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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 815/2022 & I.A. 19642/2022, O.A. 107/2023, O.A. 108/2023**

APOLLO TYRES LIMITED

..... Plaintiff

Through: Mr. Aditya Vats Sharma, Mrs. Bindra Rana and Ms. Tanya Sharma, Advocates.

versus

GLORY ENTERPRISE & ORS.

..... Defendants

Through: Mr. Rahul Sharma and Mr. Yugant Kuhar, Advocates for D-1 & 2.
Mr. Hiren U. Trivedi, Advocate for D-3 & 4.
Mr. Pawas Agarwal, Advocate for D-5.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
01.04.2024

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1. Plaintiff and Defendants No. 1 and 2 have executed a Settlement Agreement dated 22nd December, 2023 before the Delhi High Court Mediation and Conciliation Centre, which is accompanied with a Power of Attorney in favour of the Authorized Representative of the Plaintiff as well as Authority Letters on behalf of Defendants No. 1 and 2.
2. Further, Plaintiff and Defendants No. 3 and 4 have executed a Settlement Agreement dated 20th February, 2024 before the Delhi High Court Mediation and Conciliation Centre, which is accompanied with a



Power of Attorney in favour of the Authorized Representative of the Plaintiff as well as Authority Letters on behalf of Defendant No. 3, bearing the signature of Defendant No. 4.

3. Counsel for the parties mentioned in the appearance above confirm the terms of settlement under the two Agreements and pray for the suit to be decreed in terms thereof. Further, they state that the parties have also arrived at an arrangement with respect to the goods seized by the Local Commissioner and kept on *superdari* with the Defendants. On this issue, the Settlement Agreements dated 22nd December, 2023 and 20th February, 2024, provide as follows:

“Para 5 of Settlement Agreement dated 22nd December, 2023”

5. *That Second and Third Party agrees that on execution of the present Settlement Agreement, the parties will Jointly request the Hon'ble Court to pass directions/order for the release of the goods seized and kept under superdari. That Second and Third Party agrees and undertakes that after taking permission from the Hon'ble Court, they will in the presence of a representative of First Party take necessary steps to destroy the entire packaging material bearing the impugned mark 'OPOLO/OPOLLO'. With regard to the infringing product i.e. butyl tubes, the Second and Third Party undertakes to remove the reference of the impugned mark OPOLO/OPOLLO from the tubes and after removing the said mark. Second and Third Party are allowed to sell the said tubes. The aforementioned steps will be carried out at a mutually agreed date and time within 10 days from the date of order of the Hon'ble Court.*

Para 5 of Settlement Agreement dated 20th February, 2024

5. *That Second and Third Party agrees that on execution of the present Settlement Agreement, the parties will jointly request the Hon'ble Court to pass directions/order for the release of the goods seized and kept under superdari. That Second and Third Party agrees and undertakes that after taking permission from the Hon'ble Court, they will in the presence of a representative of First Party, take necessary steps to destroy the entire packaging material bearing the impugned mark 'OPOLO/OPOLLO'. With regard to the infringing product i.e. butyl tubes, the Second and Third Party undertakes to remove the*



reference of the impugned mark OPOLO/OPOLLO from the tubes and after removing the said mark, Second and Third Party are allowed to sell the said tubes. The aforementioned steps will be carried out at a mutually agreed date and time within 10 days from the date of order of the Hon'ble Court."

4. The Court has perused the said terms and finds the same to be lawful.
5. Accordingly, the present suit is decreed in favour of the Plaintiff and against the Defendants No. 1 and 2 in terms of the Settlement Agreement dated 22nd December, 2023; and in favour of the Plaintiff and against the Defendants No. 3 and 4 in terms of the Settlement Agreement dated 20th February, 2024. Parties shall remain bound by the terms and conditions as enumerated in the said Settlement Agreements, which shall form part of the decree.
6. As prayed for in terms of the settlements, it is directed that the parties shall be free to de-seal the goods lying in the *superdari* and proceed to destroy the packaging material in respect of the said goods. For this purpose, counsel for the parties shall agree on a mutually convenient date to carry out the above directions and the parties' representatives shall remain present to ensure compliance with the aforementioned directions.
7. Decree sheet be drawn up.
8. In the above terms, the suit along with pending applications stands disposed of.

SANJEEV NARULA, J

APRIL 1, 2024

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