It is also noticed that the counsel for the complainant M/s Anand & Anand has also endorsed a copy of their letter reference No.16087 (G1) dated 30.10.07 wherein they enclosed the copy of the order passed by the Hon'ble Delhi High Court as mentioned (*supra*).
- 8) That the date of 5th September 2007 fixed by this Tribunal was primarily for the respondent to send in their response. The Tribunal noticed that till the date of this order the respondents had neither sent in response nor sent any intimation to this Tribunal despite being given an opportunity. In view of the lack of response from the side of the respondents this Tribunal based on the material available



before it terminates the present arbitration proceedings under Section 32(2) of the Arbitration and Conciliation Act 1996.

The original copy of this order of Termination of Proceedings under Section 32 of the Arbitration & Conciliation Act, 1996 is being sent to National Internet exchange of India and a copy thereof is being dispatched separately to the parties.

New Delhi
13th September 2007



(V. Shrivastav)
SOLE ARBITRATOR