

PRESS RELEASE

In the month of May 2020, music label giant, Tips Industries Ltd. moved the Bombay High Court, inter alia, to restrain the radio stations viz “Radio Mirchi” and “Ishq 104.8 FM” from providing its songs on the internet radio stations of “Radio Mirchi” and “Ishq 104.8 FM” without obtaining license for the same. These internet radio stations can be accessed through various online platforms and websites including “Gaana”.

The matter was heard by His Lordship the Hon’ble Mr. Justice G.S. Kulkarni on 26th May, 2020 who took on record an undertaking provided by the Defendants on a without prejudice basis stating that till the next date of hearing of the Interim Application, they are not and will not provide to Gaana or to any other internet service the Plaintiff’s repertoire on digital or internet platforms. The undertaking was accepted by advocates of the Plaintiff and the Hon’ble Court.

This matter raises the question of applicability of the compulsory license order passed by the Copyright Board vide its Order dated 25th August, 2010 in accordance with powers provided under Section 31(1)(b) of the Copyright Act, 1957 pursuant to which the FM broadcasters can broadcast sound recordings owned by the members of Phonographic Performance Limited (PPL) at a fixed royalty rate of 2% of net advertisement earnings of each FM radio station. The core of the matter revolves around applicability of this Order to non-members of PPL as Tips had exited its arrangement with PPL in the year 2015.

Tips Industries Ltd., the plaintiff in the matter, was successfully represented by Senior counsel Mr. Virag Tulzapurkar and counsel Mr. Hiren Kamod instructed by a team from ANM Global Inc. comprising of Ms. Anushree Rauta, Ms. Parul Sharma, Mr. Navankur Pathak and Ms. Pranita Saboo.

Mr. Kumar Taurani, Chairman and Managing Director, Tips Industries Limited said the following with regards to the order *“Truth always wins. Me and my music industry are very happy and have full faith in judiciary. It has never let us down and has always got us justice. We respect the law of the land but there are few who look for loopholes to infringe our copyright and as a last resort we have no option but to knock the doors of the court.”*

Last year Tips had secured a landmark victory against Airtel-owned digital music app Wynk where Bombay High Court held that Wynk cannot store or use music owned by Tips without its consent merely by claiming the shield of statutory licensing rights under Section 31D of the Copyright Act and further that internet broadcasting is not covered under the purview of Section 31D.