2026:DHC:411

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

% ***Judgement delivered on: 17.01.2026***

\+ **CS(COMM) 84/2025**

**ALKEM LABORATORIES LIMITED** .....Plaintiff

versus

**PREVEGO HEALTHCARE AND RESEARCH PVT LTD** .....Defendant

**Advocates who appeared in this case**

For the Plaintiff : Mr. Darpan Wadhwa, Senior Advocate with Ms. Tusha Malhotra, Ms. Bhavya Chhabra and Ms. Rhea Bhalla, Advocates.

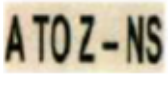
For the Defendant : Ms. Arundhati Katju, Senior Advocate with Mr. Siddharth Acharya, Mr. Udit Malik, Ms. Ritika Meena and Mr. Lakshay Sharma, Advocates.

**CORAM:**
**HON'BLE MR. JUSTICE TEJAS KARIA**

**JUDGMENT**

**TEJAS KARIA, J**

**I.A. 2537/2025 and I.A. 6055/2025**

1. I.A. 2537/2025 is filed by the Plaintiff under Order XXXIX Rules 1 and 2 of Code of Civil Procedure, 1908 ("**CPC**") for grant of interim injunction restraining infringement of Trade Mark, Copyright, and passing off of the Trade Marks, 'A TO Z/  ', '  ' and 'A TO Z-NS'

("**Plaintiff's Marks**"), infringement of Copyright in the artistic work, '  ' ("**Plaintiff's Logo**") and in the Trade Dresses '  ', '  ', '  ', '  ', '  ', '  ', '  ', '  ', '' and '  ' ("**Plaintiff's Trade Dress**"). The Plaintiff is involved in the trade and manufacture of pharmaceutical products under Plaintiff's Marks, Plaintiff's Logo and Plaintiff's Trade Dress ("**Plaintiff's Products**").

2. I.A. 6055/2025 has been filed by the Defendant under Order XXXIX Rule 4 of CPC for vacation of *ex-parte ad-interim* Order dated 30.01.2025. The Defendant is using the Mark, 'MULTIVEIN AZ / '  ' ("**Impugned Mar**k") for sale of pharmaceutical tablets ("**Defendant's Product**").

**PROCEDURAL HISTORY**

3. *Vide* Order dated 30.01.2025, the Defendant, its directors, partners or proprietors, representatives, principal officers, licensees, servants, agents, affiliates, distributors, successors, subsidiaries and all others acting for and on its behalf were restrained from marketing, packaging, selling, offering for sale or distribution, exporting, advertising or otherwise directly or indirectly using or dealing in any products or goods bearing the Impugned Mark or any other mark that is identical or deceptively, confusingly, visually, phonetically or conceptually similar to the Plaintiff's Marks, or containing any component thereof, whether as part of a trade mark or brand name, leading to infringement of the Plaintiff's Marks, passing off of the Defendant's Product as that of the Plaintiff, or infringement of the Plaintiff's Logo or Plaintiff's Trade Dress.

4. *Vide* Order dated 17.02.2025, the learned Counsel for the Plaintiff submitted that the Plaintiff does not object to the use of 'MULTIVEIN' by the Defendant and if the Defendant is willing to give up the use of 'AZ' from the Impugned Mark, the Plaintiff will give up its claim for costs and damages. In the meanwhile, the Defendant was allowed to exhaust the already existing stock with the Impugned Mark.

5. Notice was issued in I.A. 6055/2025 on 06.03.2025. The Defendant filed I.A. 10127/2025, seeking to place on record additional documents which are essential to be considered while adjudicating the present Applications. I.A. 10127/2025 was allowed *vide* Order dated 08.08.2025 and the Defendant was allowed to place on record the additional documents with liberty to the Plaintiff to file additional documents and a note in relation to the additional documents filed by the Defendant. On 26.08.2025, the learned Senior Counsel

for the Defendant sought leave to file additional Written Submissions capturing the relevancy of the additional documents taken on record *vide* Order dated 08.08.2025. Accordingly, the Defendants were granted the liberty to file additional Written Submissions.

6. *Vide* Order dated 12.11.2025, after conclusion of arguments by the Parties, the judgment was reserved in these Applications.

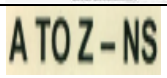
**SUBMISSIONS ON BEHALF OF THE PLAINTIFF:**

7. The learned Senior Counsel for the Plaintiff made the following submissions:

7.1. The Plaintiff was established in the year 1973 and is engaged in the business of research and development, manufacturing, marketing, distribution and selling of pharmaceuticals and nutraceutical products in India and in the international markets. The Plaintiff has a wide-ranging presence across acute and chronic therapeutic segments with substantial market share in Gastro-intestinal, Anti-osteoporosis, Nutraceutical and Pain management segments and leads the Indian market in the Anti-infective segments. The Plaintiff has a portfolio and footprint in over 40 countries, 19 manufacturing units, over 800 brands, covering all major therapeutic segments with 6 of the brands featuring among the top 100 pharmaceutical brands in India, which is reflective of the Plaintiff's strong brand recognition and marketing expertise.

7.2. The Plaintiff's Marks, 'A TO Z/  ' and 'A TO Z-NS' were first adopted by the Plaintiff in the year 1998 and 2008 respectively for the Plaintiff's Products. The Plaintiff's Marks are coined and arbitrary and are associated with the Plaintiff's Products alone by the public. Since

their adoption, the Plaintiff's Marks have been used continuously and extensively by the Plaintiff for the Plaintiff's Products. Further, the Plaintiff has adopted different variations of the Plaintiff's Mark 'A TO Z' and obtained numerous registrations for the same, with 'A TO Z' being the essential and prominent feature of the Plaintiff's Trade Mark portfolio. The details of the Trade Mark registrations obtained by the Plaintiff for the Plaintiff's Marks are as under:

| Application No. | Mark | Date | User Claim | Class |
|---|---|---|---|---|
| 1537705 |  | March 7, 2007 | April 1, 1998 | 29 |
| 1537706 |  | March 7, 2007 | April 1, 1998 | 30 |
| 2702805 |  | March 21, 2014 | April 1, 2008 | 5 |
| 1681873 | A TO Z - NS | April 29, 2008 | Proposed to be used | 29 |
| 1681874 | A TO Z - NS | April 29, 2008 | Proposed to be used | 30 |

7.3. The use of the Plaintiff's Marks on the Plaintiff's Products is demonstrated as under:

| | |
|---|---|
| Tablets |   |

| | |
|---|---|
| |  |
| Syrup |  |
| Oral Drops |   |

7.4. The Plaintiff's Logo is a unique designed logo wherein letters A and Z are written in a stylized manner. The word 'TO' is written in a different colour in a stylized manner. The Plaintiff's Logo is continuously in use from the year 1998 till date for the Plaintiff's Products. The Plaintiff is the owner of the Artistic Work in the Plaintiff's Logo and by virtue thereof the Plaintiff has the exclusive right to use or reproduce or license the Plaintiff's Logo as per the provisions of the Copyright Act, 1957 ("**Copyright Act**"). The Plaintiff consequently, also, possesses

the right to commercialize services under the Plaintiff's Logo and to stop any third party from misusing / using the Plaintiff's Logo.

7.5. The Plaintiff's Marks have been used continuously and uninterruptedly since their adoption. Further, the Plaintiff's Products under the Plaintiff's Marks have become massively popular among members of the public and gained immense trust of the public. By virtue of the reliability, effectiveness and excellent efficacy of the services offered by the Plaintiff, the Plaintiff and the Plaintiff's Marks and the Plaintiff's Logo have gained trust among the members of the trade and public at large. The Plaintiff's Products offered by the Plaintiff under the Plaintiff's Marks and the Plaintiff's Logo have acquired tremendous reputation and goodwill across the pharmaceutical market. The Plaintiff has been recording large sales of Plaintiff's Products all over India. The revenue generated by the Plaintiff's Products under the Plaintiff's Marks in India are tabulated hereunder:

| **Year** | **A TO Z RANGE OF PRODUCTS (Lakhs)** | **A TO Z NS TABLETS (Lakhs)** |
|---|---|---|
| 2014-2015 | 9296.61 | 4916.56 |
| 2015-2016 | 11144.23 | 5438.10 |
| 2016-2017 | 14015.73 | 6601.68 |
| 2017-2018 | 15873.37 | 6914.81 |
| 2018-2019 | 17416.23 | 7278.92 |
| 2019-2020 | 20874.35 | 8850.47 |
| 2020-2021 | 30334.99 | 13445.61 |
| 2021-2022 | 36487.31 | 15383.74 |
| 2022-2023 | 32600.51 | 11707.89 |
| 2023-2024 | 34457.54 | 12990.53 |

7.6. The Plaintiff has also spent enormously on advertising and promoting the Plaintiff's Products under the Plaintiff's Marks and the Plaintiff's

Logo. The advertising expenditure of the Plaintiff for the past few years for the Plaintiff's Marks and the Plaintiff's Logo in India are as under:

| Year | A TO Z RANGE OF PRODUCTS (Lakhs) |
|---|---|
| 2014-15 | 204.00 |
| 2015-16 | 223.00 |
| 2016-17 | 332.00 |
| 2017-18 | 424.00 |
| 2018-19 | 332.37 |
| 2019-20 | 451.89 |
| 2020-21 | 183.81 |
| 2021-22 | 221.69 |
| 2022-23 | 347.11 |
| 2023-24 | 349.00 |

7.7. The Defendant, *Prevego Healthcare & Research Pvt. Ltd.*, claims to provide access to safe, effective and affordable medicines and related health care services to the people who need them. Further, the Defendant claims that its product portfolio covers all the major therapeutic segments and consists of all forms of Pharmaceutical Capsules, Pharmaceuticals Tablet, Pharmaceutical Syrup etc. The Defendant also claims to have a strong network of world class manufacturing units, which are ISO, GMP, EGMP, and WHO certified plants.

7.8. In the third week of December 2024, the Plaintiff came across the Defendant's Product bearing the Impugned Mark. Upon a perusal of the Defendant's Product, it was revealed that the Impugned Mark was being used for products identical to the Plaintiff's products, i.e., health supplements. A snapshot of the Defendant's Product,

‘ 

’ (“**Impugned Trade Dress**”) further reveals that the Defendant has also copied a Trade Dress deceptively similar to the Plaintiff’s Trade Dress.

7.9. The Impugned Mark is conceptually, phonetically, deceptively, structurally and confusingly similar to the Plaintiff’s Marks. Further, the Defendant has also adopted a deceptively similar packaging as that of Plaintiff’s Products for its tablets, to encash upon the goodwill and reputation of the Plaintiff and the Plaintiff’s Products. The Plaintiff sent a Cease-and-Desist notice to the Defendant dated 27.12.2024 (“Cease and Desist Notice”) to the Defendant calling upon the Defendant to immediately cease and desist in all manner, manufacturing, selling or offering for sale, marketing and distributing the Defendant’s Product bearing the Impugned Mark or any other Mark identical and / or deceptively similar to the Plaintiff’s Marks.

7.10. The Defendant sent a reply to the Cease-and-Desist Notice on 20.01.2025 (“**Reply to the Legal Notice**”), wherein the Defendant claimed that the Impugned Mark is distinct from the Plaintiff’s Marks. The Defendant is the registered proprietor of the Mark ‘MULTIVEIN’ *vide* Trade Mark Application No. 6547298. Further, the Impugned Mark is visually and phonetically distinct from the Plaintiff’s Marks

and 'A TO Z' is a common expression denoting completeness or range, which further reinforces the lack of conceptual similarity. Upon receiving the Reply to the Legal Notice, the Plaintiff searched the records of the Trade Marks Registry and found out that the Defendant has filed the following Trade Mark Applications:

| S. No. | Mark | Dated | Application No. | Use | Class | Status |
|---|---|---|---|---|---|---|
| 1 | MULTIVEIN | November 12, 2020 | 4742710 | Proposed to be used | 5 | Registered |
| 2 | DAILY-1 MULTIVEIN | October 15, 2024 | 6669213 | November 09, 2019 | 5 | Formalities Check Pass |
| 3 | MULTIVEIN AZ | January 10, 2025 | 6799320 | August 14, 2020 | 5 | Formalities Check Pass |
| 4 | MULTIVEIN OK | January 10, 2025 | 6799321 | June 13, 023 | 5 | Formalities Check Pass |

7.11. A comparison of the Plaintiff's Marks and Impugned Mark makes it evident that the Defendant has adopted the Impugned Mark that is visually, conceptually, structurally, phonetically, confusingly and deceptively similar to the Plaintiff's Marks to sell identical products. A comparative table of the Plaintiff's Marks and the Impugned Mark is as under:

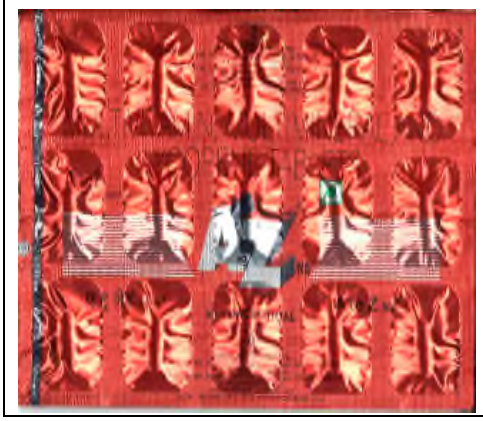
| PLAINTIFF'S MARKS | IMPUGNED MARK |
|---|---|
| A to Z- NS | MULTIVEIN AZ |

7.12. The Defendant's act of adopting and using the Impugned Mark is bound to confuse the consumers and / or trade channels into believing that the Defendant has an association and / or connection with the Plaintiff. The Defendant is making an attempt to create an unauthorized association with the Plaintiff, and target consumers and deceive them. By the adoption, use, sale and advertisement of the Impugned Mark, the Defendant is taking unfair advantage of the well-known and reputed image of the Plaintiff's Marks, which it has garnered over years of use. Such use, sale and advertisement are highly detrimental to the distinctive character and reputation of the Plaintiff's Marks and amounts to passing off of the Plaintiff's Marks.

7.13. The Supreme Court in ***Kaviraj Pandit Durga Dutt Sharma v. Navaratna Pharmaceutical Laboratories*** AIR 1965 SC 980 has laid down the test of deceptive similarity where it was held that once the essential features of a registered mark are copied, differences in get-up, packaging, or additional writing are immaterial.

7.14. The Plaintiff is the owner of the Copyright in Plaintiff's Logo and the Plaintiff's Trade Dresses. By virtue of rights under the Copyright Act, the Plaintiff has the exclusive right to use and commercialize its products under the Plaintiff's Label and the Plaintiff's Trade Dresses. The Defendant's attempts at copying can also be seen from an identical color scheme with the identical arrangement of the elements of the Impugned Marks and Impugned Trade Dress for the Defendant's Products. A comparison of the Plaintiff's Trade Dresses and the Impugned Trade Dress is as under:

| PLAINTIFF'S TRADE DRESS | IMPUGNED TRADE DRESS |
|---|---|
|  |  |
|  |  |
|  | |

| | |
|---|---|
|  <br>  | |

7.15. On a bare comparison of Plaintiff's Trade Dresses and the Impugned Trade Dress, it is evident that the Defendant is dishonestly trying to come close to the Plaintiff's Product by adopting identical color scheme, layout, get up for goods identical to that of the Plaintiff. The Defendant's actions of imitating the Plaintiff's Label and the Plaintiff's Trade Dresses, which is the sole and exclusive right of the Plaintiff by virtue of being the owner of copyright, amounts to infringement of the said copyright vested in the Plaintiff's Label and the Plaintiff's Trade Dresses.

7.16. The Defendant's activities of dealing in medical / pharmaceutical / healthcare products pose a high threat and harm to the public. The Plaintiff has no control over the quality and safety of the Defendant's Products and therefore, the Plaintiff would not be in a position to

confirm if the Defendant's Products bearing the Impugned Mark are of inferior quality or not meeting the quality parameters and, therefore, violating the regulatory healthcare laws of India, and the Defendant's Products bearing the Impugned Mark are consumed by different classes of consumers including children, pregnant women, old and infirm people etc. The Defendant's use of the Impugned Mark is contrary to public interest and will have dire consequences as it may result in the consumers using wrong and sub-standard quality of products believing them to have originated from the Plaintiff. This Court in ***Novartis AG v. Crest Pharma Pvt. Ltd. And Anr.***, 2009 SCC OnLine Del 4390 held that the case of deceptive similarity in cases of pharmaceutical products in stringent.

7.17. No restrictions or conditions have been imposed on registration of the Plaintiff's Mark, '  ' registered in Class 29 and 30. Restrictions imposed on the use of other Marks, comprising of the elements 'A TO Z' does not restrict the use of the Mark 'A TO Z' by the Plaintiff.

7.18. Section 2(c) of the Trade Marks Act, 1999 ("**Trade Marks Act**") defines Associated Marks as under:

*"(c) associated trade marks means trade marks deemed to be, or required to be, registered as associated trade marks under this Act;"*

7.19. Further, Section 44 of the Trade Marks Act provides for assignability and transmissibility of Associated Marks. Section 44 of the Trade Marks Act reads as under:

*"44. Assignability and transmissibility of associated trade marks.— Associated trade marks shall be assignable and transmissible only as*

*a whole and not separately, but, subject to the provisions of this Act, they shall, for all other purposes, be deemed to have been registered as separate trade mark."*

7.20. In the present case, the learned Examiner has directed the Plaintiff's prior registered and pending 'A TO Z' Marks to be associated with other Trade Marks Applications that belong to the Plaintiff for goods under Class 05 and such association is required where independent use by another person may cause confusion or deception. In accordance with Section 44 of the Trade Marks Act, such association is solely for the purpose of assignment and transfer. For all other purposes, the said Trade Marks are deemed to have been registered as separate Trade Marks. Additionally, the Plaintiff's statement that the said Applications are brand extension are in line with the Plaintiff's contention that it is forming part of the Plaintiff's 'A TO Z' family of Marks. This Court in ***Audioplus v. Manoj Nagar***, CS(Comm) No. 4762/2020, held that even if the Plaintiff did not disclose its prior abandoned Trade Mark Application in the plaint it would not amount to suppression of material facts.

7.21. The Plaintiff coined and adopted the 'A TO Z' Mark in 1998 in relation to its dietary supplement products. The Plaintiff's long, continuous and extensive use since adoption in relation to the dietary supplements and its promotion and advertising has led to the Plaintiff's Marks becoming a source identifier of the health supplements of the Plaintiff. Hence, the consumers identify the Plaintiff's Marks as a badge of origin and a symbol of Plaintiff's goodwill and reputation in the health supplement products. The Plaintiff is the prior user of the Mark 'A TO Z' for its

multi-vitamin and multi-mineral dietary supplements since 1998 and hence, has better rights in the Mark 'A TO Z'.

7.22. Any claim of common to trade must be proved by significant turnover of third party that can pose a threat. The Plaintiff is the prior adopter of the Plaintiff's Marks. Although third parties have attempted to seek a registration for Marks consisting of 'A TO Z', those Marks have either been abandoned, withdrawn or applied for and registered for different goods and have no online presence or user claim later than the Plaintiff. Mere non-registration of the Word Mark 'A TO Z' cannot exclude the Plaintiff from referring to the Plaintiff's Marks. The Plaintiff has used the Plaintiff's Marks since 1998 and even if the Plaintiff's Marks are considered as descriptive, they have achieved a secondary meaning in relation to the dietary supplements. Further, it is well-established that where a Label Mark is registered, it cannot be said that the Word Mark contained therein is not registered. Further, use by third-party is not a valid defence for infringement of Trade Marks as has been held in the case of ***Pankaj Goel v. Dabur India Ltd.*** 2008 SCC OnLine Del 1744,

7.23. This Court in ***Kia Wang v. The Registrar of Trademarks & Anr.***, 2023 CC OnLine Del 5844 has held that the rights of the first user of a trade Mark needs to be protected as against any subsequent user of an identical and / or deceptively similar Mark. In ***Milfet Oftho Industries v. Allergen Inc.***, (2004) 12 SCC 624, the Supreme Court held that while deciding a case of infringement the test should be who was first in the market, where the trade marks are similar especially in pharmaceutical products. This Court in ***N. Ranga Rao v. Anil Garg***, 2005 SCC OnLine Del 1293 held that the second comer in the market is under an

obligation to name and dress his product in such a manner as to avoid all likely confusion with the products of the first comer to the market.

7.24. This Court in ***Crompton Greaves Consumer Electricals Limited v. V Guard Industries Limited***, 2024:DHC:1852:-DB, held that the test for infringement of a label mark or a word mark is the test of the prominent word of the Mark. If the prominent part of a Mark is copied by the subsequent user of the mark it is likely to cause infringement of the Mark. This Court in ***United Biotech Pvt. Ltd. v. Orchid Chemicals Pharmaceutical & Ors.***, ILA (2012) V Delhi 325, held that when a label mark is registered it cannot be said that the word mark contained therein is not registered.

7.25. In view of the above, the *ex-parte ad-interim* Order dated 30.01.2025 deserves to be confirmed.

**SUBMISSIONS ON BEHALF OF THE DEFENDANT:**

8. The learned Senior Counsel for the Defendant made the following submissions:

8.1. The Defendant is the owner and lawful proprietor of the Mark 'MULTIVEIN' which is a word Mark. Further, the Defendant is also using the Impugned Mark in stylized form in respect of the goods which is a nutraceutical. The Impugned Mark was adopted by the Defendant honestly and with *bona fide* in August 2020, knowing well that there were no such and similar Trade Mark in use and / or existence in respect of nutraceuticals. Since then, the Defendant has used the Impugned Mark openly, continuously, exclusively and extensively in the market in respect of nutraceuticals, without any interruption and interference whatsoever.

8.2. The Defendant has advertised the Impugned Mark extensively through all modes including media, advertisement and publicity. The Impugned Mark has been publicized to such an extent that a consumer now quickly identifies the Impugned Mark and associate it with the Defendant's Product. It can be said that almost every person concerned with the trade is aware of the same. The Impugned Mark is a novel Mark, which has been invented and coined by the Defendant. The Defendant has acquired legal, vested and common law rights to the exclusive use of the Impugned Mark on account of its open, continuous and extensive use. The Defendant also possess right to restrain the use and / or registration of a deceptively similar Mark by another.

8.3. The Defendant was established in 2018, began with just 11 products and has rapidly grown to offer over 1,500 products. With a robust distribution network, the Defendant has established a strong presence across all states in India. Each state is served by multiple distributors, supported by 400-500 stockiests, who ensure the products are delivered to retail outlets, hospitals, and doctors. In addition, each state has a dedicated sales and marketing team, including general managers, to maintain smooth operations and effective marketing strategies.

8.4. The Plaintiff's assertion that the Impugned Mark is deceptively similar to the Plaintiff's Marks is false. The Plaintiff's Marks are Device Marks, limiting their scope of protection, further the Plaintiff's Marks are registered under Class 29 and 30 and the Plaintiff's assertion of rights across numerous Classes of Trade Marks, is unreasonable and demonstrates an attempt to improperly expand the scope of their Trade Mark protection.

8.5. The Plaintiff's Marks are Device Marks consisting of stylized 'A' and 'Z' and a letter 'to' in between the two alphabets. It is trite law that Device Marks, by their nature, protect the specific visual representation of the Mark. They do not grant broad protection over the underlying words or letters in isolation, especially when used in different stylizations or contexts. The Impugned Mark is visually distinct from the Plaintiff's Marks.

8.6. 'A TO Z' is a generic phrase representing completeness or comprehensiveness. The Impugned Mark, while containing 'AZ', clearly focuses on the concept of 'MULTIVEIN' suggesting multiple veins or a network. This addition fundamentally alters the conceptual meaning, making it specific to a particular product or service related to veins or networks, rather than general completeness. It is known that veins and arteries are responsible for blood supply and all multiple vitamins and minerals that are needed by the body are supplied by the veins. An average consumer will perceive 'Multivein AZ' as relating to a network and not simply as 'everything'.

8.7. The Supreme Court in ***Godfrey Philips India Ltd. v. Girnar Food & Beverages (P) Ltd***, (2004) 5 SCC 257, held that a descriptive Mark will be entitled to protection only if the descriptive Mark has obtained a secondary meaning and the Plaintiff's Marks have not obtained secondary meaning to entitle them for protection. It is settled position that generic, descriptive and commonly used expressions, being *publici juris*, are incapable of attaining distinctiveness and / or serving as exclusive source identifiers so as to confer monopoly rights upon any party as has been held by the Supreme Court in ***Pernod Ricard India***

***Private Limited and Another v. Karanveer Singh Chhabra***, 2025 SCC OnLine SC 1701.

8.8. While 'A' and 'Z' are present in both the Impugned Mark and the Plaintiff's Marks, the addition of 'Multivein' significantly changes the overall sound and rhythm of the Impugned Mark. The Impugned Mark is a longer, more complex phrase than 'A TO Z'. The emphasis and pronunciation are different. Further, there is absence of 'to' in the Impugned Mark, which is an essential word to be pronounced and makes a specific sound when the Plaintiff's Marks are pronounced or read. There is no likelihood of deception. Consumers are unlikely to be confused into thinking that the Impugned Mark is the same as the Plaintiff's Marks. The distinct visual presentation, the different conceptual meaning, and the varied phonetic qualities all contribute to avoiding deception. 'A TO Z' is a short, simple, and commonly understood phrase whereas the Impugned Mark is a compound Mark.

8.9. The presence of 'Multivein' fundamentally alters the structure, making the Impugned Mark a distinct mark, not just a variation of the Plaintiff's Marks. Further, 'AZ' is incorporated in the Impugned Mark within a larger and more complex structure. There is no likelihood of confusion between the Plaintiff's Marks and the Impugned Mark. Consumers will not associate the Impugned Mark with the Plaintiff's Marks. The differences in concept, sound, appearance, and structure are significant enough to prevent confusion. 'AZ' is used in pharmaceutical industry for other purposes also such as for the presence of Azithromycin drug. The Readily available evidence further demonstrates the lack of

likelihood of confusion between the Plaintiff's Marks and the Impugned Mark.

8.10. A keyword search for 'A TO Z' on Google, and on the websites identified by the Plaintiff, reveals the generic nature of this phrase. The results are overwhelmingly diverse and include numerous entries completely unrelated to the Plaintiff's Products or the Plaintiff's Marks. This highlights the weakness of the Plaintiff's Marks as a distinctive identifier in the marketplace. The sheer volume of unrelated results demonstrates that consumers would not automatically associate 'A TO Z' with the Plaintiff. A search for the Impugned Mark on Google yields predominantly results related to the Defendant's Product. This demonstrates that the Impugned Mark functions as a specific and recognizable identifier for the Defendant's Product, clearly distinguishing them from others. The search results confirm that consumers readily associate the Impugned Mark with the Defendant and not with the Plaintiff.

8.11. The Plaintiff's Marks are registered across a wide range of Classes, as detailed in the Plaint. Many of these classes, such as Class 29 for meat, fish, poultry, vegetable, jellies etc. or Class 30 for coffee, tea, cocoa, sugar etc. are entirely unrelated to the goods / services offered by the Defendant, who is operating in Class 5. There is no likelihood of confusion between the Defendant's Product under the Impugned Mark and the food products covered by the Plaintiff's Marks registered under Class 29 and 30. A consumer purchasing groceries would not reasonably associate them with health supplements, even if both featured the letters 'AZ' in different stylizations and contexts.

8.12. The claim of the Plaintiff on the Copyright Infringement stands on hollow pillars as the Plaintiff does not have any copyright over the letters ‘A’ and ‘Z’ or combinations thereof or for that matter in the word ‘A TO Z’. Further according to data available under public search of Copyright website, proves that the Plaintiff does not have any specific legal right over the combination of letters ‘A’ and ‘Z’ under Copyright Act. The Plaintiff’s claim of Copyright protection for the Plaintiff’s Logo is a blatant misrepresentation of the Copyright law. The Plaintiff has registered the Plaintiff’s Label as a Device Mark, which explicitly protects its function as a source identifier for goods and services. Copyright law, on the other hand, protects artistic or literary expression, not commercial identifiers.

8.13. The Plaintiff’s Marks and the Impugned Mark are distinct Marks and while both use ‘A’ and ‘Z’ the overall Marks are different. Copyright Act doesn’t protect common or generic terms like ‘A TO Z’ used descriptively. The Impugned Mark primarily uses white, red, and orange and gold. The Plaintiff’s Marks primarily uses yellow and white. The colour combinations of the Plaintiff’s Marks and the Impugned Mark are significantly different.

8.14. The layout of elements in the Plaintiff’s Marks and the Impugned Mark is distinct. The Impugned Mark has a flowing, ribbon-like design with text arranged in a specific way while the Plaintiff’s Marks have a more straightforward, boxy layout with the Plaintiff’s Logo prominently displayed in a 3D effect. The arrangement of text, logos, and other elements is different in Plaintiff’s Marks and the Impugned Mark. The fonts used for the Plaintiff’s Products and the Defendant’s Product and

other text are different, hence the Impugned Trade Dress is not deceptively similar to the Plaintiff's Trade Dresses.

8.15. There are Trade Mark registration applications which have been concealed by the Plaintiff in the present Plaint. The Plaintiff's case is that the Plaintiff has Trade Mark protection for the Mark 'A TO Z' in Class 5 and has alleged that the Impugned Mark infringes the Plaintiff's Marks, however, the Plaintiff has no protection for the Mark 'A TO Z' simpliciter in Class 5 either as a Device Mark or as a Word Mark. The Plaintiff has registrations in Class 5 only for 'A TO Z + different suffixes'. 'A to Z' is only protected as a Device Mark and that too in class 29 or 30.

8.16. The Plaintiff has concealed three Trade Mark Applications in Class 5 directly relevant to the present Suit. The Trade Mark Applications are as under:

a. Application No. 1270049 seeking registration of 'A TO Z' / as a device mark in class 5 which has been opposed.

b. Application No. 750155 [1997] seeking registration of 'A to Z' as a word mark in class 5 which has been withdrawn.

c. Application No. 816752 [1998] seeking registration of 'A TO Z' as a word mark in class 5 which was abandoned.

8.17. The Additional Documents filed by the Defendant, taken on record by this Court *vide* Order dated 08.08.2025, along with documents filed along with its Written Statement and IA no. 6055/2025 under Order 39 Rule 4 CPC relates to the above-mentioned concealed marks and the prosecution history of Trade Mark applications filed by the Plaintiff. The Additional Documents show that the term 'A TO Z' is generic and

common to the trade. Evidence from the Trade Mark Registry confirms that multiple third parties had already used and attempted to register this Mark, or its variations, in the relevant product classes before the Plaintiff's claimed first use. Further, the Plaintiff sought to register 'A TO Z' as a Device Mark in Class 5 *vide* Trade Mark Application No. 1270049, which is under opposition since 2007 and the said application is concealed in the present Plaint.

8.18. The Plaintiff is not entitled to any equitable relief on account of concealment of material facts and making contrary assertions as has been held by this Court in ***S.K. Sachdeva v. Shri Educate Ltd***, 2016 (65) PTC 614 and ***Raman Kwatra and Anr. v. M/s KEI Industries Ltd.***, 2023:DHC:000083.

8.19. The Defendant is, without prejudice to their rights and contentions, agreeable to increase the size of 'MULTIVEIN' to make 'MULTIVEIN' more prominent in the Impugned Mark and making 'AZ' smaller to put the controversy to end.

8.20. In view of the above, the *ex-parte ad-interim* Order dated 30.01.2025 deserves to be vacated.

**ANALYSIS AND FINDINGS:**

9. The present Suit involves the infringement and passing off of the Plaintiff's Marks which are registered in Classes 5, 29 and 30. The Plaintiff has claimed to be the prior user of the Device Mark 'A TO Z' since 1998 for the Plaintiff's Products.

10. The Plaintiff is aggrieved by the use of the Impugned Mark by the Defendant for dealing in pharmaceutical tablets. The Plaintiff has contended that the use of the Impugned Mark amounts to infringement of the Plaintiff's

Marks as the Defendant is dealing with identical and / or similar products by using the Impugned Mark. Further, the Impugned Mark copies the overall concept and adopts near identical colour scheme. It is also contended by the Plaintiff that the use of the Impugned Mark by the Defendant amounts to infringement of Copyright in the Plaintiff's logo and the Defendant has adopted the Impugned Trade Dress, which is identical and / or deceptively similar to the Plaintiff's Trade Dresses. Further, there is a phonetic similarity between the Plaintiff's Marks and the Impugned Mark. The dominant element of the Plaintiff's Marks as well as the Impugned Mark are the letters 'A' and 'Z'. Admittedly, the usage of the Plaintiff's Mark is prior to the use of the Impugned Mark as the Mark, '  ' was first used by the Plaintiff in 1998 whereas the Defendant has been using the Impugned Mark since 2020.

11. In view of the above, the Plaintiff has sought an interim injunction against the Defendant from using the Impugned Mark for sale of pharmaceuticals and nutraceutical products on the ground of infringement and passing off.

**Whether the Plaintiff's Marks are generic and descriptive in nature?**

12. The Plaintiff has contended that the Plaintiff's Marks are not generic or descriptive as 'A TO Z' is a coined term by the Plaintiff and has no ordinary meaning and even if the Plaintiff's Marks are considered as descriptive, they have achieved a secondary meaning in relation to the dietary supplements. The Defendant has contended that 'A TO Z' is a generic phrase representing completeness or comprehensiveness and, therefore, the Plaintiff's Marks are not entitled to protection as the Supreme Court in ***Godfrey Philips India*** (supra) held that a descriptive Mark will be entitled to protection only if the

descriptive Mark has obtained a secondary meaning and the Plaintiff's Marks have not obtained secondary meaning to entitle them for protection.

13. It is settled law that generic, descriptive and commonly used expressions, being *publici juris*, are incapable of attaining distinctiveness and / or serving as exclusive source identifiers so as to confer monopoly rights upon any party as has been held by the Supreme Court in ***Pernod Ricard India*** (supra).

14. Considering the submissions of both Parties, it is clear that 'A TO Z' can represent completeness or comprehensiveness. As the Plaintiff's Products using the Plaintiff's Marks pertain to nutraceuticals and multivitamins, it describes the goods as Vitamins are commonly known by various alphabets. Therefore, multivitamin products can be described by 'A TO Z' encompassing several different types of Vitamins. Therefore, the Mark 'A TO Z' describes the nature of the goods being provided by the Plaintiff as well as the Defendant. Hence, the Mark 'A TO Z' is descriptive in nature. Therefore, the Plaintiff cannot be allowed to monopolize the use of the letters 'A' and 'Z' by seeking exclusivity over the right to use the letters 'A' and 'Z'. The use of letters of the English Language cannot be monopolized by the Plaintiff especially in light of the submission made by the Plaintiff before the Trade Marks Registry in the Opposition proceedings for Trade Mark Application No. 1270049, wherein the Plaintiff conceded that the Device Mark, is stylized and that its protection is limited to its unique, 'intertwined-and conjoined manner.'

15. Accordingly, the Plaintiff's Marks, 'A TO Z' is descriptive and generic.

**Deceptive Similarity of the Plaintiff's Mark and the Impugned Mark**

16. The registration of the Device Mark is to be considered as a whole and while determining the deceptive similarity with another Trade Mark, both the Marks have to be examined as a whole by applying 'anti-dissection rule' rather than breaking the Marks into their component parts for comparison. To determine whether there is any deceptive similarity between the two Marks, it is imperative to decide if the similarity is likely to cause any confusion or deceive. The test of deceptive similarity as laid down in ***Kaviraj Pandit*** (supra) has not been satisfied in the present case. Even from eyes of the consumers of the Plaintiff's Products and the Defendant's Product, the Marks are visually different and would not cause confusion in the minds of the consumers.

17. It is well settled that the registration of Device Marks does not automatically grant the exclusive right in respect of the word mentioned in the Device Marks. Further, the Supreme Court in ***Pernod Ricard India*** (supra) held that the rival marks must be compared as a whole, and not by dissecting them into individual components, as consumers perceive trade marks based on their overall impression, including appearance, structure, and commercial impression.

18. The Plaintiff has obtained registration for the Device Mark '  ' and other associated Marks, however, the Plaintiff has failed to obtain any registration for the word Mark 'A TO Z', further the Plaintiff's Trade Mark Application for registration of the Device Mark for 'A TO Z' in Class 05, i.e., the Class relevant to the present case has been opposed. Accordingly, the Plaintiff's Marks have to be seen as a whole and the Anti-dissection Rule will

prohibit dissection of the composite Mark into individual components as per Section 17 of the Trade Marks Act.

19. As per Section 17 of the Trade Marks Act when a Trade Mark consists of several matters, its registration shall confer on the proprietor exclusive right to use of the Trade Mark taken as a whole. Considering that the Plaintiff has no exclusive right over the letters 'A' and 'Z', there is no deceptive similarity between the Plaintiff's Marks and the Impugned Mark.

20. The Plaintiff has contended that the Mark 'A TO Z' is dominant part of the Plaintiff's Marks and, therefore, is protected even though the Plaintiff's Mark '  ' is registered as a Label Mark. There is no doubt that the dominant part of the Plaintiff's Mark are the letters 'A' and 'Z', however, the Plaintiff's Marks must be seen as a whole and the letters 'A' and 'Z' cannot be dissected and seen independently for granting protection. The Impugned Mark is a composite Mark containing of another prominent element other than the letters 'A' and 'Z'. The Impugned Mark is not deceptively similar to the Plaintiff's Marks and, therefore, the judgments in ***Kia Wang*** (supra), ***Milfet Oftho Industries*** (supra), ***Novartis AG*** (supra) and ***N. Ranga Rao*** (supra) does not help the case of the Plaintiff.

21. The Plaintiff's Marks are Device Marks consisting of stylized 'A' and 'Z' and a letter 'to' in between the two alphabets. It is trite law that Device Marks, by their nature, protect the specific visual representation of the Mark. They do not grant broad protection over the underlying words or letters in isolation, especially when used in different stylizations or contexts. The Impugned Mark is visually distinct from the Plaintiff's Marks.

22. The Plaintiff's Marks and the Impugned Mark are not deceptively similar as the Impugned Mark must be considered as a whole. The Impugned Mark considered as a whole is dissimilar to the Plaintiff's Marks, the Impugned Mark is visually different from the Plaintiff's Marks. While 'A' and 'Z' are common in the Impugned Mark and the Plaintiff's Marks, the addition of 'Multivein' significantly changes the overall sound and rhythm of the Impugned Mark. The colour scheme of the Impugned Mark is also different from the colour scheme of the Plaintiff's Marks and the Impugned Mark is not deceptively similar to the Plaintiff's Mark. Accordingly, considering the Impugned Mark as a whole there is no deceptive similarity between the Plaintiff's Mark and the Impugned Mark.

23. In view of the above, the Plaintiff's Marks and the Impugned Mark if considered as a whole cannot be held to be deceptively similar and are able to be distinguished by the use of word 'Multivein'. The Plaintiff cannot claim exclusivity over the use of the letters 'A' and 'Z'. The rival Marks are not identical and / or deceptively similar, the Plaintiff's Marks and the Impugned Mark comprise of letters from the English language, which cannot be monopolized by any party. Further, the Plaintiff has not been able to make a case of misrepresentation by the Defendant nor has it been able to prove damages incurred by the Plaintiff due to the adoption of the Impugned Mark by the Defendant. Hence, there is no likelihood of confusion amongst the class of consumers, which is likely to harm the reputation of the Plaintiff and dilute the Plaintiff's Marks.

**Whether the Plaintiff has concealed material facts in the present Suit?**

24. The submission made by the Defendant about extensive third-party use of the Mark 'A TO Z' in the pharmaceutical industry is not a valid defence as

it is a settled law that the Plaintiff is not liable to file a case of infringement against all the insignificant third-party use of the registered Mark as held in ***Pankaj Goel*** (supra). Hence, the Plaintiff is entitled to maintain the present Suit against the Defendant.

25. The Plaintiff did not disclose in the present Suit that the Plaintiff had sought registration of the Device Mark for 'A TO Z' in Class 5 *vide* Trade Mark Application No. 1270049, which has been under opposition since 2007 and that there were other third-party applications for registration of the Marks comprising of 'A TO Z' prior to the Application filed by the Plaintiff for registration of the Mark '  ' in 1998.

26. Accordingly, the Plaintiff is not entitled to any equitable relief on account of concealment of material facts and making contrary assertions as has been held by this Court in ***S.K. Sachdeva*** (supra) and ***Raman Kwatra*** (supra).

**Infringement of Copyright in the Plaintiff's Label and the Plaintiff's Trade Dresses**

27. Copyright Act entitles the proprietor of an Artistic Work to protection of its Artistic Work, however, it does entitle the Plaintiff to monopolize the use of the letters 'A' and 'Z' in any manner whatsoever. A holistic comparison of the Impugned Mark and the Plaintiff's Label shows that the Impugned Mark is not infringing the Copyright protection obtained by the Plaintiff's Label.

28. The Plaintiff's Logo is a unique designed logo wherein letters A and Z are written in a stylized manner. The word 'TO' is written in a different colour in a stylized manner. The common elements in the Plaintiff's Label and the

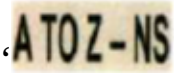
Impugned Mark are the letters ‘A’ and ‘Z’. The letters ‘A’ and ‘Z’ used in the Impugned Mark are written in a manner that is completely different to the use of the letters ‘A’ and ‘Z’ in the Plaintiff’s Label. The Plaintiff cannot claim protection against the use of the letters of the English language on the basis of the stylized use of the letters which has obtained Copyright registration.

29. Similarly, the common elements in the Plaintiff’s Trade Dresses and the Impugned Trade Dress are the use of the letters ‘A’ and ‘Z’. The overall impression of the competing Trade Dresses is different and with the finding that the Impugned Mark is not deceptively similar to the Plaintiff’s Marks, the prayer against the use of the Impugned Trade Dress does not survive either. The fonts used for the Plaintiff’s Products and the Defendant’s Product and other text are different, the colour scheme of the Plaintiff’s Trade Dresses and the Impugned Trade Dress is also different and, hence, the Impugned Trade Dress is not deceptively similar to the Plaintiff’s Trade Dresses.

**CONCLUSION**

30. Having considered the averments in the pleadings and the submissions made by the Parties, the Plaintiff’s Marks and the Impugned Mark and are neither identical nor deceptively similar, the Plaintiff does not have the exclusive right to use the letters ‘A’ and ‘Z’.

31. The use of the Impugned Mark, ‘ 

’, does not amount to infringement and / or passing off of the Plaintiff’s Marks ‘A TO Z/ 
’, ‘ 

’ and ‘A TO Z-NS’ and / or infringement of the

Copyright in the Plaintiff's Label '  '. Further, the use of the Impugned Trade Dress '  ', does not amount to infringement of the Plaintiff's Trade Dresses, '  ', '  ', '  ', '  ', '  ', '  ', '  ', '  ', '  ' and '  '.

32. Accordingly, no case is made out for grant of interim injunction as prayed for in I.A. 2537/2025 and, accordingly, the same is hereby dismissed. Consequently I.A. 6055/ 2025 is allowed and the *ex-parte ad-interim* injunction granted *vide* Order dated 30.01.2025 stands vacated.

33. Both I.A. 2537/2025 and I.A. 6055/ 2025 stand disposed of.

**TEJAS KARIA, J**

**JANUARY 17, 2026**
*'AK'*