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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(OS) 249/2019**

EBIXCASH WORLD MONEY LTD & ORS..... Plaintiff

Through Mr.Sandeep Sethi, Sr.Adv. with  
Mr.Rajshekhar Rao, Mr.Aditya Swarup,  
Mr.Anurag Rawal and Mr.Rajat Sehgal, Adv.

versus

FRASER PERRING & ORS.

..... Defendant

Through

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

% **08.05.2019**

**IA Nos.6756-6757/2019 (exemption)**

Allowed subject to all just exceptions.

**CS(OS) 249/2019**

Let the plaint be registered as suit. Issue summons to the defendants by speed post and ordinary process, returnable for 4.9.2019.

**IA No.6755/2019**

1. This is an application under Order 39 Rule 1 and 2 CPC seeking ex parte injunction to restrain the defendants from making, publishing, distributing etc. the impugned defamatory statements on its website. The accompanying suit is filed for permanent, prohibitory and mandatory injunction, defamation, malicious falsehood, disparagement and damages etc. It is pleaded in the application that defendants No.1 to 3 are members of a purported Viceroy Research Group holding shorting positions in the various stocks of the plaintiffs and their group companies and have a notorious reputation to spreading false information to the public. In respect of the plaintiffs, it is submitted that the plaintiffs are part of the Ebix Group

and a leading supplier of on-demand software and e-commerce services to the insurance, financial, healthcare and the governance industries. This group has more than 9000 employees with an exemplary track record in terms of compliance, ethics, research and development and operating performance etc. It is pleaded that the Ebix Group has contained highest standard of financial discipline and professional standards. It is stated that the defendants have falsely and maliciously made statements to the public that the plaintiffs are involved in illegal and unlawful transaction. Strenuous allegations are made against the plaintiff. All statements are stated in para 12 of the plaint which reads as follows:-

- (i) The Plaintiffs have changed their business model "without visible synergies or management experience";
- (ii) That there were purported "accounting discrepancies" which suggest "EBIX is booking external revenues on transactions between its subsidiaries";
- (iii) That one of the Plaintiffs' group companies, viz. Ebix Vayam Technologies Pvt. Ltd. has only one customer and a "growing unbilled receivables balance";
- (iv) That there was a "rapid change of company auditors" with respect to the Plaintiffs;
- (v) That the Plaintiffs have an "unnecessarily intricate and opaque subsidiary structure, with very little insight provided to investors" and that "many assets are being held in opaque geographies and have been transferred with no disclosure or justification";
- (vi) That the Plaintiffs' businesses have a "material weakness in internal controls";
- (vii) That the Plaintiffs have "created a financial remuneration 'poison pill' to protect short sellers";
- (viii) That the CEO of the Ebix Group "has surrounded himself with allegedly ineffective copy-paste yes-men directors and audit staff";
- (ix) That "EBIX's acquisition spree has created numerous accounting discrepancies we believe are exaggerating group earnings";

(x) That "there were complications in transferring Oakstone assets to India from the USA. Indian courts allowed the transfer through amalgamation with Healthcare Magic."

(xi) That "EBIX's Indian operations reported steady profits until 2015" and that "this appears to be due to the transfer of assets out of India, to Singapore."

(xii) That in the year 2015 "we believe the gain on sale recorded by the Indian subsidiary has flowed through to EBIX's consolidated accounts given no other significant business changes in the segment."

(xiii) That "EBIX's Indian subsidiaries have issued almost \$250m of compulsory convertible debentures to EBIX's Mauritius entity" and that "EBIX's balance sheet and cashflow statement do not demonstrate that the business even has this cash balance to distribute" and that "It is noteworthy that EBIX's Paytech entity has been given freedom to distribute up to \$280m to ANYONE its discretion. This is the entity which EBIX intends to IPO, which we believe is extremely dangerous.";

(xiv) That the Plaintiffs' have "round tripped" funds to fund acquisitions of companies in India;

(xv) That in 2004 KPMG resigned over "disagreement with management regarding lack of authority, lack of understanding of the company's income, lack of contract review, inadequate documentation for transactions.";

(xvi) That "After negative backlash", our Clients agreed to "keep Cherry Bekaert & Holland on for US Revenue and T.R. Chadha for global audit partner.";

(xvii) That the Plaintiffs' were "Previously investigated by the IRS";

(xviii) That the Plaintiffs' were previously investigated by the SEC through 2017 and that the "investigation findings" were not released.

(xix) That the Plaintiffs are undergoing an investigation by the Department of Justice in the United States of America ("DoJ"), and were involved in certain purported raids on Deutsche Bank;

(xx) That the Plaintiffs, have "many red flags" in their business and accounting practices;

(xxi) That the Plaintiffs have "open tax issues in India"

2. In my opinion two of the aforesaid statements appear to be blatantly false. The said statements are regarding alleged investigation conducted by

the SEC (Security Exchange Commission) and IRS (Internal Revenue Service) of USA. The same is reproduced herein:-

“(xvii) That the Plaintiffs' were "Previously investigated by the IRS";  
(xviii) That the Plaintiffs' were previously investigated by the SEC through 2017 and that the "investigation findings" were not released;”

3. It has been strenuously urged by learned senior counsel for the plaintiffs that there is no such investigation ever started by any of these agencies and deliberate and false information is being spread. Similarly, a perusal of the presentation published by the defendants show an allegation is made against the plaintiff that cash was round tripped from India to Mauritius and back in order to fund Ebix Paytech. In my opinion, these are prima facie false, disparaging and malafide statements made by the defendants. Plaintiffs have made a prima facie case against this article. I direct defendants No.4 to 6 to delete the aforementioned Article i.e. a presentation titled "Ebix - Goodwill Hunting : The alchemy of creating profits" published by Fraser Perring, Gabriel Bemarde and Aidan Lau and available on the website of the Viceroy Research Group at <https://viceroyresearch.org/2018/12/03/ebixgoodwill-hunting/>.

4. Issue notice to defendants by ordinary process and speed post, returnable for the date fixed above. Notice may also be issued through email to defendants No.1 to 3, for the date fixed above.

5. Plaintiff to comply with provisions of Order 39 Rule 3 CPC within one week from today.

6. A copy of this order be given dasti under signatures of the Court Master.

**MAY 08, 2019/n**

**JAYANT NATH, J**