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

+ **CS(COMM) 155/2020**

ASTRAZENCA AB & ANR

.....Plaintiff

Represented by: Mr. Pravin Anand, Advocate with
Ms. Vaishali Mittal,
Mr. Siddhant Chamola, &
Ms. Devyani Nath, Advocates

versus

**WEST COAST PHARMACEUTICALS
WORKS LTD.**

..... Defendant

Represented by: Mr. Ateet Thakre, Advocate.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

25.08.2020

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The hearing has been conducted through Video Conferencing.

CS(COMM) 155/2020

1. The present suit has been filed by the plaintiffs who are the registered owners of the two patents being IN 205147 (in short IN '147) the genus patent and IN 235625 (in short IN '625 the species patent for the drug molecule Dapagliflozin.
2. The plaintiffs sold the said drug under the brand name 'Forxiga'. The said drug is a Sodium Glucose co-Transporter 2 inhibitor which inhibits the reception/re-absorption of the glucose in kidneys and this composition results in controlling the sugar level in the body differently as compared to the other medicines in the market.
3. The validity of the two patents of the plaintiffs, *i.e.* IN '147 and IN

'625 is till 2nd October, 2020 and 15th May, 2023 respectively.

4. The grievance of the plaintiffs in the present suit is that the defendant is manufacturing the drug 'Dapagliflozin', after obtaining licenses for manufacturing the same, which fact was revealed to the plaintiffs when it filed an application under RTI, and a response thereto was received on 24th December, 2019.

5. Pursuant to the summons being issued in the suit and this Court having passed an *ex parte ad interim* injunction in terms of Prayer (a) of Para 46 of the application being I.A. 4205/2020 under Order XXXIX Rules 1 & 2 CPC, learned counsel for the defendant entered appearance.

6. The defendant has not filed any written statement but an undertaking of its Manager and Authorized Representative, namely, Mr. Ajay Narendrabhai Patel, which reads as under:-

"1. The defendant company agree and acknowledge the plaintiff No.1 company is the inventor and registered patentee of Indian Patent No.IN205147, IN235625.

2. The defendant hereby undertake to this Honourable court and to the Plaintiff that, defendant will neither by itself nor through its Director, Group of Company and its divisions assigned and its business, presence, Distributor and dealers, present manufacturing, importing, selling, offering for sale, exporting directly or indirectly dealing in the pharmaceuticals products compound or formulation containing "DAPAGLIFLOZIN" in combination or in any other form as it may amount to infringement of Indian patent No.IN205147, IN235625 of the Plaintiff company.

3. The defendant admitted and accept the rights of the Plaintiff No.1 in patent being Nos.IN205147, and IN235625 and acknowledged the validity thereof and further undertake that, the defendant shall not file any application seeking cancellation

of the Plaintiffs registered patent during the period and terms of the said patent.

4. The defendant hereby declares and states that, the defendant has not manufactured the “DAPAGLIFLOZIN” after issuance of the License from Food and Drug Control Administration (“FDCA” for Short) Gujarat. The defendant further declares and states that, the defendant has not manufactured the patent product of the Plaintiff company and not earned any revenue from the said patented product. It is also agreed that, decree may be passed in terms of Paragraph No.113(A) of the Suit in favour of the Plaintiff company.

5. The above consent terms is read over and explained to the both the parties and agreed after reading and undertaking all the clause and fact and this binding too both the parties.”

7. Copy of the Authority Letter dated 22nd August, 2020 is also enclosed with the undertaking.
8. Considering the undertaking filed on behalf of defendant by its authorized representative, this suit is liable to be decreed in terms of Prayer 113(a) of the Suit.
9. Learned counsel for the plaintiffs, on instructions, gives up the prayers (b), (c) and (d) in Para 113 of the Suit.
10. Suit is accordingly decreed in terms of Prayer 113(a) of the Suit. Decree sheet will incorporate the undertaking on behalf of the defendant.
11. Since the settlement has been arrived at between the parties in the suit at the initial stage itself with the intervention of the Court, Court fee be returned to the authorized representative of the Plaintiffs under Section 16 of the Court Fees Act.
12. Registry will issue necessary certificate in this regard.

I.A. 4205/2020 (under Order XXXIX Rule 1 and 2 CPC)

I.A. 4209/2020 (under Order XI Rule 2 Commercial Courts Act)

1. In view of the decree having been passed in favour of the plaintiffs, these applications are dismissed as having become infructuous.
2. Order be uploaded on the website of this Court.

MUKTA GUPTA, J.

AUGUST 25, 2020

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