



WEB COPY



1/11

CMA(TM) No. 10 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA(TM) No. 10 of 2025

Mahesh Value Products Pvt.Ltd
No.68, 4th Floor, C.P.Ramasamy Road,
Alwarpet, chennai-600018

Appellant(s)

Vs

1. Greatway (india) Corporation
Basti Sheikh Road, Jalandhar-144002

2.Assistant Registrar Of Trademarks and GI
Office of the Trademarks Registry,
Guindy, Chennai-600032

Respondent(s)

PRAYER Appeal filed under Section 91 of the Trademarks Act, 1999, praying to set aside the order dated 29.01.2025, passed by the 2nd Respondent refusing the registration of the trademark and consequently direct the Respondent to register the Trademark under No.4748228 in Class 28 by entering the same in the Register and thereby render justice.

For Appellant(s): Mr.R.Sathish Kumar

For Respondent(s): Mr.Pushkar for R1
Mr.Subbu Ranga Bharathi for R2



WEB COPY



ORDER

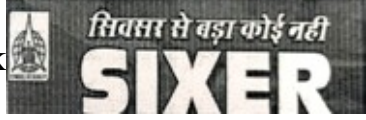
This appeal has been filed against the order passed by the 2nd respondent dated 29.01.2025, rejecting the application filed by the appellant for registration of the label mark **SIXIT** after allowing the opposition filed by the 1st respondent.

2.Heard the learned counsel for the appellant and the learned counsel appearing on behalf of the respondents.

3.The case of the appellant is that the appellant had coined the label mark ***SIXIT*** and was using the same honestly and bonafidely from the year 2019 for sports goods. Apart from that, the appellant had registered the same mark with respect to other classes of goods in Class 25.

4.The applicant submitted an application as the proprietor of the trademark **SIXIT** for registration of the same in Class 28 in respect of games, toys and play things etc. The trademark was advertised in the journal and the 1st respondent submitted the opposition.



5. In the notice of opposition, the 1st respondent stated that they have been using the trademark  for more than two decades, since 1997 and they have registered the trademark **SIXER** in various Classes including Classes 9, 18, 25, 28 and 35. They also took a stand that they are opposing the trademark of the appellant in Class 28. Accordingly, they sought for the rejection of the application.

6. The 2nd respondent through the impugned proceedings dated 29.01.2025, rejected the application by allowing the opposition on the ground that the adoption of the impugned mark by the appellant is questionable and it lacks bonafides, integrity and honesty. Apart from that, the 2nd respondent also held that the impugned mark is deceptively similar to the mark already registered in favour of the 1st respondent for the very same Class of goods viz., Class 28. Aggrieved by the order passed by the 2nd respondent, the present appeal has been filed before this Court.

7. When the appeal came up for hearing on 29.01.2026, this Court after hearing both sides, made a suggestion and asked the learned counsel for the appellant to take instructions from his client as to whether the appellant will be able to add any prefix or suffix to the impugned mark, so that the 1st respondent may not have any objections.



WEB COPY

8. When the matter was taken up for hearing today, the learned counsel for the appellant, on instructions, submitted that the appellant has been using this mark from the year 2019 onwards and has gathered sufficient goodwill and reputation and that even if the appellant agrees for the change of the mark, the appellant will have to once again go through the process all over again. Therefore, the appellant is inclined to contest this case on merits. In the light of the above submission, this Court heard the learned counsel appearing on either side and carefully perused the materials available on record.

9. It is quite evident from the records that even though the 1st respondent was claiming to be the user of the mark **SIXER** from the year 1997, what was produced in terms of documents was only from the year 2010. Therefore, it can be safely taken that the 1st respondent was using the mark **SIXER** atleast from the year 2010 onwards. It is also not in dispute that the appellant started using the mark **SIXIT** from the year 2019. Hence, the 1st respondent is the prior user insofar as the mark **SIXER** is concerned.

10. In the light of the above finding, the next issue to be gone into is as to whether the findings of the 2nd respondent to the effect that there was no bonafides on the part of the appellant in adopting the mark **SIXIT** and that the



mark adopted by the appellant is deceptively similar to that of the mark of the 1st respondent, is sustainable.

11. The materials placed before this Court shows that the appellant has in fact used the impugned mark **SIXIT** for other class of goods viz., Class 25 and the same has also been registered. Apart from that, the appellant has put to use the very same mark for sports goods from the year 2019 onwards. In the light of these facts, it has to be seen as to whether the finding of the 2nd respondent to the effect that there was no bonafide on the part of the appellant to use the impugned mark is sustainable. On carefully analysing the impugned mark and the mark that has already been registered in the name of the 1st respondent, it is seen that the impugned mark is in the nature of a label mark and it has been coined by the appellant, who claims to be the proprietor of the mark. This impugned mark was also used by the appellant for other class of goods and therefore, the appellant was not attempting to use this mark for the first time insofar as Class 28 is concerned. Apart from that, for the very same class of goods viz., Class 28, there are many other registered marks carrying the word **SIX** either as word mark or label mark. Under such circumstances, the extreme view taken by the 2nd respondent as if there are no bonafides for the appellant to have adopted the mark **SIXIT** for goods falling under Class 28, is unsustainable and such finding tantamounts to branding the appellant with moral turpitude.



Such an extreme view taken by the 2nd respondent was unwarranted on the facts of the present case and hence, this Court is inclined to interfere with that finding rendered by the 2nd respondent.

12. In the light of the above discussion, what remains to be seen is if the impugned mark adopted by the appellant deceptively and is phonetically similar to the mark that was already registered in favour of the 1st respondent and whether it is likely to deceive the unwary consumers.

13. It must be kept in mind that the first three letters 'SIX' is a common prefix in almost all the marks that have been registered under Class 28. In any case, these three letters constitute a dictionary word 'SIX' over which no one can claim any proprietorship.

14. The trademark registered by the 1st respondent is **SIXER**. On carefully going through the same, it is seen that it is a word mark. What has been adopted by the appellant is a mark **SIXIT**, which is not a dictionary word and it is a coined word by the appellant, over which the appellant is claiming proprietorship under Section 18 of the Trademarks Act, 1999. It must also be borne in mind that unlike **SIXIT**, which is a coined word, **SIXER** is a dictionary word. The materials available before this Court, which are contained



at Pages 362 and 363 of the Paper book, gives the particulars of all those marks which have been registered with the prefix 'SIX'. One of the mark that is available in Application No.4115377 is "**SIXBY**" which is also a coined word like that of the impugned mark adopted by the appellant and which is again a coined word **SIXIT**.

15.It was submitted that the impugned mark is phonetically similar to the word mark registered in favour of the 1st respondent. This Court is not able to agree with this contention. This is in view of the fact that already a mark has been registered in the name of SIXBY. for the very same Class 28 and if the impugned mark is held to be phonetically similar, the mark which has already been registered will also be vitiated on the same ground. Therefore, the said ground raised on the side of the 1st respondent is liable to be rejected.

16.As between the word mark of the 1st respondent **SIXER** and the label mark which is a coined word of the appellant **SIXIT**, this court does not find anything deceptively similar which will lead to confusion of the unwary consumers.



17. On a careful reading of the order passed by the 2nd respondent, it is seen that the 2nd respondent came to such a conclusion since what was looming large in the mind of the 2nd respondent was the bonafides of the appellant in adopting the impugned mark. Therefore, as an incidental finding, the 2nd respondent has also held that the impugned mark is deceptively similar and that was added as one more ground to reject the application submitted by the appellant by allowing the opposition submitted by the 1st respondent.

18. In the light of the above discussion, this Court finds that the word mark **SIXER** is not phonetically similar to the coined word label mark **SIXIT** of the appellant and the impugned mark adopted by the appellant also does not suffer from lack of bonafides. Consequently, the discretion exercised by the 2nd respondent under Section 18(4) is found to be perverse and the same requires the interference of this Court.

19. In the result, the impugned proceedings of the 2nd respondent dated 29.01.2025, is hereby quashed and there shall be a direction to the 2nd respondent to register the trademark under No.4748228 in Class 28 by entering the same in the Register.



9/11

CMA(TM) No. 10 of 2025

WEB COPY

20. Accordingly, the appeal stands allowed. No Costs.

05-02-2026

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
ssr



10/11

CMA(TM) No. 10 of 2025

WEB COPY

To

1.Greatway (India) Corporation
Basti Sheikh Road, Jalandhar-144002

2.Assistant Registrar of Trademarks & GI
Office of the Trademarks Registry,
Guindy, Chennai-600032.



WEB COPY



11/11

CMA(TM) No. 10 of 2025

N.ANAND VENKATESH J.

SSR

CMA(TM) No. 10 of 2025

05-02-2026