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

+ **CS(COMM) 534/2024 with I.A. 32058/2024 and I.A. 41672/2024**

GLAXO GROUP LIMITED

.....Plaintiff

Through: Ms. Janaki Arun, Mr. Anuja
Chaudhury and Mr. Arpit Singhal,
Advocates.

versus

QPHARM HEALTH CARE LIMITED AND ANRDefendants

Through: Mr. K.L. Janjani, Mr. Mahindra
Dubey, Mr. Kailash J. Kashyap,
Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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18.12.2024

I.A. 32058/2024 (u/O XXXIX Rules 1 & 2 of the CPC)

1. There is a disagreement between the counsel for the parties with regard to the operative directions passed by the Predecessor Bench vide order dated 3rd July, 2024. Counsel for the plaintiff contends that in terms of the aforesaid order, an injunction has been passed against the defendants from using the trademarks of the plaintiff, whereas counsel for the defendants submits that the aforesaid injunction order is only in respect of trade dress and packaging.

2. To appreciate the rival contentions, the operative part of the said order is set out below:

“28. Taking into consideration the overall facts and circumstances involved as also the settled position of law enumerated by the Hon’ble Supreme Court of India and followed by various Hon’ble High Courts



from time to time, this Court finds no reason for not passing an order granting an ad-interim ex-parte injunction in favour of the plaintiff and against the defendants. The plaintiff has also been able to make out a prima facie case with the balance of convenience in its favour and against the defendants. In view thereof and in fact there is a high probability of the plaintiff suffering irreparable harm, loss and injury, if this Court does not grant the relief of ad-interim ex-parte injunction in its favour and against the defendants.

29. Accordingly, considering that the defendants' products are a look alike imitation of the plaintiff's trade dress and packaging using the same colour combinations, so much so the strip of one of the product (FEFOL-Z vs. PIFOL-Z) is exactly same, the defendant Nos.1 and 2 are restrained from using, manufacturing, selling, offering for sale, advertising any pharmaceutical preparations or any other packaging which is a colourable reproduction or a substantial imitation of the packaging and trade dress of plaintiff's product under the various product marks/names as delineated above.

30. It is further directed that the defendants' listings on the third-party websites like IndiaMart with the infringing packaging and trade dress of the plaintiff's be also taken down. A copy of this order be communicated by the learned counsel for the plaintiff to IndiaMart. Upon receipt of the present order, IndiaMart is directed to take down the said listings of the defendants from its website within a period of 72 hours."

[Emphasis is mine]

3. On a *prima facie* view, the aforesaid order seems to suggest that the *ad interim* injunction has been granted only in respect of the packaging/trade dress adopted by the defendants on the ground that the same resembles the packaging/trade dress of the plaintiff.

4. Both the counsel wish to make submissions in this regard.

5. List on 18th March, 2025 at 03:00 PM.

6. Interim order to continue.

I.A. 41672/2024 (seeking transfer of rectification proceedings)

7. Reply is stated to have been filed on behalf of the defendants.

7.1 However, the same is not on record.



8. Counsel shall take steps to have the same placed on record.
9. List on 18th March, 2025 at 03:00 PM.

AMIT BANSAL, J

DECEMBER 18, 2024

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