



C.S.(Comm.Div.)No.120 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2023

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.S.(Comm.Div.)No.120 of 2022

and

O.A.Nos.345 & 346 of 2022

and

A.No.2422 of 2022

Nureca Limited,
Having its Corporate Office at
SCO 6 to 8, First Floor,
Sector 9-D, Madhya Marg,
Chandigarh - 160 009.

... Plaintiff

Vs

Trumoms Foods and Beverages LLP,
6th Floor 601, Shivalik Shilp,
Opp. Shrifal Hotel,
Iscon Cross Road, S.G.Highway,
Ahmedabad, Gujarat - 380 015.

Also at,
B 702, Shivalik Legacy,
Opposite Zodiac Aster,
Behind Ahmedabad International School,
Bodakde, Ahmedabad,
Gujarat - 380 015.

... Defendant



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Prayer: This Civil Suit is filed under Order VIII Rule 1 of the Code of Civil Procedure, 1908 read with Order IV Rule 1 of the Madras High Court Original Side Rules read with Sections 28, 29, 134 & 135 of the Trade Marks Act, 1999 read with Section 2(1)(c)(xvii) of the Commercial Courts Act No.4 of 2016, prayed for a Judgment and Decree:-

a) A permanent injunction restraining the defendant, its agents, servants, licensees, franchisees, distributors, assignees and representatives or anyone claiming through or under them from infringing on the plaintiff's registered trademark "TRUMOM" under Nos.3494060, 3620011, 3325052, 3325051 and 3325050 by using the deceptively phonetically identical and deceptively similar trademark TRUMOMS or any other mark which is/are identical with and/or deceptively similar to the plaintiff's trademark or in any manner whatsoever;

b) A permanent injunction restraining the defendant, its agents, servants, licensees, franchisees, distributors, assignees and representatives or anyone claiming through or under them from passing off or enabling others to pass the defendant's products as and for the plaintiff's products under the trademark TRUMOMS by using, selling, or offering to sell, distributing, displaying, printing, stocking, using, advertising their products or in any other manner whatsoever;

c) Directing the defendant to render a true and faithful account of sales made by sale of products to the customers under the impugned



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mark and the defendant be further ordered and directed to pay to the plaintiff such amount as may be found due on such account being taken;

d) The defendant be ordered to pay to the plaintiff a sum of Rs.35,00,000/- as damages for the act of infringement of Trade Mark and passing off committed by the defendant.

e) To declare the plaintiff's "TRUMOM" mark as a well-known Trade Mark.

f) For costs of the suit.

For Plaintiff : Mr.R.Sathish Kumar

For Defendant : Mr.P.Shiva

JUDGMENT

Today when the matter is taken up for hearing, the learned Counsel for the plaintiff and the defendant have filed a Joint Memorandum of Compromise recording the satisfaction of the suit claim and the settlement of *inter se* dispute between the plaintiff and the defendant.

2. The Joint Memorandum of Compromise dated 05.01.2023 had been forwarded to the Registry, in which, the Authorized Signatory/Proprietor of the Plaintiff and the Defendant have signed. It



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has also been signed by the learned Counsel for the plaintiff and the defendant.

3. The terms and conditions of the Joint Memorandum of Compromise entered into between the parties are as follows:-

“a. That the defendant undertakes to this Hon'ble Court that they would not henceforth use TRUMOM or any other trademark identical or deceptively similar to that of the plaintiff's trademark TRUMOM.

*b. That the defendant hereby has proposed and undertakes that they would henceforth use the trademark and trading style **2MOMS only in the same style with penguin logo and 2moms written** and not the alphabet two or any other alphabetical variation of two, and the plaintiff agrees to the same.*

*c. That the defendant further undertakes they will restrict their use of the **2MOMS** mark strictly to their food business including but not limited to jams, bakery, cafe, jellies, condiments, syrups etc.*

d. That the defendant has already commenced the process of changing their trademark, their trading style, the name of their firm, viz.,



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*Trumoms Foods and Beverages LLP to **2moms** and **Junsei Foods and Beverages LLP** and seeks a period of 6 months for the change of the above trademark and the name of the LLP along with other statutory compliances and the plaintiff has consented to the same.*

e. That the defendant will taken down all of their social media posts, marketing materials and other promotional/advertisement materials that use TRUMOM or any other trademark identical or deceptively similar to that of the plaintiff's trademark TRUMOM, effective immediately. The defendant further undertakes to refrain from using the marks TRUMOM or any other trademark identical or deceptively similar to that of the plaintiff's trademark TRUMOM in the future for any promotional or marketing activities across social media or via traditional channels.

f. That the parties agree that the aforesaid processes for the change shall be duly effected before 30th April 2023 and the same shall be intimated to the plaintiff in writing.

g. The plaintiff and the defendant pray that the above suit may be decreed in terms of Prayers (a) and (b) of Paragraph 36 of the plaint and the plaintiff



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is willing to give up the reliefs under prayers 36 (c), 36 (d) and 36 (e) of the suit in view of this Memorandum of Compromise.

h. That the defendant states that in the event of breach of this undertaking to this Hon'ble Court, they are liable for punitive damages to the plaintiff in addition to any other legal right available to the plaintiff."

4. Since both the parties have agreed to the terms of the Joint Memorandum of Compromise, the same is recorded and accordingly this Civil Suit is decreed. No costs. The Joint Memorandum of Compromise shall form part of the decree.

5. Considering the fact that the trial has not been commenced and no issues have been framed, I am inclined to order refund of the Court Fee in terms of Sections 65 and 69-A of the Tamil Nadu Court-Fees and Suits Valuation Act, 1955. Registry is therefore directed to refund the Court Fee to the Plaintiff after due adjustments, in accordance with the relevant Rules, within a period of thirty days from



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the date of receipt of a copy of this order. Consequently, connected

O.A.Nos.345 & 346 of 2022 and A.No.2422 of 2022 are closed.

23.01.2023

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-Speaking Order

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C.SARAVANAN, J.

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