



2025:DHC:7819



* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Judgment Reserved on: 07.07.2025
Judgment pronounced on: 09.09.2025

I.A. 25235/2023

IN

+ CS(COMM) 891/2023 with I.A. 25236/2023, I.A. 25237/2023,
I.A. 3671/2024 and I.A. 13349/2025

HI TECH ARAI PRIVATE LIMITED

.....Plaintiff

Through: Mr. Aditya Gupta, Ms. Asavari Jain,
Mr. Sauhard Alung & Mr. Shuvam
Bhattacharya, Advocates.

versus

PAUL COMPONENTS PRIVATE LIMITED & ORS.Defendants

Through: Mr. C.M. Lall, Senior Advocate with
Mr. Jayant Kumar, Mr. S.S. Chadha &
Ms. Annanya Mehan, Advocates for
D-1 & D-2.
Mr. Vijay Joshi & Mr. Kuldeep Singh,
Advocates for UoI.

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J.

I.A. 25235/2023 (under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908)

1. By way of the present judgment, I shall decide the application filed on behalf of the plaintiff under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (hereinafter 'CPC') seeking grant of an interim injunction against the defendants.



2. The present application was heard on 27th March 2025, 7th May 2025, 26th May 2025 and 7th July 2025, when the judgment was reserved.

CASE SET UP IN THE PLAINT

3. The plaintiff, Hi Tech Arai Private Limited, is engaged in the design, manufacture and supply of rubber products (such as oil seals, valve stem seals, O-rings, gaskets and reed valve assembly) and aluminium die casting products. The plaintiff is a leading industry supplier of oil seals for two-wheelers and four-wheelers in India.

4. The plaintiff was incorporated by Shri. R. Lakshminarayanan, the Founder Chairman, as 'Hi-Tech Ancillaries Private Limited' on 18th February 1985.


5. In the year 1986, the plaintiff entered into a technical collaboration with a renowned Japanese company, namely, Arai Seisakusho Co. Ltd., Japan for transfer of technology relating to manufacturing of *inter alia* reed valve assembly products and sealing products including oil seals.

6. Subsequent to the aforesaid collaboration, the name of the plaintiff was changed to 'Hi Tech Arai Limited' with effect from 23rd December 1993. Thereafter, during the financial year 2010-11, the name of the plaintiff was changed to 'Hi-Tech Arai Private Limited'.


7. The plaintiff is the prior adopter and user of the mark 'HTA' and has been using the said mark in relation to its goods since the year 1985. Owing to its successful joint venture with Arai Seisakusho Co. Ltd., Japan and Mitsubishi Corporation, Japan, the plaintiff adopted the marks 'Ars-HTA' and


‘’ in the year 1994.



8. The marks 'HTA', 'Ars-HTA', '

9. The plaintiff is the exclusive licensee of the rights vesting in the trade

marks 'ARS', '

concentric logo as incorporated in the mark '

10. Most of the drawings/ products developed and manufactured by the plaintiff between 1985 and 1994 bear the engraving 'HTA' and most of the drawings/ products developed and manufactured by the plaintiff from the year 1994 to 2023 bear the engravings 'HTA' or 'Ars-HTA'.

11. The plaintiff currently supplies approximately 20 lakh products on a daily basis across India. The gross sales of rubber products of the plaintiff from 1985 to 2022-23 are given in paragraph 34 of the plaint. Pertinently, the total sales revenue of the plaintiff's rubber products in the financial year 2022-2023 alone were to the tune of INR 600 crores.

12. The plaintiff is a parts supplier to major Original Equipment Manufacturers (OEMs) in the automobile sector. Details of some of the



notable customers of the plaintiff across different segments, which are given in paragraph 30 of the plaint, are given below:

- In the two-wheeler segment – Hero Motocorp Limited, Honda Motorcycle and Scooter India Limited, Mahindra Two Wheelers Limited and Royal Enfield.
- In the three-wheeler segment – Bajaj Auto Limited, TVS Motor Company Limited, Atul Auto Limited and Piaggio Vehicles Private Limited.
- In the passenger car segment – Maruti Suzuki India Limited, Toyota Kirloskar Auto Parts Private Limited, Honda Cars India Limited and Mahindra & Mahindra Limited.

13. In May 2023, the defendant no.1 instituted a suit against the plaintiff alleging infringement of the defendant no.1's registered trade marks. In the said suit, it was claimed that the defendant no.1 has been using the mark 'HTA' since the year 1977.

14. *Vide* judgment dated 9th August 2023, the application seeking interim injunction in the aforesaid suit was decided in favour of the defendant no.1 herein and against the plaintiff, and the plaintiff herein was restrained from using the marks 'HTA' and 'ARS-HTA'. However, the said judgment has been stayed by the Division Bench *vide* order dated 23rd August 2023.

15. The plaintiff filed the present suit on 12th December 2023 seeking permanent injunction restraining the defendants from using the plaintiff's trade marks, trade dress and packaging and passing off their goods as those of the plaintiff, along with other ancillary reliefs.



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16. Summons in the present suit and notice in the captioned application were issued on 19th December 2023. On the first date of hearing itself, *i.e.* 19th December 2023, counsel entered appearance on behalf of the defendants no.1



and 2 and undertook, on instructions, not to use the packaging ‘HTA’, bearing the mark ‘HTA’.

17. Subsequently, in terms of the aforesaid undertaking given on behalf of the defendants no.1 and 2 on 19th December 2023, the aforesaid restraint/injunction was extended to the defendants no.3 and 4, the defendant no.1’s distributor and packager, respectively, *vide* order dated 15th February 2024.

CASE SET UP IN THE WRITTEN STATEMENT FILED ON BEHALF OF THE DEFENDANTS NO.1 AND 2

18. The defendant no.1 is a company incorporated under the laws of India and is engaged in the business of manufacturing and selling oil seals and rubber parts.

19. The defendant no.1, through its predecessor-in-interest, M/s Paul & Paul – a proprietorship firm of Mrs. Harinder Kaur, commenced its business and use of the mark ‘HTA’ in 1977. The mark ‘HTA’ was initially coined, adopted and used by the aforesaid predecessor of the defendant no.1 and the business of the said firm was managed by Mrs. Harinder Kaur and her son, Mr. Maninder Pal Singh, the defendant no.2 in the present suit.

20. Owing to the expansion of the business, Mrs. Harinder Kaur incorporated a company and accordingly, the defendant no.1 was incorporated in May 1994.



21. The defendant no.1 is the inventor, prior adopter and user as well as the



registered proprietor of the marks 'HTA' and 'HTA OIL SEAL'. Details of the registrations obtained by the defendant no.1 are given in paragraph 18 of the written statement filed on behalf of the defendants no.1 and 2, the earliest of which is with effect from 13th August 2007.

22. The defendant no.1 has amassed substantial goodwill and reputation in the aforesaid marks through their continuous use since the year 1977.

SUBMISSIONS ON BEHALF OF THE PLAINTIFF

23. Mr. Aditya Gupta, counsel appearing on behalf of the plaintiff, has made the following submissions:

- I. The plaintiff adopted the mark 'HTA', being the initials of its trade/corporate name, *i.e.* (H)i - (T)ech (A)ncillaries, in the year 1985. Thereafter, owing to the successful joint venture with Arai Seisakusho Co. Ltd., Japan and Mitsubishi Corporation, Japan, the

plaintiff adopted the marks 'Ars-HTA' and 'Ars-HTA',



- II. The plaintiff has been using the marks 'Ars-HTA' and 'Ars-HTA',



and their minor variations 'Ars-HTA' and 'HTA-Ars' (*i.e.*, concentric circle logos with lettering inside) at least since July 1997 for its product packaging.



- III. The plaintiff has placed on record sufficient documentary evidence in the form of invoices, purchase orders and other business documents to show use of the mark 'HTA' since 1985.
- IV. The defendants are habitual offenders. The same is evident from the fact that the defendant no.2 has filed multiple trade mark applications for other well-known trade marks of third-parties such as 'JCB', 'CUMMINS', 'HINO PRIME' and 'MERITOR'.
- V. The documents filed on behalf of the defendants no.1 and 2 in support of their alleged use of the mark 'HTA' from 1977 are doctored and fabricated documents.
- VI. The defendants no.1 and 2 have placed reliance on the findings in the judgment dated 9th August 2023 passed in CS (COMM) 374/2023. However, the said judgment has been stayed by the Division Bench *vide* order dated 23rd August 2023 in FAO(OS) (COMM) 175/2023.

SUBMISSIONS ON BEHALF OF THE DEFENDANTS NO.1 AND 2

24. Mr. Chander M. Lall, senior counsel appearing on behalf of the defendants no.1 and 2 (hereinafter collectively referred to as 'defendants'), has made the following submissions:

- I. The defendants have filed sufficient documents to show continuous use of the mark 'HTA' since 1977.
- II. The defendants have also obtained registrations for the mark 'HTA'



in classes 12 and 17 and the mark 'HTA OIL SEAL' in class 17. The first registration for the mark 'HTA' in favour of the defendant no.1 was



granted with effect from 13th August 2007. The plaintiff did not challenge the aforesaid registrations till 2023.

- III. The defendant no.1 has been regularly participating in various trade shows at least from the year 2003, and the marks 'HTA' and



' have been prominently displayed at such trade shows.

- IV. The plaintiff has failed to file any documentary evidence to show sale of any part bearing the mark 'HTA' prior to the year 2000, except a 'delivery challan' of December 1988, which also does not contain the mark 'HTA' in the product description.
- V. The documents filed by the plaintiff along with the plaint to assert use of the marks 'HTA' and 'Ars-HTA' are fabricated and forged. The plaintiff has interpolated the word 'HTA' by hand upon the said documents.
- VI. The defendant no.1 has filed a suit against the plaintiff, being CS (COMM) 374/2023, for infringement of its mark 'HTA', wherein an interim injunction was granted in its favour *vide* judgment dated 9th August 2023. Merely because the aforesaid judgment has been stayed by the Division Bench would not imply that the findings therein cannot be relied upon.

ANALYSIS AND FINDINGS

25. I have heard the rival submissions and perused the material on record.
26. The present suit has been filed on behalf of the plaintiff seeking relief against the defendants for passing off. Under Section 27(2) of the Trade Marks Act, 1999 (hereinafter 'Act'), an action on the basis of passing off is



maintainable *dehors* the registration granted under the Act. A reference in this regard may be made to the judgment of the Supreme Court in ***S. Syed Mohideen v. P. Sulochana Bai***¹, wherein it was held that an action for passing off shall remain unaffected by any registration provided under the Act. Therefore, even if the marks of the defendants are registered, and those of the plaintiff are not, an action for passing off would still be maintainable.

27. Passing off is an action founded in common law, which is based on the principle that no person has the right to represent his/ her goods or services as those of someone else. In ***Cadila Health Care v. Cadila Pharmaceuticals***², the essential elements for constituting an action for passing off have been elucidated by the Supreme Court in the following terms:

*“10. Under Section 28 of the Trade and Merchandise Marks Act on the registration of a trade mark in Part A or B of the register, a registered proprietor gets an exclusive right to use the trade mark in relation to the goods in respect of which the trade mark is registered and to obtain relief in respect of infringement of the trade mark in the manner provided by the Act. In the case of an unregistered trade mark, Section 27(1) provides that no person shall be entitled to institute any proceeding to prevent, or to recover damages for, the infringement of an unregistered trade mark. **Sub-section (2) of Section 27 provides that the Act shall not be deemed to affect rights of action against any person for passing off goods as the goods of another person or the remedies in respect thereof. In other words in the case of unregistered trade marks, a passing-off action is maintainable. The passing-off action depends upon the principle that nobody has a right to represent his goods as the goods of somebody. In other words a man is not to sell his goods or services under the pretence that they are those of another person. As per Lord Diplock in Erven Warnink BV v. J. Townend & Sons [(1979) 2 All ER 927] the modern tort of passing off has five elements i.e. (1) a misrepresentation, (2) made by a trader in the course of trade, (3) to prospective customers of his or ultimate consumers of goods or services supplied by him, (4) which is calculated to injure the business or goodwill of another trader (in the sense that this is a reasonably foreseeable consequence), and (5) which causes actual damage to a business or***

¹ (2016) 2 SCC 683

² (2001) 5 SCC 73







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goodwill of the trader by whom the action is brought or (in a quia timet action) will probably do so.”

[emphasis supplied]

28. At the outset, it may be relevant to refer to a comparison of the marks as well as the packaging used by the plaintiff and the defendants, which is set out below:

Plaintiff's Trade Marks	Defendants' Trade Marks
HTA Ars-HTA	HTA
Trade Marks being used on the Plaintiff's Products	Trade Marks being used on the Defendants' Products
Packaging on the Outer Box	
	
	



Inner Packaging




29. From the aforesaid comparison, it is evident that both the plaintiff and the defendants are using the mark 'HTA' in relation to identical goods, *i.e.* rubber oil seals. Additionally, both the inner and outer packaging/ trade dress used by the parties are almost identical and have similar logos in the form of concentric rings. The products of both the plaintiff as well as the defendants are sold in the open market through identical trade channels.

30. In these circumstances, the primary issue to be considered by the Court at this stage is to determine who is the prior adopter and user of the subject marks.



Adoption and Use of the Mark 'HTA' by the Plaintiff

31. The plaintiff submits that it has been using the word mark 'HTA' since the year 1985, the marks 'Ars-HTA' and ' ' since the year

1994 and the concentric circle logos ' ' and ' ' since July 1997.

32. In support of the aforesaid, the plaintiff has placed reliance on the following documents filed with the plaint:

- i. Chartered Accountant's certificate in respect of its sales figures from the year 1985 till the financial year 2022-23 (*pages 2742-2744 of the documents filed with the plaint*).
- ii. Purchase orders, inspection reports, communication with customers and other documents from the year 1985 reflecting use of the mark 'HTA' (*pages 85-276 of the documents filed with the plaint*).
- iii. Technical drawings pertaining to the plaintiff's products manufactured and developed between 1985 and 1995 bearing the marks 'HTA' and 'ARS-HTA' (*pages 307-331 of the documents filed with the plaint*).
- iv. Invoices received by the plaintiff towards manufacturing of moulds for its products under the mark 'HTA' from 5th April 1986 to 27th February 1996 (*pages 778-1105 of the documents filed with the plaint*).



- v. Invoices issued by the plaintiff to its customers from the year 1994 reflecting use of the mark 'HTA' (*pages 332-706 of the documents filed with the plaint*).
 - vi. Price and application lists from 1st July 1997 to 1st July 2006 issued by the plaintiff to its distributors and customers (*pages 708-764 of the documents filed with the plaint*).
 - vii. Advertisement material of the plaintiff and its products bearing the HTA marks in various trade publications from 2003 to 2006 (*pages 765-777 of the documents filed with the plaint*).
33. I have perused the aforesaid documents filed on behalf of the plaintiff. The plaintiff has placed on record various documents in the form of purchase orders, invoices, technical drawings and invoices towards the manufacture of moulds for its products to show its use of the mark 'HTA' from the year 1985.
34. In particular, I take note of the following documents:
- i. Technical drawings of the plaintiff's products, the earliest being from 18th December 1985, referring to its part numbers such as 'HTA 1014' and 'HTA 1090' (*pages 307-331 of the documents filed with the plaint*).
 - ii. Invoices raised on the plaintiff, the earliest of which is dated 5th April 1986, pertaining to the manufacture of moulds for the plaintiff's products bearing part numbers such as 'HTA 101', 'HTA 1094' and 'HTA 1106' (*pages 778-1105 of the documents filed with the plaint*).
 - iii. Purchase orders dating back to 26th August 1989 from various clients for the plaintiff's products including oil seals bearing the part numbers such as 'HTA 1224' and 'HTA 5012' (*pages 132, 136-137, 140-142, 161 and 165 of the documents filed with the plaint*).





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35. Additionally, to evidence its use of the concentric circle logos



‘’ and ‘’, since 1997, the plaintiff has placed on record images of its products wherein the inner and outer packaging bear the said marks (*pages 17-84 of the documents filed with the plaint*). The aforesaid images also show the plaintiff’s part numbers such as ‘HTA 6011’ and ‘HTA 6088’ and the manufacturing date on the packaging, the earliest of which is from November 1997.

36. On the basis of the above-mentioned documents, at this *prima facie* stage, the plaintiff has demonstrated its use of the mark ‘HTA’ from the year 1985 and the use of the concentric circle logos from the year 1997.

37. The Chartered Accountant’s certificate establishes that the plaintiff has had impressive sales in respect of its products sold over a long period of time, *i.e.*, from 1985 to 2022-23. The sales figures for the plaintiff’s rubber products for the financial year 2022-23 alone were nearly Rs. 600 crores. This shows that the plaintiff is an industry leader that has been in operation for the past 38 years and supplies its products to major OEMs in the automobile industry across India as well as abroad. It is also noteworthy that the plaintiff is currently supplying approximately 20 lakh products across India on a daily basis. On account of such long and extensive use, in my *prima facie* view, the plaintiff has acquired significant goodwill and reputation in the marks ‘HTA’,



‘Ars-HTA’ and the concentric circle logos ‘’ and ‘’.



38. The defendants have disputed the aforesaid documents on the ground that the word 'HTA' has been used only as a vendor code mark/ part number/ letter reference number thereupon, which would not amount to use as a trade mark.

39. A perusal of the aforesaid documents filed on behalf of the plaintiff clearly demonstrates that the use of the mark 'HTA' by the plaintiff is not confined to use as a vendor code mark/ part number/ letter reference number. In any case, use of the mark 'HTA' on invoices as well as other business papers and documents would clearly amount to use of the same as a trade mark in terms of Section 29(6)(d) of the Act. For ease of reference, Section 29(6) of the Act is set out hereinbelow:

"29. Infringement of registered trade marks –

...

(6) For the purposes of this section, a person uses a registered mark, if, in particular, he–

(a) affixes it to goods or the packaging thereof;

(b) offers or exposes goods for sale, puts them on the market, or stocks them for those purposes under the registered trade mark, or offers or supplies services under the registered trade mark;

(c) imports or exports goods under the mark; or

(d) uses the registered trade mark on business papers or in advertising."

[emphasis supplied]

40. A reference in this regard may be made to the judgment of a Coordinate Bench of this Court in ***Burger King Corporation v. Techchand Shewakramani***³. The relevant portions of the said judgment are set out below:

"19. What constitutes cause of action in the context of a suit alleging violation of rights in a trade mark, would therefore be the question. In a case involving trade mark infringement, infringement happens when a

³ 2018 SCC OnLine Del 10881



person “uses in the course of trade” any mark without the owner's consent. Thus, use of a mark is the cause of action in an infringement as also in a passing off action. If use takes place in a territory where the suit is filed, that Court has the jurisdiction to entertain the suit. When there is use of a mark, there is a cause of action to sue, where the use takes place. It is relevant to point out that “use” of a trade mark as per Section 2(2)(c) of the TM Act is as under:

“(2) In this Act, unless the context otherwise requires, any reference

—

...

(c) to the use of a mark—

(i) in relation to goods, shall be construed as a reference to the use of the mark upon, or in any physical or in any other relation whatsoever, to such goods;

(ii) in relation to services, shall be construed as a reference to the use of the mark as or as part of any statement about the availability, provision or performance of such services;”

...

22. This scheme of the TM Act is amply clear from a reading of Sections 28 and 29 as also Section 56. Under Section 28, the rights conferred are the exclusive right to use of a mark. Under Section 29, use of a mark could be any form of use, including—

- as part of a trade name or a corporate name or name of a business concern [Section 29(5)];*
- use by affixing it to products/services [Section 29(6)(b)];*
- use by affixing it to packaging [Section 29(6)(b)];*
- use by offering goods/services for sale;*
- use for the purpose of import or export [Section 29(6)(c)];*
- use on business papers [Section 29(6)(d)];*
- use in comparative advertising which is detrimental to distinctive character or repute of the mark [Section 29(4)];*
- use in advertising [Section 29(7)];*
- Applying a mark in a territory for purposes of export of goods/services [Section 56(1)]; and*
- Use by which a trade connection is created between the user and the proprietor [Section 56 (2)].”*

[emphasis supplied]




41. In light of what is stated above, on a *prima facie* view, I do not find merit in any of the aforesaid objection taken on behalf of the defendants.

Adoption and Use of the Mark 'HTA' by the Defendants

42. The defendants have disclosed in their written statement the trade mark registrations obtained by the defendant no.1 for the marks 'HTA' and



' (paragraph 18 of the written statement filed on behalf of the defendants). The details of the said registrations are set out below:

S.No.	Trademark	Application No.	Class	User Details	Status
1.	HTA	1589696	12	04.05.1994	Registered
2.		4104095	17	04.05.1994	Registered
3.	HTA	4363318	17	04.05.1994	Registered
4.	HTA	5667622	17	25.01.1977	Registered

43. The defendant no.1 filed its first application for the mark 'HTA' in class 12 on 13th August 2007 claiming use since 4th May 1994. In 2019, the



defendant no.1 filed applications for the marks 'HTA' and ' in class 17 *inter alia* for the goods 'oil seals' claiming use since 4th May 1994. However, in the trade mark application filed on behalf of the defendant no.1 on 2nd November 2022 for the mark 'HTA' in class 17 for the goods 'oil seals', the user claim was inexplicably changed from 4th May 1994 to 25th January 1977.



Filing of Fabricated and Manipulated Documents by the Defendants

44. In support of its claim of use of the mark 'HTA', the defendant no.1, in CS(COMM) 374/2023 filed by it against the plaintiff herein, had placed on record certain photographs (three photographs dated 7th February 2014, 6th November 2003 and 23rd October 2003 respectively and one undated photograph) showing its participation in various trade fairs using the mark 'HTA'.

45. To rebut the genuineness of the photographs filed in the aforesaid suit, the plaintiff herein, in its written statement filed on 4th October 2023 in the aforesaid suit, pointed out that the identical photographs are available on the defendant no.1's website, accessed at <http://paulcomponents.com> on 30th September 2023, (at the URLs (<http://paulcomponents.com/wp-content/uploads/2019/03/DSC07040-min.jpg>, http://paulcomponents.com/wp-content/uploads/2019/02/DCP_1242.jpg and http://paulcomponents.com/wp-content/uploads/2019/02/DCP_1196.jpg).

However, the said photographs found on the defendant no. 1's website do not bear the marks 'HTA' or 'HTA Oil Seals' but bear the mark 'PAUL COMPONENTS' (*pages 1215, 1220 and 1222 of the documents filed with the present plaint*). In addition, the plaintiff has also placed on record in the present suit various other photographs taken from the defendant no.1's website, which show that the defendant no.1 had been using the mark 'PAUL COMPONENTS' and not the mark 'HTA' or 'HTA Oil Seals' (*pages 1214-1236 of the documents filed with the present plaint*).

46. After the service of the written statement in CS(COMM) 374/2023 to the defendant no.1, as per the plaintiff, the defendant no.1 removed all the photographs bearing the mark 'PAUL COMPONENTS' from its website



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including those on the aforesaid URLs. In support of the said submission, the plaintiff has filed subsequent extracts from the aforesaid identical URLs, which show that the said photographs have been removed from the defendant no.1's website (*pages 1237-1259 of the documents filed with the present plaint*). In order to demonstrate that the aforesaid photographs existed on the website of the defendant no.1, the plaintiff has filed the same photographs taken from the archive of the defendant no.1's website on the Wayback Machine accessible at <https://archive.org/web/> (*pages 1260-1345 of the documents filed with the present plaint*), supported by an affidavit of Nathaniel E Frank-White, the Records Request Processor at the Internet Archive, which provides the service of Wayback Machine.

47. A table showing the identity between the photographs filed by the defendant no.1 in CS(COMM) 374/2023 and the photographs extracted by the plaintiff from the defendant no.1's website and from their archive on the Wayback Machine is set out below:

Photographs filed by the defendant no.1 in CS(COMM) 374/2023	Print out of the aforesaid URLs from the website of the defendant no.1 filed by the plaintiff herein	Print out of extracts from the website of the defendant no.1 as available on Internet Archive Wayback Machine
		



48. As is evident from the aforesaid table, the three photographs are identical in all respects except that in the photographs in the first column, *i.e.* the photographs filed by the defendant no.1 herein in CS(COMM) 374/2023, the mark 'HTA'/ 'HTA Oil Seals' can be seen whereas they are missing in the photographs in the second and third columns.

49. Mr. Lall submits that the aforesaid photographs have not been filed by the defendants in the present suit and hence no reference can be made to the said photographs. He further contends that the issue being raised in the present application regarding the authenticity of the photographs relied upon by the defendants is pending before a Division Bench of this Court and, therefore, the decision of the Division Bench should be awaited before deciding the present application.

50. Since the aforesaid photographs were filed on behalf of the defendant no.1 in CS(COMM) 374/2023, the plaintiff has relied upon the said photographs in the present case to show that the same were doctored. In the



written statement filed on behalf of the defendants, there is only a bare denial of the averment that the said photographs were manipulated by the defendant no.1 to insert the mark 'HTA' or that those photographs were ever uploaded on the defendant no.1's website. In fact, the defendants have filed the alleged originals of the aforesaid photographs in the present suit (*pages 236-238 of the documents filed with the written statement filed on behalf of the defendants*). Therefore, I am unable to accept the submission made on behalf of the defendants that no reliance has been placed on the aforesaid photographs in the present suit.

51. The defendants' submission that the authenticity of these photographs is being considered by the Division Bench in FAO(OS) (COMM) 175/2023 and therefore this Court should not look into this aspect has been rejected by the Division Bench itself. It has been clarified in paragraph 4 of the order dated 16th April 2025 passed by the Division Bench in FAO(OS) (COMM) 175/2023 that the present suit, as well as the applications filed therewith, shall proceed on merits notwithstanding the pendency of the said appeal.

52. On a *prima facie* view, it is evident from the table set out above that the defendant no.1 had doctored the photographs filed in CS(COMM) 374/2023 showing its participation in various trade fairs so as to insert the mark 'HTA'/'HTA Oil Seals'.

53. In CS(COMM) 374/2023, the defendant no.1 has also filed a 2004 Brochure bearing the mark 'HTA' (*page 2328 of the documents filed with the present plaint*) which contains the mobile number '+91 8468003003'. The plaintiff contends that mobile numbers starting with the digit '8' were first issued in India in the year 2009. This contention has not been rebutted by the defendants.



54. The aforesaid mobile number is also mentioned in the brochure for an Auto Expo which was held from 5th-11th January 2012 (*page 2331 of the documents filed with the present plaint*). The plaintiff contends that the Department of Telecommunications first allocated the numbers starting with '84680' only on 29th February 2012. In this regard, the plaintiff has placed reliance on a communication dated 29th February 2012 issued by the Department of Telecommunications (*page 1761 of the documents filed with the present plaint*). Once again, no submissions in rebuttal to the aforesaid contention have been made by the defendants either in their written pleadings or in the oral submissions made on their behalf.

55. The defendant no.1, in CS(COMM) 374/2023, has also filed brochures which purportedly pertain to the 10th edition of the Auto Expo held in 2008 and the 14th edition of the Auto Expo held in 2020. Counsel for the plaintiff has submitted that the aforesaid claims are false as the 10th edition of Auto Expo was held in 2010 and not in 2008. Similarly, the 14th edition of Auto Expo was held in 2018 and not in 2020. In this regard, the plaintiff, in paragraph 66.11 of the plaint, has set out a table which is reproduced below for ease of reference:

Year in which Auto Expo was held	Edition of the Auto Expo	Auto Expo Edition/Year mentioned by Defendant No.1
2004	7 th edition	8 th Auto Expo 2004 edition
2010	10 th edition	10 th Auto Expo 2008 edition
2018	14 th edition	14 th Auto Expo 2018 edition
2020	15 th edition	14 th Auto Expo 2020 edition



56. Yet again, the defendants have failed to provide any justification for the aforesaid inconsistencies pointed out above.

57. It is evident that the aforesaid brochures have been printed on behalf of the defendant no.1 *post facto* to establish the use of the mark 'HTA' from an earlier date. Hence, on a *prima facie* view, it is clear that the defendant no.1 has deliberately doctored and manipulated its photographs and brochures to create false evidence of prior use of the mark 'HTA'.

58. A reference in this regard may be made to the judgment of a Coordinate Bench of this Court in ***Dongguan Huali Industries Co. Ltd. v. Anand Aggarwal***⁴, where the Court dealt with a case in which the defendants had produced bills of lading of the years 2012 to 2014 carrying a GST number of the defendants, which could not be possible since GST regime was introduced in India only in the year 2016. The Court held that the defendants had manipulated and fabricated documents only to establish prior use. Holding on a *prima facie* view that the defendants had produced forged and fabricated documents only to deceive consumers into believing that the products of the defendants originate from the plaintiff, the Court granted an interim injunction in favour of the plaintiff and against the defendants. The reasoning of the said judgment is fully applicable in the present case.

59. Mr. Lall further submits that even if it is assumed that the aforesaid photographs and brochures were manipulated, the same was done not for the purpose of filing the aforesaid suit CS(COMM) 374/2023 against the plaintiff herein and was done at a much earlier point in time. Such a contention made on behalf of the defendants, even if taken on its face value, cannot justify the

⁴ 2024 SCC OnLine Del 4488



filing of manipulated and fabricated documents in the aforesaid suit. If anything, this amounts to an unequivocal admission on behalf of the defendants regarding the manipulation and fabrication of the aforesaid documents by the defendants. A party cannot file and place reliance on fabricated and manipulated documents in a legal proceeding, even if it is assumed that the said documents were not fabricated/ manipulated for the purposes of filing a suit.

Effect of the Interim Injunction granted in favour of the Defendant No.1 in CS(COMM) 374/2023

60. Mr. Lall has placed reliance on the findings of the judgment dated 9th August 2023 passed by the Coordinate Bench in CS(COMM) 374/2023 granting an interim injunction in favour of the defendant no.1 herein. In particular, paragraph 52 of the aforesaid judgment has been heavily relied upon by the defendants, which is set out below:

“52. Mr. Lall has placed, on record, a large amount of material to evidence pre-1985 user, by the plaintiff, of its HTA mark, and Mr. Dayan Krishnan has not attempted to dispute the credibility thereof, save and except for contending that the invoices were handwritten and that there was a discrepancy in two or three invoices. Neither in the reply to the present application, nor orally during arguments in Court, has any traversal been attempt, much less substantial, to the photograph reflecting a banner advertising the camp for sale of HTA Oil Seals by the plaintiff from 10 April to 13 April 1983, the notices soliciting dealer enquiries till 1978, 1979 and 1983 or the calendars printed by Paul & Paul covering the years 1978 to 1985. As many as 11 invoices have been produced by Mr. Lall for the period 1977 to 1985. The originals of the said invoices were also produced by Mr. Lall in Court. Though the defendant would, no doubt, be entitled to challenge the said invoices, or their credibility, during trial, I have seen the invoices and find, prima facie, that they are, in fact, dated and issued far back in point of time. It is well known that computerised or printed invoices were not issued in the late 1970s and early 1980s and, therefore, no adverse inference can flow from the fact that the invoices happen to be handwritten. There is substance in the contention of Mr. Lall that, having itself relied on invoices and purchase orders in which, though the rest of the document is printed, the part number with “HTA” alone is



written in hand, the defendant cannot, very well, be heard to dispute the credibility of the invoices produced by the plaintiff on the ground that they are handwritten.”

61. Mr. Aditya Gupta submits that the aforesaid judgment has been stayed by the order dated 23rd August 2023 passed by a Division Bench of this Court in FAO(OS) (COMM) 175/2023. The relevant observations of the aforesaid order are set out below:

“2. Prima facie, we find ourselves unable to sustain the impugned order passed by the learned Single Judge dated 09 August 2023 bearing in mind the following reasons. We note that in paragraph 52 of the impugned order, the learned Judge has proceeded to record that the appellants had failed to dispute the position with respect to prior use. This would appear to be ex facie incorrect when one bears in mind the recordal of contentions as set forth in paragraphs 16 and 17 of the order itself.”

62. Mr. Gupta submits that the aforesaid stay order is still continuing.

63. Even otherwise, from a reading of the judgment dated 9th August 2023 in CS(COMM) 374/2023, it appears that the Coordinate Bench did not have the opportunity to consider the aspect of fabrication of the brochures by the defendant no.1, which came into light much later.

Other Documents filed on behalf of the Defendants

64. Besides the aforesaid photographs and brochures, the defendants have also placed on record other documents such as price lists, pictures of moulds, invoices and other photographs to show their prior use of the mark ‘HTA’.

65. In *M/s Kirorimal Kashiram Marketing & Agencies Pvt. Ltd. v. M/s Shree Sita Chawal Udyog Mill*⁵, the Division Bench of this Court observed that merely because some documents have been filed by a party in Court, the Court is not bound to believe them, the Court has to apply its mind to such documents to ensure that there is credibility and genuineness in the same.

⁵ 2010 SCC OnLine Del 2933



66. In light of my aforesaid findings with regard to the defendants filing manipulated and doctored photographs and brochures in CS(COMM) 374/2023 as well as the present suit, there is a doubt raised with regard to other documents filed on behalf of the defendants in the present suit.

67. Notably, the defendant no.1, in its first trade mark application for registration of the mark 'HTA' filed in 2007 claimed use since the year 1994. In the subsequent two applications filed in 2019 also, the defendant no.1 claimed use since the year 1994. It was only in the fourth trade mark application filed in November 2022, the defendant no.1 claimed use since the year 1977.

68. There is no explanation given on behalf of the defendant no.1 as to why its user claim was abruptly changed from the year 1994 to the year 1977. It appears this was done because the defendants came to know of the plaintiff's use of the mark 'HTA' since the year 1985 and, therefore, in order to show prior use, they had to show use of the mark 'HTA' from a date prior to the year 1985.

69. Therefore, it appears, in order to show such prior use, the user date was changed from 1994 to 1977.

70. Pertinently, the defendants, even though having claimed use of the mark 'HTA' since 1977, have only provided their sales revenue from the financial year 2012-13 to 2022-23 and the said figures are even not supported by a CA certificate. Only some random photographs and invoices have been filed to establish their alleged use of the mark 'HTA' since the year 1977.

71. In light of the discussions above and taking into account the conduct of the defendants in fabricating photographs and brochures, the other documents filed by the defendants do not inspire confidence, at least on a *prima facie*



view. This indicates an intent to fraudulently/ willfully deceive the Court in an effort to establish a backdated history showing prior use of the mark 'HTA'. In view thereof, at least at the *prima facie* stage, the defendants have failed to show any reliable documents in support of their use of the mark 'HTA' prior to the plaintiff.

Dishonest Adoption by the Defendants

72. In its reply filed in FAO(OS) (COMM) 175/2023, the defendant no.1 has only stated that it adopted the mark 'HTA' wherein the letter 'H' signifies the name of its predecessor-in-interest, Mrs. Harinder Kaur, who is the mother of the defendant no.2. However, the defendant no.1 did not provide any reason for the adoption of the letters 'T' and 'A'. Therefore, the defendants have failed to provide any plausible reason for adoption of the mark 'HTA' in relation to goods identical with those of the plaintiff.

73. In CS(COMM) 374/2023, the defendant no.1 had alleged that it has



been using the packaging ' (outer packaging in violet colour) and on that basis sought an injunction against the



plaintiff who was using the marks 'HTA', 'Ars-HTA', ' , and






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74. In the present suit, the plaintiff has placed on record the packaging



currently used by the defendants ‘’ (black and yellow colour) for their products, which were procured by the plaintiff’s investigator from the market. On the first date of hearing itself, it was undertaken on behalf of the



defendants that they would not use the packaging ‘’. This amounts to a clear admission that the defendants have changed the colour combination used for their packaging from ‘violet’ to ‘black and yellow’. No explanation has been given by the defendants for the aforesaid change in their product packaging. It is, therefore, clear that the defendants deliberately changed their product packaging to come even closer to the plaintiff’s packaging.

75. It is submitted on behalf of the plaintiff that the defendants have not only copied the plaintiff’s mark ‘HTA’ in totality, but have also filed three trade mark applications for the plaintiff’s marks ‘ARS’ and ‘ARAI’, the details of which are given in paragraph 55 of the plaint. The defendants have failed to provide any explanation for adoption of the marks ‘ARS’ and ‘ARAI’.

76. It is admitted on behalf of the defendants that the defendant no.1 did apply for registration of the mark ‘**ARS**’ in 2007 and 2019 and the mark ‘**ARAI**’ in 2019, claiming use since 1994. The applications for the mark



‘**ARS**’ have been abandoned/ opposed by the plaintiff and the application for the mark ‘**ARAI**’ stands registered.

77. In response, the defendants have stated in their written statement that the marks ‘ARS’ and ‘ARAI’ were adopted by the defendants after conducting a market search. However, no document has been filed on their behalf to substantiate the said averment. Therefore, the said averment only appears to be an afterthought.

78. There is no explanation or justification given by the defendants as to how they claimed proprietary rights over the marks ‘ARS’ and ‘ARAI’, which originally belonged to a Japanese company and were licensed exclusively to the plaintiff in the year 1994.

79. This clearly shows the *mala fide* intent and bad faith of the defendants in copying the marks ‘ARS’ and ‘ARAI’ with which they have no connection. In fact, no document has been filed on behalf of the defendants to substantiate their user claim of the said marks.








80. The other defence taken on behalf of the defendants is that neither the plaintiff nor the Japanese company have challenged the registrations granted in favour of the defendant no.1 till 2024, even though the first registration was granted in the year 2010 with effect from 13th August 2007.

81. The aforesaid contention, in my *prima facie* view, does not have any merit as the defendants have failed to establish that the plaintiff was aware of the defendants’ alleged business under the mark ‘HTA’/ ‘ARS’/ ‘ARAI’ prior to the institution of the aforesaid suit by the defendant no.1.



82. Additionally, the plaintiff has placed on record material to show that the defendants have also copied the plaintiff's well-recognized reference part numbers on the impugned products (*paragraph 57 of the plaint*).


83. There is another aspect of the matter. The plaintiff has placed on record several other trade mark applications filed on behalf of the defendants in respect of well-known trade marks of third-parties such as 'JCB', 'CUMMINS', 'HINO PRIME' and 'MERITOR'. The table giving details of the said applications in respect of third-party marks is set out in paragraph 60 of the plaint and the same is reproduced hereinbelow for ease of reference:

Application no. and user claim	Trademark applied for	Description of goods	Corresponding company with original products
5982725 [Proposed to be used]		Oil seals & parts, covered, in class -17	 JC Bamford Excavators Ltd. (www.jcb.com)
5982726 [Proposed to be used]		oil seals & parts, covered, in class -17	 Cummins Inc. (www.cummins.com)
5433624 [November 2, 2010]		Oil Seals, O Rings, Rubber Parts, Sealing Components, All Included In Class -17	 Hino Motors, Ltd. (www.hinoglobal.com)
		Oil Seals; grease seals for driveline axles	 Meritor, Inc. (www.meritor.com)



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5843179 May 4, 1994		and hubs; Rubber molded parts; O rings; Gaskets; Rubber Mounts — washers packings, grommets, buffers, stops, hangers joints, pipes & tubes; Center bearing rubber parts	
5843178 May 4, 1994	MERITOR	Oil Seals; grease seals for driveline axles and hubs; Rubber molded parts; O rings; Gaskets; Rubber Mounts — washers packings, grommets, buffers, stops, hangers joints, pipes & tubes; Center bearing rubber parts	Meritor, Inc. www.meritor.com

84. This has not been denied by the defendants. Further, no explanation has been offered on behalf of the defendants for adopting the aforesaid third-party marks. The only defence taken during oral arguments is that neither the aforesaid third-party marks are a subject matter of the present suit nor any third-party has initiated any legal proceedings against the defendants in this regard.



85. Though the Court is not dealing with the enforcement of the said marks in the present suit, but in view of the undisputed facts stated above, it is obvious that the *modus operandi* of the defendants is to fraudulently file applications for registration of well-known third-party trade marks and then claim proprietary rights in the same with an intention to profiteer by riding upon the goodwill and reputation associated with such well-known trade marks.

86. A reference in this regard may be made to the judgment of a Coordinate Bench of this Court in *Volans Uptown v. Mahendra Jeshabhai Bambhaniya*⁶, wherein the plaintiff was using the mark 'BOTANIC HEARTH' *inter alia* in relation to cosmetics since 2017 and the defendant filed for the registration of an identical mark in relation to identical goods without any affiliation with the plaintiff. It was also noted that the defendant had filed various other trade mark applications for registration of renowned brands owned by third-parties. Under those circumstances, the Coordinate Bench held that the defendant has a motive to engage in infringing activities with the aim of weakening the rights of trade mark owners and therefore his acts amount to an intent to pass off his goods as those of the plaintiff.

87. All the aforesaid acts of the defendants demonstrated above taken cumulatively, unequivocally display bad faith and dishonest intent of the defendants. The conduct of the defendants was blatantly dishonest and *mala fide* from the very inception and shocks the conscience of the Court.

⁶ 2024 SCC OnLine Del 881



CONCLUSION

88. The failure of the defendants to provide any justification for their adoption of identical marks and an identical trade dress as that of the plaintiff is indicative of the fact that the adoption of the same by the defendants is dishonest and *mala fide*. The defendants' use of the impugned marks can only be justified with their intention to cause confusion and deception among the consumers with respect to the source and origin of the impugned goods and their attempt to ride upon the goodwill and reputation of the plaintiff.

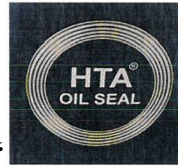
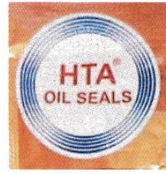
89. In view of the discussion above, a *prima facie* case of passing off is made out in favour of the plaintiff. The balance of convenience also lies in favour of the plaintiff as the plaintiff is the leading industry player attributable to its long, continuous and extensive use of the mark 'HTA' since 1985 and its products have had significant sales since then. Therefore, irreparable loss, harm and injury would be caused not only to the plaintiff but also to the public if an injunction as sought is not granted in favour of the plaintiff.

90. Accordingly, till the final adjudication of the present suit, the defendants no.1 to 4, their directors, proprietors, officers, servants, agents, partners, wholesalers, distributors, associated companies/ firms and affiliates, as the case may be, are restrained from:

- i. directly or indirectly using, manufacturing, advertising, selling, offering for sale and/ or exporting any goods under the trade mark 'HTA' and/ or any other mark deceptively similar thereto, either as a word or a logo.
- ii. directly or indirectly using, manufacturing, advertising, selling, offering for sale and/ or exporting any goods using the logos '



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, ‘ and/ or any other mark deceptively similar thereto.

- iii. directly or indirectly using, manufacturing, advertising, selling, offering for sale and/ or exporting any goods using the trade dress of the plaintiff’s outer and inner packaging as described in paragraphs 36 and 37 of the plaint and/ or any other trade dress deceptively similar thereto.

91. The present application stands disposed of in the aforesaid terms.

92. Needless to state, any observations made herein are only for the purposes of adjudication of the present application and would have no bearing on the final outcome of the present suit.

CS(COMM) 891/2023

93. List the suit, along with pending applications, on 4th November 2025.

**AMIT BANSAL
(JUDGE)**

SEPTEMBER 09, 2025

ds/at/rzu/Vivek/-