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

+ **CS(COMM) 824/2023 with I.A. 22712/2023, I.A. 3099/2024, I.A. 4040/2024, I.A. 7948/2024 and I.A. 46655/2024**

**GET OUT SYSTEMS PRIVATE LIMITED
& ANR.**

.....Plaintiffs

Through: Mr. Vikas Nanda, Advocate.

versus

MR RAJEEV MALHOTRA & ORS.

.....Defendants

Through: Mr. Saikrishna Rajagopal, Mr. Anaga
S. Makkar and Ms. Surabhi Pande,
Advocates for D-5.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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20.12.2024

1. In the order dated 8th February 2024, this Court has passed directions *qua* Defendant No.5/Amazon Web Services India Pvt Ltd, which are set out hereinafter:

4. Accordingly, Defendant No. 5 is directed to file a detailed affidavit explaining the circumstances commencing from 10th November, 2023, i.e., date of the first order in this suit, till the stage of reactivation. Additionally, Defendant No. 5 shall in the affidavit disclose the activity logs pertaining to the period the account remained deactivated. Such details would include:

- a. Cloud Trail Logs with IP address and location.*
- b. All active users and actions performed.*
- c. Details of the any outstanding dues towards the AWS Account of the Plaintiff company (if any).*



d. Cloud watch and RDS logs for the services that were active on the account.

e. CloudTrail Lake and Event logs, server logs, system logs (or syslog's), Web logs.

2. Pursuant to the aforesaid directions an affidavit has been filed on behalf of Defendant No.5/Amazon Web Services India Pvt Ltd. In the affidavit, it has been stated that due to human oversight and error, the impugned Amazon web services account (*hereinafter AWS Account*) got suspended/terminated, which was completely unintentional and inadvertent.

2.1 Paragraphs 5, 6 and 7 of the said affidavit are set out below:

“5. Pursuant to the directions passed by the Hon’ble Court as above, Defendant No.5 (through their counsel) contacted the Ld. Mediator and transferred the root administrator access of the Impugned AWS Account to the Ld. Mediator, having email ID rajeev@virmani.in.

6. As per the records of Defendant No.5, the invoices for the months of December 2023 through July 2024 were not paid in relation to the Impugned AWS Account. As per the AWS Customer Agreement and policies accessible at <https://aws.amazon.com/agreement/>, if the payments are not made timely, the respective AWS account is suspended. The process followed for suspension due to non-payment included an automated pre-suspension notice, which is issued to the root email ID of the AWS account holder prior to suspension, sample of which is enclosed. This notice usually mentions the date by which the payment is to be made. If the payment is not made on the said date, the AWS account is suspended. It is pertinent to disclose here that as per Defendant No.5’s policy indicated at <https://reports.aws/knowledge-center/reactivate-suspended-account> if the customer does not make the payment within 120 days of the account suspension notice, the AWS account is terminated permanently and no reactivation is possible. The copy of the AWS policies indicated above indicating the same is enclosed herewith.

7. The Impugned AWS Account was previously suspended on 20th December 2023, due to non-payment of account fee. The Impugned AWS Account was re-activated on 8th February 2024 once the fee was paid and AWS was intimated of the same. The Defendant No. 5 has also filed an affidavit detailing the same on 19th February 2024.”



3. Mr. Vikas Nanda, counsel appearing on behalf of the plaintiff wishes to file a response to the aforesaid affidavit.

3.1 Let a response be filed within four (4) weeks.

4. In the meanwhile, Mr. Saikrishna Rajagopal counsel appearing on behalf of Defendant No.5 submits that Defendant No.5 may be permitted to submit the pen drive containing the data retrieved by Defendant No.5 to Mr. Rajeev Virmani, Senior Advocate, who was appointed as a Mediator in the present case.

4.1 Let the pen-drive containing the retrieved data be submitted within two (2) weeks.

5. Upon the pen-drive containing the data being submitted, the mediator shall call the authorised representatives of the plaintiff and the defendant for a meeting. The learned Mediator shall determine the extent of data which has been retrieved or lost.

5.1 After the aforesaid meeting, the learned Mediator shall file a report within four (4) weeks.

6. List on 2nd April, 2025.

7. Interim orders to continue till the next date of hearing.

AMIT BANSAL, J

DECEMBER 20, 2024

Vivek/-