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

+ CS(OS) 678/2006 & IA.No.4561/2006(u/O 39 R-1&2) &
IA.No.6347/2006(u/O 7 R-11)

NUCON INDUSTRIES PVT. LTD. Plaintiff
Through: None.

Versus

M/S ZANDER AUFBEREITUNGSTECHNIK GMBH
COKG & ANR Defendants
Through: None.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
% **18.10.2016**

1. The plaintiff instituted this suit to restrain the two defendants from infringing the trademark of the plaintiff and for ancillary reliefs.
2. The suit was entertained though no interim relief granted.
3. Though the defendants appeared but no written statements are found to have been filed by the defendants. On 26th April, 2007, the counsel for the defendants stated that the defendants had filed an application for rectification of the registration of the trademark in favour of the plaintiff and on 20th October, 2008, owing to pendency

of the said rectification proceedings before the IPAB, the proceedings in this suit were adjourned *sine die* with liberty to the parties to apply for revival as and when occasion arises.

4. Neither party applied for revival of the suit and the registry of its own listed the suit on 27th October, 2015 when, though the counsel for the defendants appeared, but none appeared for the plaintiff.

5. Court notice was accordingly ordered to be issued to the counsel for the plaintiff.

6. The order dated 15th January, 2016 records that though the court notice had been served on the counsel for the plaintiff but none appeared for the plaintiff. The counsel for the defendants on that date informed that the rectification proceedings before IPAB had been disposed of. The suit was adjourned to 10th May, 2016 for the counsel for the defendants to place the order of the IPAB on record and Court notice was again ordered to be issued to the plaintiff.

7. The order dated 10th May, 2016 records that the counsel for the defendants had handed over a copy of the order of the IPAB of dismissal of the rectification application preferred by the

Defendants. Though court notice issued to the plaintiff was reported to be served but without reference thereto, again default notice was ordered to be issued to the plaintiff for today and of service of which report is awaited.

8. None appears for either of the parties.

9. The plaintiff as well as its counsel having been served twice with court notice and having chosen not to appear, it is not deemed necessary to keep this suit pending.

10. Dismissed in default.

No costs.

RAJIV SAHAI ENDLAW, J.

**OCTOBER 18, 2016
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