



\$~1

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

+ **C.A.(COMM.IPD-TM) 31/2025**

ABBOTT LABORATORIES

.....Appellant

Through: Mr. Anirudh Bakhru, Mr. Naqeeb Nawab, Mr. Nippun Sharma, Mr. Prakhar Singh and Mr. Vibhav Singh, Advs.

versus

THE REGISTRAR OF TRADE MARKS

.....Respondent

Through: Ms. Nidhi Raman, CGSC with Mr. Om Ram and Mr. Mayank Sansanwal, Advs.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

17.10.2025

C.A.(COMM.IPD-TM) 31/2025

1. The present appeal has been filed under Section 91 of the Trademarks Act, 1999 and the Trademarks rules, 2017 against order dated 29.03.2025 in respect of the trademark application no. 5751579.
2. Learned counsel for the Appellant states that he has taken instructions and submits that the Appellant seeks liberty to amend its user claim for the subject mark to 23.04.2012.
3. He states that with leave to amend the user claim, the petition be disposed and the application be remanded for fresh re-consideration by the Registrar.
4. In response, learned counsel for the Respondent states that the invoice placed on record for asserting the user claim by 23.04.2012 at page 228 of



the paper book bears the entity name of Abbot Healthcare Pvt. Ltd. which is an entity distinct from the Appellant herein.

5. In reply, learned counsel for the Appellant clarifies that Abbot Healthcare Pvt. Ltd. is the subsidiary of the Appellant herein and is using the subject mark under license from the Appellant. He states that all the necessary facts and documents pertaining to the license granted by the Appellant to Abbot Healthcare Pvt. Ltd. will be placed before the Registrar.

6. This Court has considered the submissions of the Appellant and the Respondent.

7. The Appellant had applied for registration of its trademark 'ENSURE' on 05.01.2025 in Class 29 with the user claim of 31.12.1999 and a user affidavit dated 04.01.2023. By the impugned order, the said application has been rejected on the ground that the documents filed in support of the application do not substantiate the use from the claimed date of 31.12.1999.

8. The Appellant has stated that it is agreeable to amend its user claim w.e.f. 23.04.2012 and submits that invoices corresponding to the said date were filed with the Registrar. The Appellant now seeks to amend the user claim from 31.12.1999 to 23.04.2012.

9. This petition is disposed of with liberty to the Appellant to file an amended user claim affidavit within four (4) weeks restricting its claim of first use in India from 23.04.2012 along with all other appropriate documents to substantiate the said user claim.

10. After filing of the amended user claim, the Registrar is directed to consider the application afresh in accordance with the rules. The Registrar is directed to hear and decide the application expeditiously.



11. Accordingly, the impugned order is set aside and the Appellant's Application No. 5751579 under Class 29 is accordingly restored to its original status.
12. It is clarified that this Court has not expressed any opinion on the merits of the claim and the application shall be decided by the Registrar on its own merits.
13. The petition is disposed of.
14. Pending applications, if any, stand disposed of.
15. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

OCTOBER 17, 2025/msh/IB.