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(T)OP(TM)/434 & 435 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)OP(TM)/434 of 2023

[ORA/38/2013/TM/CH] &

(T)OP(TM)/435 of 2023

[ORA/172/2013/TM/CH]

Societe Des Produits Nestle S.A.
1800, Vevey, Canton of Vaud,
Switzerland.

.. Petitioner in
both petitions

-VS-

1.Nutrine Confectionery Company Ltd.
Pirojshanagar
Eastern Express Highway
Vikhroli (E)
Mumbai-400 079

Also at:
No.14, Kengal Hanumanthaiah Road,
Bangalore-560 027

2.The Registrar of Trade Marks
Trade Marks Registry
Intellectual Property Office Building
G.S.T.Road,
Guindy, Chennai-600 032.

3.Snacko Bisc Private Limited

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(T)OP(TM)/434 & 435 of 2023

having registered office at
74/A, R.K.Shanmuham Salai, K.K.Nagar,
Chennai-600 078.

... Respondents in
both petitions

PRAYER in (T)OP(TM)/434 of 2023 : Original Petition in the matter of cancellation of Trade Mark Registration No.495407 (Nutrine) in Class 5 from the Register of Trade Marks under Section 9(1)(a) to (c), 47, 18(4) read with Section 57 of the Trade Marks Act, 1999 read with Rule 2 of the Trade Marks (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2003, praying to direct the Respondent No.2 to cancel trade mark registration no.495407 (NUTRINE Deice) in class 5 in the name of Respondent No.3 may be allowed.

PRAYER in (T)OP(TM)/435 of 2023 : Original Petition in the matter of cancellation of Trade Mark Registration No.495408 (Nutrine) in Class 5 from the Register of Trade Marks under Section 9(1)(a) to (c), 47, 18(4) read with Section 57 of the Trade Marks Act, 1999 read with Rule 2 of the Trade Marks (Applications and Appeals to the Intellectual Property Appellate Board) Rules, 2003, praying to direct the Respondent No.2 to cancel trade mark registration no.495408 (NUTRINE Deice) in class 5 in the name of Respondent No.3 may be allowed.

For Petitioner : Ms.Akansha Singh
in both OPs for M/s.INTTL Advocare



(T)OP(TM)/434 & 435 of 2023

COMMON ORDER

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On instructions, learned counsel for the petitioner submits that the Intellectual Property Appellate Board passed (IPAB) an order on 27.01.2020 rejecting the rectification petitions but granting leave to the petitioner to re-apply in case there is evidence of user by the first respondent herein. In view thereof, it is unnecessary to proceed further with these matters. Consequently, (T)OP(TM)/434 of 2023 and (T)OP(TM)/435 of 2023 are dismissed as infructuous without any order as to costs on terms indicated by the IPAB.

26.06.2023

kal
Index : Yes / No
Neutral Citation: Yes/ No



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(T)OP(TM)/434 & 435 of 2023

SENTHILKUMAR RAMAMOORTHY, J

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(T)OP(TM)/434 of 2023

[ORA/38/2013/TM/CH] &

(T)OP(TM)/435 of 2023

[ORA/172/2013/TM/CH]

26.06.2023