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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL IP SUIT NO. 339 OF 2017

Murlidhar S. Chhabaria

... Plaintiff.

Versus

Ajanta Printarts & Ors.

... Defendants.

.

Mr. Hemant Thandani i/b Krishna and Saurastri Associates LLP for Plaintiff.

(Mr. Deepak Chaabria, Constituted Attorney of Plaintiff present.)

Ms. Vinita Hombalkar i/b Orbit Law Services for Defendant No.1.

(Mr. Vivek Khanna- Partner of Defendant No.1.)

Mr. Ramesh Gajria i/b Gajria and Co. for Defendant Nos. 2 & 3.

(Mr. Piyush Shah-Defendant No.2 and Mr. Umesh Yadav, Director of Defendant No.3 are present.

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CORAM : K. R. SHRIRAM, J.

DATE : 22nd JULY, 2019

P. C. :

1. At the outset, Mr. Hemant Thandani, Advocate for plaintiff seeks leave to withdraw the suit as against defendant no.4.

2. Suit is dismissed as withdrawn as against defendant no.4.

3. Plaintiff, defendant no.1, 2 and 3 have entered into consent terms dated 22nd July 2019 and tendered the consent terms which has been signed by plaintiff, defendants Nos. 1 to 3 and their

respective Advocates. Signatories to the Consent terms, I am informed by the counsel are present in Court and identified by them.

3. For ease of reference the consent terms is scanned and reproduced below without enclosures :-

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION

COMIP NO. 339 OF 2017

Murlidhar S. Chhabaria)
A sole proprietor of **ASHA INDUSTRIES**)
having its address at 82, Bharat Mahal,)
86, Marine Drive, Mumbai - 400 002)Plaintiff

Versus

1. **AJANTA PRINTARTS**)
having its office at : Airmail Pen House,)
9th Floor, Vajpal, Scheme Road No. 3,)
Vile Parle (East) Mumbai - 400 057)
AND FACTORY AT)
Plot No. D-24, TTC, Indt Area, Old Pipeline)
Road, Behind, Siemens Ltd., WTC, Alroli,)
Navi Mumbai - 400 070.)

2. **Piyush S. Shah**)
Age adult, Indian, Indian)
Having his address at D-303, 9th Floor,)
Neelkanth Business, Vidyachar (west),)
Mumbai - 400 086)

3. **Lintas Global Private Limited**)
A company incorporated under the Companies)
Act, 1956, having its registered office at 323,)
Unique Industrial Estate, Hornby Deying)
Compound, Prabhadevi, Mumbai - 400 025)

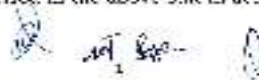
4. **The Chief Commissioner of Customs Mumbai-II**)
(NPT, KHAWA SHEVA, Navi Mumbai) Defendants

Coram: K. R. Shirdram, J

Date: 22nd July, 2019

CONSENT TERMS

The Plaintiff and the Defendant Nos.1, 2 and 3 above named hereby amicably resolve the dispute comprised in the above suit in accordance with the terms mentioned herein below:



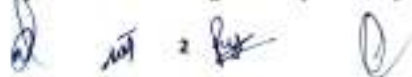
1. Defendant Nos.1, 2 and 3 hereby undertake not to use/reproduce/affix in any manner whatsoever :-

- a. the impugned trade mark inter alia containing the word NAP and/or any other mark and/or label including impugned label as shown in Exhibit F-3 to the Plaintiff;
- b. the impugned labels/ trade dresses as shown in Exhibit G1 to G4 and Exhibit F-3 to the Plaintiff and/or any other trade dress, artistic work, lay out, color scheme and get up and/or packaging and/or their features which are identical and/or deceptively similar in any manner whatsoever to that contained in Plaintiff's label/s, trade dress/es as shown in Exhibits C1, C2, D1, D4 and B to the Plaintiff respectively;
- c. the trade mark inter alia containing the word NAP/ NAP GOLD, logo style of POKER/ POKER PLUS.

2. The Defendant Nos.1, 2 and 3 have paid Rs. 50,000/-each to the Plaintiff towards nominal costs and damages for this suit by way of demand drafts bearing nos.045305 dated 9/7/2019, 704762 dated 10/7/2019 and 658418 dated 10/7/2019 respectively, the receipt whereof is acknowledged by the Plaintiff.

3. In view of the aforesaid undertakings, Defendant Nos.1, 2 and 3 hereby submit to a decree on admission in terms of prayer clauses 48(a), 48(b), 48(c) and 48 (e) of the Plaintiff, which are reproduced herein as-

- a. *that the Defendant Nos.1 to 3 by themselves and/or through their manufacturers, directors, partners, owners, proprietors, exporters importers, printers, dealers, servants, agents and/or otherwise howsoever be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner using directly and/or indirectly, reproducing and/or causing to be used and/or reproduced the impugned trade dress/es label/s and/or packaging/s as shown in Exhibits G1 to G4 and F-3 hereto and/or any other labels, trade dress/es and/or packaging containing the artistic work, design, layout, get up, schematic arrangement of various features and colour*



scheme and/or POKER logo style which is/are colourably similar and/or slavishly similar to that shown in Exhibits C1, C2, D1, D2 and B hereto respectively so as to infringe the Plaintiff's copyright contained therein;

d. that the Defendant Nos.1 to 3 by themselves and/or through their manufacturers, directors, partners, owners, proprietors, exporters, importers, printers, dealers, servants, agents and/or otherwise howsoever be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner using directly and/or indirectly in relation to the playing cards, the impugned trade mark inter alia containing the word NAP and/or any other mark and/or label including impugned label as shown in Exhibit F-3 hereto so as to infringe the Plaintiff's registered trade mark NAP bearing no. 604375B being Exhibit A hereto.

c. that the Defendant Nos.1 to 3 by themselves and/or through their manufacturers, directors, partners, owners, proprietors, exporters, importers, printers, dealers, servants, agents and/or otherwise howsoever be restrained by a perpetual order and injunction of this Hon'ble Court from in any manner applying, affixing and/or using directly and/or indirectly in relation to playing cards,

i. the impugned labels/ trade dresses as shown in Exhibit G1 to G4 and Exhibit F-3 hereto and/or any other trade dress, artistic work, lay out, color scheme and get up and/or packaging and/or their features which are identical and/or deceptively similar in any manner whatsoever to that contained in Plaintiff's label/s, trade dress/es as shown in Exhibits C1, C2, D1, D4 and B hereto respectively and,

ii. the trade mark inter alia containing the word NAP/ NAP GOLD, logo style of POKER/ POKER PLUS,

so as to pass off and/or enable other to pass off their impugned product as and for that of the Plaintiffs.

d. That the Defendant Nos.1 to 3 be ordered and decreed to delivery up to the Plaintiff for destruction all impugned products, playing cards,

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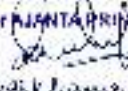
patterns, dies and moulds, brochures and all other articles and drawings including the products as shown in Exhibits G1 to G4 and K3 herein which bears identity and/or deceptive similarity to the Plaintiff's trade marks, labels, trade dresses and/or features thereof in any manner.

Dated this 22nd day of July, 2019

For Murlidhar S. Chhabaria
Sole proprietor of Asha Industries


Deepak Chhabaria
Constituted Attorney

For Ajanta Printarts


Piyush S. Shah, Partner
Defendant No. 1

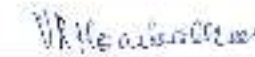
Piyush S. Shah


Defendant No. 2

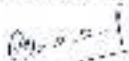
For Lotus Global Private Limited


Defendant No. 3 (UMESH YADAV
FACTOR)

For Orbit Law Services


Advocates for Defendant No. 1

For Krishna & Saurastri
Associates LLP


Advocates for the Plaintiff

For Gupta & Co.


Advocates for Defendant Nos. 2 & 3

4. All statements in consent terms are accepted and all undertakings are also accepted. The suit stands decreed in terms of

prayer Clause (a), (b), (c) and (d). Drawn up decree dispensed with.

5. Refund of Court Fees, if any, in accordance with rules.
6. The Court Receiver stands discharged without passing of accounts. Plaintiff undertakes to pay any charges remaining to be paid to the Court Receiver within two weeks from receiving a communication from the Court Receiver. Undertaking Accepted.
7. The goods which have been seized by the Court Receiver and kept in the premises of defendant no.1 shall be destroyed by defendant no.1 in presence of plaintiff/ plaintiff's representative. The defendant no. 1 shall give at least 72 hours notice to plaintiff before destruction and also inform the date and time of destruction so that plaintiff shall remain present. If plaintiff does not remain present, defendant may go ahead and destroy the goods and inform plaintiff accordingly.
8. All interim applications stand disposed. All interim orders, if any, also stand vacated.
9. All parties to act on authenticated copy of this order.

(K. R. SHRIRAM, J.)