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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 366/2022**

ECOMAX SOLUTIONS PVT. LTD. Plaintiff
Through: Mr. Anirudha Valsangkar, Ms. Pooja
Dodd, Ms. Anjali Valsangakar, Ms.
Namita & Mr. Abhilash Gupta,
Advocates (M-9811045646)

versus

ENERGEO BUILDING SOLUTIONS LLP & ORS. Defendants
Through: Mr. Saikrishna Rajagopal, Ms. Sneha
Jain, Ms. Garima, Mr. Priyam
Lizmary Cherian, Dr. Victor Vaibhav
Tandon & Ms. Shruti Jain, Advocates
(M-9582085804)

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **23.11.2022**

1. This hearing has been done through hybrid mode.

I.A. 19450/2022 (for delay)

2. This is an application for condonation of delay of 87 days in filing the written statement. Delay in filing the written statement is condoned. The written statement is taken on record as the same has been filed within a period of 120 days.

3. ***I.A. 19450/2022*** is disposed of.

I.A. 19484/2022 (u/O VI Rule 17 CPC)

4. This is an application under Order VI Rule 17 CPC by which the Plaintiff intends to amend the plaint. The said application does not set out the various amendments which have been reflected in the schedule attached to the application. Let a fresh application be filed in accordance with law



with the rules reflecting the amendments sought to be made and the amended plaint. Id. counsel for the Plaintiff submits that he wishes to withdraw the present application and would file a fresh application.

5. Liberty is given to file a fresh application in accordance with the rules before the next date of hearing.

6. The charts contained in the schedule to this application shall however, be treated as written submissions on behalf of the Plaintiff.

7. **I.A. 19484/2022** is disposed of.

I.A.16006/2022

8. This is an application made by the Defendants seeking leave of the Court to execute certain orders.

9. Vide *ex parte ad interim* injunction order dated 27th May, 2022 the Defendants were directed to not accept any fresh orders for the supply of the Automatic Tube Cleaning system (*hereinafter* 'ATC system') but were given liberty to executing any pending orders subject to filing of proper accounts. Subsequently, by order dated 18th July, 2022, in respect of I.A. 10932/2022 this Court clarified that the Defendants are allowed to provide maintenance and servicing, as also sale of spare parts, for the products/systems already sold or installed prior to 27th May, 2022.

10. Mr. Saikrishna, Id. Counsel submits that the Defendant has pending orders for what they describe as a Anti-Fouling Condenser System, which it intends to execute. A list of such orders has been handed across to the Court as the same are to be kept confidential. The Court has perused the said list which merely shows the name of the customers and the tentative supply price.

11. Let the purchase orders, if any, in respect of these customers be



placed on record in order for this Court to consider the application on the next date of hearing.

12. List for hearing 7th December, 2022.

I.A. 12767/2022

13. This is an application made by the Defendants seeking access to confidential documents filed by the Plaintiff along with an application bearing I.A. No. 8577/2022 in a sealed cover.

14. In this matter, issues relating to infringement of patent No. IN 382118, rights relating to confidential information and copyrighted drawings are raised. Vide order dated, 27th May, 2022, two Local Commissioners were appointed by the Court to ascertain the working of the Automatic Tube Cleaning system used by the Defendants as also to collect relevant information. The mandate of the Local Commissioners in the said order is extracted below:

“36. The Local Commissioners shall visit the above premises of the Defendants and obtain the following information:

- (1) The details of the Defendants’ manufacturing process and the ATC systems;*
- (2) Technical material and literature, processes followed, drawings, etc of the Defendants. The same may be photocopied and obtained by the Local Commissioners.*
- (3) Details of the pending orders and the orders already executed by the Defendants for the said systems.*
- (4) If accounts and the technical data of the Defendants are on any computer systems, passwords shall be provided to the Local Commissioners alone. The said computer systems shall be inspected only by the Local Commissioners, without access being given to the Plaintiff in any manner.*



(5) Photographs/videography may also be taken by the Local Commissioners”

15. The Local Commissioners have filed with their reports along with drawings relating to the system utilised by the Defendant. The Plaintiff and the Defendant have also filed certain documents in a sealed cover. Considering the nature of the information, this Court is of the view that all the drawings and other sealed cover documents ought to be exchanged between the parties so that they can properly assist the Court and make their submissions in respect of each other's drawings and any other confidential information. Accordingly, the Court constitutes a confidentiality club as provided for in the Delhi High Court (Original Side) Rules, 2018 (*hereinafter "Original Side Rules"*) and Rule 19 of the Delhi High Court Intellectual Property Rights Division Rules, 2022. Rule 19 reads as under:

“19. Confidentiality clubs and redaction of confidential information

(i) At any stage in a proceeding, the Court may constitute a confidentiality club or adopt such measures as appropriate, consisting of lawyers (external & in-house), experts as also nominated representatives of the parties, for the preservation and exchange of confidential information filed before the Court including documents, as per the Delhi High Court (Original Side) Rules, 2018. Such nominated representatives of the parties, appointed to the Club, may inter alia, be persons who are not in charge of, or active in, the day-to day business operations and management of the respective parties so as to maintain the integrity of the information so disclosed. The members so constituting the Club shall be bound to desist from disclosing, sharing or utilizing, including to third parties, the confidential or sensitive information that they may access, or become privy to, in the course



of proceedings;

(ii) The Court may, upon a request made by way of an application, direct the redaction of such information (including documents) it deems to be confidential;

(iii) If any redacted pleading/document is sought to be filed as being confidential, a non-redacted version of the same may be filed in a sealed cover along with an application supporting such claim for redaction.”

16. The parties however consent to the appointment of one person from each of the client's. The members of the confidentiality club, as agreed, are as follows:

Category of Members	Plaintiffs	Defendants
	Mr. Mohan Chavan, CEO (Director)	Mr. Vanshaj Dhawan, Client
Counsels	Ms. Pooja Dodd, Advocate Mr. Abhilash Gupta, Advocate Ms. Akansha Singh, Advocate	Ms. Sneha Jain, Advocate Ms. Garima Sahney, Advocate Ms. Priyam Lizmary Cherian, Advocate

17. Between these two teams constituting the Confidentiality Club, all the sealed cover documents shall be opened and copies shall be supplied to them. The concerned dealing assistant to handover the documents in the two sealed covers filed by the Plaintiff and the Defendant to one counsel from each side. The members of the Confidentiality Club shall be bound by the mandate prescribed the Delhi High Court (Original Side) Rules, 2018 in



terms of the applicable conditions in Annexure F.

18. Parties are permitted to file their written submissions after having perusal of the drawings and other documents.

19. The documents given in sealed cover shall accordingly be desealed by the concerned dealing assistant. Copies shall be given to the counsel mentioned above forming part of the Confidentiality Club and shall be resealed thereafter.

20. ***I.A. 12767/2022*** is disposed of.

CS(COMM) 366/2022 & I.A. 8575/2022, 10931/2022,

21. List for hearing 7th December, 2022.

PRATHIBA M. SINGH, J.

NOVEMBER 23, 2022

Rahul/AM