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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 221/2024**
ITC LIMITEDPlaintiff

Through: Mr. Arvind Nigam, Senior Advocate,
Mr. Arvind Nayar, Senior Advocate
with Ms. Mamta Jha, Ms. Shruttima
Ehersa, Ms. Aiswarya Debadarshini,
Ms. Jahanvi Agarwal, Mr. Agnish
Aditya, Mr. Shubham Pandey and Ms.
Sanjukta Kaushik, Advocates.

versus

PELICAN TOBACCO CO LTD & ORS.Defendants
Through: Mr. Sanjeev Bindal, Advocate for D1
& D2.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER
05.12.2025

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I.A. 34381/2024

1. Pursuant to the Order dated 04.11.2025, the Defendants / Contemnors have filed an Affidavit dated 25.11.2025 (“**Affidavit**”) stating as under:

“2. That in compliance of the order dated **13.01.2025** passed by this Hon'ble Court, the Defendants tendered their unconditional apology for any violations of the Order dated 13.03.2024 on behalf of Defendant No. 1 and Defendant No. 2 and additionally submitted details of the approximate quantities of stock/products manufactured and sold under the marks **GOLD FLAME, GOLD FIGHTER, GOAD FLAME, and GOAD FIGHTER** for the period 13.03.2024 to 13.01.2025, vide Affidavit dated 28.01.2025. The relevant particulars as furnished in the said Affidavit are reproduced below:

PARTICULARS	GOLD FIGHTER	GOLD FLAME	GOAD FLAME	GOAD FIGHTER
<i>Sales (Qty. in CFC)</i>	0	0	37	30



<i>per 12,000 cigarettes</i>				
<i>Production (Qty. in CFC) per 12,000 cigarettes</i>	0	0	42	37
<i>Remaining (Qty. in CFC) per 12,000 cigarettes</i>	0	0	5	7
<i>Sales (Value Including Tax)</i>	0	0	25,07,971	20,39,139
<i>Production (Value Including Tax)</i>	0	0	28,46,886	25,07,971
<i>Remaining Stock (Value Including Tax)</i>	0	0	3,38,915	4,74,481

3. That vide order dated **27.02.2025**, this Hon'ble Court had directed the Defendants to destroy the existing stock with the infringing mark in question. In compliance of order dated 27.02.2025, the Defendants have destroyed the remaining stock and also filed an affidavit dated **07.04.2025** stating the same.

4. That vide order dated **22.09.2025**, this Hon'ble Court had directed the Defendants to file complete book of accounts/ stock register / sale invoices of all cigarettes bearing the marks **GOLD FLAME, GOLD FIGHTER, GOAD FLAME, GOAD FIGHTER**. In compliance of order dated 22.09.2025, the Defendants had filed copy of invoices \ dated 13.03.2024 to 22.09.2025 before this Hon'ble Court on **05.10.2025**.

5. That vide order dated **04.11.2025**, this Hon'ble Court had made an observation, after being pointed out by the Ld. Senior Counsel for the Plaintiff, regarding discrepancy in the total sales value in invoices filed by the Defendants from the period of 13.03.2024 to 22.09.2025 and the total sales value as per the affidavit filed by the Defendants dated **28.01.2025**.

6. That it is respectfully submitted that an inadvertent discrepancy occurred in the Affidavit dated 28.01.2025, inasmuch as the total production quantity and value of stock was incorrectly computed due to non-segregation of the prices of Normal **GOAD FLAME, DELUX GOAD FLAME** and **Delux GOAD FIGHTER** variants. The variants were mistakenly clubbed together and valued



at the rate applicable to the Normal variant only resulting in discrepancy in the total sales value. The Defendants have now rectified this error and are filing the correct bifurcation of variant-wise pricing and quantities below:

PARTICULARS	GOAD FLAME		GOAD FIGHTER	Total
	Normal	Delux	Delux	
<i>Sales (Qty. in CFC) Per CFC 12,000 cigarette</i>	9 + 1000 Loose Cigarette	28	30	67 + 1000 Loose Cigarette
<i>Production (Qty. in CFC) Per CFC 12,000 cigarette</i>	9 + 1000 Loose Cigarette	33	37	79 + 1000 Loose Cigarette
<i>Remaining Stock (Qty. in CFC) Per CFC 12,000 cigarette</i>	0	5	7	12
<i>Sales (Value including Tax) Normal Cigarette Rate Per Cfc Rs.67,783/- Delux Cigarette Rate Per Cfc Rs.1,05,954/-</i>	6,15,696.00	29,66,712.00	31,78,620.00	67,61,028.00
<i>Production (Value including Tax) Normal Cigarette Rate Per Cfc Rs.67,783/- Delux Cigarette Rate Per Cfc Rs.1,05,954/-</i>	6,15,696.00	34,96,482.00	39,20,298.00	80,32,476.00
<i>Remaining Stock (Value including Tax) Normal Cigarette Rate Per Cfc Rs.67,783/- Delux Cigarette Rate Per Cfc Rs.1,05,954/-</i>	-	5,29,770.00	7,41,678.00	12,71,448.00



2. The learned Senior Counsel for the Plaintiff submits that the Affidavit is not in compliance with the Order dated 04.11.2025 as:

- a. The total value of sales / production of the contempt products has been falsely calculated and furnished by the Defendants / Contemnors with a difference of ₹26.7 Lakhs between the values given in Affidavit dated 28.01.2025 and the Affidavit dated 25.11.2025.
- b. The Defendants / Contemnors have failed to fully comply with the order dated 04.11.2025 as it did not provide any disclosures with respect to 'GF FLAME' and 'GF FIGHTER' as directed in the said order.
- c. The Defendant / Contemnors have deliberately silent on the issue of its manufacturing of the products for the year 2025, which amounts to continuing contempt of the orders passed by this Court.
- d. The Defendants / Contemnors are habitual infringers targeting other well-known brands such as MALBORO and FOUR SQUARE for which the similar cases are pending before this Court.
- e. *Vide* order dated 19.09.2025 in a similar matter being *ITC v. GTPL*, CS(COMM) 146/2023, the Coordinate Bench of this Court had directed full disclosure of properties / factories / premises and all accounts, necessary orders for sealing the premises as well as exemplary costs, restitution of contempt sales and compensatory damages.

3. In view of the above, the learned Senior Counsel for the Plaintiff submitted that the Defendants / Contemnors be directed to disclose the sales and production of the infringing products 'GF FLAME' and 'GF FIGHTER'



and also disclose on affidavit all the factory premises, manufacturing associates and all business accounts held by the Defendant, its associates and directors.

4. Considering the contents of the Affidavit and submissions made on behalf of the Parties, it is clear that the Defendants / Contemnors have not complied with the directions contained in the order dated 4.11.2025 in wilful disobedience of the orders passed by this Court. There is clear discrepancy of ₹26.7 lacs between the values given in Affidavits dated 28.01.2025 and 25.11.2025. This clearly shows that the Defendants / Contemnors have not disclosed the information correctly and are suppressing material facts in clear violation of the directions contained in the orders passed by this Court. Further, Defendants / Contemnors have not provided the details regarding 'GF FLAME' and 'GF FIGHTER' as directed in order dated 4.11.2025.

5. Accordingly, the Defendants / Contemnors shall strictly comply with the directions contained in the orders passed by this Court and file Additional Affidavit:

- a. Explaining the discrepancy of ₹26.7 lacs between the Affidavit dated 28.01.2025 filed pursuant to order dated 13.01.2025, wherein it was claimed that the total value including tax of the products produced under the Impugned Marks, 'GOLD FLAME', 'GOLD Fighter', 'GOAD FLAME' and 'GOAD Fighter' was ₹53,54857 and the value of production of ₹80,32,476 as mentioned in the Affidavit;
- b. Containing the details regarding 'GF FLAME' and 'GF FIGHTER' as directed in order dated 4.11.2025; and
- c. Providing the details of all movable and immovable properties



including the factory premises, manufacturing facilities along with details of plant and machinery owned and operated by the Defendants / Contemnors.

6. Let the above Additional Affidavit be filed by the Defendants / Contemnors within a period of four weeks from the date.

7. Although *vide* Order dated 04.11.2025 Mr. Atul Kumar Singh, the Authorized Representative of Defendant Nos. 1 and 2 was directed to remain personally present today, he is not physically present in the Court. The learned Counsel for the Defendants / Contemnors submits that due to medical reasons, Mr. Atul Kumar Singh is not able to remain personally present, however, he is present virtually. Considering the reason mentioned for not appearing personally, the same is exempted and the virtual presence of Mr. Atul Kumar Singh is recorded.

8. However, it is directed that Mr. Atul Kumar Singh shall remain personally present physically on the next date of hearing.

9. List on 19.01.2026.

TEJAS KARIA, J

DECEMBER 5, 2025/sms