

* **HIGH COURT OF DELHI : NEW DELHI**

+ **CS (OS) No.842/2002**

Judgment reserved on: 5th March, 2009

% Judgment decided on : 6th April, 2009

Tata Sons Ltd. Plaintiff
Through : Mr. Pravin Anand, Adv. with
Mr. J. Prashant Reddy, Adv.

Versus

A.K. Chaudhary & Anr. Defendants
Through: None

Coram:

HON'BLE MR. JUSTICE MANMOHAN SINGH

- | | |
|--|-----|
| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to Reporter or not? | Yes |
| 3. Whether the judgment should be reported in the Digest? | Yes |

MANMOHAN SINGH, J.

1. The case of the Plaintiff is that the Plaintiff company, established in the year 1917 as a body corporate and is the principal investment holding company of TATA, which is India's oldest, largest and best – known conglomerate, with a turnover of over US\$14,251 million or Rs. 65, 424 crores for the financial year 2003-04. Its genesis was in 1868 when Jamsetji Nusserwanji Tata set up a private trading firm with a capital of Rs.2000/-.

2. The enterprises promoted by the Plaintiff company have laid the foundation in the industrial core sectors, pioneering the textiles, steel, power, chemicals, hotels and transport industries in India.

3. With the changing global scenario, TATA have branched out into computers and computer software, electronics, telecommunications, financial services, mutual funds, food processing, tea and publishing.

4. The first TATA Enterprise was founded by Jamsetji Tata over 100 years ago with a textile mill in Central India. Over the years, TATA enterprises entered various fields of commercial activities.

5. The reputation of the TATA trademark in India has further been recognized by the then Prime Minister of India, Shri Atal Behari Vajpayee in his letter, wherein he states:

“It was the legendary late JRD Tata who brought in the concept of ‘brand name’ in the India mindset and the very word ‘Tata’ inspired confidence in any product or service offered to the consumer”.

6. The Encyclopedia Britannica has a special mention of the trademark TATA and its fame. The pioneering efforts of Jamsetji Tata are referred to in laudatory terms in the Encyclopedia Britannica and the Tata company TISCO has been referred to as “the nucleus of a vast industrial complex including not only textiles, steel and electronic power but also chemicals, agricultural equipment, trucks, locomotives and cement.” In fact, the House of Tata is the only Indian industrial business group that is mentioned in the Encyclopedia Britannica.

7. The Plaintiff company is also the registered proprietor of the trademark “TATA” in relation to various specifications of goods in various classes, in India.

8. The Plaintiff company is the proprietor of the trademark TATA by virtue of priority in adoption, continuous and extensive use

and advertising, and the reputation consequently accruing thereto in the course of trade.

9. In early 2001, the Plaintiff commissioned the creation of an artistic work comprising of a logo entitled “**TATA World**” to be used on its website of the same name. The website with the url <http://www.tataworld.com> prominently displays the said logo. The logo comprises of the words “TATA” and “WORLD” artistically represented in a stacked form. The said stylized and stacked words are semi – circled by two distinctive swirls, one on the top left and another at the bottom right portions, thus signifying and denoting the Tata Group’s “world”. The said artistic work was created for the Plaintiff in return for adequate consideration.

10. The exclusivity and fame of the TATA trade mark in India as well as abroad is illustrated further by various articles/write ups that have appeared in leading newspapers and journals, copies of which are filed herein. Specific note may be taken of the following excerpts :-

- International Edition of Far Eastern Economic Review, Hong Kong dated June 9-15, 1968.

‘TATA’ is a household word in India and even outside the name stands for successful industrial management III difficult circumstances” .

- Article 'Ratan Tata rebuilds an Indian behemoth' appearing in the PEOPLE IN FOCUS section in Financial Times, dated 11th August, 2000.

"Go anywhere in India and you cannot fail to see the word TATA

everywhere, on trucks, cars, electrical goods and even tea. For almost a decade Mr. Tata has sat atop the Indian conglomerate, which operates in 25 countries and exports to more than 100 "

11. **Knowledge of Defendants' unlawful activity:**

The Plaintiffs in first week of March, 2002 came to know that the Defendant No. 1 was openly selling steel cutlery and other similar items, under the trademark TATA. An employee of Tata Honeywell Limited, a TATA group company, purchased the Defendants products bearing the impugned mark which shows copying by the defendants of trademark TATA and the artistic work TATA WORLD logo.

12. The Plaintiff submits that the defendants are promoting and passing themselves off as a company belonging to the Tata Group, or having some affiliation or endorsement with the Tata Group that has been approved or authorised for the manufacture and sale of "steel cutlery" products.

13. The defendants are using the TATA mark wrongfully and illegally and are thereby misrepresenting to the public at large that they are a part of the Tata Group.

14. The marks TATA and TATA STEEL are boldly printed on the literature supplied along with the impugned products. The defendants have also substantially reproduced the Plaintiff's artistic work "TATA WORLD" logo in which the Plaintiff has copyright.

15. The defendants have sought to give an impression in their literature as though they have business activities under the name/mark

TATA spread out across the world. This act of the defendants amounts to passing off and is calculated to increase their sale of the impugned products and in the process misappropriating the reputation and goodwill of the Plaintiff.

16. The use of an identical mark by the defendants in relation to the steel cutlery and other related goods would cause immense confusion and deception amongst the purchasing public and members of trade as regards the source of their goods and business. Such persons are bound to consider if:

- a) the defendants are a part of the famous and immensely reputed TATA STEEL, namely Tata Iron and Steel Company of the TATA Group; or
- b) the defendants have a direct nexus or affiliation with the Plaintiff or the House of TATA; or
- c) the defendants have been granted a license to use the trademark TATA in relation to the manufacture and sale of steel cutlery; or
- d) the business of the defendants has been endorsed by the Plaintiff and therefore is characteristic of the same level of quality and reliability as is synonymous with the goods and services of the Plaintiff/ TATA companies.

17. By the substantial reproduction of the Plaintiff's TATA WORLD stacked logo by the defendants, they have infringed the copyright therein.

18. It is an accepted proposition of law that famous and well known trademarks especially those that embody an aura of pre-eminent

excellence and quality, such as the Plaintiff's trademark TATA, are generally given broad protection.

19. The Plaintiff company has in the past successfully enforces its rights over the trademark **TATA** in relation to various goods, even totally different and unrelated goods and services from their existing wide range of operations, for example, pressure cookers, lottery tickets, newspapers, etc. by filing suits for permanent injunction against various parties, as is listed below:

HIGH COURT DECISIONS IN FAVOUR OF TATA SONS LIMITED, THE PLAINTIFF COMPANY

Title	Suit No.	Order
Tata Sons. Vs. Manu Kosuri & Anr.	159/99	<i>Ex-parte</i> interim injunction granted restraining the defendants from using nine domain names including jrdtat.com , ratantata.com , tatahoneywell.com , tatassl.com , tatayodogawa.com , tatahydro.com , tatateleservices.com , tatapowerco.com , all containing the trademark/name TATA as a part thereof, on the Internet or otherwise.
Tata Sons Vs. Bodacious Tatas	1991/99	<i>Ex parte</i> interim injunction granted restraining the defendants from using the domain name Bodacious-tatas.com or any domain name containing the word TATA as a part thereof on the Internet or otherwise.
Tata Sons Limited Vs. J. K. Pandey	2568/96	<i>Ex parte</i> Injunction granted and the Defendants restrained from using the trademark TATA in relation to any books or publications.
Tata Son Limited & Anr. Vs. Kirti Sherman & Ors.	2367/98	<i>Ex-parte</i> injunction granted and the defendants restrained from using the trademark tatayellowpages.com on the internet as a domain name or otherwise.
Tata Sons Vs. Ghassan Yacoub & Ors.	1672/99	<i>Ex parte</i> interim injunction granted restraining the defendants from

		using the domain name tatagroup.com or any domain name containing the word TATA as a part thereof on the Internet or otherwise.
Tata Sons Limited Vs. Windals Auto Limited & Anr.	2615/99	Defendants restrained permanently from using the domain name tatasons.com or any domain name containing the word TATA as a part thereof on the Internet or otherwise.
Tata Sons Limited Vs. Mr. Sahni & Ors.	617/97	Interim injunction granted restraining the defendants from using the name TATA in respect of lottery tickets or any printed matter.
Tata Sons Limited Vs. H. p. Singhal & Ors.	388/01	<i>Ex parte</i> Interim injunction granted restraining the defendants from using the name TATA India Limited or any trade name/mark of which TATA forms a part of trading style.
Tata Sons Limited Vs. A & Co. & Anr.	2367/01	<i>Ex parte</i> Interim injunction granted restraining the defendants from using the trademark ‘Bhutan TATA Super’ with respect to lottery tickets or any other printed matter, or any other mark of which TATA forms a part.
Tata Sons Limited Vs. A. K. Chaudhary & Anr.	842/02	<i>Ex parte</i> Injunction granted and the Defendants restrained from using the trademark TATA and the copyrighted original artistic “ TATA WORLD ” logo in relation to steel cutlery.
Tata Sons Vs. Fashion Limited	1176/02	<i>Ex parte</i> interim injunction granted against use of domain name tatainfotecheducation.com or any domain name containing the word TATA as a part thereof on the Internet or otherwise.
Tata Sons Limited Vs. Suresh Jain & Ors.	1922/03	<i>Ex parte</i> interim injunction granted against the defendants restraining their use of the trademark TA-TA with respect of pipes. It was also recognized that TATA is a well – known mark.
Tata Sons Limited & Anr. Vs. Tamal Das Gupta & Ors.	266/04	<i>Ex parte</i> interim injunction granted against use of domain name tataindicomdirectory.com . Permanent injunction has been passed against the use of the domain

		name, which has also been transferred.
Tata Sons Vs. Rajinder Kumar Nahta & Ors.	592/04	<i>Ex parte</i> interim injunction granted against use of mark TATA or any similar mark in relation to hosiery goods.
Tata Sons Limited Vs. Amit Mahna & Ors.	1228/04	<i>Ex parte</i> interim injunction granted against use of mark TATA or any similar mark in relation to pressure cookers.

II. DECISIONS OF THE ARBITRATION AND MEDIATION

CENTRE, WIPO, IN FAVOUR OF TATA SONS LIMITED

Title	Case No.	Domain Name(s)	Decision
Tata Sons Limited Vs. The Advanced Information Technology Association	D2000-0049	Tata.org	Domain name transferred
Tata Sons Limited Vs. D & V Enterprises	D2000-0479	Bodacious-tatas.com	Domain name transferred
Tata Sons Limited Vs. Cyber Networks	D2000-0755	Tatamail.com	Complaint withdrawn; Respondent voluntarily agreed to transfer the domain name
Tata Sons Limited Vs. Manu Kosuri	D2000-1713	Tatapowerco.com Tatahydro.com Tatawestside.com Tatahoneywell.com Tatayodogawa.com Tatateleservices.com Tatassl.com Tatatimken.com Jrdtata.com Ratantata.com	Domain name transferred
Tata Sons Limited Vs. Jagjit Jain	D2001-0627	Tatapower.com	Complaint withdrawn; Respondent voluntarily

			agreed to transfer the domain name
Tata Sons Limited Vs. Hasmukh solanki	D2001-0974	Tataamex.com Tata-amex.com Amextata.com	Domain name transferred
Tata Sons Limited Vs. Renjith R.	D2004-0083	Tatainfocom.com	Domain name transferred

20. Vide order dated 31st October, 2002, this Court appointed Local Commissioners to visit the premises of Defendant Nos. 3, 4, 5, 7, 8 and 9. On 9th September 2002, Mr. Arvind Nayar, Mr. Vipin Kumar Marya, Mr. Gautam Narayan and Mr. Gaurav Malhotra visited the premises of Defendants Nos. 3, 4, 6, 8 and 9 and seized the impugned infringing goods, which were later given back to the Defendants on superdari.

21. The defendant No.7 has already arrived at settlement and suffered a decree for permanent injunction and an order in this respect was passed on 3rd April, 2007. Defendants 1 to 6 and 8 to 9 have already been proceeded ex parte vide order dated 3rd August, 2005. Since the said defendants had filed the written statement in the matter, therefore, the following issues were framed on 28th August, 2006:-

- i) Whether the defendants have infringed the trademark TATA of the plaintiff, if so to what effect ?
- ii) Whether the defendants are passing off their acts as having associated with the plaintiff ?
- iii) Whether the plaintiff is entitled for relief of injunction ?
- iv) Whether the plaintiff is entitled for damages in the amount of Rs.20 lakhs ?
- v) Whether the plaintiff is entitled to an order of delivery up of goods, blocks, dyes, stationery, packaging material or other printed material bearing the impugned trade

mark for the purpose of destruction to the representative of the plaintiff ?

- vi) Whether the plaintiff has any cause of action against the defendant No.7 ?
- vii) Relief.

22. As per order of the court, the plaintiff has produced the evidence by way of affidavits of Mr.V.Gurumoorthi, Executive Officer (Accounts & Admn) of Tata Services Ltd and Mr.Sanjeev Sharma, Chartered Accountant. In the affidavit of Mr.V.Gurumoorthi, he has reaffirmed the statements made in the plaint. The power of attorney in his favour is proved as Ex.P-1. The financial performance of the Tata Group is proved as Ex.P-2. The details of the Enterprises promoted by the plaintiff company has been exhibited as Ex.P-3. The list of various registrations granted in favour of the plaintiff in various classes are marked as Ex.P-4 and Certificate of use in legal proceedings for the trade mark TATA is marked as Ex.P-5. The original print out of the Web page showing the logo of Tata World is filed as Ex.P-6 and in order to prove the logo literature which has been filed by the plaintiff, Ex.P-7 is annexed. The reports of the Local Commissioners filed are marked as Ex.P-8 to P-11.

23. In another affidavit of Mr.Sanjeev Sharma, it is stated that the principle to be adopted while accessing compensatory damages suffered by the plaintiff on account of the defendants infringing activities, the computation of damages can be on the basis of the losses suffered by the plaintiff. It is stated that the defendant No.1 and 2 have been in the business of selling of cutlery and similar items atleast in March, 2002 as it is evident by the guarantee card issued by defendant

No.1 to an employee of the plaintiff group of Companies on 3rd March, 2002. The said guarantee card is exhibited as Ex.PW-2/1. The defendant No.3 to 6, 8 and 9 are the distributors of the defendant No.2. On the date of investigation, the defendant had the stock of 3750 cutlery sets under the trade mark TATA. The said investigation report is exhibited as Ex.PW-2/2. In Para 8 of his affidavit, it is mentioned that the Local Commissioner's report indicates that around 2200 cutlery sets with packaging and 1000 other similar items under the trade mark TATA were seized and it appears that the defendants were using the said trademark for about 8 months on the date of filing of the suit. The retail price of per cutlery set is Rs.250/-. The packaging showing the said amount is already marked as Ex.PW-2/3. Other similar items bearing the trade mark TATA having the retail price as Rs.105/- have been filed and exhibited as Ex.PW-2/4. The calculation of the total amount is given in Paras 9 to 11 of his affidavit. It is stated that atleast the plaintiff has suffered a loss of profit of Rs.12,26,000/- on account of the activities of the defendants.

24. I have heard learned counsel for the plaintiff and have also gone through the relevant pleadings and documents placed on record. It is an undisputed fact that the plaintiff has been continuously and consistently using the trade mark and trade name TATA from the year 1917. The trade mark TATA is the registered trade mark in various classes of goods in favour of the plaintiff. The said trade mark TATA has acquired unique goodwill and reputation in favour of the plaintiff

and ipso facto due to the long and continuous user this trademark is highly distinctive trade mark within the meaning of section 9 of the Act.

25. The said trade mark TATA is not only registered in India but is also registered in various other countries of the world. It is not in dispute that the mark TATA has been protected from time to time by the courts in relation to the similar/dis-similar goods adopted and used by the infringing parties. Hence, this trade mark is protected under Section 29(4) of the Act, 1999. In view of the facts and circumstances mentioned above, it is a well known trade mark within the meaning of Section 2(z)(b) of the Act, because of its distinctiveness and residual goodwill and reputation, in fact, the trade mark TATA cannot be appropriated by any party in India in relation to any merchandise goods/services/trade name otherwise it would be clear case of violation of the rights of the plaintiff. In the present case, no doubt the defendant is using the trademark TATA in relation to cutlery goods and the plaintiff may not have commercial activities of the same product but use of the said trade mark by the defendant is an infringement of the plaintiff's trade mark within the meaning of Section 29(4) of the Act.

26. The plaintiff has clearly established his case of infringement of trade mark, therefore, the suit of the plaintiff for infringement of trade mark is accordingly decreed.

27. Now as far as the question of passing off is concerned, it is clear that the defendants are indulging in the acts of passing off by representing their business as that of or associated with the plaintiff by using the impugned trade mark/name of the plaintiff. The defendants

have defrauded the general public and are likely to continue to mislead/deceive or confuse the potential customers into believing that the defendants have the approval or license from the plaintiff which in fact is not true. It appears, therefore, that the adoption and use of the said trade mark by the defendant is only with a view to making illegal profits out of the same. The adoption of the said highly distinctive trade mark TATA by the defendant is malafide and the defendants' activities deserves to be permanently restrained by this court in relation to the relief of passing off also.

28. In passing off action, one has to see as to whether the defendant is selling goods/service so marked to be designed or calculated to lead purchasers to believe that they are plaintiffs' goods. The law of passing off prevents commercial dishonesty representing one's goods as the goods of somebody else. It is well settled law that an action for passing off is a common law remedy being an action in substance of deceit under the law of Tort. In **Warnik Vs Townend & Sons (HULL) Ltd. 1979 AC 731**, Lord Diplock identified the following five characteristics which must be represented in order to create a valid cause of action for passing off:-

- A misrepresentation.
- Made by a trader in course of trade,
- To prospective customers of his or ultimate customers of goods or services supplied by him,

- Which is calculated to injure the business or goodwill of another trader (in the sense that there is a reasonable forceably consequence) and
- Which causes actual damage to a business or goodwill of the trader by whom the action is brought or (in quia timet action) will probally do so.

29. The general principle of passing off has been discussed in the case of **Lakshmi V. Patel vs. Chetan Bhai 2002(24) PTC 1** which stated as follows:-

“Para 8. It is common in the trade and business for a trader or a businessman to adopt a name and/or mark under which he would carryon his trade or business. According to Kerly (Law of Trade Marks and Trade Names/ Twelfth Edition/ para 16.49)/ the name under which a business trades will almost always be a trade mark (or if the business provides services/ a service mark/ or both). Independently of questions of trade or service mark, however, the name of a business (a trading business or any other) will normally have attached to it a goodwill that the courts will protect. An action for passing-off will then lie wherever the defendant company's name, or its intended name, is calculated to deceive, and so to divert business from the plaintiff, or to occasion confusion between the two businesses. If this is not made out there is no case. The ground is not to be limited to the date of the proceedings; the court will have regard to the way in which the business may be carried on in the future, and to its not being carried on precisely as carried on at the date of the proceedings. Where there is probability of confusion in business, an injunction will be granted even though the defendants adopted the name innocently.”

30. In **SALMOND & HEUSTON IN LAW OF TORTS (TWENTIETH EDITION, AT P.395)** this form of injury is called as ‘injurious falsehood’ and observed the same having been ‘awkwardly termed’ as ‘passing off’ and state:-

"The legal and economic basis of this tort is to provide protection for the right of property which exists not in a particular name, mark or style but in an established business, commercial or professional reputation or goodwill. So to sell merchandise or carry on business under such a name, mark, description, or otherwise in such a manner as to mislead the public into believing that the merchandise of business is that of another person is a wrong actionable at the suit of that other person. This form of injury is commonly, though awkwardly, termed that of passing off one's goods or business as the goods or business of another and is that most important example of the wrong of injurious falsehood. The gist of the conception of passing off is that the goods are in effect telling a falsehood about themselves, are saying something about themselves which is calculated to mislead. The law on this matter is designed to protect traders against that form of unfair competition which consists in acquiring for oneself, by means of false or misleading devices, the benefit of the reputation already achieved by rival traders."

Protection under the doctrine of dilution and unfair competition

31. According to the doctrine of dilution, even if a person uses another's well-known trademark or trademark similar thereto for goods or services that are not similar to those provided by such other person, although it does not cause confusion among consumers as to the source of goods or services, it may cause damage to the well-known trademark by reducing or diluting the trademark's power to indicate the source.

32. Since traditional trademark law is designed to protect trademarks for the purpose of preventing confusion, many countries provide for protection of well-known trademarks under the doctrine of dilution in unfair competition prevention law. This is because that where a person uses another person's well-known trademark or trademark similar thereto for the purpose of diluting the trademark, such

use does not cause confusion among consumers but takes advantage of the goodwill of the well-known trademark, it constitutes an act of unfair competition.

33. In the case of **Sunder Parmanand Lalwani and Ors. Vs. Caltex (India) Ltd., AIR 1969 Bombay 24 at Page 36 Para 49** it is held as under:

“49. In this case, the goods are totally different. There is no trade connection between them. There is no connection in the course of trade nor any common trade channels. There are factors against holding that there would be any danger of deception or confusion. But we must consider the factors which tend to show that there is a likelihood of creating deception or confusion. The opponents have been using their mark on a very large scale since 1937. Their sales in 1956 exceeded Rs. 30 crores. Their publicity is wide spread and large. In 1956 they spent over a million rupees on advertisements. The goods in respect of which they use the trade mark "Caltex" are mainly petroleum, kerosene and lubricants like greases and oils etc. The goods in respect of which the applicant seeks registration are mainly watches. The class of goods in respect of which the applicant seeks registration is wider than watches and watches can be both costly and cheap. It cannot go without notice that the goods in respect of which the applicant in fact used the mark before he applied for registration were very cheap watches. The goods of the opponents are used by persons all over India, in cities and in villages, in different walks of life, rich or poor, literate or illiterate. The goods of the applicant are different in nature. But they are watches. They can be cheap watches. The potential market for them is, therefore, similar to that of the existing market of the opponents, in the sense that the goods of both the parties are not special goods. They are goods which would be purchased by the common man.

XXXXX

On the facts of this case, we have no hesitation in holding that a large number of persons, if they see or hear about the mark "Caltex" in connection with watches, would be led to think that the watches were in some way

connected with the opponents, or they would at least wonder whether they were in any way connected with the opponents. Persons seeing the mark attached to watches, which is a new class of goods, would assume, or are most likely to assume, that they originated from the proprietor of the mark, namely, the opponents.”

34. In the case of **Daimler Benz Aktiengesellschaft and another Vs. Hybo Hindustan, AIR 1994 Delhi 239** the court in Paras 14 and 15 has held as under :-

“14. There are marks which are different from other marks. There are names which are different from other names. There are names and marks which have become household words. "Benz" as name of a Car would be known to every family that has ever used a quality car. The name "Benz" as applied to a car, has a unique place in the world. There is hardly one who is conscious of existence of the cars/automobiles, who would not recognize the name "Benz" used in connection with cars. Nobody can plead in India, where "Mercedes Benz" cars are seen on roads, where "Mercedes" have collaborated with TATAs, where there are Mercedes Benz Tata trucks have been on roads in very large number, (known as Mercedes Benz Trucks, so long as the collaboration was there), who can plead that he is unaware of the word "Benz" as used with reference to car or trucks.

15. In my view, the Trade Mark law is not intended to protect a person who deliberately sets out to take the benefit of somebody else's reputation with reference to goods, especially so when the reputation extends world wide. By no stretch of imagination can it be said that use for any length of time of the name "Benz" should be not objected to.

35. In view of the well settled law, it is clear that the plaintiff has established his case of passing off also. Therefore, the plaintiff's suit for passing off is also decreed as the plaintiff has discharged its burden to prove the case of passing off. As regards the relief of damages is

concerned, the plaintiff has prayed for the loss of profits of atleast Rs.12,26,000 by filing of the affidavit.

36. In **General Tire Vs. Firestone, (1975) 1 WLR 819**, it was observed that the general rule is that the measure of the damages is, as far as possible, that sum of money, which will put the injured party in the same position, as he would have been if he had not suffered the wrong. Extent of loss suffered or, the advantage gained by the defendant by his wrongful act at the cost of the plaintiffs.

37. In **Amarnath Sehgal Vs. Union of India, 2005 (30) PTC 253 (Del)** it was observed that compensatory damages may be paid where the acts and commissions of the defendants violate the established rights of the plaintiffs.

38. In **Microsoft Corporation v. Kiran, 2007 (35) PTC 748 (Del)** it has been held that ‘wilfully, intentionally and flagrantly violating the copyrights and trademark’ is deliberate and calculated infringement.

39. In the case of ***Time Incorporated v. Lokesh Srivastava, 2005 (30) PTC 3 (Del)***, the Court has recognized third type of damages as punitive damages apart from compensatory and nominal damages.

The court held that:

“The award of compensatory damages to a plaintiff is aimed at compensating him for the loss suffered by him whereas punitive damages are aimed at deterring a wrong doer and the like minded from indulging in such unlawful activities...”

"This Court has no hesitation in saying that the time has come when the Courts dealing actions for infringement of trademark, copy rights, patents etc. should not only grant compensatory damages but award punitive damages also with a view to discourage and dishearten law breakers who indulge

in violations with impunity out of lust for money so that they realize that in case they are caught, they would be liable not only to reimburse the aggrieved party but would be liable to pay punitive damages also, which may spell financial disaster for them."

40. The evidence of the plaintiff has gone unrebutted which includes loss of business, reputation and goodwill in the market. Since the above claimed amount is based on the assessments by the plaintiff, I am of the view that a sum of Rs.5 lac can be reasonably awarded to the plaintiff as compensatory damages and a sum of Rs.5 lac as punitive/exemplary damages as well as damages on account of loss of reputation and damage to the goodwill.

41. The suit of the plaintiff is accordingly decreed in terms of Para 22 of the plaint. The decree be drawn accordingly. In view of prayer 22(d), the defendant is directed to destroy the goods/blocks, dyes, stationery and packaging material or any other printed material bearing the trade mark TATA for the purpose of destruction within a period of four weeks from today. Decree be drawn accordingly.

MANMOHAN SINGH, J

APRIL 06, 2009

nn