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

+ **CS(COMM) 530/2025**

ALKEM LABORATORIES LIMITED

.....Plaintiff

Through: Ms. Tusha Malhotra and Ms. Tanvi
Bhatnagar, Advocates

versus

BRUVENTIS HEALTHCARE PVT. LTD. & ANR.Defendants

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

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27.05.2025

I.A. 13583/2025 (Section 149 read with Section 151 CPC, 1908)

1. The plaintiff, vide the present application under Section 151 of the Code of Civil Procedure, 1908 (CPC), seeks an extension of time for filing the deficit court fee.

2. Learned counsel for the plaintiff seeks and is granted three days to file the deficit court fees.

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

I.A. 13581/2025 (Section 12A CCA, 2015)

4. 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), is seeking exemption from instituting pre-litigation mediation.

5. Considering the averments made therein and as the plaintiff is seeking an *interim* relief and in view of the judgment passed by the



Hon'ble Supreme Court in ***Yamini Manohar v. T.K.D. Krithi*** 2024 (5) SCC 815 and followed by a Division Bench of this Court in ***Chandra Kishore Chaurasia vs. R. A. Perfumery Works Private Limited*** 2022:DHC:4454-DB, the plaintiff is exempted from instituting pre-litigation mediation.

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

I.A. 13582/2025 (*For exemption*)

7. Exemption allowed, subject to all just exceptions.

8. The application stands disposed of.

I.A. 13580/2025 (*Leave to file additional documents*)

9. The plaintiff, *vide* the present application under *Order XI Rule 1(4)* read with *Section 151* of the CPC, seeks leave of this Court to file additional documents at a belated stage.

10. 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.

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

CS(COMM) 530/2025

12. The plaintiff, by way of the present plaint seeks grant of permanent injunction restraining the infringement of trademark, copyright, trade dress, passing off, rendition of accounts and damages.

13. Let the plaint be registered as a suit.

14. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes, returnable before the learned Joint Registrar on 27.08.2025.



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

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

17. 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.

18. List before the learned Joint Registrar for marking exhibits of documents on 27.08.2025. It is made clear that if any party unjustifiably denies any document(s), then it would be liable to be burdened with costs.

I.A. 13579/2025 (Order XXXIX rule 1 & 2 CPC: Stay)

19. The plaintiff, by way of the present application, seeks an *interim*

injunction restraining the defendants from using the marks



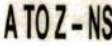
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“Bruventis AZ Syrup”,



/ “Bruventis AZ Tablet” or any other identical/ deceptively similar mark thereby violating plaintiff’s registered



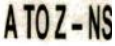
trademarks  / “A TO Z” ,  , “A to Z NS” and its variants, and also seeks to restrain the defendants from using the trade dress(es)/

packaging  ,  ,  or any other trade dress(es)/ packaging which is confusingly/ deceptively similar to

plaintiff's trade dress(es)  ,  ,  ,  ,  ,  ,  thereby infringing plaintiff's copyright.

20. As per pleadings, the plaintiff/ Alkem Laboratories Limited is a company incorporated in the year 1973 under the Companies Act, 1956, and is engaged in the business of research and development, manufacturing, marketing, distribution and selling of pharmaceuticals products in India and in the international markets. The plaintiff has wide-ranging presence across acute and chronic therapeutic segments with substantial market share in Gastro-intestinal, Anti-osteoporosis, Nutraceutical and Pain management segments and leads the Indian market in the Anti-infective segments.



21. The plaintiff had adopted the marks  / “A TO Z” and  , “A to Z NS” in the year 1998 and 2008 respectively and since their respective adoption, has been using these marks continuously and extensively for its products i.e. tablets, syrups, oral drops. Moreover, the plaintiff has adopted the different variations of the mark “A to Z” and has obtained the registrations thereof, the details of which are set out in paragraph 13 of the plaint.

22. Further, in the year 1998, the plaintiff (through its employee) created a distinctive logo  which has been in continuous use for its products. The plaintiff also introduced unique trade dress(es)/ packaging incorporating its trademarks and is the rightful owner of the aforesaid artistic works under the Copyright Act, 1957. The details of the plaintiff’s copyright registrations have been set out in paragraphs 18-27 of the plaint.

23. Moreover, by virtue of extensive sales and promotion, the aforesaid trademarks and trade dress(es) of the plaintiff have acquired a formidable reputation all over the country and the plaintiff has earned huge profit therefrom.

24. The defendant no.1/ Bruventis Healthcare Pvt. Ltd., as per information available at its website was founded in year 2008 and is a pharmaceuticals company engaged in modern branded generic pharmaceuticals products. The company’s registered office is located at A-29, B-1 Extension, Mohan Cooperative Industrial Estate, Badarpur, New Delhi-110 044.

25. The defendant no.2/ Mis Neutragen Healthcare LLP, having its office at Plot No.567, Phase-5, Sector-56, Kundli Industrial Estate,



Haryana and at Plot No.334, Phase 4, HSIIDC, Sector-5 7, Kundli, Sonapat Haryana-131028, is engaged in the business of manufacturing Ayurvedic products in India.

26. It is the case of the plaintiff that in and around third week of December 2024, it came across the products of defendants bearing the



marks / “Bruventis AZ Syrup”,



/ “Bruventis AZ Tablet”

which were conceptually, phonetically, deceptively, structurally and confusingly similar to the plaintiffs “A TO Z” mark and its variants and the said products were sold under the trade dress(es)/ packaging(s) which were also deceptively similar to plaintiff’s trade dress(es)/ packaging(s).

27. In order to restrain defendants from using the impugned mark and trade dress, the plaintiff issued two Cease and Desist Notices to the defendant no.1 dated 24.12.2024 and 24.01.2025. However, in reply to the said Notice, defendant no.1 denied all the allegations of the plaintiff. In response to defendant no.1 reply, the plaintiff sent a rejoinder letter again calling upon the defendant no.1 to cease and desist from using the impugned marks and trade dress(es)/ packaging.

28. Thereafter, since the defendant no.1 failed to reply to the aforesaid rejoinder letter, the plaintiff conducted online searches, in which it was revealed that the products bearing the impugned marks and packaging of the defendant no.1 was still available for sale on the e-commerce platform ByeByeMRP (accessible at https://byebyemrp.com/sale_detail?code=sale1717226691). Moreover, it was also revealed that the products bearing the impugned marks and packaging was manufactured by the defendant no.2



and were marketed by defendant no.1. Therefore, as the defendants continued to manufacture, and sell their product bearing the infringing marks and similar trade, the plaintiff instituted the captioned suit wherein the present application has been filed.

29. This Court has heard the submissions advanced by the learned counsel for the plaintiff and have also gone through the pleadings as also perused the documents on record.

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

Plaintiff's Marks and Trade Dress	Impugned Mark and Trade Dress
 ATOZ-NS A to Z NS A TO Z GOLD NS A TO Z GROW A TO Z NS WOMEN 	 / Bruventis AZ Syrup  / Bruventis AZ Tablet



31. In view of the foregoing comparison, it is *prima facie* evident that the marks of both the plaintiff and the defendants are structurally, visually, and phonetically similar as the dominant and prominent element of both the rival mark is the term “AZ”. The defendants have merely added a



prefix ‘Bruventis’ to the term “AZ”, and that too in an extremely small font, which in the opinion of this Court, is insufficient to distinguish it from the plaintiff’s mark as the defendants’ mark remains highly deceptive and substantially similar to that of the plaintiff. The whole stress is on the registration of the plaintiff. Moreover, consumers of average intelligence and imperfect recollection are likely to associate the defendants’ product with that of the plaintiff.

32. Also, the rival trade dress(es) have a deceptively similar colour combination, and the manner in which the impugned mark “Bruventis AZ” is presented in the defendants’ trade dress closely resembles how “A TO Z” is presented in the plaintiff’s trade dress. Furthermore, given that the defendants operate in the same line of business as the plaintiff, they would have been aware of the plaintiff’s trademarks and trade dress(es), considering its long-standing and continuous use. Under such circumstances, there exists no justifiable reason for the defendants to adopt impugned marks and trade dress(es) that are similar to those of plaintiff.

33. Relevantly, since the products involved in the present dispute are pharmaceutical products, the trade channels as also the buyers/ consumers are identical and therefore the threshold of deceptive similarity has to be lower than what is/ are expected while this Court is dealing with other products not falling in *Class 5*. In essence, any confusion between the two products involved herein, if allowed to continue, can lead to disastrous consequences on human health. In fact, the law *qua* deceptive similarity involving pharmaceutical products is well-settled by the Hon’ble Supreme Court in ***Cadila Health Care v. Cadila Pharmaceuticals Ltd.*** AIR 2001



SC 1952, **Heinz Italia &Anr. v. Dabur India Ltd.** (2007) 6 SCC 1 and lately in **Brihan Karan Sugar Syndicate Private Limited v. Yashwantrao Mohite Krushna Sahakari Sakhar Karkhana** (2024) 2 SCC 577.

34. In view thereof, at the time of considering an application for injunction on the ground of deceptive similarity in pharmaceutical products, this Court has to tread with utmost caution and care, especially keeping in mind the impact of the likely confusion which can be caused in the minds of the public and the likely threat to them. As such, if in the opinion of this Court, there can be a likelihood of confusion, allowing the impugned mark/ trade dress(es) of the defendants to continue to co-exist with that of the plaintiff will lead to cascading ill effects on the society and ought to be avoided at all costs.

35. Considering the aforesaid facts and circumstances, plaintiff is thus *prima facie* entitled for protection as sought by him against the defendants since the *balance of convenience* lies in its favour and it will incur *irreparable loss and injury* if an *ex parte ad interim injunction* is not granted in its favour.

36. Accordingly, till the next date of hearing, the defendants, its directors, partners or proprietors, representatives, principal officers, licensees, servants, agents, their affiliates, distributors, successors, subsidiaries and all others acting for and on their behalf, are restrained from manufacturing, marketing, packaging, selling, offering for sale or distribution, exporting, advertising, directly or indirectly using/ dealing in

any products, or goods of any description bearing the marks



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“Bruventis AZ Syrup”, / “Bruventis AZ Tablet” or any other identical/ deceptively similar mark to the plaintiff’s registered trademarks



/ “A TO Z” , ATOZ-NS , “A to Z NS” or its derivatives/ formatives.

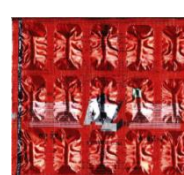
Further, the defendants, its directors, partners or proprietors, representatives, principal officers, licensees, servants, agents, their affiliates, distributors, successors, subsidiaries and all others acting for and, on their behalf, are restrained from manufacturing, marketing, packaging, selling, offering for sale or distributing, exporting, advertising, directly or indirectly directly any products, or goods of any description



bearing trade dress(es) , similar to



the plaintiff’s trade dress(es)



so as to violate

the plaintiff’s intellectual property rights in any manner whatsoever.

37. Upon the plaintiff taking requisite steps, issue notice to defendants through all permissible modes returnable before the Court on 22.09.2025.



38. Reply, if any, be filed within a period of *four weeks* from the date of service. Rejoinder thereto, if any, be filed within a period of *two weeks* thereafter.
39. The provisions of *Order XXXIX Rule 3 CPC* be complied within one week from the execution of the commission.
40. List before the Court on 22.09.2025.

SAURABH BANERJEE, J

MAY 27, 2025/So