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

\+ CS(COMM) 358/2017 & I.A.Nos.6035-6036/2017, 8181/2017

RAJ KUMAR GUPTA ..... Plaintiff

Through Mr.Pankaj Bhatia with Mr.Dhruv Surana, Mr.Ashish Choudhury and Mr.Nipun Goel, Advocates.

versus

SANJAY GUPTA & ANOTHER ..... Defendants

Through Mr.Satish Aggarwala with Mr.Amish Aggarwala, Advocates with Mr.Sandeep Chahar, IO, DGGSTI and Mr.Rajpal Yadav, IO, DGGSTI for DGCEI.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

<u>O R D E R</u>

% 18.09.2017

Present suit has been filed for mandatory injunction, rendition of accounts and damages against the defendants.

It has been stated in the plaint that the defendants nos. 1 and 2 have commercially misused the plaintiff's registered trademarks by manufacturing *Pan Masala*/*Gutkha* under the said marks.

It has also been stated in the plaint that sale of infringing goods by the defendant nos. 1 and 2 by misusing the plaintiff's trademarks without payment of the central excise duty and VAT has caused loss to the Exchequer as well as incalculable hardship to the plaintiff inasmuch as the plaintiff had even undergone judicial custody due to false implication in legal proceedings under the Excise Act.

The Central Excise Department is prosecuting the plaintiff for selling *pan masala* and *gutkha* with the said trademarks without payment of excise duty.

In the Interim Status Report of Investigation filed by the Directorate General of GST Intelligence (for short "DGGSTI") , it has been stated that the investigation conducted in the case so far has indicated that the offences committed by the plaintiff are of very grave nature. It is also stated that the plaintiff has clandestinely produced *pan masala/zarda/gutkha* at their unregistered premises in Dabri area of Delhi using undeclared pouch packing machines and cleared the finished product without payment of central excise duty, which is over Rs.100 crore in the case. It is further stated that the said offence was admitted by both Shri Akhilesh Gupta and the plaintiff and further corroborated by various documentary evidences, statements of various stakeholders recorded.

Needless to state that the said allegations are vehemently disputed by learned counsel for the plaintiff.

Since the averments in the plaint constitute plaintiff's defence in the Excise case in which the plaintiff was arrested, this Court while issuing summons in the suit and notices on the applications makes it clear that the pendency of the present proceedings would not be used as a defence either in criminal prosecution or in any adjudicatory proceedings that may be filed by the Central Excise Department. The Registry is directed to seal the Interim Status Report filed by the DGGSTI.

Mr.Satish Aggarwala, Advocate accepts notice on behalf of defendant no.3. He prays for and is permitted to file a written statement to the suit as well as reply to I.A.No.6035/2017 within a period of four weeks.

Issue notice to unserved defendants by registered AD post and *dasti*, returnable before the Joint Registrar for 28th November, 2017.

MANMOHAN, J

SEPTEMBER 18, 2017
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