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

\# **CNR No. DLHC010305332026**

\+ CS(COMM) 745/2026, I.A. 20627/2026 & I.A. 20628/2026

GOLA SIZZLERS PRIVATE LIMITED .....Plaintiff

Through: Mr. Sandeep Sethi, Senior Advocate with Mr. Rohit Sharma, Mr. Jatin Lalwani, Mr. Nikhil Purohit, Mr. Krishna Gambhir and Ms. Shreya Sethi, Advocates with Mr. Manik Kapoor, Director.

versus

M/S GM FOODS & ANR. .....Defendants

Through: Mr. Vineet Bhagat, Mr. Aryaa Nagpal and Ms. Pooja Bisht, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

O R D E R

% **05.08.2026**

I.A. 18439/2026 *(u/O XXXIX Rules 1 and 2 r/w Section 151 CPC)*

1. This application is filed on behalf of the Plaintiff under Order XXXIX Rules 1 and 2 read with Section 151 of CPC for grant of *ex parte* ad interim injunction.

2. Mr. Vineet Bhagat, learned counsel enters appearance on behalf of the Defendants. Let reply, if any, be filed before the next date.

3. Case of the Plaintiff as set out in the plaint is that Plaintiff is engaged in the business of operating and franchising restaurants under the trademarks 'GOLA', 'GOLA SIZZLERS', 'GOLA RESTAURANTS' and other formative marks and traces its origin to the year 1988, when its founder Mr.

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Naresh Kapoor established the business under the name 'Gola 31' in Delhi. The first restaurant under the name 'Gola Sizzlers' was established in Delhi in 1992 In 2022, the business and all associated intellectual property rights, goodwill, business assets and franchise operations were transferred to and vested in the Plaintiff, which has since then continued the business. Currently, Plaintiff owns and operates a chain of approximately 17 restaurants across India besides a network of several authorised franchise outlets, each of which operates under Plaintiff's supervision and strict quality controls.

4. It is stated that over the course of more than 30 years, Plaintiff has painstakingly built and nurtured the reputation associated with its trademarks by maintaining consistent standards of quality, service, cuisine, ambience and customer experience and owing to such continuous use, extensive advertising, promotional activities, customer patronage and commercial success, the trademarks 'GOLA', 'GOLA SIZZLERS', 'GOLA RESTAURANTS' and the associated trade dress are exclusively associated with Plaintiff, resulting in the Plaintiff garnering enormous goodwill and impeccable reputation amongst consumers, members of the trade and the hospitality industry, throughout India.

5. It is stated that Plaintiff is the exclusive owner of and holds the intellectual property rights, interests and title in the brand names 'GOLA', 'GOLA SIZZLERS' and 'GOLA RESTAURANTS', including their goodwill, trade mark, service mark, trade name, business name, logo and designs. In order to safeguard its intellectual property, Plaintiff has secured statutory registrations in the trademarks under various classes and the registrations are valid and subsisting and confer upon the Plaintiff the

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exclusive statutory right to use the said trademarks and to restrain third parties from using identical or deceptively similar marks in relation to the registered goods and services. Details of the registrations are as follows:-

TRADEMARK	TRADEMARK NUMBER	CLASS
Gola	5580336	30
Gola	5672533	31
Gola Sizzlers	5580348	30
Gola	5580338	43
Gola Restaurants	5580341	29
Gola Sizzlers	5580347	29

6. It is stated that the besides the aforesaid statutory rights, Plaintiff has also acquired extensive common law rights in the said trademarks as also in the artistic logo, trade dress, menu, recipes, standard operating procedures, business systems, promotional material and the overall get-up associated with its restaurants. For the last financial year, FY 2024-25, total revenue of Plaintiff from operations stood at approximately Rs.73 crores and in the same financial year, Plaintiff had spent approximately Rs.2 crores towards advertising on various online and offline platforms.

7. It is stated that Plaintiff carries on business throughout India and enjoys a substantial customer base in Delhi and across the country and its trademarks have become source identifiers exclusively denoting the business and services of Plaintiff. Plaintiff has granted several non-exclusive and limited licenses to use its proprietary marks in connection with setting up and operations of restaurants in accordance with the terms and conditions mentioned in the respective Franchise Agreements and the only consideration for use of its brand, being the royalty fee payable by the franchisee, which is related to the monthly sales.

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8. It is stated that Defendant No. 1 is carrying on the business of operating a restaurant from a mall in Mohali under the name and style of 'Gola Sizzlers', based on an oral agreement which was entered into by the parties. The franchise arrangement was in the nature of a Franchise-Owned Franchise-Operated model and it was expressly understood between the parties that Defendants would independently own, finance and manage the day-to-day operations of the Mohali outlet while operating strictly under the policies and standards prescribed by the Plaintiff. In consideration of the licence granted to use the trademarks of Plaintiff, Defendants agreed to pay a monthly royalty equivalent to 8% of the monthly sales generated from the Mohali outlet, to be calculated and remitted to Plaintiff by the 7th of every month and further agreed to enter all sales in SSPL software, to which Plaintiff was provided access, thereby furnishing a reasonable basis to calculate the royalty dues for every month. In furtherance of the arrangement, Plaintiff deputed trained and experienced chefs from its Delhi operations to train the chefs at the restaurant of Defendants and also shared its proprietary recipes, kitchen procedures, menu planning, vendor standards and other confidential business information solely for the limited purpose of enabling Defendants to operate the franchise outlet, in accordance with the established standards of Plaintiff.

9. It is stated that the owner of the mall, AB Alcobev Pvt. Ltd. was unwilling to enter into a lease deed solely with Defendants and it is owing to the reputation and goodwill of Plaintiff that the mall owner agreed to lease the restaurant premises, on account of which Plaintiff was constrained to lend its name as Lessee No.1 in the tripartite lease deed dated 19.03.2024. The parties implemented the franchise arrangement as a FOFO model,

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wherein Defendant was solely responsible for establishing, financing and managing the day-to-day operations of the restaurant, including payment of lease rentals, common area maintenance charges, electricity charges, salaries and wages of employees, statutory dues and all other costs incidental to the business and Plaintiff neither funded nor managed the day-to-day operations of the outlet and merely licensed its trademarks, business systems and goodwill in consideration of payment of royalty. Said lease deed neither created nor purported to create any proprietary, perpetual or independent right in favour of Defendants to use the trademarks of Plaintiff and authority of Defendants to use the intellectual property of Plaintiff arose exclusively from the franchise arrangement and remained entirely dependent upon its continued subsistence.

10. It is stated that the restaurant of Defendants commenced operations in and around May, 2024 and pursuant thereto, Defendants continuously represented themselves to customers, suppliers, aggregators and members of the public as authorised franchisee of Plaintiff, openly running the Mohali outlet as a 'GOLA SIZZLERS', with all the banners, posters, pamphlets and other materials extensively using the registered trademarks, logos, menu and recipes of the Plaintiff. During the initial months of the franchise arrangement, Defendants regularly complied with the operational directions issued by Plaintiff and remitted royalty payments calculated on the agreed percentage of monthly sales. However, from July, 2024, Defendants gradually and consistently defaulted in making timely payment of the agreed royalty and despite repeated reminders, follow-ups and requests made by Plaintiff, failed to honour their financial obligations and started delaying payment month after month, without any reasonable justification. Plaintiff

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refrained from taking any coercive action solely because of the longstanding personal relationship between the families and in the genuine expectation that Defendants would clear their defaults. Out of the total 26 invoices issued by Plaintiff for royalty payments, 16 were not cleared by Defendants and owing to the personal relationship between the parties, Plaintiff also granted waiver and issued credit notes for 8 of the 16 invoices, particulars whereof as follows:-

DATE	INVOICE MONTH	CREDIT NOTE NO.	AMOUNT (RS.)
02.07.2024	May 2024	CR/02/24-25	2,04,527
27.07.2024	June 2024	CR/05/24-25	2,06,492
08.11.2025	April 2025	CR/21/2025-2026	1,81,238
08.11.2025	May 2025	CR/22/2025-2026	1,84,029
08.11.2025	July 2025	CR/23/2025-2026	1,96,216
08.11.2025	Sep 2025	CR/24/2025-2026	2,24,255
10.11.2025	Oct 2025	CR/25/2025-2026	2,38,097
05.02.2026	Jan 2026	CR/40/2025-2026	2,38,750
TOTAL			16,73,604

11. It is stated that despite issuance of waiver, Defendants continued to commit defaults and did not clear dues for 8 more months and thus, out of the total 26 invoices, defaulted on 16 invoices. Particulars of the pending invoices payable on part of Defendants are as follows:-

DATE	INVOICE MONTH	BILL NO.	AMOUNT (RS.)
01.03.2025	Feb 2025	GSPL/GM/10	1,93,248
02.12.2025	Nov 2025	GSPL/83	2,32,089
02.01.2026	Dec 2025	GSPL/94	3,08,466
31.03.2026	Feb 2026	GSPL/112	1,45,376
02.04.2026	March 2026	GSPL/7/2026-27	2,02,151
01.05.2026	April 2026	GSPL/18/2026-27	2,05,127
01.06.2026	May 2026	GSPL/24/2026-27	2,27,527
01.07.2026	June 2026	GSPL/32/2026-27	1,93,046
TOTAL			17,07,030

12. It is stated that as on date, Defendants have accumulated substantial outstanding royalty dues amounting to approximately Rs.17,07,030/-,

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exclusive of interest and other consequential claims. Taking note of the persistent default, Defendants were invited for a meeting on 15.04.2026 to clear the issues regarding operations of the franchisee, however, nothing materialised in the said meeting. Plaintiff thereafter decided to audit the operations of Defendants to ascertain the true extent of the defaults and deputed its Operations/Liason Manager, who visited the Mohali outlet on 17.04.2026 and during inspection discovered serious financial irregularities inasmuch as Defendants were deliberately generating bills through the billing software only for selected transactions while simultaneously accepting cash payments from numerous customers without recording the corresponding sales in the billing system. Such deliberate suppression of sales had the direct consequence of reducing the turnover reflected in the restaurant records and correspondingly reducing the royalty payable to Plaintiff, which was calculated as a percentage of monthly sales and was neither accidental nor isolated but formed part of a systematic practice adopted by Defendants with the sole objective of wrongfully withholding royalty legitimately payable to Plaintiff.

13. It is stated that Defendants also de-activated the CCTV surveillance system and when Plaintiff convened a meeting with Defendants and their representatives on 22.06.2026 to discuss the serious concerns and attempt at resolving the issues, Defendant No.2 and his representatives behaved in an extremely rude, insulting and threatening manner throughout the meeting. In June, 2026, Plaintiff entered into a promotional campaign in association with The Times of India, pursuant to which discount vouchers were circulated to customers across all franchise outlets and all franchisees, including Defendants, were informed of the promotional campaign on

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23.06.2026 and were directed to honour the vouchers, followed by a reminder issued on 29.06.2026. Vide email dated 29.06.2026, Defendants unilaterally refused to honour such vouchers, demanded additional monetary compensation for implementing the campaign and even questioned the authority of Plaintiff to implement a nationwide promotional campaign, whereas, every other franchise outlet operating under the brand of Plaintiff duly honoured the promotional campaign without objection.

14. It is stated that in these circumstances, there was a complete breakdown of trust and confidence between the parties and Plaintiff was left with no viable alternative except to terminate the franchise arrangement and accordingly, by communication dated 04.07.2026, Plaintiff formally terminated the oral franchise arrangement with immediate effect. Defendants responded by denying the allegations, however, after termination they have no right, title, licence or authority to continue using the registered trademarks of Plaintiff.

15. Learned Senior counsel for Plaintiff submits that Plaintiff is the registered proprietor of the GOLA marks and has a statutory right to their exclusive use as also to restrain third parties from infringing them. The oral franchise arrangement between the parties does not fall within the definition of permitted use under Section 2(r)(ii) of the Trade Marks Act, 1999 ('1999 Act'), inasmuch as permitted use under Section 2(r)(ii)(c) requires the consent of the registered proprietor by a written agreement and in any event, the oral arrangement specifically stands terminated with effect from 04.07.2026. Despite this, Defendants are continuing to use the trademark and goodwill of Plaintiff for running their restaurant under the name and style 'Gola Sizzlers' and continue to represent themselves to customers,

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suppliers and members of the public as being associated with the business of Plaintiff, to unlawfully exploit the enormous goodwill attached to the brand of Plaintiff and make financial gain.

16. It is urged that continued use of the registered trademarks of Plaintiff by Defendants for their restaurant without permission of Plaintiff is continuing to cause confusion amongst members of public as to the origin of the services and is deceiving consumers into believing that the restaurant of Defendants continues to be an authorised franchise outlet of Plaintiff. Plaintiff has no subsisting relationship with Defendants and therefore, use of the registered trademarks of Plaintiff by Defendants is a clear infringement of the registered trademarks under Section 29(2)(c) of the 1999 Act and also amounts to passing off. Defendants are still using the trade mark of Plaintiff on hoardings, third-party websites, food delivery platforms, pamphlets, menu, emails, letter-heads and visiting cards, which gives a wrong impression to people about their association with Plaintiff and Plaintiff shall continue to suffer irreparable injury to its goodwill and reputation unless Defendants are not restrained.

17. Having heard learned Senior Counsel for the Plaintiff and upon perusal of the documents as well as the rival marks, I am of the view that Plaintiff has made out a *prima facie* case for grant of ad interim injunction against the Defendants. Balance of convenience lies in favour of Plaintiff and it is likely to suffer irreparable harm in case the interim injunction, as prayed for, is not granted.

18. Plaintiff is the registered proprietor of the trademarks 'GOLA', 'GOLA SIZZLERS' and 'GOLA RESTAURANTS' in Classes 29, 30, 31 and 43 and the registrations are valid and subsisting. Plaintiff has been

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carrying on the restaurant business under the said marks since 1992 and the marks have become source identifiers exclusively denoting the business and services of Plaintiff. Use of the marks by Defendants appears to be related to an oral franchise arrangement, which stands terminated by the Plaintiff vide communication dated 04.07.2026. Use of the registered trademarks of Plaintiff by Defendants is thus *prima facie* without any right, title or authority and amounts to infringement under Section 29(2)(c) of the 1999 Act. The marks being identical/deceptively similar and services being the same and the erstwhile franchise relationship having itself conditioned the consumers to associate the Mohali outlet with Plaintiff, there is every likelihood of confusion amongst the members of public and trade that the restaurant run by Defendants continues to be an authorised franchise outlet of Plaintiff. Continued use is *prima facie* with a view to ride over and take advantage of the goodwill and reputation of Plaintiff and is detrimental not only to the reputation of Plaintiff but also to the consumers, who would be deceived into availing services under the impression that the same emanate from Plaintiff or from an outlet operating under its quality standards.

19. Accordingly, till the next date of hearing, Defendants, their trustees, officers, employees, agents, advertisers, distributors, franchisees, representatives and assigns and all others acting for and on behalf of Defendants are restrained from using the trademarks 'GOLA', 'GOLA SIZZLERS' and 'GOLA RESTAURANTS' and/or any other trademark identical with or deceptively similar to the registered trademarks of Plaintiff, in relation to their restaurant or on any hoarding, signage, banner, poster, pamphlet, menu card, letter-head, visiting card, third-party website, food delivery platform or any other promotional or advertising material, in any

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manner whatsoever, leading to infringement of the registered trademarks of Plaintiff as also passing off.

20. List on 17.08.2026 for hearing.

<u>I.A. 18440/2026</u> *<u>(u/O XXVI Rule 9 r/w Section 151 CPC)</u>*

21. List on 17.08.2026.

JYOTI SINGH, J

AUGUST 5, 2026/RW

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