

**IN THE COURT OF LXXXII ADDL. CITY CIVIL & SESSIONS
JUDGE, AT BENGALURU (CCH. 83)**

THIS THE 01ST DAY OF SEPTEMBER 2021

PRESENT:

**SRI. DEVARAJA BHAT. M., B. COM, LL. B.,
LXXXII ADDL. CITY CIVIL & SESSIONS JUDGE,
BENGALURU.**

Com.OS.No.8994/2011

BETWEEN:

WEP PERIPHERALS LIMITED

: PLAINTIFF

AND

**M/s. ELECTRONICS &
CONTROLS POWER
SYSTEMS PVT LTD &
OTHERS.**

: DEFENDANTS

**ORDERS PASSED UNDER ORDER XI RULE 4 (7) OF
CIVIL PROCEDURE CODE AS AMENDED UNDER
SECTION 16 OF COMMERCIAL COURTS ACT.**

Based on the Statement of Admissions and Denials filed by both parties, after hearing the Advocate for both parties, the following admitted documents are marked as Exhibits.

**The Documents marked on behalf of the Plaintiff
based on Statement of Admissions and Denials of the
Defendant No. 1, 2 and 5**

- 1.** Original Memorandum of Understanding dated 28.12.2007 is already marked as Ex.P.2.
- 2.** Certified Copy of Annual Report of Defendant No.1 filed before Registrar of Company for the year 2004-05 is already marked as Ex.P.3.
- 3.** Certified Copy of Annual Report of Defendant No.1 filed before Registrar of Company for the year 2005-06 is already marked as Ex.P.4.
- 4.** Certified Copy of Annual Report of Defendant No.1 filed before Registrar of Company for the year 2006-07 is already marked as Ex.P.5. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).
- 5.** E-mail printout dated 26.12.2007 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff and replies dated 27.12.2007 sent by the Plaintiff to

the Defendant No.1 is already marked as Ex.P.6. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

6. E-mail printout dated 31.12.2007 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.7. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

7. E-mail printout dated 03.01.2008 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.8. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

8. E-mail printout dated 07.01.2008 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.9. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

9. E-mail printout dated 10.01.2008 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.10. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

10. E-mail printout dated 14.01.2008 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.11. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs.

Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

11. E-mail printout dated 31.01.2008 sent by the representatives of Defendant No.1 to the Managing Director of the Defendant No. 1 and mail printout dated 01.02.2008 sent by the Managing Director of the Defendant No.1 to the various representative of Plaintiff is already marked as Ex.P.12. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

12. E-mail printout dated 06.03.2008 sent by the Managing Director of the Defendant No. 1 to the various representatives of Plaintiff is already marked as Ex.P.13. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

13. E-mail printout dated 18.03.2008 sent by the Managing Director of the Defendant No. 1 to the representative of

Plaintiff is already marked as Ex.P.14. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

14. E-mail printout dated 02.07.2008 and 04.07.2008 sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.15. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

15. E-mail printout dated 10.07.2008 with trailing mails sent by the Managing Director of the Defendant No. 1 to the representative of Plaintiff is already marked as Ex.P.16. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

16. Certified Copy of Compliance Certificate in Form No. 66 dated 02.02.2010 filed by the Defendant No.1 to Registrar of Companies along with annexures is already marked as Ex.P.19. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

17. Certified Copy of Annual Return in Form No. 20-B dated 02.02.2010 filed by the Defendant No.1 to the Registrar of Companies along with annexures is already marked as Ex.P.20. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

18. Certified Copy of the Balance Sheet of Defendant No.1 for the period ended 31.03.2009 filed before Registrar of Companies is already marked as Ex.P.21. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018

in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

19. Office Copy of Legal Notice dated 14.10.2009 issued by the Plaintiff to the Defendants is already marked as Ex.P.22.

20. 8 postal Receipts to show Notice at Ex.P.22 was sent to the Defendants through registered post is already marked as Ex.P.23. (Though this document is denied, the same is marked in the light of observation made at Para No.31 of the Judgment passed in CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors., of Hon'ble High Court of Delhi).

The Documents marked on behalf of the Defendants based on Statement of Admissions and Denials of the Plaintiff.

I have perused the Statement of Admissions and Denials filed by the Plaintiff. The said Statement of Admissions and Denials is filed in very causal nature. According to him the documents produced along with written statement of Defendant No.7 or photo copies and hence he his not in a position to file Statement of Admissions and Denials. The Plaintiff has to face the consequences of the same as per Order XI Rule 4 (6) of Civil Procedure Code as amended under

Section 16 of the Commercial Courts Act. The same will be considered at the later stage.

At Para No.31 of the Judgment passed in **CS(COMM)919/2016 & CC(COMM)122/2017 dated 27.08.2018 in the case of Burger King Corporation vs. Techchand Shewakramani & Ors.,** of Hon'ble High Court of Delhi, it is held as follows:-

“A Large number of documents belonging to the parties have been denied indiscriminately. Documents which are available publicly and are verifiable such as trademark certificates, copyright certificates from India and other countries, as also documents issued by governmental authorities ought not to be permitted to be denied. Such denials are completely bereft of merit and tend of prolong the trial in a suit. The purpose of admission/denial is to deny only those documents whose existence, genuinity or authenticity is disputed and not to merely harass the opposite side into proving each and every document with certified copies/original. Especially in commercial matters, the process of admission/denial deserves to be cut short where the dispute between the parties is very narrow. Documents such as e-mail correspondence, legal notices, replies, internet printouts, etc. ought not to be permitted to be denied. The practice adopted by parties to deny in general all the documents of the opposite side has been the bane of adjudication of civil suits. It is with this purpose that the provisions of the Commercial Courts Act as also the recent amendments by the Delhi High Court in the Original Sides Rules has been carried out. Admission/denial affidavits ought to be fair, bona fide and not with an intention to prolong trials. Keeping these provisions in

mind, parties are given another opportunity to file their affidavits of admission/denial so that triable issues can be easily identified and struck. Any unjustified denial would be liable to be dealt with as per the provisions of the Commercial Courts Act and Delhi High Court (Original Side) Rules, 2018".

Keeping in my mind about the said aspects, the above documents are marked. Both Advocates are requested to find out the points of disputes between the parties in view of the marking of the above-mentioned admitted documents and whether the entire dispute can be resolved without recording further oral evidence by passing a Summary Judgment as required under Order XIII-A of the Civil Procedure Code as amended under Section 16 of the Commercial Courts Act.

(Dictated to the Stenographer, typed by her directly on the computer, verified by me and pronounced in the open court on **1st day of September 2021**).

(M. DEVARAJA BHAT)
LXXXII Addl. City Civil & Sessions Judge,
Bengaluru.

A separate detailed order is passed on Statement of Admissions and Denials.

To hear about summary Judgment by 09.09.2021.

(Typed to my dictation)

LXXXII ACC & SJ,B'LURU.