

IN THE COURT OF SH. SANDEEP YADAV,
DISTRICT JUDGE (COMMERCIAL)-03, SOUTH,
SAKET COURTS, NEW DELHI

CS DJ/525/2021
CNR No. DLST01-0087342021

M/s. Shubham Goldiee Masale Pvt. Ltd.
51/40, Goldiee House
Nayaganj, Kanpur-208001
Uttar Pradesh

.... **Plaintiff**

Versus

Rama Biswas
Proprietor M/s. DSK Group
Madhya Kasipur
Behind Reshembagan School
Near Reshembagan Post Office
Agartala-799008, Tripura

... **Defendant**

Date of institution of petition : 11.11.2021
Date of reserving judgment : 09.09.2025
Date of pronouncement : 25.10.2025

Ex. PARTE J U D G M E N T

1. Plaintiff M/s. Shubham Goldiee Masale Pvt. Ltd. filed this suit seeking permanent injunction restraining infringement of trademark, passing off, delivery up, etc. Case of plaintiff as culled out from the plaint is a under:-

2. Plaintiff M/s. Shubham Goldiee Masale Pvt. Ltd., a company duly incorporated under the Indian Companies Act, 1956, is engaged in the

business of manufacturing, marketing and processing of wide range of food products for human consumption including spices, tea and other allied and related goods under the trademark/label GOLDIEE and GOLDIEE formative trademarks/labels. Word GOLDIEE is also forming material part of the Plaintiffs Trade Name and the same is the housemark of the Plaintiff.

3. Plaintiff through its predecessors adopted the said trademark/label in the year 1980 and has been using it continuously and uninterruptedly through its predecessors. Plaintiff in order to get statutory protection in its said trademark/label, has got its said trademark, the Plaintiff has got its said trademarks/labels GOLDIEE/



registered under the Trade Marks Act, 1999 in various classes including 30, 43, 35, 39, 32, 31, 30, etc.

4. The said registration of the above Trademarks stands renewed from time to time by the Trademark Registry and the said trademarks, on account of renewal, are valid and subsisting in favor of the Plaintiff Company till date. Plaintiff also exports the said goods bearing said trademark/label GOLDIEE in various countries and the Plaintiff has also filed application for registration in various countries such as Bangladesh, Canada, Europe, Sri Lanka, UAE, USA and Nepal.

5. Plaintiffs said goods and business under the said trademark/label have acquired tremendous goodwill and reputation in the market. Plaintiff's yearwise sales are given in the plaint as under :

Year	Turnover in Rs.
1987-1988	12,566,929/-
1988-1989	19,497,953/-
1989-1990	20,219,386/-
1990-1991	33,900,230/-
1991-1992	57,679,268/-
1992-1993	78,394,530/-
1993-1994	80,941,660/-
1994-1995	96,591,304/-
1995-1996	127,619,550/-
1996-1997	185,908,499/-
1997-1998	229,307,805/-
1998-1999	315,619,896/-
1999-2000	361,541,482/-
2000-2001	434,407,906/-
2001-2002	501,707,005/-
2002-2003	633,808,964/-
2003-2004	736,690,017/-
2004-2005	765,424,470/-
2005-2006	1,108,807,668/-
2007-2008	1,347,917,420/-
2008-2009	1,825,379,861/-
2009-2010	2,296,692,374/-

2010-2011	2,806,684,012/-
2011-2012	2,746,753,392/-
2012-2013	2,970,544,597/-
2013-2014	3,900,935,283/-
2014-2015	4,786,481,903/-
2015-2016	5,670,626,328/-
2016-2017	5,831,540,088/-
2017-2018	6,258,907,653/-
2018-2019	6,777,421,605/-
2019-2020	7,692,552,594/-

6. Plaintiff has been continuously promoting its said goods and business under their said trademark through print audio/visual media advertisements and publicity in leading newspaper distributions of trade literature trade hoardings and boards etc.

7. Plaintiff also carries on its business through its domain name/website www.goldiee.com <https://www.goJdieeonlinestore.com/>, which contains extensive information about goods and business provided by the Plaintiff. Plaintiffs goods are also available online on its website <https://www.goldieeonlinestore.com/>.

8. Defendant Rama Biswas, Proprietor of M/s DSK Group, is engaged in the business of tea, popcorns, spices (hereinafter referred to as "the impugned goods and/or business") as sole proprietor thereof. Defendant has adopted the mark/logo



in relation to his impugned goods, wherein the word/mark GOLDEY form essential part.

9. Plaintiff in the 1st week of October, 2021 came across the impugned trademark of the Defendant while making an online search on the website of trademark registry, wherein the Defendant applied for registration of the impugned mark on 16.04.2019 as "proposed to be used" basis for impugned goods i.e. tea, popcorns, spices. Even the Registrar in the examination report cited Plaintiffs registration bearing nos. 3677000, 696960 and 2776290 in class 30 and objected to the said application seeking reply from Defendant. Defendant in its reply to the said examination report falsely stated that competing trademarks are different and malafidely claiming that he has applied with honest and bonafide intentions and started using the same. From the reply to examination report, it is clear that the defendant is adamant to use the impugned trademark for impugned goods.

10. It is stated that Plaintiff has not come across the goods of defendant under the impugned trademark in tangible form, however, since the application for registration has been filed on all India basis and Defendant is pursuing the same, there is every intention on the part of the Defendant to use the same within the jurisdiction of this Court if not used as yet.

11. Impugned trademark adopted and being used (which includes the intended or threatened use) by Defendant in relation to their impugned goods and business are identical with and deceptively similar to the Plaintiff's said trademark **GOLDIEE** in each and every respect including

phonetically, visually, structurally, in its basic idea and in its essential features. Word **GOLDEY** is the essential feature of the impugned trademark. Defendant is using false description on its impugned goods to wrongly link the impugned goods with the plaintiff and to wrongly convey to the public and customers that the impugned goods are coming from the source and origin of the plaintiff. The impugned goods and business of defendant under the impugned trademark is also same/similar/allied/cognate to that of the plaintiff. Defendant is not the proprietor of the impugned trademark and has adopted and is so using the same in relation to his impugned goods and business and is otherwise dealing with it in the course of trade without the leave and license of the plaintiff. Defendant has no right to use it in any manner in relation to its impugned goods and business or for any other specification of goods and business whatsoever being in violation of the plaintiff's rights vested in the Plaintiffs said trademark/label.

12. Plaintiff in the suit prayed as under :-

a) For a decree of permanent injunction restraining the defendant by itself as also through its individual proprietors/partners, agents, representatives, distributors, assigns, heirs, successors, stockists and all others acting for and on their behalf from using, selling, soliciting, exporting, displaying, advertising through print, visual or electronic media including on internet or by any other mode or manner dealing in or using the impugned trademark **GOLDEY** and/or any other word/mark/name which may be identical with and/or deceptively similar to the plaintiff's said trademark and trade name **GOLDIEE** in relation to their impugned

goods and business of Tea, Popcorns, Spices and related/allied/cognate products and from doing any other acts or deeds amounting to or likely to:

(i) Infringement of plaintiff's registered trademark bearing registration nos. 367000; 696960 and 2776290 in class 30.

(ii) Passing off their goods as those of the Plaintiff by use of the word/mark GOLDEY.

(b) Restraining the defendant from disposing off or dealing with his assets including its premises at the addresses mentioned in the Memo of Parties and stocks-in-trade or any other assets as may be brought to the notice of the Court during the course of the proceedings and on the defendant disclosure thereof and which the defendant is called upon to disclose and/or on its ascertainment by the plaintiff as the plaintiff is not aware of the same as per Section 135(2)(c) of the Trade Marks Act, 1999 as it could adversely affect the plaintiff's ability to recover the costs and pecuniary reliefs thereon.

(c) For an order for delivery up of all the impugned finished and unfinished materials bearing the impugned and violative trademark and/or any other word/mark/label which may be identical with and/or deceptively similar to the plaintiff's said trademark GOLDIEE including its blocks, labels, display boards, sign boards, trade literatures etc. to the plaintiff for the purposes of destruction and erasure.

(d) For an order for rendition of accounts of profits earned by the defendant by their impugned illegal trade activities and a decree for the amount so found in favour of the plaintiff on such rendition of accounts.

(e) for an order for cost of proceedings.

13. Summons of the suit and notice of the application under Order 39 Rule 1 & 2 CPC were issued to defendant. Summons were duly served on defendant. Defendant failed to appear despite service of summons and accordingly, defendant was proceeded ex-parte vide order dated 28.05.2025. Thereafter, plaintiff led evidence by examining PW 1 Nirmal Singh as the sole plaintiff witness. PW 1 Nirmal Singh substantially corroborated the version given in the plaint particularly about adoption and use of trademark GOLDIEE of plaintiff, sales figure of plaintiff and promotion & advertisement of trademark GOLDIEE by plaintiff in physical mode as well as on social media and application filed by defendant for registration of its trademark GOLDEY PW 1 Nirmal Singh proved the following documents :-

- 1). True representation of the plaintiff's registered trademarks/ trade label/ trade dress are as **Ex.PW1/1 (colly)**.
- 2). Screenshot of plaintiff's website are as **Ex.PW1/2 (colly)**.
- 3). Representation of impugned trademark are as **Ex.PW1/3 (colly)**.
- 4). Copy of plaintiff's trademark registration certificate and status and related documents are as **Ex.PW1/4 (colly)**.
- 5). Year wise sales of the plaintiff are as **Ex.PW1/5 (colly)**.
- 6). Copy of invoices of the plaintiff are as **Ex.PW1/6 (colly)**.
- 7). Copy of bill of advertisement and some of the advertisements are as **Ex.PW1/7 (colly)**.
- 8). Copy of the order passed in favour of the plaintiff by the court are as **Ex.PW1/8 (colly)**.
- 9). Copy of the examination report, reply by the defendant are as **Ex.PW1/9 (colly)**.

10). Copy of legal proceeding certificates are as **Ex.PW1/10 (colly)**.

11). Extract of resolution are as **Ex.PW1/11 (colly) (OSR)**.

12). Copy of Board resolution passed by the Board of Directors of Shubham Goldiee Private Limited dated 14.02.2025 as **Ex.PW1/11 (OSR)**.

14. Plaintiff through the testimony of PW 1 Nirmal Singh and documents exhibited therein succeeded in proving that plaintiff is the proprietor of trademark GOLDIEE and is prior adoptor of same. Plaintiff has also proved on record the documents viz. Ex. PW-1/4 and Ex. PW-1/10 to establish registration of plaintiff's trademark. PW 1 Nirmal Singh also proved yearwise sales figures of plaintiff by proving sales figures Ex. PW-1/5 and invoices Ex. PW-1/16. PW 1 Nirmal Singh also proved representation of trademark of defendant and application filed by defendant before Trademarks Registry of its impugned trademark GOLDEY as Ex. PW-1/3. Thus, PW 1 Nirmal Singh substantially proved the case set out in the plaint.

15. Testimony of PW 1 Nirmal Singh went unchallenged in cross examination as defendant was ex-parte. Court sees no reason to disbelieve the testimony of PW 1. Since, defendant was ex-parte and did not file written statement nor cross examined PW 1, therefore, the averments of plaint and deposition of PW 1 went unrebutted and are deemed to have been admitted by defendant. Reliance in this regard was placed on ***Coty Germany GMBH Vs. Xeryus Retail Pvt. Ltd. & Anr.*** decided by Hon'ble High Court of Delhi on 21.07.2023. Although, as per the averments of

plaint and deposition of PW 1, defendant has not actually entered the market with its products having impugned trademark, however, the fact that defendant filed an application before Trademark authority for registration of its impugned trademark gives rise to an apprehension that defendant can use the impugned trademark GOLDEY in future.

16. *In 2019 SCC Online Del 6956 – Shree Rajmoti Industries Vs. Rajmoti Foods Products*, it was held that ***filing of the application means that the person concerned is either already using the mark or intending to use the mark in the course of trade.*** It was further held that ***application under Section 18 of the Act can be filed only by a person, who claims to be the proprietor of the trademark, either by user or proposed user. Thus, for every trademark application, the person filing, has to do so with the intention of claiming proprietary rights in the mark.*** It was further held that ***filing of the application is clearly an imminent and a grave threat that if the mark is not already in use, it is likely to be used.***

17. The impugned trademark GOLDEY has striking phonetic similarities with the trademark GOLDIEE of plaintiff. Consumer of ordinary prudence is likely to be misled by the impugned trademark of defendant believing it to be the trademark of plaintiff. Thus, the impugned trademark of defendant is deceptively similar to the trademark GOLDIEE of plaintiff and is likely to cause confusion in the minds of consumer of average intelligence.

18. From the above discussion, it is clear that plaintiff is entitled to decree of permanent injunction as prayed for. Accordingly, suit of plaintiff is decreed in terms of prayer (a)(i) & (a)(ii) of the suit.

19. Ms. Suvarna Singh, Id. Counsel for plaintiff, also prayed for compensatory and punitive damages. Although, there is no prayer for damages in the suit, however, since defendant failed to appear despite service and did not co-operate in the proceedings, defendant is liable to be burdened with cost. Accordingly, it is held that plaintiff will also be entitled to cost of Rs. 5 lacs to be paid by defendant to the plaintiff within a period of six weeks from the date of this order.

Decree sheet be prepared accordingly.

File be consigned to **Record Room**.

Announced in the open court
on 25.10.2025

(**Sandeep Yadav**)
District Judge (Commercial)-03
South, Saket Courts, New Delhi.