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

+ **CS(COMM) 464/2021**

BACARDI AND COMPANY LIMITEDPlaintiff

Through: Mr. Naqeeb Nawab and Ms. Sanandika
Pratap Singh, Advocates.

versus

BAHETY OVERSEAS PRIVATE LIMITED & ORS.Defendants

Through: Ms. Niyati Pathak, Advocate for D-1
and D-2.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **09.04.2026**

I.A. 9724/2026 (Under Order XXIII Rule 3, CPC)

1. This is a joint application filed on behalf of the plaintiff and defendant nos.1 and 2 under Order XXIII Rule 3 read with Section 151 of the Code of Civil Procedure, 1908.

2. Learned counsel for the parties submit that the *inter se* disputes between the parties have been amicably settled.

3. The terms of settlement have been reduced into writing by way of a Settlement Agreement dated 05.02.2026. The terms of settlement have been recorded in para 2 to para 10, which are reproduced hereunder:

"2. OBLIGATIONS OF THE PARTIES

2.1 Kassatly hereby undertakes that:

(a) it has discontinued the use of the marks FREEZ , and

FREEZ



*bottle shape
manner;*

in any

(b) it shall be entitled use the word mark "FREEZMIX" and



as shown in Annexure A

(c) it shall be entitled use the bottle shape as shown in Annexure A;

(d) it shall emboss the mark "FREEZMIX" on the shoulder of its bottle in the manner and form reflected in Annexure A.

(e) it shall be entitled to use the bottle/product colours as shown in Annexure B or any other colour;

(f) it shall, on a best efforts' basis, remove any and all mention/reference to the



marks

FREEZ,



appearing on its social media accounts and websites, promotional material, etc. within 15 days from the Signing Date. It is to be noted that social media has a lot of mirroring databases on several servers along with links and this has to be on a best efforts basis. Any promotional material created after the End Date will not have any mention/reference to the word/mark/device "FREEZ" in standalone manner;

(g) it shall never apply for or register any domain name or social media account



incorporating standalone "FREEZ" in any manner;

(h) it undertakes and assures that it has ceased the use of the marks FREEZ,

FREEZ



for manufacturing and selling its products;

(i) except as otherwise agreed in this Agreement, it shall not use and/or apply for the registration of a bottle shape and/or trade dress similar to Bacardi's bottle shape and trade dress; and

(j) it shall not challenge Bacardi's registration for the BREEZER bottle shape or trademarks anywhere in the world.

2.2 Bacardi hereby undertakes that:

(a) it shall raise no objection, claim or challenge in the future with respect to Kassatly's continued use of the bottle shape as shown in Annexure A, anywhere in the world;

(b) it agrees that Kassatly may retain and continue using the bottle/product colours as shown in Annexure B or any other colour, and Bacardi shall not object to such use globally; and

(c) that the current labels, artwork, drawings, and visual elements appearing on Kassatly's bottle as shown in Annexure A, are acceptable.

3. INTELLECTUAL PROPERTY RIGHTS

3.1 Kassatly shall not file any fresh trademark, and/or designs and/or copyright application(s) to register the standalone term 'FREEZ' or 'device of the FREEZ and/or any other mark/device/logo or sign similar to Bacardi's marks in any class of goods or services thereto as a mark or as part of a mark in India or internationally.

3.2 Notwithstanding anything contained in this Agreement, the ownership and rights with respect to the marks, domain names or social media handles or any other rights with the words, FREEZMIX, shall always vest solely with Kassatly and



Bacardi shall not have any right, claim or ownership over such marks, domain names or social media handles or any other rights with the words, FREEZMIX.

4. WITHDRAWAL OR DISPOSAL OF PROCEEDINGS

*4.1 The Parties hereby consent to produce this Agreement on record before the respective judicial forums where the Proceedings are pending and shall take all necessary steps to obtain an order for withdrawal/disposal of the Proceedings based on the terms of this Agreement ("**Settlement Order**") as follows:*

(a) Suit No. CS (COMM) No. 464 of 2021: The parties shall file joint application under Order 23 Rule 3 of Code of Civil Procedure, 1908 and this Agreement will form a part thereof and based on the same, the suit will be decreed accordingly;

(b) I.A. No. 12702 of 2022 in CS (COMM) No. 464 of 2021 under section 124 of The Trade Marks Act, 1999: Kassatly shall withdraw the said application; and

(c) Appeal No. FAO(OS)(COMM) 27/2022: Kassatly shall withdraw the Appeal

4.2 The Parties confirm that the Proceedings initiated pursuant to the disputes are mentioned in clause 4.1 and there is no other proceeding initiated by any of the parties in any jurisdiction.

*4.3 The Parties agree and acknowledge that the Party which had filed the relevant Proceeding ("**Filing Party**") shall have the primary obligation to obtain the Settlement Order for such Proceeding based on the terms of this Agreement and the other Party shall take, or cooperate in good faith in furtherance of taking, all of the actions and preparatory steps as are reasonably required to assist the Filing Party to obtain the Settlement Order.*

4.4 The Parties agree and acknowledge as soon as practicable after the Signing Date, the Filing Party shall undertake best efforts to ensure that the Settlement Orders are obtained for all the Proceedings and an authenticated/certified copy of each Settlement Order is provided to the other Party by the Filing Party.

4.5 The Parties shall mutually agree upon the forms of all of the applications, instruments and other documents (including but not limited to letters, authorities, affidavits, powers of attorney and/or certificates) to be filed by the Parties with any court, tribunal or governmental authority, in order to procure the Settlement Orders for all the Proceedings.

5. WAIVER AND RELEASE

5.1 This Agreement is in full and final settlement of, and each Party hereby fully releases and forever discharges, all and any actions, Claims, rights, demands and set-offs, whether in this jurisdiction or any other, whether or not presently known to the Parties or to the law, and whether in law or equity, that it, its Related Parties or any of them ever had, may have or hereafter can, shall or may have against the



other Party or any of its Related Parties arising out of or connected with:

- (a) the Disputes;*
- (b) the underlying facts relating to the Disputes;*
- (c) the Legal Notices; and*
- (d) the Proceedings (collectively, the "**Released Claims**")*

6. AGREEMENT NOT TO SUE

6.1 Each Party agrees, on behalf of itself and on behalf of its Related Parties not to sue, commence, voluntarily aid in any way, prosecute or cause to be commenced or prosecuted against the other Party or its Related Parties any action, suit or other proceeding (whether civil, criminal or otherwise) concerning the Released Claims, in any jurisdiction.

6.2 Clauses 5 (Waiver And Release), 6.1 (Agreement Not to Sue) and 8.1(b)(i) (Covenants) shall not apply to, and the Released Claims shall not include, any claims in respect of any breach of this Agreement or to enforce the terms of this Agreement.

7. NO ADMISSION

7.1 The Parties acknowledge that the settlement, resolution and compromise by them of the Disputes, the release by them of the Released Claims and the execution by them of this Agreement and all of the other actions taken by them pursuant to this Agreement, do not constitute an acknowledgement or admission of liability or wrongdoing for any matter or precedent upon which a liability may be assessed. It is the express understanding of the Parties that they are entering into the Agreement for the sole purpose of resolving the Disputes between them and for avoiding the expenses and risks of litigation and arbitration and in order to amicably part ways. Furthermore, all actions required to be taken by the Parties pursuant to this Agreement are inter-dependent, being part of one and the same transaction.

8. COVENANTS

8.1 Each Party hereby covenants to the other Party that: (a) it shall always act diligently and in good faith to give full force and effect to this Agreement and shall take, or cooperate in good faith in furtherance of taking, all of the actions and preparatory steps required under this Agreement, in a manner satisfactory to the other Party, including, inter alia:

- (i) taking all steps, whether acting singly or jointly with the other Party (as the case may be), vis-à-vis all relevant courts, tribunals or governmental authorities, including filing any applications, instruments or other documents, paying any*



respective outstanding fees or costs, pertaining to such party, and attending any hearings, as may be required to procure the issuance of the Settlement Orders; and

(ii) doing, executing and filing, or procuring to be done, executed and filed, in a form reasonably satisfactory to the other Party and at its own cost, all acts, deeds, documents and other things which are required to give full effect to this Agreement;

(b) it shall not, directly or indirectly, including through any Related Parties:

(i) make any written statements that defame or disparage the other Party or its respective employees, directors, or officers; or

(ii) make any Complaint or otherwise contact or solicit any Person or governmental authority at any time with a view to adversely affecting the interests of other Party.

9- REPRESENTATION AND WARRANTIES

9.1 Each Party represents to the other that:

(a) it is duly organised and validly existing under the laws of the country wherein it has been incorporated;

(b) it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated under this Agreement;

(c) it has taken all necessary actions to authorise the execution, delivery and performance of this Agreement;

(d) this Agreement constitutes a legal, valid and binding obligation enforceable against it in accordance with the terms hereof; and

(e) as to each Released Claim released, waived, terminated or discharged by such Party under this Agreement or any Settlement Order, such Party is the sole and absolute owner of such Released Claim, free and clear, and has all the right, ability and power necessary to release such Released Claim and it has not sold, transferred, assigned or otherwise disposed of its interest in the Released Claims;

(f) the execution, delivery, and performance of this Agreement by such Party, and the consummation by such Party of the transactions contemplated under this Agreement, will not constitute or result in a breach or violation of, or a default under, or a conflict with, the constitutional documents of such Party (as applicable) or any laws, regulations or contractual obligations applicable to such Party; and

(g) other than the Proceedings, there are no proceedings whatsoever in progress or pending against or relating to such Party before any court or tribunal or governmental authority in relation to the Disputes.



10- EVENT OF DEFAULT

10.1 Upon occurrence of any of the following events or circumstances (whether or not continuing), each of which shall constitute a separate event of default (the "Event of Default"):

(a) a breach of any of the provisions of this Agreement by any Party (the "Defaulting Party"); or

(b) repudiation of this Agreement by any Party (the "Defaulting Party") or the conduct evidencing intention of the Defaulting Party to not to be bound by the terms of this Agreement,

the other party (the "Non-Defaulting Party") shall serve a notice on the Defaulting Party instructing the Event of Default to be rectified within a maximum period of 2(two)weeks from the receipt of such notice by the Defaulting Party ("Cure Period").

10.2 If the Defaulting Party fails to rectify the default within the Cure Period, then the Non- Defaulting Party shall have the right to obtain relief for breach of this Agreement, including damages post the signing of this Agreement and/or injunctions and/or contempt, etc.

10.3 The Parties agree that damages alone may not provide an adequate remedy for any breach by any Party of the provisions of this Agreement and therefore that, without prejudice to any and all other rights and remedies the Parties may have (including, but not limited to, damages), each Party shall be entitled, without proof of special damage, to the remedies of injunction, restraining order, right for recovery, specific performance or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the other Party from committing any violation or enforce the performance of the covenants, representations and obligations contained in this Agreement. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Parties may have under the Agreement, at law or in equity, including without limitation a right for damages."

4. As per the understanding and the terms of settlement, an appeal bearing FAO(OS)(COMM) 27/2022, which is stated to be pending before the learned Division Bench of this Court and listed on 09.05.2026, is to be withdrawn by the defendant nos.1 and 2.

5. Ms. Niyati Pathak, learned counsel appearing on behalf of the defendants states that the said appeal shall be withdrawn on or by 09.05.2026.

6. An affidavit in compliance of the undertaking shall be filed before this



Court within two weeks after 09.05.2026 once the appeal has been withdrawn.

7. The said Settlement Agreement along with its annexures is taken on record. The parties shall remain bound by the terms of the settlement.

8. This Court has perused the terms of settlement and finds the same to be lawful. The terms are within the contours of Order XXIII Rule 3 of the CPC.

9. There is no impediment in case the suit is decreed in terms of para 2 to para 10 of the Settlement Agreement dated 05.02.2026.

10. Let a decree sheet be drawn up in terms of para 2 to para 10 of the Settlement Agreement dated 05.02.2026.

11. Suit is decreed and disposed of in terms thereof along with all the pending applications.

12. The next date of hearing before Court i.e. 29.07.2026 stands cancelled.

TUSHAR RAO GEDELA, J

APRIL 9, 2026/anj