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

% *Date of Decision : 13.04.2026*

\+ **FAO(OS) (COMM) 100/2026 CM APPL. 23776/2026 CM APPL. 23777/2026 CM APPL. 23778/2026 CM APPL. 23779/2026 CM APPL. 23780/2026**

MAYANK JAIN PROPRIETOR OF MAHAVEER UDYOG

.....Appellant

Through: Mr. R. P. Yadav, Mr. Riju Mani Talukdar and Mr. Divyanshu Yadav, Advs.

versus

ATULYA DISCS PVT LTD & ORS. .....Respondents

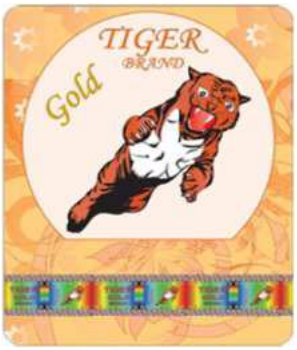
Through: None.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (*ORAL*)

1. The present appeal has been filed against the order dated 09.01.2026 ['impugned order'] passed by the learned Single Judge of this Court in I.A. 11309/2025 in CS (Comm) No. 412/2025 titled **Mayank Jain, Proprietor of Mahaveer Udyog v. M/s Atulya Discs Pvt. Ltd. & Ors.**

2. Appellant is a proprietorship firm engaged in the business of manufacturing and trading of agricultural implements more specifically harrows disc. It adopted the mark TIGER GOLD BRAND



['label'] ['Appellant's mark'] and has been using it for its goods since 06.05.2010.

2.1. Appellant filed an application for registration of TIGER GOLD BRAND (label) in Class 7 on 01.06.2022, which was registered by the Registrar of Trademarks and the registration certificate was issued on 02.02.2023. In its application, the Appellant claimed user since 06.05.2010, which was accepted.

3. Respondent No. 1 was incorporated on 26.11.2020. It applied for registration of its mark TIGER PREMIUM BRAND

(Label) on 09.03.2022 ['impugned mark'], on a proposed to be used basis which is currently pending registration.

4. Appellant issued a cease-and-desist notice dated 08.10.2024 to the Respondents which was replied *vide* notice dated 28.10.2024 whereby the Respondent denied any similarity between the two labels and refrained from ceasing the use of the same.

5. In these facts, Appellant filed the suit on 16.04.2025 and prayed for an interim injunction. The Appellant contends that the Appellant is the prior

user of its mark since 06.06.2010 and that there is overall similarity of the marks between Appellant's mark and Respondent's impugned mark and therefore raised a plea of passing of.

6. The ld. Single Judge has dismissed the injunction application held in the impugned order as under: -

> "7. Defendant Nos. 1 to 3 have contended that 'TIGER' cannot be monopolized by the Plaintiff as 'TIGER' is common to the trade and generic word. It is contended by Defendant Nos. 1 to 3 that the Mark 'TIGER' is commonly used for goods falling under Class 7 and the online record of the Trade Marks Office reflects that the word 'TIGER' in standalone has no Trade Mark value and is not capable of distinguishing the goods and services. The Plaintiff has *not* been able to establish ownership over the Mark 'TIGER' in absence of the registration of Word Mark 'TIGER' or any 'TIGER' formative Marks, which is relevant for examining the deceptive similarity of the Impugned Mark.
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> 8. The Marks 'TIGER' and 'BRAND' are generic in nature and incapable of being registered as a Trade Mark. The Plaintiff does not have exclusive right to use the Word Marks, 'TIGER' and 'BRAND'. There is a widespread use of the Mark 'TIGER' for various goods and services across India. Hence, 'TIGER' is publici juris and common to trade and is not uniquely identifiable with a particular goods or services of the Plaintiff. The Plaintiff has also not produced any material to show that the Mark 'TIGER' has acquired secondary meaning. The Mark 'TIGER' does not have an exclusive character and, therefore, the Plaintiff is not entitled to claim exclusive right over the same.
>
> **Deceptive Similarity of the Plaintiff's Mark and the Impugned Mark**
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> 9. The Plaintiff's Mark and the Impugned Mark are not deceptively similar as the Impugned Mark has to be considered as a whole. The Impugned Mark considered as a whole is wholly dissimilar to the Plaintiff's Mark, the Impugned Mark is visually different to the Plaintiff's Mark, even the 'TIGER' device in the rival Marks are different. The colour scheme of the Impugned Mark is also different from the colour scheme of the Plaintiff's Mark and the

Impugned Mark is not deceptively similar to the Plaintiff's Mark. Accordingly, considering the Impugned Mark as a whole there is no deceptive similarity between the Plaintiff's Mark and the Impugned Mark.

10. As 'TIGER' and 'BRAND' are found to be generic and common to the trade, the Plaintiff cannot claim exclusive ownership over the part of the Impugned Mark containing the Marks 'TIGER' and 'BRAND' as a part of them. As per Section 17 of the Act when a Trade Mark consists of several matters, its registration shall confer on the proprietor exclusive right to use of the Trade Mark taken as a whole. Considering that the Appellant has no exclusive right over the Marks 'TIGER' and 'BRAND', there is no deceptive similarity between the Plaintiff's Mark and the Impugned Mark. It is well settled that the registration of Device Marks does not automatically grant the exclusive right in respect of the word mentioned in the Device Marks. Further, the Supreme Court in Pernod Ricard India (supra) held that the rival marks must be compared as a whole, and not by dissecting them into individual components, as consumers perceive trademarks based on their overall impression, including appearance, structure, and commercial impression.

11. The registration of the Device Mark is to be considered as a whole and while determining the deceptive similarity with another Trade Mark, both the Marks have to be examined as a whole by applying 'anti-dissection rule' rather than breaking the Marks into their component parts for comparison. To determine whether there is any deceptive similarity between the two Marks, it is imperative to decide if the similarity is likely to cause any confusion or deceive. The test of deceptive similarity as laid down in **Kaviraj Pandit** (supra) has not been satisfied in the present case. Even from eyes of the consumers of the goods of the Plaintiff and Defendant Nos. 1 to 3, i.e., the farmers, the Marks are visually different and would not cause confusion in the minds of the consumers and therefore the decision in **Cadila Healthcare Ltd.** (supra) will not help the case of the Plaintiff.

12. In the present case, the Plaintiff's Mark and the Impugned Mark if considered as a whole cannot be held to be deceptively similar and are able to be distinguished by the use of word 'PREMIUM'. In addition, the descriptive nature of the Marks 'TIGER' and 'BRAND' commonly used in the hospitality industry shows that there is no deceptive similarity between the Plaintiff's Mark and the Impugned

Mark. As the Plaintiff's Mark and the Impugned Mark are not deceptively similar the judgments in **S. Syed Mohideen** (supra) and **Laxmikant V. Patel** (supra) will not help the case of the Plaintiff.

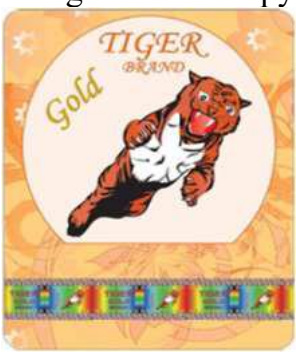
13. The rival Marks are not identical/deceptively similar, the Plaintiff's Mark and the Impugned Mark comprises of generic words, which cannot be monopolised by any party. Further, the Plaintiff has not been able to make a case of misrepresentation by the Defendant nor has it been able to prove damages incurred by the Plaintiff due to the adoption of the Impugned Mark by the Defendant.

14. Further, the Plaintiff has not been able to establish goodwill and reputation and, therefore, *prima facie*, a case of passing off has not been made out by the Plaintiff. There is no likelihood of confusion amongst the class of consumers, which is likely to. harm the reputation of the, Plaintiff and dilute the Plaintiff's Mark.

CONCLUSION

15. Having considered the averments in the pleadings and the submissions made by the Parties, the Plaintiff has no exclusive right over the Marks 'TIGER' and 'BRAND' as the same are generic in nature and common to the trade.

16. Hence, the use of the Impugned Mark, 

does not amount to infringement of Copyright in or passing off of the Plaintiff's Mark, 

as there is no deceptive

similarity between the Plaintiff's Mark and the Impugned Mark. Accordingly, no case is made out for grant of interim injunction as prayed for in this Application.

17. Accordingly, the present Application is dismissed."

(Emphasis supplied)

7. The Appellant has assailed the impugned order on the following grounds: -

"I. Appellant is not claiming exclusive right over TIGER and BRAND words per se and has nowhere pleaded the same in the suit/ application.

II. The Act does not expressly place an embargo on monopoly in respect of generic expressions.

III. TIGER is not publici juris and not common to trade and citing of various marks existing in the Register of Trade Marks or existing outside the Register is not sufficient to establish that Appellant's registered trade mark is common to the trade within the meaning of this Act.

IV. GOLD and PREMIUM suggest quality of goods associated with the mark and suggest origin from same source and Extension of Appellant's brand. Any prudent customer with average intelligence would believe that the TIGER PREMIUM BRAND is an extension of TIGER GOLD BRAND which is in market prior to PREMIUM brand.

V. Respondent's adoption of impugned mark is dishonest, deliberate, intentional and in bad faith which is evident from the fact that the Respondent tried to show that they have been using the mark since March 2021 only based on Udyam Registration date without any documents.

VI. Appellant is the prior user of the TIGER GOLD BRAND trademark since 06.06.2010 whereas the Respondent, which was incorporated in October 2020 started using the mark in October 2024.

VII. Main feature of both the marks/logos are, TIGER GOLD BRAND in the case of the Appellant and TIGER PREMIUM

BRAND in the case of the Respondent. The visual dissimilarity between the logos cannot come to the aid of the Respondent.

VIII. TIGER does not describe the nature of the business or goods of the Appellant and has no direct relation to their trademark and TIGER GOLD BRAND has been coined by the Appellant and has built its reputation over a period of 14.5 years.

IX. Infringement is not be assessed by placing the rival marks side-by side whereas Ld. Single Judge has bifurcated the Appellant's mark and compared it with the impugned mark.

X. Overall similarity of the marks of the Appellant and the Respondent requires an assessment from the perspective of an average consumer with imperfect recollection. The average consumer in the present case are Farmers/villagers."

7.1. Learned counsel for the Appellant contends that the Respondent's impugned mark TIGER PREMIUM BRAND suggests that it is the extension of the Appellant's mark TIGER GOLD BRAND.

7.2. He states that the expression GOLD and PREMIUM suggest quality of goods associated with the mark and origin from the same source.

7.3. He states that the word TIGER has nothing to do with the goods such as agricultural implements and in this sense the use of the word TIGER by the Appellant for the goods is unique thereby distinguishing Appellant's goods from the goods of the others.

7.4. He states that even though there are other traders who are using the TIGER mark in Class 7, however Appellant's mark has attained distinctiveness over the period of use since May, 2010.

7.5. He states that a perusal of the register maintained by the Trademark Registry shows that there is only one other registered mark in Class 7 in respect of same goods with the word TIGER, however the said single registration is not sufficient to show that the word TIGER is common to

trade.

7.6. He states therefore the conclusion of the learned Single Judge that TIGER mark is common to the trade in publici juris and common to trade is incorrect.

7.7. He reiterates that the Appellant is not claiming any exclusivity in the words TIGER or BRAND.

7.8. He states, however, on a perusal of whole of the mark TIGER PREMIUM BRAND with TIGER GOLD BRAND, he submits there is phonetic similarity.

7.9. He further states that since the Appellant's mark and the impugned mark are being applied to the same goods, the chances of confusion are higher as the customer who in this case is a farmer(s) is likely to ask for the goods by the name TIGER and given the imperfect recollection of a consumer, he may not immediately recognise the distinction between the labels.

7.10. He admits that the Appellant does not have a wordmark registration for TIGER GOLD BRAND or a separate registration for its mark TIGER or BRAND respectively.

7.11. He relies upon the judgment of the Division Bench in **Chacha Saree Bazar Pvt. Ltd. & Anr. v. Chacha Cloth House**[1] to contend that, in similar facts, the Court held that the word 'CHACHA' though publici juris was not common to the trade and therefore the plaintiff therein was entitled to raise a plea of passing off when the defendant therein had adopted a similar mark.

8. We have heard the learned counsel for the Appellant and perused the record.

9. The scope of interference, while hearing appeal against the order passed by a Commercial Court, in Intellectual Property matters, under Order XXXIX Rule 1 and 2 CPC stands settled by the judgment of the Supreme Court in **Wander Ltd. v. Antox India (P) Ltd.**[2] The relevant paragraph reads as under: -

> "13. On a consideration of the matter, we are afraid, the appellate bench fell into error on two important propositions. The first is a misdirection in regard to the very scope and nature of the appeals before it and the limitations on the powers of the appellate court to substitute its own discretion in an appeal preferred against a discretionary order. The second pertains to the infirmities in the ratiocination as to the quality of Antox's alleged user of the trademark on which the passing-off action is founded. We shall deal with these two separately.
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> 14. The appeals before the Division Bench were against the exercise of discretion by the Single Judge. In such appeals, the appellate court will not interfere with the exercise of discretion of the court of first instance and substitute its own discretion except where the discretion has been shown to have been exercised arbitrarily, or capriciously or perversely or where the court had ignored the settled principles of law regulating grant or refusal of interlocutory injunctions. An appeal against exercise of discretion is said to be an appeal on principle. Appellate court will not reassess the material and seek to reach a conclusion different from the one reached by the court below if the one reached by that court was reasonably possible on the material. The appellate court would normally not be justified in interfering with the exercise of discretion under appeal solely on the ground that if it had considered the matter at the trial stage it would have come to a contrary conclusion. If the discretion has been exercised by the trial court reasonably and in a judicial manner the fact that the appellate court would have taken a different view may not justify interference with the trial court's exercise of discretion. After referring to these principles Gajendragadkar, J. in **Printers**

[1] 2026: DHC:1296-DB
[2] 1990 Supp SCC 727

(Mysore) Private Ltd. v. Pothan Joseph[3]:

> "... These principles are well established, but as has been observed by Viscount Simon in **Charles Osenton & Co. v. Jhanaton**[4] '...the law as to the reversal by a court of appeal of an order made by a judge below in the exercise of his discretion is well established, and any difficulty that arises is due only to the application of well settled principles in an individual case'.
>
> The appellate judgment does not seem to defer to this principle. …."
>
> [Emphasis supplied]

10. In its recent decision in **Pernod Ricard India (P) Ltd. v. Karanveer Singh Chhabra**[5]**,** the Supreme Court has reiterated the aforesaid principles at paragraph 19.8 which reads as under: -

> "19.8. In **Wander Ltd.**, this Court elaborated the principles governing the grant or refusal of interim injunctions in trademark infringement and passing off actions. It was underscored that appellate courts ought to be circumspect in interfering with the discretionary orders of lower courts in such matters. Interference is warranted only where the discretion has been exercised arbitrarily, capriciously, perversely, or in disregard of settled legal principles.
>
> [Emphasis supplied]

11. Thus, as summarized by the coordinate Bench in **Sanjay Gupta and Vinay Gupta v. Vineet Jain, Proprietor of Vijaypal Vineet Kumar and Co.**[6] an appeal against an interlocutory order passed by the Commercial Court, the Appellate Court would not substitute its subjective view for the view adopted by the Commercial Court. It is only if the Commercial Court errs on principle that the Court would interfere; otherwise, factual and

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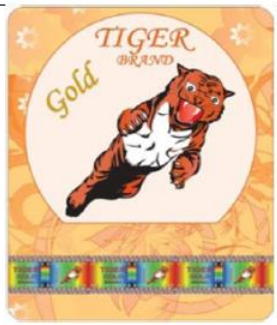
[3] AIR 1960 SC 1156
[4] 1942 AC 130
[5] 2025 SCC OnLine SC 1701
[6] 2026:DHC: 1248-DB

discretionary evidence and findings of the Commercial Court are ordinarily immune from interference in an appeal.

12. We have therefore examined the Appellant's submissions keeping these principles in mind.

13. For reference, a comparative table of the Appellant's label mark and the impugned label mark is reproduced hereunder: –

Appellant's trademark	Respondents trademark
	

14. Learned Single Judge has in the impugned order[7] on comparison of the two labels as a whole, returned a categorical finding that there is no deceptive similarity in the Appellant's label mark and the impugned label mark. We find no ground for interfering in the view taken by the learned Single Judge, as it is a plausible view, even if there could be a possible alternate view.

15. The Appellant has challenged this finding of the learned Single Judge on the plea that even when compared as a whole the impugned mark 'TIGER PREMIUM BRAND' is deceptively similar to the registered mark 'TIGER GOLD BRAND' and likely to cause confusion amongst the consumers. The Appellant has sought to illustrate this confusion at Ground

[7] at paragraph nos. 9 to 13

L of the appeal by alleging that customers refer to its product by the brand name TIGER.

The fallacy in this submission of the Appellant is apparent. In its illustration, the Appellant is emphasizing on the recall value of its trademark by the customer as TIGER (wordmark) and not as TIGER PREMIUM BRAND (label). The substance of the Appellant's argument is that the word TIGER is exclusively associated with its goods and therefore any reference to TIGER would be construed as a reference to Appellant's goods. However, in contradiction the Appellant at Ground A has specifically pleaded that it is not claiming any exclusive right over the word TIGER. It also concedes that it has no registration for the word mark TIGER or BRAND or 'TIGER GOLD BRAND'.

16. If this Court was to accept the aforesaid submissions on deceptive similarity of the Appellant, we would have to necessarily hold that, the Appellant herein has exclusivity in the wordmark 'TIGER' 'BRAND' for these agricultural goods, which would be contrary to the admission of the Appellant that it does not have any exclusive right to the words 'TIGER' 'BRAND'.

17. The Appellant is therefore raising contradictory pleas, inasmuch as while conceding that it has no exclusive rights to the word 'TIGER' or 'BRAND', it is still urging the test of customer recall based on the phonetic use of the word 'TIGER' 'BRAND'.

18. In view of the admitted fact that the Appellant does not have any independent wordmark registration for the marks TIGER GOLD BRAND or TIGER or BRAND, for the claim of infringement the comparison has to be undertaken by the Court between the labels TIGER GOLD BRAND and

TIGER PREMIUM BRAND.

19. Learned Single Judge (at paragraph 9) has given a detailed reasons for holding that the competing labels are distinct and visually dissimilar.

The Appellant in this appeal has also conceded at para VII[8] that these logos are visually dissimilar.

Therefore, the challenge to the finding of the learned Single Judge holding that the two labels are not deceptively similar is not merited.

20. The Appellant has relied upon the judgment of **Chacha Saree Bazar Pvt. Ltd.** (supra). However, in the facts of the said case, the plaintiff had wordmark registration for its trademark 'Chacha Saree Bazar Pvt. Ltd.' It also has registration for other formative marks wherein 'Chacha' was a dominant mark. These facts were duly considered by the Division Bench while granting injunction *qua* the impugned logo mark of the defendant therein. However, in the facts of this case, there is no wordmark registration in favour of the Appellant herein.

21. In the aforesaid judgment, the Division Bench also concluded that the term 'Chacha' was not generic for the goods and services in question. In the facts of this case, however, the learned Single Judge has opined that the word 'TIGER' is commonly used for goods falling in relevant class 7 and has concluded that the said word is publici juris and not uniquely identifiable to the goods and services of the Appellant herein. The Appellant in Ground F of the appeal has admitted that there are other traders who are using the mark 'TIGER' in class 7, it is however contended that the said mark has attained distinctiveness qua Appellant's goods, which has been rejected by the learned Single Judge.

22. In this context, the learned Single Judge has expressly opined that the Appellant/plaintiff has been unable to establish any misrepresentation, any goodwill or reputation so as to establish passing off.

23. We have perused the plaint and have examined the advertisements expenses, quoted in the plaint, which is as under: -

Financial Year	**Expenses in INR**
01-Apr-10 to 31-Mar-11	43,200
01-Apr-11 to 31-Mar-12	57,500
01-Apr-12 to 31-Mar-13	1,25,850
01-Apr-13 to 31-Mar-14	38,500
01-Apr-14 to 31-Mar-15	68,500
01-Apr-15 to 31-Mar-16	4,200
01-Apr-16 to 31-Mar-17	1,97,590
01-Apr-17 to 31-Mar-18	1,73,740
01-Apr-18 to 31-Mar-19	1,17,783
01-Apr-19 to 31-Mar-20	3,30,741
01-Apr-20 to 31-Mar-21	1,17,492
01-Apr-21 to 31-Mar-22	1,10,819
01-Apr-22 to 31-Mar-23	2,27,244
01-Apr-23 to 31-Mar-24	1,07,616
01-Apr-24 to 28-Feb-25	4,20,924
Total	**21,41,699**

24. The Respondent was incorporated in the year 2020 and adopted this mark in 2022. As is apparent from the above table, there is no substantial

[8] Page 9 of the synopsis

expenditure incurred by the Appellant on advertisements of its products bearing the Appellant's mark.

25. We have also examined the sales figures of the Appellant's products bearing the Appellant's mark, provided in the plaint, at paragraph 18 which reads as under: -

Financial Year	**Expenses in INR**
01-Apr-10 to 31-Mar-11	52,85,106
01-Apr-11 to 31-Mar-12	93,96,876
01-Apr-12 to 31-Mar-13	99,45,171
01-Apr-13 to 31-Mar-14	1,12,01,977
01-Apr-14 to 31-Mar-15	14,28,180
01-Apr-15 to 31-Mar-16	29,29,780
01-Apr-16 to 31-Mar-17	20,46,32
01-Apr-17 to 31-Mar-18	53,94,468
01-Apr-18 to 31-Mar-19	33,36,160
01-Apr-19 to 31-Mar-20	70,84,405
01-Apr-20 to 31-Mar-21	24,64,599
01-Apr-21 to 31-Mar-22	2,34,841
01-Apr-22 to 31-Mar-23	1,06,38,229
01-Apr-23 to 31-Mar-24	2,28,50,978
01-Apr-24 to 31-Feb-25	1,97,27,199
Total	**11,39,64,295**

26. Having perused these figures, as well as considering the fact that the Respondent adopted this mark in 2022 (when it applied for registration), it is evident that there were no substantial sales recorded by the Respondent in

the said period and to this extent the findings of the learned Single Judge also do not require any interference.

27. The advertisement expenditure and the sales revenue fail to show that that the Appellant's mark has acquired such goodwill amongst its consumers so as to associate the words 'TIGER' or 'TIGER BRAND' or TIGER GOLD BRAND exclusively with the Appellant's goods, leading to misrepresentation amongst the consumers and consequent damages to the Appellant. We concur with the finding of the learned Single Judge that Appellant has failed to show that TIGER is associated exclusively with its goods. In these facts, we are not inclined to interfere with the finding of the learned Single Judge the mark TIGER has not attained distinctiveness qua the goods of the Appellant.

28. We are of the view that the learned Single Judge has applied the correct principles and there is no error whatsoever in the findings holding that no case of passing off is made out, which led to the dismissal of the injunction application.

29. For the aforesaid reasons, the present appeal is dismissed.

30. Pending applications, if any, stand disposed of.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

APRIL 13, 2026/mt/IB