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C.S.(Comm. Div.)No.155 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 15.11.2022

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THE HON'BLE MR.JUSTICE M.SUNDAR

C.S.(Comm. Div.)No.155 of 2022

and

O.A.Nos.469, 470 of 2022 & A.No.3350 of 2022

in

C.S.(Comm. Div.)No.155 of 2022

M/s.Apex Laboratories Pvt. Ltd.,
29, III Floor, SIDCO Garment Complex
Guindy, Chennai-600 032
Rep. by its Authorised Signatory
D.Jude F.L.S. Durai Pandian

.. Plaintiff

Vs.

Zee Laboratories Limited
Behind 47, Industrial Area,
Paonta Sahib - 173025, Himachal Pradesh
and their registered office at
913, D-Mall, Netaji Subash Place,
Pitampura, Delhi - 110 034.

.. Defendant

This Civil Suit is preferred, under Order VII Rule 1 CPC and Order IV Rule 1 OS Rules, read with Sections 27, 28, 29, 134 and 135 of the Trademarks Act, 1999, praying

(a) A permanent injunction restraining the defendant, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner infringing



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the plaintiff's registered trademarks ZINCOVIT under No.487453 in Class 5 and other registered trademarks by using a deceptively similar trademark ZINCOWIT FORTE or any other trademark deceptively similar to the plaintiff's registered trademark or in any other manner whatsoever;

(b) A permanent injunction restraining the defendant, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner passing off and / or enabling others to pass off the defendant's products under the trademark ZINCOWIT FORTE as and for the plaintiffs' products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using advertising their products with a trademark and / or label or artistic work that is identical in colour scheme, get up and layout with that of the plaintiff's ZINCOVIT trademark or artistic work or in any other manner whatsoever;

(c) The defendant be ordered to surrender to plaintiffs for destruction of all products, labels, cartons, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark ZINCOWIT FORTE label or any mark deceptively similar to plaintiffs' trademark and artistic work ZINCOVIT label;

(d) A preliminary decree be passed in favour of the plaintiffs directing the defendant to render account of profits made by use of trademark and copyright in the artistic work ZINCOWIT FORTE label and a final decree be passed in favour of the plaintiffs for the amount of profits thus found to have been made by the defendant after the latter



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have rendered accounts;

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(d) For costs of the suit;

For Plaintiff	:	Mr.R.Sathish Kumar
For Defendant	:	Mr.V.M.Venkatramana

J U D G M E N T

This compromise judgment / decree and common order will now dispose of the captioned main suit and captioned three applications.

2. Captioned matter is listed under the cause list caption 'FOR REPORTING SETTLEMENT'.

3. Mr.R.Sathish Kumar, learned counsel on record for sole plaintiff company and Mr.V.M.Venkatramana, learned counsel on record for lone defendant are before this Commercial Division.

4. Both learned counsel submit that the plaintiff and defendant companies have since settled the *lis* and terms of settlement have been reduced to writing vide a 'Joint Memo of Compromise entered between the plaintiff and defendant dated 14.11.2022' [hereinafter 'said JMOC' for the sake of convenience and clarity]. The said JMOC duly signed by both parties and their respective counsel has been placed before this Commercial Division and a scanned reproduction of the same (together with docket) is as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Ordinary Original Civil Jurisdiction)

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Apex Laboratories Pvt. Ltd.,
29, III Floor, SIDCO Garment Complex,
Guindy, Chennai 600 032
rep by its Authorised Signatory,
D.Jade F.L.S.Durai Pandian

... Plaintiff

Vs

Zee Laboratories Limited,
Behind 47, Industrial Area,
Panna Sahib-173005
Himachal Pradesh
and their registered office at
913, D-Mall, Netaji Subash Place,
Pitampura, Delhi - 110 034

... Defendant

**JOINT MEMORANDUM OF COMPROMISE ENTERED BETWEEN
THE PLAINTIFF AND DEFENDANT**

The Plaintiff and the Defendant jointly submit as follows:

1. The Plaintiff filed the above suit against the Defendant praying for judgment or decree on the following terms:-

- a. a permanent injunction restraining the Defendant, by itself, its partners, men, servants, agents, distributors, stockists, representatives or any one claiming through or under them from in any manner infringing the plaintiff's registered trademarks ZINCOVIT under No. 487453 in Class 3 and other registered trademarks by using a deceptively similar trademark ZINCOWIT FORTE or any other trademark deceptively similar to the

For Apex Laboratories Pvt. Ltd.

Authorized Signatory

For ZEE LABORATORIES LTD.

ASST MANGER
MECHANDER SHEKHAR



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plaintiff's registered trademark or in any other manner whatsoever;

b. a permanent injunction restraining the Defendant, by itself, its partners, men, servants, agents, distributors, stockiest, representatives or any one claiming through or under them from in any manner passing off and/or enabling others to pass off the Defendant's products under the trademark ZINCOWIT FORTE as and for the plaintiffs' products by manufacturing, selling, or offering to sell, distributing, displaying, printing, stocking, using, advertising their products with a trademark and/or label or artistic work that is identical in colour scheme, get up and layout with that of the plaintiffs' ZINCOWIT trademark or artistic work or in any other manner whatsoever;

c. the Defendant be ordered to surrender to Plaintiffs for destruction of all products, labels, cartons, dyes, blocks, moulds, screen prints, packing materials and other materials bearing the trademark ZINCOWIT FORTE label or any mark deceptively similar to plaintiffs' trademark and artistic work ZINCOWIT label.

d. a preliminary decree be passed in favour of the Plaintiffs directing the Defendant to render account of profits made by use of trademark and copyright in the artistic work ZINCOWIT FORTE label and a final decree be passed in favour of the Plaintiffs for the

For apex laboratories private limited

Authorized Signatory

For ZEE LABORATORIES LTD.

ASST MANAGER
MICHAENDER SHELKHAR



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amount of profits thus found to have been made by the Defendant after the latter have rendered accounts;

- e. for costs of the suit; and
- f. pass such further or other reliefs as this Hon'ble Court may deem fit and necessary in the circumstances of the case and thereby render justice.

2. The Defendant approached the Plaintiff for amicable settlement of the dispute and the Plaintiff also agreed to settle the dispute on the following terms and conditions reduced hereunder: -

- a. That the Defendant undertakes that it will not manufacture or market or otherwise deal with the products bearing the trademark ZINKOWIT or any other trademark identical or deceptively similar to the Plaintiff's product ZINCOVIT at point of any point in future whatsoever.
- b. That the defendant has proposed to use the trademark WINGLOWIT to which the plaintiff does not have any objection.
- c. That the defendant undertakes to this Hon'ble Court, that in the event of the violation of the terms of this Memorandum of compromise, they are liable for punitive damages to the plaintiff in addition to any other legal right available to the plaintiff.

3. The Plaintiff states that in the view of the defendants' undertaking as above, it is prayed that the above suit may be decreed in terms of Prayers (a)

For apex laboratories private limited

Authorized Signatory

For ZEE LABORATORIES LTD.

ASST. MANGER
Mr. CHANDER SHEKHAR



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(b) and (c) of Paragraph 32 of the Plaint and the plaintiff is willing to give up the reliefs under Prayers 32 (d) and 32 (e) of the Suit in view of this Memorandum of compromise;

In the above circumstances, it is prayed that this Hon'ble Court may be pleased to pass a judgment and decree in terms of the *memo of compromise* and pass such further or other orders which this Hon'ble Court may deem fit and proper to the facts and circumstances of the case and thus render justice.

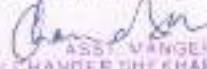
Dated at Chennai on this the 14th day of November 2022

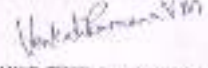
For apex laboratories private limited


Aadhithyan Srinivasan
PLAINTIFF


COUNSEL FOR THE PLAINTIFF

For ZEE LABORATORIES LTD.


ASST. MANAGER
MR. CHANDER SHEKHAR
DEFENDANT


COUNSEL FOR THE DEFENDANT



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IN THE HIGH COURT OF
JUDICATURE AT MADRAS
(Ordinary Original Civil
Jurisdiction)

C.S. (Comm.Div) No.155 of 2022

M/s.Apex Laboratories Pvt. Ltd.,

.....Plaintiff

-Vs-

M/s. Zee Laboratories Limited

.....Defendant

**JOINT MEMO OF
COMPROMISE FILED BY THE
PARTIES**

32654



M/s. R. SATISH KUMAR
PRIYA V
Counsel for Plaintiff

Mr.Venkatramana
Counsel for the Defendant



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5. Adverting to aforementioned said JMOC, both learned counsel submit that the same was signed by both parties in the presence of one another and on this basis, both learned counsel request for dispensing with the presence of parties for recording said JMOC. It is also pointed out that Mr.D.Jude F.L.S Durai Pandian, Son of Durai Raj, aged 62 years, Authorized signatory and Chief Vigilance Officer of plaintiff company who has verified and signed pleadings (plaint) and Mr.Chander Shekhar, Son of Sh.Yash Pal, aged 58 years who has signed the Vakalatnama for defendant company have signed said JMOC. It is further submitted that both the natural persons have represented their respective companies i.e., juristic persons on the strength of Board Resolutions the same are subsisting and this is also another ground on which the prayer for dispensing with the presence of parties for recording said JMOC is made.

6. Considering the facts and circumstances of the case, the trajectory the matter has taken and other attendant circumstances, this request is acceded to.



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M.SUNDAR, J.

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7. Learned counsel on both sides request for disposal of captioned main suit by way of compromise decree in terms of said JMOC and consequent closure to the captioned applications. Request acceded to.

8. Captioned main suit is disposed of by way of joint compromise decree in terms of said JMOC which shall form part of judgment / decree. Consequently, captioned applications are disposed of as closed. There shall be no order as to costs.

15.11.2022

Index : Yes/No
Speaking/Non-speaking order

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