



\$~12

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CS(COMM) 60/2024**
ITC LIMITED

.....Plaintiff

Through: Mr. Saurabh Agarwal,
Mr. Tanmay Mehta, Advocates

Versus

DAV INDUSTRIES LLP

.....Defendant

Through: Mr. Peeyoosh Kalra, Mr. Ashok
Nagrath, Advocates

CORAM:
JOINT REGISTRAR (JUDICIAL) Dr. AJAY GULATI

ORDER
17.12.2025

%

IA no. 869 of 2025 for serving interrogatories and seeking production of documents by the defendant.

1. The present IA has been moved for seeking relevant information from the defendant to enable the plaintiff to proceed ahead with the trial of the suit for the purpose of seeking damages.

2. Relevant to highlight that no written statement has been filed in the suit, effectively sealing the issue of Trademark infringement in favour of the plaintiff. The plaintiff thus now seeks the relevant information from the defendant which, in the submission of the plaintiff, defendant is bound to furnish. It has been argued that Order XI rule 1 (7) (b) of the CPC (as applicable to the Commercial suits) *obligates* the defendant to



furnish documents in its possession whether or not the same are in favour of *or* adverse to its case.

3. It has been submitted on behalf of the plaintiff that the defendant, at the time of filing its TM registration application/s, has stated therein by way of an affidavit that defendant was doing extensive business all over India using the impugned TM. Consequently, relying on the assertion of defendant itself in official records, plaintiff is now seeking relevant disclosure of the 'extensive business' of the defendant so that plaintiff can have a fair idea about the extent of profits earned/revenue generated by the defendant by selling goods under the impugned mark. It is the submission of the plaintiff that the information sought from the defendant will cut short the trial and save costs.

4. In response to the prayer made in the present IA, it has been contended that directing the defendant to produce the documents sought / answer the interrogatories would amount to the defendant being forced to self-incriminate. It has also been *submitted* that plaintiff has sought damages and rendition of accounts but the law is settled in this regard that plaintiff can either claim damages or rendition of accounts. Therefore, plaintiff must elect between the 2 remedies before pressing for interrogatories / production of documents in order to establish its claim for seeking damages.

5. In rebuttal, on the aspect of claiming damages as also rendition of accounts, it has been submitted on behalf of the plaintiff that though both reliefs have been sought but in the alternative, and whether Hon'ble Court will grant damages or



direct rendition of defendant's accounts is an aspect which the Hon'ble Court will go into at the stage of final arguments/pronouncing judgment.

6. Both sides have relied on judgments to buttress their respective submissions, as under:

On behalf of the *plaintiff* –

M.L. Sethi vs. R.P. Kapur

(1972) 2 SCC 427

and

Largan Precision Co. Ltd. vs. Motorola Mobility India Pvt.

Ltd. and Others

2024 SCC OnLine Del 8663

On behalf of the *defendant* –

i. Punj Star Industries Pvt. Ltd. vs. Atna Investment
Pvt. Ltd

2001 SCC OnLine Del 1541

ii. Basana Gouda vs. Dr. S.B. Amarkhed

(1992) 2 SCC 612

iii. Heifer Project International vs. Heifer Project India
Trust

2024 SCC OnLine Del 2847

iv. G. Nanchil Kumaran vs. Govindasamy Reddiar

1999 SCC OnLine Mad 746

v. K. Meenakshisundaram vs. S.R. Radhakrishna Pillai

1959 SCC OnLine Mad 172

vi. Cadila Healthcare Ltd. vs. Sun Pharmaceutical
Industries Ltd.



2017 (69) PTC 308 (Mad)



vii. E-Merge Tech Global Services Pvt. Ltd. vs. M.R. Vindhyasagar & Ors.
2022 CTC 30

7. I have carefully considered the rival submissions.

8. The purpose of serving interrogatories to the opposite side and eliciting a response thereto has been explained in numerous judgments. To recapitulate briefly, it serves the purpose of obtaining admission which may either maintain the case of the applicant/party seeking information or destroy the case of the adversary.

9. Very tersely, plaintiff has set out the reason for serving the interrogatories and seeking production of docs. which it seeks in order to have a fair idea about the extent of business of the defendant. It is the contention of the plaintiff that if disclosed truthfully, the response to the interrogatories will enable the plaintiff to ascertain the damages that it can seek from the defendant. It needs a *reiteration* at this stage that defendant has not filed any written statement. Additionally, plaintiff does not have the benefit of local commissioner's report to assess the scale of infringing activities since the local commission could not be completed due to aggressive behavior of the defendant, as is clear from the report filed by the ld. local commissioner. Therefore, the interrogatories have the potential of eliciting admission from the defendant on a material aspect, especially at the present stage of the suit which is recording of plaintiff's evidence. The contention of the defendant that the present exercise amounts to



self-incrimination cannot be ~~occurred~~ since the concept of self-incrimination is applicable to criminal law, and not in civil law. Further, there is merit in the submission of the plaintiff counsel that whether the plaintiff will be awarded damages *or* the relief of rendition by defendant of its accounts is an aspect to be considered by the Hon'ble Court at the ultimate stage.

10. Having offered no defense to the allegation of infringement, and having not disputed the relevant docs. in the official records filed by the defendant itself concerning its claim of having extensive business all over India, defendant must answer the relevant interrogatories even if it helps the claim set up by the plaintiff. Further, there is no scope of plaintiff eliciting the required information from the defendant witness during cross-examination since no written statement has been filed and hence, no defense has been set up.

11. Having observed as above, it also needs a highlight that not all interrogatories/ documents sought which are listed in *para* 12 A & B of the present IA appear to be relevant. The same are listed below:

A. Documents relating to various Licenses/Registrations obtained by the Defendant:

- i. Documents in respect of the constitution, registration and operation of the Defendant, including LLP, deed of partnership, etc;
- ii. Documents, if any, pertaining to registration as an MSME for claiming governmental exemptions/rebates/concessions;
- iii. Registration under the Tobacco Board Act, 1975, if any, for carrying out manufacture of tobacco since inception till date, including renewals/extensions;



iv. Registration under the Industries (Development and Regulation) Act, 1951, if any taken by the Defendant including renewals/extensions;

v. License under the Factories Act, 1948, if any taken by the Defendant including renewals/extensions;

vi. Permissions, consent, approvals, if any taken by the Defendant, under the applicable Environment Laws (Land, Air, Water etc.), including renewals/extensions;

vii. Licenses or registrations, if any, taken by the Defendant under any applicable labour laws, including renewals/extensions;

viii. Registration certificates under the GST Act and any other registration with relevant authorities for tax purposes, if any taken by the Defendant along with the year-wise GST returns from the date of registration till date;

ix. Registration under the Central Excise Act, 1944 and other documents/information, required to be submitted to the excise authorities, including copies of excise returns along with all annexures, as well as copies of invoices under Rule 11 of the Central Excise Rules, 2002, from the date of registration till date.

B. Documents pertaining to Defendant's Operations:

x. Balance Sheets, Annual Returns, financial statements and audit reports filed by the Defendant with statutory authorities, from inception till date;

xi. Details of machinery being used for manufacture, curing and processing of tobacco/cigarettes along with documents related to their purchase, from inception till date;

xii. Details of vendors of raw materials [tobacco, cigarette paper rolls, filters and cork tipping paper (PCT)] along with invoices raised by such vendors and payments made to such vendors since inception till date;

xiii. Details of vendors of packaging materials (cigarette boxes, foil, cartons and wrapping papers) along with invoices raised by such vendors and payments made to such vendors since inception till date;



xiv. Details of persons employed by the Defendant for manufacturing, storing and distributing cigarettes in its manufacturing unit(s)/warehouse(s), since inception till date.

xv. Details of distributors, dealers, retailers and wholesalers of the Defendant used for distribution along with sales invoices, since inception till date;

xvi. Details of transporters being used for moving out finished goods from the factory to other locations as well as such details for receipt of raw materials to the factory.

xvii. Details of other factories being operated by the Defendant and/or its connected entities.

xviii. Details of prior/pending legal proceedings against the Defendant and/or its partners in relation to violation of intellectual property rights.

Quite a few of them appear to in the nature of an investigation being carried out by the plaintiff in the garb of serving interrogatories/ seeking documents, the purpose of which seems to be to collect information about 3rd party entities involved in the alleged infringement carried out by the defendant, which exercise cannot be permitted. Further, some of the details sought in regard to type of machinery used **or** the persons employed by the defendant are patently irrelevant. Therefore, to the extent that the relevant interrogatories and documents help out the plaintiff in ascertaining the scale of (allegedly infringing) activities carried out by the defendant and ancillary aspect of whether defendant was acting in absolute disregard of law i.e. whether defendant had the necessary licenses or regulatory permissions from the govt. for manufacturing activity, both of which would help the plaintiff in claiming compensatory damages for infringement and special damages, the present IA is



allowed. Defendant is directed to answer interrogatories nos. i, iii, v, vii, viii, and ix (*para* 12 A of the IA) and furnish documents listed at x and xviii (*para* 12 B of the IA).

12. The response to interrogatories, and documents, be furnished to the plaintiff within 4 weeks. **IA stands disposed off.**

CS(COMM) 60/2024

13. Suit is at the stage of recording of PE.

14. Put up for PE on 21.04.2026.

**Dr. AJAY GULATI
(DHJS),
JOINT REGISTRAR (JUDICIAL)**

DECEMBER 17, 2025/sk