



\$~38

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

+ **CS(COMM) 501/2026**

CAPITAL FOODS PRIVATE LIMITEDPlaintiff

Through: Mr. Pravin Anand, Mr. Dhruv Anand,
Mr. Rohil Bansal and Mr. Chirayu
Prahlad, Advocates.

versus

FIVESTAR DEHYDRATION PVT LTD & ANR.Defendants

Through: None.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
14.05.2026

%

I.A. 13269/2026(Additional Documents)

1. The present application has been filed on behalf of the plaintiff under Order XI Rule 1(4) of the Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') as applicable to commercial suits under the Commercial Courts Act, 2015 (hereinafter referred to as 'CC Act') seeking leave to place on record additional documents.

2. The plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side) Rules, 2018.

3. Accordingly, the application stands disposed of.

I.A. 13271/2026 (Pre-Institution Mediation)

4. This is an application filed by the plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the CC Act.

CS(COMM) 501/2026

Page 1 of 16



5. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar vs. T.K.D. Keerthi: (2024) 5 SCC 815*, exemption from the requirement of pre-institution Mediation is granted.

6. The application stands disposed of.

I.A. 13270/2026 (Exemption)

7. This is an application filed on behalf of the plaintiff under Section 151 of CPC seeking exemption from filing typed/dim/illegible/clearer copies of the documents as referred to in paragraph 2 of the present application.

8. Exemption allowed, subject to just exceptions. However, typed/dim/illegible copies of documents with proper margins be filed within two weeks with an advance copy to the defendants.

9. The application stands disposed of.

I.A. 13272/2026 (Seeking Additional time to file Court fees)

10. The present application has been filed by the plaintiff under Section 149 read with Section 151 of CPC, seeking exemption from payment of Court Fees at the time of the filing of the suit.

11. Considering the submissions made in the present application, an extension of one week is granted to affix the requisite Court fees.

12. The application stands disposed of.

I.A. 13268/2026 (Order XXXIX Rules 1 & 2, CPC)

13. Present application has been filed on behalf of the plaintiff under Order XXXIX Rules 1 & 2 of the CPC, 1908, seeking *ex-parte ad-interim* injunction against the defendants.

14. The present suit has been filed for permanent injunction restraining infringement of the registered trade mark, 'Schezwan Chutney', passing off, dilution, unfair competition for rendition of accounts / damages, delivery up, etc.



15. The learned counsel for the plaintiff made the following submissions:

15.1. It is stated that the plaintiff/Capital Foods Private Limited, was incorporated in 2003 and is now acquired by Tata Consumer Products Limited, is an associate of the TATA Group and is a leading food enterprise engaged in the business of manufacturing, marketing, and retailing a diverse range of food products including sauces, noodles, condiments, soups, and ready-to-eat items. It is also stated that the plaintiff is also operating a website, www.capitalfoods.co.in for its products.

15.2. It is claimed by the plaintiff that the plaintiff conceived and adopted the plaintiff's mark in the year 2012, which is derived from and is a unique and distinctive combination of two words, i.e., 'Schezwan' and 'Chutney' in respect of a hot, spicy and peppery sauce / dip having a unique proprietary recipe and taste profile developed by the plaintiff after significant amount of research and efforts. It is also claimed by the plaintiff that since inception, the plaintiff's mark has been continuously, extensively and uninterruptedly used by the plaintiff along with huge promotional activities that has resulted in the plaintiff's Mark acquiring a secondary significance.

15.3. Plaintiff assert that the Division Bench of this Court in the case of '*Capital Foods Private Limited v. Radiant Indus Chem Pvt. Ltd.*', *FAO(OS) (COMM) 16/2023*, has *vide* the order dated 25.01.2023 categorically noted that the plaintiff's mark has acquired secondary significance. It is also stated by the plaintiff that for the Financial Year 2024-2025, the plaintiff recorded a total revenue of ₹93,417 lakhs, with significant expenditures including ₹6,388 lakhs on advertising.




15.4. The plaintiff is the owner of the Copyrights in respect of the trade dress of its various products. The Artistic Work of the plaintiff,



is unique and distinct and is registered bearing the number A-149563/2023 dated 08.12.2023. The details of the registration of the plaintiff's mark and the plaintiff's Artistic Work are as under:

Trade Mark Registration	Particulars
Schezwan Chutney (Wordmark)	TM Registration no. 2431851 dated 22/11/2012 in Class 30 for Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice cream, ice cream powder, snack food, farsan, wafer, biscuits, cakes, chocolates, jam, powder milk, noodles, pasta, pulses, foods seasoning, deserts, papad, ketchup, edible articles for human consumption, masala, squash, fruit juice, chutneys, salad dressings, instant tea, ready to eat, samosas, sauce & soup mixes, entrees.



Copyright Registration	Particulars
Copyright Registration No. A149563/2023 dated 08/12/2023	

16. It is claimed that sometime in mid-April 2025, the plaintiff came across online listings of the defendants' impugned infringing products on e-commerce platforms such as IndiaMart, Flipkart, JioMart and desertcart. A legal notice was issued on 23.04.2025 asking defendant no.2 to immediately stop all use of the mark Schezwan Chutney. It is stated that in response thereto, the defendant no.2 issued a reply wherein they refused to stop using the mark. Defendant no.2 stated that the said mark is descriptive and cannot be monopolized by anyone and that numerous manufacturers etc. were using the said mark. Yet another notice was sent on 16.06.2025 to which there was no response on behalf of the defendant.

17. An investigator was engaged who purchased the defendants' impugned product from the online listing on www.flipkart.com on 19.06.2025 and was delivered at New Delhi on 24.06.2025. The screenshot of the invoice is extracted hereunder:

Tax Invoice	Order Id: OD334715967476120100 Order Date: 19-06-2025, 09:09 AM	Invoice No: FACEOY2600002466 Invoice Date: 19-06-2025, 10:55 AM	GSTIN: 24AADFU1770C1ZK PAN: AADFU1770C																																				
Sold By United Foods, Sr. No. 63-P1, United foods 63 Rampart Road, near Fivestar Dehydration Pvt Ltd, Talaja, Dist. Bhavnagar, TALAJA - 364140 GST: 24AADFU1770C1ZK	Shipping ADDRESS D C Sharma, 29 First Floor, Masjid Road, Bhogal, New Delhi, New Delhi - 110014, IN-DL	Billing Address D C Sharma, 29 First Floor, Masjid Road, Bhogal, New Delhi, New Delhi - 110014, IN-DL																																					
<table border="1"> <thead> <tr> <th>Product</th> <th>Description</th> <th>Qty</th> <th>Gross Amount</th> <th>Discount</th> <th>Taxable Value</th> <th>IGST</th> <th>CESS</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Nutty Schezwan Chutney 1Kgs Spicy Dip Quality Assured 1 kg Schezwan_1kg Not eligible for return MGR/No: L11</td> <td>HSN: 20049000 IGST: 12.00% CESS: 0.00%</td> <td>1</td> <td>134.00</td> <td>-15.00</td> <td>106.25</td> <td>12.75</td> <td>0.00</td> <td>119.00</td> </tr> <tr> <td></td> <td>Handling Fee</td> <td>1</td> <td>0.00</td> <td>0</td> <td>0.00</td> <td>0.00</td> <td>0.00</td> <td>0.00</td> </tr> <tr> <td colspan="8">TOTAL QTY: 1</td> <td>TOTAL PRICE: 119.00 All values are in INR</td> </tr> </tbody> </table>		Product	Description	Qty	Gross Amount	Discount	Taxable Value	IGST	CESS	Total	Nutty Schezwan Chutney 1Kgs Spicy Dip Quality Assured 1 kg Schezwan_1kg Not eligible for return MGR/No: L11	HSN: 20049000 IGST: 12.00% CESS: 0.00%	1	134.00	-15.00	106.25	12.75	0.00	119.00		Handling Fee	1	0.00	0	0.00	0.00	0.00	0.00	TOTAL QTY: 1								TOTAL PRICE: 119.00 All values are in INR		
Product	Description	Qty	Gross Amount	Discount	Taxable Value	IGST	CESS	Total																															
Nutty Schezwan Chutney 1Kgs Spicy Dip Quality Assured 1 kg Schezwan_1kg Not eligible for return MGR/No: L11	HSN: 20049000 IGST: 12.00% CESS: 0.00%	1	134.00	-15.00	106.25	12.75	0.00	119.00																															
	Handling Fee	1	0.00	0	0.00	0.00	0.00	0.00																															
TOTAL QTY: 1								TOTAL PRICE: 119.00 All values are in INR																															
<p>Seller Registered Address: United Foods, United Foods - India, Survey No. 63/B1, Next to Fivestar Dehydration P. Ltd., Rampara Road, TALAJA - 364140.</p> <p>Declaration The goods sold are intended for end user consumption and not for resale. FSSAI license number: 10015021001656</p>					 UNITED FOODS DADTMD																																		
E. & O.E.		Ordered Through 		United Foods Authorized Signature																																			



18. Although the product ordered online was pictographically represented



as 'Nutty Schezwan Chutney/ ', however, the product that was delivered was 'Nutty Guddie Szechuan Sauce' images whereof are extracted hereunder:



19. In view of the aforesaid, the plaintiff claims to have felt assured that the defendants have discontinued 'Nutty Schezwan Chutney'. Plaintiff claims that it has no objection if the defendants use the mark Szechuan Sauce, therefore, no action was initiated.



20. In February 2026, the plaintiff gained the knowledge that the defendant had launched a rebranded variant of their product called Schezwan Sauce Hot Chutney. Once again, the investigator purchased the said product online from Flipkart.com on 26.02.2026 which was delivered on 27.02.2026. The pictures of the Schezwan Sauce Hot Chutney product is extracted hereunder:

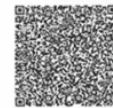


Tax Invoice Order Id: **OD336894990442989100** Invoice No: **FACEOY2600006615** GSTIN: 24AADFU1770C1ZK
 Order Date: 26-02-2026, 01:59 PM Invoice Date: 27-02-2026, 12:47 AM PAN: AADFU1770C

Sold By United Foods, Sr. No. 63-P1, United foods 63 Rampart Road, near Fivestar Dehydration Pvt Ltd, Talaja, Dist. Bhavnagar, TALAJA - 364140
 GST: 24AADFU1770C1ZK

Billing Address Varun Kumar Singh, L-4088, 16th Avenue, Gaur City-2, Opp. Gaurs International School, Greater Noida West 201009, Uttar Pradesh, Greater Noida, Ghaziabad - 201009, IN-UP

Shipping ADDRESS Varun Kumar Singh, L-4088, 16th Avenue, Gaur City y-2, Opp. Gaurs International School, Greater Noida West 201009, Uttar Pradesh, Greater Noida, Ghaziabad - 201009, IN-UP



Product	Description	Qty	Gross Amount	Discount	Taxable Value	IGST	CESS	Total
Nutty Schezwan Chutney 1Kgs Spicy Dip Quality Assured 1 kg Schezwan_1kg Not eligible for return IMEI/Sr.No: [1]	HSN: 20049000 IGST: 5.00% CESS: 0.00%	1	153.00	-0.00	145.71	7.29	0.00	153.00
	Handling Fee	1	0.00	0	0.00	0.00	0.00	0.00
TOTAL QTY: 1								TOTAL PRICE: 153.00 All values are in INR

Seller Registered Address: United Foods, United Foods - India, Survey No. 63/B1, Next to Fivestar Dehydration P. Ltd., Rampara Road, TALAJA - 364140.
 FSSAI License number: 10015021001656



E. & O.E.

Ordered Through
 Flipkart

United Foods
 Authorized Signature

21. Sometime in April 2026, the defendant appeared to have launched its latest product 'Guddie Schezwan Hot Chutney' whereby Schezwan Chutney was prominently used against a white background with a descriptor



Flavor • Dip • Cook

which is similar to the one

Dip • Spread • Cook

used by the plaintiff i.e.

. The

screenshots of the said infringing products is reproduced hereunder:



SUR
1.23 kgs
27/04
PREPAID
BOX 1 of 1
NCTE S-04 NCTE

Ship To:
D C Sharma
29, First Floor Mansal Road Jangpura
Shogal Near Delhi 110014
DELHI
Landmark: Near Shogal Mansal
NCTE: NCTE

Order Id: 487-3170418-6627337
Ship Date: 23/04/2026

SHIP FROM: HNL CORPORATE PRIVATE LIMITED
Sales Address: United Foods Rampura Road, Near Pivestor Talaja Bhavnagar 364140 India

Customer First Declaration - The goods sold are intended for end user consumption. Not for resale.

SELLER	GSTIN	INVOICE	DATE	ITEM TYPE
UNITE FOODS	24AACH0284J228	487-3170418-6627337	23-04-2026	CHUTNEY

BHUE BHUD MAMA NCRU NCTE
8 B1Z D 27E

Sold on: www.amazon.in

ATSPL

amazon.in

Tax Invoice/Bill of Supply/Cash Memo
(Triplicate for Supplier)

Sold By:
HNL CORPORATE PRIVATE LIMITED
United Foods, Rampura Road, Near Pivestor
Talaja, GUJARAT, 364140
IN

Billing Address:
Vrind Kumar Sharma
Prasun General Store, Harshav Market
BLASPUR, HIMACHAL PRADESH, 174003
IN

Shipping Address:
Vrind Kumar Sharma
D C Sharma
29, First Floor, Mansal Road Jangpura Shogal
New Delhi, DELHI, 110014
IN

Order Number: 487-3170418-6627337
Order Date: 23/04/2026

Invoice Number: 487-3170418-6627337
Invoice Date: 23/04/2026

Sl	Description	Unit	Qty	Rate	Tax	Total	Net Total
1	Schezwan Hot Chutney (Sfz, 1kg)	Kg	1.23	1230.00	0.00	1230.00	1230.00

Amount in Words:
One Thousand Eight Hundred and Thirty Three only

For HNL CORPORATE PRIVATE LIMITED:
Authorized Signatory

Whether tax is payable under reverse charge - No

Invoice Summary:
Bank & Trans: 23/04/2026, 12:43:58
Invoice Value: 1230.00
Date of Payment: 2026/05

22. The defendants appear to be selling their impugned infringing products



through many e-commerce platforms such as Flipkart, Amazon, bigbasket, Justdial etc.

23. Plaintiff claims that the defendants have intentionally and *malafide* adopted a deceptively similar trade mark Schezwan Chutney thereby infringing the plaintiff's registered trade mark Schezwan Chutney and also passing off their products as that of the plaintiffs. Plaintiff claims that the mere use of the word 'Hot' between the words 'Schezwan' and 'Chutney' is inconsequential as the overall commercial impression created by the defendants would surely cause confusion and deception in the minds of the public and consumers. Plaintiff asserts that its mark is well-known which is entitled to a higher level of protection.

24. In view of the above, the plaintiff seeks an *ex-parte ad-interim* injunction against the defendants.

25. Since the suit has been filed on the basis of infringement and passing off of the registered trade mark of the plaintiff, it would be worthwhile to compare the marks of both the parties. Thus, the following pictographical illustrations would bring out the similarities/deceptive similarities between the rival marks:



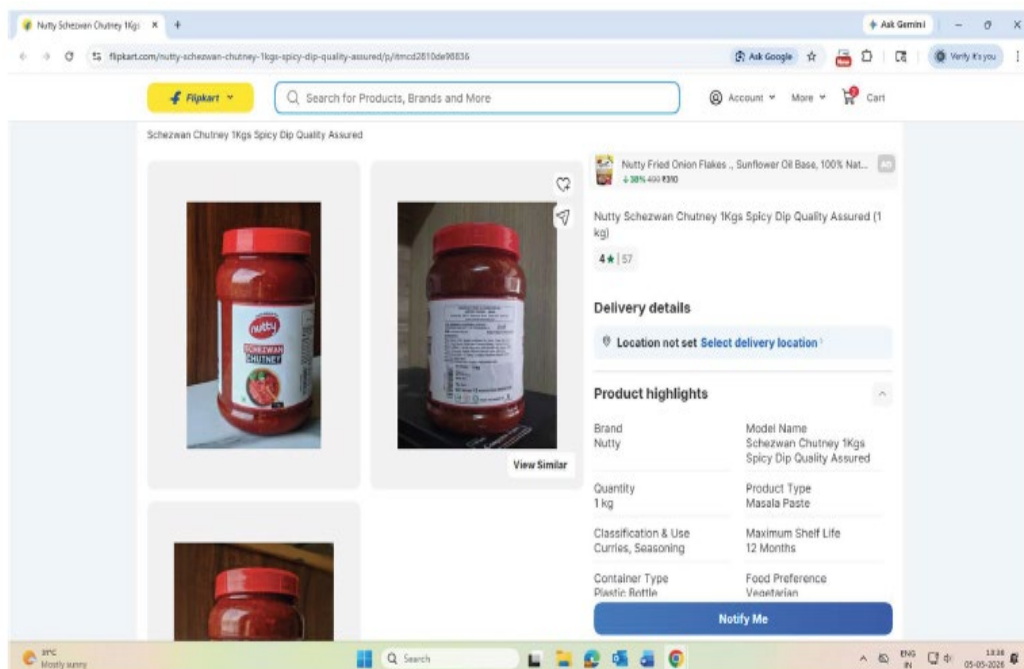
Plaintiff's Products	Defendants' Product
	
	
	
	

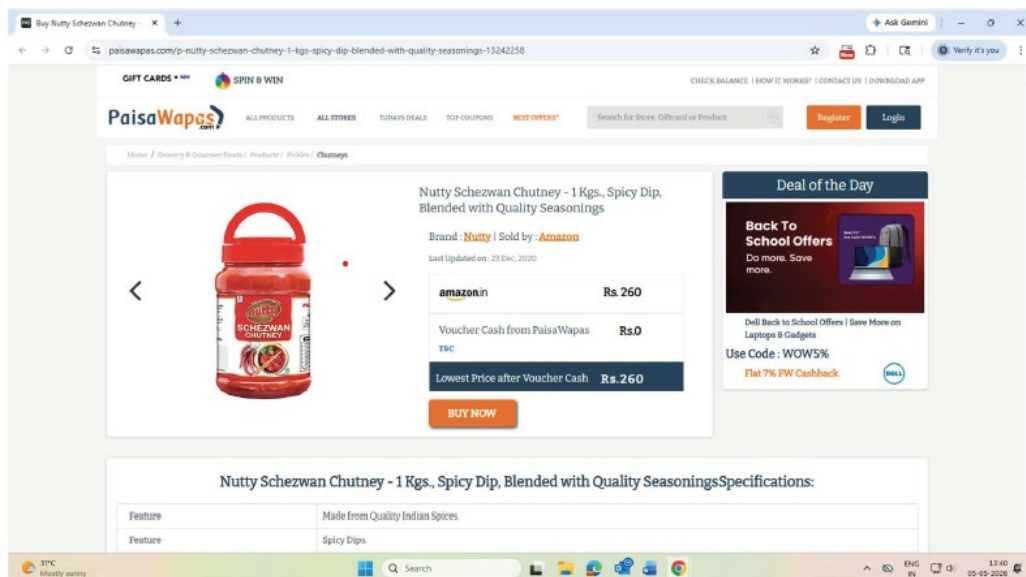
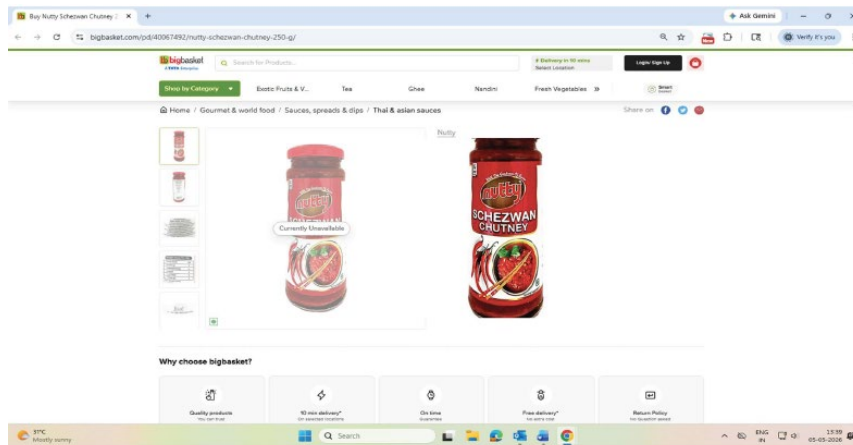
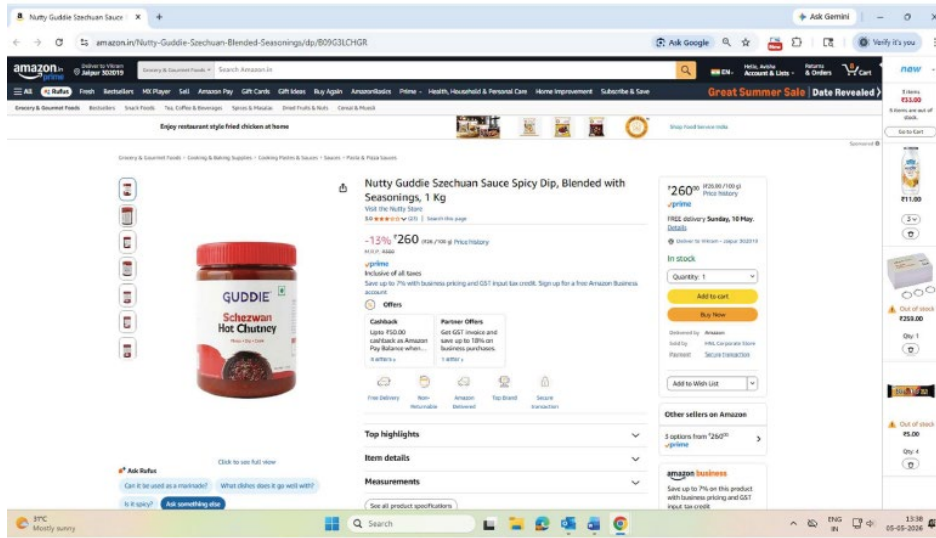
26. It is clear from the aforesaid comparison that the emphasis on the words 'Schezwan' and 'Chutney' on a white background appear to be similar to that of the plaintiff. Merely by using the word 'hot' between the words 'Schezwan' and 'Chutney' would really not make such a distinction as to enable an unwary consumer with an average intelligence and imperfect



recollection to be able to differentiate between the two products. Even the earlier adoption in different forms, as extracted above at different points in time and as available from the e-commerce platform also indicate that the defendants have been using the mark 'Schezwan Chutney' openly which is bound to create confusion in the minds of the public as to whether the said products of the defendant are those of the plaintiff or are associated with it. The brand 'Guddie' written on top would really not make such an impact as to make the public aware that the product belongs to defendants and not to the plaintiff.

27. The products of the defendant under the said marks which are shown and reflected in the e-commerce websites are also deceptively similar to the marks Schezwan Chutney of the plaintiff. As illustration, the defendants products claimed to be available on various e-commerce platforms are reproduced hereunder:

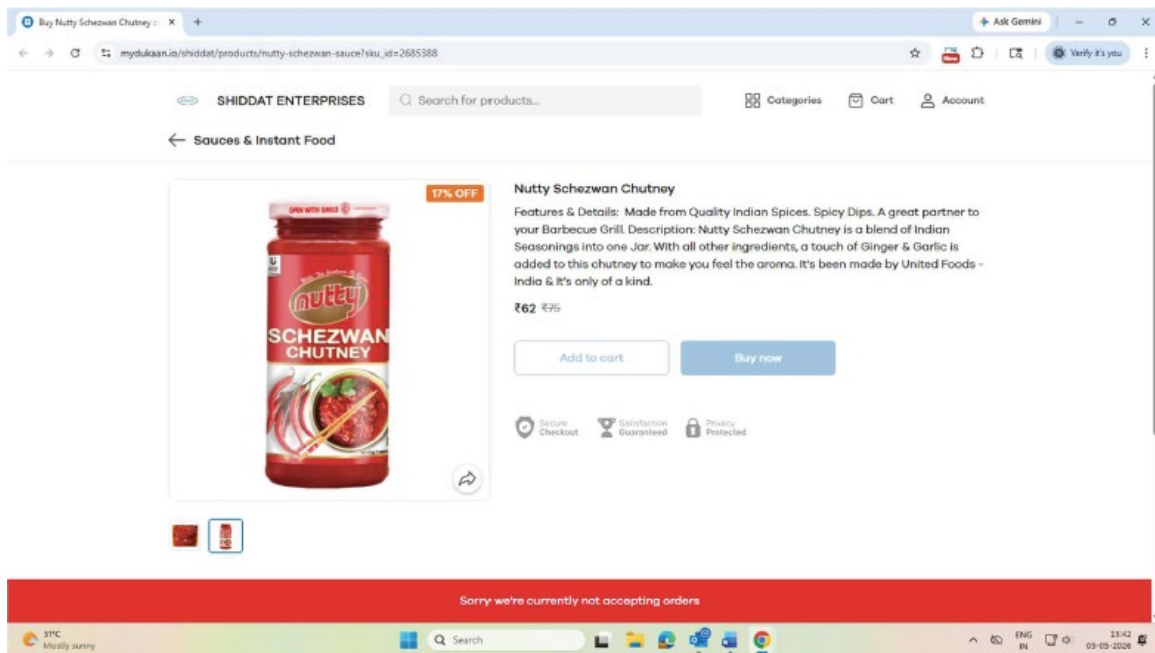
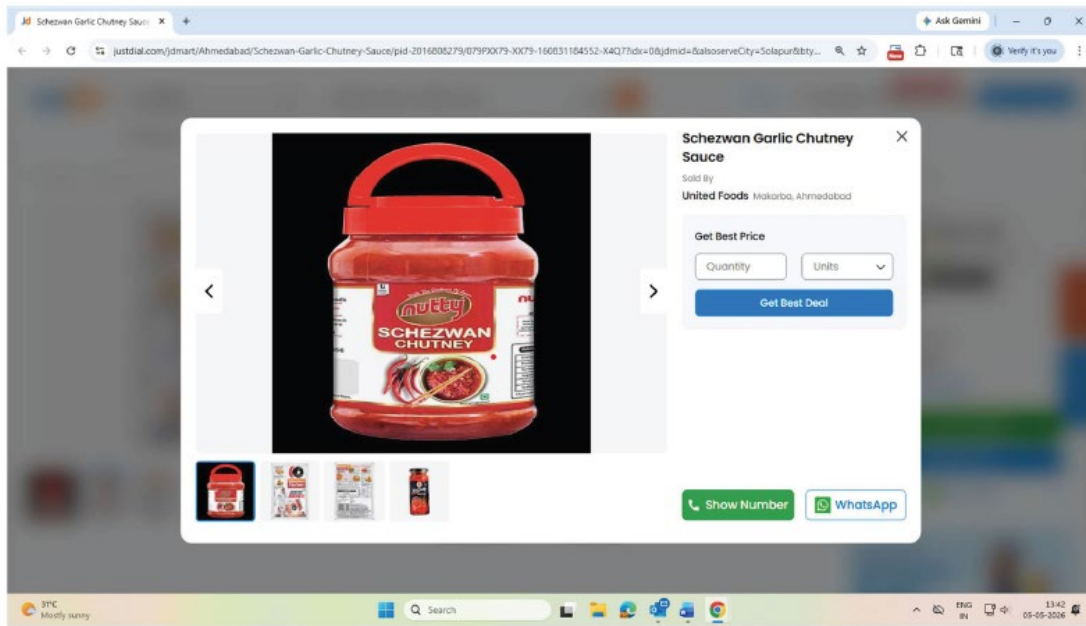




This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.

The Order is downloaded from the DHC Server on 20/05/2026 at 16:59:25



28. It appears that the adoption of the said mark 'Schezwan Chutney' with or without the word 'Hot' in between is clearly not honest or *bonafide*. The mark 'Schezwan Chutney' of the plaintiff has garnered substantial reputation and goodwill in the last many years which is clearly reflected from the sales figures as also the promotional expenses incurred by the plaintiff in respect of



the mark 'Schezwan Chutney'. The defendants appear to be riding the coat tails of the plaintiff's immense reputation and substantial goodwill. This is bound to dilute the goodwill and reputation of the plaintiff's trade mark.

29. The plaintiff has placed on record documentary proof to demonstrate that it has been vigilant in taking immediate steps to initiate legal remedies to protect its trade mark 'Schezwan Chutney' as and when such infringement had occurred. That apart, the mark Schezwan Chutney appears to have been arbitrarily coined by combining an English and Hindi word for which there is no dictionary meaning. The documents placed on record also appear to indicate that the plaintiff is the prior adopter and user of the registered trade mark Schezwan Chutney.

30. Having regard to the aforesaid, the plaintiff has evidently made out a strong case in its favour and against the defendants. The balance of convenience clearly tilts in favour of the plaintiff. Plaintiff shall suffer irreparable loss and injury which may not be adequately compensated in monetary terms in case *ex-parte ad-interim* injunction order is not passed against the defendant.

31. Accordingly, the following directions are passed:

- A. Defendants, their agents, suppliers and distributors, directors, employees and all others acting for and on their behalf, directly or indirectly are restrained from dealing any products/services bearing the marks SCHEZWAN CHUTNEY, SCHEZWAN HOT CHUTNEY, SCHEZWAN SAUCE HOT CHUTNEY and/or from using any other mark that may be deceptively similar to the plaintiff's registered and well-known mark SCHEZWAN CHUTNEY;
- B. Defendants to file on record of this Court their books of accounts, invoices, sales memo and/or any other documents recording/evidencing sale of their infringing products bearing the mark SZECHUAN



CHUTNEY and/or SCHEZWAN CHUTNEY and/or any other mark that may be deceptively similar to the plaintiff's registered and well-known mark SCHEZWAN CHUTNEY, from the date of launch of the said infringing products till date, in a sealed cover, within 6 weeks.

32. Issue notice.

33. Let a reply to this application be filed by the defendants within four weeks from service. Rejoinder, thereto, if any, be filed within two weeks thereafter.

34. Compliance of Order XXXIX Rule 3 of CPC shall be done within ten days from date.

CS(COMM) 501/2026

35. Let the plaint be registered as a suit.

36. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes.

37. The summons shall state that the Written Statement shall be filed by the defendants within 30 days from the date of the receipt of summons. Alongwith the Written Statement, the defendants shall also file Affidavit of Admission/Denial of the documents of the plaintiff, without which the Written Statement shall not be taken on record.

38. Liberty is granted to the plaintiff to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the plaintiff, an Affidavit of Admission/Denial of the documents of defendants be filed by the plaintiff, without which the Replication shall not be taken on record.

39. In case any party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the list of reliance, which shall also be filed with the pleadings.

40. If any of the parties wish to seek inspection of any documents, the same



shall be sought and given within the prescribed timelines.

41. List before the Joint Registrar (Judicial) on 07.08.2026 for completion of service and pleadings.

42. List before the Court on 29.10.2026.

TUSHAR RAO GEDELA, J

MAY 14, 2026/kct/rl