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

% Judgment delivered on: 24/11/2025

+ **CS(COMM) 1038/2024, I.A. 45746/2024 & I.A. 16842/2025**

SUN PHARMACEUTICAL INDUSTRIES LTD.Plaintiff

versus

ARTURA PHARMACEUTICALS P. LTD.Defendant

Advocates who appeared in this case

For the Plaintiff : Mr. Sachin Gupta with Mr. Rohit Pradhan, Mr. Prashansa Singh, Mr. Ajay Kumar, Mr. Adarsh Aggarwal & Ms. Archana, Advocates (through VC).

For the Defendant : Mr. Jayant Kumar & Ms. Ruchi Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

I.A. 17275/2025

1. This is an Application filed by the Defendant under Order VII Rule 10 read with Section 151 of the Code of Civil Procedure, 1908 (“CPC”) seeking return of Plaint for lack of territorial jurisdiction of this Court to entertain and decide the present Suit.



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FACTUAL MATRIX

2. The present Suit has been filed by the Plaintiff seeking permanent injunction of infringement of Trade Marks, passing off, unfair competition, damages / rendition of accounts of profits and delivery up from restraining the Defendant from using the Marks, 'PEPFIK' and 'NEOVITAL' ("**Impugned Marks**"), which are deceptively similar to the Plaintiff's registered Trade Marks, 'PEPFIZ' and 'REVITAL' ("**Plaintiff's Trade Marks**").

3. *Vide* order dated 21.11.2024, this Court granted *ex-parte ad-interim* injunction in favour of the Plaintiff and against the Defendant stating that the Defendant, its directors, assignees, affiliates, associates, predecessors, successors in business, their distributors, dealers, stockists, wholesalers, retailers / chemists, custodians, franchisees, licensees, importers, exporters, servants, agents, e-commerce and warehouse aggregators and all persons claiming through and / or under them or acting on their behalf, are restrained from selling, offering for sale, advertising, distributing, marketing, exhibiting for sale, trading in or otherwise directly or indirectly dealing in goods under the Impugned Marks, 'PEPFIK' and 'NEOVITAL', or any other extensions and / or any other Trade Marks containing the words, 'PEPFIK' and 'NEOVITAL', or any other mark that may be identical or deceptively similar to the Plaintiff's Trade Marks, 'PEPFIZ' and 'REVITAL', amounting to infringement of the registered Trade Marks of the Plaintiff as well as passing off the Defendant's goods and business, as those of the Plaintiff's goods and business.

4. By way of this Application, the Defendant has challenged the territorial jurisdiction of this Court on the ground that the Defendant is



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having its Registered Office in Chennai, Tamil Nadu and manufacturing facility in Andhra Pradesh. Further, the Defendant is manufacturing the products under the Impugned Marks only for export purposes and there is no sale in India. Hence, this Court has no territorial jurisdiction to entertain or decide the present Suit as the Defendant does not have place of business or offer for sale any products having Impugned Marks within the jurisdiction of this Court.

5. The Defendant is not hosting an interactive website and the consumers cannot purchase any product from the website <http://www.arturapharma.com/> (“**Impugned Website**”). The “Contact Us” Section at the Impugned Website also is not meant for placing orders for any of the products. The Defendant is not selling the products under the Impugned Marks in India on any of the third-party websites / e-commerce portals including <https://www.pharmahopers.com> (“**Subject Website**”). Furthermore, Subject Website is not an e-commerce portal, and a consumer cannot purchase a product from there. As per the information hosted at the Subject Website, it is only a directory of manufacturers, importers, exporters and the respective pharmaceutical preparation.

SUBMISSIONS ON BEHALF OF THE APPLICANT / DEFENDANT

6. The learned Counsel for the Defendant submitted that the Plaintiff has not filed any sales invoice showing purchase / delivery of products under the Impugned Marks in Delhi. Further, the Plaintiff has not filed any document to show that any purchase order can be placed through the Impugned Website.

7. The learned Counsel for the Defendant submitted that the Impugned Website is not an interactive website and a user cannot purchase any goods



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and services from the Impugned Website. The mere fact that the Impugned Website permits a user to fill-out a form / send a message does not make the Impugned Website interactive enough to give territorial jurisdiction to this Court. The Impugned Website permits only a one-way flow of information i.e., from user to the Defendant. The said information / purpose is also completely non-commercial. The Impugned Website does not even offer a payment gateway to make a commercial transaction.

8. The learned Counsel for the Defendant submitted that a bare perusal of the documents filed by the Plaintiff with the Plaint shows that the Defendant is only hosting a “Contact Us” page for career-related / other enquiries and is not accepting any purchase orders from the Impugned Website. The “Contact Us” page on the Impugned Website further reveals that the Defendant is also not offering for sell any products, including the products under the Impugned Marks.

9. The learned Counsel for the Defendant further submitted that a perusal of the documents filed by the Plaintiff with the Plaint shows that the Subject Website is not an e-commerce portal and a consumer cannot purchase a product from thereat. As per the information hosted at the Subject Website, it is only a directory of manufacturers, importers, exporters and the respective pharmaceutical preparation. Without prejudice, in fact, the Plaintiff has even failed to demonstrate that the Defendant has hosted any information pertaining to its product under the Impugned Marks, ‘PEPFIX’ at the Subject Website.

10. The learned Counsel for the Defendant relied upon the following decisions in support of his submissions:



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- a. ***Banyan Tree Holding (P) Limited v. A. Murali Krishna Reddy & Anr.***, 2009 SCC OnLine Del 3780, wherein this Court held that jurisdiction of the forum court does not get attracted merely on the basis of interactivity of the website, which is accessible in the forum state. The degree of the interactivity apart, the nature of the activity permissible and whether it results in a commercial transaction has to be examined to show that an injurious effect has been felt by the Plaintiff. It would have to be shown that viewers in the forum state were specifically targeted. Therefore, the “effects” test would have to be applied in conjunction with the “sliding scale” test to determine, if the forum court has jurisdiction to try a suit concerning internet-based disputes. For the purposes of Section 20(c) of the CPC, in order to show that some part of the cause of action has arisen in the forum state by the use of the internet by the Defendant, the Plaintiff will have to show *prima facie* that the said website, whether euphemistically termed as “passive plus” or “interactive”, was specifically targeted at viewers in the forum state for commercial transactions. The Plaintiff would have to plead this and produce material to *prima facie* show that some commercial transaction using the website was entered into by the Defendant with a user of its website resulting in an injury or harm to the Plaintiff within the forum state.
- b. ***Federal Express Corporation v. Fedex Securities Ltd. & Ors.***, 2018 (74) PTC 205 (Del) (DB), wherein this Court held that the reference to the website whereby commercial transactions are statedly offered do not pass the muster of ***Banyan Tree Holding***



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(P) Ltd. (*supra*), also because there is not even a single illustration given of any such commercial transaction having been entered into by the defendants with any user of their website within the territorial jurisdiction of this Court.

c. ***M/s Kohinoor Seed Fields India Pvt. Ltd. v. M/s Veda Seed Sciences Pvt. Ltd.***, 2025 SCC OnLine Del 2404, wherein this Court held that even though the plaintiff has pleaded that India Mart is a dynamic website that permits communication and placement of orders, there is neither any pleading nor any document produced to show that there has been any communication with the defendant or any order placed for the defendant's products in Delhi. The plaint was returned on ground of lack of territorial jurisdiction.

11. Accordingly, it was submitted that the present Application is liable to be allowed and the Plaint be returned to the Plaintiff for filling this Suit before the Court having jurisdiction due to lack of jurisdiction of this Court.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF

12. The learned Counsel for the Plaintiff submitted that the averments made in the Plaint have to be considered in entirety including the documents filed along with the Plaint to decide the jurisdiction.

13. The learned Counsel for the Plaintiff submitted that the Plaintiff has established territorial jurisdiction of this Court based on the documents attached with the Plaint, which included:

- a. The Impugned Website showing its “Contact Us” page;
- b. A Nutritional Supplement Brochure mentioning Impugned Marks downloaded from the Impugned Website; and



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c. A screenshot of the Subject Website showing a listing of the Impugned Marks, 'NEOVITAL'.

14. The learned Counsel for the Plaintiff relied upon the decision in **M/s RSPL Limited v. Mukesh Sharma & Anr.**, 2016 SCC OnLine Del 4285, wherein this Court held that it is a settled proposition of law that the objection to territorial jurisdiction in an application under Order VII Rule 10 of the CPC is to be decided based on a *demurrer*. This means that the objection to territorial jurisdiction has to be construed after taking all the averments in the plaint to be correct.

15. In **Exphar SA v. Eupharma Laboratories Limited**, (2004) 3 SCC 688, the Supreme Court observed that when an objection to jurisdiction is raised by way of *demurrer* and not at the trial, the objection must proceed on the basis that the facts, as pleaded by the initiator of the impugned procedure, are true. The Supreme Court further observed that the objection as to jurisdiction in order to succeed must demonstrate that granted those facts, the Court does not have jurisdiction as a matter of law.

16. The learned Counsel for the Plaintiff relied upon the decision **Millennium & Copthorne International Limited v. Aryans Plaza Services Private Limited**, 2018 SCC Online Del 8260, wherein this Court held that a plaintiff in a suit for infringement of trade mark or for passing off and for ancillary reliefs including of compensation with respect thereto is required to plead and show to invoke the jurisdiction of any Court, is that wrong was done to it within the local limits of the jurisdiction of that Court and wherein the cause of action would axiomatically accrue to the plaintiff and / or that the cause of action, in whole or in part accrued within the jurisdiction of that court. In view of the codified law of India, conferring territorial jurisdiction



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on a court where wrong is done to plaintiff or where even a part of cause of action arises and it being indisputable that cause of action arises in a court within whose jurisdiction confusion or deception essential for an infringement or passing off suit takes place or injury caused to the plaintiff.

17. The learned Counsel for the Plaintiff submitted that the Impugned Website contains a “Contact Us” page inviting users to “write to us” for services. This amounts to purposeful targeting of consumers, including those in Delhi. A website targeting a specific place need not be specific or aggressive. Unless a website is restricted, mere presence of website with ability to access is sufficient to confer jurisdiction. The learned Counsel for the Plaintiff relied upon the decision in **Tata Sons P. Ltd. v. Hakunamatata Tata Founders and Ors.**, 2022 SCC OnLine Del 2968 in support of this submission.

18. The learned Counsel for the Plaintiff further submitted that the contention of the Defendant that mere listing on a website does not confer jurisdiction is misconceived in light of the material on record. The Impugned Website includes a “Contact Us” section inviting viewers by stating, “Write to us and we would be more than glad to get in touch with you and render our services”. This is an express invitation to transact, thereby amounting to “purposeful availment” of jurisdiction in Delhi. Further, the products under the Impugned Marks, ‘NEOVITAL’ is actively listed on the Subject Website, a third-party aggregator platform which explicitly declares its purpose as facilitating trade opportunities and “promoting products and services online” for the pharmaceutical industry. The listing also contains an interactive enquiry form soliciting product requirements from potential buyers.



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19. Accordingly, both platforms are interactive and accessible in Delhi, thereby satisfying the tests laid down in the decision of ***Banyan Tree*** (*supra*) and ***Marico Limited v. Mr. Mukesh Kumar & Ors.***, 2018 SCC OnLine Del 10823.

20. The learned Counsel for the Plaintiff submitted that the decision in ***Kohinoor Seed*** (*supra*) this Court held that the listing on IndiaMart does not confer jurisdiction, however in the appeal and the said decision, judgment has been reserved *vide* order dated 31.07.2025.

21. Accordingly, the present Application is liable to dismissed.

ANALYSIS AND FINDINGS

22. Having considered the submissions advanced by the learned Counsel for the Parties, the pleadings and the documents on record, the jurisdiction has been pleaded in Paragraph No. 37 of the Complaint which is reproduced hereunder:

“37. This Hon’ble Court has the jurisdiction to entertain and try the present suit under the provisions of Section 20 CPC as the Defendant is selling its products in Delhi, and is also carrying on business at Delhi through its website, namely <http://www.arturapharma.com/>, and other third party websites, namely <https://www.pharmahoppers.com/>, which is accessible to residents of New Delhi. The Defendant has a Contact us section, from which the Defendant can be contacted to enquire about and place orders for the products under the impugned marks, and the same is accessible in Delhi. The same is causing injury to the Plaintiff. The Defendant’s medicine under the impugned marks are selling at Delhi. The customers within the jurisdiction of this Hon’ble Court are getting confused and are being misled to procure the Defendant’s medicines, which is causing injury to the Plaintiff at Delhi. This all gives rise to a substantial and integral part of the cause of action to have arisen in Delhi, within the jurisdiction of this Hon’ble Court.”



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23. The Defendant contends that even though the Plaintiff may have its Head Office in Delhi, the present Suit ought to have been filed in Telangana as the cause of action has arisen in Telangana. Further, the Defendant is located in Telangana and the Plaintiff itself has a subordinate office in Telangana. Therefore, according to the Defendant, Telangana is the proper jurisdiction for hearing the present Suit.

24. *Per contra*, the Plaintiff has submitted that since a part of the cause of action has arisen in Delhi, the present Suit can be filed in Delhi. The Plaintiff contends that when a cause of action arises in more than one place, the Plaintiff has the right to file the Suit in any one of those places. The Plaintiff further submitted that even if it is assumed that no cause of action has arisen in Delhi, the present Suit can still be filed in Delhi on the ground that the Plaintiff has its Registered Office in Delhi. The mere fact that the Plaintiff has a subordinate office in Telangana does not take away the right of the Plaintiff to file the Suit in Delhi where its Registered Office is situated.

25. The central issue in this Application is whether “Contact Us” page can be held to be sufficient make the website interactive to confer territorial jurisdiction on this Court in an internet-based Trade Mark dispute. Under Order VII Rule 10 of the CPC, objections to jurisdiction are decided by *demurrer*, thereby all pleaded facts are assumed to be true at this preliminary stage, and the Plaintiff is not required to prove those facts through evidence. The *demurrer* principle requires the Court to assume the correctness of all averments made in the Plaint and determine whether, even while accepting those facts to be true, the Court lacks jurisdiction as a matter of law.



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26. The Supreme Court in **Exphar SA** (*supra*) has categorically held that when jurisdiction is challenged by way of *demurrer* and not at trial, the objection must proceed on the basis that the facts as pleaded are true, and the objection can succeed only if it is demonstrated that granted those facts, the Court does not have jurisdiction as a matter of law. In Trade Mark infringement and passing off Suits, Section 20 of the CPC governs territorial jurisdiction, which arises where the wrong occurred or where the cause of action, in whole or in part, arose within the jurisdiction of the Court, and as observed in **Millennium & Copthorne International Limited** (*supra*), the cause of action axiomatically arises where confusion or deception essential for infringement or passing off takes place or where injury is caused to the plaintiff, requiring examination of whether any part of the cause of action arose within Delhi.

27. The principles governing internet jurisdiction were laid down in **Banyan Tree** (*supra*), which established that the Court must apply the “*sliding scale test*” and “*effects test*” to determine jurisdiction in internet-based disputes. These tests are to be applied to determine the nature and extent of the Defendant’s activities and whether they amount to purposeful availment of the forum, and not to deny jurisdiction at the threshold stage where the Plaintiff has made specific averments about website accessibility and interactivity.

28. The Plaintiff has pleaded in the Plaint that the Impugned Website has a “Contact Us” page inviting users to “write to us” for services, which amounts to an invitation to potential customers including those in Delhi, and has further pleaded that the Defendant has made available Product Brochures mentioning the Impugned Marks for download from the



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Impugned Website, and that the Impugned Marks, 'NEOVITAL' is actively listed on the Subject Website, which explicitly declares its purpose as facilitating trade opportunities and promoting products and services online for the pharmaceutical industry. These averments, which must be accepted as true at this stage, establish *prima facie* that the Defendant has made its products accessible to consumers in Delhi through internet platforms, and that the Defendant is purposefully availing itself of the forum by maintaining an online presence that is accessible to and targets consumers in Delhi, thereby creating the potential for confusion and deception among Delhi-based consumers who may encounter these Impugned Marks online.

29. The Defendant's argument that no sales invoice or purchase order has been produced showing delivery of products in Delhi will not be bar the jurisdiction of this Court so long as there is averment in the Plaint that there the website offered by the Defendant is containing the products with the Impugned Marks, the same is accessible to consumers in Delhi and it is interactive in nature. The Defendant's contention that the Impugned Website is merely "passive plus" and does not facilitate commercial transactions requires further requires leading of evidence and cannot be conclusively determined at this stage without examination of the complete functionality of the "Contact Us" page inviting users to write for services and the availability of product brochures. Such functionality of the Impugned Website can reasonably be construed as facilitating commercial transactions, and whether the same amount to sufficient interactivity to establish jurisdiction is a mixed question of law and fact requiring determination at the stage of trial.



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30. The distinction between passive, passive plus, and interactive websites as laid down in ***Banyan Tree*** (*supra*) is not a rigid categorization that can be mechanically applied at the preliminary stage, but requires detailed examination of the actual functionality, purpose, and effect of the Impugned Website, which can only be properly undertaken through trial after Parties lead evidence about the nature of online interactions, the purpose, functionality and effect of the Impugned Website, and whether any confusion or deception actually occurred in Delhi.

31. The third-party listing on the Subject Website, which the Defendant characterizes as a mere directory, must be viewed in light of the Plaintiff's pleading that this platform explicitly declares its purpose as facilitating trade opportunities and promoting products online for the pharmaceutical industry, and contains an interactive enquiry form soliciting product requirements from potential buyers, which averments must be accepted as true under the *demurrer* principle. Whether this amounts to sufficient commercial activity to establish jurisdiction or is merely a passive directory listing is a question of fact requiring examination through evidence and cannot be summarily determined at this preliminary stage in favor of the Defendant.

32. As observed by this Court in ***Tata Sons*** (*supra*), that the targeting need not be a very aggressive act of marketing aiming at a particular set of customers and mere looming presence of a website in a geography and ability of the customers therein to access the website is sufficient, in a given case.

33. The issue of territorial jurisdiction, being a mixed question of law and fact, involving factual controversies about the nature and extent of online



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activities may not be always resolved at the threshold stage. The Plaintiff has made specific averments that the Defendant's products under the Impugned Marks are accessible to consumers in Delhi through the Impugned Website and the Subject Website. This Court has found that the Impugned Marks *prima facie* are deceptively similar to the Plaintiff's Trade Marks. The Nutritional Supplement Brochure available on Impugned Website mentions the Impugned Marks. Such accessibility of the products containing the Impugned Marks on the Impugned Website creates the likelihood of confusion and deception among the consumers within the jurisdiction of this Court, who can freely access the Impugned Website and contact the Defendant through "Contact Us" page for availing the services. The only service the Defendant offers is manufacturing and sale of the products that includes products containing the Impugned Marks. This amounts to part of the cause of action having arisen in Delhi.

34. The question whether through the "Contract Us" page on the Impugned Website, the Defendant has actually entered into commercial transactions of sale with Delhi-based consumers and whether the Defendant is only having export-only business would require leading of evidence by both the Parties and will have to be established at the stage of trial in this Suit. All these disputed questions of fact cannot be determined at this stage without examination of evidence, including the evidence about the actual functionality of the Impugned Website and the Subject Website, the nature of enquiries received by the Defendant through these platforms, whether any such enquiries originated from Delhi, the intended market for the Defendant's products, and whether Delhi-based consumers have been exposed to or confused by the Impugned Marks.



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35. The extent and nature of the Defendant's online activities by publishing the Nutritional Supplement Brochure mentioning the Impugned Marks on the Impugned Website and having the "Contact Us" page are sufficient to establish jurisdiction of this Court and permit the Suit to proceed to trial rather than summarily returning the Plaint at this preliminary stage.

36. The jurisdictional objection raised by the Defendant involves disputed questions of fact that cannot be satisfactorily resolved at this stage. The bare perusal of the Plaint and documents filed therewith disclose that part of the cause of action has arisen in Delhi through the accessibility of the Defendant's products under the Impugned Marks to Delhi-based consumers *via* the Impugned Website and the Subject Website. The true nature and extent of the Defendant's online activities, the purpose and effect of maintaining product information containing the Impugned Marks and inviting the consumers to contact the Defendant for availing services of the Defendant amounting to sufficient purposeful availment to establish jurisdiction resulting in actual confusion or injury to Plaintiff in Delhi would require detailed examination after the trial stage rather than summary dismissal at this threshold stage under Order VII Rule 10 of the CPC.

37. In the facts and circumstances of this case, the proper course is to allow the Suit to proceed for trial after completion of pleadings and framing of Issues, where the Defendant's objection to territorial jurisdiction of this Court shall be framed and decided as a Preliminary Issue, after both Parties are given opportunity to lead evidence on the factual aspects, including evidence about the nature and functionality of the Impugned Website and the Subject Website, the extent of the Defendant's activities in Delhi,



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whether any commercial transactions or enquiries originated from Delhi, and whether any confusion or deception occurred amongst Delhi-based consumers.

38. In view of the above, the present Application is hereby dismissed, while reserving the right of the Defendant to raise the issue of territorial jurisdiction during trial and the issue regarding the territorial jurisdiction of this Court shall be decided as a Preliminary Issue.

39. Accordingly, the present Application is disposed of with the above observations.

CS(COMM) 1038/2024 and IA 16842/2025

40. List before the learned Joint Registrar (Judicial) on 17.12.2025 for further proceedings.

TEJAS KARIA, J

NOVEMBER 24, 2025

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