

TRADEMARK CIVIL SUIT NO.04/2023

ORDER PASSED BELOW EXH.1

Today both the parties remains present before this court and they have furnish pursis vide Exh.7 and on asking upon them all the parties admitted the contents of Exh.7 pursis voluntarily and stated that they have made signature below Exh.7 without any pressure and without under any influence from anybodies and submitted it voluntarily and the same narrated in Exh.7 furnish today is recorded and the contents of Exh.7 which are as under read over to the parties.

1. The Plaintiff has instituted above captioned Suit for Permanent and Perpetual Injunction for Infringement of Copyright and Trademark as well as Passing Off Action of the Trade Mark for trademark in label



DIGITAL PARCEL
artistic work.

along with

2. The said Suit was taken up for hearing by Hon'ble Court at Rajkot on 30/06/2023 and upon hearing the advocate for the Plaintiff, the Hon'ble Court was pleased

to issue Notice and made the same returnable on 19/08/2023.

3. That on service of the Notice, the Defendant has made an offer to amicably settle the dispute. The same is acceptable to the Plaintiff and the defendant has also given undertaking cum declaration to the plaintiff on dated 24/10/2023. That as per the plaintiff will not use the trademark and copyright as per the Annexure “A” to “E” of the said undertaking. The said Undertaking cum declaration is hereby attached and annexed as **Annexure – ‘A’**.

4. The defendant herein is in the individual capacity and was doing the business in the individual capacity.

5. Accordingly, the above captioned Trade Mark Suit No. 4 of 2023 is settled between the parties on the following terms:-

a. That the Defendant hereby acknowledges and accepts that the Plaintiff is engaged in the business of manufacturing, trading, marketing and selling all kinds of Edible Limes, Chuna and Varieties Of Lime under the trading style Babu Lime Private Limited and the Plaintiff is the only owner and proprietor of the trademark under the trade mark in label **BABU & DELUXE PARCLE**

along with copyright artistic work in pink as well as black colour white colour background combination in small pouch, since 2000. The defendant also agreed that the plaintiff is also the owner and proprietor of the trademark under the trade mark in label **BABU & DELUXE PARCLE** along with copyright artistic work red, green, blue , black and green colour and combination thereof and its variants in small pouch, since 2000.

- b. The Defendant agreed and undertakes that the Defendant henceforth will not use any word or trademark in label with distinctive colour scheme, get-up, trade dress, style along with the colour combination of black colour and also with pink colour and black & pink line alongside with white background and/or any shade of pink, black & any combination thereof, which is identical to the Plaintiffs' trademark in label **BABU & DELUXE PARCLE** with distinctive colour scheme, get-up, trade dress, style along pink as well as black colour white colour background combination from date of signing this agreement.
- c. The defendant further acknowledge that the plaintiff has already applied for statutory protection for its artistic work **BABU & DELUXE PARCLE**, applied for registration of the Copyright under The

Copyright Act, 1957 being copyright registration number A/100015/2013 and A/100016/2013. The plaintiff has also obtained the Trade mark registration for the Trade Mark in label DELUXE PARCEL along with pink colour combination and black color lining. The defendant has agreed that he will not file any opposition and/or rectification proceedings against the said application.

- d. The defendant hereby agrees and undertakes not to adopt, use, apply, print or publish in any manner any identical and/or deceptively similar logo, artistic work and presentation to Plaintiff Trademark in label **BABU & DELUXE PARCLE** and its artistic work.
- e. The defendant will not make any application for registration of any mark which is similar and/or deceptively similar to that of Plaintiff's Trade Mark in label **BABU & DELUXE PARCLE** and its artistic work and in the event if any such application is made and/ or pending, shall immediately withdraw it.
- f. The defendant will not use any word or trademark in label with distinctive colour scheme, get-up, trade dress, style along with the colour combination of black colour and also with similar to any shade

of pink and/or red colour and black line alongside with white background and/or green, red, blue colour which is identical to the Plaintiffs' trademark in label BABU & DELUXE PARCLE and its artistic work.

- g. The defendant shall immediately withdraw or surrender grants/ license/ permissions given by any Government Authority in relation to its product

Digital Parcel



- h. Defendant within 7 days (seven Days) of signing of the consent terms, agrees to surrender the stock of printed and promotional materials bearing the

mark Digital Parcel



to the

plaintiff and/or plaintiff's representative. The surrender of stocks of printed and promotional

materials will be carried out by the defendant at their own cost and in the manner prescribed by the relevant/competent authority; the details of printed and promotional materials are annexed herewith separately and handed over to the plaintiff and/or plaintiff's representative.

- i. The defendant agrees and undertakes that he will inform his dealer, distributor, agents and/or any representative within 5 days (Five Days) from the date of signing this agreement about the said undertaking that he will not use the mark Digital

Parcel



and/or any other mark

similar to plaintiff trademark in label BABU & DELUXE PARCLE and its artistic work.

- j. The Plaintiff hereby agrees not to claim any Cost, Damages and Loss of Profit from the Defendant in consideration of above recorded settlement terms.
- k. In case of any breach of the above terms and condition by the defendant herein is liable to pay the amount of rupees 60,00,000/- (Rupees Sixty

Lakhs only) direct to the plaintiff, and the plaintiff has right to initiate legal action against the defendant for the injunction and/or damages and the entire expenses for filing of the suit is to bear by the defendant. The plaintiff can file the suit or can take appropriate action for the same.

6. The above consent terms will solve the issue amicably therefore, both the parties agree to honour the consent terms from today and is binding on the partners, agents, directors, distributors, heirs and assignees and for that have agree to sign the consent terms before the Hon'ble Court.

7. In view of the above understanding, the Plaintiff has agreed not to press any monetary claim against the defendant.

Thus both the parties admitted above contents of Exh.7 pursis voluntarily. Hence it is recorded and the suit is disposed off in terms of Exh.7 pursis.

Necessary Court--Fee refund certificate be issued in the name of plaintiff.

No order as to cost.

Dercree be drawn accordingly.

Pronounced in open court today this 9th day of

December, 2023.

Rajkot.

(Bharat Bhaskarbhai Jadav)

Date: 09/12/2023

9th Additional District Judge,Rajkot.

[UIC No. GJ00714]