

[TM/4/2022](#)

DLND010007442022

HUGO BOSS TRADE MARK MANAGEMENT GMBH AND
CO KG AND ANR

VS.

GLOBAL PERFUMES COMPANY & ANR.

16.10.2024

Present: Sh. Kamal Naresh, Advocate for Plaintiff.

Defendants are already *ex-parte*, vide order dated
03.09.2024.

Heard. File perused.

Today, case is listed for *ex-parte* PE. However,
neither any list of witness or affidavit in evidence, has been filed
on behalf of plaintiff nor any witness is present or summoned for
today.

Ld. Counsel of plaintiff has pointed out from record
that an application under Order VI Rule 17 r/w Section 151 CPC
dated 14.07.2022 seeking amendment of plaint, is pending
disposal in this matter.

Record shows that the present suit was initially
instituted as non commercial suit on 22.01.2022 and was pending
before the Court of Ld. ADJ-01, PHC, New Delhi District. Ld.
Counsel of plaintiff has fairly not disputed the aforesaid factual
position as appearing on record.

Record would further show that the present matter
remained pending before the Court of Ld. ADJ-01, New Delhi
District till 23.04.2022, whereafter, the same was directed to be
transferred to this Court vide Order no. 17016-17031/
Judl./NDD/PHC/ND/2022 dated 05.07.2022 passed by the then

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Ld. Principal District and Sessions Judge, Patiala House Courts, New Delhi and consequent upon the directions issued in the case of ‘ *Vishal Pipes Limited vs. Bhavya Pipe Industry*’ FAO-IPD No. 1/2022 and CM APPLs. No. 12-14/2022 dated 03.06.2022 by Hon’ble Delhi High Court.

However, Ld. Counsel of plaintiff has been called upon to address the Court on the issue as to how the present suit can be tried by this Court in view of the relevant directions issued by Division Bench of Hon’ble Delhi High Court in the case of ‘ *Pankaj Ravjibhai Patel Trading as Rakesh Pharmaceuticals vs. SSS Pharmachem Pvt. Ltd.* ’, FAO (COMM) 98/2023 decided on 02.11.2023.

Ld. Counsel of plaintiff, in all fairness, concedes that in view of the above referred decision of Division Bench of Hon’ble Delhi High Court, this suit cannot be tried by this Court and it has to be transferred back to the Court concerned where the suit was previously being tried.

At this stage, it would be apposite to reproduce the relevant portion of the judgment passed by Division Bench of Hon’ble High Court. Same is extracted hereas under:-

“XXXXXXX
37. We, for reasons aforesaid, find ourselves unable to affirm or approve the directions contained in Para 66 (iv) and (v) of *Vishal Pipes*. They shall consequently stand overruled. Any matters which in the interregnum may have been transferred to designated commercial courts for compliance with the directions issued in *Vishal Pipes* shall revert to the competent courts for being tried in accordance with the observations made hereinabove.

XXXXXXX”

In the light of aforesaid directions issued by Division Bench of Hon’ble Delhi High Court and the discussion

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made herein above, the file of the present matter is directed to be placed before Ld. Principal District and Sessions Judge, New Delhi District, Patiala House Courts, New Delhi on 19.10.2024 for passing appropriate directions.

The plaintiff is directed to appear before said Court on said date.

Ahlmad is directed to send the file complete in all respects, immediately to office of Ld. Principal District and Sessions Judge, New Delhi District, Patiala House Courts as per the rules.

Vidya Prakash
District Judge (Commercial Court)-02
Patiala House Court, New Delhi.
16.10.2024_(v)