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

+ **CS(COMM) 164/2019**

TOMMY HILFIGER EUROPE B.V. Plaintiff

Through: Mr. Pravin Anand, Mr.Dhruv
Anand, Ms.Udita Patro and
Ms.Kavya Mammen, Advocates.

versus

N.S. BELT HOUSE & ORS. Defendants

Through: Mr. Birender Bhatt, Advocate
for D-1 to D-4.
Mr. Sameer Dewan, Advocate
for D-5.
Mr.Kush Sharma & Mr.Nishchaya,
Advocates for D-6.
Mr. Aman Rewaria, Advocate for
Mr.Amit Bansal, Senior Standing
Counsel for Customs.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **14.01.2020**

1. The parties have settled their disputes in the course of mediation. The plaintiff and the defendant nos. 1 to 4 have entered into a settlement agreement dated 20.12.2019. Separate settlement agreements dated 10.01.2020 have been entered into by the plaintiff with defendant nos. 5 and 6. All three settlement agreements have been placed on record.
2. The settlement agreement dated 20.12.2019 is signed by the constituted attorney of the plaintiff, the proprietors of the defendant nos. 1 to 4, as well as by learned counsel for the said parties and the learned mediator.
3. The settlement agreements dated 10.01.2020 are signed by the constituted attorney of the plaintiff, and by the proprietor/partner of the

respective defendants, as well as by their counsel and the learned mediator.

4. In view of the above, learned counsel for the parties seek disposal of the suit by passing of a decree in terms of the settlement agreements. Having regard to the submissions of learned counsel and the materials placed on record, I do not find any impediment to passing of a decree as sought.

5. The suit is disposed of with a decree in terms of the settlement agreement dated 20.12.2019 [as between the plaintiff and defendant nos. 1 to 4], and the settlement agreements dated 10.01.2020 [as between the plaintiff and defendant nos. 5 and 6 respectively]. The decree sheet be prepared accordingly. All three settlement agreements will form part of the decree.

6. The amount of ₹1,00,000/- payable by each of the six defendants to the plaintiff under the settlement agreements have been paid by demand drafts which have been handed over to the learned counsel for the plaintiff today.

7. Mr.Pravin Anand, learned counsel for the plaintiff points out that in the course of this suit, by an order dated 23.05.2019, the Court had also given certain directions to the customs authorities. Paragraphs 4 and 5 of the order dated 23.05.2019 are reproduced below:-

4. Ld. counsel - Mr. Amit Bansal has appeared for the Customs Department and submits that the Department takes regular action in order to implement the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007. He has placed on record a letter dated 22nd May, 2019 wherein the Department has enumerated the various steps being taken by it to curb the import of counterfeit products, which include-

- *training for customs officials;*
- *updating them with laws related to counterfeiting;*
- *immediate action in case of alerts being given either by the IP owner or by the investigating department;*
- *All the officers in field formations like Appraising Groups, SIIB & Import Shed need to be fully updated about the laws governing counterfeiting;*
- *Conduct of workshops and training sessions in anti counterfeiting;*
- *Creation of a strong informer network with the help of brand right owners for effective monitoring of counterfeit goods;*
- *Effective inter agency sharing of vital information and modus operandi to enable all the agencies working in the field to curb counterfeiting.*
- *Speedy investigations in case of detection of import of counterfeit goods.*
- *Stringent punitive action is proposed to be taken against the counterfeiters, importers and CHAs involved in import of such counterfeit.*
- *DGFT being requested to be vigilant at the time of issuing IEC codes to importers only after ascertaining the background checks.*
- *No Re-export to be allowed of counterfeit goods.*

The above mentioned steps are directed to be efficiently implemented by the Department. In addition, one of the reasons why the Customs Department is unable to track counterfeit products is because in the shipping documents, packing lists, invoices etc., do not mention the brand name or the trademarks which are affixed on the products. The tracing of counterfeit products would be easier if the shipping documents including the packing lists, bills of lading, invoices and other accompanying documents mention the brand name or the trade mark which are affixed on the products. Though there could be misdescription of the marks/names in some cases, making it mandatory for the documents to mention the brand or

mark would make it easier for the authorities to verify the same with the marks/brands registered with them.

5. *Accordingly, it is directed that the Central Board for Indirect Taxes and Customs shall consider taking a policy decision as to whether an amendment could be made in the Customs Act, 1962 and the Rules framed thereunder or in the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 to make it mandatory for importers/exporters to mention on the export/import documents the trade marks/brand names affixed on the products being exported/imported. The said amendment could also consider the provisions to be made in case of misdescription of the marks/names on the export/import documents.*

8. Mr. Aman Rewaria, learned counsel appearing for Mr. Amit Bansal, learned Senior Standing Counsel for the Customs Department, submits that the appropriate authorities are cognisant of the matters referred to in the aforesaid order, and will take an appropriate policy decision in terms thereof. The rights of the plaintiff in this regard are expressly left open.

9. In view of the fact that the suit has been settled in mediation proceedings, the plaintiff is entitled to refund of court fees under Section 16 of the Court Fees Act, 1870. The Registry is directed to issue a certificate to this effect in favour of the plaintiff.

10. The suit is disposed of in terms of the above.

PRATEEK JALAN, J

JANUARY 14, 2020

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