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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(COMM) 609/2017 & I.A. 8875/2015

CROMPTON GREAVES LTD & ANR

..... Plaintiffs

Through: Mr. Hemant Daswani, Advocate with

Ms. Ishanki Gupta, Advocate.

versus

RESPONSIVE INDUSTRIES & ANR

..... Defendants

Through: Ms. Kamaldeep Gulati, Advocate for
defendant No.2.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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08.02.2018

Present suit has been filed for permanent injunction restraining infringement of trade mark, dilution, unfair competition, for rendition of accounts, damages, delivery up etc.

Learned counsel for defendant No.2 states that she has no objection if the present suit is decreed in terms of the prayer 'A' of the plaint.

Learned counsel for plaintiffs states that he has instructions to insist upon payment of cost as well as for refund of the Court-fees.

Learned counsel for defendant No.2 states that her client runs a repair shop and is not capable of paying any cost.

Keeping in view the aforesaid as well as the fact that the plaintiffs had amicably resolved the dispute with defendant No.1 recently without insisting

on any cost, this Court decrees the suit in terms of the prayer 'A' against the defendant No.1 along with cost of Rs.10,000/- which shall be paid to the plaintiff within a period of two weeks. Registry is directed to prepare a decree sheet accordingly.

It is pertinent to mention that a Division Bench of 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)

Accordingly, Registry is directed to issue to an authorised representative of the plaintiffs a certificate authorizing it to receive back from the Collector the full amount of the Court fee paid by them in the present suit.

With the aforesaid observations, present suit and pending application stand disposed of.

MANMOHAN, J

FEBRUARY 08, 2018

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