

சிந்தாமலா தமில்நாடு TAMILNADU

M. Shirijha

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Chennai - 600015

V.RAMA
S V L No.1481/E/94
No 509, ANNA SALAI
CHENNAI-600035

BEFORE TMT.M.SHIRIJHA, B.Sc.,M.L.

SOLE ARBITRATOR, AT CHENNAI
24th February 2025

COMPLAINT INDRP Case No. 1935

IN THE MATTER OF AN ARBITRATION FOR
A DISPUTE RELATING TO THE DOMAIN NAME
"fuelsave.co.in" - UNDER THE .IN DOMAIN NAME
DISPUTE RESOLUTION POLICY;

Lai Ambey Indochem Private Limited

33 Shala Marg, Choubey Colony

Raipur, Chhattisgarh - 49200 1

...Complainant

Versus


Fuel Save Tech Private Limited

Shop No. 7, Rajdhani Bihar Colony,

Saddu, Raipur, Chhattisgarh — 4920001

...Respondent

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**AWARD PASSED UNDER THE INDRP RULES OF PROCEDURE
AND THE ARBITRATION AND CONCILIATION ACT, 1996**

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I. PARTIES TO THE ARBITRATION

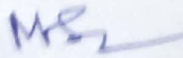
1. The Complainant is Jai Ambey Indochem Private Limited, a company incorporated under the Companies Act, 1956, in India, with its registered office at 33 Shala Marg, Choubey Colony, Raipur, Chhattisgarh – 492001, India represented by Advocate Acuity Law Chambers , Ground Floor, Shubham Corporate Opposite Hotel Kingsway Ring Road No.1, Telibandha, Raipur, Chhattisgarh–492004, Contact no.: +91 81201 44929 Email:adv.shikharshrivastava@gmail.com; acuitylawchambers@gmail.com

2. The Respondent is Fuel Save Tech Private Limited, a company incorporated under the Companies Act, 2013, having registered office at Shop No. 7, Rajdhani Vihar Colony, Rajdhani Vihar, Saddu, Raipur, Chhattisgarh – 492001, India.

II. APPLICABLE LAW AND JURISDICTION

The .IN Domain Name Dispute Resolution Policy

The present arbitration proceeding is under and in accordance with the .IN Domain Name Dispute Resolution Policy (the Policy) which was adopted by the National Internet Exchange of India (NIXI) and sets out the legal framework for resolution of disputes between a domain name registrant and a Complainant arising out of the registration


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and use of an .IN Domain Name. By registering the domain name < www.fuelsave.co.in > with the NIXI accredited Registrar, the Respondent has agreed to the resolution of disputes under the .IN Dispute Resolution Policy and Rules framed thereunder. The Policy and the .IN Domain Name Dispute Resolution Rules of Procedure posted 2020 (the Rules) were approved by NIXI in accordance with the Arbitration and Conciliation Act, 1996.

III. Filing of the Complaint and Constitution of the Arbitral Tribunal

1. The Complainant filed the Complaint under the .IN Domain Name Dispute Resolution Policy against the Respondent, seeking transfer of the Domain Name www.fuelsave.co.in to the Complainant, following which the .IN Registry sought the consent of **Tmt.M.SHIRIJHA** (the undersigned), who is a listed .IN Dispute Resolution Arbitrator under 5 (a) of the Rules, to act as Arbitrator in the said matter.

2. On 24th January 2025, the Arbitral Tribunal consisting of the said Tmt.M.SHIRIJHA as Sole Arbitrator was constituted under 5(b) of the Rules in respect of the Complaint filed by Jai Ambey Indochem Private Limited against the Respondent, Fuel Save Tech Private Limited.

3. Immediately thereafter, on the very same day, the Arbitral Tribunal issued the Notice of Arbitration under 5(c) of the Rules. to the parties for commencement of Arbitral Proceedings.


4. The Arbitral Tribunal has been constituted properly and in accordance with the Arbitration and Conciliation Act 1996, the INDRP Policy and the Rules as amended from time to time. No party has objected to the constitution and jurisdiction of the Arbitral Tribunal and to the arbitrability of the dispute.

IV. THE DOMAIN NAME, REGISTRAR & REGISTRANT

The particulars of the registration of the domain name www.fuelsave.co.in as found in the .IN Registry database are set out below:

- i. Disputed Domain Name : www.fuelsave.co.in
- ii. Creation Date : 09-05-2020
- iii. Registrant Organization : Fuel Save Tech Pvt. Ltd
- iv. Registrar : Endurance Digital Domain Technology Private Limited
- v. Registrar IANA ID : 801217

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vi. Registrar Abuse Contact Email: abuse@publicdomainregistry.com

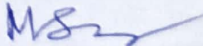
V. PROCEDURAL HISTORY

1. The Sole Arbitrator, Tmt.M.Shirijha was appointed On 24th January 2025 for the INDRP case no. 1899 regarding the Complaint dated October 2024 filed under the INDRP.
2. Immediately thereafter, on 24th January 2025, the Arbitral Tribunal issued the Notice of Arbitration under 5(c) of the Rules, to the parties for commencement of Arbitral Proceedings Respondent by email with the Complaint and Annexures enclosed and directed the Complainant to serve the said Notice to the Respondent both Online and Offline to the address mentioned therein. The Respondent was given an opportunity to file a response in writing in opposition to the Complaint, if any along with evidence in support of its stand or contention on or before seven working days from the date of receipt of the said Notice.
3. On 25th January 2025, the Complainant's Learned Counsel informed the Arbitral Tribunal that they have served the copy of the Complaint along with the annexures to the Respondent's E mail address as well as the physical copy to the Respondent's address and submitted the said delivery proof.
4. On 7th February 2025 the Complainant informed that the hardcopy of the complaint along with a complete set of documents have been delivered to the Respondent on 28.01.2025, & tracking receipt is submitted and accordingly, the service on the Respondent was done in accordance with Rule 2(a) of the Rules.
5. As The Respondent did not respond to the notice issued on 24th February 2025, it is held that In spite of sufficient opportunity given, respondent has not responded till date. Hence set exparte.

VI. COMPLAINANT'S CONTENTIONS

1. On the basis of usage since April 1st, 2014, the Complainant was granted trademark registration in the mark  on April 29, 2015 & copyright registration for its artistic work  on 09.10.2019. The Domain name www.fuelsave.in Was registered on 28-02-2016. On 09.05.2020, the Respondent registered the disputed domain name www.fuelsave.co.in, which is deceptively and confusingly similar to the

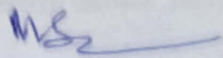
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Complainant's domain name. The disputed domain name is being used by the Respondent for selling similar goods like refractory coatings and Respondent's website includes deceptive references to "insulation" and "refractory coating," products that are prominently associated with the Complainant creates a likelihood of confusion among internet users, who may mistakenly believe that the Respondent's website is affiliated with or endorsed by the Complainant. It is noteworthy that Mr. Shashikant Gupta, an ex-employee of the Complainant, while managing sales and marketing during 2014 to December 2022, had complete access to sensitive information of the Complainant like technical know how, clients details & financial arrangements. While working with the Complainant, the disputed domain name was registered on 09.05.2020 & thereafter the Respondent company was incorporated on 23.05.2020, where Mr. Shashikant, his wife- Smt. Seema & some third persons maliciously adopted a company name FUELSAVE TECH PRIVATE LIMITED, which is deceptively and confusingly identical / similar to the Complainant's registered copyright and trademark. His wife- Smt. Seema Gupta was appointed as director of the Respondent on 18.11.2022, but she was already allotted 50% of the shares of the Respondent as early as 23.10.2021, while Mr. Shashikant was working with the Complainant. After forming the Respondent company, Mr. Shashikant Gupta and others acted on behalf of the Respondent & began approaching existing dealers and distributors of the Complainant by falsely representing themselves as being associated with the Complainant. The Complainant came to know about such dishonest infringement, passing off of the trademark and copyright around May 2023 when the Complainant received a letter and email dated 08.05.2023 from a third party- Premier Bars Limited, intimating the same, following which, the Complainant filed a criminal complaint against Mr. Shashikant Gupta & his wife registered as FIR No. 0223 of 2023 for the said fraudulent activities, despite which, the Respondent continues to mislead third parties by selling refractory coatings under its deceptively similar domain name and company name, both bearing the mark FUELSAVE. This has caused confusion in the market, as the Complainant is the prior and bona fide user of the FUELSAVE trademark. The Complainant has also filed a trademark infringement suit CS No. 7B / 2024- against the respondent, before the Commercial Court, Raipur (C.G.), & by order dated 16.08.2024, the Ld. Court had granted ad interim ex parte stay order & restrained Fuel Save Tech Private Limited from manufacturing, selling, displaying, using, promoting FUELSAVE or any similar mark in any form for any purpose. On 17.09.2024, the Complainant filed a formal complaint with the Public Grievance Redressal Officer at the NIXI, alleging that the Respondent's domain name "www.fuelsave.co.in" violated Sections IV and IV(b)(6) of NIXI's

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Anti-Abuse Policy, as it was deceptively similar to the Complainant's domain "www.fuelsave.in," causing market confusion. In response, NIXI closed the complaint stating that action could only be taken upon a court order, a government order, or similar authority, and advised filing a domain dispute under the INDRP Policy.



Hence this Complaint filed on the following grounds:

a) Confusing Similarity to the Complainant's Trademark (Clause 4(a) of the INDRP Policy)

The domain name www.fuelsave.co.in is confusingly similar to the Complainant's registered trademark "Fuelsave." The key and distinctive part of both the domain names and marks is the term "Fuelsave," which is identical and used in connection with similar products. The addition of the ".co.in" domain suffix does not distinguish the Respondent's domain from that of the Complainant's registered trademark or domain name (www.fuelsave.in). Even as of today, after doing a simple internet search for the terms 'FuelSave' and 'Coating fuel save' yields two primary results: one for www.fuelsave.in, the legitimate website of the Complainant, and another for www.fuelsave.co.in, the **Respondent's website, which** displays nearly identical content, including similar product offerings and design elements, which are likely to confuse and mislead consumers into believing that the Respondent's business is affiliated with or endorsed by the Complainant, damaging the Complainant's business and reputation. The domain name www.fuelsave.co.in was registered by the Respondent and is being used in bad faith in order to sell similar product i.e. refractory coating under similar mark "SAVEFUEL" in order to cause confusion among customers and capitalize on the Complainant's established goodwill in the "FuelSave" mark, & this is also evident from the stark similarities between the respective marks of the Complainant and Respondent, which is as follows:-

	Detail	Complainant Company	Respondent Company
1.	Incorporation Date	25.04.1989	23.05.2020


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2.	Trademark Logo		
3.	Trademark Status	Usage since 01.04.2014-registered Mark since 29.04.2015 & valid till 29.04.2035	Unregistered mark & dishonestly applied for registration in Class 2, however, application under objection
4.	User Detail of the Trademark Logo	In use since 1.04.2014 for manufacturing and <u>selling products like refractory coatings which falls under Class 17 category</u>	Trademark application applied on "proposed to be used basis" and presently selling like <u>refractory coatings, which falls under Class 17 category</u>
5.	Website	http://www.fuelsave.in	http://www.fuelsave.co.in/

This similarity is likely to mislead customers into believing that there is a connection between the Respondent and the Complainant. Instances of actual confusion are several, where customers have mistakenly assumed that the Respondent's products or website are associated with the Complainant.

b) Lack of Legitimate Interest (Clause 4(b) of the INDRP Policy)

The Respondent has no legitimate rights or interest in the domain name www.fuelsave.co.in. The Complainant's use and registration of the "Fuelsave" mark predates the Respondent's domain registration by several years and subsequent activities have been undertaken solely to benefit from the Complainant's established goodwill, which amounts to trademark infringement, passing off, and misrepresentation. The Respondent has not made any bona fide offering of goods or services that would establish legitimate rights to the disputed domain name.

c) Bad Faith Registration and Use (Clause 4(c) and Clause 7 of the INDRP Policy)


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The Respondent's registration and use of the domain name www.fuelsave.co.in constitute bad faith as it was registered with the intent to take unfair advantage of the Complainant's goodwill, as evidenced by the Respondent's similar offerings in the same product category (refractory coatings) and misleading representations made to third parties. Further it violates applicable laws by creating confusion in the marketplace and falsely representing an association with the Complainant. The use of a domain name identical to the Complainant's trademark constitutes passing off and misrepresentation, as customers are likely to assume that the Respondent's products are associated with the Complainant. The Respondent is unfairly benefiting from the Complainant's goodwill and established reputation in the marketplace. The domain registration coincides with the involvement of Mr. Shashikant Gupta, a former employee of the Complainant, who had access to confidential information, further suggesting bad faith intentions. The Respondent's continued use of the domain name has caused and continues to cause irreparable harm to the Complainant's business, reputation, and brand identity. Customers are being misled, and the Complainant's ability to promote its products is being hindered by the confusion created in the market.

Thus, in view of the aforementioned facts and grounds, the Complainant respectfully submits that the domain name be deleted or transferred to the Complainant in accordance with the INDRP Policy, and that appropriate relief be granted to prevent further misuse by the Respondent.

VII. DISCUSSIONS AND FINDINGS:

The Hon'ble Apex Court of India has repeatedly held that even in an uncontested matter the Plaintiff's case must stand on its own legs and it cannot derive any advantage by the absence of the defendants. Accordingly, A Complainant who alleges that the disputed domain name conflicts with its legitimate rights or interests must establish the following three elements required by Paragraph 4 of the INDRP Policy namely:

- a) The Respondent's domain name is identical and confusingly similar to the trademark or service mark in which the Complainant has rights.
- b) The Respondent has no rights or legitimate interests in respect of the domain name
- c) The Respondent's domain name has been registered or is being used in bad faith.

Accordingly, the Arbitral Tribunal shall deal with each of the elements as under:

a) Whether the Respondent domain name <www.fuelsave.co.in> is identical and/or deceptively similar to domain name and trademarks of the Complainant?

i) The Complainant provided evidence with the Annexures, to establish that the Disputed Domain name is identical or confusingly similar to the Complainant's registered and distinctive trademark

ii) The copy of the trademark registration certificate of Domain Name www.fuelsave.in and WHOIS records shows Complainant is the owner of the said trademark registrations in India.

iii) It is further evident from the WHOIS records that The disputed domain name by Respondent, i.e. trademark "<www.fuelsave.co.in>" was acquired long after the 'www.fuelsave.in' trademark was recognised.

iv) The Extensive Annexures shows that The Complainant holds 'FUELSAVE' trademark registrations in India and because of the extensive use and promotion of the 'FUELSAVE' trademark, the brand has gained recognition.

v) It is the contention of the Complainant that The subject domain name <www.fuelsave.co.in> is virtually identical to the trademark 'www.fuelsave.in' of the Complainant. It is true that the Domain name has the words 'fuelsave' identical to that of the Complainant's Domain name, with only an additional term "co." in it which goes to assume without a second thought that the subject domain name is highly similar in appearance, sight, sound, and connotation to Complainant's 'www.fuelsave.in' trade Mark, as claimed by them. Further the details furnished by the Complainant along with the supporting documents regarding the disputed domain name and that of theirs also confirms the market confusion due to the identical domain name of both.

vi) as the Complainant's Firm as per WHOIS records states that it was incorporated as early as on 25.04.1989 while the respondent's is done only on 23.05.2020, it cannot be assumed also that the Disputed domain name which has been registered at the later point of time has been done accidentally, considering the recognition the Complainant has got due to its long years of business activities. Moreover the Logo of the Respondent is more similar to

that of the Complainant's . Additionally, the business dealt by the Complainant is for manufacturing and selling products like refractory coatings while the Respondent is doing only selling of refractory coatings. The Complainant has filed documents showing The market confusion through letters and WhatsApp chats received from their customers, highlighting the misleading association between the Respondent and the Complainant. more particularly, the letter dated July 11, 2024, from M/s.D.P. Bansal Communications, and the WhatsApp chat dated July 17, 2024, Mr. Dean King, a marketing partner based in the United Kingdom, confirming that the Complainant's clients have been misled by the Respondent's website <www.fuelsave.co.in>, which closely resembles the Complainant's website <www.fuelsave.in>, which certainly would have hampered promotion of the Complainant's products.

vi) The Arbitral Tribunal took notice of the decision in Fendi Sr.I. v. Ndiaye Therese, WIPO Case No. D2018-0179; Birdies, Inc. v. Registration Private, Domains By Proxy, LLC/Fu Li, WIPO Case No. D2019- 2134, which through a catena of Orders passed by this Panel and WIPO (under the UDRP), states that domain extensions such as ".com" and ".in" are to be ignored while assessing whether a domain name is identical or confusing similar to a trade mark, the disputed domain name is regarded confusingly similar to that mark for the purposes of UDRP standing. The Arbitral Tribunal also took note of the decisions of WIPO Panel's in WhatsallJ2 Inc. v. Warrick Mulder, JNDRP Case No. 1233, dated July 22, 2020; Havells India Limited vs. Joio Alappat, INDRP Case No. 1025, dated October 4, 2018; Voltas Limited v. Sergi Avaliani, INDRP Case No. 1257, dated September 22, 2020; and be/N Media Group L.L.C v. Rima Muliawati WIPO Case No. D2021-1076 .

vii) Following the said dicta referred above, and upon the facts and circumstances of the present case and the evidence placed before it, The Tribunal finds that The subject domain name <www.fuelsave.co.in>. is virtually identical to the trademark 'FUELSAVE' of the Complainant. At the same time, it gives a room for suspicion whether the identical disputed domain name has been chosen and registered deceptively. As claimed by the Complainant while searching for FuelSave and 'coating fuel save' shows both the websites of Complainant and the Respondent, and it is pertinent to note that the stark resemblance between the two further would exacerbates consumer confusion. Both websites display nearly identical content, including similar product offerings and design elements, which are likely to confuse and mislead consumers into believing that the Respondent's business is affiliated with or endorsed by the

Complainant. This similarity between the websites is deceptive and has resulted in consumer confusion, damaging the Complainant's business and reputation. Taking into consideration the facts of the present case and the settled law on the issue, it is evident that the disputed domain name registered by the Respondent long after the registration of Complainant's domain name, establishes a likelihood of deceptive confusion with the Complainant's trademark and this would mislead the internet users as it is confusingly identical.

Accordingly, the Arbitral Tribunal holds that the requirement of the first element in the INDRP Policy Paragraph 4(a) is satisfied as the Respondent's domain name is confusingly similar to Complainant's registered and distinctive FUELSAVE' trademark.

b) Whether the Respondent has no rights or legitimate interests in respect of the domain name?

i) To pass muster under Paragraph 4(b) of the INDRP Policy, the Complainant has to show that the Respondent has no rights and legitimate interests in the disputed domain name under Paragraph 6 of the Policy.

ii) Evidence was provided by the Complainant to show that The Respondent is not affiliated with Complainant in any way and has never been authorised or licensed by Complainant to use or register its trademarks, or to seek registration of any domain name incorporating the trademark in question. It is the contention of the Complainant that their Ex-Employee Mr. Shashikant Gupta who managed sales and marketing during 2014 to December 2022, having complete access to sensitive information of the Complainant like technical know how, clients details & financial arrangements, had registered the disputed domain name on 09.05.2020 & thereafter the Respondent company was incorporated on 23.05.2020, where Mr. Shashikant, his wife- Smt. Seema & some third persons maliciously adopted a company name FUELSAVE TECH PRIVATE LIMITED, which is deceptively and confusingly identical / similar to the Complainant's registered copyright and trademark. They further contend that His wife- Smt. Seema Gupta was appointed as director of the Respondent on 18.11.2022, but she was already allotted 50% of the shares of the Respondent as early as 23.10.2021, while Mr. Shashikant was working with the Complainant and after forming the Respondent company, Mr. Shashikant Gupta and others acted on behalf of the Respondent & began approaching existing dealers and distributors of the Complainant by falsely representing themselves as being associated with the Complainant which The Complainant came to know around May 2023 and they filed a criminal

complaint against Mr. Shashikant Gupta & his wife registered as FIR No. 0223 of 2023 for fraudulent activities and infringing, passing off the Complainant's trademark & copyright; Despite that, the Respondent continues to mislead third parties by selling refractory coatings under its deceptively similar domain name and company name, both bearing the mark FUELSAVE, which caused confusion in the market, as the Complainant is the prior and bona fide user of the FUELSAVE trademark.

iii) To prove that the Respondent actions are most certainly not a bona fide offering of goods and services under Policy Paragraph 6 (a), and therefore domain name impersonates the Complainant's trademark, Reference has been made to the Annexures regarding the Complainant's trade mark Fuelsave and the Respondent's 'Savefuel' constitutes a clear attempt by the Respondent to mislead the public and deceive potential customers into purchasing products from the Respondent, assuming a false association with the Complainant's well-established 'FuelSave' brand. As claimed by the Complainant, The Respondent has registered the domain name knowing about the prior use and registration of the "Fuelsave" trademark by the Complainant considering the later stage of registration of disputed Domain name. the details of the Management people of the Respondent Company and their connection with the Complainant's firm as ex-employee, combined with its misleading marketing tactics, by approaching the existing clients and dealers of the Complainant demonstrates its deliberate attempt to confuse customers and exploit the reputation of the Complainant's well-established trademark.

(iv) Further evidences placed before the Tribunal shows that the Complainant has filed a trademark infringement suit CS No. 7B / 2024- against the Respondent before the Commercial Court, Raipur & inspite of the Stay Order dated 16.08.2024, the Respondent continued to do their illegal activities.

Accordingly, the Arbitral Tribunal finds that the Complainant has made out a prima facie case that the Respondent has no rights and legitimate interests in respect of the disputed domain name <www.fuelsave.co.in> as Complainant has never assigned, granted, licensed, sold, transferred, or otherwise authorised Respondent to register or use the Disputed Domain Name or the 'fuelsave' or 'Savefuel' Trademark and the same is also not used for making legitimate commercial use. Thus, it satisfies the second element under Paragraph 4 (b) of the Policy.

c) Whether the Respondent domain name was registered or is being used in absolute bad faith?

i) This Arbitral Tribunal has already held that the Disputed Domain Name is deceptively confusing and identical to that of the Complainant's for which the Respondent has no right or interest legally to do so and the Respondent has remained *ex parte* in the legal proceedings initiated against them and continued to do the same in spite of the Stay Order against them, which clearly goes to show the bad faith on their part..

ii) The Complainant provided the following reasons to show that the Respondent acquired the disputed domain name in bad faith-

Firstly, the Respondent used the www.fuelsave.co.in trademark without consent from the Complainant.

Secondly, Respondent was aware of Complainant's rights in its well-known trademark as a consequence of Complainant's substantial use of the trademark which predates before the Respondent acquired the domain name.

Thirdly, The domain name is only registered with no apparent legitimate purpose and holding on to the same with absolute no justification except to make wrongful profit therefrom. registration of identical domain name and carrying out a similar business soon after acquisition are evidence of bad faith registration.

Fourthly, The Respondent impersonated the Complainant's domain name www.fuelsave.in which demonstrates its purpose to deceive users for commercial benefit and to harm Complainant's business and also making illegitimate commercial gains by banking on the hard-earned goodwill and reputation of the Complainant which is done in bad faith.

In *HSBC Holding§ [!_lc v. Hooman Esmail Zadeh*, INDRP Case no 032, dated March 20, 2007; *Visteon Corporation v. Prahlad S.*, INDRP Case No. 1535, dated May 6, 2022; *Solidium Oy v. Privacy Service Provided by Withheld for Privacy ehfl EstormH Etormhosting. Estorm Programming*, WIPO Case No. D2022-3139; *LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf I Steffen Hain*, WIPO Case No. D2022-0542 it was held that "*the mere registration of an identical domain name by an unaffiliated entity can by itself create a presumption of bad faith*"

On careful consideration of the above findings, the Arbitral Tribunal accepts the

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contentions of the Complainant and holds that the Respondent domain name <www.fuelsave.co.in> has been registered with an opportunistic intention and is being used in bad faith. Therefore, the third element in paragraph 4(c) of the Policy has been satisfied.

VIII. DISPOSITIONS

The Arbitral Tribunal holds that The three elements set out in paragraph 4 of the INDRP Policy that

- i) The Respondent domain name <<www.fuelsave.co.in> is identical and confusingly similar to the name, trademark and brand name <www.fuelsave.in> by the Complainant.
 - ii) The Respondent has no rights or legitimate interests in the domain name <www.fuelsave.co.in> and
 - iii) the same has been registered in bad faith.
- have been established by the Complainant and hence It is entitled for the relief sought for.


For the foregoing reasons stated above, The Arbitral Tribunal directs that:
The Disputed Domain name <WWW.FUELSAVE.CO.IN> be transferred to the Complainant,

Place: Chennai

Dated: 24 February 2025

M.SHIRIJHA
Sole Arbitrator,

The Arbitral Tribunal.


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