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

+ **CS(COMM) 1222/2018**

COMMUNICATION COMPONENTS

ANTENNA INC.

..... Plaintiff

Through: Mr.Sidhant Goel & Mr.Mohit
Goel, Advocates.

versus

ACE TECHNOLOGIES CORP. AND ORS.

..... Defendants

Through: Mr.Shantanu Tyagi, Ms.Apoorva
Murali & Ms.Surabhi Bhandari,
Advocates for D-1 to 4.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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30.08.2019

I.A. 11928/2019*(for leave to place documents on record)*

1. This is an application by defendant no.1 for permission to place on record purchase orders placed upon it for supply of antennae under model nos. XXDW-18-33i-IVT-DB8P-V2 and XXDGL-15-33i-IVT-DB-4P.

2. Similar applications made during the course of proceedings were originally considered on 09.01.2019, when it was directed that the defendants would be permitted to take steps for commencement of the shipment to be transported to India, and the terms were to be decided in due course.

3. The terms were decided by an order dated 12.07.2019, which disposed of the plaintiff's application under Order XXXIX Rules 1 and 2

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of the Code of Civil Procedure, 1908 (hereinafter, “the CPC”). As far as the sales made by the defendant no.1 during the pendency of the suit are concerned, the order laid down the following condition.

“82. Insofar as the sales made during the pendency of the suit are concerned, the total sales are to the tune of \$21,835,000, which come to Rs.148,47,80,000/-, ten percent of which is approximately Rs.14.5 crores. The Defendants are directed to deposit the Bank Guarantee and the said sum with the Registrar General of this Court, within one month from date of judgment. If the Defendants do not comply with the above directions within one month, the Defendants shall stand restrained from manufacturing, selling, offering for sale any models of antennae which infringe suit patent number IN 240893.”

4. The judgment dated 12.07.2019 has been challenged by the defendants herein in FAO(OS) (COMM) 186/2019, which is pending before the Division Bench. By an order dated 08.08.2019, the Division Bench has *inter alia* made the following interim arrangements:-

“13. We have enquired from Mr. Sethi, learned Senior Advocate as to how do the appellants/defendants propose to secure the interest of the respondent/plaintiff in the event the latter ultimately succeeds in the pending suit. He submits on instructions that the appellant No.1 is willing to offer a Corporate Guarantee in favour of the Registrar General of this Court for a sum of Rs.40 crores and Rs.14.5 crores figures, that find mention in paras 81 and 82 of the impugned order. Besides the above, Directors of each of the remaining three appellants/companies shall file their affidavits, undertaking inter alia that in the event the respondent/plaintiff ultimately succeeds in the suit, their companies shall comply with the judgment and decree. The Corporate Guarantee offered by the appellant No.1 and the affidavits directed to be filed by the Directors of the remaining three appellants/companies shall be filed within two weeks, with advance copies to the other side.



14. The appellants/defendants shall continue maintaining accounts of the sales in respect of the products mentioned in paras 5 and 10 of the impugned order. The statement of accounts shall be filed in the suit proceedings in a sealed cover, on a monthly basis. In the event, the respondent/plaintiff succeeds in the suit, the said data shall facilitate quantification of the damages that may be awarded against the appellants/defendants. The appellants/defendants shall also continue approaching the Court in the suit proceedings for permission to supply antennae to its customers, as was being done earlier.”

5. Insofar as sales during the pendency of the suits are concerned, the effect of the orders of the Single Judge and the Division Bench is that the defendant no.1 is permitted to make the sale, subject to furnishing a corporate guarantee for 10% of the sale consideration, in favour of the Registrar General of this Court. The undertaking given by the directors of the company, pursuant to paragraph 13 of the Division Bench order, covers compliance with the judgment and decree passed in the suit. As such, no further undertaking is required for each transaction. Needless to say, the defendants’ obligation to maintain and file accounts in these proceedings, pursuant to paragraph 14 of the Division Bench order, shall bind the parties.

6. Learned counsel for the plaintiffs states that his clients are considering whether they wish to challenge the Division Bench order dated 08.08.2019. At his request, it is recorded that the present order is passed without prejudice to his right to do so. The rights and contentions of the parties in the suit are also expressly reserved.

7. The application is, therefore, disposed of, permitting the defendant no.1 to make the supply, pursuant to the purchase orders which have been



filed by it under sealed cover, subject to the condition that the defendant no.1 shall furnish a corporate guarantee in favour of the Registrar General of this Court to the tune of 10% of the sale consideration for the antenna in question. The guarantee shall be furnished within two weeks.

8. List before the Joint Registrar on 16.09.2019 for compliance of this order.

PRATEEK JALAN, J

AUGUST 30, 2019

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