



* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Judgment delivered on: 31.01.2026*

+ **FAO-IPD 37/2021**

AMIT BANSALAppellant

versus

AMIT GARG & ANRRespondents

Advocates who appeared in this case

For the Appellant : Mr. Vijay Pal Dalmia & Mr. Aditya Dhar, Advocates.

For the Respondents : Mr. V.K. Puri & Mr. Nitin Sharma, Advocates for Respondent No.1 along with Respondent No.1-in-Person.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Appeal has been filed by the Appellant under Order XLIII Rule 1 read with Section 151 of the Code of Civil Procedure, 1908 (“**CPC**”) assailing the order dated 05.01.2019 (“**Impugned Order**”) passed by the learned Additional District Judge-04, North West, Rohini Courts, Delhi (“**Trial Court**”) in CS No. 1/2018 (“**Suit**”) whereby the learned Trial Court allowed the application of the Respondents under Order XXXIX Rules 1 and



2 of the CPC granting interim injunction restraining the Appellant from using the Trade Mark 'ATHERMAL' or any other deceptively similar Mark during the pendency of the Suit, while dismissing the application of the Appellant under Order XXXIX Rules 1 and 2 of the CPC.

FACTUAL BACKGROUND:

2. The Respondents filed the Suit before the learned Trial Court, *inter alia*, seeking permanent injunction restraining the infringement and passing off of

ATHERMAL

the Mark '  ' ("Subject Mark") claiming that the Appellant illegally imitated the Subject Mark of the Respondents by using the Mark 'ATHERMAL'.

3. The Plaintiff filed before the learned Trial Court claims that Respondent No. 1, Mr. Amit Garg is carrying on his business as M/s Athermal Industries AG, manufacturing and marketing a range of goods associated with the same and Respondent No. 2 is a proprietorship concern of the family members of Mr. Amit Garg and the said entity is selling all the said range of goods under the Subject Mark.

4. The Respondents claim that the Subject Mark was honestly coined and adopted by Mr. Amit Garg trading as M/s Athermal Industries AG, through their predecessor, in the year 2003. An Application for the registration of the Subject Mark was filed on 25.03.2010 before the Trade Mark Registry bearing Application No. 1941345 in Class 9. The Subject Mark was successfully registered by the Trademark Registry *vide* Certificate No. 1692988 dated 01.11.2017.



5. In the Written Statement/Counter Claim filed by the Appellant, it is claimed that the Appellant has been using the Mark 'ATHERMAL' through his predecessor-in-title, Mr. Rajinder Kumar Bansal trading as M/s Ambay Traders and Manufacturers since the year 1985, who is operating the business from the same address. Mr. Rajinder Kumar Bansal is the father of the Appellant.

6. It is further asserted in the Written Statement/Counter Claim that the Appellant commenced his business independently in the year 2006, using the Mark 'ATHERMAL', which was adopted and used by his father and was subsequently used by the Appellant in his own firm, M/s Ambay Industrial Corporation.

7. In the proceedings before the learned Trial Court, both the Appellant and the Respondents filed their respective applications under Order XXXIX Rules 1 & 2 of the CPC, seeking interim injunction restraining the usage of the Mark 'ATHERMAL'. *Vide* the Impugned Order, the learned Trial Court allowed the application filed by the Respondents, and dismissed the application filed by the Appellant, thereby restraining the Appellant from using the Mark 'ATHERMAL'.

8. Aggrieved by the Impugned Order passed by the learned Trial Court, the present Appeal has been filed by the Appellant.

PROCEDURAL HISTORY

9. *Vide* order dated 25.01.2019, notice was issued in the present Appeal and the matter was listed for 08.02.2019. *Vide* order dated 08.02.2019, this Court stayed the Impugned Order passed by the learned Trial Court and *inter alia* observed that the learned Trial Court accepted the averments of



Respondent No. 1 that the Subject Mark was coined and adopted by Respondent No. 1's predecessor in the year 2003, whereas a similar contention of the Appellant that its predecessor had coined and adopted the Mark 'ATHERMAL' in the year 1985, was rejected by the learned Trial Court.

10. *Vide* order dated 09.12.2022, this Court observed that the Mark 'ATHERMAL' when used in relation to welding glasses, signifies that the product does not absorb heat or remains unchanged despite fluctuation of temperature, and therefore, it is *prima facie* descriptive in nature.

11. *Vide* order dated 06.07.2023, it was observed that a perusal of the record shows that when the Appellant's earlier Trade Mark application was cited *qua* Respondents' application, the Respondents had taken a position that the two Marks are different. Accordingly, it was further observed that in view of the decision of this Court in ***Raman Kwatra v. KEI Industries Ltd.***, 2023 SCC OnLine Del 38, the Respondents' admission could impact the Respondents' case. It was also directed that the stay granted *vide* order dated 08.02.2019 shall continue during the pendency of the present Appeal.

12. Thereafter, the learned Counsel for the Parties advanced their submissions on 15.09.2025, 14.10.2025 and 18.11.2025, and the judgment was reserved *vide* order dated 18.11.2025.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

13. The learned Counsel for the Appellant advanced the following submissions:

13.1. The father of the Appellant, namely Mr. Rajinder Kumar Bansal trading as M/s Ambay Traders and Manufacturers coined, adopted and started using the Mark 'ATHERMAL' openly and extensively



since the year 1985, in respect of welding apparatus and instruments, welding cables, regulators, welding transformers, welding machines, welding tools and particularly for welding safety glasses, and raised invoices in respect of the same.

- 13.2. The Appellant trading as M/s Ambay Industrial Corporation, in continuation of his family business, independently started his business in the year 2006 under the Mark 'ATHERMAL' with the permission of his father, and thereupon raised invoices. The trading address / premises of both M/s Ambay Traders and Manufacturers, and M/s Ambay Industrial Corporation are the same.
- 13.3. The business of Respondent No. 1 came into existence in October 2011 as per Respondents' own documents and therefore, Respondent No. 1 could not have carried on its business under the Subject Mark prior to October 2011.
- 13.4. The Appellant applied for the registration of the Mark 'ATHERMAL' *vide* Application No. 2135186 in class 9 and Application No. 2135185 in class 7, on 26.04.2011. The said applications filed by the Appellant are still pending before the Trade Marks Registry.
- 13.5. Respondent No. 2 filed an application before the Trade Marks Registry on 20.09.2011 bearing Application No. 2207990 in class 9



for the registration of the Mark 'ATHERMAL'. Moreover, Respondent No. 1 filed applications before the Trade Marks



Registry on 03.02.2012 bearing Application No. 2277143 in class 9 and Application no. 2277118 in class 7 for the registration of the



Marks ‘ATHERMAL ARC’ and ‘ATHERMAL’ respectively. Further, Respondent No. 1 filed an application before the Trade Marks Registry on 04.06.2013 bearing Application No. 2543087 in class 7 for registration of the Mark ‘ATHERMAL’.

- 13.6. The Registrar of Trade Marks issued an examination report dated 17.06.2014 in the Application No. 2543087, wherein the Application bearing No. 2135185 filed by the Appellant was cited as one of the conflicting Marks. Respondent No. 1 filed his reply dated 14.05.2015 to the examination report dated 17.06.2014 in Application no. 2543087, wherein it was stated that the Appellant’s Mark ‘ATHERMAL’ is visually, bi-syllabic and phonetically different, and there is no likelihood of confusion on the part of public between both the competing Marks.
- 13.7. The Registrar of Trade Marks issued an examination report dated 05.01.2017 in the Application No. 2277118, wherein the Application bearing no. 2135185 filed by the Appellant was cited as one of the conflicting Marks. Respondent No. 1 filed his reply dated 27.04.2017 to the examination report dated 05.01.2017 in Application No. 2277118, wherein it was stated that the Appellant’s Mark ‘ATHERMAL’ is visually different, so there is no likelihood of confusion on the part of public between both the competing Marks.



- 13.8. The Registrar of Trade Marks issued an examination report dated 29.04.2017 in Application No. 2277143, wherein the Application bearing no. 2135186 filed by the Appellant was cited as one of the conflicting Marks. Respondent No. 1 filed his reply dated 26.08.2017 to the examination report dated 29.04.2017 in Application No. 2277143, wherein it was stated that the Appellant's Mark 'ATHERMAL' is visually and structurally different, so there is no likelihood of confusion on the part of public between both competing Marks.
- 13.9. The Registrar of Trade Marks issued an examination report in the Application No. 2207990, wherein the Application bearing No. 2135186 filed by the Appellant was cited as one of the conflicting Marks. Respondent No. 1 filed his reply dated 28.08.2017 to the examination report in Application no. 2207990, wherein he stated that the Appellant's Mark 'ATHERMAL' is visually and structurally different, so there is no likelihood of causing confusion on the part of the public.
- 13.10. The Registrar of Trade Marks issued an examination report dated 31.05.2018 in Application bearing no. 3818089, wherein the Application bearing no. 2135185 filed by the Appellant was cited as one of the conflicting Marks. Respondent No. 1 filed his reply dated 13.07.2018 to the examination report dated 31.05.2018 in Application No. 3818089, wherein it was stated that the Appellant's Mark 'ATHERMAL' is visually and structurally different.



13.11. The admission of the Respondents in its replies to the aforementioned examination reports, makes it clear that the Respondents had the knowledge of the Appellant's Mark 'ATHERMAL' at least since the year 2014. Additionally, as per the Respondents' own admission in the said replies, the Mark of the Appellant and Respondents were not considered to be similar to each other by the Respondents. Therefore, the Respondents are barred from taking a contrary position in the Suit. In support of its contention, the Appellant has relied on the decision of this Court in ***Raman Kwatra*** (supra).

13.12. Only 5 copies of the invoices have been filed by Respondents to prove the user of the Subject Mark from 2003 to 2011, which are invoices dated 13.12.2006, 28.02.2006, 01.06.2007, 08.06.2007 and 12.06.2007. The said invoices are forged and fabricated documents, and none of them are legible. In order to establish that the said invoices are forged and fabricated, the Appellant has filed the telephonic conversation with the owners of one of the firms before the learned Trial Court, confirming fabrication of the said invoices. Additionally, one of the persons to whom such invoices were issued, has filed a police complaint dated 20.01.2018 in the Hauz Qazi Police Station against the same.

13.13. In view of the foregoing submissions, it is prayed that the present Appeal be allowed and the Impugned Order passed by the learned Trial Court be set aside.



SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

14. The learned Counsel for the Respondents advanced the following submissions:

14.1. Respondent No.1, namely Mr. Amit Garg trading as M/s. Athermal Industries AG, commenced their business through their predecessor, Respondent No. 2, i.e., M/s. Shiva Traders, in the year 2003 under the Subject Mark, thereby acquiring the exclusive rights to use of the Subject Mark through 'Oral Family Settlement'. M/s. Shiva Traders is a family-owned business of Respondent No. 1, and its sole proprietor is Ms. Asha Rani, the mother of Respondent No. 1. The Subject Mark has been associated exclusively with the Respondents by virtue of its prior usage since the year 2003.

14.2. The Appellant trading as M/s Ambay Industrial Corporation started their alleged business independently in the year 2006 under the Mark 'ATHERMAL'. The Appellant has been allegedly using the said Mark since 1985, through their predecessor-in-title, Mr. Rajinder Bansal trading as M/s. Ambay Traders and Manufactures, at their common business premises. However, neither the said firm belongs to the Appellant by way of any assignment deed nor Mr. Rajinder Bansal is impleaded as a party in the present Appeal.

14.3. In the year 2010, Respondent No.1 applied for the first registration of the Subject Mark *vide* registration no. 1941345 in class 9 with the user date of 18.04.2005. The said application filed by Respondent No. 1 shows that Respondent No. 1 is not only prior in application but is also the prior user of the Subject Mark.



- 14.4. The Appellant applied for the registration of the Mark 'ATHERMAL' *vide* Application no. 2135186 in Class 9 and Application no. 2135185 in Class 7 with the user date of 01.04.2006, which makes it clear that both the Applications of the Appellant were filed subsequent to the Application of Respondent No.1, and the claimed user date of the Appellant is also significantly later than that of Respondent No. 1.
- 14.5. Respondent No. 1's Application bearing No. 1941345 in class 9 for the registration of the Subject Mark was registered on 01.11.2017, while it is pertinent to mention that both the Applications filed by the Appellant are still pending before the Trade Marks Registry.
- 14.6. On 21.03.2018, Respondent No.1 filed Notice of Opposition against the registration of Application Nos. 2135186 in Class 9 and 2135185 in Class 7 filed by the Appellant, *vide* Opposition nos. 926000 and 925999 respectively. On 06.09.2018, the Appellant filed Form TM-M in the aforesaid Applications for the details of the user to be amended as 01.04.1985 instead of 01.04.2006, which makes it clear that the Appellant sought the said amendment after a long delay of 6 years only after Respondent No. 1 had opposed both the aforesaid Applications of the Appellant, in addition to filing the Suit before the learned Trial Court. The amendments seek substantial changes in the nature of the said Applications and should not be allowed.
- 14.7. The Appellant has filed fabricated invoices to show use of the Mark 'ATHERMAL' by its predecessor from 1990 to 1999. No evidence has been placed on record to show use of the said Mark after 1999,



and therefore, the use of the said Mark stood abandoned. Further, there is nothing to show that there was a valid assignment of the Mark 'ATHERMAL' in favour of the Appellant by its predecessor.

- 14.8. The decision of this Court in *Raman Kwatra* (supra) is not applicable to the present case. The said decision clearly establishes that a party securing registration on the basis of an assertion of dissimilarity cannot subsequently claim an interim injunction against the proprietor of the cited mark, alleging deceptive similarity. However, in the present case, the Appellant's earlier Trade Mark Applications, which are cited in relation to the Respondents' Application, wherein the Respondents had taken a position that the two Marks are distinct, are not registered and are still pending before the Registrar of Trade Marks. Therefore, the principle laid down in *Raman Kwatra* (supra) does not apply, as there has been no registration based on the assertions of dissimilarity.
- 14.9. Further, the Respondents filed the Suit before the learned Trial Court relying primarily upon Respondent No.1's Application bearing no. 1941345 in class 9 with the user date of 18.04.2005. The other Applications filed by the Respondents are mentioned only in a referencing or suggestive capacity and do not form the primary basis of the Suit.
- 14.10. In view of the foregoing submissions, it is prayed that the present Appeal be dismissed and the Impugned Order be upheld.



ANALYSIS AND FINDINGS:

15. Heard the learned Counsel for the Parties and perused the material placed on record.
16. The central question to be determined by this Court in the present Appeal is whether the Impugned Order passed by the learned Trial Court is liable to be set aside.
17. The Appellant's case is that the Respondents in their replies to multiple examination reports issued by the Registrar of Trade Marks, admitted that the Appellant's Mark 'ATHERMAL' is not similar to the Subject Mark and therefore, the Respondents are bound by the said admission and cannot take a position contrary to the same in the Suit. Further, the Appellant contends that it has been using the Mark 'ATHERMAL' through its predecessor-in-title since the year 1985, thereby rendering Appellant the prior user of the Mark 'ATHERMARL'. Furthermore, it is the Appellant's case that the Respondents have only produced five invoices to establish use of the Mark 'ATHERMAL' from 2003 to 2011, and that the said invoices are fabricated by the Respondents.
18. *Per contra*, it is the Respondents' case that Respondent No. 1 has been using the Mark 'ATHERMAL' since the year 2003 through its predecessor, whereas the Appellant started using the said Mark from 2006, and therefore, Respondent No. 1 is the prior user of the said Mark. The Respondents further contend that the observations made in ***Raman Kwatra*** (supra) is not applicable as the Marks in question in respect of which the Respondents claimed dissimilarity in their replies to multiple examination reports issued by the Trade Marks Registry, are yet not registered and therefore, the position



taken therein cannot be relied upon for the purposes of the proceedings in the Suit. It is also contended that the Appellant fabricated invoices to establish use of the Mark 'ATHERMAL' from 1990 to 1999, which was subsequently abandoned in 1999.

19. As noted above in the Procedural History, this Court *vide* order dated 06.07.2023 observed that the Respondents' admission that the Marks of the Appellant and Respondents are different, may have an impact on the Respondents' case in view of this Court's decision in ***Raman Kwatra*** (supra). The relevant portion of the Court's decision in ***Raman Kwatra*** (supra) is extracted as under:

"43. We also find merit in the appellant's contention that a party, that has obtained the registration of a trademark on the basis of certain representation and assertions made before the Trade Marks Registry, would be disentitled for any equitable relief by pleading to the contrary. The learned Single Judge had referred to the decision in the case of Telecare Networks India Pvt. Ltd. v. Asus Technology Pvt. Ltd. (supra) holding that after grant of registration neither the Examination Report nor the plaintiff's reply would be relevant. We are unable to agree with the said view. In that case, the Court had also reasoned that that there is no estoppel against statute. Clearly, there is no cavil with the said proposition; however, the said principle has no application in the facts of the present case. A party that has made an assertion that its mark is dissimilar to a cited mark and obtains a registration on the basis of that assertion, is not to be entitled to obtain an interim injunction against the proprietor of the cited mark, on the ground that the mark is deceptively similar. It is settled law that a person is not permitted to approbate and reprobate. A party making contrary assertions is not entitled to any equitable relief.

44. The respondent had applied for the word mark "KEI" in Class 11 (Application No. 3693719). The Trade Marks Registry had cited three



marks in its Examination Report including the impugned trademark (Application No. 3256919). In its response to the Examination Report, the respondent had, inter alia, stated “.....the services of the Applicant are different to that of the cited marks and therefore, there is not any likelihood of confusion....” Clearly, in view of the aforesaid statement, it would not be open for the respondent to contend to the contrary in these proceedings.”

20. Perusal of the above-quoted decision makes it clear that a party making an assertion that its Mark is dissimilar to a cited mark and thereby obtaining registration on the basis of such assertion, shall not be entitled to obtain an interim injunction against the proprietor of the cited Mark on the ground that it is deceptively similar to its Mark, as the same would be prohibited following the doctrine of *approbate and reprobate*.

21. In the present case, in order to determine if the principle laid down in **Raman Kwatra** (supra) is applicable to the present case, it is imperative to consider the position taken by the Respondents in their applications for the registration of their Marks, which is detailed in the table below:

Respondents' Application No.	Respondents' Marks	Class	Appellant's Cited Mark	Respondents' Reply
2543087	ATHERMAL	7	ATHERMAL	“Trademark is visually, bi-syllabic, phonetically different and



				there is no likelihood of confusion on the part of public between the both mark.”
2277118	 ATHERMAL	7	ATHERMAL	<p>“This Trade mark is visually different. So, there is no likelihood of confusion on the part of public between both the marks.</p> <p>This Trade Mark is Word and Applicant’s mark is Device.</p> <p>Applicant’s is the prior user.”</p>



2207990		9	ATHERMAL	“The trademark is visually and structurally different, so there is no likelihood of causing confusion on the part of the public. THE GOODS IS DIFFERENT.”
2277143		9	ATHERMAL	“The trademark is visually and structurally different, so there is no likelihood of causing confusion on the part of the public.”



22. It is the Respondents' case that the aforementioned principle laid down in *Raman Kwatra* (supra) is not applicable in the present case as the Appellant's Trade Mark Applications, which have been cited by the Trade Marks Registry as mentioned above, are still pending registration. However, the factum of non-registration and pendency of Trade Mark Applications before the Trade Marks Registry is irrelevant and does not have any bearing on determining whether the doctrine of probate and reprobate is applicable in the present case.

23. In the present case, perusal of the table above clearly establishes that the Appellant's Mark 'ATHERMAL' has been cited by the Trade Marks Registry in relation to multiple Trade Mark Applications of the Respondents, in response to which, the Respondents have maintained that their Marks are different from the Appellant's Mark 'ATHERMAL' and that there is no likelihood of confusion to the public.

24. As noted above, this Court in *Raman Kwatra* (supra) clarified that a party that has made an assertion that its Mark is dissimilar to a cited Mark and obtains a registration on the basis of that assertion, is not to be entitled to obtain an interim injunction against the proprietor of the cited Mark, on the ground that the cited Mark is deceptively similar.

25. In the present case, the Respondents sought interim injunction before the learned Trial Court restraining infringement of the Subject Mark bearing Application No. 1941345 in Class 9 by the Appellant. Perusal of the table above makes it clear that while the Appellant's Mark 'ATHERMAL' was cited by the Registrar of Trade Marks against some of the Applications filed by the Respondents, the said Mark was not cited against the Subject Mark bearing



Application No. 1941345 in Class 9. Therefore, by way of filing the Suit before the learned Trial Court seeking injunction against usage of the Appellant's Mark 'ATHERMAL' claiming that it is deceptively similar to the registered Subject Mark, it cannot be said that the Respondents indulged in approbate and reprobate as the said Mark of the Appellant was not cited against the Subject Mark, and no claim was made by the Respondents that the said Appellant's Mark was different from the Subject Mark. Accordingly, the principle laid down in *Raman Kwatra* (supra) is not applicable in the present case.

26. Adverting to the issue of prior use, it is the Appellant's case that it has been using the Mark 'ATHERMAL' through its predecessor-in-title since the year 1985. On the contrary, the Respondents claim that Respondent No. 1 has been using the Subject Mark since the year 2003 through its predecessor, Respondent No. 2, and that the Appellant has been using the Mark 'ATHERMAL' independently since the year 2006.

27. The Impugned Order has accepted the averment of the Respondents that the Subject Mark was being used by Respondent No. 1 through its predecessor since 2003, while rejecting a similar averment of the Appellant that it has been using the Mark 'ATHERMAL' since 1985 through its predecessor-in-title. It is held that the Appellant had independently started using the said Mark only in the year 2006, and has failed to show any assignment of the said Mark from its predecessor-in-title and that the Appellant's applications for the registration of the said Mark were pending before the Trademark Registry, whereas Respondent No. 1 had a valid registration in his name in respect of the Subject Mark.



28. The Appellant is trading as M/s Ambay Industrial Corporation, and had set up its business independently in the year 2006. It is the Appellant's case that it has been using the Mark 'ATHERMAL' through its predecessor-in-title, i.e., Mr. Rajinder Kumar Bansal trading as M/s Ambay Traders and Manufacturers, who is the Appellant's father. The trading address / premises of both M/s Ambay Traders and Manufacturers and M/s Ambay Industrial Corporation are the same. Perusal of the invoices filed by the Appellant establishes the usage of the Mark 'ATHERMAL' for selling the goods, welding glass, by M/s Ambay Traders and Manufacturers, which dates back to the year 1990.

29. Considering the invoices filed by the Appellant and the fact that Mr. Rajinder Kumar Bansal, trading as M/s Ambay Traders and Manufacturers, is the Appellant's father having the address as the Appellant, a *prima facie* case is made out that the Appellant has been using the Mark 'ATHERMAL' through his predecessor-in-title since at least the year 1990. Therefore, the averment of Respondent No. 1 was accepted, while rejecting that of the Appellant, which were notably made on the same premise claiming user through their respective predecessors. The Appellant's user claim was rejected on the ground that the Appellant failed to show any valid assignment of the Mark 'ATHERMAL' from its predecessor, without examining the same with respect to Respondent No. 1's user claim, who relies on an 'Oral Family Settlement' with Respondent No. 2 to claim exclusive rights in the Subject Mark and user since 2003, when Respondent No. 2 has not even signed or verified the Plaintiff filed by Respondent No. 1.



30. The Appellant and Respondent No. 1 have also levelled allegations against each other claiming fabrication of the invoices filed by them in order to support their respective contentions in the present case. However, the same is required to be examined during the trial. Based on the available record, there is no *prima facie* fabrication of the invoices filed by the Parties, subject to final adjudication during the trial.

31. It is well-settled that the prior user of a Mark has superior rights to the registrant of the said Mark. In the present case, as it is *prima facie* clear that the Appellant, through its predecessor-in-title, is the prior user of the Mark 'ATHERMAL' with its invoices dating back to the year 1990, the Appellant's right as the prior user is superior to the right of Respondent No. 1, who holds a registration of the Subject Mark in his favour, with user claim dating back to the year 2003 through its predecessor, i.e., Respondent No. 2.

32. In view of the above analysis, the present Appeal is allowed and the Impugned Order dated 05.01.2019 passed by the learned Trial Court is set aside. Consequently, the Application filed by the Respondents under Order XXXIX Rules 1 and 2 of the CPC in the Suit stands rejected, and the Application filed by the Appellant under Order XXXIX Rules 1 and 2 of the CPC in the Counter Claim stands allowed. Accordingly, during the pendency of the Suit, the Respondents, their agents, servants, employees, representatives, assignees or anyone acting on their behalf, are restrained from

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using the Subject Mark 'ATHERMAL' in respect of welding apparatus and instruments, welding safety glasses, welding cables, regulators, welding transformers, welding machines, welding tools and allied and



cognate goods, or any other Mark that is identical or deceptively similar to the Appellant's Mark 'ATHERMAL', amounting to passing off of the Appellant's Mark.

33. Needless to say, the observations made hereinabove are for the purpose of deciding the present Appeal and shall not affect the merits of the Suit pending before the learned Trial Court.

34. The Appeal stands disposed of in terms of the aforesaid directions.

TEJAS KARIA, J

JANUARY 31, 2026/ 'ST'