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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 328/2022**

**SUN PHARMACEUTICALS INDUSTRIES LTD. ....Plaintiff**

Through: Mr. Sachin Gupta, Mr. Rohit Pradhan, Mr. Adarsh Agarwal, Ms. Prashansa Singh and Mr. Ajay Kumar, Advs.

versus

**DWD PHARMACEUTICALS LTD. ....Defendant**

Through: Mr. Karan Bajaj, Mr. Rupin Bahl and Ms. Aastha Arora, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE SAURABH BANERJEE**

**ORDER**

% **29.05.2025**

**I.A. 14296/2025 (Order XXIII Rule 3, CPC)**

1. This is a joint application under *Order XXIII Rule 3* of the Code of the Civil Procedure, 1908 (**CPC**) filed on behalf of the plaintiff and the defendants seeking a consent decree based on the terms of settlement as mentioned in *para 2* of the present application, which is reproduced herein as under:-

*a. Defendant agrees not to use the injuncted mark FOLZEST and shall withdraw its application for the mark FOLZEST bearing no. 4624943 in class 5;*

*b. Plaintiff shall not use the marks ALFA-ZEST and EXEZEST and shall also suo moto file an application to cancel the registration of the mark ALFAZEST bearing application no. 837346 in class 5 and withdraw the registration for the mark EXEZEST bearing application no. 1708327 in class 5;*



- c. Plaintiff shall continue to use its trade marks FORZEST, OLMEZEST, LENZEST and TRIOLMEZEST;
- d. Defendant shall withdraw its opposition against the trade mark TRIOLMEZEST bearing application no. 2404240 in class 5;
- e. Plaintiff undertakes not to use ZEST per se or as part of any subsequent marks;
- f. Defendant has no objection to Plaintiff's appeal bearing No. FAO (OS) (COMM) 310/2022, titled Sun Pharmaceuticals Ltd. vs. DWD Pharmaceuticals Ltd., being allowed to the extent that the cost of 1NR 10 Lakhs may be set aside;
- g. Defendant shall withdraw its Appeal bearing No. FAO (OS) (COMM) 12/2023, titled as DWD Pharmaceuticals Ltd. vs Sun Pharmaceuticals Ltd. filed before the Hon'ble Delhi High Court, and its cancellation Comm. Misc. Petition (L) No. 4696 of 2023, titled as DWD Pharmaceuticals Ltd. vs Sun Pharmaceuticals Ltd., filed before the Hon'ble Bombay High Court;
- h. Plaintiff will withdraw the oppositions filed against the Defendant's ZEST marks which includes "VITALZEST" bearing application no. 3256387, "ZESTFOL" bearing application no. 5475691, "DWD ZESTFOL" bearing application no. 5475690, "ZEST-F" bearing application no. 5482992, "ZEST L-5" bearing application no. 5482994, and "ZEST-M" bearing application no. 5482993.
- i. Both parties agree that the steps for withdrawing application/oppositions shall be taken by the parties within one week from the date of execution of the present settlement;
- j. The content of these terms is binding on both parties.

2. The present application is duly supported by affidavits of the authorized representatives of the plaintiff and the defendants.

3. Learned counsels of the parties confirm the terms of the settlement and identify the signatures of their respective clients and pray that the suit be decreed in the aforesaid terms as mentioned in *para 2* of the present application.

4. This Court has perused the terms of settlement as recorded *inter-se* the plaintiff and the defendants and finds them to be lawful.



5. In view thereof, the present application is allowed and disposed of.

**CS(COMM) 328/2022**

6. Learned counsel for the plaintiff, in view of the settlement entered *inter-se* the plaintiff and the defendants, prays that since the dispute *inter-se* them have been settled, the present suit be decreed in the terms of aforesaid settlement as mentioned in *para 2* of the application bearing no. I.A. 14296/2025.

7. Accordingly, the present suit is decreed in terms of the settlement as recorded hereinabove in *para 2* of the application bearing no. I.A. 14296/2025, which are reproduced hereinabove.

8. Needless to mention that the plaintiff and the defendants shall remain bound by the terms of settlement as recorded in *para 2* of the application bearing no. I.A. 14296/2025.

9. The Registry is directed to draw up Decree sheet accordingly.

10. Needless to mention, the aforesaid terms as mentioned in *para 2* of the application bearing no. I.A. 14296/2025, shall form a part of the decree sheet.

11. Accordingly, in view of the above, the present suit alongwith pending applications, if any, stand disposed of. The date already fixed i.e. 27.08.2025 before the learned Joint Registrar stands cancelled.

**SAURABH BANERJEE, J**

**MAY 29, 2025/bh**