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

+ CS(COMM) 1224/2016

THE INDEPENDENT TOBACCO FZCO Plaintiff

Through Mr.Achal Shekhar, Advocate.

versus

M/S PELICAN TOBACCO COMPANY LIMITED Defendant

Through Mr.Ishan Sangi, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **02.11.2018**

The present suit has been filed for permanent injunction, infringement of trademark, passing off and account of profits.

On 07th May, 2018, the present suit was referred to the Delhi High Court Mediation and Conciliation Centre.

Mediation in the present case has been successful through the efforts of Inderbir Singh Alag, Advocate-Mediator.

A Settlement Agreement has been executed between the parties on 14th September, 2018.

It is pertinent to mention that the Supreme Court in *Afcons Infrastructure Ltd. Vs. Cherian Varkey Construction Co. (P) Ltd., (2010) 8 SCC 24* while dealing with Section 89 of the CPC observed that the settlement agreement will have to be placed before the Court for recording it and in disposing of the suit in its terms, the Court should apply the principle of Order XXIII Rule 3 of the CPC and

make a decree in terms of the settlement in regard to the subject matter of the suit, to make such settlement effective.

This Court is satisfied that the compromise between the parties contained in the aforesaid Settlement Agreement satisfies the requirements of Order XXIII Rule 3 CPC. The compromise contained in the aforesaid Settlement Agreement is lawful and therefore, this Court does not find any impediment in decreeing the present suit in terms of the aforesaid Settlement Agreement.

Consequently, present suit is decreed in terms of the aforesaid Settlement Agreement dated 14th September, 2018 executed between the parties, which is marked as Ex.C-1. Registry is directed to prepare a decree sheet in terms thereof.

Registry of this Court is also directed to issue to an authorised representative of the plaintiff a certificate authorizing him/her to receive back from the Collector the half amount of the Court fee paid by it in the present suit.

With the aforesaid observations, the present suit stands disposed of.

MANMOHAN, J

NOVEMBER 02, 2018
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