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

% *Judgment delivered on: 28.03.2026*

\+ **C.O.(COMM.IPD-CR) 17/2024**

BOMBAY METALS (P) LIMITED .....Petitioner

versus

TARA SINGH PROP. R.S. INDUSTRIES (REGD) AND ANR .....Respondents

Advocates who appeared in this case

For the Petitioner	:	Mr. Sachin Gupta, Ms. Prashansa Singh, Ms. Mahima Chanchalani, Mr. Rohit Pradhan, Ms. Diksha Tekriwal & Mr. Ajay, Advocates.
For the Respondents	:	Ms. Nishi Ranjan Singh, Advocate for Respondent Nos.1A and 1B.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. This is a Petition filed under Section 50 of the Copyright Act, 1957 ("**Act**") seeking removal / rectification of Copyright Registration Nos. A-85865/2009 and A-85866/2009 ("**Impugned Registrations**"). The present matter was originally filed before the Copyright Board, Delhi and,

thereafter, transferred to Calcutta High Court and, finally, transferred to this Court pursuant to the Order dated 18.07.2024 passed by the Supreme Court in Transfer Petition (C) No. 465/2024.

FACTUAL BACKGROUND:

2. The Petitioner, Bombay Metal Works (P) Ltd., is a company engaged in the business of manufacturing and marketing bicycle parts, which are marketed under the Trade Mark comprising a trade dress / packaging having distinctive colour combination, layout, arrangement of features and get-up to distinguish the products of the Petitioner from others in the market. One such cycle part marketed by the Petitioner is Ball Head Racer. The Petitioner is the owner of copyright bearing Registration Nos. A-11138/74, A-55236/98, A-55238/98 and A-55214/98 of the Petitioner ("**Petitioner's Copyright**") in various packaging of Ball Head Racer ("**Petitioner's Packaging**") as per the following details:

Artistic Work	**Copyright Registration No.**	**Petitioner's Packaging**
BM Screw Racer Packaging	A-11138/74	

BM Ball Head Racer Packaging	A-55236/98	
BM Ball Head Racer Packaging	A-55238/98	
BM Screw Racer Packaging	A-55214/98	

3. Respondent No. 1, Mr. Tara Singh, who was the proprietor of M/s R.S. Industries (P) Ltd., carried on a similar business of manufacturing and trading in Ball Head Racers.

4. The Petitioner has submitted that the Petitioner came to know in January 2002 that Respondent No. 1 is infringing copyright in Petitioner's Packaging, by using packaging which are colourable imitation of and deceptively similar to the Petitioner's Packaging. Accordingly, the Petitioner filed Civil Suit No. 127/2002 before this Court along with I.A. No. 537/2002 seeking interim injunction restraining Respondent No. 1 from dealing in cycle parts using packaging that is deceptively similar to or substantial reproduction of the Petitioner's Packaging.

5. *Vide* order dated 12.02.2002 passed in I.A. No. 537/2002 in Civil Suit No. 127/2022, this Court granted interim injunction restraining Respondent No. 1 from selling, offering from sale, advertising, or dealing in cycle parts bearing packaging that is deceptively similar to or substantial reproduction of the Petitioner's Packaging.

6. However, the Petitioner claims that due to Respondent No. 1's violation of the injunction order dated 12.02.2002 passed in I.A. No. 537/2022 in Civil Suit No. 127/2002, the Petitioner filed four contempt petitions being CCP 169/2002, CCP 13/2004, CCP 122/2005 and I.A. 12504/2006 against Respondent No. 1 before this Court.

7. *Vide* order dated 20.12.2002 passed by this Court in CCP 169/2022, it was recorded that Respondent No. 1 was willing to change the colour combination of its packaging. Pursuant to the said order, Respondent No. 1 filed an Affidavit confirming that in compliance of the said order, it has changed the colour combination of its packaging.

8. Subsequently, Respondent No. 1 obtained copyright search certificates numbered CC 2470/2002-03 dated 08.04.2003, CC 27/2002-03 dated 19.07.2003 and CC 28/2002-03 dated 19.07.2003 under Section 45(1) of the Act from the Registrar of Trade Marks to certify that there was no artistic work, which is identical or deceptively similar to the artistic work of Respondent No. 1.

9. Being aggrieved by issuance of such certificates, the Petitioner filed WP(C) No. 1604/2004 before this Court seeking quashing of the aforesaid certificates. *Vide* order dated 02.12.2008 passed by this Court in WP(C) No. 1604/2004, the aforesaid certificates were quashed.

10. Further, in compliance of the said order dated 02.12.2008 passed by this Court in WP(C) No. 1604/2004, Respondent No. 1 was to inform in case of filing an application for the registration of artistic work to the Registry about the pendency of the Civil Suit between the Petitioner and Respondent No. 1 before this Court, however according to the Petitioner, said direction was not adhered to by Respondent No. 1.

11. Thereafter, the Impugned Registrations were granted in favour of Respondent No. 1 by Respondent No. 2, which the Petitioner claims could not have been proceeded with as they are in violation of the Act and contrary to the Petitioner's Copyright. Aggrieved by the same, the Petitioner has filed the present Petition.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

12. The learned Counsel for the Petitioner advanced the following submissions:

12.1. The Impugned Copyright Registrations have been obtained by Respondent No. 1 in disregard and violations of the provisions

of Section 45 of the Act as it is not possible that the Petitioner's Copyright did not come across when the search certificate was obtained by Respondent No. 1.

12.2. For seeking copyright protection, artistic work is required to be original. No copyright subsists in an artistic work, which is a colourable and slavish imitation or substantial reproduction of another artistic work. The artistic works in the packaging ‘ 

, and ‘ 

’ (“**Impugned Packaging**”), which are the subject matter of the Impugned Registrations, cannot be considered as original works as they are imitation of the Petitioner's Packaging.

12.3. The artistic works, which form the subject matter of the Impugned Registrations, infringe the Petitioner's Copyright in Petitioner's Packaging. The adoption of the Impugned Packaging by Respondent No. 1 is clearly with the sole intention of misappropriating the goodwill and reputation associated with the Petitioner's Copyright. Therefore, it is clear that the Impugned Packaging is dishonest and *mala fide* in nature.

12.4. In view of the foregoing submissions, it is prayed that the present Petition be allowed and the Impugned Registration be removed from the Register of Copyright.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:

13. The learned Counsel for Respondent Nos. 1A and 1B advanced the following submissions:

13.1. The title of the artistic work in the Petitioner's Packaging is 'BM LIMITED', whereas the title of the Respondents' work in the Impugned Packaging is 'RAJIS QUALITY AND QUANTITY'. The distinctiveness in the respective titles is clearly evident and self-explanatory, both in terms of actual content and overall phonetic identity, and that there is no resemblance either visual, structural or conceptual between the two.

13.2. The clear dissimilarity in titles highlights that there is no scope for confusion, deception or overlap in the identity of the works. The overall getup, Trade Dress and presentation of the Respondents' Impugned Packaging is not a slavish imitation of the Petitioner's Packaging, and that the Petitioner's grievance is misconceived and based on isolated and non-proprietary elements such as colour.

13.3. It is well-settled in law that the Petitioner cannot dissect and isolate the generic features to fabricate a claim of infringement or to seek cancellation of the Impugned Registrations. The admitted divergence in titles is a crucial factor that negates the

Petitioner's claim of copying or deception caused by the Impugned Packaging.

13.4. The Petitioner seeks cancellation of the Impugned Registrations solely on the ground of an alleged similarity in the colour without demonstrating any substantial copying of an original work. The colours cited by the Petitioner are widely used across the relevant industry and no legal entitlement can be claimed by the Petitioner upon their usage.

13.5. In view of the foregoing submissions, it is prayed that the present Petition be dismissed.

ANALYSIS AND FINDINGS:

14. Heard the learned Counsel for the Parties and perused the material placed on record.

15. The central issue for determination in the present case is whether the Impugned Registrations are liable to be rectified / expunged from the Register of Copyright under Section 50 of the Act.

16. An entry that has been made wrongly and continues to remain on the Register of Copyright, can be expunged by filing a Rectification Petition under Section 50 of the Act, and such Rectification Petition can be filed by any 'person aggrieved' by the registration of such an entry.

17. In the present case, the Petitioner is clearly a person aggrieved as - *firstly,* the Petitioner is the registered owner of the artistic work in Petitioner's Packaging, which is the subject matter of Petitioner's Copyright; and *secondly,* the Petitioner and Respondent No.1 are operating in the same trade, i.e., bicycle parts, which includes Ball Head Racer. Therefore, the Petitioner is a person aggrieved as the usage of the artistic work in the

Impugned Packaging would dilute the Petitioner's goodwill in the Petitioner's Packaging, which is used as an identifier for the Petitioner's products.

18. It is settled law that Copyright protection is granted to an artistic work under the Act, only if the said artistic work satisfies the standard of originality. In ***Marico Ltd. v. Jagit Kaur***, 2018 SCC OnLine Del 8488, this Court held that when two labels or artistic works are compared to determine if they are original, the broad features of both the labels / artistic works are to be compared. The Court further held that the colour scheme and the objects used in the labels / artistic works should also be considered for determining substantial reproduction / similarity between such labels / artistic works. The relevant extract of the aforesaid decision is as under:

> *"6. A perusal of the labels extracted hereinabove shows that the comparative features of the two labels are so similar that "NIHAL UTTAM" label can safely be termed as colourful imitation or substantive reproduction. Colour scheme between the two labels is the same. The manner in which the coconut tree is arranged is the same, the arrangement of two broken coconuts is similar. Due to the long user in the market, the Appellant's label was quite extensively used and hence the Respondent had access to the Appellant's label.* ***It is the settled position in law that when two labels or artistic works are compared, the broad features are to be compared and not by putting the two labels side by side****. The Supreme Court in Parle Products P. Ltd. v. J.P. & Co., Mysore, (1972) 1 SCC 618 observed as under:*
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> > *"9. It is therefore clear that in order to come to the conclusion whether one mark is deceptively similar to another, the broad and essential features of the two are to be considered. They should not be placed side by side to find out if there are any differences in the design and if so, whether they are of such character as*

to prevent one design from being mistaken for the other. It would be enough if the impugned mark bears such an overall similarity to the registered mark as would be likely to mislead a person usually dealing with one, to accept the other if offered to him. In this case we find that the packets are practically of the same size, the colour scheme of the two wrappers is almost the same; the design on both though not identical bears such a close resemblance that one can easily be mistaken for the other. The essential features of both are that there is a girl with one arm raised and carrying something in the other with a cow or cows near her and hens or chickens in the foreground. In the background there is a farm house with a fence. The word "Glucose Biscuits" in one and "Glucose Biscuits" on the other occupy a prominent place at the top with a good deal of similarity between the two writings. Anyone in our opinion who has a look at one of the packets to-day may easily mistake the other if shown on another day as being the same article which he had seen before. If one was not careful enough to note the peculiar features of the wrapper on the plaintiffs' goods, he might easily mistake the defendants' wrapper for the plaintiffs' if shown to him some time after he had seen the plaintiffs'. After all, an ordinary purchaser is not gifted with the powers of observation of a Sherlock Holmes. We have therefore no doubt that the defendants' wrapper is deceptively similar to the plaintiffs' which was registered. We do not think it necessary, to refer to the decisions referred to at the Bar as in our view each case will have to be judged on its own features and it would be of no use to note on how many points there was similarity and in how many others there was absence of it."

7. Though the above observation has been rendered in the context of comparison of label marks in a passing off action, the tests for

comparison of labels which are artistic works, would be the same."

[**Emphasis Supplied**]

19. A comparison of the artistic works in the Petitioner's Packaging and the Impugned Packaging used for the Ball Head Racer is as under:

Petitioner's Packaging	**Impugned Packaging**
 (A-55236/98)	 (A-85865/2009)

	
(A-55238/98)	(A-85866/2009)

20. From the above comparison, it is clear that the artistic work in the Petitioner's Packaging is substantially similar to the artistic work in the Impugned Packaging. A comparison of the Petitioner's Packaging bearing registration no. A-55236/98 and the Impugned Packaging bearing registration no. A-85865/2009 reveals that the artistic work in the Impugned Packaging uses a similar colour scheme as that of the Petitioner's Packaging. Moreover, both the aforesaid packaging place the circular Trade Name logo in the middle using the white-and-blue colour scheme, wherein the respective Trade Names 'BM' and 'Rajis' are mentioned in white-coloured lettering on a blue background in both the said packaging. Furthermore, the name of the product 'BALL HEAD RACERS' is mentioned below the said logo in blue-coloured lettering, in both the packaging. Lastly, the side portion of both the packaging mention 'BALL

HEAD RACER' and '10 SET OF THREE' in uppercase letters, which are identically placed therein.

21. *Similarly*, a comparison of the Petitioner's Packaging bearing registration no. A-55238/98 and the Impugned Packaging bearing registration no. A-85866/2009 reveals that the artistic work in the Impugned Packaging uses a similar colour scheme as that of the Petitioner's Packaging. Moreover, both the aforesaid packaging place the circular Trade Name logo in the middle using the white-and-red colour scheme, wherein the respective Trade Names 'BM' and 'Rajis' are mentioned in white-coloured lettering on a red background in both the said packaging. Additionally, the name of the product 'BALL HEAD RACERS' is mentioned below the said logo in red-coloured lettering, in both the packaging. Lastly, the side portion of both the packaging mention 'BALL HEAD RACER' and '10 SET OF THREE' in uppercase letters, which are identically placed therein.

22. The learned Counsel for the Petitioner drew the Court's attention to the Decree dated 27.09.2016 issued in Civil Suit 127/2002, whereby this Court granted permanent injunction in favour of the Petitioner and against Respondent No. 1, restraining Respondent No. 1 from dealing in Ball Racer Head products using packaging that is a slavish imitation and substantial reproduction of the Plaintiff's Packaging, amounting to infringement of Petitioner's Copyright.

23. In view of the above analysis, the artistic work in the Impugned Packaging lacks originality and therefore, the Impugned Registrations are liable to be expunged from the Register of Copyright. Accordingly, the present Petition is hereby allowed and the Impugned Registrations bearing

Nos. A-85865/2009 and A-85866/2009 are cancelled and expunged from the Register of Copyright.

24. The Registry is directed to supply a copy of this Order to the Office of the Controller General of Patents, Designs and Trade Marks of India at the E-Mail Address – llc-ipo@gov.in for compliance of this Order. Let this Order be reflected on the website of the Controller General of Patents, Designs and Trade Marks of India within four weeks.

25. The present Petition stands disposed of in the aforesaid terms.

TEJAS KARIA, J

MARCH 28, 2026
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