

IN THE SUPREME COURT OF INDIA
 CIVIL APPELLATE JURISDICTION
 CIVIL APPEAL NO.6386 OF 2001

M/S. HINDUSTAN PENCILS PVT. LTD. ... APPELLANT

VERSUS

M/S. UNIVERSAL TRADING CO. & ORS. ... RESPONDENTS

WITH

CIVIL APPEAL NO.6387 OF 2001

O R D E R

The substitution petition in Civil Appeal No.6387 of 2001 is allowed bringing on record the heirs and legal representatives of P.C. Gupta, the sole proprietor of M/s. Universal Trading Company at the relevant time, who is said to have died in the year 2006. I.A No.2 of 2010 in Civil Appeal No.6387 of 2001 is also allowed. All of the legal representatives of P.C. Gupta (deceased) who are brought on record by this order, have filed affidavits which are taken on record.

Parties have arrived at a settlement and have filed compromise petitions in each of these two appeals enclosing the terms of settlement captioned as 'Deed of Settlement' which is common in both the compromise petitions. It is a comprehensive settlement by which the parties have settled not only the disputes in these two appeals but all their disputes and differences that gave rise to a number of cases and proceedings pending before different courts and authorities. Both the civil appeals are disposed of in terms of the Deed of Settlement which shall form part of this order.

As noted above, in terms of the settlement, the parties have settled all their disputes that had given rise to a number of cases and proceedings before different courts and authorities. Those cases and proceedings shall also stand settled in terms of the

Deed of Settlement and the concerned courts and authorities shall dispose of those cases and proceedings in terms of the Deed of Settlement.

Though the Deed of Settlement is comprehensive and self-contained, on the request of the parties, we make certain clarifications which are as follows:-

(i) P.C. Gupta, who was the sole proprietor of M/s. Universal Trading Company at the material time, was a party in Civil Appeal No.6387/2001. He died in 2006. A substitution petition with petition for setting aside abatement and condoning the delay was filed by the appellants. The substitution petition has been allowed by order passed just now and the heirs and legal representatives of P.C. Gupta (deceased) are brought on record. All of his legal representatives have filed affidavits which are taken on record. The settlement is, thus, fully binding on all the heirs and legal representatives of P.C. Gupta (deceased).

In the other connected appeal, Civil Appeal No.6386/2001, M/s. Universal Trading Company is respondent No.1. In this appeal, its proprietor P.C. Gupta (deceased) was not made a formal party before the High Court. Nonetheless, the settlement arrived at between the parties in this appeal shall be fully binding on the heirs and legal representatives of the aforesaid P.C. Gupta (deceased).

(ii) As per the settlement, the High Court order passed in the proceedings under the Copyright Act, i.e. the order dated October 31, 2000 in RFA No.431 of 1999, is set aside and the order of the Copyright Board stands restored, in terms of which the respondent's registration

numbers A30813/80 and A35887/82 stand deleted from the Register of Copyrights.

(iii) In terms of the settlement, the registered trademark of the respondent (324345 in class 16) shall continue to stand in the Register of Trademarks as per the terms of the settlement.

(iv) The bipartite settlement between the parties, in terms of which the appeals and the other cases and proceedings between the parties are disposed of, shall not, in any manner, affect the rights and contentions of the parties in respect of any third parties and, further, that neither the impugned judgments, nor the order disposing of the appeals, nor the instant Deed of Settlement arrived at between the parties in the peculiar facts and circumstances of the case can be relied upon in any manner by any third party. Any legal action taken against any third party should be decided on its own merits, uninfluenced by the impugned judgments or by this order of the Court disposing of the civil appeals.

.....J.
(Aftab Alam)

.....J.
(Anil R. Dave)

New Delhi;
January 19, 2012.

VERSUS

M/S. UNIVERSAL TRADING CO. & ORS.

Respondent(s)

(With appln(s) for substitution, permission to place addl.
documents on record and office report)

WITH

Civil Appeal NO. 6387 of 2001

(With appln. for impleadment, substitution and office report)

Date: 19/01/2012 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AFTAB ALAM

HON'BLE MR. JUSTICE ANIL R. DAVE

For Appellant(s) Mr. Akhil Sibal, Adv.
 Mr. Sushant M. Singh, Adv.
 Mr. M.K. Choudhary, Adv.
 for Ms. Namita Choudhary, Adv.

For Respondent(s) Mr. Shailen Bhatia, Adv.
 Ms. Zeba Tarannum Khan, Adv.
 for Mr. Balraj Dewan, Adv.

Mr. K. Rajeev, Adv. (NP)

Mr Tarun Johri, Adv. (NP)

CONTD...

7

UPON hearing counsel the Court made the following
O R D E R

The civil appeals are disposed of in
terms of the signed order.

(N.S.K. Kamesh)
Court Master

(Sneh Bala Mehra)
Court Master

(signed order is placed on the file)