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TVS Can Sell Original Flame



Clearing the decks for TVS Motor to manufacture and market its 125cc Flame, in its original form, the Madras High Court on Monday lifted an order of injunction which restrained the company from using internal combustion engine with three valves and two spark plugs. TVS now sells, Flame under a completely different technology as against the originally planned one.

Bajaj Auto Ltd had accused TVS Motor of copying its patented technology and moved the courts. In a petition, Bajaj claimed that though it had patent for an internal combustion engine with four stroke, two plugs and two valves configuration, TVS had infringed the rights as it had planned a new motorcycle with similar technology. On February 16, 2008, a single judge restrained TVS from using the technology on its new bike model.

On Monday, setting aside the order, a division Bench comprising justice S J Mukhopadhaya and Justice F M Ibrahim Kalifulla said photographs disclosed a marked difference between three valve configuration of TVS and the two valve configuration of Bajaj vis-a-vis the positioning of the twin plugs in the engine.

Concurring with the TVS' submission that its third valve is not merely a cosmetic change, the judges said improved internal combustion working on four stroke principle of Bajaj and the four stroke internal combustion engine with at least two inlet valve and one exhaust valve of TVS were distinct from each other and both were entitled to equal protection of the Patents Act. While Bajaj obtained patent for its engine, TVS said it possessed licence for the same technology from AVL of Austria. The judges said that since TVS was supported by valid patent as licensee no interim injunction should have been granted against it.

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