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

+ **CS(COMM) 124/2019**

CDE ASIA LIMITED

..... Plaintiff

Through: Mr.C.M.Lall, Sr. Adv. with Mr.Rajat
Manchanda, Adv.

versus

TEREX INDIA PRIVATE LIMITED

..... Defendant

Through: Mr.P.Chidambaram, Sr. Adv. with
Mr.Manish Jha, Mr.Angad Baxi,
Mr.Abhishek Jha, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

26.09.2022

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I.A. 10984/2022

1. By this application, the defendant prays for leave to file the following additional documents on record:

“(a) Details of sale of 1st machine of FM120 and FM200 Series from Defendant to GR Infraprojects Ltd. along with invoices.

(b) Details of sale of 2nd machine of FM120 and FM200 Series from Defendant to GR Infraprojects Ltd. along with invoices.

(c) Details of sale of 3rd machine of FM120 and FM200 Series from Defendant to GR Infraprojects Ltd. along with invoices.

(d) Details of sale of 4th machine of FM120 and FM200 Series from Defendant to Ghanaram Infra Engineers Pvt. Ltd. along with invoices; and

(e) Statement of Accounts of sale of 4 machines of FM120 and FM200 Series from Defendant.”

2. It is explained that these documents are being filed in compliance with the order dated 16.05.2019 of this Court.



3. As these documents have been filed in compliance with the order passed by this Court, leave to file the same is granted. The documents are taken on record.

4. The application stands allowed.

I.A. 14612/2022

5. By this application, the defendant prays for leave to file the following additional documents on record:

*“(a) Certification of Registration dated September 12, 2014 by Registrar of Companies, Coimbatore for change of Defendant's registered office from State of Delhi to Tamil Nadu;
(b) Copy of Order dated July 23, 2014 by Regional Director for change of Defendant's registered office from State of Delhi to Tamil Nadu;
(c) Defendant's Annual Report for the Financial Year 2012-13;
(d) Defendant's Annual Report for the Financial Year 2013-14;
(e) Defendant's Annual Report for the Financial Year 2014-15;
(f) Defendant's Annual Report for the Financial Year 2020-21.”*

6. The learned senior counsel for the defendant points out that these documents have already been taken on record by the Division Bench of this Court in an appeal filed against the order dated 24.02.2020, being FAO(OS)(COMM) 143/2020, titled ***Trex India Pvt. Ltd. v. CDE Asia Limited***, vide order dated 12.09.2022 passed in the said appeal.

7. In view of the above fact, the present application is allowed. The documents are taken on record.

8. The present order, however, is without commenting on the relevancy and admissibility of these documents.



CS(COMM) 124/2019 & I.A. 3364/2019, 4832/2019

9. The learned senior counsel for the plaintiff points out that the post-grant challenge to the patent of the plaintiff is listed before Controller of Patent for hearing on 17.11.2022.

10. Though, the learned senior counsel for the defendant insisted that the application seeking vacation of the *ad-interim* order, being I.A.4832/2019, be heard without awaiting the outcome of the said proceedings, in my opinion, as the hearing is scheduled on a near date, it would be advisable to wait for the outcome of the same. However, I make it clear that in case a decision in the said proceedings is not available till the next date of hearing, the application shall be heard without granting any further adjournment on that account.

11. The parties shall appear before the Controller of Patents on the date fixed for hearing on the above objections. The Controller of Patents is also requested not to grant any further adjournment to the parties and to consider the post-grant objection filed by the defendant, on merit, expeditiously and try to dispose it of before the next date of hearing in the present suit.

12. List on 9th January, 2023.

NAVIN CHAWLA, J

SEPTEMBER 26, 2022/Arya