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

+ **CS(COMM) 579/2024**

DABUR INDIA LIMITEDPlaintiff

Through: **Mr. Saransh Saini, Adv.**

versus

MR. KULDEEP GUPTADefendant

Through: **Ms. Nikita Seth, Adv.**

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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23.04.2025

I.A. 10164/2025 (under Order XXIII Rule 3)

1. By virtue of the present application under *Order XXIII Rule 3* of the Code of the Civil Procedure, 1908 (**CPC**) filed jointly on behalf of the plaintiff and the defendant, the parties seek a consent decree based on the terms of settlement as mentioned in *paragraph no. 2* of the present application, which is reproduced as under:-

*“a) The Defendant acknowledges the Plaintiff to be the proprietor of the **DABUR RED** paste label/packaging/trade dress and further acknowledges the validity of all trade mark registrations as enunciated in the plaint.*

*b) The Defendant also acknowledges Plaintiff to be the owner of copyright of the original artistic works of **DABUR RED** paste label/packaging filed as **DOCUMENT-A** and undertakes not to challenge the same.*

*c) The Defendant undertakes not to manufacture, sell, offer for sale, advertise in markets or online, directly or indirectly deal in toothpaste under the Devson Red label/packaging/trade dress as depicted in **DOCUMENT-B** or any other label/packaging/trade dress that may be*



*deceptively similar to or a colourable imitation or substantial reproduction of **DABUR RED** paste label/packaging/trade dress in respect of their colour combination, getup, layout, arrangement of features as may amount to infringement of trade mark and copyright of the Plaintiff and/or passing off.*

*d) The Defendant confirms that he has changed the impugned Devson Red paste packaging as depicted in DOCUMENT-B to the present label enclosed as **DOCUMENT- C**. The Plaintiff has no objection to the use of the packaging as depicted in DOCUMENT-C.*

e) The Defendant undertakes to destroy all the existing infringing materials including finished goods, promotional material etc. pertaining to the impugned Devson Red label/packaging/trade dress within two weeks from recordal of the present compromise and shall share the photographs of the same with the Plaintiffs.

*f) The Defendant confirms that he has not filed any trade mark and/or copyright application in respect of the impugned Devson Red label/packaging/trade dress or any other trade mark/label/packaging/trade dress which is similar to **DABUR RED** paste label/packaging/trade dress and the Defendant further undertakes not to file any trade mark/copyright or any other application in future for any mark which is identical or deceptively similar to impugned Devson Red toothpaste label/packaging/trade dress as may be identical/ deceptively similar to/colourable imitation of/substantial reproduction of Plaintiff's **DABUR RED** paste label/packaging/trade dress.*

g) In view of the undertaking tendered hereinabove by the Defendant, the Plaintiff does not wish to press for their claim of damages and rendition of accounts as prayed for in the plaint."

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

3. Learned counsels of the parties confirm the terms of the settlement and identify the signatures of their respective clients and pray that the captioned suit be decreed in the above terms.

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



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

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6. Learned counsel appearing for the plaintiff, in view of the settlement *inter-se* the plaintiff and the defendant, prays that since all the dispute(s) *inter-se* them have been settled, the present suit be decreed in terms of the same, as mentioned in *paragraph no. 2* of the accompanying application bearing no. I.A.10164/2025 as he does not press for any other claim(s) as sought for in the plaint.

7. Accordingly, the present suit is decreed in terms of the settlement as recorded in *paragraph no.2* of the application bearing no. I.A.10164/2025, as also reproduced above.

8. Needless to say, the plaintiff and the defendant shall remain bound by the terms of settlement as recorded in *paragraph no.2* of the application bearing no. I.A.10164/2025, as also reproduced above.

9. Learned counsel for the plaintiff prays that since the dispute(s) *inter-se* the parties have been settled amicably, the Court fees paid by the plaintiff be refunded in terms of *Section 16* of the Court Fees Act, 1870.

10. This Court is of the view that since the disputes *inter-se* the parties have been amicably settled however since the present suit was pending for a considerable time, refund of **50%** of the Court fees paid by the plaintiff is deemed justifiable.

11. Let a Certificate of refund of **50%** of the Court fees paid by the plaintiff be prepared by the Registry and handed over to the learned counsel for the plaintiff.

12. Registry is directed to draw up the Decree sheet accordingly.

13. Needless to mention, the terms of settlement as recorded in



paragraph no.2 of the application bearing no. I.A.10164/2025, as also reproduced above, shall form a part of the decree sheet.

14. Accordingly, in view of the above, the present suit along with accompanying applications, stands disposed of.

15. The date already fixed stands cancelled.

SAURABH BANERJEE, J

APRIL 23, 2025/bh