



\$~21

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

+ CS(COMM) 221/2024, I.A. 5805/2024, I.A. 30198/2024, I.A.
34047/2024 & I.A. 34381/2024

ITC LIMITED

.....Plaintiff

Through: Mr. Arvind Verma, Sr. Adv. and Mr.
Arvind Nayar, Sr. Adv. with Ms.
Mamta Rani Jha, Ms. Shruttima
Ehersa, Ms. Aiswarya Debadarshini,
Mr. Akshay Joshi, Ms. Mahima
Chauhan and Mr. Ssubham Pandey,
Advs.

M: 7978530049

Email: shruttima@intladvocare.com

versus

PELICAN TOBACCO CO. LTD. & ORS.Defendants

Through: Mr. Darpan Wadhwa, Sr. Adv. with
Mr. Sanjeev Bindal, Ms. Rea Bhalla
and Ms. Divita Vyas, Advs.

M: 9810801651

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

13.01.2025

%

**I.A. 34381/2024 (Application under Order XXXIX Rules 2A and 7 read
with Section 151 of Code of Civil Procedure, 1908 ("CPC") along with
the Contempt of Courts Act, 1971)**

1. Learned Senior Counsels appearing for the plaintiff have pressed upon the present application stating that despite the *ex-parte* injunction passed by this Court, the defendants have continued with the manufacturing



and marketing of not only the product under the mark GOLD FLAME and GOLD FIGHTER, but also under a new name, i.e., GOAD FLAME and GOAD FIGHTER.

2. Learned Senior Counsel appearing for the defendants on instructions, reiterates his submissions that were recorded on the last date of hearing. He submits that the defendants have already stopped manufacturing and marketing the product under the impugned names.

3. At this stage, learned Senior Counsels appearing for the plaintiff submit that their investigators have found that though the defendants had started using similar identical product by the name GOAD FLAME and GOAD FIGHTER, however, the product inside the packaging contained the infringing name, i.e., the GOLD FLAME and GOLD FIGHTER, for which an injunction order has been passed by this Court.

4. Learned Senior Counsel appearing for the defendants relies upon the reply filed to the present application to submit that an unconditional apology has already been given by the defendants on record and it has been stated that the defendants are not manufacturing and marketing the products in question, any further.

5. Perusal of the record shows that the reply filed on behalf of the defendant to *I.A. 34381/2024* is not on record and is under objections.

6. If the only objection is with regard to delay in filing the reply, the same stands condoned.

7. The defendants are directed to take steps to have their reply placed on record.

8. Learned Senior Counsel appearing for the defendants presses urgency for hearing of his application, i.e., *I.A. 30198/2024* for vacation of the *ex-*



parte injunction granted vide order dated 13th March, 2024.

9. Considering the submissions made before this Court, the defendants are directed to file an affidavit giving unconditional apology with regard to the manufacturing of the products in question despite the injunction order passed by this Court. Further, the affidavit shall clearly state regarding the stoppage of the manufacturing and marketing of the products under all the names, as noted in the present order, i.e., GOLD FLAME, GOLD FIGHTER, GOAD FLAME AND GOAD FIGHTER. Further, the defendants shall also file a statement of stock as regards the manufacture, marketing and sale of the aforesaid products, as available with the defendants.

10. Let the requisite affidavit be filed within a period of two weeks.

11. Considering the submissions made before this Court, this Court is of the view that if an affidavit as directed by this Court is filed by the defendants, then the Court shall proceed to decide the contempt application.

12. This Court shall consider and proceed to hear *I.A. 5805/2024* and *I.A. 30198/2024* on the next date, after hearing *I.A. 34381/2024*.

13. It is pointed out that the written statement filed on behalf of defendant nos. 1 and 2 was directed to be taken on record, subject to payment of cost of ₹10,000/-.

14. The cost of ₹10,000/- has been duly handed over by the defendants to the plaintiff's counsel, which has been duly accepted before this Court.

15. Accordingly, the written statement filed on behalf of the said defendants is directed to be taken on record.

16. At this stage, learned Senior Counsels appearing for the plaintiff submits that replication on their behalf to the written statement on behalf of



defendant nos. 1 and 2, already stands filed.

17. Accordingly, re-notify on 27th February, 2025.

MINI PUSHKARNA, J

JANUARY 13, 2025/kr