



2026:DHC:571



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

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Judgment reserved on: 15.01.2026

Judgment delivered on: 23.01.2026

CS(COMM) 1075/2018, I.A. 10890/2018, I.A. 15200/2018, I.A. 11751/2022 & I.A. 188/2025

MERCK SHARP & DOHME CORP. & ANR.Plaintiffs

versus

RANVIR KUMAR BINDESHWARI SINGH & ORS.Defendants

Advocates who appeared in this case:

For the Plaintiffs : Mr. Pravin Anand, Ms. Tusha Malhotra and Ms. Sugandha Yadav, Advocates.

For the Defendants : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G M E N T

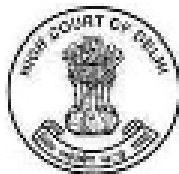
TUSHAR RAO GEDELA, J.

1. The present suit has been filed seeking a decree of permanent injunction to restrain the defendants from infringement of registered Patent no.209816, damages, rendition of accounts, delivery up and costs.

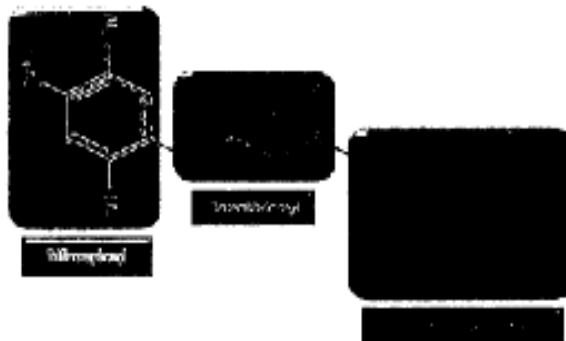
2. The facts as stated in the plaint are that Plaintiff no.1, Merck Sharp & Dohme Corp., is the owner of the Indian Patent No.209816 (hereinafter referred to as '*the suit patent*') that covers, amongst other molecules, a molecule having an International Non-Proprietary Name (INN), SITAGLIPTIN, which has the following chemical structure:-

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3. It is stated that the said molecule was invented by the plaintiff no.1, which holds patents for the same in 102 countries worldwide and commercially sells the same in India under the brand/commercial name JANUVIA. It is also stated in the plaint that the plaintiff no.1 manufactures another product which is a combination of SITAGLIPTIN and another drug known as METFORMIN HCI which falls under the protection afforded to the suit patent. It is stated that the said combination is sold by plaintiff no.1 under the brand/commercial name JANUMET. The plaintiff also sells its invention under the brand name ISTAVEL and ISTAMET.

4. The plaintiff no.2, Sun Pharmaceutical Industries Ltd., is the licensee of plaintiff no.1 for marketing, distributing and selling SITAGLIPTIN and SITAGLIPTIN & METAFORMIN combination covered and claimed under the suit patent in India under the trademarks ISTAVEL® and ISTAMET and also the licensee of the plaintiff no.1 for the suit patent.

5. As per the plaint, the cause of action arose towards the end of May, 2018 when the plaintiffs learnt about the defendants' listing of infringing product 'SEPAMET-XR' on www.1mg.com. It is claimed that on investigation, the advertisements of the defendants' product containing the

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suit patent were also found on several other third party websites such as www.mednear.com and www.mims.com.

6. It is stated that the investigator of the plaintiffs had placed orders for the defendants' product on various websites, however, the order was cancelled on every occasion. The investigator had also contacted the number available on the defendants' website and spoke to Mr. Pravin, who revealed that 90% of the defendant no.5's products are exported and confirmed that SITAGLIPTIN is only exported and is not available in the domestic market. It is stated that thereafter, the plaintiffs learnt about the defendants' commercial export of the infringing product SEPAMET-XR through data received from Seair Exim Solutions. Aggrieved thereof, the present suit was filed in August, 2018.

7. This Court had granted *ex-parte ad interim* injunction *vide* order dated 16.08.2018 in favour of the plaintiffs, restraining the defendants from manufacturing, using, selling, distributing, advertising, exporting, offering for sale and in any other manner, directly or indirectly, dealing in any product that infringes the suit patent of the plaintiffs or any of the claims thereof, including SITAGLIPTIN or any of its pharmaceutically acceptable salts such as Sitagliptin Phosphate Monohydrate as well as any Sitagliptin containing products.

8. On 01.10.2018, the defendants entered appearance and were directed to file their Written Statement. On 09.01.2019, defendant nos.5 & 6 moved an application bearing I.A. No.143/2019 seeking condonation of delay in filing their Written Statement, which was allowed subject to costs of Rs.5000/-.

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9. The defense set up by the defendants is that the defendants are not exporting any infringing product and do not intend to domestically launch the infringing product across the country. It has also been stated that the defendants are not responsible for listings of third party e-commerce websites and that any incorrect information being displayed on such websites cannot be attributed to the defendants. The defendants further denied that SITAGLIPTIN or its various stereo-isomeric forms are covered by the claims of suit patent of the plaintiffs, and that the plaintiffs have an exclusive right to prevent the infringement of the said suit patent. It has further been claimed that even if the defendants are exporting the infringing products outside India, the same does not give rise to any cause of action to file a suit before this Court. Further, it is claimed that the defendant nos.5 & 6 being based in Mumbai, manufacturing in Gujarat and having no branch, warehouse, manufacturing facility or any kind of business activity at all in Delhi, this Court lacks territorial jurisdiction to entertain the present suit.

10. On 16.07.2019, the learned counsel who was then appearing for the defendants, on instructions, stated that it is the stand of the defendants that they are not manufacturing the drug, SEPAMET-XR 50/500 mg, however, upon plaintiffs seeking an injunction order, learned counsel sought further time for instructions. Thereafter, on 02.02.2019, the counsel for defendants had stated that he intended to move an application seeking discharge. On 28.11.2022, the application moved by the counsel for the defendants seeking discharge from the matter on account of having not received instructions from the defendants, was allowed.

11. On 11.11.2023, the defendant nos.1 to 6 were served through substituted service by way of publication. Thereafter, on 12.12.2024, as

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neither any of the defendants had appeared nor the Written Statement was filed, the Court had closed the right of the defendants to file Written Statement.

12. On 07.03.2024, the Court, while observing that none had been appearing on behalf of the defendants despite Court notice and substituted service carried out through publication, proceeded the defendants *ex-parte*. On the same day, the plaintiffs had informed the Court that the suit patent has since lapsed on 05.07.2022 and therefore, any injunction orders will be infructuous. Thus, the relief in the suit was restricted to costs and damages against the defendants and accordingly, the plaintiffs were directed to file an affidavit of evidence relating to costs and damages.

13. As directed, the plaintiffs filed the affidavit of evidence of PW-1, Yashodhara Ghorpade. On 05.07.2024, the plaintiffs stated that there is no need for examination of PW-1 since the plaintiffs are only pressing for limited relief of damages, in view of the judgement dated 20.10.2023 delivered by this Court in ***Puma SE vs. Ashok Kumar***, CS(COMM) 703/2022.

14. Since Mr. Pravin Anand, learned counsel for the plaintiff had made a statement that the subject patent had lapsed on 05.07.2022, the only relief remaining for the plaintiffs to seek is costs and damages thus, this Court is restricting its judgment only *qua* the said relief.

15. It is a matter of record that though a Written Statement was filed on behalf of defendant nos.5 & 6 and a replication thereto was also filed by the plaintiffs (but with delay), however, the defendant nos.1 to 6, out of whom defendant nos.1 to 4 were/are the Directors of defendant no.5, were proceeded *ex-parte* on 07.03.2024. Neither was any application seeking

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recall of the order dated 07.03.2024 proceeding the defendant nos.1 to 6 *ex-parte*, filed by any of the defendants, nor had any of such defendants even otherwise appeared before the Court after they were proceeded *ex-parte* on 07.03.2024.

16. Since the defendants had neither appeared after 07.03.2024 nor did they participate in the suit proceedings, the defense raised in the written statement not having been proved and established by leading evidence, it would not be possible for this Court to consider any of such defenses on behalf of the defendants.

17. On behalf of the plaintiffs, the affidavit of evidence of Ms. Yashodhara Ghorpade, as PW-1 was filed wherein the witness has generally deposed in support of the pleadings in the plaint and stated that plaintiff no.1 is a leading pharmaceutical company dedicated to discovering, developing and providing pharmaceutical products that prevent and cure diseases worldwide. Plaintiff no.2 is stated to be a licensee of plaintiff no.1 for marketing, distributing and selling SITAGLIPTIN products in India. PW-1 asserts that the defendants were found to be advertising and selling infringing SITAGLIPTIN tablets under the brand name 'SEPAMET-XR' on third party e-commerce websites like www.1mg.com, www.mednear.com and www.mims.com. Subsequent data search of import and export of SITAGLIPTIN drug tablets under the brand name 'SEPAMET-XR' revealed that the same had been exported by defendant no.5 on multiple occasions.

18. PW-1 further deposed in the affidavit that one of the methods for computation of damages to compensate the plaintiffs can be by taking into consideration the value of illegal profits earned by the defendants in the

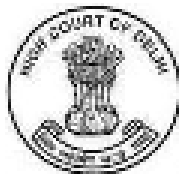
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course of their infringing activities. She further deposed that the exports by the defendants from September, 2017 to November, 2017 were obtained from one Seair Exim Solutions which prepares trade data for different countries across the globe. The data received from Seair Exim Solutions, alongwith the copy of e-mail, is extracted hereunder:-



SERIAL	DATE	HS CODE	DESCRIPTION	QUANTITY	UNIT	FROM	TO	CURRENCY	TOTAL AMOUNT IN US\$
827636	3004	1-Sep-17	33043000 MED CAL SUPPLIES SITAGLUPTIN PHARMACEUTICALS TABLETS (JANGLIPTIN)	5	PKT			USD	5
827637	3004	1-Sep-17	33043000 MED CAL SUPPLIES SITAGLUPTIN PHARMACEUTICALS TABLETS (JANGLIPTIN)	2	PKT			USD	2
827638	3004	1-Sep-17	33043000 MED CAL SUPPLIES SITAGLUPTIN PHARMACEUTICALS TABLETS (JANGLIPTIN)	100	PKT			USD	100
827639	3004	1-Sep-17	33043000 MED CAL SUPPLIES SITAGLUPTIN PHARMACEUTICALS TABLETS (JANGLIPTIN)	100	PKT			USD	100
827640	3004	1-Sep-17	33043000 MED CAL SUPPLIES SITAGLUPTIN PHARMACEUTICALS TABLETS (JANGLIPTIN)	100	PKT			USD	100

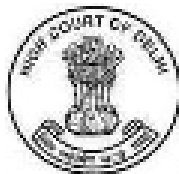
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FOOI NR	Rate INR	FOOI USD	Conversion Rate	ForeignPort	ForeignCountry	IndianPort	EC	IndianCompany
817.25	63.45	5	63.45	AMHERSTON	TURKMENISTAN	Hyderabad Air Cargo	20000000	TAJ PHARMACEUTICALS LTD
126.9	63.45	2	63.45	AMHERSTON	TURKMENISTAN	Hyderabad Air Cargo	20000000	TAJ PHARMACEUTICALS LTD
2183273.25	63.7	34274.30534	63.7	AMHERSTON	TURKMENISTAN	Hyderabad Air Cargo	20000000	TAJ PHARMACEUTICALS LTD
2531331.42	63.7	39738.32684	63.7	AMHERSTON	TURKMENISTAN	Hyderabad Air Cargo	20000000	TAJ PHARMACEUTICALS LTD
229401.75	63.7	3601.283359	63.7	AMHERSTON	TURKMENISTAN	Hyderabad Air Cargo	20000000	TAJ PHARMACEUTICALS LTD

Address1	Address2	City	ForeignCountry	Address	Phone No	QSR
434 JOM PLAZA JOM VOLISTATE SHAWHUR ROAD NO 218 WIS	MULL	ULYSSA, TURKMENISTAN	MINISTRY OF HEALTH MEDICALL	MULL	+9967726217	SHYOM
431 JOM PLAZA JOM VOLISTATE SHAWHUR ROAD NO 218 WIS	MULL	ULYSSA, TURKMENISTAN	MINISTRY OF HEALTH MEDICALL	MULL	+9967726217	SHYOM
434 JOM PLAZA JOM VOLISTATE SHAWHUR ROAD NO 218 WIS	MULL	ULYSSA, TURKMENISTAN	MINISTRY OF HEALTH MEDICALL	MULL	+9967726217	SHYOM
434 JOM PLAZA JOM VOLISTATE SHAWHUR ROAD NO 218 WIS	MULL	ULYSSA, TURKMENISTAN	MINISTRY OF HEALTH MEDICALL	MULL	+9967726217	SHYOM
434 JOM PLAZA JOM VOLISTATE SHAWHUR ROAD NO 218 WIS	MULL	ULYSSA, TURKMENISTAN	MINISTRY OF HEALTH MEDICALL	MULL	+9967726217	SHYOM

19. The chart indicating the exports and their value in Indian rupees has been exhibited as Ex.PW1/2 and is made a part of the affidavit, which is reproduced hereunder:-

S.No.	Particulars	Qty	Value in USD	Value in INR	Exchange Rate in 2017
1.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	5	5	317.25	63.45
2.	Medical Supplies Sitagliptin Phosphate Working Standard Vial	2	2	126.9	63.45
3.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	2208	34274.30534	2183273.25	63.7
4.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	2560	39738.32684	2531331.42	63.7
5.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	232	3601.283359	229401.75	63.7
	TOTAL	5007	77,620,9154	49,44,450.57	NA

20. The witness also estimated the period of infringement from September, 2017 till the date of grant of injunction in the month of August, 2018, which would be a period of 12 months. Reckoning the exports for a period of three months from September, 2017 to November, 2017 and the period of infringement, if considered to be 12 months, the approximate sales made by the defendants at the exchange rate on the date of export, if taken into consideration, would be assessed approximately at Rs.1,97,77,800/-. The witness also stated that if a profit margin of 25% is assumed, the same would be well over Rs.49,44,450/-. The witness relied

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upon an Article titled “*Follow the money: the flow of funds in the pharmaceutical system*” by Leonard D. Schaeffer Centre for Health Policy and Economics which is stated to be exhibited as Ex.PW-1/3 wherein the statistical estimation that generic manufacturers typically enjoy has been estimated to be atleast 50% profit margin of the illegal sales made by them. The witness further stated that in the present case, the plaintiffs are restricting their claim only to 25% as a conservative estimate.

21. The witness also asserted and deposed that the plaintiffs are also entitled to, apart from compensatory damages, an award of punitive and exemplary damages. In support of the deposition, the witness has also exhibited as Ex.PW-1/4, the printouts from Wayback Machine which are stated to be evidence of the defendants advertising the enjoined product for sale even in 2021. The witness states that the grant of punitive and exemplary damages may be reckoned following the treble damages rule, in addition to the actual costs incurred by the plaintiffs. In para 12 of the affidavit of evidence, the witness has listed out the legal costs as incurred by the plaintiffs, amounting to Rs.21,67,074/-. Adding the same to the claim of damages to the extent of Rs.49,44,450/- on account of compensatory damages, would bring the total to Rs.71,11,524/-.

22. This Court has heard the arguments of Mr. Pravin Anand, learned counsel for the plaintiffs and perused the records of the case and proceeds to consider the merits of the claims.

23. For the purposes of grant or entitlement of plaintiffs to seek compensatory damages, it may be worthwhile to take into consideration the judgment of this Court in ***Koninlijke Philips & Ors. vs. Amazestore and Ors.*** 2019 SCC OnLine Del 8198, wherein the Court had calculated

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damages on the basis of the profits made by the infringers. The relevant paragraphs of *Koninlijke Philips (supra)* is extracted hereunder:-

“26. A Coordinate Bench of this Court in Inter Ikea Systems B.V. v. Sham Murari, 2018 SCC OnLine Del 11221 has awarded compensatory damages in favour of the Plaintiffs, after considering the principles enshrined in Hindustan Unilever (supra) in the following terms:—

“24. In the present case, the Plaintiffs do not claim direct damages on account of any actual losses suffered by them. The losses claimed by the Plaintiffs are intangible loss, dilution, loss of confidence and trust of customers and exemplary damages due to disregard of the principle of fair trading. Under Section 73 of the Indian Contract Act, 1872, damages can be both direct and indirect. However, the nature of damages claimed in the present case, are for violation of trademark rights. While this Court does not wish to encourage any party, which misleads the trademark authorities, the question is whether a false affidavit filed before the trademark office can by itself form the basis of grant of exemplary damages. The documents placed on record point to the fact that the Defendants had actually registered the domain name www.ikeaindustries.com only on 7th May, 2014. The Defendant No. 3 firm was formed on 2nd May, 2014 and the VAT registration was obtained on 11th September, 2014. Clearly, the user claimed by the Plaintiffs in its trademark application filed by Defendant No. 4, Shilpa Metal Industries was completely incorrect. Thus as on the date when the ex-parte injunction was granted, i.e., 22nd December, 2014, the Defendants may have merely used the mark for a few months. Thus, on the basis of the inventory prepared by the Local Commissioner, which according to the Plaintiffs is worth Rs. 67,44,800/- and according to the Defendants is worth approximately Rs. 25,00,000/-, the Court takes the value of the said products to be in the range of Rs. 25 lakhs to Rs. 30 lakhs, as the said products were not sold. Even treating the said stock to be the stock of one month, the total turnover of the Defendants for three months from September to December 2014, could not have been more than Rs. 1 crore. This is a rough and ready estimate on the basis of the seizure made. Since the Defendants would have had to sell these products with proper dealer/retailer margins, the profit is estimated at 15% of the total value of the products, which comes to about Rs. 15 lakhs. In view of the tests laid down in Rookes

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and Cassell, the present is not a case for award of punitive damages.

25. The Defendants' conduct has been far from bonafide. The manner in which misleading statements have been made and a false affidavit has been filed before the trademark registry also calls for the award of exemplary costs, as the trademark authority is a quasi-judicial authority and any party filing an affidavit before the said authority should do so with a complete sense of responsibility. Under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 read with the Delhi High Court (Original Side) Rules, 2018, actual costs can be awarded to the party. The cost sheet has been placed on record by the Plaintiff. This Court is of the opinion that costs of Rs. 10 lakhs are liable to be imposed upon the Defendants. Half of the said sum would be paid to the Plaintiff and the other half shall be deposited in favour of the 'Controller General of Patents, Designs and Trade marks'. The amount of Rs. 5 lakhs shall be retained in a fund by the Controller General and shall be utilised for providing legal assistance for those trade mark applicants and patent applicants who require legal aid or assistance for paying official fees or other fees.

26. The suit is thus decreed for damages of Rs. 15,00,000/- and costs of Rs. 10,00,000/-. Out of the cost of Rs. 10,00,000/-, Rs. 5,00,000/- would be payable to the Plaintiffs. Remaining amount of Rs. 5,00,000/- shall be deposited with the Controller General of Patents, Designs and Trademarks. Thus the Plaintiffs are entitled to a sum of Rs. 20,00,000/- towards general damages and costs."

27. This Court is satisfied with the evidence led by the Plaintiffs and the arguments advanced by the learned counsel for the Plaintiffs that a conservative margin of profit of 20% can be assumed in the present suits while assessing the actual damages payable by the Defendants.

28. As regards the compensatory damages payable qua piracy of registered design, though Mr. Anand submitted that they should be computed after making some realistic assumptions, this Court is of the view that as the compensatory damages payable in relation to violation of trade-dress and copyright have already been computed by the Plaintiffs, it is not necessary to go into a separate computation of damages for the violation of rights vested in the Plaintiffs' registered design.

29. As the Defendants have wilfully and repeatedly infringed the Plaintiffs' rights as vested in their copyright, trade dress and design, the Plaintiffs are



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entitled to an award of compensatory damages to the extent of Rs. 69,96,000/- payable by M/s. Omni Exim Private Limited and Rs. 1,45,75,000/- which is to be paid jointly and severally by M/s. Nova Manufacturing Industries Limited (NOVA) and M/s. Badri Electro Supply and Trading Company (BESTCO) LLC."

24. The plaintiffs also relied upon Rule 20(ii) of the Delhi High Court Intellectual Property Rights Division Rules, 2022 (IPD Rules) in support of the prayer for award of compensatory damages, which is extracted hereunder:-

"20. Damages/Account of profits –

A party seeking damages/account of profits, shall give a reasonable estimate of the amounts claimed and the foundational facts/account statements in respect thereof along with any evidence, documentary and/or oral led by the parties to support such a claim. In addition, the Court shall consider the following factors while determining the quantum of damages:

(i) Lost profits suffered by the injured party;

(ii) Profits earned by the infringing party;

(iii) Quantum of income which the injured party may have earned through royalties/license fees, had the use of the subject IPR been duly authorized;

(iv) The duration of the infringement;

(v) Degree of intention/neglect underlying the infringement;

(vi) Conduct of the infringing party to mitigate the damages being incurred by the injured party;

In the computation of damages, the Court may take the assistance of an expert as provided for under Rule 31 of these Rules."

[Emphasis supplied]

25. In support of the aforesaid prayer, the plaintiffs have placed on record, alongwith documents, the computation of compensatory damages on the basis of illegal profits earned by the defendants through exports from September, 2017 to November, 2017. The said table is extracted hereunder:-



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2.	Medical Supplies Sitagliptin Phosphate Working Standard Vial	2	2	126.9	63.45
3.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	2208	34274.30534	2183273.25	63.7
4.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	2560	39733.32684	2531331.42	63.7
5.	Medical Supplies Sitagliptin Phosphate 100 mg TABLETS (DIA GLIPTIN)	232	3601.283359	229401.75	63.7
	TOTAL	5007	77,620.9154	49,44,450.57	NA

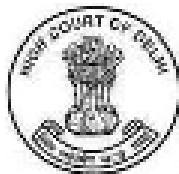
The aforesaid calculations are stated to be on the basis of relevant information obtained from one Seair Exim Solutions which revealed the data of the defendants undertaking export of the infringing products for a period of three months i.e. September, 2017 to November, 2017. Apart from the above, as the injunction order was passed in the month of August, 2018, the period of infringement has been estimated to be for a period of one year from September, 2017 to August, 2018. Based thereon, if the approximate sales for the said period of three months from September, 2017 to November, 2017 are assessed at Rs.49,44,450/-, on a multiplier of 4 (four quarters of a year) for 12 months, the approximate figure for one year would be Rs.1,97,77,800/-, which remains unchallenged. A 25% profit margin would approximately be Rs.49,44,450/-. Thus, the plaintiffs are found entitled to compensatory damages to the extent of Rs.49,44,450/-.

26. In so far as the relief sought for exemplary damages is concerned, the plaintiffs have contended that the defendants were well aware of the rights of the plaintiffs in the subject patent and even after having been enjoined by this Court *vide* order dated 16.08.2018, they appear to be willfully violating the rights of the plaintiffs and disobeying the said injunction

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order. This assertion is based on the copies of the advertisement of the infringing product being offered for sale on e-pharmacies in January, 2021, April, 2021 as well as August, 2021, which have collectively been marked and exhibited as Ex.PW-1/4, and extracted hereunder:-

8/8/24, 6:00 PM Buy Sepamet-XR 50mg/1000mg Tablet 10'S online with fastest delivery across India - 3Meds.com

https://3meds.com/medicines/sepamet-xr-50mg-1000mg-tablet-10s.html

3MEDS

Search and add medicines

Home > Taj Pharma India Ltd > Sepamet-XR 50mg/1000mg Tablet 10'S

Sepamet-XR 50mg/1000mg Tablet 10'S

Manufacturer: Taj Pharma India Ltd

Content: Sitagliptin 50mg + Metformin 1000mg

Type: Tablet

Package Type: 10 Tablets

*Prescription Required

Offer Price: Rs. 308.00

MRP: Rs. 385.00 - 20.00% OFF

Qty: 1

ADD TO CART

Additional offers

- Free Delivery: Enjoy free delivery, if its order value is greater than INR,1500.
- Additional 5% Discount: Get additional benefit of 5% on order value if bag val greater than INR,5000.
- Free Medic: Get 5 free medicines (3 layer) if you make online payment.

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8:02, 03/01 PM Buy Separat-XR 50mg/1000mg Tablet 10'S online with fastest delivery across India - 3Meds

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Separat-XR 50mg/1000mg Tablet 10'S

Manufacturer: 3M Pharma India Ltd
Generic: Simvastatin 50mg + Metformin 1000mg
Type: Tablet
Package Type: 10 Tablets
*Prescription Required

Offer Price: Rs. 308.00
~~MRP: Rs. 308.00~~ **2800% OFF**

Qty:

ADD TO CART

Additional offers

- ✓ Free Delivery: If you have delivery, it is free for you as greater than Rs.1000.
- ✓ Additional 10% Discount: On additional purchase of 20 or more items, if you add greater than Rs.2000.
- ✓ Free 10% Cash Back: On additional purchase of 20 or more items, if you add greater than Rs.2000.

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27. The plaintiffs further assert that the manufacture of the infringing product SEPAMET-XR led to the infringement of the suit patent which posed serious public health risks as consumers were at a risk of receiving sub-standard medicines, believing them to be from the plaintiffs' quality-assured manufacturing facilities. The plaintiffs have also relied upon a number of judgments passed by this Court as well as by other High Courts in support of the relief of exemplary damages. Some of those are *Whatman International Limited vs. Paresh Mehta & Ors.: 2019 SCC OnLine Del 6856*, *Glenmark Pharmaceuticals vs. Curetech Skincare and Galpha Laboratories Ltd.: 2018 SCC OnLine Bom 11559* and *Blue Heaven Cosmetics Pvt. Ltd. vs. Shivani Cosmetics: 2022 SCC OnLine Del 1523*. The ratio laid down by the said judgments is in favour of entities such as the plaintiffs in the present case, for grant of exemplary damages in similar cases.

28. Apart from the ratio laid down by the aforesaid judgments, what propels this Court towards the relief of exemplary damages is the fact that the defendants had altogether stopped appearing after they were proceeded *ex-parte* on 07.03.2024, and since the affidavit of evidence of PW-1 was neither rebutted nor any counter evidence was produced or placed on record by the defendants, this Court is inclined to grant exemplary damages to the tune of Rs.10 Lakhs in favour of the plaintiffs.

29. So far as the relief of legal costs are concerned, PW-1 in para 12 of the evidence by way of her affidavit has deposed that the plaintiffs had, (i) affixed Rs.1,98,000/- towards payment of Court Fees on the suit plaint, (ii) incurred expenses of Rs.1,20,731.21/- on account of having filed the present suit and also; (iii) incurred an expense of Rs.18,48,343.30/- on

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account of payment of legal fees. All the aforesaid expenses stated to have been incurred are supported by the affidavit of PW-1, Ms. Yashodhara Ghorpade. In view of the observations made in para 28 above and no rebuttal to the said affidavit of PW-1 by the defendants, there is no reason why this Court should not believe the statement of expenses incurred by the plaintiffs, therefore, the plaintiffs would be entitled to a total sum of Rs.21,67,074/- as costs.

30. Accordingly, the suit is hereby decreed in favour of the plaintiffs and against the defendants in terms of para 102(b) and 102(d) of the prayer clause in the plaint. The plaintiffs are entitled to, (i) a sum of Rs.49,44,450/- as compensatory damages; (ii) a sum of Rs.10,00,000/- as exemplary damages; and (iii) a sum of Rs.21,67,074/- as costs, to be paid by the defendants jointly and severally.

31. Decree sheet be drawn up accordingly.

32. The present suit, alongwith pending applications, stands disposed of.

**TUSHAR RAO GEDELA
(JUDGE)**

JANUARY 23, 2026/kct/rl