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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CS(COMM) 278/2025**

AHUJA RADIOS

.....Plaintiff

Through: Mr. Pravin Anand, Mr. Shobhit
Agarwal and Mr. Prajjawal,
Advocates

versus

M/S GOLDEN ELECTRONICS

.....Defendant

Through: None.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

% **28.03.2025**

I.A. 8182/2025 (pre-institution mediation)

1. The plaintiff, *vide* the present application under *Section 12A* of the Commercial Courts Act, 2015 read with *Section 151* of the Code of Civil Procedure, 1908 ('CPC'), seeks exemption from pre-litigation mediation.
2. Considering the averments made in the present application, as also since the plaintiff is simultaneously seeking *ex parte ad interim* injunction, and in view of the order passed by the Hon'ble Supreme Court in ***Yamini Manohar v. T.K.D. Krithi*** 2024 (5) SCC 815, which has been followed by a Division Bench this Court in ***Chandra Kishore Chaurasia v. R. A. Perfumery Works Private Limited*** 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.
3. Accordingly, the present application stands disposed of.

I.A. 8180/2025-Exp

4. Exemption allowed, subject to all just exceptions.

5. The application stands disposed of.

I.A. 8183/2025-(Exp from advance service to the defendant)

6. The plaintiff, *vide* the instant application, seeks exemption from effecting advance service on the defendant.

7. As per the learned counsel for plaintiff, considering the position involved, particularly since appointment of Local Commissioner(s) for execution of search and seizure at the defendant's premises is being sought, there is a strong likelihood that the apprehensions of the plaintiff will become a reality in case advance service is effected, an exemption from effecting advance service is necessary. He further submits that if this Court were to grant an injunction after hearing the defendant, recall of such infringing products from the market would be an arduous task and the same would severely prejudice the plaintiff.

8. For the reasons stated in the application and taking into account the aforesaid factors alongwith the factual matrix involved and in the interest of justice, the plaintiff is granted exemption from effecting advance service upon the defendant.

9. Accordingly, the present application is allowed and disposed of.

I.A. 8181/2025-(Addl.doc)

10. The plaintiff, *vide* the instant application under *Order XI Rule 1(4)* read with *Section 151* of the CPC, seeks leave of this Court to file additional documents.

11. The plaintiff will be at liberty to file additional documents at a later stage, *albeit*, after initiating appropriate steps, strictly as per the provisions of the Commercial Courts Act, 2015 read with *Section 151* of the CPC and the Delhi High Court (Original Side) Rules, 2018.

12. Accordingly, the present application stands disposed of.

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13. The plaintiff seeks grant of permanent injunction for infringement and passing off of trademark, copyright, delivery up, rendition of accounts and damages.

14. Let the plaint be registered as a suit.

15. Upon filing of the process fee, issue summons of the suit to the defendant through all permissible modes, returnable before the learned Joint Registrar on 15.07.2025.

16. Needless to say, it shall be specified in the summons that the written statement shall be filed by the defendant within a period of *thirty days* from the date of the receipt of the summons. Written statement shall be accompanied by affidavit(s) of admission/ denial of documents of the plaintiff, without which the written statement shall not be taken on record.

17. Replication thereto, if any, be filed by the plaintiff within a period of *fifteen days* from the date of receipt of written statement. The said replication, if any, shall also be accompanied by affidavit(s) of admission/ denial of documents filed by the defendant, without which the replication shall not be taken on record within the aforesaid period of *fifteen days*.

18. If, and when, any of the parties wish to seek inspection of any document(s), the same shall be sought and given within the requisite timelines.

19. List before the learned Joint Registrar for marking exhibits of documents on 15.07.2025. It is made clear that if any party unjustifiably denies any document(s), then such party would be liable to be burdened with costs.

20. List before the Court 05.08.2025.

I.A. 8178/2025 (Order XXXIX rule 1 & 2 CPC, 1908: Stay)

21. The plaintiff, *vide* the present application, seeks to restrain the defendant from infringing upon the impugned trademarks namely 'AHUJA' and/ or AHUJA DEVICE **AHUJA**® registered in the plaintiff's name.

22. As per pleadings before this Court and arguments addressed in support thereof by the learned counsel for plaintiff, the case of the plaintiff is as under:-

22.1 The plaintiff is a partnership firm registered under the Indian Partnership Act, 1932, engaged in the business of developing, manufacturing, marketing and exporting a variety of Public Address Systems and Audio Equipment including amplifiers, mixers, microphones, Portable PA and speakers, under the mark 'AHUJA' since 1940.

22.2 The plaintiff was set up by its founder Shri Amar Nath Ahuja in the year 1940, who adopted the name 'AHUJA' as a trademark. The plaintiff is presently the number one provider of Public Address Systems and Audio Equipment in India and today the plaintiff claims to have over 600 authorised dealers/ retailers in over 50 countries and 5 continents.

22.3 The plaintiff also claims to have set up its Public Address Systems and Audio Equipment in various places of public importance, such as, the Indian Parliament (Lok Sabha), Indian Railways, Indian Air Force, Indian Space Research Organisation, Bhabha Atomic Research Centre, Mumbai, the *Kumbh Mela* etc.

22.4 The plaintiff's mark 'AHUJA' is not only an essential and dominant

part of its corporate name but is also a house mark. In fact, in order to strengthen the same, it has also acquired registrations of the mark 'AHUJA' (word per se) dating back to the year 1948 under Class 9 and **AHUJA** (device) in the year 1976 under Class 9, as per details entailed in paragraph 8 of the plaint. The mark 'AHUJA' is also claimed to be registered in more than 26 countries across the world.

22.5 The plaintiff has acquired significant goodwill and recognition in the market *qua* the registered trademark 'AHUJA'. The plaintiff has been honoured with many excellency awards and recognitions for its high-quality sound products and outstanding performance in the field of Public Address Systems and Audio Equipment.

22.6 In order to cater to its customers wide ranging needs, the plaintiff has been continuously developing new and improved Public Address Systems and Audio Equipment through research and development, for which it deploys highly qualified personnel as also has set up a computerized design and testing facility consisting of four electro acoustics and an anechoic chamber. Further the plaintiff's official Research and Development Centre in New Delhi has been recognized by the Government of India.

22.7 Ever since its inception, the plaintiff has spent tremendous time, effort, and resources for promoting and marketing its registered trademarks 'AHUJA', *via* newspapers, magazines, journals etc. therefore, contributing substantially towards the plaintiff's goodwill. The plaintiff has also been awarded with various business recognition and excellency awards for its high-quality sound products and outstanding performance in

the field of Public Address Systems and Audio Equipment.

22.8 The goodwill and reputation of the plaintiff can also be gauged from the annual sales turnover recorded against the plaintiff's goods. The plaintiff has clubbed a sale turnover of Rs.1,000 crores for the financial year 2023-2024.

22.9 The defendant operates as a partnership firm trading under the name M/s Golden Electronics, engaged in the business of supplying various electronic products including amplifiers, speakers, car audio, microphones, home theatres, and DJ systems of several third-party companies under their respective brand names including 'AHUJA', 'PA AUDIO', 'JBL', 'SHURE', 'NUMARK', etc. The defendant is also listed on various online trade directories such as JustDial, IndiaMart, Magicoin, Helloindia, Asklaila, Hindustan Yellow Pages and Mumbai.idbfin.



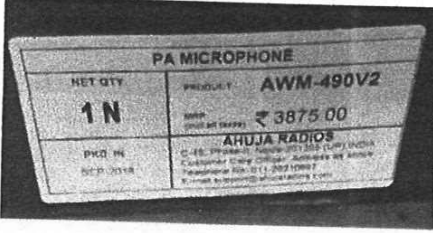
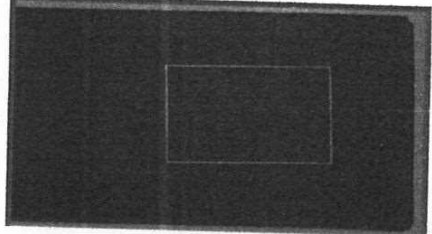
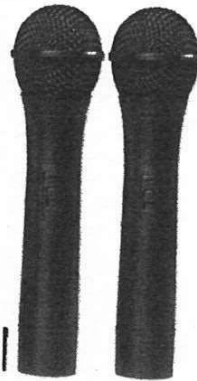
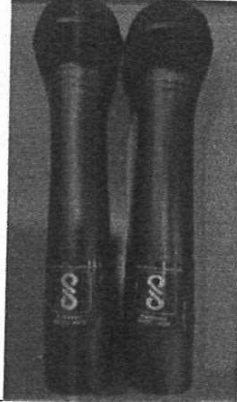
22.10 The plaintiff, became aware of the defendant's infringement in the month of February, 2025, when the plaintiff's representatives discovered counterfeit products bearing the plaintiff's trademark 'AHUJA'. The plaintiff through its authorised representatives conducted an enquiry wherein, it procured one *AHUJA - AMW-490V2 Dual PA Wireless Microphone* for Rs.3800/- with invoice bearing number 052 from the defendant bearing the plaintiff's trademark and device 'AHUJA'. A detailed technical analysis conducted by the plaintiff revealed that the product purchased from the defendant was indeed a counterfeit.

23. In the wake of the above, the plaintiff has instituted the captioned suit against the defendant wherein the present application has been filed.

24. This Court has heard the submissions advanced by the learned counsel for the plaintiff and gone through the pleadings as also perused

the documents on record.

25. Based on what is before this Court, given hereinbelow is the comparative table of the competing marks of the parties as under:-

Plaintiff's Original Product	Defendant's Counterfeit Product
	
a. The AHUJA logo on the top left corner of the packaging of impugned product sold by the Defendant is not of the correct dimension and proportion.	
	
b. There is no MRP label on the packaging of the impugned product.	
	
c. The two handheld microphones contains labels/stickers, which are not put on the original	

26. As clearly apparent from the aforesaid, the defendant has not left any stone unturned to come as close as possible to the plaintiff and its

products as it has copied every minute detail from that of the plaintiff. Having done so, the same leaves no manner of doubt in the minds of any layman to draw an inference that there is no difference *inter se* the plaintiff and its product with that of the defendant and its product. This Court would not be wrong in saying that the impugned mark of the defendant is *identically similar* in all respects to that of the plaintiff as there is/ are hardly any, in fact no such, visible difference(s) *inter se* the two to the visible eye. So much so, the defendant has used the very same mark, very same font, very same colour combination, the very same style of writing as also the very same logo as that of the plaintiff.

27. Nobody can fathom to infer and/ or decipher if the two marks are coming from two separate houses. All the aforesaid coupled with the fact that the defendant is also manufacturing, offering and selling the very same products as that of the plaintiff and is operating using the same trade channels and is targeting the same class of purchasers, reflect and lead to the conclusion that the defendant has deliberately and with *mala fides* chosen to do so. Under the facts herein, this Court can safely conclude that the defendant has chosen to do so with a clear view to come as close as possible to the plaintiff and give an overall impression to the general public and also to the members of the trade as also, by all means, to take advantage of the already well-established reputation and goodwill of the plaintiff associated with its aforesaid registered trademark. More so to, in all possible manners, confuse the common layman on the street into believing that the defendant and its products offered and sold under the impugned mark, which is identically similar to that of the plaintiff in all respects, are emanating from the house of the plaintiff itself.

28. These are all clear acts of violation of the rights of the plaintiff and if permitted to continue, the same shall erode the well-established goodwill and reputation of the plaintiff.

29. In view of the aforesaid, the *balance of convenience* and probabilities heavily tilt in favour of the plaintiff for grant of an *ex parte ad interim* injunction in its favour and against the defendant. So much so, as per the existing circumstances, the plaintiff has been able to make out a *prima facie* case in its favour and against the defendant as well. Therefore, allowing the defendant to continue using the impugned mark, which is identically similar to that of the registered trademark 'AHUJA' of the plaintiff, is prone to cause *irreparable harm, loss and injury* to it.

30. Accordingly, till the next date of hearing, the defendant, his principal officers, partners, servants, representatives, agents, distributors and any other persons acting for and on behalf of the defendant are restrained from dealing in any goods under the trademark 'AHUJA' and/or AHUJA DEVICE **AHUJA** or any other trade mark/ device/ logo deceptively similar to the plaintiff's trademark, as the same is/ are identical with or confusingly/ deceptively similar to the plaintiff's registered trademark or doing any other act as is likely to lead to infringement of registered trademark of the plaintiff and passing off its infringing goods as those originating from the plaintiff in any manner whatsoever.

31. Upon filing of the process fee, issue notice to the defendant by all permissible modes returnable before the Joint Registrar on 15.07.2025.

32. Reply, if any, be filed within a period of *thirty days* from the date of

service. Rejoinder thereto, if any, be filed within a period of *fifteen days* thereafter.

33. The provisions of *Order XXXIX rule 3 CPC* be complied within one week from the receipt of this order.

34. List before the Court on 05.08.2025.

I.A. 8179/2025 (*Order XXVI Rule 9 CPC, 1908: Appointment of Local Commissioner*)

35. The plaintiff, *vide* the present application, is seeking appointment of a Local Commissioner to visit the premises of the defendant.

36. Learned counsel for the plaintiff submits that the defendant is aware of the plaintiff and their products and the infringing materials placed on record are clear evidence of the intention of the defendant to ride upon the goodwill and reputation of the plaintiff. The plaintiff believes that the infringing products are sold/ manufactured at the location set out in the memo of parties annexed with the plaint and the defendant is likely to remove all physical evidence or deny their involvement in the infringing activities.

37. In view of the aforesaid as also considering the factual matrix involved, and most relevantly, in order to preserve the counterfeit and infringing materials involved, in the considered opinion of this Court, it is deemed appropriate to appoint a Local Commissioner to visit the premises of the defendant.

38. Accordingly, Mr. Anum Hussain, Advocate [+91-9955237440] is appointed as Local Commissioner with a direction to visit the premises of the defendant at M/s Golden Electronics, at Shop No 1, Ground Floor, Shop, 290, Lamington Road, Grant Road East, Mumbai, Maharashtra-400

007.

39. The Local Commissioner is to execute the commission at the premises of the defendant with the following directions:-

a. The Local Commissioner be accompanied by a representative and/ or its counsel, who shall be permitted to enter into the premises of the defendant as per the address hereinabove.

b. The Local Commissioner to seize, pack and seal the infringing products and handover the same on *Superdari* to the defendant upon the defendant giving an 'Undertaking' that he shall not tamper with or remove the sealed products as also shall in compliance of the order of this Court, as and when passed, produce the sealed products under *Superdari*.

c. The Local Commissioner is permitted to take photocopies and/ or screenshots of all the books of accounts including ledgers, cashbooks, bill books, purchases and sales records or any document(s) deemed necessary and found in the premises of the defendant, etc. for placing the hard copies or e-copies thereof on record.

d. The Local Commissioner is permitted to make video recording of execution of the commission at the premises of the defendant in compliance of the present order.

e. The Local Commissioner is permitted to take the assistance of the Station House Officer [SHO] of the local Police Station within whose jurisdiction the premises of the defendant is situated. The said SHO is directed to render and

provide all and every necessary assistance and protection to the Local Commissioner, if as and when sought for ensuring unhindered and effective execution of the commission at the premises of the defendant in compliance of the present order.

f. If the premises of the defendant is found under lock(s), the Local Commissioner is permitted to break open the said lock(s) in the presence of the SHO/ any designated police officer from the local Police Station.

40. The fee of the Local Commissioner is fixed at *Rupees Two Lakh Only [Rs.2,00,000/-]* in addition to all the related expenses for travel as also any other miscellaneous out of pocket expenses for the execution of the commission. All the aforesaid expenses shall be borne by the plaintiff and paid in advance to the Local Commissioner.

41. The commission be executed within a period of *ten days* from today, i.e. on or before 07.04.2025.

42. The report of the Local Commissioner be filed within a period of *two weeks* from the execution of the commission.

43. A copy of this order be provided to the Local Commissioner named hereinabove.

44. Accordingly, the application is allowed and disposed of.

Dasti.

MARCH 28, 2025/So

