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

+ W.P.(C) 13760/2025 and CM APPL. 56422/2025, CM APPL. 56423/2025, CM APPL. 56424/2025, CM APPL. 74271/2025, CM APPL. 22144/2026

INDIAMART INTERMESH LIMITED

.....Petitioner

Through: Mr. Sandeep Sethi Sr. Advocate and Mr. Darpan Wadhwa, Sr. Advocate with Ms. Meghna Mishra, Mr. Ankit Rajgarhia, Mr. Naman Joshi, Mr. Anirudh Bakhru, Ms. Yashodhara Gupta, Mr. Adith Nair and Mr. Prajwal Chauhan, Advocates.

versus

**CENTRAL DRUGS STANDARD CONTROL
ORGANISATION & ANR.**

.....Respondents

Through: Mr Chetan Sharma ASG with Ms. Radhika Bishwajit Dubey CGSC, Ms Gurleen Kaur Waraich, Mr Kritarth Upadhyay, Mr Amulya Dev Mishra, Mr Naman, Advocates.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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07.04.2026

1. The petition is for the following reliefs:



(a.) Issue a declaratory writ directing that Respondent No. 1 has no jurisdiction of any nature over the Petitioner under the Drugs & Cosmetics Act, 1940 and the Rules made thereunder;

(b.) Issue a writ in nature of mandamus declaring that SCNs dated 13.06.2024, 24.12.2024, 01.05.2025, 08.07.2025, 09.07.2025, 18.07.2025 and Impugned Order dated 01.09.2025 were illegal and untenable in law;

(c.) Issue a writ in nature of certiorari setting aside and quashing SCNs dated 13.06.2024, 24.12.2024, 01.05.2025, 08.07.2025, 09.07.2025, 18.07.2025 and Impugned Order dated 01.09.2025 passed by Respondent No. 1 against the Petitioner;

(d.) Issue a writ in nature of mandamus directing the Respondents to not take any coercive action against the Petitioner consequent to the SCNs dated 13.06.2024, 24.12.2024, 01.05.2025, 08.07.2025, 09.07.2025, 18.07.2025 and Impugned Order dated 01.09.2025;

2. The petitioner claims to be an intermediary operating B2B i.e. Business-to-Business engaged in providing online listing, advertising and directory services for individuals/businesses, including Micro, Small and Medium Enterprises.

3. The facts of the case would indicate that several Show Cause Notices (**hereinafter “SCN”**) and an order dated 01.09.2025 (**hereinafter “impugned order”**) have been issued by respondent no.1- Central Drugs Standard Control Organisation (**hereinafter “CDSCO”**) whereby it has been held as under:

- i. *The Petitioner, through its online platform, is engaged in exhibiting/offering for sale of drugs and is thus subjected to the provisions of the 1940 Act and the Rules made thereunder.*
- ii. *The Petitioner could not claim protection of Section 79 of the 2000 Act for having failed to comply with provisions of Section 79(2) and Rule 3(1)(b)(xi) of the 2021 Rules.*
- iii. *That the Petitioner is facilitating sale of alleged unapproved, spurious drugs, and illegally imported drugs in the country. The actions of the Petitioner are causing incitement to commission of offences under the provisions of 1940 Act and thus, liable to be prosecuted under the 1940 Act.*

4. The petitioner has made several responses to the SCN issued by the



respondents'. Mr. Chetan Sharma, learned Additional Solicitor General for Union of India has placed on record an affidavit, wherein, the views of the respondents' with respect to the responses submitted by the petitioner have been placed on record. Let the same be placed in the digital record of the Court.

5. Let the petitioner to file a response to the aforesaid affidavit.

6. Mr. Sharma, at this stage, submits that there is no interim order on the merits of the writ petition. According to him, the interim arrangement was provided on 09.09.2025 only on the assurance of the learned counsel who appeared for the respondents. He, therefore, submits that the respondents' as of now are not willing to continue to offer the said undertaking.

7. On Mr. Sharma's request, the respondents' are absolved from their undertaking which was recorded on 09.09.2025.

8. Mr. Sandeep Sethi, learned senior counsel for the petitioner, submits that in view thereof, the petitioner be heard on the question of grant of interim relief.

9. The parties have made their respective submissions on the aforesaid aspect.

10. During the course of submissions, it transpires that the petitioner without prejudice to their submissions made in the writ petition is willing to adhere to the respondents' directions so far as they relate to compliance of the provisions of the Drugs and Cosmetics Act, 1940. It is also submitted that the petitioner carries out due diligence to ensure that there is sufficient compliance of the statutory mechanism.

11. Mr. Sethi also submits that the petitioner does not intend to violate any of the Government's regulations. It is, thus, submitted that if as per the



respondents', as of now, any of the articles is unapproved or spurious drug within the provisions of the Drug and Cosmetics Act, 1940, the petitioner undertakes to remove the same immediately.

12. The impugned order dated 01.09.2025 records the following findings.

“Discussions and findings:

- CDSCO have carefully gone through the facts available on the records, reply of the firm and defence put forth in its responses and at the time of personal hearing.*

- With respect to firm's submission that notice u/s section 22 (1) (cca) issued by drugs inspector of this office is not maintainable as requirements of DCA falls outside the purview of the activities undertaken by the firm does not manufacture for sale or for distribution, sale, stock or exhibit or offer for sale or distributing any such products on its platform, CDSCO finds that firm, through its online platform, is exhibiting and offering for sale of drugs and thus falls under the purview of DCA and Rules made thereunder.*

- With respect to firm's submission that it is an intermediary in terms of Section 2(1)(w) of the IT Act and is granted safe harbour u/s 79 of the IT Act, CDSCO finds that safe harbour u/s 79 of the IT Act cannot be claimed as the firm is not complying with the 79(2) of the IT Act and Rule 3 (b) (xi) of the IT Rules by not following with the provisions of DCA and directions of DCG(I).*

- With respect to firm's submission that essential elements of the provisions of DCA are not attracted to its activities including but not limited to the essentials of Section 18 & 27 of DCA, CDSCO finds that firm, through its online platform, is exhibiting and offering for sale unapproved and spurious drugs and thus encouraging these illegal actions. Vision and mission of CDSCO is to Protect and Promote public health in India and to ensure safeguard and enhance the public health by assuring the safety, efficacy and quality of drugs, cosmetics and medical devices. Portal is being used as a means to facilitate illegal sales of unapproved, spurious and illegally imported drugs in the country which is detrimental to public health in the country. The actions of the firm are causing incitement to the commission of offences under the provisions of the Drugs & Cosmetics Act, 1940. Therefore, the firm is liable to prosecute under the provisions of the DCA.*

In view of above, CDSCO find that the firm failed to comply with the statutory provisions of Drugs & Cosmetics Act, 1940 and Rules made thereunder and also the directions of this issued on several occasions. Therefore, appropriate action under the provisions of Drugs & Cosmetics Act, 1940 may be initiated against the firm in accordance with law.”



13. A perusal thereof, does not indicate that as of now any of the offending articles is being exhibited by the petitioner on its platform. Since the petitioner is ready and willing to adhere to the Government's directions without prejudice to the rights and contentions, there is no reason as to why the petitioner should be immediately prosecuted.

14. The prosecution of the petitioner as directed by the impugned order shall be dependent upon the outcome of the instant writ petition on merit.

15. In view of the aforesaid and subject to placing on record the undertaking of the petitioner that there is no objectionable/ offending article on the petitioner's platform and the petitioner shall continue to remove as and when it receives any specific communication from the respondent-Department, the operation of the impugned order with respect to prosecution of the petitioner shall remain stayed.

16. List on 27.04.2026.

17. Mr. Sharma is, however, called upon to indicate on the next date of hearing that as to what due diligence, the petitioner has to necessarily follow. Depending upon the same, the Court shall consider to pass appropriate order on the next date of hearing.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 7, 2026

Aks/ss