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

+ **CS(COMM) 735/2022**

SIDDHANT ICECREAMS LLP & ORS. Plaintiffs

Through: Mr. Sandeep Sethi and Mr. Chander M. Lall, Senior Advocates with Mr. Tejveer Bhatia, Mr. Kartik Nayar, Mr. Rohan Swarup, Mr. Krish Kalra and Mr. Kunal Vats, Advocates.

versus

AMEET PAHILANI & ORS. Defendants

Through: Mr. Akhil Sibal, Senior Advocate with Mr. Deepak Biswas, Mr. Kanti Mohan Rustagi, Mr. Harshit Gupta, Mr. Pranay Govil, Ms. Ruchika Rathi and Ms. Asavari Jain, Advocates for D-2.

Mr. Rajshekhar Rao, Senior Advocate with Mr. Deepak Biswas, Mr. Kanti Mohan Rustagi, Ms. Mansi Sood, Mr. Areeb Amanullah and Mr. Yashraj Samant, Advocates for D-3.

Mr. Tushar A. John, Advocate for D-4.

Mr. Abhay Pratap Singh and Ms. Mitali Umat, Advocates for D-5.

Mr. Aditya Gupta and Mr. Sauhard Alung, Advocates for D-6.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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25.11.2022

I.A. 17196/2022 (under Order XXXIX Rules 1 and 2 CPC, by Plaintiffs) 17661/2022 (under Order XXXIX Rule 4 CPC, by Defendant No. 2) and 17721/2022 (under Order XXXIX Rule 2A CPC, by Plaintiffs)

1. For the purpose of disposal of the present applications, Plaintiffs and Defendant No. 2 have agreed and consented to the

following terms, without prejudice to their rights and contentions in the pending suit:

- a. Defendant No. 2 along with its subordinates, subsidiaries, officers, directors, distributors, agents, franchisees, dealers, servants, and all other persons claiming through or under them or anyone acting for and, on their behalf shall not use 'Natural' and/or 'Naturals' in any form or manner whatsoever, including the style/manner under the Plaintiffs' trademark registrations, for any purpose, in relation to ice creams, frozen desserts, gelatos, sorbets, softens, frozen yogurt, sundaes, and Ice Cream- Shakes;
- b. Defendant No. 2 along with its subordinates, subsidiaries, officers, directors, distributors, agents, franchisees, dealers, servants, and all other persons claiming through or under them or anyone acting for and, on their behalf shall not use 'Natural' and/or 'Naturals' in any form or manner whatsoever, in relation to the aforementioned products on or in relation to any logo, social media, trademark(s), labels, packaging, menus, containers, cups, moulds, stickers, websites, domain names, e-mail addresses, meta-tags, ad-words, physical stores, signboards, signages, branding, online listings, online platforms, including platforms operated by Defendants No. 4 and 5, advertisements or on any other medium. Defendant No. 2 shall not in relation to the aforementioned products, use or permit to be used the word 'Natural' and/or 'Naturals' in any manner on any online platform, including platforms operated by Defendants No. 4 and 5, e-commerce site, including for

- the purpose of any brand listing, restaurant/outlet listings, product description or any advertisement/promotion.
- c. Defendant No. 2 shall be entitled to use the mark 'NIC' and/or 'nic' on its packaging/containers provided that such packaging/container, in relation to ice creams, is distributed and/or sold within the Republic of India. Defendant No. 2 shall also be entitled to display the mark 'NIC' and/or 'nic' on the side panels of the packaging in appropriate vernacular language, as the case may be, in equal prominence and in a font of size equal to the English representation of the said mark. Defendant No. 2 shall also be entitled to use the mark 'NIC' and/or 'nic' only in English language on the lid/cap of the packaging/container, without any vernacular representation thereof.
 - d. Defendant No. 2 shall be entitled to use the word 'NIC' and/or 'nic' in English language alone, without any vernacular representation, on its packaging/containers for products to be sold outside the Republic of India.
 - e. Defendant No. 2 shall be entitled to use the word 'NIC' and/or 'nic' for communications on social media, menus, cups, moulds, stickers, websites, domain names, e-mail addresses, metatags, ad-words, physical stores, signboards, signage, branding, marketing, online listings, online platforms, advertisements, or on any other medium including any online platform, e-commerce site, or any advertisement or for promotion.
 - f. Defendant No. 2 shall not use any packaging/labels/designs/containers/cups/menu/signages/

trade dress/artwork or any other element/characteristic, which are in any manner deceptively similar to the Plaintiffs' present and/or previous packaging/labels/design/containers/cups/menu/signages/ trade dress/art work or any other distinct element/characteristic including the photographs in documents No. 1 to 7, which have been handed over to Defendant No. 2 and shall be filed in Court during the course of the day.

- g. Notwithstanding the above, Defendant No. 2 is permitted to distribute and sell its existing unexpired stock of ice creams in the boxes with the printed trademark 'nic-Honestly Natural Ice Cream' worth Rs. 5.81 Crores, as detailed under:

| Quantity of Products (SKU) | Value of Product (In INR) |
|-------------------------------|------------------------------|
| 3,03,237 | 5,81,04,535/- |

It is clarified for avoidance of any doubt that Defendant No. 2 shall not use 'Natural' and/or 'Naturals' in association with 'nic' or otherwise, at any place (particularly online) other than on the packaging and product pictures of the existing packaging.

- h. Defendant No. 2 is permitted to use 50 % of its unutilized existing stock of packaging/labelling under the brand 'nic-Honestly Natural Ice Cream', numbering 18, 71, 450 pieces i.e. 935725 pieces to package its ice cream to be manufactured until 31.12.2022, but not thereafter, notwithstanding that Defendant No. 2 is unable to use the aforementioned unutilized existing stock of the

packaging or label by that date. Defendant No. 2 undertakes that none of its existing ice cream packaging shall have an expiry date beyond 20.02.2023.

2. Plaintiffs and Defendant No. 2 agree and acknowledge that this is only an interim arrangement and not reflective of either party having conceded or admitted to the case of the other side, on merits.

3. In view of the agreement arrived at between the Plaintiffs and Defendant No. 2, Defendants No. 4 and 5 are directed to ensure that except for the product pictures of the existing packaging provided by Defendant No. 2, only for the limited purpose of para 1 (g) and (h) above till 20.02.2023 and not thereafter, they shall not list any product(s), restaurants or outlets of Defendant No. 2 using the word/mark 'Natural'/'Naturals' in any manner or form whatsoever.

4. Needless to state that the present consent order is without prejudice to the rights and contentions of the parties and shall have no bearing on the final adjudication of the suit. It is also made clear that this Court has not expressed any opinion on the merits of the case.

5. Applications are disposed of in the aforesaid terms.

6. Copy of this order be given to learned counsels for the parties *dasti* under the signatures of the Court Master.

JYOTI SINGH, J

NOVEMBER 25, 2022/sn/shivam