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

+ **CS(COMM) 628/2023 & CC(COMM) 1/2024, I.A. 18297/2023, I.A. 37937/2024 & I.A. 44390/2024**

ITW GSE APS & ANR.

.....Plaintiffs

Through: Mr. Anirudh Bakhru, Ms. Vaishali Mittal, Mr. Siddhant Chamola, Advs.

versus

DABICO AIRPORT SOLUTIONS PVT LTD & ORS.

.....Defendants

Through: Mrs. Swathi Sukumar, Sr. Adv. With Mr. Shantanu Tyagi, Ms. Aishwarya Chaturvedi and Ms. Aishwarya Mukherjee, Advs. for D-1, 2 and 3

Mr. Rohan Swarup, Mr. Rajit Ghosh, Ms. Aastha Verma and Mr. Rakesh Karela, Advs. for D-4

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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06.08.2025

I.A. 44390/2024 (Application under Section 30 of the CPC seeking leave for inspection of Documents filed by Defendant No. 4 in a sealed cover)

1. The present application has been filed by the Plaintiffs under Section 30 of the Code of Civil Procedure, 1908 ('CPC') seeking leave of this Court for inspection of the documents filed by the Defendant No.4 in a sealed cover.

2. Learned counsel for the Plaintiffs states that vide order dated 04.07.2024 this Court allowed the Plaintiff's application filed under Order



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XXXIX Rules 1 and 2 CPC (I.A. 17216/2023) and granted an interim injunction restraining the Defendants from manufacture, sale etc. in future of any Pre-conditioned Air Unit ('PCA') units that infringes the Plaintiff's patent IN 330145. He states that in paragraph '138' of the said order this Court directed the Defendants to file an affidavit disclosing the turnover from existing deployment of PCA units which infringed the Plaintiff's patent IN 330145 in a sealed cover.

2.1. He states that the abovesaid affidavit has been filed by the Defendant Nos. 1 and 2 on 04.08.2024 and a copy was supplied to the Plaintiffs.

2.2. He states that Defendant No.4 did not file any such affidavit, within the time granted. He states that for the said non-compliance the Plaintiffs filed an I.A. 37937/2024 under Order XXXIX Rule 2A of the CPC.

2.3. He states that on 17.10.2024 the Plaintiffs were served with a copy of reply filed to I.A. No. 37937/2024, wherein the Defendant No.4 stated that they are in compliance of the order dated 04.07.2024 as the affidavit has been filed on 27.09.2024. He states that however, the said affidavit has not been supplied to the Plaintiffs by Defendant No.4.

2.4. He states that in these circumstances the Plaintiffs have filed the captioned application.

3. Learned counsel for Defendant No. 4 states that he will furnish the said documents to the Plaintiffs upon directions from the Court, through a Confidentiality Club.

4. This Court has heard the learned counsel for the parties and perused the record.

5. Defendant Nos. 1 and 2 have already provided the information to the Plaintiffs.



6. Defendant No. 4 has also agreed to provide the information filed vide affidavit dated 27.09.2024 subject to the formation of the Confidentiality Club.

7. The constitution of confidentiality club is provided under Rule 17 the Delhi High Court (Original Side) Rules, 2018 and Rule 19 of the Delhi High Court Intellectual Property Rights Division Rules, 2022.

8. The affidavit/information filed by Defendant No. 4 in sealed cover on 27.09.2024 shall be supplied to the members of the Confidentiality Club. The parties have furnished details of the respective members of the said Club. Accordingly, a Confidentiality Club is constituted consisting of the following persons:

Category of Members	Plaintiffs	Defendants
Counsel	1. Mr. Pravin Anand 2. Mr. Aniruddh Bakhru 3. Ms. Vaishali Mittal 4. Mr. Siddhant Chamola 5. Mr. Gursimran Singh Narula 6. Ms. Saijal Arora	1. Ms. Bitika Sharma 2. Mr. Sudeep Chatterjee 3. Mr. Rohan Swarup 4. Mr. Rakesh Karela
In-house Representative	Two, in-house representatives of the Plaintiffs	1. Mr. Sarvanan Manickam 2. Mr. Thillai Prabhu

9. The necessary affidavits in terms of Annexure F Chapter VII Rule 17 of the Delhi High Court (Original Side) Rules, 2018 be filed by the aforesaid members of the Confidentiality Club within two (2) weeks. The members of the Confidentiality Club shall be bound by the protocol prescribed in the Rules.



10. The Plaintiffs will be at liberty to seek inspection of the contents of the sealed cover filed with the registry in accordance with the Rules.

11. Accordingly, the application stands disposed of.

I.A. 37937/2024 (Application under Order XXXIX Rule 2A read with Section 151 of the Code of Civil Procedure, 1908 demonstrating false information furnished by the Defendant No. 1, Defendant No. 2 pursuant to the injunction order dated 4th July 2024 and demonstrating violation of the said order by Defendant No. 4)

12. The present application has been filed by the Plaintiffs under Order XXXIX Rule 2A of the Code of Civil Procedure, 1908 (CPC).

13. Learned counsel for the Applicant/Plaintiffs' states that the Court vide order dated 04.07.2024 allowed the Plaintiff's application filed under Order XXXIX Rules 1 and 2 CPC (I.A. 17216/2023) and granted an interim injunction restraining the Defendants from manufacture, sale etc. in future of any PCA units that infringes the Plaintiff's patent IN 330145. He states that Court further issued a direction vide the said order to the Defendants to file an affidavit in terms of paragraph of '138 (b)' of the order dated 04.07.2024 which reads as under:

“b) The defendants shall file an affidavit disclosing their turnover from the existing deployment of the model number PDX 60IS or any other product i.e. a Pre-conditioned Air Unit (PCA) [for the purposes of aircraft air-conditioning while on the ground], which infringes plaintiffs registered patent no. IN 330145, within a period of 4 weeks in a sealed cover.”

13.1. He states that the affidavit dated 01.08.2024 filed by Defendant Nos. 1 and 2 in compliance of the order dated 04.07.2024 failed to make disclosure with respect to revenue earned by the said Defendants from the agreement executed with GMR Hyderabad International Airport Limited.



14. In reply, learned senior counsel appearing for Defendant Nos. 1 and 2 states that the said Defendants understood the direction issued vide the order dated 04.07.2024 to mean that Defendant Nos. 1 and 2 have to disclose revenue earned from the sale of PCA units.

14.1. She states that the revenue earned by Defendant No. 1 from GMR Hyderabad International Airport Limited was on account of installation of PCA units and not sale thereof. She states that it was in view of this understanding that the revenue earned by the Defendant No. 1 qua GMR Hyderabad International Airport Limited was not disclosed.

14.2. She states that the sale of the units to GMR Hyderabad International Airport Limited was done by Cavotec Middle East FZE (a UAE entity); and it was under this bonafide understanding that the revenue earned by Defendant No. 1 from services rendered towards installation of PCA units at GMR Hyderabad International Airport Limited was not to be disclosed, in the said affidavit.

14.3. She refers to the reply filed by the Defendant Nos. 1 and 2 to the captioned application at paragraph nos. 6, 7, 9 and 10.

15. In rejoinder, learned counsel for the Plaintiffs states that since the phrase used by the Court at paragraph 138(b) in order dated 04.07.2024 was 'deployment of PCA units', therefore, the revenue earned from installation ought to have been disclosed by the Defendant.

16. This Court has perused the response filed by the Defendant Nos. 1 and 2 and is persuaded to accept the explanation offered by Defendant No. 1 and 2 for not disclosing revenue earned from installation services rendered to GMR Hyderabad International Airport Limited.

17. The understanding of Defendant No. 1 that the direction issued vide



order dated 04.07.2024 at paragraph '138 (b)' was only with respect to the revenue earned from the sale of PCA units appears to be plausible and therefore this Court does not find that the withholding of the said information was wilful.

18. In any event, since in the reply filed by the Defendant No. 1 and 2 to the captioned application, they have made a disclosure of the revenue earned from installation of PCA units at GMR Hyderabad International Airport Limited, this Court does not deem it appropriate to proceed any further in this regard against the Defendant Nos. 1 and 2.

19. Therefore, the proceedings under the captioned application qua Defendant Nos. 1 and 2 are closed.

Defendant No.4

20. With respect to Defendant No. 4, learned counsel for the Plaintiffs states that this application had been filed in view of the fact that Defendant No. 4 had failed to file its affidavit in compliance of the order dated 04.07.2024.

20.1. He states that after the filing of this application, Defendant No. 4 has filed its affidavit on 27.09.2024 in a sealed cover purportedly in compliance with paragraph 138(b) of the order. He states however, the contents whereof have not been perused by the Plaintiffs as no service has been affected.

21. This Court has today separately passed an order in I.A. 44390/2024 whereby the Plaintiffs have been granted access to the contents of the sealed cover filed by the Defendant No.4 through Confidentiality Club. However, since the limited contention against the Defendant No.4 in this application was non-filing of the affidavit as per order dated 04.07.2024 and since the affidavit has now been filed, the proceedings qua Defendant No. 4 are also



hereby closed.

22. Learned counsel for the Plaintiffs state that he reserves his right to verify the contents of the sealed cover filed by Defendant No. 4 and exercise all its rights, in case the said affidavit is not in compliance with the order, in accordance with law. The right of the Plaintiffs is reserved.

23. Accordingly, application stands disposed of.

CS(COMM) 628/2023

24. Learned counsel for the Plaintiff states that Defendant No. 3 also has not filed an affidavit in terms of paragraph '138(b)' of the order dated 04.07.2024.

25. In response, learned senior counsel appearing on behalf of Defendant No. 3 relies upon the averments made in I.A. 18297/2023 (filed by Defendant No. 3) and more specifically at paragraphs '4' and '5' to contend that: (i) Defendant No. 3 is a separate and distinct legal entity which has no direct relation to the act of making/using, offering for sale, selling or importing the products on which the impugned patent is applied; (ii) Defendant No.3 is not involved in the day-to-day business of the Defendant No.1 or Defendant No.2 and has no control of the business of the Defendant Nos. 1 and 2 and; (iii) Defendant No.3 is only a shareholder in Defendant No. 1.

25.1. She states that without prejudice to the plea of the Defendant No. 3 raised in I.A. 18297/2023, Defendant No. 3 adopts the affidavit dated 01.08.2024 filed by the Defendant Nos. 1 and 2 as well as the disclosures made by Defendant No. 1 and 2 in reply to I.A. 37937/2024, to be true and correct.

25.2. She states that in view of this statement, Defendant No. 3 be



exempted from filing any separate or independent affidavit in compliance of order dated 04.07.2024.

26. The statement of Defendant No. 3 is taken on record and Defendant No. 3 is bound down to the said statement. Defendant No. 3 will remain bound by the contents of the disclosure made by Defendant Nos. 1 and 2 and it is exempted from filing a separate affidavit

27. List on **04.09.2025**

I.A. 18297/2023 (Application by the Defendant No. 3 under Order I, Rule 10 (2) read with Section 151 of the Code of Civil Procedure, 1908)

28. The present application has been filed by Defendant No. 3 under Order I Rule 10 of the CPC.

29. Learned senior counsel appearing for Defendant No. 3 states that Defendant No. 3 is only a shareholder in Defendant No. 1 and is neither making, using, offering for sale, selling or importing the products on which the impugned patent is applied. She states that since Defendant No. 1 is already before the Court, the impleadment of Defendant No. 3 in this suit is without any cause of action.

30. Learned counsel for the Plaintiffs states that he will take instructions on the plea of the Defendant No. 3 for its deletion.

31. To enable the plaintiff to take instructions, list on **04.09.2025**.

MANMEET PRITAM SINGH ARORA, J

AUGUST 6, 2025/msh/sk