

\$~5

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

+ **CS(COMM) 577/2016 & IA No. 6314/2016**

SOCIETE DES PRODUITS NESTLE

S.A. & ANR. Plaintiffs

Through: Mr Manish K. Mehra, Advocate.

versus

M/S JYOTI ENTERPRISES & ANR. Defendants

Through: Mr Anuj Bhandari, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **24.11.2016**

1. The learned counsel for the defendant states that the defendant has no objection to the suit being decreed in terms of prayer (b) and (c) made in the plaint. He further states that the inventory of infringing material seized by the Local Commissioner shall also be destroyed in the presence of the representative of the plaintiffs.

2. In view of the above statement, the learned counsel for the plaintiffs states that the plaintiffs do not wish to press the prayers (d), (e) and (f).

3. In view of the consensus arrived at between the parties, the suit is decreed in terms of prayer (b) and (c) which are set out below:

"b. a decree for permanent injunction restraining the Defendants, their proprietor, partners as the case may be, associates, affiliated companies, successors, assigns in business, distributors, dealers, stockists and agents from manufacturing, selling, supplying, offering for sale, printing, importing, exporting, distributing, advertising, promoting in any manner whatsoever including on the

internet, directly or indirectly, paper cups, packaging/labels, tea, coffee or any other beverages or any other goods under the impugned trade marks **NESCOFÉ**, **NESCOFE**, **NESCOFF**, **NESCOFEÉ** and **NESTEE** or any other trade marks/logo/device as may be deceptively similar with the trade marks **NESCAFÉ**,

 , **NESTEA** and  logo amounting to infringement of Plaintiffs trade mark registrations enunciated in the plaint;

- c. decree for permanent injunction restraining the Defendants, their proprietor, partners as the case may be, associates, affiliated companies, successors, assigns in business, distributors, dealers, stockists and agents from manufacturing, selling, supplying, offering for sale, printing, importing, exporting, distributing, advertising, promoting in any manner whatsoever including on the internet, directly or indirectly paper cups, packaging/labels, tea, coffee or any other beverages or any other goods under the impugned **NESCOFÉ** and/or **NESCOFE** and/or **NESCOFF** and/or **NESCOFEÉ** and/or **NESTEE** logo/label or any other logo/label that may be a colourable imitation or substantial reproduction of  and/  logo of the Plaintiffs in respect of their colour combination, get up, lay out and arrangements of features amounting to infringement of copyright of the Plaintiffs therein;"

4. Since the matter has not been contested, the plaintiffs' prayer (a) is not being considered.

5. The learned counsel for the defendants states on instructions of Mr Rajesh Jain - who is arrayed as defendant no.2 and is present in the Court - that the defendant undertakes to abide by the aforesaid statement that the

infringing material seized by the Local Commissioner would be destroyed in the presence of the representative of the plaintiffs.

6. Let a decree sheet be drawn up. The pending application also stands disposed of.

NOVEMBER 24, 2016
RK

VIBHU BAKHRU, J