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

% **Judgment reserved on:** 09.01.2026
Judgment delivered on: 04.02.2026

\+ **CS(COMM) 551/2023**

ALLIED BLENDERS AND DISTILLERS LIMITED .....Plaintiff

versus

BATRA BREWERIES AND DISTILLERIES PRIVATE LIMITED & ORS. ....Defendants

Advocates who appeared in this case:

For the Plaintiff: Mr. Pravin Anand, Mr. Shrawan Chopra, Mr. Achyut Tewari, Ms. Krisha Baweja and Mr. Parth Malhotra, Advocates.

For the Defendants: None

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

TUSHAR RAO GEDELA, J.

I.A. 8813/2025 (Application for Summary Judgement under Order XIIIA Rules 3 & 6(1)(a) read with Section 151 of Code of Civil Procedure, 1908)

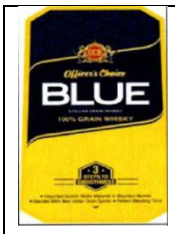
1. This is an application filed on behalf of the plaintiff under Order XIIIA, Rules 3 and 6(1)(a) of the Commercial Courts Act, 2015 (*"CC Act"*) read with Section 151 of the Code of Civil Procedure, 1908 ("*CPC*"), seeking a summary judgement.

2. The plaintiff has filed the present suit for a decree of permanent injunction restraining the defendants from infringement of its registered trademarks "Officer's Choice", "Officer's Choice Blue" and "Choice" and for

other ancillary reliefs of passing off, damages, rendition of accounts, delivery up and costs.

3. The facts as stated in the plaint are that the plaintiff is the owner of the trademark "Officer's Choice'', which was coined and adopted in 1988 by its predecessor. The mark was then acquired by way of an assignment dated 26.02.1991. The said mark has been used in various label forms and variants for different alcohol products of the plaintiff. It is claimed that the products sold under the name "Officer's Choice" are extremely popular and it was rated as the highest selling whisky in the world. The plaintiff's "Officer's Choice" products are sold under, *inter alia*, the following proprietary, unique and distinctive labels and packaging:



4. The mark "Officer's Choice" is also registered in a large number of classes with the earliest registration dating back to 1988. The mark "Officer's Choice" is registered not merely in English but also in other regional languages such as Kannada, Telugu, Bengali, etc. The plaintiff has a large volume of sales under the said mark.

5. It is the case of the plaintiff that its trademark "Officer's Choice" has been declared as a well-known trademark under Section 2(zg) of the Trade Marks Act, 1999 (hereinafter referred to as *"the Act"*) by this Court in CS(COMM) 1227/2016 titled *"Allied Blenders and Distillers Pvt. Ltd vs. Surya Rao Trading as Leo Foods & Beverages"* decided on 16.01.2017.

6. It is claimed that the plaintiff's "Officer's Choice" trademarks and labels have acquired substantial reputation and goodwill through extensive use and promotion. The plaintiff has a large volume of sales under the said mark. As of the year 2021-22, the annual sales under the mark "Officer's Choice" is more than 16 lakh cases.

7. The plaintiff states that as a result of the continuous and extensive use of the "Officer's Choice" label/mark since 1988, spanning over a wide geographical area coupled with vast promotion and publicity, the

trademark/label enjoys an unparalleled reputation and goodwill in the market and even serves as a source identifier of the plaintiff's whisky products both in India and abroad.

8. The plaintiff further states that the "Officer's Choice" trademark is unique to the plaintiff, its products and business and has acquired a secondary meaning by virtue of continuous and extensive use and promotion ever since it was first adopted by the plaintiff in the year 1988 and has therefore come to be associated exclusively with the plaintiff.

9. It is the case of the plaintiff that the defendants are manufacturing, selling, and offering for sale alcohol products under the mark "Principal Choice", "Principal Choice Premium Whisky". The said product is bottled and blended by defendant no.1/Batra Breweries and Distilleries Pvt. Ltd., which is also the bottler of the plaintiff. The said infringing product is marketed by defendant No.2 - M/s. Jaswant Industries, Jalandhar, Punjab. The trademark applications bearing nos. 5865065 and 6044168 *qua* the defendants' products have been filed by defendant No.3 - Mrs. Janak Atras, who is claimed to be the mother of one of the partners of defendant No.2.

10. It is claimed that the said trademark applications have been filed in the Trade Mark Registry Office in Delhi. Trademark Application bearing no. 5865065 for 'Principal Choice Whisky' was filed on 25.03.2023 and Trademark Applications bearing no. 6044168 for the label 

was filed on 29.07.2023 on a "proposed to be used" basis.

11. Summons were issued in this matter *vide* order dated 11.08.2023, and a partial interim injunction was granted in favor of the plaintiff restraining the

defendants from further manufacturing/bottling whisky under the mark "Principal Choice", "Principal Choice Premium Whisky". They were only permitted to sell/dispose of the existing stock, subject to filing of the accounts, both in terms of the quantity and monetary value by way of an affidavit.

12. *Vide* order dated 11.10.2023, this Court has issued notice in the application under Order XXXIX Rule 4 and Order VII Rule 11(A) of the CPC challenging the territorial jurisdiction of this Court as a preliminary objection and seeking vacation of the interim order dated 11.08.2023. This Court has further recorded the submission of the plaintiff that the defendants have changed the mark to "Principal Premium" instead of "Principal Choice" and have applied for a change in the license before the concerned Excise Department. This Court also directed the defendants to take instructions in this regard.

13. *Vide* order dated 12.12.2023, this Court had confirmed the *ad-interim* injunction granted *vide* order dated 11.08.2023 till the disposal of the suit. Simultaneously *vide* the same order, though there was no representation on behalf of defendant nos. 2 and 3, this Court had condoned the delay of 27 days in filing the written statement on their behalf upon an application seeking condonation of such delay.

14. *Vide* order dated 06.02.2024, the Joint Registrar directed the Registry to place the written statement on record since the delay was condoned by this Court on 12.12.2023 and recorded that the plaintiff's replication alongwith affidavit of admission/denial of documents is reflected in the Registry records. It was also noted that the said written statement was not being reflected in the Registry records.

15. *Vide* order dated 18.10.2024, noting that no one was appearing on

behalf of the defendants, the defendant nos.1, 2 and 3 were proceeded *ex parte*.

16. On a perusal of the entire court records pertaining to the suit, it is noted that though this Court *vide* order dated 12.12.2023 had condoned the delay in filing the written statement filed on behalf of the defendant nos. 2 and 3, it appears that the written statement was never filed/re-filed. This Court had directed the Registry to report on the matter, however, has been informed that no such written statement on behalf of defendant nos. 2 and 3 is on record. In such circumstances, this Court would proceed to decide the suit in the absence of the written statements of defendant nos. 2 and 3.

17. It is in the above circumstances, that the plaintiff has preferred an application under Order XIIIA of the CC Act. This Court has heard the arguments of Mr. Pravin Anand, learned counsel for the plaintiff, perused the plaint and examined the documents placed on record.

18. Considering the statutory and common law rights and the long usage of the trade mark "Officer's Choice" amongst others, it appears that the rights of the plaintiff would be severely and irreparably damaged in case a decree of permanent injunction restraining defendants from using impugned mark "Principal Choice" as also the unauthorized use of the trademarks of the plaintiff, is not passed. Predicated on the fact that, in the present case, though the defendants appeared and accepted the summons, they did not file the written statement in spite of this Court condoning the delay in filing the written statement, and were consequently proceeded *ex parte*, no purpose would be served in requiring the plaintiff to adduce any formal evidence in the present suit. Moreover, under the provisions of the CC Act read with Rules 14 and 27 of the Delhi High Court Intellectual Property Rights Division Rules, 2022 (IPD Rules) and Rule 1 in Chapter VII of the Delhi High Court

(Original Side) Rules, 2018 (hereinafter referred to as *"Original Side Rules, 2018"*), this Court can proceed to pass orders in the absence of the defendants or their defence, as the defendants are noted to have been accepted the summons and the plaintiff has also made out its case. It would be apposite to reproduce Rule 27 of the IPD Rules which reads thus:-

> *"27. Summary Adjudication In cases before the IPD, the Court may pass summary judgment, without the requirement of filing a specific application seeking summary judgment on principles akin to those contained in Order XIIIA, Code of Civil Procedure, 1908 as applicable to commercial suits under the Commercial Courts Act, 2015."*

It would also be relevant to bear in mind Rule 1 of the Original Side Rules, 2018, which reads thus:-

> *"1. In default of appearance by defendant suit to be posted for hearing.—If on the day fixed for his appearance in the writ of summons, the defendant does not appear, and it is proved that summons was duly served, the suit shall proceed for hearing."*

19. The aforesaid view is fortified by the judgment of the Coordinate Bench in ***Disney Enterprises Inc. and Anr. vs. Balraj Muttneja & Ors.: Neutral Citation 2014:DHC:964***, the relevant paragraph of which is extracted hereunder:-

> *"5. The plaintiffs, despite having been granted sufficient time and several opportunities, have failed to get their affidavits for leading ex parte evidence on record. However, it is not deemed expedient to further await the same and allow this matter to languish, for the reason that I have in Indian Performing Rights Society Ltd. Vs. Gauhati Town Club MANU/DE/0582/2013 held that where the defendant is ex parte and the material before the Court is sufficient to allow the claim of the plaintiff, the time of the Court should not be wasted in directing ex parte evidence to be recorded and which mostly is nothing but a repetition of the contents of the plaint."*

20. Therefore, this Court proceeds to dispose of the suit.

21. The plaintiff has placed on record voluminous documents pertaining to

the registration of about 160 trademarks belonging to the plaintiff, particularly the trademark in question i.e. "Officer's Choice". The plaintiff has asserted that the said mark has been conceived, adopted and in continuous and regular use since the year 1988 for the product (Whisky) which is manufactured by the plaintiff. It is also asserted that at one point in time, the product manufactured and offered for sale under the said mark achieved world no.1 position in sales figures. The plaintiff has also asserted that it has been using the trademark "Officer's Choice" which is arbitrary. Over the last many decades the said mark has garnered distinctiveness and has also acquired secondary meaning. Apparently, the plaintiff has acquired vast reputation and goodwill in the said mark. It is pertinent to note that though the two words comprising the mark may be common, yet, they are arbitrary to the goods in question i.e. Whisky. The view of this Court is fortified by the view taken by the learned Division Bench of this Court in FAO(OS) 368/2014 titled *"Shree Nath Heritage Liquor Pvt. Ltd. vs. M/s. Allied Blender & Distillers Pvt. Ltd"* and 493/2014 titled *"Sentini Bio Products Pvt Ltd. vs. M/s Allied Blender & Distillers Pvt Ltd"* dated 06.07.2015.

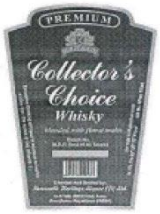
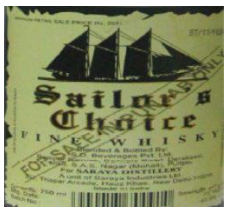
22. Thus, by the long, uninterrupted and continuous use of the mark "Officers Choice", at least since the year 1988, the said trade mark has acquired distinctiveness and secondary meaning. The reputation and goodwill also is fairly well established.

23. Undoubtedly, the plaintiff has left no stone unturned to protect and preserve its rights, reputation and goodwill in the subject trademark by scrupulously approaching the Courts of law for such protection. The plaintiff has, in the documents accompanying the suit, filed a list of orders and judgments in about 40 suits for injunction passed by this Court pertaining primarily to the subject trademark. Since referring to each of such

orders/judgments or even the relevant paragraphs would be voluminous, it is deemed appropriate to extract hereunder the table of those orders/judgments:-

S.No	Suit No.	Parties	Impugned mark
1	CS(OS) 171/2012	Globus Spirits Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO. 221521 WITH "OFFICER'S CHOICE" EMBOSSED
2	CS(OS) 589/2012	Chhattisgarh Distilleries Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO. 221521 WITH "OFFICER'S CHOICE" EMBOSSED
3	CS(OS) 924/2012	N.V. Distilleries Ltd	USE OF BOTTLE WITH REGISTERED DESIGN NO. 221521 WITH "OFFICER'S CHOICE" EMBOSSED
4	CS(OS) 1102/2012	Ojas Industries Pvt. Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO. 221521 WITH "OFFICER'S CHOICE" EMBOSSED
5	CS(OS) 1152/2012	Him Queen Distillers and Bottlers	USE OF BOTTLE WITH REGISTERED DESIGN NO.223751 WITH "OFFICER'S CHOICE" EMBOSSED
6	CS(OS) 1170/2012	Vintage Distillers Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO. 221521 WITH "OFFICER'S CHOICE" EMBOSSED
7	CS(OS) 1198/2012	Rangar Breweries Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO. 223751 WITH "OFFICER'S CHOICE" EMBOSSED
8	CS(OS) 1199/2012	Pioneer Industries Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO.221521 WITH "OFFICER'S CHOICE" EMBOSSED
9	CS(OS) 1230/2012	Patiala Distilleries and Manufacturers Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO.221521 WITH "OFFICER'S CHOICE" EMBOSSED
10	CS(OS) 3509/2012	VRV Foods Ltd.	USE OF BOTTLE WITH REGISTERED DESIGN NO. 221521 WITH "OFFICER'S CHOICE" EMBOSSED

11	CS(COMM) 340/2023	Haryana Organics	USE OF BOTTLE WITH REGISTERED DESIGN NO.342896-001 AND NO. 342900-001 WITH "OFFICER'S CHOICE" AND "OC BLUE" EMBOSSED
12	CS(COMM) 465/2023	Frost Falcon Distilleries	USE OF BOTTLE WITH REGISTERED DESIGN NO. 342896-001, 342898-001, AND NO. 342903-001 WITH "OFFICER'S CHOICE" AND "OC BLUE" EMBOSSED
13	CS(COMM) 481/2023	Empire Alcobrev Private Limited	USE OF BOTTLE WITH REGISTERED DESIGN NO. 342902-001, 342904-001 AND NO. 342900-001 WITH "OFFICER'S CHOICE" EMBOSSED
14	CS (OS) No. 1321 of 2009	NV Distillers Ltd. "Special Choice"	
15	C.S. (OS) No. 2568 of 2010	Bloom Liquors Pvt. Ltd. "Captain Choice"	
16	C.S. (OS) No. 2453 of 2009	HIM Queen Distillers & Bottlers "Official Choice"	

17	CS(OS) No. 140 of 2014	Master Blenders Pvt. Ltd. "Emperor's Choice"	
18	CS(COMM) No. 573 of 2020	Cosmos Beverages Private Limited "Master's Choice"	
19	CS(OS) 2589/2013	M/s Shree Nath Heritage Liquor Pvt. Ltd. "Collector's Choice"	
20	CS (OS) No. 964 of 2013	Saraya Industries Ltd. "Sailor's Choice"	
21	CS (OS) No. 1779 of 2014	Suresh Kumar, trading as Sant Shree Jayram Das Rice Mill "Officer's Choice"	
22	CS (OS) No. 1769 of 2014	Sri Venkateshwara Distilleries "Our Choice"	

23	CS(OS) 1934 of 2014	M/s Arun Kumar Parasa Club's Choice	
24	CS(OS) No. 439/2014	Rhizome Distilleries Pvt. Ltd. "Spinner's Choice"	
25	CS (COMM) No. 894 of 2017	Pincon Spirit Ltd. "Banker's Choice", "Corporate Choice" and "Odisha's Choice"	 
26	CS (COMM) No. 507 of 2021	SanjayKhurana & Ors. "KI OFFICER VOICE BLLUE"	
27	CS(COMM)No. 103 of 2022	Ashok Kumar (John Doe Defendants) "Officer's Choice"	
28	CS(COMM)No. 115 of 2022	SNJ Distillers Private Ltd "GreenChoice"	

29	CS(COMM)No. 689 of 2022	Rajasthan Distillers "High Choice"	

Apart from the aforesaid, *vide* order dated 16.01.2017, this Court in CS(COMM) 1227/2016 titled *"Allied Blenders and Distillers Pvt. Ltd vs. Surya Rao Trading as Leo Foods & Beverages"* had declared the mark "Officer's Choice" as a well known trademark since the year 2017.

24. Alongwith the documents accompanying the plaint, the plaintiff has also placed on record the application seeking registration by the defendant dated 26.03.2023 for the word mark "Principal Choice Whisky" on a "Proposed to be used basis" in Class 33 i.e. Alcoholic Beverages (Except Beer). The said application is extracted hereunder:-

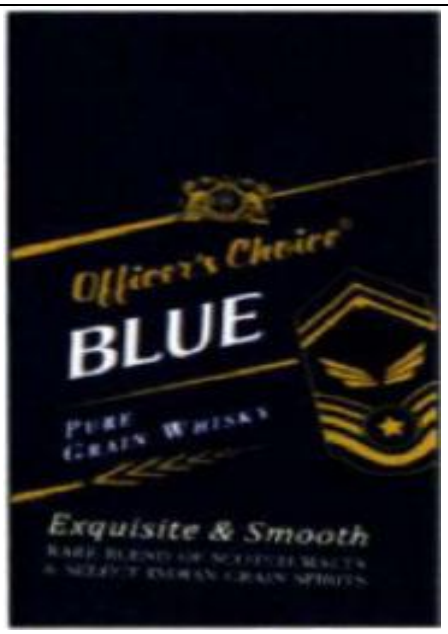
"(*NOT FOR LEGAL USE)*

As on Date: 31/07/2023
Status: Formalities Chk Pass

TM Application No.	*5865065*
Class	*33*
Date of Application	*25/03/2023*
Appropriate Office	*DELHI*
State	*PUNJAB*
Country	*India*
Filing Mode	*e-Filing*
TM Applied For	*PRINCIPAL CHOICE WHISKY*
TM Category	*TRADE MARK*
Trade Mark Type	*WORD*
User Detail	*Proposed to be used*
Certificate Detail	
Valid upto/Renewed upto	

Proprietor name	*(1) JANAK ATRAS* *Single Firm*
Proprietor Address	*H NO. E.C. 246, PUNJ PEER CIRCULAR ROAD, JALANDHAR, PUNJAB - 144001*
Email Id	*****tta42@gmail.com*
Attorney name	*SUNIL[15854]*
Attorney Address	*37, NEW MARKET BEHIND NARINDER CINEMA JALANDHAR*
Goods & Services Details	*[CLASS : 33]* *ALCOHOLIC BEVERAGES (EXCEPT BEER)*

25. Photographs of the impugned products of the defendants carrying the impugned word mark/label "Principal Choice Whisky" has also been filed alongwith the documents accompanying the suit. One such photograph is extracted hereunder to demonstrate the deceptive similarity in the two sets of trademarks, one belonging to the plaintiff and the other of the defendants on a "proposed to be used basis":-

PLAINTIFF'S PRODUCT	DEFENDANT'S PRODUCT
	

On a comparison of the two trademarks/labels, the deceptive similarity comes out to the fore. Not only is the word "CHOICE" part of the plaintiff's registered trademark but the entire trade dress of the label of the defendant's mark is strikingly similar to that of the plaintiff's trademark and trade dress. This cannot be said to be an honest adoption.

26. Apart from the above, during the course of final hearing, Mr. Pravin Anand, learned counsel for the plaintiff has handed over the bench a document downloaded from the official website of the Trademarks Registry dated 08.01.2026. The said document purports to be the status of the trademark application No. 5865065 of the defendant as obtained on 08.01.2026. On a comparison with the Trade Marks application submitted by the defendants for registration of the mark "Principal Choice Whisky", it is clear that the original application also bore the TM application No.5865065 in Class 33 submitted by the defendants. As there is no rebuttal by the defendants, and having regard to the fact that the averments in the plaint are deemed to be admitted, there is a little reason for this Court to disbelieve the document handed over indicating the status as obtaining on 08.01.2026 as "Abandoned". The only inference that the Court may gather from this document is that the defendants are no more interested in pursuing their application seeking registration of the mark "Principal Choice Whisky" any further. For abundant precaution, the document is populated hereunder:-

"(NOT FOR LEGAL USE)

As on Date: 08/01/2026

Status Abandoned *View Examination Report*

TM Application No.	*5865065*
Class	*33*
Date of Application	*25/03/2023*
Appropriate Office	*DELHI*
State	*PUNJAB*

Country	*India*
Filing Mode	*e-Filing*
TM Applied For	*PRINCIPAL CHOICE WHISKY*
TM Category	*TRADE MARK*
Trade Mark Type	*WORD*
User Detail	*Proposed to be used*
Certificate Detail	
Valid upto/Renewed upto	
Proprietor name	*(1) JANAK ATRAS* *Single Firm*
Proprietor Address	*H NO. E.C. 246, PUNJ PEER CIRCULAR ROAD, JALANDHAR, PUNJAB - 144001*
Email Id	*****N@CHAMBEROFLAW.CO.IN*
Attorney name	*RAHUL RAJPUT. [3376]*
Attorney Address	*B-336, BHAI RANDHIR SINGH NAGAR, LUDHIANA - 141 004 PUNJAB.*
Goods & Services Details	*[CLASS : 33]* *ALCOHOLIC BEVERAGES (EXCEPT BEER)*
Publication Details	*Published in Journal No.:2191-0 Dated: 13/01/2025*

27. In view of the above, this Court is of the considered opinion that the plaintiff has been able to establish a strong case for grant of decree of permanent injunction. As none of the defendants have traversed or controverted in accordance with law any of the facts and averments as also the documents accompanying the suit plaint demonstrating not only that the plaintiff has been in continuous user of the mark "Officers Choice" since the year 1988 with almost 160 trademark registration of various marks and labels and their variants, coupled with the orders and judgments obtained by the plaintiff established by way of a number of judgments of this Court placed on record, the balance of convenience is completely tilted in favour of the plaintiff. As a consequence of the findings recorded above in respect of not only the reputation, goodwill or the arbitrariness in the subject mark, but also the distinctiveness and the secondary meaning garnered over the last many

decades in the trademark "Officers Choice", undoubtedly irreparable harm and injury would indeed be caused to the plaintiff in case the defendants are not restrained and injuncted from in any manner whatsoever using the impugned mark "Principal Choice Whisky". A decree of permanent injunction, in view of the aforesaid facts, would be in order.

28. Mr. Anand, learned counsel for the plaintiff had candidly submitted during the course of final arguments that the defendants are bottlers of the plaintiff and therefore the plaintiffs would be satisfied in case this Court would grant a decree of permanent injunction. He submitted that the plaintiffs are voluntarily giving up their claim towards damages or legal costs or costs of any nature.

29. In view of aforesaid analysis and findings, the present application is allowed and disposed of.

30. Accordingly, the suit is hereby decreed in favour of the plaintiffs and against the defendants in terms of para 54(a), (b) and (c) of the prayer clause of the plaint.

31. Decree sheet be drawn up.

32. The present suit is hereby disposed of, alongwith the pending applications.

TUSHAR RAO GEDELA
(JUDGE)

FEBRUARY 4, 2026/*rl/aj*