$~1 (SDB)

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

\+ **FAO (COMM) 159/2025, CRL.M.A. 35924/2025 & REVIEW PET. 546/2025**

AU NATUREL BEAUTY PRIVATE LIMITED .....Appellant

Through: Mr. Amit Sibal, Mr. Darpan Wadhwa, Sr. Advs. along with Ms. Petrushk Dasgupta, Mr. Mridul Yadav, Mr. Raghav Mittal, Mr Anand Singh Sengar, Mr. Amer Vaid Mr. Varun Aggarwal, (M: 9582453328) with Mr. Advay Jhunjhunwala, Director

versus

WET AND DRY PERSONAL CARE PVT. LTD. & ANR. .....Respondents

Through: Mr. Neeraj Malhotra, Sr. Adv. With Mr. Satish Kumar, Mr. Rakesh Tiwari and Mr. Shiv Kumar Yadav, Nimish Kumar Advs. for R-1. (M: 9582931401) with Mr. Hariom Tyagi, Director

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE RAJNEESH KUMAR GUPTA

ORDER

% **10.12.2025**

1. This hearing has been done through hybrid mode.

2. The present first appeal has been filed by the Appellant- AU Naturel Beauty Private Limited under Section 13(1) of the Commercial Courts Act, 2015, *inter alia*, assailing the order dated 9th June, 2025 (hereinafter, '*impugned order*') passed by the ld. District Judge (Commercial), West, Tis Hazari Court, Delhi in ***CS (COMM) No. 384/2025*** titled ***'Wet and Dry***

Personal Care Pvt Ltd Through its Director Mr. Sharad Gupta v. AU Naturel Beauty Private Limited & Anr.'

3. *Vide* the impugned order, the ld. Commercial Court has confirmed the *ex parte* ad-interim injunction in the following terms:

> *"28. For the foregoing reasons, defendants and anybody acting on their behalf, are restrained from selling, offering for sale, advertising, marketing, directly or indirectly, dealing in products of cosmetics, hair colour and other allied / related goods bearing the marks "NEUDE " or any other mark which is deceptively similar to Plaintiff's registered trademark "NEUD" and would amount to an action of passing off .*
> *29. However, considering the fact that defendant no.1's mark was registered since 2022 and the goods manufactured/ traded are perishable in nature therefore in the interest of justice the* ***defendants are permitted to deplete their existing stock of goods bearing the mark "NEUDE " within two months from the date of this order. Further, the defendants are directed to file an affidavit giving complete details of stock, including batch numbers of the goods manufactured, within four weeks from today. It is clarified that no further manufacturing shall be undertaken under the Impugned mark****."*

4. The two trademarks involved in the present case are 'NEUD' and 'NEUDE' which are used for cosmetics and other hygiene and personal care products. Both the parties have registered trademarks in their favour – though the scope of the registrations is disputed.

5. The case of the Plaintiff who is the Respondent in the present appeal is that it had filed the application for trademark registration on 31st May, 2017 and had also registered the domain name www.neud.in on 9th December, 2016. The claim of the Respondent is that it had a turn over exceeding Rs. 18

Crores in the year 2021.

6. This position is disputed by the Appellant herein on behalf of whom it is submitted by ld. Sr. Counsel that there is not even a single advertisement of the Respondent which has been placed on record. Even the domain name www.neud.in no longer is being operated as a website by the Respondent. This is refuted by ld. Sr. Counsel for Respondent on the ground that the website of the Respondent is actually www.neud.co.in .

7. It is further submitted on behalf of the Appellant that the turnover of the Appellant is to the tune of approximately Rs. 12 Crores per annum and the Appellant has also invested substantial amount of money on promotion and sales of its products. It is argued that the Plaintiff/Respondent has various other marks being used and the separate figures of sales turnover under the mark NEUD is not placed on record. Serious challenge is raised to the turnover figures portrayed by the Respondent. According to Mr. Wadhwa, ld. Counsel, the same were incorrectly projected to be very high whereas the annual turnover for the NEUD branded products was less than Rs. 4 crores. The inflated and misleading figure of Rs. 69 crores had led the Trial Court to pass the impugned order.

8. On 18th June, 2025, after hearing the matter for sometime, the Court had observed as under:

> *"14. The Court has checked the www.neud.in domain name, during the course of hearing and it is seen that the said domain name is not directed to any website. The Respondent's website appears to be www.wetanddry.co.in, where there are products under the mark 'NEUD' as also other products which are being promoted and sold such as 'EVERTEEN', 'MANSURE PRODUCTS', 'NATURE SURE PRODUCTS', etc. At this stage, the Court put a query to the*

Respondent as to whether there is any publicly available advertisement or record to show commercial use of the mark 'NEUD'. However, there is no public advertisement which has been shown to the Court by the ld. Counsel for the Respondent.

15. Considering the overall facts and circumstances as also the principles of grant of interim injunction, till the next date of hearing, the following arrangement is put in place:

i. The Appellant is permitted to exhaust all its manufactured products as also un-manufactured products for which containers exist which are stated to be to valued at approximately Rs. 5 Crores. A proper account for the same shall be filed in the Court within a period of one month along with an affidavit.

ii. The time for exhaustion of the stock is extended till 15th December, 2025. As a condition for exhausting the stock of the Appellant, a sum of Rs. 50 lakhs shall be deposited with the Registrar General of this Court by 31st July, 2025. After the deposit is made and the stock is exhausted, the Appellant is free to move an application seeking release of the said amount, if so advised.

16. The Appellant is also willing to add a pre-fix or suffix to its mark, NEUDE. Accordingly, in the meantime, the Appellant and the Respondent shall sit together and explore the possibility of amicable resolution. Mr. Chander Lall, ld. Sr. Counsel who is present in Court is appointed as a Mediator in this matter. The Appellant shall produce the new options for marks which it can adopt so that a final resolution of this matter can be attempted with the intervention of the Mediator.

17. The above arrangement shall be without prejudice to the rights and contentions of both the parties.

18. The impugned order restraining the Appellant shall stand modified in the above terms for the time being."

9. Thereafter, some settlement proposals were discussed between the parties. The same had however not fructified. On 4th December, 2025, this

Court had directed as under:

> *"3. Today, it appears that the settlement talks have not fructified.*
> *4. Without prejudice, the Respondents are willing to agree to the Appellant's use of the mark 'NEUDE' with a prefix. But there is no agreement on the prefix which can be used. Thus there is no settlement, at this stage.*
> *5. The Appellant's case is that the Respondent is guilty of misleading the Court by projecting its sales to be approximately Rs.69 crores whereas in fact, the actual sale for the 'NEUD' product, as per the CA certificate, for the last year is only Rs.3.46 crores.*
> *6. The matter now requires to be heard. Accordingly, the parties are directed to file the following documents:*
> *(i) Written submissions.*
> *(ii) List of their respective products with their images and the date of launch.*
> *(iii) GST Returns.*
> *(iv) Income Tax Returns.*
> *(v) Certificate from Chartered Accountant giving the turnover in respect of 'NEUDE' and 'NEUD' products of the Appellant and the Respondents, since inception.*
> *7. The Appellant shall also file the status of the existing stock which was permitted to be disposed of along with the remaining stock as on date."*

10. Today, Mr. Amit Sibal, ld. Sr. Counsel appearing for the Appellant submits that without prejudice, the Appellant is willing to change its mark to **'BE NEUDE'**. However, ld. Sr. Counsel submits that some time may be given as there would be a requirement for changing of all the moulds as also the labels, packaging, promotional material, website, etc. It is further submitted that this proposal is without prejudice to the rights and contentions of the

Appellant.

11. On behalf of the Respondent, Mr. Malhotra, ld. Sr. Counsel submits without prejudice that the trademark 'BE NEUDE' used with a space in between the two words would still cause confusion and therefore, the same may be joined together or a hyphen could be put in between. Mr. Malhotra, ld. Counsel further submits that this contention is without prejudice and ought not to have a bearing on the merits of the matter.

12. Heard. The present appeal is in respect of an interim injunction, which was granted by the Trial Court. Various factors have been considered by this Court including the sales turnover of the Respondent and that of the Appellant. The Court has also perused the various labels and the products as also the product brochure of the Respondent. The Respondent is also using additional trademarks for its products.

13. On the basis of the overall circumstances in this case, the Court is of the opinion that use of the mark, **'BE NEUDE'** would eliminate any possibility of confusion between the marks of the Appellant and the Respondent. The Appellant's investment has also been substantial in its mark and products.

14. In the above background, the following interim arrangement is put in place during the pendency of the present suit:

(i) With effect from 01st June, 2026, the Appellant shall use the mark 'BE NEUDE' on all its products and shall refrain from using the mark 'NEUDE' *per se*. It is made clear that all the letters in the new mark *i.e.,* 'BE NEUDE' shall be in the same font, same colour, same size and no distinction shall be made between the two words, which form part of the trademark.

(ii) The transition from the existing mark *i.e.,* 'NEUDE' to the new mark *i.e.,* 'BE NEUDE' shall be made by 01st June, 2026 by the Appellant.

(iii) No products under the earlier mark 'NEUDE' *per se* shall be sold, marketed, manufactured, or made available in the market in any form either physically or any of the e-commerce platforms from 01st June, 2026.

(iv) Insofar as all the existing stock is concerned which is being disposed of, the entire Statement of Account with the list of all the products, their batch numbers, their quantities and the sale price shall be filed along with an affidavit by 10th July, 2026 before the Trial Court.

(v) The existing stock shall be sold by the Appellant to its distributors, agents or dealers with a clear instruction that the same should not be sold after 31st May, 2026.

(vi) The amount of Rs. 50 lakhs deposited pursuant to the order dated 18th June, 2025 passed by this Court shall continue to remain deposited with the Worthy Registrar General of this Court in an FDR and shall abide by the final judgment passed in the Suit.

(vii) The impugned order dated 9th June, 2025 shall stand modified in terms of the present interim arrangement.

(viii) In the Suit, the matter shall be now listed for further proceedings on 16th February, 2026 before the concerned Trial Court. The Trial Court may also consider appointing a Local Commissioner for recording of evidence so that the trial in the Suit can be expedited.

(ix) The observations made in the impugned order or the orders passed by this Court in the present appeal shall have no bearing on the final adjudication of the Suit.

15. The next date of hearing stands cancelled. The appeal along with the Review Petition stands disposed of. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

RAJNEESH KUMAR GUPTA, J.

DECEMBER 10, 2025/*kp/pt/ck*