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

CNR No. DLHC010437712026

+ **CS(COMM) 1019/2026**

ITC LIMITED

.....Plaintiff

Through: Mr. Arvind Nigam and Mr. Nalin Kohli, Senior Advocates with Ms. Suhrita Majumdar, Mr. Afzal B Khan, Ms. Manya Jain, Mr. Amit Ranjan, Mr. Amit Kumar Mishra, Ms. Mitakshara Goyal, Ms. Swati Mittal, Ms. Anushka Aman, Mr. Saurav Kakroda, Mr. Ayuushman Aroraa and Mr. Anshul Malik, Advocates.

versus

RAVI KISHOR & ANR.

.....Defendants

Through:

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

**ORDER
16.09.2026**

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I.A.25377/2026 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

I.A. 25375/2026 (for pre-institution mediation)

3. This application is filed on behalf of the Plaintiff under Section 12-A of the Commercial Courts Act, 2015 read with Section 151 CPC seeking exemption from Pre-Institution Mediation.



4. Having regard to the facts of the present case wherein urgent relief is prayed for and in light of the judgment of Supreme Court in *Yamini Manohar v. T.K.D. Keerthi*, (2024) 5 SCC 815, as also Division Bench of this Court in *Chandra Kishore Chaurasia v. RA Perfumery Works Private Ltd.*, 2022 SCC OnLine Del 3529, exemption is granted to the Plaintiff from Pre-Institution Mediation.

5. Application is allowed and disposed of.

I.A. 25376/2026 (u/S 151 CPC)

6. This application is filed on behalf of Plaintiff seeking exemption from effecting advance service on the Defendants.

7. For the reasons stated in the application, the same is allowed, exempting Plaintiff from effecting advance service on the Defendants.

8. Application stands disposed of.

I.A. 25378/2026(u/O XI Rule 1 (4) of Commercial Courts Act, 2015 CPC)

9. This application is filed on behalf of the Plaintiff seeking to place on record additional documents within 30 days.

10. Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly in accordance with provisions of the Commercial Courts Act, 2015.

11. Application is allowed and disposed of.

CS(COMM) 1019/2026

12. Let plaint be registered as a suit.

13. Issue summons to the Defendants through all permissible modes, returnable before the learned Joint Registrar on 12.10.2026.

14. Summons shall state that the written statements shall be filed by the



Defendants within 30 days from the date of receipt of summons along with affidavits of admission/denial of the documents filed by the Plaintiff.

15. It will be open to the Plaintiff to file replications within 30 days from receipt of the written statements along with affidavits of admission/denial of documents filed by the Defendants.

16. If any of the parties wish to seek inspection of any documents, the same be sought and given within the timeline prescribed in Delhi High Court (Original Side) Rules, 2018.

17. Learned Joint Registrar shall carry out admission/denial of documents and marking of exhibits.

I.A.25374/2026 (u/O XXXIX Rules 1, 2 and 7 r/w Section 151 CPC)

18. This application is filed on behalf of the Plaintiff under Order XXXIX Rules 1, 2 and 7 read with Section 151 of CPC for grant of *ex parte* ad interim injunction.

19. Issue notice to the Defendants through all permissible modes, returnable before Court on 22.01.2027.

20. Case of the Plaintiff as set out in the plaint is that Plaintiff is one of India's foremost private sector companies and among the largest players in the Fast-Moving Consumer Goods sector with a diversified portfolio of over 30 Indian brands. Plaintiff has been consistently ranked amongst the top 3 Indian corporate houses in the private sector in terms of contribution to the exchequer and over the last five years, value added by Plaintiff aggregated over Rs.2,92,000 crores, of which over Rs. 1,94,000 crores accrued to the Exchequer.

21. It is stated that history of Plaintiff's cigarette business traces back to its inception in 1910 and its cigarettes are marketed under several



trademarks such as GOLD FLAKE, FLAKE, ROYAL, CLASSIC, INDIA KINGS, INSIGNIA, BRISTOL, SCISSORS, CAPSTAN and NAVY CUT. Plaintiff has five ISO-certified cigarette manufacturing facilities in India and it also exports cigarettes to several countries including United Arab Emirates, Qatar, Kuwait, Saudi Arabia, Oman, Bahrain and many African countries.

22. It is stated that the trademark GOLD FLAKE was adopted in 1905 by Plaintiff's predecessor-in-interest and has been used by Plaintiff since its inception in 1910 openly, continuously and extensively for over a century. The words GOLD FLAKE and the red-and-gold colour combination of the packaging have remained essentially unchanged since inception and the mark is used not only on the packs but also on individual cigarette sticks.

23. It is stated that Plaintiff has been vigilant in protecting its intellectual property rights against third party infringers of the mark GOLD FLAKE and Courts in India have not only granted injunction orders but have also recognised this to be one of the well known brands in cigarettes in the country. To buttress this plea, reliance is placed on the judgment of the Madras High Court in *ITC Limited v. Golden Tobacco Limited, 2018 SCC OnLine Mad 2437*, in respect of the mark GOLD FLAKE. Plaintiff is also the registered proprietor of several GOLD FLAKE formative marks in Class

34, including the red-gold roundel devices ,  and



, the earliest one being Registration No. 7678 dated 11.11.1942.

An illustrative list of the registrations is as follows:-



TABLE 1: Trade Mark Registrations of "GOLD FLAKE"

Sl. No.	Application Date	Trade Mark No.	Trade Mark
1.	11-11-1942	7678	
2.	04-05-1979	348904	
3.	28-12-1994	650023	
4.	06-05-1997	755715	
5.	06-05-1997	755717	



Sl. No.	Application Date	Trade Mark No.	Trade Mark
6.	04-10-1999	879708	
7.	14-09-2001	1044808	GOLD FLAKE HALLMARK
8.	01-04-2004	1276067	GOLD FLAKE ULTIMA
9.	22-07-2004	1298496	
10.	27-07-2004	1299540	
11.	27-07-2004	1299539	
12.	03-09-2010	2018483	
13.	14-08-2012	2379737	



Sl. No.	Application Date	Trade Mark No.	Trade Mark
14.	23-05-2012	2336485	
15.	15-01-2013	2460319	GOLD FLAKE CENTURY GOLD FLAKE SUPER STAR
16.	04-04-2013	2507491	
17.	23-01-2014	2664846	
18.	16-02-2015	2903525	
19.	25-03-2015	2930354	
20.	27-07-2016	3320942	



Sl. No.	Application Date	Trade Mark No.	Trade Mark
21.	07-07-2017	3587126	

24. It is stated that Plaintiff is also the registered proprietor of the trade dress ('GOLD FLAKE PREMIUM') under Registration No. 3587126 dated 07.07.2017, which is as follows:-



25. It is stated that on 10.05.2024, Plaintiff applied for registration of the word mark GOLD FLAKE under Application No. 6426458 in Class 34,



which is pending on account of an opposition and on 01.06.2026, applied for the word mark GOLD under Application No. 7762664 in Class 34, which is at the pre-advertisement stage. The mark GOLD FLAKE and its essential features, including the GOLD FLAKE roundel devices i.e.,



and the red and gold colour combination of the Plaintiff's trade dresses/labels/packaging/get-up are deeply entrenched in the minds of consumers, who associate the same solely and exclusively with the Plaintiff. The red-and-gold colour scheme, trade dress and get-up of GOLD FLAKE packs, including the GOLD FLAKE PREMIUM trade Dress and GOLD

FLAKE roundel devices



and



, as also the ITC (Device)



, are original

artistic works within the meaning of the Copyright Act, 1957 ('1957 Act'), of which Plaintiff is the first owner and has the exclusive right of reproduction. Plaintiff has also obtained copyright registrations for the artistic work in some product packaging, as follows:-



Sl. No.	Application Date	Registration No.	Artistic Work
1.	26-04-2010	A-124191/2018	
2.	26-04-2010	A-124187/2018	
3.	10-11-2010	A-95699/2013	
4.	18-07-2011	A-99121/2013	

26. It is stated that on account of sustained market presence over a century coupled with substantial and continuous investment in marketing, as permissible under law as also development and branding, cigarettes under the trademark GOLD FLAKE have registered phenomenal and consistent



growth in sales, which is reflected in the gross sales turnover, as follows:-

Financial Year	Gross Sales Turnover in crores (INR)
1996-1997	1,756
1997-1998	2,059
1998-1999	2,456
1999-2000	2,694
2000-2001	2,904
2001-2002	3,027
2002-2003	3,443
2003-2004	4,161
2004-2005	4,194
2005-2006	5,023
2006-2007	6,358

Financial Year	Gross Sales Turnover in crores (INR)
2007-2008	6,993
2008-2009	7,855
2009-2010	8,841
2010-2011	9,812
2011-2012	11,325
2012-2013	14,128
2013-2014	16,171
2014-2015	16,487
2015-2016	17,968
2016-2017	18,781
2017-2018	24,577
2018-2019	26,871
2019-2020	26,461
2020-2021	24,897
2021-2022	29,761
2022-2023	36,855
2023-2024	40,186
2024-2025	44,014
2025-2026	51,292
TOTAL	4,71,350

27. It is stated that owing to such long use and enormous sales, the brand



recall value of GOLD FLAKE, the GOLD FLAKE



, and the GOLD FLAKE PREMIUM trade dress, including their essential features, is such that consumers and traders associate them exclusively with the Plaintiff. Since the imposition of the 85% mandatory graphical health warning on cigarette packs, only 15% of the front and back panels remain available for brand identifiers and accordingly, Plaintiff's products bearing the GOLD FLAKE PREMIUM trade dress is as under:-

Plaintiff's Cigarette Pack (Front of Pack)	Plaintiff's Cigarette Pack (Back of Pack)
Plaintiff's Cigarette Pack (Side View 1)	Plaintiff's Cigarette Pack (Side View 2)

28. It is stated that individual elements of the GOLD FLAKE PREMIUM



trade dress also stand separately registered in Class 34, including W.D. &

H.O. WILLS *W.D. & H.O. Wills*, STAR (Device)  and the word marks HONEYDEW, HONEYDEW BLEND and HONEYDEW SMOOTH. Plaintiff is also the proprietor of the trademark WILLS, used for cigarettes for over a century. Additionally, Plaintiff is also the owner of the copyright



subsisting in the device mark , being an original artistic work within the meaning of 1957 Act. ITC is the corporate name and trading style of the Plaintiff, by which it has been known to the trade and to the public for



over half a century and thus the use of the ITC (Device) , wherein ITC is the dominant part, constitutes infringement of both the copyright as well as registered trademark of the Plaintiff. Details of registrations in Class 34, which are valid and subsisting, are as under:-

Trade Mark	Trade Mark No.	Status	Valid Till
	672326	Registered	07/07/2029
	2627957	Registered	15/11/2033
	2628103	Registered	15/11/2033
ITC (Word mark)	5494308	Registered	18/06/2032



29. It is stated that given the recurrent instances of counterfeiting of its trademarks, Plaintiff maintains sustained market surveillance and on 03.09.2026, Plaintiff received information that illicit counterfeiting operations were being carried out at premises situated in Village Dudhli Khadar and on the same day, lodged written complaint with the jurisdictional Police Station. On the night intervening 03.09.2026 and 04.09.2026, the police conducted search and seizure at the said premises, which is an old school building camouflaged behind a board displaying a cattle shed (gaushala) so as to evade detection. About twenty workmen were found manufacturing counterfeit GOLD FLAKE PREMIUM cigarettes by the police. Cartons of ready-made cigarettes as also machinery and raw material were recovered from the said premises.

30. It is stated that Defendant No.1 was present at the said premises and held himself out to be the owner of the factory but could not produce any registration, licence or authorisation to manufacture cigarettes bearing the mark GOLD FLAKE PREMIUM and on enquiry simply stated that the raw material, packaging material and machinery was procured from Cambodia. Defendant No.1 neither holds any industrial licence, registration or authorisation to manufacture cigarettes nor any licence or permission from the Plaintiff to use its trademarks. Defendant No.2 is arrayed as John Doe and comprises persons, firms and entities presently unknown to Plaintiff, who are acting in concert with Defendant No.1 in the manufacture, printing, packaging, storage, transportation, distribution, sale and supply of counterfeit GOLD FLAKE cigarettes. Comparison of the counterfeits with genuine control samples produced by Plaintiff's representative before the Officer-in-Charge revealed critical discrepancies in the packaging and



reflected the inferior quality of the seized goods. In the presence of the Magistrate/Naiib Tehsildar and Defendant No.1, the goods and materials were counted and seized and the premises were locked and sealed and continue to remain sealed. FIR No. 0203/2026 dated 04.09.2026 was registered at Police Station Hastinapur under Sections 318(4), 338, 340(2) and 342 of the Bharatiya Nyaya Sanhita, 2023 and Sections 63 and 65 of 1957 Act. Photographs of the machinery, packaging and cigarette sticks found at the premises are as follows:-

Table 4: The machinery at the said premises	



Table 4: The machinery at the said premises

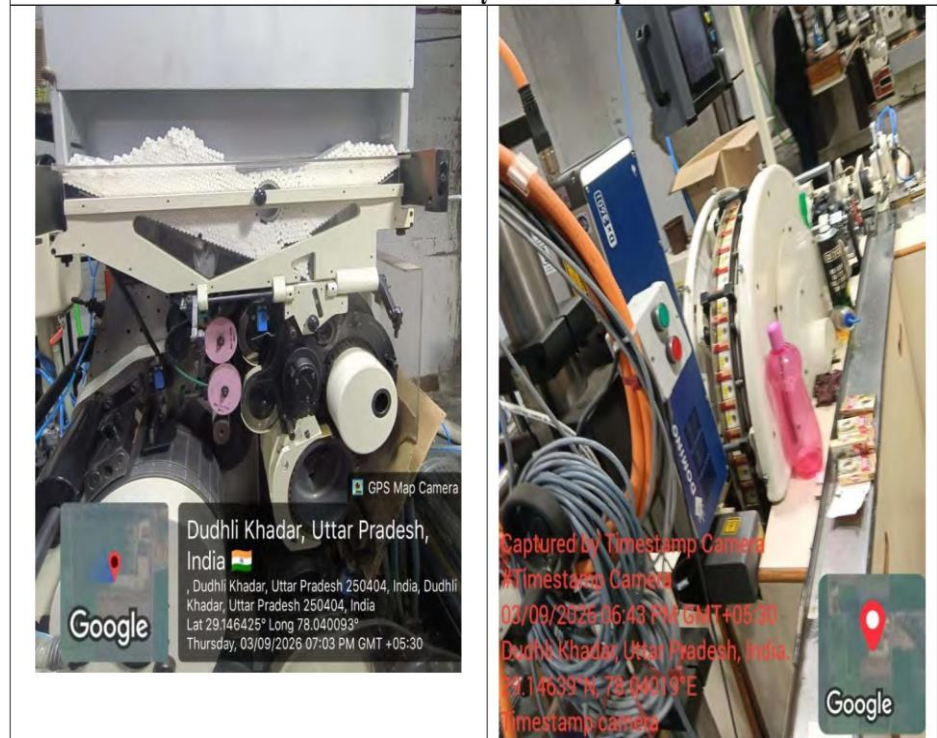


Table 5: Packaging and labels





Table 5: Packaging and labels



Table 6: Counterfeit Cigarette Sticks



31. It is stated that the seized goods are estimated at approximately Rs. 1,44,67,000/- and include 94 cartons of readymade GOLD FLAKE cigarettes (1,128,000 sticks) valued at Rs. 1,29,72,000/-, 13 cartons of loose GOLD FLAKE PREMIUM cigarettes (approximately 130,000 sticks)



valued at Rs. 14,95,000/- as also 19 rolls of GOLD FLAKE filter paper, 124 cartons of empty cigarette packets, 15 rolls of wholesale packaging bearing the GOLD FLAKE PREMIUM logo and filter rolls. Multiple units of automatic cigarette manufacturing machines were also seized. Defendants have been indulging in clandestine manufacturing operations of counterfeit cigarettes using Plaintiff's trademarks on packaging material, converting it into retail packs, filling the packs with cigarettes and placing them in cartons for dispatch. The samples taken from the seized goods reveal that every element of Plaintiff's products/packaging has been copied and one is unable to distinguish the rival products owing to their similarity as follows:-

Packaging of the Counterfeit GOLD FLAKE Products	Plaintiff's GOLD FLAKE PREMIUM Package



Packaging of the Counterfeit GOLD FLAKE Products	Plaintiff's GOLD FLAKE PREMIUM Package
	
	
	

32. It is stated that the seized goods include printed but unassembled retail packs, which bear, in addition to GOLD FLAKE, the GOLD FLAKE

roundel devices  /  /  , GOLD FLAKE PREMIUM trade dress, Plaintiff's house mark ITC



and , reproduced in an identical manner and style and placed at the same position as on the genuine packs of the Plaintiff, as follows:-



33. It is stated that the replication extends to Plaintiff's corporate name, manufacturing address and customer care details on the counterfeit packs, as depicted below and the object is to suggest an association with the Plaintiff and to pass off the counterfeit GOLD FLAKE products representing them to



be Plaintiff's original products, as follows:-



34. Learned Senior Counsels for the Plaintiff submit that being the registered proprietor of the GOLD FLAKE trademarks (device) Plaintiff is entitled to use the mark exclusively and restrain third parties from infringing the same. Defendants are using Plaintiff's registered GOLD FLAKES marks on identical goods and have completely copied and reproduced the artistic works in the GOLD FLAKE roundel devices



, the GOLD FLAKE PREMIUM



trade dress and device. The impugned products are counterfeit and due to common trade channels and consumer base, confusion is not merely likely, but inevitable. Defendants are infringing the trademark as also the copyright of the Plaintiff. Defendants have dishonestly copied the trademark, trade dress and all elements of the artistic work on the packaging,



which are integral and distinctive part of Plaintiff's GOLD FLAKE cigarettes only to mispresent to the public that the impugned goods emanate from the house of the Plaintiff or have some commercial nexus, so as to encash on the immense and enviable goodwill and reputation of the Plaintiff, which has consistently grown over decades. This is causing harm and injury to the Plaintiff and amounts to passing off.

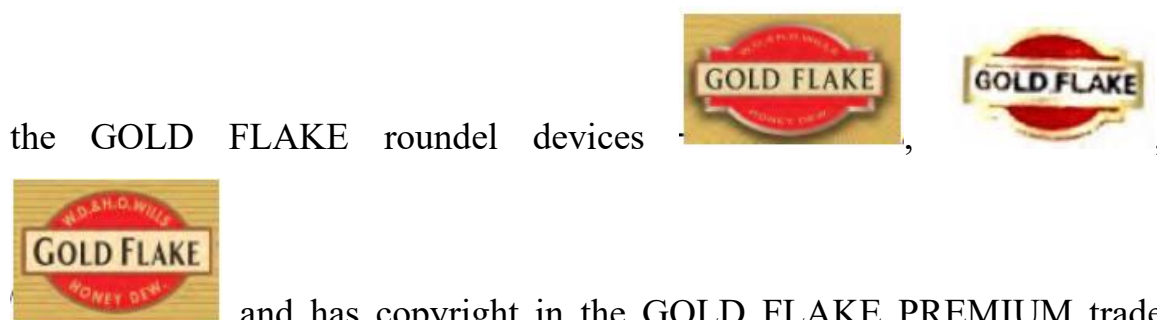
35. It is urged that the present case is not one of mere infringement but of organised counterfeiting, carried on clandestinely under the garb of running a cattle shed, in order to evade tax and other restrictions under the regulatory regime. An industrial licence is required for manufacture of cigarettes under the Industries (Development and Regulation) Act, 1951, which has not been granted to any entity by the Department for Promotion of Industry and Internal Trade since 1999. Under Section 11A of the Tobacco Board Act, 1975 read with the Tobacco Board Rules, 1976, no person can process Virginia tobacco or manufacture products therefrom without registration and licence from Tobacco Board, Guntur and the official list of registered manufacturers does not feature either of the Defendants. While approximately 60-65% of the MRP of a legally manufactured cigarette goes to the public exchequer as indirect tax, Defendants deal on an unrecorded cash basis and evade all levies, for which Plaintiff has given a representation dated 07.09.2026 to the Additional Director General, Directorate General of GST Intelligence, Meerut Zonal Unit. Sale of counterfeit cigarettes, which are of inferior quality and not regulated by any statutory restrictions, to consumers who purchase them believing in the quality of products offered by the Plaintiff, tarnishes the image and reputation of the Plaintiff and dilutes the GOLD FLAKE mark, besides posing a grave threat to public



health and ought to be restrained.

36. Having heard learned Senior Counsels for the Plaintiff, I am of the view that Plaintiff has made out a *prima facie* case for grant of *ex parte* ad interim injunction against the Defendants. Balance of convenience lies in favour of the Plaintiff and it is likely to suffer irreparable harm in case the interim injunction, as prayed for, is not granted.

37. Plaintiff is the registered proprietor of the trademark GOLD FLAKE,



and has copyright in the GOLD FLAKE PREMIUM trade dress and other individual elements forming part of its packaging. The earliest trademark registration goes back to the year 1942 and use of the mark GOLD FLAKE is now for over a century. Sales turnover of Rs. 51,292 crores in the financial year 2025-2026 alone and cumulative sales of Rs. 4,71,350 crores over three decades, with a nearly consistent year-on-year growth, are reflective of the formidable goodwill and reputation earned by Plaintiff. Registrations in the trademarks confers a statutory right on the Plaintiff to use GOLD FLAKE marks exclusively and restrain their infringement by virtue of Section 28 of the Trade Marks Act, 1999 and any violation, amounts to infringement under Section 29. Extensive use over decades grants common law rights to the Plaintiff to protect the trademarks.

38. Comparison of the impugned goods with the original products of the Plaintiff *prima facie* shows that they are counterfeits. Defendants have



dishonestly copied the GOLD FLAKE trademarks as also the trade dress/packaging, in every element including the red-and-gold colour scheme, enclosing within it the GOLD FLAKE roundel device, STAR device with the word 'Premium', HONEYDEW BLEND, the W.D. & H.O. WILLS signature on the tipping paper and even the manufacturing panel bearing Plaintiff's name and address. The rival marks and goods being identical and trade channels and class of consumers being common, confusion and deception amongst members of public are inevitable. Defendants are selling cigarettes using identical mark and trade dress/packaging so as to give an impression that their goods originate from the house of the Plaintiff or have a commercial association and affiliation. The objective is to encash on the goodwill and this is causing irreparable injury to the Plaintiff. Defendants are *prima facie* infringing Plaintiff's trademarks and copyright as also passing off the impugned product. Plaintiff is also right that the illegal activities are a potential threat to public health, if the quality of the cigarettes is inferior and the manner of sale transactions is also leading to unwarranted loss to public exchequer.

39. Accordingly, till the next date of hearing, Defendants and all others acting on their behalf are restrained from manufacturing, selling, offering for sale, marketing and/or distributing the impugned product, directly or indirectly, and/or using the product packaging, wrappers, pamphlets, printed sheets or other material, bearing Plaintiff's registered trademarks GOLD

FLAKE and/or GOLD FLAKE roundel devices





, and/or the GOLD FLAKE PREMIUM trade dress and/or W.D. & H.O. WILLS and/or W.D. & H.O. WILLS (device)

represented as *W.D. & H.O. Wills* and/or HONEYDEW and/or HONEYDEW BLEND and/or HONEYDEW SMOOTH and/or STAR



(Device) represented as and/or WILLS and/or ITC (Device)



represented as and/or any other mark/device/label/get-up/trade dress/packaging, identical or deceptively similar to Plaintiff's trademarks/trade name/device/label/get-up/trade dress/packaging, amounting to infringement of trademarks and copyright and/or passing off.

40. Plaintiff shall comply with the provisions of Order XXXIX Rule 3 CPC within a period of two weeks from today.

JYOTI SINGH, J

SEPTEMBER 16, 2026

S.Sharma