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RBI/FEMA

1) **DISCONTINUATION OF SUBMISSION OF HARDCOPY OF BoE AS EVIDENCE OF IMPORT UNDER IMPORT DATA PROCESSING AND MONITORING SYSTEM (IDPMS)**

As per the extant guidelines, Bill of Entry (BoE) data is received in IDPMS from Customs Department for EDI ports and from NSDL for SEZ on daily basis. BoE data for non-EDI ports are entered by AD Category – I bank of the importer on receipt of BoE (importer's copy) and then the bank uploads the data in IDPMS through "Manual BOE reporting" process. In order to enhance ease of doing business and reduce transaction costs, RBI has now decided to discontinue submission of hardcopy of Evidence of Import documents i.e. BoE, with effect from December 01, 2016, as it is available in IDPMS. – *[A.P. (DIR Series) Circular No. 27, dated 12th January, 2017]*

2) **PROHIBITION ON INDIAN PARTY FROM MAKING DIRECT INVESTMENT IN COUNTRIES IDENTIFIED BY THE FINANCIAL ACTION TASK FORCE (FATF)**

AS "NON CO-OPERATIVE COUNTRIES AND TERRITORIES"

At present, there is no restriction on an Indian Party with regard to the countries, where it can undertake Overseas Direct Investment. In order to align, the instructions with the objectives of FATF, on a review, RBI has prohibited an Indian Party from making direct investment in an overseas entity (set up or acquired abroad directly as JV/ WOS or indirectly as step down subsidiary) located in the countries identified by the FATF as "non co-operative countries and territories" as per list available on FATF website www.fatf-gafi.org or as notified by the Reserve Bank of India from time to time. – *[A.P. (DIR Series) Circular No. 28, dated 25th January, 2017]*

3) **ENHANCEMENT OF WITHDRAWAL LIMITS FROM ATMS AND CURRENT ACCOUNTS**

RBI has announced that limits placed on cash withdrawals from ATMs stand withdrawn from February 1, 2017. However, the weekly withdrawal limit of Rs 24,000 will continue. RBI giving reference to its Circular DCM (Plg) No.1226/10.27.00/2016-17 dated November 08, 2016 placing limits on Cash withdrawals from bank accounts and ATMs in the wake of withdrawal of Legal Tender Character of Specified Bank Notes (SBN) and subsequent circulars DCM (Plg) Nos.1256, 1274, 1317, 1437, 2142 and 2559 dated November 11, 14, 21, 28, December 30, 2016 and January 16, 2017 respectively, providing for relief and relaxations therefrom, has announced to partially restore status quo ante as under through the present circular:

- i. Limits placed *vide* the circulars cited above on cash withdrawals from Current accounts/

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- Cash credit accounts/ Overdraft accounts stand withdrawn with immediate effect.
- ii. The limits on Savings Bank accounts will continue for the present and are under consideration for withdrawal in the near future.
 - iii. Limits vide the circulars cited above placed on cash withdrawals from ATMs stand withdrawn from February 01, 2017. However, banks may, at their discretion, have their own operating limits as was the case before November 8, 2016, subject to 2 (ii) above. – **[DCM (Plg) No. 2905/10.27.00/2016-17, dated 30th January, 2017]**

FOREIGN TRADE

1. **AMENDMENT IN IMPORT POLICY OF CLASSIFIED ITEMS UNDER CHAPTER 41 AND 43.**

Import policy of some items under Chapter 41 and 43 of ITC (HS) 2012 is revised. In case of reptiles (Exim Code: 41133000) from free to prohibited, Of mink, whole, with or without head, tail or paws (Exim Code: 43011000) from free to prohibited, Of fox, whole, with or without head tail or paw (Exim Code: 43016000) from free to prohibited, Other furskins, whole, with or without head, tail or paws (Exim Code: 43018000) from free to ban on import of fur or chinchilla and Of mink (Exim Code: 43021100) from free to prohibited. – **[Notification No. 33/2015-2020, 3rd January, 2017, (DGFT)]**

2. **AMENDMENT IN PROCEDURES**

For the purpose of change in Branch Office/Head Office/Registered Office address of the IEC holder, which involves a change in jurisdictional RA, a request had to be made to the new RA, previously. Now, IEC holder is required to make request before the RA concerned under whose jurisdiction the applicant exists. On the basis of this request, the RA (custodian of the IEC file till now) will process such requests and amend IEC, if found appropriate, under intimation to the RA under whose jurisdiction the applicant wants transfer. The new RA shall allow the person in its new address to carry out necessary functions and also apply for eligible benefits as per FTP.

Previously, if IEC application was once rejected, it would not be processed any further and a fresh application had to be made with Rs. 500/- as the processing fees. Now, Applicants are required to pay fees of Rs. 500/- for IEC application. If the application is rejected, applicant shall be able to rectify the grounds on which previous application was rejected, without any further fees.

For the purpose of adjustment of fees, change has been made, in form of addition of another ground for adjustment. Where a new Advance Authorization, EPCG and Duty Credit Scrip is issued by RA in lieu of the earlier Authorization (which has been cancelled by RA, on the request of the firm, on account of non-registration at the Customs Port), or in case the RA suggests the firm to file application under correct scheme the application fees paid in the earlier Authorization will be adjusted by the RA for the new Authorization. However, a minimum application fee of Rs. 200/- shall be paid for the new Authorization. Head of Office of concerned RA while issuing Authorizations under this provision shall ensure proper linkage with the earlier cancelled Authorization. – **[Public Notice No. 54/2015-2020, 11th January, 2017, (DGFT)]**

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3. INCREASE IN MINIMUM PRICE FOR IMPORT OF ARECA NUTS

The minimum price for import of Areca Nuts is enhanced from existing Rs.162/- to Rs. 251/- per Kilogram. –[*Notification No. 35/2015-2020, 17th January, 2017, (DGFT)*]

4. EXPORT POLICY OF SANDALWOOD

Export Policy of Sandalwood against Sl. No. 182 to 187, Chapter 44 of Schedule 2 of ITC (HS) Classification of Export & Import Item has been amended to bring clarity for export of specified categories. –[*Notification No. 37/2015-2020, 27th January, 2017, (DGFT)*]

CORPORATE

1. PETITION ALLEGING OPPRESSION AND MISMANAGEMENT PARTLY ALLOWED

A Company Petition had been filed by ten shareholders alleging oppression and mismanagement. The Petitioners alleged that Extra Ordinary General Meeting (EGM) held to transfer the business of the Company to a Respondent entity was illegal. It was stage managed, pre-determined and convened with malafide intention to transfer the business of the Company. Respondents, on the contrary, argued that Petitioners had clear knowledge of EGM and decidedly opted to not attend, where they could have duly expressed their concerns.

The Tribunal observed that, where the Petitioners are aware of the meeting and opted not to attend the same, they cannot subsequently challenge by alleging insufficiency of notice of meeting. The

Tribunal also noted that since the Company and its majority shareholders had decided to take certain commercial path, the Tribunal cannot interfere in its business decisions. The Petitioners remained dormant in the affairs of the Company. The Petitioner further failed to establish rest of the allegations through any cogent evidence regarding documents of Board meetings being framed and cessation of Petitioner's directorship.

Further, allegation regarding non-declaration of dividend was not accepted as Tribunal noted that non-declaration of dividend cannot be the sole ground of oppression. The Tribunal, however, did find merit in the allegation relating to siphoning of funds and financial irregularities. Accordingly, the Tribunal partly allowed the Petition and ordered appointment of an Independent auditor to ascertain exact loss to the company and recover the amount from the party found responsible, from his/their personal resources and paid to the Company. –[*Milind Dayaram Kapse & Ors., v. M/s Den Nasik City Cable Networks Pvt. Ltd. & Ors., 31st January, 2017, (NCLT-Principal Bench)*]

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SECURITIES

1. CREDIT OF PROCEEDS DUE TO WRITE OFF OF SECURITIES HELD BY FOREIGN PORTFOLIO INVESTORS/DEEMED FOREIGN PORTFOLIO INVESTORS

Regulation 4(g) of SEBI (Investor Protection and Education Fund) Regulation 2009, requires that any proceeds from securities written off, due to unforeseen circumstances such as FPIs or deemed FPIs no longer existing or operating or expiry of SEBI registration and FEMA approval, shall be credited to Investor Protection and Education

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Fund of SEBI, no later than 7 days from the receipt of proceeds.

Similarly, in case of receipt of corporate benefits in the form of securities for shares written off, normal reporting mechanism of SEBI must be followed. In case of corporate benefits received in form of cash or dividend, the same shall be deposited to Investor Protection and Education Fund of SEBI, no later than 7 days from the receipt of proceeds. – [IMD/HO/FPIC/CIR/P/ 2017/ 001, 2nd January, 2017, (SEBI)]

2. EXCLUSIVELY LISTED COMPANIES (ELC) PLACED IN DISSEMINATION BOARD

SEBI through its Circular dated 30th October, 2016, had provided for three months to all ELCs placed on Dissemination Board to submit an action plan, to list or to provide exit to shareholders. The time limit to provide such action plan has now been extended till March 31st, 2017. – [SEBI/HO/MRD/DSA/CIR/P/2017/5, 5th January, 2017, (SEBI)]

3. FAIR AND TRANSPARENT ACCESS TO DATA FEEDS OF STOCK EXCHANGES

In order to ensure that stock market related data is provided to the market participants in a fair and transparent manner, SEBI has recommended the following for stock exchanges:

(i) Appropriate tools are deployed so as to monitor service quality of data feeds; (ii) Appropriate mechanism (viz. load balancers, randomizers, etc.) to manage load across systems disseminating data in order to ensure consistent response time to all market participants; (iii) All communication to the market participants, especially on all technology related matters such as Monitoring Tool, Load Balancer, Randomisation etc., are abundantly clear and precise providing all necessary details related to

the concerned facility / service, including information on features, benefits, risks, etc. of the concerned facility / service, particularly for participants who have opted for colocation facility. Stock exchange should ensure that all clocks of the servers and other related systems are synchronized. Stock exchanges may adopt suitable mechanism to ensure such synchronization of system clocks. – [SEBI/HO/MRD/DP/CIR/P/2017/08, 20th January, 2017, (SEBI)]

4. PROCEDURE FOR EXCHANGE LISTING CONTROL MECHANISM

In order to address any concern and to avoid any conflict arising out of listing of a stock exchange on any recognised stock exchange, other than itself, SEBI has decided the following:

(1) The Listing Department of the listing stock exchange (i.e., a stock exchange on which the listing is done) shall be responsible for monitoring the compliance of the listed stock exchange (i.e., a stock exchange which is getting listed) as in the case of listed companies.

(2) The Independent Oversight Committee of the listing stock exchange shall exercise oversight at the second level to deal with the conflicts, if any. The listed stock exchange may appeal to the Independent Oversight Committee of the listing stock exchange, if aggrieved, with the decision on disclosure of the listing stock exchange as referred in the above para.

(3) An independent Conflict Resolution Committee (CRC) constituted by SEBI, with an objective for independent oversight and review, shall monitor potential conflicts between listed and listing stock exchange on a regular basis. The listed stock exchange aggrieved by the decision of the Independent Oversight Committee of the listing exchange may appeal to the CRC. –

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[SEBI/HO/MRD/DSA/CIR/P/2017/9, 27th January, 2017, (SEBI)]

COMETITION

1. CCI IMPOSES PENALTY FOR BID RIGGING

CCI has imposed penalty on three firms for bid rigging of tenders floated by Indian Railways for procurement of Brushless DC fans in 2013. The Order of the Commission notes that the three firms had decided to share the market amongst themselves through an internal arrangement and accordingly submitted tender, indulging in bid rigging/collusive bidding.

The anti-competitive conduct of the firms had been established based on exchange of rates to be quoted in upcoming tenders amongst the errant firms, numerous calls amongst the key persons of these firms before and during the period of the tenders and admission by one of the firms which confirmed and revealed the existence and *modus operandi* of the cartel.

Accordingly, a penalty of Rs. 62.37 lakhs, Rs. 20.01 lakhs and Rs. 2.09 crores was imposed on the firms M/s Pyramid Electronics, M/s R. Kanwar Electricals and M/s Western Electric and Trading Company, respectively in terms of proviso to Section 27 (b) of the Act. Penalty was also imposed on the person in charge of the three firms at the rate of 10 percent of the average of their income for the last three preceding financial years. *[In Re: Cartelization in respect of tenders floated by Indian Railways for supply of Brushless DC Fans and other electrical item, Suo Moto Case No. 03 of 2014, 18th January, 2017, (CCI)]*

2. CCI IMPOSES PENALTY ON CEMENT COMPANIES FOR BID RIGGING

CCI has imposed penalties on 7 cement companies for bid rigging of a tender floated by the Director, Supplies & Disposals, Haryana, in the year 2012, for procurement of cement to be supplied to Government Departments/ Boards/ Corporations in the State of Haryana.

CCI held that the companies manipulated the bidding process to lessen or eliminate the competition. The bid-rigging has been established from quoting of unusually higher rates in the impugned tender (than rates quoted in tenders of previous years), determining different basic prices for supply of cement at the same destination through reverse calculation, quoting of quantities in the impugned tender such that the total bid quantity almost equalled the total tendered quantity, quoting of rates for the districts in a manner that all cement companies acquired L1 status at some of the destination(s) etc. The anti-competitive conduct was re-affirmed through SMSs exchanged and calls made amongst the officials of the cement companies. Accordingly, penalty of Rs. 18.44 crore, Rs. 68.30 crore, Rs. 38.02 crore, Rs. 9.26 crore, Rs. 29.84 crore, Rs. 35.32 crore and Rs. 6.55 crore has been imposed upon Shree Cement Limited, UltraTech Cement Limited, Jaiprakash Associates Limited, J.K. Cement Limited, Ambuja Cements Limited, ACC Limited and J.K. Lakshmi Cement Limited. The penalty has been levied @ 0.3% of the average turnover of the cement companies of preceding three years. *-[Director, Supplies & Disposals, Haryana vs Shree Cement Limited & Ors., 19th January, 2017, (CCI)]*

INDIRECT TAXES

a. CUSTOMS

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1) CONDITIONS FOR EXEMPTION ON TELEMATIC EQUIPMENT FOR EOUs AMENDED

Notification No. 153/93-Customs amended, which provides a conditional exemption for import of telematic equipment by EOUs, STPs and EHTPs for use in export of software. – *[Notification No. 1/2017-Customs, dated 20th January, 2017]*

2) CONDITIONS FOR EXEMPTION FOR ARECA NUTS AMENDED

Notification No. 96/2008-Customs dated 13.08.2008 amended, so as to prescribe a margin of preference of 60% for all goods falling under sub-heading ([0802 80] – Areca Nuts) under the Duty Free Tariff Preference (DFTP) scheme. – *[Notification No. 2/2017-Customs, dated 27th January, 2017]*

3) DUTY DRAWBACK SCHEDULE AMENDED

Notification No. 131/2016-Customs (N.T.) dated 31.10.2016 amended, relating to all-industry rates (AIR) of duty drawback. The changes take effect from 15.01.2017. – *[Notification No. 03/2017-Customs (N.T.), dated 12th January, 2017 & Circular No. 02/2017-Customs, dated 13th January, 2017]*

4) THE INDIA-JAPAN COMPREHENSIVE ECONOMIC PARTNERSHIP AGREEMENT (BILATERAL SAFEGUARD MEASURES) RULES, 2017 NOTIFIED

The CBEC has notified the India-Japan Comprehensive Economic Partnership Agreement (Bilateral Safeguard Measures) Rules, 2017. The said

Rules are made in the context of the bilateral trade agreement between India and Japan, under which there is a graduated decrease in import duties on a large number of items from Japan. The Rules provide for suspension of the reduced rate, or increase to a higher rate, if an investigation by the Director-General (Safeguards) reveals that the imports at reduced rate of duty causes or threatens to cause serious injury to domestic industry. – *[Notification No. 7/2017 - Customs (N. T.), dated 24th January, 2017]*

5) ADD ON IMPORT OF JUTE PRODUCTS

Definitive anti-dumping duty levied on import of 'Jute Products' viz. Jute Yarn/Twine (multiple folded/cabled and single), Hessian fabric and Jute sacking bags from Bangladesh or Nepal for a period of five years (unless revoked, superseded or amended earlier). – *[Notification No. 01/2017 - Customs (ADD), dated 5th January, 2017]*

6) ADD ON COLOUR COATED/PRE-PAINTED FLAT PRODUCTS OF ALLOY OR NON-ALLOY STEEL

Provisional anti-dumping duty levied on 'Colour coated/pre-painted flat products of alloy or non-alloy steel' originating in or exported from People's Republic of China and European Union for a period of six months (unless revoked, superseded or amended earlier). – *[Notification No. 02/2017 - Customs (ADD), dated 11th January, 2017]*

7) ADD ON SACCHARINE

Levy of anti-dumping duty on Saccharine originating in or exported from China PR under Notification No. 07/2012-Customs (ADD), dated 13.01.2012, extended for a further period of one year. –

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[Notification No. 03/2017 - Customs (ADD), dated 19th January, 2017]

8) ADD ON NYLON FILAMENT YARN

Levy of anti-dumping duty on Nylon Filament yarn originating in or exported from China PR, Chinese Taipei, Malaysia, Indonesia, Thailand and Korea R.P under Notification No. 03/2012-Customs (ADD), dated 13.01.2012, extended for a further period of one year i.e., upto and inclusive of 12.01.2018. – *[Notification No. 04/2017 - Customs (ADD), dated 19th January, 2017]*

9) EXTENSION OF THE SINGLE WINDOW INTERFACE FOR FACILITATION OF TRADE (SWIFT) TO EXPORTS

Following the successful implementation of SWIFT for import, the CBEC has proposed to implement online-release from Partner Government Agencies (PGAs) for exports from 05.01.2017 onwards as a pilot at Chennai, Delhi and Mumbai Air cargo complexes for CITES/ wildlife items. Under the pilot, Shipping Bills filed online on ICEGATE or through the Service Centre will be referred to the concerned agency, namely WCCB, online for a "No Objection Certificate" (NOC), if any required. The selection of items to be referred to any agency will be based on criteria specified by the agencies. As in the case of imports, the list of Customs Tariff Heads (CTHs) for which goods require NOC from the Wildlife Crime Control Bureau, shall be published on ICEGATE. For granting NOC for goods entered for export, the offices of the Wildlife Crime Control Bureau are connected to the ICES. – *[Circular No. 1/2017–Customs, dated 4th January, 2017]*

b. CENTRAL EXCISE

1) DELETION OF OPTION OF EXEMPTION WITH CENVAT CREDIT FOR ARTICLES OF PRECIOUS METALS

Notification No. 02/2011-Central Excise dated 1st March, 2011 amended, so as to omit the serial number 49 and the entries relating thereto from the said Notification. Meaning thereby, option for taking Cenvat Credit and paying Excise Duty at 6% has been removed for articles of gold, silver and other specified precious metals. – *[Notification No. 01/2017 – Central Excise, dated 5th January, 2017]*

2) EXEMPTION NOTIFICATION FOR VEHICLES MODIFIED

Notification No. 12/2012-Central Excise dated 17.03.2012 amended so as to prescribe an effective rate of Excise Duty of 12.5% on Motor Vehicles falling under heading 8702 90 21, 8702 90 22, 8702 90 28 and 8702 90 29 of the First Schedule of the Central Excise Tariff Act, 1985 i.e., vehicles designed to transport not more than thirteen persons including the driver. – *[Notification No. 02/2017 – Central Excise, dated 11th January, 2017]*

c. SERVICE TAX

1) EXEMPTION FOR BUSINESS FACILITATOR FOR RURAL BANK ACCOUNTS AND WITHDRAWAL OF EXEMPTION FOR TRANSPORT OF GOODS FROM OUTSIDE INDIA

Notification No. 25/2012-ST dated 20.06.2012 amended so as to:

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- i. withdraw the exemption from service tax for services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India;
- ii. exempt services provided by a business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch. – **[Notification No.1/2017-Service Tax, dated 12th January, 2017]**

2) SERVICE TAX RULES, 1994 AMENDED

Service Tax Rules, 1994 amended so as to:

- i. exclude such persons from the definition of aggregator who enable a potential customer to connect with persons providing services by way of renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes subject to fulfilment of certain conditions;
- ii. Specify the person complying with the Sections 29, 30 or 38 read with Section 148 of the Customs Act, 1962 (52 of 1962) i.e., the person in charge of the vessel as the person liable for paying Service Tax in case of services provided or agreed to be provided by a person located in non-taxable territory to a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India. – **[Notification No.2/2017-Service Tax, dated 12th January, 2017]**

3) ABATEMENT FOR TOUR OPERATOR SERVICES RATIONALIZED

Notification No. 26/2012-ST dated 20.06.2012 amended so as to rationalize the abatement for tour operator services w.e.f. 22.01.2017. Abatement rate has been reduced to 40% for all classes of tour operator services. For availing the abatement, the CENVAT credit on inputs and capital goods used for providing the said taxable service would not to be allowed. This means, now all the inputs services are freely eligible for the CENVAT credit. – **[Notification No.4/2017-Service Tax, dated 12th January, 2017]**

4) WITHDRAWAL OF EXEMPTION FOR ONLINE INFORMATION AND DATABASE ACCESS OR RETRIEVAL SERVICES PROVIDER FROM OUTSIDE INDIA

Notification No. 25/2012-ST dated 20.06.2012 amended so as to withdraw the exemption from Service Tax for online information and database access or retrieval services provided by a person located in a non-taxable territory to an entity in India registered under Section 12AA of the Income Tax Act, 1961 (43 of 1961). Further, the Service Tax Rules, 1994 amended so that in case of online information and database access or retrieval services provided or agreed to be provided by any person located in a non-taxable territory and received by non-assesse online recipient, the service tax payable for the month of December, 2016 and January, 2017, shall be paid to the credit of the Central Government by the 6th day of March, 2017.– **[Notification No.5/2017-Service Tax, dated 30th January, 2017 & Notification No.6/2017-Service Tax, dated 30th January, 2017]**

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INTELLECTUAL PROPERTY RIGHTS

1) THE ONLY PERSONS WHO CAN BRING A SUIT FOR INFRINGEMENT OF A TRADE MARK WOULD BE THE REGISTERED PROPRIETOR HIMSELF OR THE REGISTERED USER AND CERTAINLY NOT A PERMITTED USER : DELHI HIGH COURT

The present suit for infringement is filed by two plaintiffs. The Respondent No.1/ first Plaintiff is the Corporation / Company incorporated in USA. It has no office in India and by itself does not carry on any business in India. It is the registered proprietor of the trademark —EXXON in respect of various goods and services. The Respondent No.2 / Plaintiff No.2 is said to be a wholly owned subsidiary and is registered as a company under the Companies Act, 1956 in India. Its registered office is in Delhi and it carries on business, inter alia, in Delhi. The Respondent No.2 / Plaintiff No.2 is claimed to be the permitted user of the —EXXON trademark and name in India through a trademark licence agreement entered into between the two respondents on 13.04.2010. The Appellant / Defendant is the proprietor of —EXON Engineering Corporation and his offices are located in Kolkata. The suit was filed in Delhi by invoking the provisions of Section 134(2) of the Trade Marks Act, 1999 on the ground that: (i) the Respondent No.2 / Plaintiff No.2 has its registered office in New Delhi which is within the territorial jurisdiction of this court; (ii) the Plaintiff No.2 / Respondent No.2 is a subsidiary of the plaintiff No.1 / respondent No.1; and (iii) the Plaintiff No.2/ Respondent No.2 is a —permitted user of the —EXXON mark and name in India.

Before the learned single Judge, it was contended on behalf of the Appellant / Defendant that this court

did not have territorial jurisdiction to entertain the suit for injunction which was essentially a suit for infringement of the said trademark. It was contended that the Appellant / Defendant carried on business in Kolkata and had no business in Delhi. Furthermore, in view of Section 53 of the said Act, a —permitted user had no right to institute a suit for infringement and, therefore, the Plaintiff No.2 / Respondent No.2, who was, at best, merely a permitted user', could not institute any suit and, therefore, could not be a plaintiff or even a co-plaintiff in an infringement action.

However, the learned single Judge decided the issue in favour of the Respondents and hence this appeal was filed.

The High Court after discussing various relevant provisions of the Trade marks Act like Section 47, 48, 49, 52, 53, 2(1)(r)(ii), 134 observed that only the registered proprietor himself or the registered user and certainly not a permitted user, could bring a suit for infringement of a trade mark. It was held that, a permitted user cannot institute a suit for infringement of a registered trade mark. Therefore, the Plaintiff No.2 / Respondent No.2 by itself could not have filed the present suit. — [P.K. Sen vs Exxon Mobile Corporation and Anr., dated 4th January, 2017 (Delhi HC)]

2) DEFENDANTS RESTRAINED FROM COUNTERFEITING THE PRODUCTS OF THE PLAINTIFF BY COPYING AND MARKETING THE SAME THROUGH THEIR WEBSITE

It was the case of the Plaintiff that in July 2013 the Plaintiff came to know that the defendants were selling counterfeit product of MONTBLANC writing instruments on their website, www.digaaz.com, at discounted rate of 75 % representing the product as that of the original product of the Plaintiff's. It was submitted that the

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Plaintiff had never sold its product on discounted rate.

After perusing the evidences and the documents produced on record, the Court observed that the Plaintiff is the owner of the MONTBLANC, MEISTERSTUCK, the Three Ring Device and/or the Star Device. It was also proved that Defendants are counterfeiting their products by copying and marketing the same as that of Plaintiff's products through their website. It was held that the Plaintiff is entitled to the relief claimed. Accordingly, by way of permanent injunction, the Defendants, their partners, if any, officers, servants, agents, distributors, stockists and representatives are restrained from manufacturing, selling and/or offering for sale, advertising, directly or indirectly dealing in writing instruments, wallets, watches, leather goods, jewellery or any other goods bearing the trademark MONTBLANC, MEISTERSTUCK, the Three Ring Device or the Star Device and are also restrained from passing off their counterfeit products as that of plaintiffs. - *[Montblane Simplo Gmbh vs Gaurav Bhatia & Ors., dated 4th January, 2017 (Delhi HC)]*

CONSUMER

1. APPLICATION FOR CONDONATION OF DELAY WILL BE SUCCESSFUL ONLY WHEN DAY TO DAY ACCOUNT OF DELAY IS GIVEN AND IS SATISFACTORY

The complaint relates to Respondent Party being denied of the possession and execution of Sale Deed in its favour for a flat which was being constructed by the Petitioner and was promised (unregistered agreement was made) to be handed

over to Respondent party on its paying the consideration money. The Petitioner reneged from his promise and decided to sell the flat to another party for a higher sum. Consequently, Respondent Party raised a complaint before the Consumer Forum.

The District Forum allowed the complaint and ordered possession to be handed over on payment of the balance sum. The Opposite Party failed to file appeal in time and hence the application was barred due to limitation. The National Commission, similarly refused to condone the delay of 46 days as no dates were mentioned nor any day to day explanation was furnished. As medical illness of Counsel was the reason for delay, the Commission also noted absence of any medical certificate proving the very ground or explanation why a different counsel was not hired. Thus, the Commission refused to condone the delay and found no infirmity in the Order of the State Commission. -*[Aman Lal Mukherjee & Ors., v. Tarak Nath Sarkar & Ors., 31st January, 2017, (NCDRC)]*

ENVIRONMENT

1. NATIONAL GREEN TRIBUNAL REJECTED ECO-SENSITIVE ZONE MASTER PLAN PREPARED BY THE STATE GOVERNMENT

NGT has rejected the Eco-Sensitive Zone (ESZ) master plan prepared by the State Government of Uttarkashi. The Government was slammed for unduly delaying the ESZ for the past four years and refraining from the essence of the actual format of ESZ as directed by the Environment Ministry in its Notification. NGT also pointed out several

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shortcomings in the master plan and asked the Secretary in water ministry, to organize meetings with state officials, members of ESZ expert monitoring committee and members of Environment Ministry on this issue. - *[The Times of India, dated 31st December, 2016]*

2. CABINET APPROVES FOR RATIFICATION OF KYOTO PROTOCOL

The Union Cabinet gave its approval to ratify the Second Commitment Period (2013-2020) of the 1997 Kyoto Protocol on containing the emission of Green House Gases (GHGs). Under the Kyoto Protocol (KP) which had become operational in 2005, only developed nations are mandatorily required to undertake mitigation (emission cuts) targets and to provide financial resources and transfer of technology to the developing nations. The first commitment period of the KP was 2005-12. Its second commitment period was adopted in 2012. But, only 65 countries have so far ratified the Second Commitment Period (2013-2020). "In view of the critical role played by India in securing international consensus on climate change issues, this decision further underlines the country's leadership in the comity of nations committed to global cause of environmental protection and climate justice", said a government statement. It is believed that the implementation of Clean Development Mechanism (CDM) projects under the KP's Second Commitment Period will attract some investments in India as well. - *[The Times of India, dated 25th January, 2016]*

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