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

# **CNR No. DLHC010861212025**

+ **C.A.(COMM.IPD-TM) 74/2025**

**AYU LIFESCIENCE INDUSTRIES FZE** .....Appellant  
Through: Mr. Abhinandan Khanduri,  
Advocates.

versus

**THE CONTROLLER GENERAL OF TRADEMARKS, THROUGH  
THE TRADEMARK OFFICE** .....Respondent  
Through: Mr. Gaurav Barathi, SPC with Mr.  
Chirantan Priyadarshan, Advocate.

**CORAM:  
HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**  
**21.08.2026**

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1. This appeal is filed on behalf of the Appellant under Section 91 of the Trade Marks Act, 1999 ('1999 Act') laying a challenge to impugned order dated 10.10.2025, passed by the Respondent refusing to register the



trademark **AYU LIFESCIENCE** (device) under Class 05.

2. It is the case of the Appellant that a trademark application was filed on 12.06.2025 bearing application no. 7057843 for registration of the device



mark **AYU LIFESCIENCE** in Class 05 for goods '*PHARMACEUTICALS*,



*MEDICAL AND VETERINARY PREPARATIONS; SANITARY PREPARATIONS FOR MEDICAL PURPOSES; PLASTERS, MATERIALS FOR DRESSINGS; PREPARATIONS FOR DESTROYING VERMIN; FUNGICIDES, HERBICIDES*'. Examination Report was issued on 13.08.2025 raising objection under Section 11 of 1999 Act, citing three marks allegedly similar to the applied mark, as follows:-

|                 | Cited mark no. 1                                                                           | Cited mark no. 2                                                                             | Cited mark no. 3  |
|-----------------|--------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------|-------------------|
| Application no. | 4453777                                                                                    | 4718893                                                                                      | 704661            |
| Mark            | AYU<br> | AYU18<br> | AYU SHAKTI (WORD) |

3. It is stated that Appellant filed reply to the Examination Report on 28.08.2025 and thereafter, a hearing notice was issued for 09.10.2025, after which the impugned order was passed on 10.10.2025, declining to register the device mark on the ground that the applied mark taken in its entirety is significantly identical with and/or deceptively similar to the cited marks as also that the goods/services in respect of which the Appellant seeks registration, are of the same description as under the cited marks and therefore, registration of the applied mark cannot be granted owing to provisions of Section 11(1) of 1999 Act.

4. Learned counsel for the Appellant submits that the impugned order is erroneous and arbitrary. Respondent has overlooked that one of the cited



marks AYU(device) under application no. 4453777 was objected to and the application has remained unprosecuted since 2020 and an objected mark cannot be considered as a valid or existing mark for refusal under Section 11(1) of 1999 Act. The second cited mark AYU18 (device) under application no. 4718893 is registered but the overall composition and structure of the said mark is completely distinguishable from the applied mark. Appellant's mark represents its corporate identity and business in pharmaceutical and healthcare goods and inclusion of the word 'LIFESCIENCE' as also a distinctive device element, ruling out any confusion or deception in the trade. The third cited mark AYU SHAKTI (word) bearing application no. 704661 is under opposition and therefore, this mark cannot be an impediment in registration of Appellant's mark.

5. It is further submitted that Respondent has failed to appreciate that in



any event, Appellant's mark **AYU LIFESCIENCE** seen as a whole is structurally, phonetically and visually distinct from cited marks. The mark contains a picture of a tree, a distinctive colour combination and includes the word 'LIFESCIENCE', which makes it distinct from any of the three cited marks. It is a settled law that when comparing two marks, comparison must be on the overall impression and not by dissecting the marks into individual components. In this context, reliance is placed on Section 17 of 1999 Act as also the judgment of the Supreme Court in ***Pernod Ricard India Private Limited and Another v. Karanveer Singh Chhabra***, 2025 SCC OnLine SC 1701.



6. Mr. Gaurav Barathi, learned SPC appearing for the Respondent submits that no infirmity can be found in the impugned order and the applied mark has been rightly refused under Section 11(1) of 1999 Act as it was



found to be similar to cited marks: , AYU18 (device) and AYU SHAKTI (word), all covering identical or closely related goods in Class 05. Considering that the goods in question are pharmaceutical preparations, any likelihood of confusion had to be ruled out while considering registration of the applied mark. He also submits that while anti-dissection rule is normally followed, however, the dominant mark test is not antithetical to the said test. The word AYU is the dominant part in the three cited marks and the word element of the applied mark includes the said word and there being an identity in the dominant parts, Appellant's mark cannot be registered.

7. Heard learned counsels for the parties and examined their submissions.

8. From the impugned order, it is evident that Respondent has refused



registration of Appellant's mark AYU LIFESCIENCE on the ground that it is significantly identical with and/or deceptively similar to the cited marks and the goods or services in respect of which registration is sought, are similar to those covered by the cited marks and hence, registration is proscribed under Section 11(1) of 1999 Act. Court has perused the Examination Report and



the three cited marks therein and it emerges that one of the three marks i.e.,



is objected to and as per the Appellant, the applicant of the mark has not prosecuted the application since 2020. The word mark AYU SHAKTI has been opposed and the opposition proceedings are pending. Respondent has completely overlooked these facts and has taken the two cited marks as valid marks on the Register of Trade Marks to decline registration of the applied mark, without giving any reason to do so. This is a glaring error in the impugned order and on this ground, the matter deserves to be remanded.

9. Learned counsel for the Appellant also urges that the third cited mark



*albeit* registered, cannot be an impediment under Section 11(1) for registration of the applied mark inasmuch as there is no deceptive



similarity with the applied mark **AYU LIFESCIENCE**. The main plank of the argument is that the two marks were required to be considered as a whole, applying the anti-dissection test and had the Respondent carried out this exercise, there was no justification to deny the registration, since both marks, on an overall impression, are completely distinct and dissimilar, visually, structurally and phonetically. Alternatively, counsel also contends



that even if the dominant mark test is applied, it cannot be urged on behalf of the Respondent that the dominant part of the mark is AYU and moreover, the distinctive elements of the applied mark as also addition of the word 'LIFESCIENCE', makes it completely distinguishable from the cited mark. Respondent could have followed the path of permitting registration of the applied mark with a disclaimer on using the word AYU as a standalone mark. This Court finds merit in this contention to the extent that Respondent has not entered into the exercise of comparing the applied mark with the



cited mark on the parameters under Section 11(1) of 1999 Act, as raised by the Appellant i.e., difference in the overall impression and/or individual elements of the devices, addition of the word 'LIFESCIENCE' to AYU etc. and seems to have been influenced by the fact that both device marks have commonality of the word AYU, by dissecting the marks, which is against the anti-dissection rule. Therefore, in my view, the trademark application needs to be considered afresh.

10. For all the aforesaid reasons and without going into the merits of the case, the appeal is partially allowed, setting aside order dated 10.10.2025 passed by the Respondent. The application bearing no. 7057843 filed on



12.06.2025 for registration of the mark **AYU LIFESCIENCE** in Class 05 shall be considered afresh, keeping in mind that two of the three cited marks are objected to and opposed, respectively. Decision shall be taken after granting



opportunity of hearing to the Appellant and within a period of three months from today.

11. Appeal stands disposed of in the aforesaid terms.

**JYOTI SINGH, J**

**AUGUST 21, 2026**

***S.Sharma***