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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 803/2018

REPUBLIC TECHNOLOGIES (NA) LLC Plaintiff

Through Mr. Saif Khan with Mr. Shobhit
Agrawal, Advocates

versus

HOOKAH ZONE & ORS.

..... Defendants

Through Mr. Sanjiv Kumar with Mr. Rajesh
Kumar, Advocates for D-1 to 4.
D-1 to 4 in person.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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14.08.2018

Present suit has been filed for permanent injunction restraining infringement of trademark, passing off, infringement of copyright, unfair competition, delivery up, rendition of accounts, damages etc.

Today, learned counsel for defendants, on the instruction of defendant nos. 1 to 4 who are personally present in Court, states that defendants have no objection if the present suit is decreed in accordance with paragraph 35(a), (b), (c) and (d) of the plaint. Each of the defendants further undertakes to pay Rs. 75,000/- as costs to the plaintiff. The defendants also undertake that goods seized by the Local Commissioners and handed over to them on superdari shall be destroyed in the presence of an authorised representative of the plaintiff on a mutually convenient date and time.

In view of the aforesaid statements, undertakings and assurances, learned counsel for the plaintiff does not wish to press for any other or further relief.

The statements, undertakings and assurances given by the learned counsel of parties are accepted by this Court and the parties are held bound by the same.

Accordingly, present suit is decreed in accordance with paragraph 35(a), (b), (c) and (d) of the plaint as well as undertakings and assurances given by the defendants. Registry is directed to prepare a decree sheet accordingly.

At this stage, learned counsel for plaintiff prays for refund of half of the court fees.

This Court in ***Aya Singh Tirlok Singh Vs. Munshi Ram Atma Ram*** ***AIR 1968 Delhi 249*** has held as under:-

“(4)It is true that the Court-fees Act has made certain provisions for refund and it may be argued that the legislative intent should be held to exclude refund in other cases, but the formidable array of authorities upholding the inherent power of the Court to direct refund ex debito justitiae, impels us also to uphold the inherent power.

It must, however, be clarified that it is not every excess payment of court-fee which must be refunded as a matter of course. Apart from the mandatory provisions, the Court, in order to exercise its inherent power, has to consider the facts and circumstances of each case and come to a judicial determination whether or not the cause of justice requires refund.”

(emphasis supplied)

Consequently, Registry is directed to issue to the plaintiff a certificate authorizing them to receive back from the Collector the half amount of the Court fee paid by them in the present suit.

As a token of acceptance of the order passed today, defendant nos. 1 to 4 are directed to sign today's order sheet.

MANMOHAN, J

AUGUST 14, 2018

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