
(2023) 07 DEL CK 0048

In the Delhi High Court

Case No : Civil Suit (COMM) No. 627 Of 2022 & I.A. 14788, 14789 Of 2022

Aeronutrix Sports Products Pvt Ltd

APPELLANT

Vs

Plumax Ebusiness Solutions Private Limited & Ors.

RESPONDENT

Date of Decision : 06-07-2023

Acts Referred:

Citation : (2023) 07 DEL CK 0048

Hon'ble Judges : C. Hari Shankar, J

Bench : Single Bench

Advocate : Sumit Nagpal, Kamna S. Nagpal, Aastha Sood, Dolly Luthra, Sutapa Jana

Judgement

1. The dispute between the parties stands settled.
2. The Settlement Agreement dated 18 April 2023, drawn up under the aegis of the Delhi High Court Mediation & Conciliation Centre, has been placed on record.
3. The terms of settlement read thus:

"1. That the Second Party accepts and acknowledges the rights of the First Party in the sub-brands CHARGE, FORTIFY, RELOAD and VITALIZE along with the corresponding label marks as mentioned in the suit and, admits the validity of the First Party's marks."

2. The Second Party agrees and acknowledges the rights of the First Party in the sub-brands CHARGE, FORTIFY, RELOAD and VITALIZE (referred to as "FAST&UP DERIVATIVES") the corresponding trade dress and colour scheme of the labels (referred to as "FAST&UP LABELS"). The second party further agrees not to adopt a trade dress/colour scheme for its products which is identical or deceptively similar to the trade dress and/or colour scheme of the products and/or labels of the First Party.

3. That the Second Party agrees and undertakes not to manufacture and/or sell goods under the sub-brands referred to as FAST&UP DERIVATIVES or any other

mark(s) which is identical, and/or similar to the trademarks of the First Party including but not limited to the marks referred to as FAST&UP LABELS.

4. That the Second Party also agrees and undertakes to withdraw the Opposition filed by the Second Party against the First Party's prior adopted trademark FAST&UP CHARGE (label) bearing application no. 4761652.

5. That the Second Party further agrees and undertakes to withdraw the trademark application filed by the Second Party for the registration of the impugned mark NUTRAINIX CHARGE (Device of Packaging) bearing application no. 4634601.

6. That the Second Party shall refrain from filing any trademark application(s) or using any other mark identical and/or deceptively similar to the trademarks/labels of the First Party in future including but not limited to trademarks under the brand FAST&UP.

7. That the Second Party agrees to pay damages amounting to a total of Rs. 5,00,000/- (Rupees Five Lakhs Only) to the First Party in, consideration of the settlement of all disputes. Out of the said amount a sum of Rs.95000/-(Rupees Ninety Five Thousand Only) was paid to the First Party by the Second Party on 10.03.2023 vide UPI (Paytm) Transactions vide reference Nos. 306937636540 and 343539622517. A further amount of Rs. 5,000/- (Rupees Five Thousand Only) was paid to the First Party by the Second Party on 11.03.2023 through bank transfer (user reference number 307012173943. The Cheque No. 000005 provided by the Second Party to the First Party for payment of Rs. 5000/- (Rupees Five Thousand Only) shall stand cancelled. The First Party acknowledges the receipt of the aforesaid amount of Rs. 1,00,000/- (Rupees One Lakh Only) as a part consideration towards settlement of disputes between the parties.

8. The remaining amount of Rs. 4,00,000/- (Rupees Four Lakhs Only) shall be paid to the First Party by the Second Party as per the following instalments

a. The first instalment of Rs. 2,00,000/- (Rupees two lakhs) shall be paid on 28.04.2023 vide Cheque No. 000003 drawn on HDFC Bank, IFSC: HDFC0001405.

b. The second instalment of Rs. 2,00,000/-(Rupees two lakhs only) shall be paid on 23.06.2023 vide Cheque No. 000004 drawn on HDFC Bank, IFSC: HDFC0001405.

In the event any of the cheques mentioned above being dishonoured for any reason whatsoever, the First Party shall be entitled to initiate appropriate legal proceeding under S. 138 of the Negotiable Instruments Act, 1881 or any other applicable law.

9. In case the Second Party transfers the amount mentioned in the respective cheques before their respective due dates, the said cheques (Cheque Nos. 000003 & 000004) shall be cancelled/returned to the Second Party by the First Party.

10. Both the parties shall have no further claims against each other, and all the disputes and differences have been amicably settled by the present "Settlement Agreement".

4. The parties are represented by learned Counsel who undertake on behalf of their respective clients to abide by the terms of aforesaid settlement.

5. The Court has perused the terms of settlement and find them to be lawful and in order.

6. As such, nothing survives for adjudication in the present suit.

7. The suit is accordingly decreed in terms of the settlement already extracted hereinabove.

8. The parties would abide by the terms of settlement.

9. Let a decree-sheet be drawn up accordingly.

10. The plaintiff would be entitled to refund of court fees, if any, deposited by it.