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

+ **FAO(OS) 247/2016 & CM 30046/2016**

SHAILESH H MEHTA & ANR

..... Appellants

Through : Mr Sanjeev Sahay with Mr Jhum Jhum
Sarkar

versus

EXXON MOBIL CORPORATION & ANR

..... Respondents

Through : Mr Zeeshan Khan

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE ASHUTOSH KUMAR

ORDER

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10.03.2017

CM 9943/2017

The present application has been filed jointly by the appellants and the respondents. The parties have arrived at an amicable settlement and they have set down the terms of the settlement in the application itself, which are as under:-

- “(i) Appellants undertakes to this Hon'ble Court not to use the mark EXON after six + one month from the date, the present Settlement Application is allowed by this Hon'ble Court.
- (ii) That immediately following the expiry of six months from the date the present Settlement Application is allowed by this Hon'ble Court and no later than one month following the expiration of such six month period, the Appellants shall stop using the www.exon.in domain name and the domain name www.exon.in shall be transferred to the Respondents.
- (iii) The Appellants have applied before the Registrar of Companies (ROC), New Delhi for company name as Armezo Solutions Private Limited and have purchased the domain name www.amezo.com on February 16, 2017. The Appellants shall use Armezo Solutions Private Limited, subject to the approval

by ROC and other Authorities. In case the name Armezo Solutions Private Limited is rejected by the ROC, the Appellants undertakes to adopt any other name which is not identical and/or deceptively similar to the trade mark EXXON or EXON and will intimate the Respondents at the same time of the new name adopted by them. However, the period of six months stated in clauses (l.i. and l.ii.) will not be extended in case the name Armezo Solutions Private Limited is rejected by ROC.

- (iv) The Appellants shall apply for cancellation of the Registration No(s). 1079539 and 1079540 and/or any other registration/Applications filed by the Appellants for registration of the EXON mark or any other Application filed for registration of a mark similar to EXON, within one month from the date the present settlement Application is allowed by this Hon'ble Court. The Appellants shall supply a copy of the duly endorsed copy of the cancellation Application to the Respondents within a period of one week thereafter. On cancellation being allowed, the Rectification Petitions filed by the Respondents against the aforesaid Applications shall become infructuous.
- (v) The Appellants confirms that it will not take any steps to promote its services and feature and bear or incorporate terms such as EXON or any other indicia whatsoever; on Internet website pages i.e. Facebook, LinkedIn & Google Pay per click, and in any other manner whatsoever.
- (vi) That in case the Appellants are found to be in default/breach of any condition set forth herein above, then the Respondents will first approach the Appellants informing them of the default/breach and demand the rectification of such default/breach within a stipulated period of 2Weeks and it is only in the case of not rectifying the breach within the said stipulated period then the Respondents shall have right to take legal recourse.
- (vii) The parties undertake that the Suit C.S. (OS) No. 2562 of 2015 shall be decreed in terms of the present settlement and the Respondents gives up the rest of the claims as mentioned in the Plaintiff.

- (viii) The above said Appeal shall be disposed off in terms of the present Settlement. Parties undertake not to initiate any other or further case/complaint etc. arising from the present dispute. Parties also undertake that they have not filed any other case/complaint etc. apart from as has been stated in the present Application.
- (ix) That the Parties agree and undertake that the terms of settlement as set out above will be binding on all their directors, successors, partners, assigns, franchisees, licensees, distributors, agents, representatives, dealers, servants and/or proprietors.
- (x) Both Parties hereto confirm and declare that they have voluntarily and of their own free will arrived at the settlement.
- (xi) The Parties shall bear their own cost of the proceedings.”

We are of the view that the terms of settlement are lawful. Consequently, the settlement is taken on record and the appeal is disposed of in terms thereof. The parties are bound by the settlement. It is informed that Mr Navjeet Singh, who is the CEO of the appellant No.2, has been authorized by the said appellant to sign the application and also furnish the affidavit in support thereof. The Board Resolution shall be filed on or before 15.03.2017 with a copy to the learned counsel for the respondents.

The application and the appeal stand disposed of as above.

The issue of refund of court fee would be taken up before the learned Single Judge.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

MARCH 10, 2017
SR