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OSA (CAD) Nos.5 and 6 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2025

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THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

OSA (CAD) Nos.5 and 6 of 2022

1. The Good Stuff Private Ltd.,
rep. By its Executive Vice President
Mr.Kamal Kumar Agarwal

(cause title of appellant amended vide
order of Court dated 24.06.2024 in
CMP Nos.12303, 12305/2024 in
OSA (CAD) Nos.5 and 6 of 2022)

2.Dharampal Satyapal Foods Ltd.,
rep. By its Authorised Signatory
Saurabh Mishra : Appellants.
(Second appellant impleaded as per order in
CMP Nos.12711, 12712 of 2024 dated 5.11.2024)

versus

Golden Chocolates Private Limited
rep. By its Managing Director
No.10123, First floor,
Katra Tezab, Library Road,
Azad Market, Delhi 110006 : Respondent



OSA (CAD) Nos.5 and 6 of 2022

Prayer: Appeals filed against the Judgment passed by this Court in O.A.Nos.873 and 874 of 2019, dated 19.02.2020.

For Appellants : Mr.P.V.Balasubramanian,
Senior Counsel,
for Mr.K.Premchandar

For Respondent : Ms.N.Devi

COMMON JUDGMENT

(Judgment of the Court was
delivered by the Hon'ble Chief Justice)

The parties have amicably settled the dispute over the trademark
'Luvit Dairy Rich' and 'Appeal Dairy Rich'.

2. Respondent admits that appellant No.2 is the proprietor of the trademarks 'Luvit Dairy Rich' and 'Global Dairy Rich'. Respondent has modified the impugned label of their product 'Appeal Dairy Rich' as 'Appeal Dairy Rich Cocoa'.



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3. Respondent undertakes to withdraw trademark application No.3916637 in class - 30 and copyright application of the impugned label filed by them before the Trademarks Registry and Copyright Registration under No.A-131111/2019. Undertaking accepted.

4. Respondent shall use the representation as* reproduced below or any other representation which shall not be similar or deceptively similar to the representation/label/packaging used by the appellant No.2. Respondent shall have the liberty to apply for registration.

5. Respondent hereby agrees not to challenge or oppose the trademarks of the appellant No.2, i.e. “Dairy Rich”, “Luvit Dairy Rich” and Global Dairy Rich” in any manner whatsoever at any point in time. Similarly appellant No.2 and or its successors shall not object or oppose the use of the 'Appeal Dairy Rich Cocoa' of respondent in any manner whatsoever at any point in time.



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6. Respondent shall exhaust the existing stocks of the products and materials with the impugned trademark 'APPEAL Dairy Rich" within a period of five months from the date of signing of the memo of compromise.

7. Respondent submits to judgment and decree as prayed for, in terms of prayers in paragraphs 33(a) & (b) of the plaint in C.S.No.565 of 2019, pending before the Property Division of this Court.

8. Subject to the aforesaid express undertaking by respondent, appellants agree to give up on the other relief sought by them in the plaint in C.S.No.565 of 2019, being relief mentioned in paragraphs 33(c), (d), (e) (f) and (g).

9. Respondent undertakes to withdraw the rectification petition under (T) OP (TM) No.429 of 2024 within a period of one week from the execution of the present memo of compromise.



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10. The above said terms of compromise shall be binding on appellants, and respondent themselves as also, on their Proprietors, Partners, Directors, Associates, Assignees, Successors-in-interest including subsidiaries and any other entity or person with which they may be directly or indirectly associated.

11. Present appeals, accordingly, are disposed of, without any order as to costs.

12. Since the parties have entered into a compromise, any interim order passed, either in the suit or in the appeal, would not survive.

13. Shri Balasubramaniam states that these terms are only between the parties to this appeal.

14. That goes without saying and certainly no party can use this as a precedent.



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(K.R.SHRIRAM, CJ.)

(SENTHILKUMAR RAMAMOORTHY, J.)

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Index : Yes/No
Neutral Citation : Yes/No
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