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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 179/2020 & I.A. 10409/2021**
BALS ELEKTROTECHNIK GMBH & CO. KG Plaintiff
Through: **Mr. Manish Biala, Adv.**

versus

TARUN KHARBANDA & ORS. Defendants
Through: **Mr. Arjun Syal, Adv.**

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

% **ORDER (ORAL)**
18.08.2021
(Video-Conferencing)

I.A. 10409/2021 & CS(COMM) 179/2020

1. The dispute between the parties stands amicably resolved.
2. The terms of settlement, as contained in the various sub-paras of para 2 of the application, reads thus:

“2. It is submitted that the Plaintiff and the Defendants herein, have arrived at a consensus for amicable settlement of all disputes between them, on the terms and conditions as detailed herein below:

- i. The Defendants hereby acknowledge that all rights, title, interest and goodwill in the *Bals Trademarks* including variants thereof, belong exclusively to the Plaintiff.

Furthermore, since the impugned marks "J-Bals" and  are deceptively similar to the Plaintiffs Bals Trademarks, the Defendants have no rights, title or interest in the said impugned marks.

ii. The Defendants hereby unequivocally undertake before this Hon'ble Court that henceforth, they, including their partners, legal heirs, successors, representatives and assigns in business, or receivers and liquidators shall not deal in or use in any manner whatsoever, or offer for sale or manufacture any product bearing any of the impugned marks or any mark visually, phonetically, or structurally identical or deceptively similar and or claim any right in the Plaintiffs "*Bals*" *Trademarks* as elaborated in the captioned suit, so as to avoid any intentional and or unintentional passing off their own goods as that of the Plaintiff and infringement of the Plaintiffs registered trade mark nos. 4298497, 4298498, and 4298499.

iii. The Defendants undertake to deliver up all articles, materials and goods, if any, in their possession, bearing the impugned marks, to the representatives of the Plaintiff within a period of 15 days from the date of final order of this Hon'ble Court in the present matter.

iv. The Defendant No. 1 undertakes to transfer in perpetuity, all rights, titles and interests in the registered trade mark **J-BALS**, bearing trade mark application number 2062508, to the Plaintiff. For the said purpose, the Defendant No. 1 undertakes to sign or file appropriate application/affidavit/pleadings/assignment deed or any other necessary documents that may be necessary, before the Trade Marks Registry within a period of 15 days from today and before passing the final order by this Hon'ble Court in the present matter. In order to avoid any unnecessary confusion or ambiguity, copies of the specimen affidavits and or applications required to be signed by the Defendants as stated in the present paragraph have been annexed herewith and marked as Documents A(COLLY).

v. The Defendants have already issued necessary instructions to the domain name provider to discontinue the said domain name by the name and style of <http://jbalindia.com/> and moreover undertake to not use the same in future. For the said purpose, the Defendants undertake to take all necessary steps or sign, or file appropriate application/document as may be necessary, within a period of 15 days from today and before passing the final order by this Hon'ble Court in the present matter. In order to avoid any unnecessary confusion or ambiguity, copies of the specimen

affidavits and or applications required to be signed by the Defendants as stated in the present paragraph have been annexed herewith and marked as Document B (COLLY)

vi. As part of the settlement, the Defendants have paid a consolidated sum of Rs. 4,50,000/- (Rupees four lakh fifty thousand only) to the Plaintiff as damages and costs, via bank transfer on 13th July 2021.

vii. The Defendants hereby undertake to pay to the Plaintiff an amount of Rs. 10,00,000/- (Rupees ten lakh only) as liquidated damages, in case of any breach of the aforesaid undertakings given by the Defendants. In such event, the Plaintiff shall also have the right to take appropriate action against the erring Defendant in accordance with law.

viii. In consideration of the abovementioned undertakings by the Defendants, the Plaintiff foregoes its claim for rendition of accounts, and damages under paragraph 39(e), and (f) of the amended Plaintiff. All disputes between the parties in this regard stand settled. Moreover, the terms of the present settlement are lawful and the present amicable resolution of disputes have been entered into voluntarily by both the parties without any coercion and undue-influence.”

3. Learned counsel for both sides are present. It is also informed that requisite consideration under the settlement agreement has also been transferred.

4. As such, nothing survives for adjudication in this suit, which is disposed of in terms of the aforesaid terms of settlement, by which the parties shall remain bound.

5. The Registry is directed to draw-up the decree sheet in accordance thereof.

6. The plaintiff shall also be entitled to refund of 50% of court fees.

7. All connected applications in the suit stand disposed of.

C. HARI SHANKAR, J.

AUGUST 18, 2021

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