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

+ **CS(COMM) 629/2026**

AMBER NUTRITION PRIVATE LIMITEDPlaintiff

Through: Mr. Samrat S. Kang and Mr. Swapnil
Agrawal, Advocates.

versus

MS. NEETU CHOUDHARY & ANR.Defendants

Through: None

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **29.05.2026**

I.A. 15530/2026 (Exemption)

1. This is an application filed on behalf of the plaintiff under Section 151 of Code of Civil Procedure, 1908 (hereinafter referred to as 'CPC') seeking exemption from filing the Electronic Document Certificate under Section 63(4)(c) of Bharatiya Sakshya Adhiniyam, 2023.

2. Exemption allowed, subject to just exceptions. However, the Electronic Document Certificate be filed within four weeks with an advance copy to the defendants.

3. The application stands disposed of

I.A. 15531/2026 (Additional Documents)

4. The present application has been filed on behalf of the plaintiff under Order XI Rule 1(4) of the CPC as applicable to commercial suits under the Commercial Courts Act, 2015 (hereinafter referred to as 'CC Act') seeking leave to place on record additional documents.

5. The plaintiff is permitted to file additional documents in accordance with the provisions of the CC Act and the Delhi High Court (Original Side)



Rules, 2018 within thirty (30) days.

6. Accordingly, the application stands disposed of.

I.A. 15532/2026 (Pre-Institution Mediation)

7. This is an application filed by the plaintiff seeking exemption from instituting pre-litigation Mediation under Section 12A of the CC Act.


8. As the present matter contemplates urgent interim relief, in light of the judgment of the Supreme Court in *Yamini Manohar vs. T.K.D. Keerthi: (2024) 5 SCC 815*, exemption from the requirement of pre-institution Mediation is granted.

9. The application stands disposed of.

I.A. 15529/2026 (Order XXXIX Rules 1 & 2, CPC)

10. Present application has been filed on behalf of the plaintiff under Order XXXIX Rules 1 & 2 of CPC, 1908 seeking *ex-parte ad-interim* injunction against the defendants.

11. Plaintiff claims to be a leading manufacturer of candies, confectionaries, chocolates and toffees since the year 1993. Plaintiff is a

registered proprietor of the trade mark “” in Class 30 and also a registered copyright holder in the corresponding original artistic work/packaging/trade dress bearing ROC No.A-137205/2021/ “



”, continuously and extensively since 01.04.2016. Plaintiff also has a house mark “AMBER” dating back to 03.11.1992. The list of trademarks is extracted hereunder:



S.No.	TMA No.	Class	Trade Mark	DoU	Status
1.	584031	30	AMBER	PTBU	REGISTERED
2.	1326155	30	Smooth Lacto	01.04.1994	REGISTERED
3.	1311785	30	SMOOTH MILK	01.04.1993	REGISTERED
4.	3446274	30	DAIRY CRUNCH 	06.03.2011	REGISTERED
5.	5908995	30	AMBER DAIRY CRUNCH 	PTBU	OPPOSED
6.	4512052	30	CLEAR 	31.01.2009	REGISTERED
7.	4520248	30	AMBER SOFTCENTRE 	01.01.2008	OBJECTED
8.	4520249	30	AMBER KREAM TOFFEE 	01.04.2016	REGISTERED*
9.	4610682	30	AMBER COCONUT CREAM 	01.04.2017	REGISTERED
10.	4616702	30	AMBER IMLI CANDY 	01.02.2011	REGISTERED
11.	2477232	30	Khatta Aam 	03.11.1992	REGISTERED
12.	5630471	30	AMBER FRUIT PUNCH 	05.09.2022	REGISTERED
13.	5630472	30	AMBER MILKY BON 	31.08.2022	OPPOSED
14.	2752843	30	R/J 	01.04.2014	REGISTERED
15.	2771205	30	Doublairs	01.06.2014	REGISTERED



16.	7198237	30	AMBER ROCKET ROLLS 	19.07.2025	FORMALITIES CHECK PASS

12. Similarly, the copyright registration for various artistic work and trade dresses of its goods is extracted hereunder:

S.No.	ROC NO.	DIARY NO.	TITLE & ARTISTIC WORK	STATUS
1.	A-149809/2023	28857/2023-CO/A	AMBER MILKY BON 	Registered
2.	A-137205/2021	21420/2020-CO/A	AMBER KREAM TOFFEE 	Registered
3.	A-137792/2021	4968/2021-CO/A	Amber Coconut Cream 	Registered
4.	A-145082/2023	10818/2023-CO/A	AMBER FRUIT PUNCH 	Registered
5.	A-149725/2023	28285/2023-CO/A	AMBER DAIRY CRUNCH 	Registered
6.	A-123031/2018	8236/2017-CO/A	DAIRY CRUNCH 	Registered
7.	A-117692/2017	8614/2016-CO/A	SMOOOTH MILK GOLD 	Registered
8.	A-114955/2016	10251/2015-CO/A	SMOOTH KOFFEE 	Registered

13. Plaintiff was incorporated in the year 2010 under the Companies Act,



1956 with its registered office at Indore in Madhya Pradesh. Plaintiff claims to have necessary registrations like FSSAI registration, MSME/UDYAM registration certificate, etc. Plaintiff claims to have achieved PAN India sales and its popularity has grown to such an extent that it has now expanded the operation and the sale into multiple countries like Sudan, Africa, United Arab Emirates, etc. The plaintiff has also acquired the domain name www.ambernutrition.in whereby it not only advertises and promotes its products but also provides catalogue for various products manufactured by it.

14. In para 9 of the plaint, the plaintiff has provided the year-wise turnover of the consolidated sales figure of the group commencing from FY 2012-13 with the figure of Rs.4,74,74,308.30 and FY 2025-26 with the figure of Rs.1,48,42,51,990.61. The plaintiff has also disclosed that the cumulative sales for products manufactured under the trademark “AMBER KREAM



TOFFEE”/ “ which is stated to exceed Rs.127.60 Crores between FY 2016-17 till 2025-26.

15. The plaintiff has stated that it has made substantial advertisement and promotional efforts through social media marketing and by setting up booths and stalls at nationwide conferences like Aahaar Exhibitions. Plaintiff claims that its products are of impeccable quality and are reviewed on YouTube in programmes like Unboxing Videos, Taste Tests, Product Reviews, etc. Plaintiff also claims to have received various awards.

16. In view of the above, the plaintiff claims to have garnered substantial goodwill and immense reputation. Plaintiff also claims that by virtue of the continuous, uninterrupted and extensive use since 01.04.2016 coupled with the consistent quality, distinctive packaging and sustained promotional



efforts, not only the trade mark “AMBER KREAM TOFFEE”/ “
but also the trade dress/copyright of the plaintiff has come to be exclusively associated with the plaintiff alone.

17. Plaintiff states that the defendant no.1 is a habitual infringer. The contention is based on certain infringing products being manufactured and sold by defendant no.1 under its house mark “MILAN’S”, bearing names, packaging, trade dress, colour scheme, artistic work and overall commercial get-up that are almost identical with or deceptively similar with that of the plaintiff’s products sold under the aforesaid registered trademark and copyright. In that, the defendant no.1 at that point in time was found to be marketing under the name “MILAN’S KREAMI TOFFEE”, which according to the plaintiff is a slavish imitation of the plaintiff’s product namely “AMBER KREAM TOFFEE”. The plaintiff alleges that the defendant no.1 had imitated the packaging, trade dress, artistic work, colour scheme, typography, placement of features, product’s names and overall commercial get up with the sole *malafide* intention to ride upon the goodwill and reputation built over the years by the plaintiff.

18. A cease and desist notice dated 26.05.2023 was issued to defendant no.1 in response where to, the defendant no.1 is claimed to have admitted the said use and had undertaken to exhaust the existing stock within a period of 30 days and to permanently discontinue the use of the said mark thereafter. The plaintiff observed a steady decline and decrease of the infringing products of the defendant no.1.

19. Plaintiff claims that it was during the month of April, 2026 that its salesman and associate came across a packaging containing the impugned products of the defendant no.1 bearing the deceptively similar trademark,



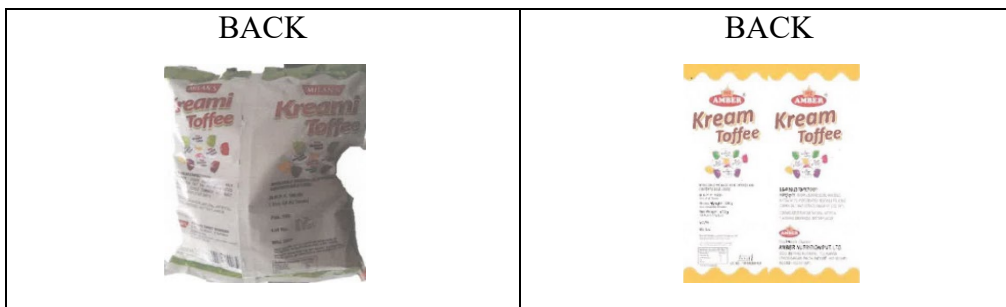
trade dress and art work to that of the plaintiff's registered trademark and copyright. Plaintiff states that the products now discovered were being marketed under the name "MILAN'S KREAMY TOFFEE". This too, according to the plaintiff, is infringement of its trademark, trade dress and copyright in the original artistic work "AMBER KREAM TOFFEE". Plaintiff claims that mere substitution of the letter 'I' in the previous impugned expression i.e. "MILAN KREAMI TOFFEE" with the letter 'Y' to make it "MILAN'S KREAMY TOFFEE" really does not make any change visually, structurally or phonetically. According to the plaintiff, the variation is a trivial orthography while retaining the identical phonetic structure, colour combination, get up, trade dress, layout, artistic features and overall visual and commercial impression of the plaintiff's packaging and mark.

20. Plaintiff also states that when it purchased the products of the defendant and received the same, an inquiry was conducted to find out the correct identity of the owner of FSSAI licence no.12215032000029. The said licence was mapped and registered in the name of defendant no.2. Thus, the defendant no.2 has also been arrayed as a party in the present suit.

21. Predicated thereon, the plaintiff seeks an *ex-parte ad-interim* injunction against the defendants.

22. At the outset it would be of some relevance to examine the previous acts of infringement alleged to have been indulged in by the defendant no.1. The comparative chart produced by the plaintiff is reproduced hereunder:-

Erstwhile Impugned Product	Plaintiff's Mark/Copyright
FRONT 	FRONT 




23. A perusal of the aforesaid packaging makes it apparent that the defendant no.1 has not only infringed the registered trademark of the plaintiff “AMBER KREAM TOFFEE”, but has substantially and essentially copied all the essential limits of the trade dress and has also infringed the copyright of the plaintiff subsisting in the artistic work of the trademark and trade dress. Except for the reference to its own name “MILAN’S”, which has been placed on top of its packaging, that too, in a similar manner in which the plaintiff has placed its trademark “AMBER” on top of its own packaging. The stylization and the manner in which the defendant no.1 has used the rainbow in the center of the packaging with the words ‘Kreami Toffee’, the font, and the colour used, are identical to that of the plaintiff. Merely adding the small letter “i” to the word ‘Kream’ does not draw any distinction at all to the general public. Moreover, the rear portion of the said packaging also demonstrates infringement of not only the trademark/trade dress, but also the artistic work over which the plaintiff has copyrights.

24. The plaintiff has stated that upon issuance of a cease and desist notice the plaintiff had assured and had actually decreased the infringement complaint in respect of the aforesaid packaging.

25. However, as brought out by the plaintiff in its plaint, the defendant is alleged to have yet again committed infringement of not only the trademark/trade dress of the plaintiff i.e. “AMBER KREAM TOFFEE”, but



also the registered copyright “” vested in the plaintiff. This aspect too can be appreciated only by a comparative analysis, which is extracted hereunder:

Impugned Product	Plaintiff's Mark/Copyright
<p style="text-align: center;">FRONT</p> 	<p style="text-align: center;">FRONT</p> 
<p style="text-align: center;">BACK</p> 	<p style="text-align: center;">BACK</p> 

26. A bare comparison of both the marks clearly brings to fore that the defendant has attempted to be clever by half. In that, the word elements “KREAM/ KREAMY” and “TOFFEE” with identical white-maroon combination; identical placement of product name and font; identical exhibit of individual candy with white center portion on bottom left and coloured crimped edges; identical use of the device of Rainbow; same wave pattern on the top and bottom of the packaging, and the overall commercial impression clearly demonstrate not only deceptive similarity in the trademark, trade dress but also the copyright in the original artistic work whereof subsists in the plaintiff.



27. The aforesaid narrative lends credence to the submission that the



defendant no.1 may be a habitual infringer.

28. Apart from the above, the plaintiff has placed on record the cumulative sales figure of all its brands for the last many years amounting to approximately Rs.1,122 Crores. The plaintiff has also disclosed the sales turnover in respect of the products manufactured and sold under the subject trademark from the FY 2016-17 to FY 2025-26 amounting to approximately Rs.127 Crores. Plaintiff has also placed on record all its registrations commencing from the year 1993-94 as also the copyright registrations on the trade dress and the artistic work embodied therein. The extensive visibility of the plaintiff in both online and offline modes, demonstrated by documents filed alongwith the plaint, also indicate its popularity pan India. The plaintiff has also asserted exporting its products to countries like Sudan, Africa and the United Arab Emirates, etc.

29. The aforesaid facts when read cumulatively, apparently demonstrate substantial goodwill and immense reputation garnered by the plaintiff over last many years in respect of the trademark/trade dress “AMBER KREAM

TOFFEE”/ “ and the copyrights “” vested therein.

30. Evidently, the plaintiff has been able to establish a *prima facie* strong case in its favour and against the defendant. The balance of convenience, having regard to the extensive documentary evidence placed on record tilts the balance in favour of the plaintiff. The plaintiff shall suffer irreparable loss and injury which may not be compensated adequately in monetary terms in case an *ex-parte ad interim* is not granted in favour of the plaintiff.


31. Accordingly directions are passed.

i. Defendants, their proprietors, partners, directors, and all others acting



for and on their behalf are restrained from using, selling, advertising, soliciting, manufacturing, marketing, importing, exporting, displaying, offering for sale, or in any manner, the impugned trademarks/ labels/ logos/ artistic works/packaging/ trade dress “MILAN’S KREAMY

TOFFEE”/  and/or the erstwhile impugned product

“MILAN”S KREAMI TOFFEE”/  and/or any other word/ label/ artistic work/ trade dress/ packaging/ trade name, which may be identical with and/or deceptively similar to the plaintiff’s trademarks/labels/ artistic works/ packaging, namely “AMBER

KREAM TOFFEE”/ “  ”/ “  ”;

ii. Defendants, their proprietors, partners, directors, and all others acting for and on their behalf are also restrained from reproducing, publishing, printing, adapting, distributing, importing, exporting, selling, offering for sale, advertising, communicating to the public, issuing copies of, and/or in any other manner exploiting any artistic work, packaging, label, wrapper, get-up or trade dress which is a substantial, colourable and/or slavish reproduction of, or is identical with and/or deceptively similar to, the plaintiff’s registered artistic

works namely “AMBER KREAM TOFFEE”/ “  ”/ “



iii. The defendants are directed to file an affidavit disclosing the sales effected of the products containing the infringing marks till date in a sealed cover within six weeks from the date of service of this order.

32. Issue notice.

33. Let a reply to this application be filed by the defendants within four weeks from service. Rejoinder, thereto, if any, be filed within two weeks thereafter.

34. Compliance of Order XXXIX Rule 3 of CPC shall be done within ten days from date.

CS(COMM) 629/2026

35. Let the plaint be registered as a suit.

36. Upon filing of the process fee, issue summons of the suit to the defendants through all permissible modes.

37. The summons shall state that the Written Statement shall be filed by the defendants within 30 days from the date of the receipt of summons. Alongwith the Written Statement, the defendants shall also file Affidavit of Admission/Denial of the documents of the plaintiff, without which the Written Statement shall not be taken on record.

38. Liberty is granted to the plaintiff to file Replication, if any, within 30 days from the receipt of the Written Statement. Along with the Replication filed by the plaintiff, an Affidavit of Admission/Denial of the documents of defendants be filed by the plaintiff, without which the Replication shall not be taken on record.

39. In case any party is placing reliance on a document, which is not in their power and possession, its details and source shall be mentioned in the



list of reliance, which shall also be filed with the pleadings.

40. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the prescribed timelines.

41. List before the Joint Registrar (Judicial) on 19.08.2026 for completion of service and pleadings.

42. List before the Court on 03.11.2026.

TUSHAR RAO GEDELA, J

MAY 29, 2026

Sumit/rl