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**CASE BRIEF: GENSOL ELECTRIC VEHICLES PVT. LTD. v. MAHINDRA LAST MILE
MOBILITY LIMITED [CS(COMM) 849/2024]**

A. FACTUAL BACKGROUND

The case came to be when the plaintiff, Gensol Electric Vehicles Pvt. Ltd. (“**Gensol**”), approached the Delhi High Court (“**High Court**”) for permanently restraining the defendant, Mahindra Last Mile Mobility Limited (“**Mahindra**”), from allegedly infringing and passing off its trade mark ‘EZIO’/ **ezio** (“**EZIO Mark**”) since Mahindra had adopted the allegedly deceptively similar trade mark ‘eZEO’/ **eZEO** (“**eZEO Mark**”) in conjunction with its house marks ‘Mahindra’/ **mahindra** (“**said house mark**”). Both the parties in the case extensively operate in the automobile industry, with Gensol primarily manufacturing electric vehicles (EVs) whereas Mahindra’s vehicle model under the eZEO Mark was also an EV, thus, exacerbating the conflict between the parties.

B. BRIEF OF THE SUBMISSIONS

➤ **Gensol (Plaintiff)**

The primary submission of Gensol was that it was the prior adopter and user of the EZIO Mark since it had not only applied for the ‘EZIO’ word mark in 2022 which was awarded registration in 2024, it had also publicly launched the *teaser* for its vehicle in January 2024. Further, that Mahindra was not absolved of infringement merely because of using its said house mark with the eZEO Mark since likelihood of consumer confusion in the present matter is high given the close competitive nature of the parties – both are automobile manufacturers in relation to the same product. It was also contended that Mahindra had filed a trade mark application for the eZEO Mark



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in respect of all categories of vehicles, meaning that both the parties will also be dealing with a similar consumer base.

➤ **Mahindra (Defendant)**

Mahindra, on the other hand, submitted that the company has updated the trade mark device to

now be  (“**Mahindra ZEO logo**”) and that the eZEO Mark had been discontinued. Furthermore, Mahindra contended that it began using the eZEO Mark in September 2024, prior to Gensol’s planned vehicle launch in January 2025. Given the earlier use of the eZEO Mark by Mahindra, it claimed that it was not possible for the company to have any information regarding the EZIO Mark. Mahindra also contended that the revised Mahindra ZEO logo incorporates the said house mark, and that Mahindra vehicles are only sold through its registered dealerships which will leave no room for any consumer confusion since the consumers will always be aware that the vehicle in question is manufactured by Mahindra and no one else. The defendant also stated that as a consequence of the actual use of the Mahindra ZEO logo, the same had already amassed goodwill and reputation to be distinguishable and distinctive. Another justification for adoption of the Mahindra ZEO logo was that ‘ZEO’ is an acronym of ‘Zero Emission Option’ which conveyed the benefits of its vehicle and thus, not attributable to the EZIO Mark.

C. ANALYSIS

The High Court observed that in accordance with the previous developments in the dispute, Mahindra had agreed to modify the eZEO Mark to the revised Mahindra ZEO logo, which Gensol did not agree with. However, it is a settled position of law that where the defendant modifies or suggests modification to the disputed intellectual property, the Court can take such modification into consideration for further proceedings; the High Court thus, considered the revised Mahindra ZEO logo to decide whether the plaintiff was entitled to permanent injunctive relief.



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The High Court opined that while Mahindra's previous eZEO Mark was indeed nearly identical to the EZIO Mark, the revised Mahindra ZEO logo was not considered identical or similar, due to the following principles/practices followed in trademarks law –

1. Rule of Dominant Feature: The High Court considered various precedents and noted that the dominant feature of the revised Mahindra ZEO logo was the house mark 'Mahindra', making the two marks visually and phonetically dissimilar.
2. Essentials of Infringement and/or Passing-off: it is a settled position of law that where the two disputed marks in an infringement action are similar, the essentials of passing-off are equally applicable to determine whether infringement action is made out or not. The essentials of passing-off are – (i) goodwill and reputation of a trade mark, (ii) misrepresentation of that trade mark by a third-party for its own business interests, and (iii) likelihood of damage to the goodwill of that trade mark as a result of the said misrepresentation. Here, the High Court considered the fact that unlike Gensol, Mahindra had already commenced the use of the Mahindra ZEO logo. To substantiate its claim of widespread reputation and goodwill, Mahindra had also produced evidence of the revenue generated under its said house mark, which has always been used alongside every other trade mark ever adopted by the company. The High Court accepted the submission that in light of such pattern of conjunctive use, even the Mahindra ZEO logo has come to be vested with undeniable common law rights, which Gensol could not claim since the EZIO Mark was not put in commercial use yet. Consequently, the High Court found that Gensol's claim of passing-off was untenable since it could not meet the essential ingredients making up the act.
3. Intelligence of Consumers: likelihood of consumer confusion is measured in terms of how well-read the consumer base is, with the knowledge of distinguishing one trade mark from the other. The High Court, in this regard adjudged, that where the products/services to be availed are expensive and not of a nature to be selected whimsically/without deliberation, it is a reasonable



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assumption that such a consumer base is unlikely to be deceived/confused as they will be aware and familiar with the concerned brand. Even in case of any confusion, the same will be short-lived since they possess the requisite intelligence and a discerning eye.

The present case is a significant development in trademarks law, since it addresses value addition to a trade mark resulting from conjunctive use of brand name/house mark, a practice exercised to avoid any prejudice. In other words, the conjunctive use of a brand name/house mark alongside a trade mark is not a trivial or inconsequential addition – it is sufficient to effectively make one trade mark distinctive and distinguishable against the other – since the case also underlines the practice of consumers identifying products and services through brand names.

The High Court accordingly decided that no case of injunction has been made out against Mahindra since Gensol failed to establish a case of initial user confusion, which is an integral element in deciding infringement and/or passing off disputes. This judgement is especially relevant for the automobile industry since it balances the probability of consumer confusion with the use of the brand name of manufacturers, considering the steep rise in competitive services with similar features under similar model variants.