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

% ***Date of decision: 01.10.2021***

+ **CS(COMM) 15/2020 & I.A. 424/2020**

HINDALCO INDUSTRIES LTD. Plaintiff
Through: Mr. Sachin Gupta, Mr. Pratyush Rao,
Ms. Jasleen Kaur & Mr. Snehal
Singh, Advocates

Versus

AMIT AGRAWAL Defendant
Through: Mr. Sanjeev Singh & Mr. Shayam
Khurram, Advocates

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

1. The present suit has been filed under the provisions of Section 2(c) (xviii) of the Commercial Courts Act, 2015 in conformity with the Delhi High Court (Original Side) Rules, 2018 against the defendant for dealing in compost, manures, fertilizers under mark GOYANKA BALWAN, which is claimed to be deceptively similar to plaintiff's trade mark BALWAN, amounting to infringement and passing off of plaintiff's rights in its trade mark.

2. During pendency of the present suit, vide order dated 19.07.2021, the matter was referred to Delhi High Court Mediation and Conciliation Centre for parties to explore settlement of disputes. .

3. Today, learned counsel appearing from both the sides submit that the subject matter of this suit has been amicably resolved through mediation and parties have finally resolved their disputes in terms of Settlement-Agreement dated 09.09.2021.

4. Learned counsel for the plaintiff submits that the present suit be decreed in terms mentioned in the aforesaid Settlement-Agreement dated 09.09.2021. Learned counsel also submits that since the subject matter of the suit amicably stands resolved through mediation before commencement of the pleadings, therefore, in terms of Section 16 of the Court Fees Act, the entire court fees be refunded to the plaintiff.

5. This Court has gone through the Mediation report dated 09.09.2021 placed on record and find it to be valid and lawful. The present suit is accordingly decreed in terms mentioned in Settlement-Agreement dated 09.09.2021, which shall form part of the decree.

6. A Division Bench of this Court in *Nutan Batra Vs. M/s. Buniyaad Associates 2018 SCC OnLine Del 12916*, relying upon decision of Hon'ble

Supreme Court in *Afcons Infrastructure Limited v. Cherian Varkey Construction Company Private Limited*, (2010) 8 SCC 24, had allowed an appeal against the order of refusal of refund of entire court fee in a suit. Further, a Coordinate Bench of this Court in *Munish Kalra Vs. Kiran Madan and Others* 2019 SCC OnLine Del 8021 taking into account the fact that the dispute stands amicably settled between the parties, had relied upon decisions in *Afcons Infrastructure Limited (Supra)* and *Nutan Batra (Supra)* and directed refund of the entire court fees.

7. Concurring with afore-noted decisions, the plaintiff is entitled to refund of entire court fees. Registry is directed to issue necessary certificate/ authorization in favour of the plaintiff to seek refund before the appropriate authorities.

8. With aforesaid directions, the present suit stands decreed accordingly. Pending application is disposed of as infructuous.

(SURESH KUMAR KAIT)
JUDGE

OCTOBER 01, 2021

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