

**IN THE COURT OF SHRI RAJ KUMAR: DISTRICT JUDGE,
(COMMERCIAL COURT)-01, SOUTH-WEST DISTRICT
DWARKA COURTS: DELHI.**

CS (COMM) No. 33/2026
CNR No. DLSW01-000988-2026

In the matter of :

**M/s DELIUS PHARMACEUTICALS
PVT. LTD.**

.....PLAINTIFF

versus

M/s BIZCOVERY PRIVATE LIMITED

....DEFENDANT

14.08.2026

ORDER

1. Vide this order I shall dispose off the application under Order VII Rule 11 of CPC filed by the defendant for rejection of the plaint in the present suit for seeking reliefs of Mandatory and Permanent Injunctions.

**CASE OF THE DEFENDANT AS CONTAINED IN THE
ABOVE SAID APPLICATION**

2. The defendant, in the said application, under Order VII Rule 11 of the CPC has stated that the suit for Permanent and Mandatory Injunctions instituted by the plaintiff is not maintainable as the plaint fails to disclose any cause of action against the defendant. It has been further stated that the present suit is barred for non-compliance of Section 12-A of Commercial Courts Act, 2015 as the plaintiff,

admittedly, has failed to avail the remedy of pre-institution mediation.

3. The defendant, in the said application, has further stated that the suit instituted by the plaintiff does not contemplate any grave or urgent interim relief that may warrant by-passing the statutory requirement under Section 12-A of the C.C. Act. Relying upon the ratio of the judgments titled as '*M/s Patil Automation Private Limited & Ors. Vs. Rakheja Engineers Pvt. Ltd.*' cited as (2022) 11 SCR 808 and the judgment titled as '*M/s Dhanbad Fuels Private Limited Vs. Union of India & Anr.*' cited as '(2025) 6 SCR 431', the defendant has argued that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to by-pass the mandatory requirement of the Section 12-A of the C.C. Act 2015. It has been prayed that the plaint instituted by the plaintiff under Order VII Rule 11 of the CPC be dismissed.
4. In support of its contentions, as contained in the said application, the defendant has also relied upon a number of judgments such as:
 - i. *Exclusive Capital Ltd. Vs. Silver & C.Z. International*', 2025:DHC:3212-DB;
 - ii. '*Rakesh Mendiratta Vs. Asian Hotels (North) Limited & Anr.*', (2025) SCC OnLine Del 6789; and,
 - iii. '*Victor Fernandes & Ors. Vs. Raghav Bahl of Noida & Ors.*, MANU/MH/1840/2011'.

**CASE OF THE PLAINTIFF AS CONTAINED IN THE REPLY
TO THE ABOVE SAID APPLICATION**

5. The plaintiff, in the reply to the above said application, has stated that the present suit is not barred for non-compliance of provisions of Section 12-A of the Commercial Courts Act 2015 because in view of the relief claimed in the plaint as well as in the application under Order XXXIX Rules 1 & 2 of CPC, there was no requirement for pre-institution mediation as per law. It has been denied that the suit does not contemplate any grave or urgent interim relief, thus, warranting the by-passing of the mandatory requirement under Section 12-A of the C.C. Act.
6. The plaintiff, in the reply to the said application, has further stated that the judgments relied upon by the defendant, in the said application, are not applicable to the facts and circumstances of the present case as the facts involved in the above said cases were not containing any prayer for grant of injunction. It has been prayed that the application filed by the defendant be dismissed.
7. I have carefully gone through the entire material available on record and heard the rival submissions of Ld.counsels for both the parties. I have also meticulously perused the case law relied upon by both the parties.

PLEADINGS OF THE PARTIES IN BRIEF

8. The plaintiff M/s Delius Pharmaceutical Pvt. Ltd. has instituted the present suit seeking the reliefs of Mandatory and Permanent Injunctions against the defendant M/s Bizcovery Pvt. Ltd. on the ground that in pursuance to the

issuance of a proforma invoice dated 13.08.2025 qua 1000 kgs of Azithromycin IP by the defendant company and in pursuance to the Purchase Order dated 25.08.2025 placed by the plaintiff company upon the defendant company, the defendant company sent only 600 kgs of Azithromycin IP to the plaintiff company instead of 1000 kgs of Azithromycin IP. It has been further stated that surprisingly, the defendant company issued two separate invoices, both dated 26.08.2025, each qua 500-500 kgs of Azithromycin IP, whereby, the defendant illegally tried to show a fake sale of 1000 kgs of Azithromycin IP to the plaintiff company.

9. The plaintiff company, in the plaint, has further asserted that it kept on requesting the defendant either to supply the remaining 400 kgs of Azithromycin IP or to take back 600 kgs of Azithromycin IP, which was lying unused with the plaintiff company. The plaintiff company has further stated that vide email dated 06.10.2025, Sh. B. Vijay Krishna Singh, from the defendant company admitted that against the above said two wrong invoices, both dated 26.08.2025, the defendant company had only sent 600 kgs of Azithromycin IP to the plaintiff company. It has been further stated that Sh. Digvijay Kumar Srivastava, the Director of the plaintiff company, received a whatsapp message on 02.12.2025 from Ms. Anandmayi Priyadarshini from the defendant company stating therein that within a period of 2-3 days, the defendant company

shall send its Executive namely Mr. B. Rajesh Singh with the loading vehicle to collect 600 kgs of Azithromycin from the plaintiff company along with a debit note of Rs.1,51,34,680/-. It has been further stated that on 05.12.2025, the plaintiff company again received the whatsapp message from Ms. Anandmayi Priyadarshini from the defendant company saying therein that Mr. B. Rajesh Singh, the Executive of the defendant company shall reach the plaintiff company around 2 PM for collection of 600 kgs of Azithromycin. It has been further stated that Mr. B. Rajesh Singh came and took back 600 kgs of Azithromycin IP along with a debit note of Rs.1,51,34,680/- issued by the plaintiff company by loading the material in a tempo. It has been further stated that Ms. Anandmayi Priyadarshini acknowledged the receipt of said material on 05.12.2025 and assured the plaintiff to issue a credit note for the said amount.

10. The plaintiff, in the plaint, has alleged that despite receiving back 600 kgs of Azithromycin IP, the defendant company sent a false and fraudulent notice under Section 8 of Insolvency and Bankruptcy Code, 2016 dated 06.12.2025, which was received by the plaintiff company via email dated 12.12.2025, thereby, demanding the payment of alleged operational debt on the basis of two false and fabricated invoices dated 26.08.2025. It has been further stated that the above said notice was duly replied by the plaintiff company vide reply dated 18.12.2025.

11. It has been further stated that the defendant company, through its Directors and employees, has been threatening that they will defame the plaintiff company by sharing the false and frivolous notice under Section 8 of IBC in different whatsapp groups of pharma companies at Delhi and tell everyone that the plaintiff company was going to be declared a bankrupt company as the defendant company was going to initiate the proceedings under the IB Act 2016 against the plaintiff company.
12. The plaintiff company, in the prayer clause of the present suit, has sought for the relief of Mandatory Injunction directing the defendant company to issue a credit note for the amount of Rs. 1,51,34,680/-. The plaintiff company has also prayed for a decree of Permanent Injunction restraining the defendant company and its Directors etc. from sharing or uploading the copy of the said notice under Section 8 of IBC on whatsapp groups and internet.
13. The plaintiff company has also filed an interim application under Order XXXIX Rules 1 & 2 of CPC along with the main suit seeking the ad-interim reliefs of injunction, in consonance with the prayer clause of the plaintiff, as contained in the main suit.
14. Written statement has been filed on record by the defendant company admitting therein that the defendant company had raised the two invoices, both dated 26.08.2025, upon the plaintiff company for the supply of 1000 kgs of Azithromycin IP. However, the defendant

company has taken the stand that the plaintiff company has cooked up a false and fabricated story of returning 600 kgs of the material on 05.12.2025 based on forged and fabricated whatsapp chats. The defendant company has taken the stand that it had supplied 1000 kgs of Azithromycin IP to the plaintiff company against the Purchase Order issued by the plaintiff company and raised the two invoices dated 26.08.2025, each for 500 kgs of Azithromycin IP. The defendant company has denied the email dated 06.10.2025 allegedly issued by Mr. B. Vijay Krishna Singh from the defendant company admitting that against the two invoices, both dated 26.08.2025, only 600 kgs of Azithromycin IP was supplied. The defendant company has taken the stand that the alleged whatsapp messages dated 02.12.2025 and 05.12.2025, allegedly sent by Ms. Anandmayi Priyadarshini from the defendant company are forged and fabricated.

15. The defendant company, in the written statement, however, has admitted the issuance of the notice under Section 8 of IB Code, 2016 to the plaintiff company. The defendant company has taken the stand that neither the suit of the plaintiff company is maintainable nor the application under Order XXXIX Rules 1 & 2 of CPC instituted by the plaintiff along with the suit is maintainable.

ANALYSIS AND FINDINGS

16. So far as the law pertaining to Section 12-A of Commercial Court Act 2015 is concerned, it has already

been held in a catena of judgments that the above said Section 12-A of C.C. Act is mandatory and the above said provision can only be dispensed with, only if some relief in the nature of an urgent interim relief has been sought for by the plaintiff. It has also been held that the urgent interim relief must not be merely an unfounded excuse by the plaintiff to by-pass the mandatory requirement of Section 12-A of the C.C. Act. The Hon'ble Supreme Court of India in the judgment titled as '***M/s Patil Automation Private Limited & Ors. (Supra)***', has observed as under:

84. Having regard to all these circumstances, we would dispose of the matters in the following manner. We declare that [Section 12A](#) of the Act is mandatory and hold that any suit instituted violating the mandate of Section 12A must be visited with rejection of the plaint under Order VII Rule 11. This power can be exercised even suo moto by the court as explained earlier in the judgment. We, however, make this declaration effective from 20.08.2022 so that concerned stakeholders become sufficiently informed. Still further, we however direct that in case plaints have been already rejected and no steps have been taken within the period of limitation, the matter cannot be reopened on the basis of this declaration. Still further, if the order of rejection of the plaint has been acted upon by filing a fresh suit, the declaration of prospective effect will not avail the plaintiff. Finally, if the plaint is filed violating Section 12A after the jurisdictional High Court has declared Section 12A mandatory also, the plaintiff will not be entitled to the relief.

17. The Hon'ble Supreme Court of India in the judgment titled as '***Novenco Building And Industry A/S Vs. Xero Energy Engineering Solutions Private Ltd***' cited as ***2025 SCC Online SC 2278***, has observed as under :

20. The legal test distilled from the aforesaid decisions for the purposes of rejection of the plaint and for adjudication of interim relief can be culled out as follows:

(i) Section 12A mandatorily requires pre-institution mediation for commercial suits, non-compliance of which would ordinarily render the plaint institutionally defective.

(ii) A plaintiff can be exempted from the requirement of Section 12A only when the plaint and the documents attached with it clearly show a real need for urgent interim intervention. A wholesome reading of the plaint and the material annexed to the plaint ought to disclose the need for urgent relief.

(iii) The court must look at the plaint, pleadings and supporting documents to decide whether urgent interim relief is genuinely contemplated. The court may also look for immediacy of the peril, irreparable harm, risk of losing rights/assets, statutory timelines, perishable subject-matter, or where delay would render eventual relief ineffective.

(iv) A proforma or anticipatory prayer for urgent relief used as a device to skip mediation will be ignored and the court can require the parties to comply with [Section 12A](#) of the Act.

(v) The court is not concerned with the merits of the urgent relief, but if the relief sought seems to be plausibly urgent from the standpoint of the plaintiff the court can dispense with the requirement under [Section 12A](#) of the Act.

18. Now coming to the factual gamut, involved in the present suit, as stated herein above, the issuance of the two invoices, both dated 26.08.2025, raised by the defendant company upon the plaintiff company, is not in dispute. The dispute is as to whether by way of the above said two invoices, the defendant company only supplied 600 kgs of

Azithromycin IP to the plaintiff company and raised the above said two invoices, each for 500 kgs of Azithromycin IP, as is the case of the plaintiff or as to whether, the defendant company, infact supplied the correct quantity of 1000 kgs of Azithromycin IP to the plaintiff company. The said controversy can only be decided only after evidence and trial.

19.The further dispute is that as to whether the whatsapp messages dated 02.12.2025 and 05.12.2025, allegedly issued by Ms. Anandmayi Priyadarshini from the defendant company are the whatsapp messages, which were sent from the defendant company as has been claimed by the plaintiff or as to whether the above said whatsapp messages are forged and fabricated, as has been claimed by the defendant. The notice under Section 8 of IB Code 2016 issued by the defendant is not in dispute. Though, the plaintiff has not placed on record anything to show that the above said notice was threatened to be shared on the different whatsapp groups of pharma companies at Delhi but there is a categorical assertion on this aspect of the matter in the plaint by the plaintiff.

20.The present suit is accompanied by the application under Order XXXIX Rules 1 & 2 of CPC and the above said application is still pending disposal.

21.In the light of the above said factual gamut, the pleadings of the parties, the whatsapp messages dated 02.12.2025 and 05.12.2025 and the admitted notice under Section 8 of

the IB Code 2016 issued by the defendant, I am of the opinion that it cannot be said that urgent relief sought for by the plaintiff is merely a device to by-pass the mandatory provision of Section 12-A of the Commercial Courts Act 2015. Needless to mention that the authenticity and genuineness of the whatsapp messages dated 02.12.2025 and 05.12.2025, allegedly issued by Ms. Anandmayi Priyadarshini from the defendant company, can be decided only after evidence and trial. However, the defendant has not denied that there is no employee / officer with the defendant company by the name of Ms. Anandmayi Priyadarshini. The notice under Section 8 of the IB Code 2016 issued by the defendant is the admitted document. As such, *I have no hesitation to hold that the present application under Order VII Rule 11 of CPC filed by the defendant, at this stage, is without any merits and resultantly, the same is hereby dismissed.*

**Announced in the open Court
on 14th August 2026**

**(RAJ KUMAR)
District Judge, (Commercial Court)-01
South West District, Dwarka Courts
New Delhi**