

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

% **Date of decision: 18<sup>th</sup> January, 2017.**

+ **CS(COMM) 1655/2016 & IA No.15914/2016 (u/O XXXIX R-1&2 CPC)**

**KENT RO SYSTEMS LTD & ANR**

**..... Plaintiffs**

Through: Ms. Rajeshwari H. and Mr. Tahir  
A.J., Advs.

Versus

**AMIT KOTAK & ORS**

**..... Defendants**

Through: D-1 in person.  
Mr. Nitin Sharma, Mr. Avijit Sharma  
and Mr. Dhavish Chitkara, Advs. for  
D-2.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

1. Though the report of service is awaited but the counsel for the plaintiffs has filed affidavit of service of both the defendants.
2. One gentleman disclosing himself to be Mr. Amit Shabhulal Kotak appears and the counsel for the plaintiffs states that she identifies him as defendant No.1. The said Mr. Amit Shabhulal Kotak has also handed over his Driving Licence and a self attested photocopy of the same be kept by the Court Master on the file.
3. The defendant No.1 states that he has no objection to the suit, insofar as for the relief of permanent injunction, being decreed against him subject to the plaintiffs giving up their claim for damages and accounts.
4. The counsel for the plaintiffs is agreeable thereto.

5. I have ensured by speaking to Mr. Amit Shabhulal Kotak in vernacular language that he understands the consequences.
6. Accordingly, a decree is passed in favour of the plaintiff and against the defendant No.1 in terms of prayer paragraph 51(a), (b) & (c) of the plaint, leaving the plaintiffs and the defendant No.1 to bear their own costs.
7. Decree sheet be drawn up.
8. The counsel for the defendant No.2 eBay India Private Limited (eBay) also appears. The defendant No.2 has also filed documents.
9. The plaintiffs (and of which plaintiff No.2 Mr. Mahesh Gupta is the Chairman and Managing Director of the plaintiff No.1) have instituted this suit pleading (i) that it is a manufacturer of water purifiers and has sought protection by obtaining design registrations under the Designs Act, 2000 in respect of the aesthetic appearance of its water purifier systems; (ii) that the products covered by the plaintiffs registered designs are being marketed and sold by the plaintiffs; (iii) that making, using or sale of any water purifier using the shape and design as registered by the plaintiffs constitutes piracy under the Designs Act; (iv) that the plaintiffs have a huge presence in the online market place with e-commerce websites including the defendant No.2; (v) that the defendant No.2 eBay is an e-commerce platform / portal through which sellers of various products showcase, sell their products and carrying on business; (vi) that the defendant No.2 eBay is also responsible for addressing the grievances of sellers including the claims of infringement through the website; (vii) that the defendant No.2 eBay acts as an 'intermediary', facilitating the transaction between a seller and buyers of various goods; (viii) that the defendant No.1 is a manufacturer and/or trader

of water purifier systems whose shape, look and appearance are deceptively similar and infringe the water purifiers of the plaintiffs for which the plaintiffs have been granted registrations; (ix) that the defendant No.1 sells its goods to various customers through the website of the defendant No.2; (x) that the action of the defendant No.2 eBay of permitting the defendant No.1 to advertise, offer for sale and sell its water purifiers through the portal of the defendant No.2 amounts to infringement of the plaintiffs rights under Section 19 of the Designs Act; (xi) that as per the guidelines formulated under the Information Technology Act, 2000 (IT Act), intermediaries such as the defendant No.2 are expected to observe certain due diligence while discharging their duties including an obligation to inform users not to host, display, upload, modify, publish, transmit, update or share information that infringes the intellectual property rights of any party as well as to take steps to avoid sale of such infringing products; (xii) that when one brings to the attention of the intermediary such violations, the intermediary is required to take down all such offending content; (xiii) that the plaintiffs drew the attention of the defendant No.2 eBay to the infringement by the defendant No.1 as well as by the defendant No.2; (xiv) that the plaintiff also brought to the notice of the defendant No.2 eBay that several others who were similarly offering for sale and selling water purifier systems infringing the intellectual property rights of the plaintiffs had been injuncted by the Courts; (xv) that though the defendant No.2 eBay in its response stated that it had removed all the products complained of and also undertook to in future remove all the infringing products complained of by the plaintiffs but the plaintiffs found that a large number of other infringing products were being offered for sale / sold on the portal of the defendant No.2; and, (xvi) that the defendant No.2

eBay has not taken steps for removal of the other infringing products.

10. The plaintiffs, in the suit have sought the relief against the defendant No.2 of (i) direction to take down, remove, delist all products infringing the registered designs of the plaintiffs; (ii) prohibitory injunction from allowing products infringing the registered designs of the plaintiffs being offered for sale and sold from the portal of the defendant No.2 eBay; and, (iii) for account of profits made.

11. The suit came up before this Court first on 21<sup>st</sup> December, 2016 when it was enquired from the counsel for the plaintiffs as to how the relief of rendition of accounts and recovery of damages were sought against the defendant No.2. It was further enquired, whether not the defendant No.2 is but a medium through which the defendant No.1 and others were claimed to be selling the infringing products and how the plaintiffs, against the defendant No.2 eBay, could claim reliefs of rendition of accounts and recovery of damages. It was further enquired, whether not the position of the defendant No.2 eBay was the same as that of a newspaper containing advertisement of infringing products and whether not the commission charged by the defendant No.2 eBay was at par by the advertising charges of a newspaper.

12. Be that as it may, summons of the suit were issued and by way of *ex-parte* order, the defendant No.2 eBay directed to block the access to the Universal Resource Locators (URLs) from which the infringing products were claimed to be sold. The defendant No.2 eBay was also directed to, on the next date of hearing, disclose in a sealed cover the particulars and details of the owners/manufacturers/sellers of the infringing products as registered

and recorded with the defendant No.2 eBay.

13. The counsel for the defendant No.2 eBay states that the defendant No.2, in accordance with law, immediately on receipt of complaints from the plaintiffs has from time to time been removing the offending products from its website and the documents filed by the defendant No.2 eBay in this Court support the said plea. The counsel for defendant No.2, on behalf of defendant no.2, also makes a statement before the Court that the defendant No.2, on receipt of any complaint in future also from the plaintiffs shall, in accordance with law, remove the offending products from its websites.

14. The counsel for the defendant No.2 eBay further states that in compliance with para 17 of the earlier order dated 21<sup>st</sup> December, 2016, the details of the owners/manufacturers/sellers of the offending products recorded with it, have been brought to this Court in a sealed cover.

15. The counsel for the defendant No.2 has handed over the sealed envelope.

16. The same has been opened and the contents thereof have been perused. The same contains the names and addresses of sixteen persons who had earlier posted their products on the websites of the defendant No.2 and which products the defendant No.2 removed on receipt of complaint of the plaintiffs.

17. I have enquired from the counsel for the defendant No.2, whether the defendant No.2 has any objection to the said particulars being furnished to the plaintiffs.

18. The counsel for the defendant No.2 states that the defendant No.2

would be bound by the orders of the Court.

19. Since the particulars are of the persons whose products were removed from the websites of the defendant No.2 on the complaint of the plaintiffs and who have not protested against the same, I see no reason to not share the said particulars with the plaintiffs, inasmuch as without the same, the plaintiffs would be unable to take legal action, if any required to be taken, against the said persons.

20. The counsel for the defendant No.2 has, on asking, handed over a copy of the said particulars to the counsel for the plaintiffs.

21. The counsel for the plaintiffs states that the plaintiffs in the documents filed with the plaint, have referred to over 100 infringing products and the particulars given are of 16 only.

22. For the reason aforesaid, the defendant No.2 is also directed to provide to the plaintiffs the particulars of the others as listed in the documents filed by the plaintiffs.

23. The counsel for the plaintiffs contends that “there is a larger question at issue”. It is argued that the statement aforesaid of the counsel for the defendant No.2 eBay to, in future also on receipt of complaints from the plaintiffs remove the offending products from its website, does not serve the purpose of the plaintiffs. It is contended that once the plaintiffs have lodged a complaint with the defendant No.2 with respect to the offending product of one of the sellers / retailers, the defendant No.2 eBay on its own, before hosting a product of any other sellers / retailers, should verify, whether the same also infringes the registered design of the plaintiffs. It is contended that the defendant No.2 is an ‘intermediary’ within the meaning of the IT Act and is

required to devise a mechanism to, before hosting any product for sale on its system/website, verify whether the same infringes the intellectual property rights of any other person.

24. The counsel for the plaintiffs in this regard has drawn attention to Rules 3(1), 3(2)(d), 3(3) & 3(4) of the Information Technology (Intermediaries Guidelines) Rules, 2011 (IT Rules) and which along with Rules 3(5), 3(6), 3(7), 3(8) & 3(11), also found to be relevant, are as under:

***“3. Due diligence to be observed by intermediary—The intermediary shall observe following due diligence while discharging his duties, namely:—***

*(1) The intermediary shall publish the rules and regulations, privacy policy and user agreement for access or usage of the intermediary’s computer resource by any person.*

*(2) Such rules and regulations, terms and conditions or user agreement shall inform the users of computer resource not to host, display, upload, modify, publish, transmit, update or share any information that -*

*(a) .....*

*(b) .....*

*(c) .....*

*(d) infringes any patent, trademark, copyright or other proprietary rights;*

*(3) The intermediary shall not knowingly host or publish any information or shall not initiate the transmission, select the receiver of transmission, and select or modify the information contained in the transmission as specified in sub-rule (2):*

*Provided that the following actions by an intermediary shall not amount to hosting, publishing, editing or storing of any such information as specified in sub-rule(2)—*

*(a) temporary or transient or intermediate storage of information automatically within the computer*

*resource as an intrinsic feature of such computer resource, involving no exercise of any human editorial control, for onward transmission or communication to another computer resource;*

- (b) removal of access to any information, data or communication link by an intermediary after such information, data or communication link comes to the actual knowledge of a person authorised by the intermediary pursuant to any order or direction as per the provisions of the Act;*

*(4) The intermediary, on whose computer system the information is stored or hosted or published, upon obtaining knowledge by itself or been brought to actual knowledge by an affected person in writing or through email signed with electronic signature about any such information as mentioned in sub-rule (2) above, shall act within thirty-six hours and where applicable, work with user or owner of such information to disable such information that is in contravention of sub-rule (2). Further the intermediary shall preserve such information and associated records for at least ninety days for investigation purposes.*

*(5) The Intermediary shall inform its users that in case of non-compliance with rules and regulations, user agreement and privacy policy for access or usage of intermediary computer resource, the Intermediary has the right to immediately terminate the access or usage rights of the users to the computer resource of Intermediary and remove non-compliant information.*

*(6) The intermediary shall strictly follow the provisions of the Act or any other laws for the time being in force.*

*(7) When required by lawful order, the intermediary shall provide information or any such assistance to Government Agencies who are lawfully authorised for investigative, protective, cyber security activity. The information or any such assistance shall be provided for the purpose of verification of identity, or for prevention, detection, investigation, prosecution, cyber security incidents and punishment of offences under any*

*law for the time being in force, on a request in writing stating clearly the purpose of seeking such information or any such assistance.*

*(8) The intermediary shall take all reasonable measures to secure its computer resource and information contained therein following the reasonable security practices and procedures as prescribed in the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Information) Rules, 2011.*

*(9) .....*

*(10) .....*

*(11) The intermediary shall publish on its website the name of the Grievance Officer and his contact details as well as mechanism by which users or any victim who suffers as a result of access or usage of computer resource by any person in violation of rule 3 can notify their complaints against such access or usage of computer resource of the intermediary or other matters pertaining to the computer resources made available by it. The Grievance Officer shall redress the complaints within one month from the date of receipt of complaint.”*

25. The counsel for the plaintiffs has also drawn attention to Section 22(1)(c) of the Designs Act to contend that even a person who, knowing that the design or any fraudulent or obvious imitation thereof has been applied to any article in any class of articles in which the design is registered, without the consent of the registered proprietor, publishes or exposes or causes to be published or exposed for sale that article, is guilty of piracy of registered design.

26. The counsel for the defendant No.2 eBay has referred to Section 79 of the IT Act providing that an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by

him as long as the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted and does not initiate the transmission, select the receiver of the transmission or modify the information contained in the transmission and so long as observes due diligence while discharging his duties under the Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

27. The counsel for the plaintiffs refers to Section 79(3) of the Act and contends that the exemption from liability of intermediary does not apply if the intermediary has conspired or abetted or aided or induced commission of unlawful act or where the intermediary, upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource, controlled by the intermediary is being used to commit the unlawful act, fails to expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner. It is argued that once the plaintiffs have intimated the defendant No.2 eBay of their registered design and pointed out the URLs indulging in piracy, the obligation of the defendant No.2 eBay as intermediary extends not only to removing the said URLs but to ensuring that on no other URL/s also an infringing product is hosted. It is argued that if inspite of such intimation by the plaintiffs any other infringing product is hosted by any other person or on any other URL of the defendant No.2, the defendant No.2 eBay is deemed to be in conspiracy and having abetted and aided the infringement

within the meaning of Section 79(3) of the Act.

28. I have enquired from the counsel for the plaintiffs, as to how under the aforesaid IT Rules, obligations as sought to be imposed, can be imposed on the defendant No.2 eBay as an intermediary. The aforesaid IT Rules only require the intermediary to publish the rules and regulations and privacy policy and to inform the users of its computer resources not to host, display, uphold or publish any information that infringes any patent, trademark, copyright or other proprietary rights. It is not the contention of the plaintiffs that the defendant No.2 eBay has not published its rules and regulations or privacy policy or has not informed users of its computer resources so. The IT Rules further require the defendant no.2 eBay as an intermediary to, upon any person as the plaintiffs approaching it in writing, of products infringing that person's patent, trademark or copyright rights to within 36 hours disable the infringing information. It is not the contention of the plaintiffs that the defendant no.2, inspite of receipt of complaints of the plaintiffs has not disabled the infringing information.

29. What the plaintiffs seek is that the plaintiffs having once informed the defendant no.2 eBay of water purifiers infringing its design having been hosted on the platform of the defendant no.2, the defendant no.2 before hosting any other water purifier of any other person on its portal should screen the same to verify (even before the plaintiffs have complained with respect thereto), whether the same infringes the design of the plaintiffs. To put in another words, the counsel for the plaintiffs reads into the IT Rules aforesaid an obligation on the intermediary to, after having been once informed by any person of any content hosted on the portal of the defendant

no.2 eBay infringing the intellectual property rights of that person, not only remove the said contents but in future also screen other contents being hosted on its portal for such infringement.

30. To hold that an intermediary, before posting any information on its computer resources is required to satisfy itself that the same does not infringe the intellectual property rights of any person, would amount to converting the intermediary into a body to determine whether there is any infringement of intellectual property rights or not. All persons claiming any intellectual property rights will then, intimate the intermediaries of their claims and the intermediaries then, before hosting any material on their computer resources would be required to test the material vis-a-vis all such claims lodged with them, else would be liable for infringement.

31. My reading of the IT Rules aforesaid obliges the intermediary to remove/disable the information hosted on the portal only on receipt of complaint. The IT Rules, according to me do not oblige the intermediary to, of its own, screen all information being hosted on its portal for infringement of the rights of all those persons who have at any point of time complained to the intermediary.

32. I have enquired from the counsel for the plaintiffs whether not the hosting of information on the portal of the defendant no.2 eBay is automatic, without any human intervention and have further enquired that if it is so, how can an intermediary as the defendant no.2 be directed to screen all information being hosted on its portal for violation of rights of all those who may have lodged complaints with the defendant no.2. It has also been enquired, whether not such a direction would bring the business of

intermediaries as the defendant no.2 eBay to a halt. It has yet further been enquired whether not to direct so would require the intermediary as the defendant no.2 to become a Judge of what is infringing and what is not infringing. The provision in the Rules requiring the intermediary to on receipt of complaints take action is different from requiring an intermediary to of its own take a call as to what is infringing and what is not.

33. The counsel for the plaintiffs though does not dispute that hosting of information on the portal of the intermediary as the defendant no.2 is automatic, without human intervention, but contends that the defendant no.2 as an intermediary can also devise programmes to detect infringement and piracy. Reference is made to Rule 3(8) and it is argued that requiring intermediary to do so would be a reasonable measure and following reasonable security practices. It is contended that infringing goods at a different URL/s pop up on the portal of the defendant no.2 almost immediately after the plaintiffs complain against one and the defendant no.2 removing/disabling the same. It is argued that the plaintiffs cannot be expected to be vigilant so as to keep on looking for infringing products on the portal of the defendant no.2 and on other such similar portals. It is yet further argued that without the same, the defendant no.2, by allowing infringing products to be sold from newly appearing URL/s would be abetting and aiding infringement within the meaning of Section 79(3) of the Act.

34. I am unable to agree. For a case to be made out under Section 79(3), making the provision of Section 79(1) exempting an intermediary from liability to be inapplicable, the plaintiffs have to plead and prove conspiracy

or abetment or aiding or inducing within the meaning of Section 79(3) of the IT Act. The words ‘conspired’, ‘abetted’, ‘aiding’ and ‘inducing’ are legal terms meaning whereof has been settled for long. They require pleading and proof of common intention. That is not the case pleaded by the plaintiffs.

35. Just like the counsel for the plaintiffs states that the plaintiffs cannot be vigilant at all time, similarly the defendant no.2 intermediary cannot be expected to exercise such vigilance. Moreover the question, whether a intellectual property right has been infringed or not is more often than not a technical question with which the Courts steeped in law also struggle and nothing in the IT Act and the IT Rules requires an intermediary, after having been once notified of the Intellectual Property Rights, not allow anyone else to host on its portal infringing goods/matter. The intermediaries are not possessed of the prowess in this respect. As aforesaid, it is a different matter, when attention of the intermediary is invited to infringing product and complaint made with respect thereto. Merely because intermediary has been obliged under the IT Rules to remove the infringing content on receipt of complaint cannot be read as vesting in the intermediary *suo motu* powers to detect and refuse hosting of infringing contents.

36. The counsel for the plaintiffs has drawn attention to the judgment of the United States Court of Appeals, Second Circuit in ***Tiffany (NJ) Inc. and Tiffany and Company Vs. eBay Inc.*** 600 F. 3d 93 (2<sup>nd</sup> Cir. 2010) particularly to paras 5,7 & 8 thereof.

37. I am unable to read the judgment aforesaid as laying down that intermediaries are required to conduct such self determination. The charge of Tiffany in that case against eBay Inc. was of continuing to supply its

services to the sellers of counterfeit Tiffany goods while knowing or having reason to know that such sellers were infringing Tiffany's mark. All that the Court held was that if eBay Inc. had reasons to suspect that counterfeit Tiffany goods were being sold through its website and intentionally shielded itself from discovering the offending listings or the identity of the sellers behind them, it could be charged with knowledge of those sales. It was held that a service provider is not permitted wilful blindness and when it has reason to suspect that users of its services are infringing a protected mark, it may not shield itself from learning of the particular infringing transactions by looking the other way. However the said observations are followed by "eBay did not ignore the information it was given about counterfeits sales on its website". Thus what has been held is that an intermediary would be considered as acting wilfully blind and looking the other way only when has been given information of infringement and ignores the same.

38. The counsel for the defendant no.2 relied on ***Myspace Inc. Vs. Super Cassettes Industries Ltd.*** 2016 SCC OnLine 6382. The Division Bench of this Court therein was concerned with the claim of ***Myspace*** as an intermediary having refused to take down the infringing contents from its website resulting in continued infringement and the claim of damages therefor. It was held (i) that Section 79(3) read with Rule 3(4) supra posit an intermediary, on receiving "actual knowledge" or upon obtaining knowledge from the affected person in writing or through email, to within 36 hours of receiving such information disable access to such information; (ii) that if copyright owners inform the intermediary specifically about infringing works and despite such notice the intermediary does not take down the

content, then alone is the intermediary denied safe harbour; (iii) it is for the plaintiff to show that despite giving specific information the intermediary did not comply therewith; (iv) that Section 51(a)(ii) of the IT Act, in the case of internet intermediaries, contemplates actual knowledge and not general awareness; and, (v) to impose liability on an intermediary, conditions under Section 79 of the IT Act have to be fulfilled. The counsel for the plaintiffs drew attention to para 64 of the judgment where the Division Bench has noticed the draft report "The role of intermediaries in Advancing Public Policy Objective" of Organisation for Economic Co-operation and Development *inter alia* requiring an intermediary to introduce "filtering" where tools are used to identify and remove infringing content automatically. However the Division Bench has not held that the IT Act and the Rules aforesaid require the intermediary to provide filtering. Rather, I have enquired from the counsel for the plaintiffs whether not the Division Bench has ultimately directed the intermediary **Myspace** in that case to remove the infringing content only on receipt of notice from the **Super Cassettes Industries Ltd.** in that regard and that if what the counsel for the plaintiffs herein is contending were to be accepted, the Division Bench would have directed **Myspace** to ensure that no information infringing the copyright of **Super Cassettes Industries Ltd.** in its entire repertoire shall be hosted on its portal.

39. The counsel for the defendants has also referred to (i) Order dated 3<sup>rd</sup> April, 2013 of Supreme Court in CA No.5168/2000 titled **Sanchayani Savings Investment (I) Ltd. Vs. State of West Bengal**; (ii) Order dated 9<sup>th</sup> July, 2014 of this Court in CS(OS) No.1402/2014 titled **Bayrische Motoren**

***Werk G (BMW Group) Vs. Jagdishlal Batra***; (iii) Order dated 2<sup>nd</sup> and 3<sup>rd</sup> September, 2015 of High Court of Bombay in Suit (L) No.696/2015 titled ***Faber-Castell Aktiengesellschaft Vs. Cello Pens Pvt. Ltd.***; (iv) Order dated of 15<sup>th</sup> January, 2015 of High Court of Madras in C.S. No.540/2014 titled ***MRF Limited Vs. Chandan Sood***; (v) Order dated 18<sup>th</sup> November, 2015 of this Court in CS(OS) 2998/2015 titled ***Eicher Motors Limited Vs. WWW.Ebay.in***; (vi) Order dated 24<sup>th</sup> August, 2016 of this Court in CS(COMM) No.957/2016 titled ***Eicher Motors Limited Vs. Saurabh Katar*** (vii) ***Myspace Inc. Vs. Super Cassettes Industries Ltd.*** supra; and, (viii) Order dated 28<sup>th</sup> June, 2016 of High Court of Bombay in Suit No.1014/2015 titled ***Siddhi Vinayak Knots & Prints Private Limited Vs. E-Bay India Private Limited*** but need to discuss the same in detail is not felt. Suffice it is to state that the question as has been raised by the counsel for the plaintiffs herein was not raised expressly in any of the judgments aforesaid.

40. I am further of the view that had the intention of the Legislature been to require the intermediaries as the defendant no.2 eBay herein to be vigilant as the plaintiff reads the IT Act and the Rules to require it to be, the Legislature would have merely observed that the intermediary will not permit to be hosted on its website any information infringing intellectual property rights of any other person if such person had informed the intermediary of the same. However the Legislature has not done so and has required the intermediaries as the defendant no.2 to only declare to all its users its policy in this regard and advise them not to host any infringing information on the website of the intermediary and to on receipt of complaint remove the same within 36 hours.

41. During the hearing I had also enquired from the counsel for the plaintiffs whether not the position of an intermediary is the same as the position of an owner of immoveable property or of publisher of a newspaper or magazine in physical form and that whether an owner of immoveable property can be required to keep vigilance that the person allowed by him to use the property does not while so using infringes the intellectual property rights of any other person or to while allowing advertisements to be published in its newspaper and magazine keep vigilance that the contents of the advertisement do not infringe the intellectual property rights of any person. No provision of law requiring owners of immoveable property or publishers of newspapers and magazines to maintain such vigilance was shown.

42. I am of the view that to require an intermediary to do such screening would be an unreasonable interference with the rights of the intermediary to carry on its business.

43. It is not thus deemed expedient to issue any such direction to the defendant No.2.

44. The suit, insofar as against the defendant No.2, is disposed of binding the defendant No.2 to its statements aforesaid and to the directions issued to the defendant No.2 in this order and leaving the plaintiffs and the defendant No.2 to bear their own costs.

Decree sheet be drawn up.

Post Script: Before this order has been corrected and released, Supreme Court has vide Order dated 16<sup>th</sup> February, 2017 in WP(Civil) No.341/2008 titled **Sabu Mathew George Vs. Union of India** referred to the principle/doctrine of

“auto block” and constitution by Google India, Microsoft Corporation (I) Pvt. Ltd. and Yahoo India of an “In House Expert Body” to detect violation on their respective platforms of the provisions of The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PNDT Act), as the counsel for the plaintiffs herein has been contending, in the context of enforcement of the PNDT Act, 1994. However that was under Section 22 of PNDT Act and not under the IT Act or Rules.

**RAJIV SAHAI ENDLAW, J.**

**JANUARY 18, 2017**

Bs/pp..

*(Corrected and released on 22<sup>nd</sup> February, 2017).*