

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
ORDINARY ORIGINAL COMMERCIAL JURISDICTION

C.S.(COMM.) No. OF 2024

CODE NO:

IN THE MATTER OF:

DABUR INDIA LIMITED
HAVING ITS REGISTERED OFFICE AT:
8/3 ASAF ALI ROAD
NEW DELHI 110002
THROUGH ITS AUTHORISED SIGNATORY
Vishesh Kumar
EMAIL: vishesh.kumar@dabur.com

..... PLAINTIFF

VERSUS

1. PATANJALI AYURVED LIMITED
HAVING ITS REGISTERED OFFICE AT:
3RD FLOOR, PLOT NO. 231,
SECTOR 9, DWARKA, RAJ NAGAR-II,
SOUTH-WEST DELHI,
NEW DELHI - 110077
EMAIL: corporate@patanjaliayurved.org
2. PATANJALI FOODS LIMITED
HAVING ITS REGISTERED OFFICE AT:
616, TULSIANI CHAMBERS,
NARIMAN POINT, MUMBAI – 400021

ALSO AT:
PATANJALI FOOD AND HERBAL PARK,

VILLAGE PADARTHA, LAKSAR ROAD,
HARIDWAR (UTTARAKHAND) – 249404
EMAIL: info@patanjalifoods.co.in

..... DEFENDANTS

SUIT FOR PERMANENT & MANDATORY INJUNCTION,
DAMAGES FOR DENIGRATION, DISPARAGEMENT AND
DEFAMATION, UNFAIR COMPETITION RENDITION OF
ACCOUNTS AND DELIVERY UP, ETC.

Most respectfully showeth:

1. The Plaintiff is filing the present plaint in respect of the print advertisement issued by the Defendants on newspaper (in short the “Impugned Print Ad”), and television commercial (the “Impugned TVC”) telecast on television, collectively referred to as “Impugned Advertisements” for its product *Patanjali Special Chyawanprash* (an Ayurvedic drug/medicine as defined under Section 3 (a) of the Drugs & Cosmetics Act, (in short the “D&C Act”), with the deliberate intent to disparage and denigrate *DABUR Chyawanprash* (a classical Ayurvedic Drug/ Medicine under Section 3(a) of the D&C Act), manufactured and marketed by the Plaintiff since 1949, and all other Chyawanprash (classical ayurvedic drug/medicine) in general, constituting generic disparagement.

2. Chyawanprash is an ancient formulation, developed over 5,000 years ago in ancient India for sage Chyawan. Over centuries, the formulation of Chyawanprash has been reproduced in various authoritative ayurvedic texts including *Rasa Tantra Sara Va Siddha Prayoga Samgraha (R.T.S. VA. S.P.S)*, *Charak Samhita*, *Ayurveda Sar Sangraha*, *Sharangadhar Samhita*, *Ayurvedic Formulary of India* and many more which now forms part of Authoritative Books on Ayurveda specified under First Schedule of The Drugs and Cosmetic Act.

3. The therapeutic benefits of '*Chyawanprash*' are known for many years and it has been recommended for Preventive, Promotive and Curative Health Benefits, aligning with the fundamental principles of Ayurveda, viz, sustenance of health and elimination of diseases. Chyawanprash helps to balance the three doshas —Vata, Pitta, and Kapha (bodily humors/bio energies regulating the structure and biofunctions of the human body). Its benefits include providing strength, stamina, as potent antioxidant and adaptogenic, providing energy and boosting immunity, as tonic, rejuvenator, anabolic and memory enhancer. The properties and therapeutic

benefits of Chyawanprash like alleviating respiratory disorders - cough, asthma, hoarseness of voice, heart disease, boosting immunity, and overall health etc. have also been acknowledged in various Authoritative texts on Ayurveda specified under First Schedule of The Drugs and Cosmetics Act, 1940, like Charak Samhita, Ayurveda Sar Sangraha, Rasatantasar va Siddha Prayog Sangraha, Ayurvedic Formulary of India, etc. The Impugned Advertisements, generically disparages and denigrates Chyawanprash as a class, including *DABUR Chyawanprash* manufactured/ marketed by the Plaintiff as well as ancient Indian medicines, ethos and history.

4. In this context, it is relevant to submit that Section 3 (a) of the D&C Act *inter alia*, defines “*ayurvedic medicine*” and in terms thereof, all Ayurvedic medicines must be “*manufactured exclusively in accordance with the formulae described in, the authoritative books of Ayurvedic...systems of medicine, specified in the First Schedule*” to the D&C Act. Only subject to compliance thereof, manufacturing license is granted by the State AYUSH Licensing Authority, for manufacture of ayurvedic medicines. If an ayurvedic

medicine is not manufactured “*exclusively*” as per the *formulae* prescribed on one of the authoritative books of Ayurveda specified in the First Schedule to the D&C Act, the same would not fall under Section 3(a) of the D&C Act and no manufacturing license would be granted.

5. In addition, under Section 3 (h)(i) of the D&C Act, a ‘*patent on proprietary ayurvedic medicine*’ can be manufactured, if it contains “*only such ingredients mentioned in the formulae described in the authoritative books of Ayurveda... of medicine specified in the First Schedule...*”, and a ‘*formulation*’ included in the First Schedule. To paraphrase, for manufacture of a *patent or proprietary ayurvedic medicine*, the manufacturer can use only the ingredients mentioned in the authoritative books listed in the First Schedule to the D&C Act, and such manufacturer must adopt the *formulation* specified in the First Schedule to the D&C Act.

6. Hence, whether a manufacturer manufactures an “*ayurvedic*” medicine (as defined in Section 3 (a) of the D&C Act) or a “*patent or proprietary ayurvedic medicine*”, (as defined in Section 3 (h) (i) of the D&C Act), the manufacturer can use only the *ingredient* and

formulae set out in one of the authoritative books listed in the First Schedule to the D&C Act. Consequently, an ayurvedic medicine manufactured adopting the *ingredients* and *formulae* (listed in one authoritative ayurveda book listed in the First Schedule) cannot be stated to be fake or inferior or ordinary in comparison to another ayurvedic medicine manufactured, adopting the ingredients and formulae (listed in another authoritative ayurveda book, listed in the First Schedule), cannot be called as being in non-compliance with ayurveda (therefore not an ayurvedic medicine), or ineffective, or ordinary or spurious and consumers should reject/shun such ayurvedic medicines.

7. In the Impugned TVC and in the Impugned Print Ad, the Defendant has made the following fallacious & deliberate misstatements and serious comparison, denigrating / defaming classical ayurvedic medicine i.e., *DABUR Chyawanprash* and also causes generic denigration/ disparagement of Chyawanprash in the market, in which category Plaintiff's *DABUR Chyawanprash* is a market leader with a market share of more than 60%, constituting generic denigration/ disparagement:

- (a) The Defendants claim only *Patanjali Special Chyawanprash* is ‘*original*’ / authentic; therefore it is a ‘*Special*’ and ‘*Shreshtham / Sarv-Shreshth*’ Chyawanprash, made in accordance with “*Charak, Sushrut, Dhanwantari, Chyawan sage tradition*” and manufacturers of other Chyawanprash in the market, have no knowledge of this tradition/ Ayurvedic Texts, in fact do not have the *know-how* to manufacture Chyawanprash in accordance with the Ayurvedic Texts and they are all fake / ‘ordinary’.
- (b) The Impugned TVC opens with a statement, “*Jinko Ayurved aur Vedo ka gyaan nahi... original chyawanprash kaise bana payenge*” (English: “*Those who do not have any knowledge of Ayurveda and Vedas.. how will they prepare original Chyawanprash?*”), i.e., other manufacturers of Chyawanprash have no knowledge of Ayurveda or Vedas, therefore they are not Chyawanprash at all. Further, the Defendants proceed to claim that only *Patanjali Special Chyawanprash* is made, in accordance with the texts

prescribed by “*Maharishi Charak Sushrut, Dhanvantari Chyavan Rishi.*”

- (c) In essence, the Defendants make a brazen claim in the Impugned TVC and in the Impugned Print Ad that only the ayurvedic book used by the Defendant is the “*original method*” /*formulae* to make Chyawanprash, thereby rubbishing other Ayurvedic books ‘*stipulated*’ in the First Schedule of the D&C Act. Consequently, the suggestion made is that Chyawanprash made, with ingredients and formulae stipulated in other Ayurvedic books, though in existence and followed for thousands of years and stipulated in the First Schedule to the D&C Act, are not Chyawanprash/ayurvedic medicines at all. Therefore, they are fake, deficient, ineffective, ordinary, sub-standard/spurious, consequently do not provide any health benefits, including immunity and must not be purchased/ consumed.
- (d) Further, the Defendants suggest in the Impugned TVC that consumers including “*maasoom bacche*” i.e., adults and infants should reject other Chyawanprash as they are

‘ordinary’, and instead take only ‘*special*’ / ‘*original*’ *Patanjali Special Chyawanprash* which is extraordinary, special and is filled with immunity boosting ingredients as per the texts of “*Maharishi Charak Sushrut, Dhanvantari Chyavan Rishi.*”

- (e) In the Impugned TVC and in the Impugned Print Ad, the Defendant has made a bold claim that its *Patanjali Special Chyawanprash* is made of ‘51 Ayurvedic herbs (jadi bootiyon)’ and has ‘Saffron (kesar)’ (total 52 Ayurvedic herbs) and therefore, it is the ‘*Special*’ and ‘Shreshtham/ Sarv-Shreshth’ Chyawanprash in comparison to other Chyawanprash with 40 odd ayurvedic herbs which are ordinary and therefore other Chyawanprash must not be purchased/ consumed. In this context, it is stated that the book ‘Ayurved Sar Sangraha (A.S.S)’ (which is one of the First Schedule books based on which the Defendant claims to have based the preparation of its Chyawanprash) in its formulae for Chyawanprash prescribes ingredients like Ghrit (ghee), Khanda/Chini/Mishri (sugar), Shukti Bhasma (Powder), Abhrak Bhasma (Powder), Srnga Bhasma (Powder),

Makardwaj (Powder), and Chandi Ka Vark which though are 'ayurvedic ingredients' but are not classified as 'Ayurvedic Herbs'. The said fact is also clear from the label of *Patanjali Special Chyawanprash*, that the product may contain 47 ayurvedic herbs including saffron (kesar) but not 51 or 52 ayurvedic herbs as claimed in the Impugned Advertisements. Hence, this claim in the Impugned Advertisement is false, misleading and against consumer interest and amounts to denigrating other Chyawanprash in the market including Dabur Chyawanprash.

- (f) In this context, it is relevant to state that on advertisement material, the Plaintiff advertises that Dabur Chyawanprash contains 40+ ayurvedic herbs (Dabur Chyawanprash contains a total of 55 ayurvedic ingredients); hence it is amply clear that the Impugned Advertisements are targeted at Dabur Chyawanprash, manufactured/marketed by the Plaintiff calling it ordinary, not-original/ fake, inferior and ineffective with an intention to malign, defame and denigrate Dabur Chyawanprash.

(g) In fact use of words 'original', 'Special' and/ or 'Shreshtham/ Sarv-Shreshth' by the Defendant as a prefix to the name of the classical ayurvedic medicine "Chyawanprash" tantamount to misleading viewers/ consumers into believing that Defendants' Chyawanprash is an extra-ordinary product in comparison to other Chyawanprash in the market including Plaintiff's Dabur Chyawanprash and is a clear violation of Rule 157 (1-B) of the Drugs Rules which was introduced to prohibit manufacturers from making such misleading comparisons by specifically prohibiting ASU Drugs manufacturers from using any 'prefix' or 'suffix' with the name of any Ayurvedic drug falling under Section 3(a) of the D&C Act, except as described in the authoritative books. The book Ayurveda Sar Sangraha describes a formulation as Chyawanprash (special) but the manner in which Defendant is writing 'special' as prefix is misleading and use of words like 'original' and 'Shreshtham/ Sarv-Shreshth' as prefix is in violation of Rule 157 (1-B) of the Drugs Rules.

(h) It is submitted that the intent and overall effect of the Impugned Advertisements are to negatively portray other Chyawanprash in the market, including *DABUR Chyawanprash*, and to tarnish / defame and denigrate the entire category as *ordinary* (therefore no ayurvedic medicine), by conveying a message that they are not prepared as per '*correct ayurvedic texts*, therefore they are inferior, sub-standard, spurious, deficient in boosting immunity. Hence, consumers should opt for *Patanjali Special Chyawanprash* to provide immunity. In this context, it is relevant to state that Chyawanprash is consumed/taken during winter months as it can help boost immunity and fight common infections like cold and cough, and the Impugned Advertisement has been issued with the express intention to denigrate/disparage all other Chyawanprash in the market, to boost *Patanjali Special Chyawanprash* during winter months.

8. It is relevant to that the Plaintiff is a market leader in the Chyawanprash product category having a market share of 61.60% (MAT as at October 2024).

9. The reputation of the Plaintiff company has been built over a century with painstaking effort and huge investments. The Petitioner was the first to commercially launch Chyawanprash in 1949. Over 75 years, the Plaintiff has built a huge reputation for *DABUR Chyawanprash*, and it is an iconic mark with immeasurable brand recognition, recall and goodwill.

10. It is relevant to state that the Defendants have been repeatedly making fallacious claims about the efficacy of its ayurvedic medicines/ products, and even the Hon'ble Supreme Court has taken note of the same and passed adverse Orders. Also, the Defendants have disparaged other classical ayurvedic products and FMCG products in the past and restraint Orders issued against them by Hon'ble Courts.

THE PLAINTIFF:

11. The Plaintiff - Dabur India Limited was founded in 1884 by a visionary ayurvedic doctor from Bengal - Dr. S.K. Burman, whose mission was to provide effective and affordable cure for ordinary people in far-flung villages, across India. In pre-Independent India,

ayurvedic medicines were prepared by individual ayurvedic Doctors, based on their understanding of ancient Indian ayurvedic texts and the composition varied, depending upon the understanding of the individual ayurvedic Doctor. As it is well known, large wealth of information/ formulations is available in our Ayurvedic texts; hence there was no uniformity in the formulations.

12. Dr. S.K. Burman introduced scientific and specific manner of preparation of ayurvedic formulations and with his extensive knowledge of ancient ayurvedic texts, he was able to introduce several medications, for diseases/ medical conditions, which were prevalent during his times. In fact, due to his tireless efforts Dr. S.K. Burman was able to make available ayurvedic drugs across and with ceaseless commitment and efforts, the Plaintiff became synonymous with ayurvedic medicine. The name DABUR achieved a secondary meaning and in most parts of India, ayurvedic medicines were referred to as DABUR medicines.

13. In 1896 the Plaintiff, established its first production unit at Garhia and in 1919, it pioneered in establishing a R&D unit. In the early 1900s the Plaintiff identified nature based Ayurvedic

medicines as its area of specialization and commenced mass production of Ayurvedic medicines. The Plaintiff is the first legal entity in India, to provide health care through scientifically tested and automated production of formulations based on our traditional ayurvedic science. In the early 1930s, the Plaintiff again pioneered automation and upgradation of manufacture of Ayurvedic medicine etc. In 1936 – the Plaintiff was incorporated as a private limited company under the (Indian) Companies Act, 1913.

14. Over the past 140 years, the Plaintiff has grown into a large entity, manufacturing and marketing diverse range of wellness/ healthcare products including Chyawanprash, Honey, Glucose, Pudina Hara, Honitus & other Ayurvedic products under the iconic trademark “DABUR”. DABUR is ranked among the top five FMCG brands in India for several years. The turnover of the Plaintiff is Rs. 12,404 crores for FY 2023-24.

15. The Plaintiff manufactures and markets approximately 450 ayurvedic medicines and wellness products, out of which 72 are extensively advertised on 179 television channels across India; hence have a huge recall value among consumers. The Plaintiff's

products also have huge presence across the globe and its products are available in more than 120 countries, and it is highly popular in the Middle East, SAARC countries, Africa, US, Europe and Russia.

HISTORY OF CHYAWANPRASH AND ITS THERAPEUTIC PROPERTIES:

16. As stated above, the history of Chyawanprash dates back to 5,000 years and over centuries, the ingredients and *formulae* for Chyawanprash was spread through word of mouth and it appeared in written form in the ancient Ayurvedic text, *Charaka Samhita*, in a section called “*The Place of Chikitsa*”. *Chikitsa* means treatment or medicine, and it lists recipes and tonic preparations.

17. The recipe to manufacture Chyawanprash is reproduced in various authoritative publications titled *Rasa Tantra Saar Va Siddha Prayog Sangraha*, *Charak Samhita*, *Ayurveda Sar Sangraha*, *Sharangadhar Samhita*, which form part of the First Schedule of the D&C Act. Only if the medicine is manufactured in accordance with any of the age-old recipes in these texts, can it be categorized as Chyawanprash.

18. ‘DABUR Chyawanprash’ is a classical Ayurvedic Drug/ Medicine falling under the definition under Section 3 (a) of the D&C Act. For ease of reference, the said definition is extracted below:

“Ayurvedic, Siddha or Unani drug” includes all medicines intended for internal or external use for or in the diagnosis, treatment, mitigation or prevention of disease or disorder in human beings or animals, and manufactured exclusively in accordance with the formulae described in, the authoritative books of Ayurvedic, Siddha and Unani Tibb system of medicine, specified in the First Schedule;”

19. The Plaintiff is manufacturing ‘Chyawanprash’ as per formulae prescribed in ‘Rasa Tantra Saar Va Siddha Prayog Sangraha’ and the Plaintiff has a valid and subsisting manufacturing license issued by the AYUSH State Licensing Authority, Himachal Pradesh.

20. Chyawanprash preparation involves preparing a decoction of herbs, followed by dried extract preparation, subsequent mixture with honey, and addition of aromatic herb powders. Amalaki or Amla (Indian gooseberry) fruits is a major ingredient of Chyawanprash. In addition, more than 40 well recognized ayurvedic

herbs are included. In Chyawanprash, Amalaki is mixed with a large number of medicinal herbs as well as anupans (or carrier substances) etc.

21. The therapeutic benefits of '*Chyawanprash*' are known for many years and it has been recommended for Preventive, Promotive and Curative Health Benefits, aligning with the fundamental principles of Ayurveda, viz, sustenance of health and elimination of diseases. Chyawanprash helps to balance the three doshas —Vata, Pitta, and Kapha (bodily humors/bio energies regulating the structure and biofunctions of the human body). Its benefits include providing strength, stamina, potent antioxidants and adaptogenic, providing energy and boosting immunity, as tonic, rejuvenator, anabolic and memory enhancer.

22. The properties and therapeutic benefits of Chyawanprash like alleviating respiratory disorders - cough, asthma, hoarseness of voice, heart disease, boosting immunity, and overall health etc. have also been acknowledged in various Authoritative texts on Ayurveda specified under First Schedule of The Drugs and Cosmetics Act,

1940, like Charak Samhita, Ayurveda Sar Sangraha, Rasatantasar va Siddha Prayog Sangraha, Ayurvedic Formulary of India, etc.

23. In fact, the Ministry of AYUSH, Government of India, has suggested that Chyawanprash should be taken in the morning to boost immunity. In addition, there are large number of Articles in peer reviewed international and Indian medical journals, where medical professionals have acknowledged the medicinal properties of Chyawanprash, including *DABUR Chyawanprash* as an immunity booster.

24. However, by the Impugned Advertisements the Defendant seeks to denigrate and disparage Chyawanprash (as a class including *DABUR Chyawanprash* which is the market leader), by claiming that manufacturers of Chyawanprash, including the Plaintiff do not have any knowledge about preparation of Ayurvedic Medicines including Chyawanprash, and since they are not prepared as per the Ayurvedic Text - “*Ayurved Sar Sangraha*,” (adopted by the Defendant), they are not ‘*original*’/ ‘*authentic*’ / ‘*shreshtam*’ or special but they are fake, spurious and ordinary.

DABUR CHYAWANPRASH:

25. As stated above, the Plaintiff being a pioneer in popularizing and ensuring availability of ayurvedic medicines across India, in 1949, commercially launched *DABUR Chyawanprash* Avaleha (*DABUR Chyawanprash*) based on the ancient ayurvedic texts, (which exists for thousands of years in India). Since then, the Plaintiff is continuously manufacturing and marketing *DABUR Chyawanprash*.

26. The ingredients of *DABUR Chyawanprash* (as listed in the ancient ayurvedic book listed in the First Schedule to the D&C Act) are set out below, for ease of reference:

| |
|---|
| <i>DABUR CHYAWANPRASH</i> |
| CHYAWANPRASH AWALEHA (Ras Tantra Saar Va Siddha Prayog Sangraha) |
| Ingredients: |
| 1. Patala (Stereospermum suaveolens, St. Bk.) |
| 2. Agnimantha (Clerodendrum phlomidis, St. Bk.) |
| 3. Gambhari (Gmelina arborea, St. Bk.) |
| 4. Bilva (Aegle marmelos, St. Bk.) |
| 5. Shyonaka (Oroxylum indicum, St. Bk.) |
| 6. Gokshura (Tribulus terrestris, Fr.) |
| 7. Shalaparni (Desmodium gangeticum, Pl.) |
| 8. Prishniparni (Uraria picta, Pl.) |
| 9. Brihati (Solanum indicum, Pl.) |
| 10. Kantkari (Solanum surattense, Pl.) |
| 11. Pippali (Piper longum, Fr.) |

12. Karkatshringi (*Pistacia integerrima*,Gl.)
13. Draksha (*Vitis vinifera*, Dr.Fr.)
14. Guduchi (*Tinospora cordifolia*,St.)
15. Haritaki (*Terminalia chebula*,P.)
16. Bala (*Sida cordifolia*,Rt.)
17. Tamalaki (*Phyllanthus niruri*,Pl.)
18. Vasa (*Adhatoda vasica*,Lf.)
19. Jiwanti (*Leptadenia reticulata*,Pl.)
20. Shati (*Heydichium spicatum*,Rz.)
21. Musta (*Cyperus rotundus*,Rz.)
22. Pushkara (*Inula recemosa*,Rt.)
23. Kakanasika (*Martynia annua*,Ft.)
24. Mudgaparini (*Phaseolus trilobus*,Pl.)
25. Mashparini (*Teramnus labialis*,Pl.)
26. Vidari (*Pueraria tuberosa*,Rt. Tr.)
27. Punarnava (*Boerhavia diffusa*,Rt.)
28. Utpala (*Nymphaea stellata*,Fl.)
29. Sukshmaila (*Elettaria cardamomum*,Fr.)
30. Agar (Substitute-Tvak (*Cinnamomum zeylanicum*,St.Bk.)
31. Chandan Shweta (*Santalum album*,Ht.Wd.)
32. Riddhi (*Dioscorea bulbifera*- official substitute, Rt.Tr.)
33. Vriddhi (*Dioscorea bulbifera*- official substitute, Rt.Tr.)
34. Meda (*Asparagus racemosus*- official substitute,Rt.)
35. Mahameda (*Asparagus racemosus*- official substitute,Rt.)
36. Jiwak (*Pueraria tuberosa*- official substitute,Rt. Tr.)
37. Rishbhak (*Pueraria tuberosa*- official substitute,Rt. Tr.)
38. Kakoli (*Withania somnifera*- official substitute,Rt.)
39. Kshirkakoli (*Withania somnifera*-official substitute,Rt.)
40. Amalaki (*Emblica officinalis*,Fr.,Fr. Pulp)
41. Ghee
42. Tila tail (*Sesamum indicum*,oil)
43. Sharkara
44. Madhu
45. Tvak(*Cinnamomum zeylanicum*,St.Bk.),
46. Vamsha (*Bambusa bambos*, S.C.)
47. Tvakpatra (*Cinnamomum tamala*,lf.)
48. Nagkesara (*Mesua ferrea*,Stmn.)
49. Abhrak Bhasma

- | |
|--|
| <p>50. Mukta Pishti 51. Akarkarabha (Anacyclus pyrethrum,Rt.) 52. Lavanga (Syzygium aromaticum,Fl.Bd.) 53. Kumkum (Crocus sativus,sty./stg.) 54. Pippali (Piper longum) 55. Sukshamaila (Elettaria cardamomum)</p> |
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27. Chyawanprash has made major strides as an Over the Counter [“OTC”] ayurvedic medicine, since it entered the consumer market and it has multiple health benefits and addresses the preventive, promotive, and curative aspects of health. On regular intake, Chyawanprash maintains physiological functions and rejuvenates the whole-body system.

28. The Plaintiff has obtained Trademark Registrations for *DABUR Chyawanprash* which have been renewed from time to time and are valid and subsisting till date. Plaintiff’s *DABUR Chyawanprash* is a market leader in the Chyawanprash category and enjoys a substantial market share of 61.60% as per independent agency of international repute NeilsenIQ.

29. In view of the substantial time, money and manpower invested by the Plaintiff in advertising, publicizing and promoting DABUR Chyawanprash, nation-wide including through its website

and social media platforms, *DABUR Chyawanprash* has acquired an enviable reputation and goodwill all over India. The Plaintiff has spent huge amount on promotion of *DABUR Chyawanprash*. The details containing the all-India Annual Sales and Advertisement expenses of the Plaintiff from 2015 till 2023 with respect to *DABUR Chyawanprash* is given below:

| Year | Value (at consumer Prices) (Figures in Rs. Crores) | Advertisement, Branding and Promotion Expenses (Rs in Crore) Expenses (fig. in Crores) |
|---------|---|--|
| FY 2015 | 364.11 | 49.68 |
| FY 2016 | 314.13 | 54.36 |
| FY 2017 | 284.57 | 65.80 |
| FY 2018 | 318.33 | 58.75 |
| FY 2019 | 358.22 | 56.89 |
| FY 2020 | 415.32 | 60.70 |
| FY 2021 | 719.88 | 89.83 |
| FY 2022 | 683.65 | 75.41 |
| FY 2023 | 507.0 | 58.0 |

The above figures are extracted from the books of accounts maintained by the Plaintiff in the ordinary course of business and reflected in its Annual Accounts. Since the books of accounts and supporting documents are voluminous, the same are not being filed before this Hon'ble Court. The Plaintiff has filed the Certificate of a

Chartered Accountant who had certified the sale figures after inspecting and extracting the sales figures, from books of accounts maintained by the Plaintiff in the ordinary course of business and as required under the relevant statutes.

30. The Plaintiff's '*DABUR Chyawanprash*' is available on their official website <https://www.dabur.com/our-brand/dabur-chyawanprash> and through several well - known online marketplaces/ e-commerce websites like AMAZON, FLIPKART and JioMart. Additionally, the Plaintiff also owns and operates a website/domain i.e. <https://www.daburchyawanprash.com/> specifically dedicated for its well-known '*DABUR Chyawanprash*' ayurvedic medicine and it provides all related information.

31. It is submitted that the Plaintiff's '*DABUR Chyawanprash*' website is very popular amongst consumers, viewers and the public. Thus, even the term or the very idea of mentioning Chyawanprash is primarily associated in the minds of public with the Plaintiff's *DABUR Chyawanprash*.

32. With decades of history, the Plaintiff's *DABUR Chyawanprash* has thus earned widespread recognition for its health

benefits, particularly in boosting immunity and promoting overall well-being of public. It is relevant to state that the Plaintiff's *DABUR Chyawanprash* (and its variants) are available across India for all segments of the population, even in remote parts of the country.

33. The consumer base of *DABUR Chyawanprash* is widespread across age, regions, illiterate, semi-literate, literate, villagers, town folks, metro consumers, women, children (above 3 years), elderly, in short, the entire spectrum of consumers.

34. Such extensive and widespread consumption of *DABUR Chyawanprash* has made the ayurvedic medicine and the brand to be exclusively associated with the Plaintiff, by the average consumer.

THE DEFENDANTS:

35. The Defendant No.1 - Patanjali Ayurved Limited, is an existing 'company' under the Companies Act, 2013 and was founded by Mr. (Baba) Ramdev and Mr. Balkrishna, his associate. The Defendant No.1 Company manufactures various cosmetics, ayurvedic medicines, personal care and food products. It is submitted that Mr. (Baba) Ramdev is the brand ambassador of the

Defendant No.1 Company, who claims to be an expert in Yoga, Veda and Ayurveda in India.

36. The Defendant No.2 Company - Patanjali Foods Limited, is an existing '*company*' under the Companies Act, 2013 and was founded by Mr. (Baba) Ramdev and Mr. Balkrishna, his associate. The Defendant No.2 Company manufactures, markets and distributes various products of the Defendant No.1 Company. It is pertinent to state that Mr. (Baba) Ramdev is one of the Directors of the Defendant No.2 Company. Defendant No. 2 Company manufactures *Patanjali Special Chyawanprash*.

37. The past conduct of Defendants is placed before this Hon'ble Court for context. It is relevant to submit that the Defendant No.1 Company, on many occasions, was stated to have created /published misleading advertisements. Several Courts, including the Hon'ble Supreme Court, have issued directions against the Defendant No.1 Company prohibiting it from issuing / publishing misleading advertisements and claims, more specifically in relation to ASU Drugs / Medicines. Therefore, it is evident that the Defendant No.1 Company is not an innocent player / new entrant in the market.

IMPUGNED ADVERTISEMENTS:

38. On or about 11.12.2024, the Plaintiff came to know that the Defendants had produced and telecast the Impugned TVC regarding its product – *Patanjali Special Chyawanprash*. The Impugned TVC is being aired on national television channels (entertainment, news and religious) including on Colors, Star, Zee, Sony, Aaj Tak, ABP, IBC, India TV, News 18, Aastha, Sanskar, etc, available for viewership in New Delhi and other media and the Impugned Print Ad in newspapers including Dainik Jagran, New Delhi edition. The Plaintiff has reasonable knowledge that the Defendant is likely to expand its advertising campaign and start telecasting the Impugned TVC and Print Ad on a much larger scale in regional languages also.

39. The relevant screenshots from the Impugned TVC are extracted below and the complete storyboard has been filed as a document.

SCREENSHOT 1:

Voice Over (VO): *Jinko Ayurved or Vedon ka gyaan nahi*

Translation: *Those who do not possess any knowledge of Ayurveda or Vedas*

Suggestion: Plaintiff & other manufacturers of Chyawanprash do not have any knowledge of Ayurveda or Vedas, or authoritative ayurvedic texts/books



SCREENSHOT 2:

VO: *Charak Sushrut, Dhanvantri aur Chyawanrishi...*

Translation: *Charak Sushrut, Dhanvantri and Chyawanrishi*



SCREENSHOT 3:

VO: *...Ki Parampara ke Anuroop, original chyawanprash kaise bana payenge*

Translation: *In accordance with the said traditions / procedures, how will they prepare original Chyawanprash?*

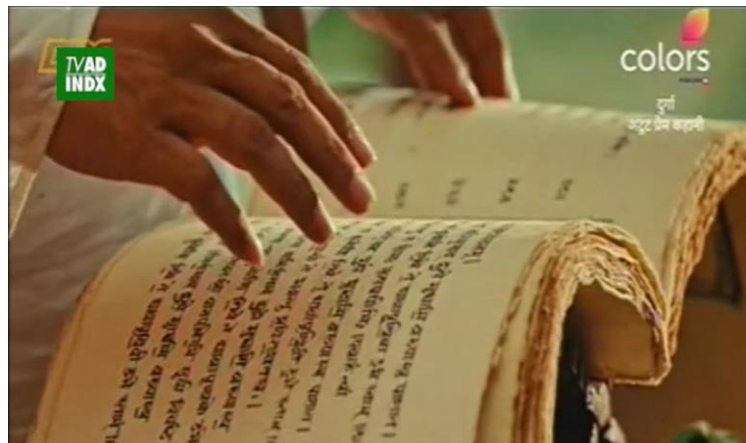
Suggestion: When they do not know anything about Ayurveda, how will they prepare 'original' Chyawanprash (in the tradition of sages like Charak Sushrut, Dhanvantri & Chyawanrishi, pioneers of Ayurveda)?

SCREENSHOT 4:

VO: *Humne Rishiyon ki Virasat*

Translation: *We, who possess the heritage of Sages*

Suggestion: Only the Defendant (& its brand ambassador Mr. Ramdev) knows the heritage & has the knowledge of Sages / Rishis.



SCREENSHOT 5:

VO: *Aur vigryan ke anusar 51 beshkeemti jadi bootiyon*

Translation: *And based on their (sages') knowledge, using 51 priceless medicinal herbs*



SCREENSHOT 6:

VO: *Aur kesar yukta*

Translation: *And with Saffron*



SCREENSHOT 7:

VO: *Patanjali Special Chyawanprash banaya*

Translation: *We prepare Patanjali Special Chyawanprash.*



SCREENSHOT 8:

VO: *Jo aapke shareer ko medical store banne se bachata hai*

Translation: *Which prevents your bodies from becoming a medical store.*

Suggestion: Only the Defendant possesses knowledge of Rishi-Munis, to prepare Special Chyawanprash with 51 priceless herbs,

which alone stops your bodies becoming a medical store. Therefore, other Chyawanprash will not give you the same benefit.



SCREENSHOT 9:

VO: *Aapke masson bacchon aur Parivar ke immunity ko badhata hai*

Translation: *And boosts the immunity of your innocent infants, children and families.*

Suggestion: Only Patanjali Special Chyawanprash which has 51 medicinal herbs boosts immunity, and other Chyawanprash do not provide immunity



SCREENSHOT 10:

VO: *Jab Shreshtam Patanjali chyawanprash hai...*

Translation: *When the best / original Chyawanprash (which has 51 medicinal herbs) is there...*



SCREENSHOT 11:

VO: *To ordinary chyawanprash kyu*

Translation: *...Why choose Ordinary Chyawanprash?*

Suggestion: When you have Defendant's 'original' Chyawanprash with 51 herbs, why go for 'fake' or spurious or ineffective Chyawanprash which are all ordinary!!



40. Apart from the above Impugned TVC, on 15.12.2024, the Defendant No.1 Company has also published a Print Ad for its

Patanjali Special Chyawanprash. An extract from an advertisement published on 15.12.2024 in Dainik Jagran (Delhi edition) is reproduced below, and is also being filed as a document:

18 दैनिक जागरण नई दिल्ली, 15 दिसंबर, 2024

पतंजलि

जब मुश्किल, चरक व च्यवन ऋषियों की परम्परा का सच्चा निरवाहन करने वाली आयुर्वेद के क्षेत्र में, दुनिया की श्रेष्ठ संस्थान पतंजलि द्वारा **51 जड़ी-बूटियों व केसर से निर्मित श्रेष्ठतम पतंजलि स्पेशल च्यवनप्राश** उपलब्ध है, तो 40 जड़ी-बूटियों वाला ऑर्डिनरी च्यवनप्राश क्यों ?

सर्दी-जुकाम, कफ-कोल्ड आदि से बचाकर रेस्पिरेटरी सिस्टम को स्ट्रॉन्ग बनाता है, सैकड़ों रोगों से लड़ने की ताकत देता है।
इम्युनिटी को बढ़ाने वाला आयुर्वेदिक सुपरफूड, जो बीमारियों से बचाकर सदा युवा रखता है।

बच्चों के सम्पूर्ण शारीरिक पोषण, शार्प मेमोरी, सुपर इम्युनिटी के लिए **बालप्राश** अवश्य खिलाएं।
शुगर पैरेंट के लिए **च्यवनप्रभा** (नो एड्ड शुगर) उपलब्ध है।



विश्व में पहली बार प्रतिष्ठित रिचर्स जर्नल प्रॉटियर इन कार्मिकोसॉसिटी में बेंबल पतंजलि च्यवनप्राश पर ही रिसर्च जर्नल प्रकाशित हुआ है। यह पेपर पतंजलि स्पेशल च्यवनप्राश को अल्फाग को रूप में प्रमाणित करता है, जो कि इन्फ्लेमेशन को दूर कर रोगों से लड़ने की शक्ति देता है।
www.ncbi.nlm.nih.gov/pmc/articles/PMC8633414/
ऑनलाइन खरीदें - www.patanjaliayurved.net | वॉटरमैन नंबर - 18021804103
OrderMe ऐप के माध्यम से भी ऑनलाइन पतंजलि उत्पाद ऑर्डर करें।

A. *False statement that the Plaintiff (and other manufacturers) do not possess any knowledge of Ayurvedic Texts for the preparation of Chyawanprash:*

41. As set out in the storyboard, the Impugned TVC, begins with the voice over - “*Jinko Ayurved aur Vedo ka gyaan nahi... original chyawanprash kaise bana payenge,*” to imply that the Plaintiff as well as other manufacturers of Chyawanprash do not possess an iota of knowledge about preparation of Chyawanprash (in accordance with authoritative Ayurvedic Texts) and hence the Chyawanprash manufactured and marketed by them are not Chyawanprash/ original Chyawanprash, which statement and representation is *ex-facie* false, malicious, disparaging and defamatory.

42. The brazen claim ought to be seen in light of the fact that the Plaintiff was the first entity to commercially launch *DABUR Chyawanprash Avaleha (DABUR Chyawanprash)* based on the ancient ayurvedic texts, in 1949, and since then it is continuously manufacturing and marketing. Whereas, from the data available on the website of the Ministry of Corporate Affairs, Govt. of India, the Defendant No.1 Company was incorporated only on 13.01.2006, therefore it is fallacious for the Defendant to claim that no other

manufacturer including the Plaintiff, possess any knowledge with respect to preparations of Chyawanprash based on ancient Ayurvedic Texts, listed in the First Schedule to the D&C Act.

43. Hence, by making a completely false and misleading statement that the Plaintiff (as well as other manufacturers) do not possess the knowledge of Ayurvedic Texts therefore, they do not prepare Chyawanprash in accordance with the prescribed texts, the Defendant has sought to defame, denigrate and paint a false image of the Plaintiff to the effect that the Plaintiff does not prepare Chyawanprash as per Ayurvedic Texts, and in fact does not even possess a license under the D&C Act, which is malicious.

44. In addition, the statement in the Impugned TVC i.e. *“Jinko Ayurved aur Vedo ka gyaan nahi... original chyawanprash kaise bana payenge,”* cannot be considered as mild puffery / boast, and the intention is to unequivocally state/ convey the message, to the average impressionable consumer that only the Defendant possesses the knowledge of Vedas and Ayurvedic Texts (riding on image created for its brand ambassador Mr. Ramdev) to prepare Chyawanprash, while other manufacturers, including the Plaintiff, do not possess any ‘gyaan’ / knowledge about manufacture of

Chyawanprash; therefore they are fake, inferior. The same clearly constitutes generic denigration, disparagement and defamation of the entire class of Chyawanprash, including *DABUR Chyawanprash* which is the market leader with more than 60% market share.

B. False statement in the Impugned Advertisement that only the Defendant's referenced Ayurvedic Text is authoritative to manufacture 'original Chyawanprash'; therefore, all other Chyawanprash are 'ordinary' and are not an ayurvedic medicine and are spurious:

45. The Defendant, in the Impugned TVC, proceeds to claim that its *Patanjali Special Chyawanprash* is prepared in accordance with the tradition of “*Maharishi Charak Sushrut, Dhanvantari Chyavan Rishi,*” and hence, is the ‘*original*’ / authentic Chyawanprash. Consequently, the allusion is other Chyawanprash in the market (prepared in accordance with other authoritative texts in the First Schedule of the D&C Act), are ‘ordinary’ or spurious. Such serious comparison is made between two ayurvedic medicines (falling under the same category Chyawanprash), which is impermissible under the scheme of the D&C Act and Rules made thereunder.

46. To substantiate, formulations of Chyawanprash are prescribed in ancient authoritative Ayurvedic texts listed in the First Schedule to the D&C Act, which is extracted below:

Drugs and Cosmetics Act, 1940

¹[THE FIRST SCHEDULE

[See section 3(a)]

²[A.—AYURVEDIC AND SIDDHA SYSTEMS]

| Serial No. | Name of book |
|-----------------------|--|
| | <i>Ayurveda</i> |
| 1. | Arogya Kalpadruma |
| 2. | Arka Prakasha |
| 3. | Arya Bhishak |
| 4. | Ashtanga Hridaya |
| 5. | Ashtanga Samgraha |
| 6. | Ayurveda Kalpadruma |
| 7. | Ayurveda Prakasha |
| 8. | Ayurveda Samgraha |
| 9. | Bhaishajya Ratnavali |
| 10. | Brihat Bhaishajya Ratnakara |
| 11. | Bhava Prakasha |
| 12. | Brihat Nighantu Ratnakara |
| 13. | Charaka Samihita |
| 14. | Chakra Datta |
| 15. | Gada Nigraha |
| 16. | Kupi Pakva Rasayana |
| 17. | Nighantu Ratnakara |
| 18. | Rasa Chandanshu |
| 19. | Rasa Raja Sundara |
| 20. | Rasaratna Samuchaya |
| 21. | ³ [Rasatantra Sara Va Siddha Prayoga Sangraha—Part I] |
| ⁴ [21 (a)] | Rasatantra Sara Va Siddha Prayoga Sangraha—Part II (Edition 2006)] |
| 22. | Rasa Tarangini |
| 23. | Rasa Yoga Sagara |
| 24. | Rasa Yoga Ratnakara |
| 25. | Rasa Yoga Samgraha |
| 26. | Rasendra Sara Samgraha |
| 27. | Rasa Pradipika |
| 28. | Sahasrayoga |
| 29. | Sarvaroga Chikitsa Ratnam |
| 30. | Sarvayoga Chikitsa Ratnam |
| 31. | Sharangadhara Samhita |
| 32. | Siddha Bhaishajya Manimala |
| 33. | Siddha Yoga Samgraha |
| 34. | Sushruta Samhita |
| 35. | Vaidya Chintamani |
| 36. | Vaidyaka Shabda Sindu |
| 37. | Vaidyaka Chikitsa Sara |
| 38. | Vidya Jiwan |
| 39. | Vasava Rajeeyam |
| 40. | Yoga Ratnakara |
| 41. | Yoga Tarangini |
| 42. | Yoga Chintamani |
| 43. | Kashyapasamhita |
| 44. | Bhelasamhita |
| 45. | Vishwanathachikitsa |
| 46. | Vrindachikitsa |

Drugs and Cosmetics Act, 1940

| Serial No. | Name of book |
|--------------------|---|
| 47. | Ayurvedachintamani |
| 48. | Abhinavachintamani |
| 49. | Ayurveda-Ratnakara |
| 50. | Yogaratanasangraha |
| 51. | Rasamrita |
| 52. | Dravyagunanighantu |
| 53. | Rasamanjari |
| 54. | Bangasena |
| ¹ [54A | ⁶ [Ayurvedic Formulary of India and its Parts) |
| 54B | Ayurveda Sara Samgraha] |
| ² [54C | Ayurvedic Pharmacopoeia of India.] |
| ³ [54D. | Ayurvedic Pharmacopoeia of India and its Parts.] |
| <i>Siddha</i> | |
| 55 | Siddha Vaidya Thirattu |
| 56 | Therayar Maha Karisal |
| 57 | Brahma Muni Karukkadai (300) |
| 58 | Bhogar (700) |
| 59 | Pulippani (500) |
| 60 | Agasthiyar Paripuranam (400) |
| 61 | Therayar Yamagam |
| 62 | Agasthiyar Chenduram (300) |
| 63 | Agasthiyar (1500) |
| 64 | Athmarakshamrutham |
| 65 | Agasthiyar Pin (80) |
| 66 | Agasthiyar Rathna Churukkam |
| 67 | Therayar Karisal (300) |
| 68 | Veeramamuni Nasa Kadam |
| 69 | Agasthiyar (600) |
| 70 | Agasthiyar Kanma Soothiram |
| 71 | 18 Siddar's Chillarai Kovai |
| 72 | Yog Vatha Kaviyam |
| 73 | Therayar Tharu |
| 74 | Agasthiyar Vaidya Kaviyam (1500) |
| 75 | Bala Vagadam |
| 76 | Chimittu Rathna (Rathna) Churukkam |
| 77 | Nagamuni (200) |
| 78 | Agasthiyar Chillarai Kovai |
| 79 | Chikicha Rathna Deepam |
| 80 | Agasthiyar Nayana Vidhi |
| 81 | Yugi Karisal (151) |
| 82 | Agasthiyar Vallathi (600) |
| 83 | Therayar Thaila Varkam |
| ³¹ [84 | Siddha Formulary of India (Part I)] |
| ⁵ [85 | Siddha Formulary of India and its Parts] |

47. It is submitted that, irrespective of the authoritative books adopted to manufacture Chyawanprash, all such formulations manufactured in accordance with any one of the listed books, are regarded as Chyawanprash in terms of Section 3(a) of the D&C Act.

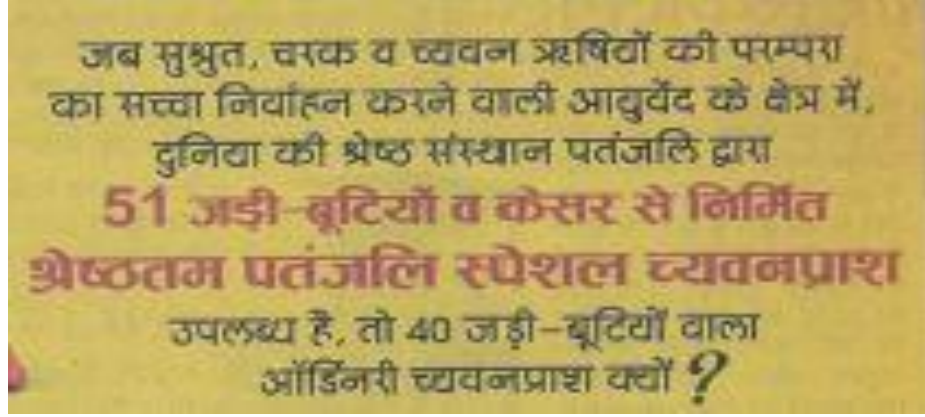
48. The Plaintiff prepares *DABUR Chyawanprash* as per Rastantrasara Va Siddha Prayoga Samgraha (at S.no. 21 & 21 (a) of the First Schedule).

49. However, by the Impugned Advertisement, the Defendant has conveyed an injurious falsehood (false to its knowledge) to consumers that a *shreshtam* / complete / the very best / original Chyawanprash can only be made as per formulae in the traditions of “*Maharishi Charak Sushrut, Dhanvantari Chyavan Rishi*” according to Ayurveda Sar Sangrah.

C. False statement in the Impugned Newspaper Advertisement that the Patanjali Special Chyawanprash is special / authentic / original because it contains 51 medicinal herbs. Consequently others which contain 40 herbs are ordinary, hence, to be rejected:

50. In the Impugned Print Ad, the Defendant has made a false claim that *Patanjali Special Chyawanprash* is ‘original’ / *shreshtam* / authentic because it is made with 51 medicinal ingredients and saffron whereas ‘ordinary’ Chyawanprash is made with only 40 medicinal ingredients, thereby suggesting to the unsuspecting consumer that ‘ordinary’ Chyawanprash are incomplete or deficient medicines, therefore, consumers should reject / shun other Chyawanprash and only choose *Patanjali Special Chyawanprash* .

51. For ease of reference, a screenshot of the false claim in the newspaper ad is extracted below:



Text: Jab Sushrut, Charak va Chyawan Rishiyo ki Parampara ka saccha nirvaahan waali Ayurved ke kshetra mei, duniyaa ki shresht sansthaan Patanjali dwaara 51 Jadi-Bootiyo va Kesar se nimrit, shreshtham Patanjali Special Chyawanprash uplabdh hai, toh 40 Jadi-Bootiyo waala Ordinary Chyawanprash kyo?

Translation: "When the best Patanjali Special Chyawanprash made from 51 medicinal herbs and saffron is available from the world's best institute Patanjali, in the field of Ayurveda, which is a true follower of the traditions of Sushrut, Charak and Chyawan Rishis, then why choose the 'ordinary' Chyawanprash made from 40 herbs?"

52. The defendant, a manufacturer of Chyawanprash, and a self-proclaimed flag-bearer of Ayurveda / Vedas (through Mr. (Baba) Ramdev) is aware that Chyawanprash formulations can be made,

only in terms of the ayurvedic texts listed in the First Schedule to the D&C Act, as they are “*ayurvedic medicines*” as defined in Section 3 (a) of the D&C Act. Also, the defendant ought to aware of the fact that and all Chyawanprash contain 47 or more ingredients. Hence the untruthful representation made by the Defendant, by way of serious comparison contained in the Impugned Print Ad, is fallacious (to their knowledge) and have been stated with a view to mislead consumers of other Chyawanprash, with falsity. It is settled law that untruthful comparison is impermissible.

53. The Defendant No.1 has made a bold claim that its *Patanjali Special Chyawanprash* is made of ‘51 Ayurvedic herbs (jadi bootiyon)’ and has ‘Saffron (kesar)’ (total 52 Ayurvedic herbs) and therefore, it is the ‘*Special*’ and ‘Shreshtham/ Sarv-Shreshth’ Chyawanprash in comparison to other Chyawanprash with 40 odd ayurvedic herbs which are ordinary and therefore other Chyawanprash must not be purchased/ consumed. In this context, it is stated that the book ‘Ayurved Sar Sangraha (A.S.S)’ (which is one of the First Schedule books based on which the Defendant claims to have based the preparation of its Chyawanprash) in its formulae for Chyawanprash prescribes ingredients like Ghrit (ghee),

Khanda/Chini/Mishri (sugar), Shukti Bhasma (Powder), Abhrak Bhasma (Powder), Srnga Bhasma (Powder), Makardwaj (Powder) and Chandi Ka Vark which though are 'ayurvedic ingredients' but are not classified as 'Ayurvedic Herbs'. The said fact is also clear from the label of *Patanjali Special Chyawanprash*, that the product contains 47 ayurvedic herbs including saffron (kesar) and not 51 or 52 ayurvedic herbs as claimed in the Impugned Advertisements. Hence, this claim in the Impugned Advertisement is false, misleading and against consumer interest and amounts to denigrating other Chyawanprash in the market including Dabur Chyawanprash.

54. In this context, it is relevant to state that on advertisement material, the Plaintiff advertises that Dabur Chyawanprash contains 40+ ayurvedic herbs (Dabur Chyawanprash contains a total of 55 ayurvedic ingredients); hence it is amply clear that the Impugned Advertisements are targeted at Dabur Chyawanprash, manufactured/marketed by the Plaintiff calling it ordinary, not-original/ fake, inferior and ineffective with an intention to malign, defame and denigrate Dabur Chyawanprash

55. For ease of reference, a snapshot of the ingredients listed/ printed on the Plaintiff's *DABUR Chyawanprash* label as well as the Defendant's *Patanjali Special Chyawanprash* is reproduced below. Also, a complete list of the ingredients in the Plaintiff's *DABUR Chyawanprash* label as well as the Defendant's *Patanjali Special Chyawanprash* is being filed as a separate document along with this Suit.

Ingredients in *DABUR Chyawanprash*:

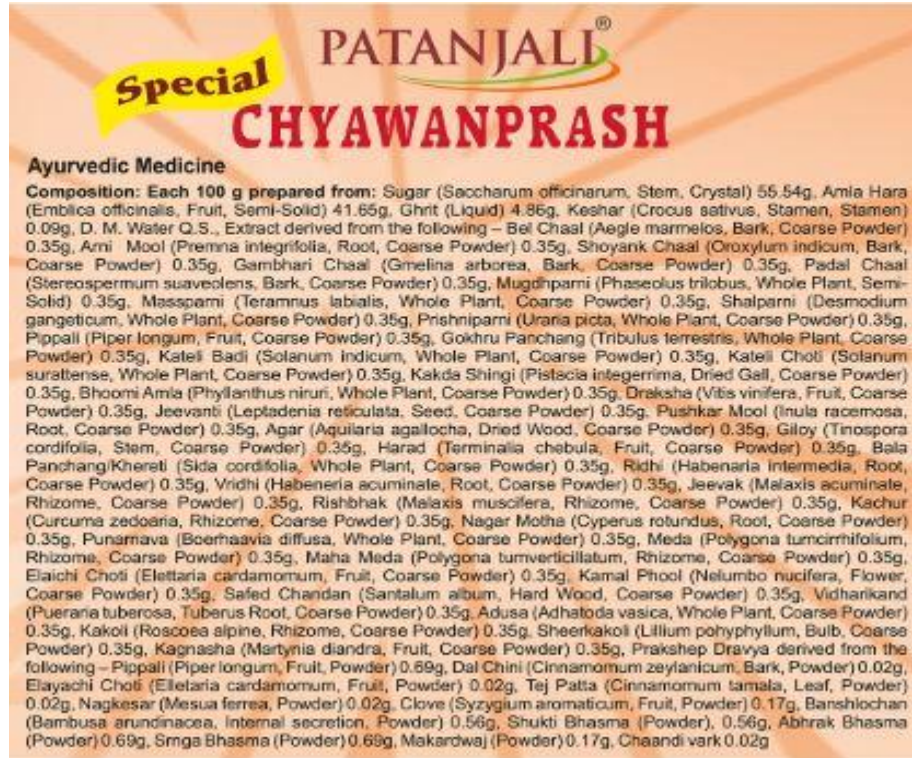
Ayurvedic Medicine

R. T. S. VA S. P. S. – Awaleha Prakarana

COMPOSITION: Each 100g is prepared from:

Ext. derived from the following- Patala (*Stereospermum suaveolens*, St. Bk.), Agnimantha (*Clerodendrum phlomidis*, St. Bk.), Gambhari (*Gmelina arborea*, St. Bk.), Bilva (*Aegle marmelos*, St. Bk.), Shyonaka (*Oroxylum indicum*, St. Bk.), Gokshura (*Tribulus terrestris*, Fr.), Shalaparni (*Desmodium gangeticum*, Pl.), Prishniparni (*Uraria picta*, Pl.), Brihati (*Solanum indicum*, Pl.), Kantakari (*Solanum surattense*, Pl.), Pippali (*Piper longum*, Fr.), Karkatshringi (*Pistacia integerrima*, Gl.), Draksha (*Vitis vinifera*, Dr.Fr.), Guduchi (*Tinospora cordifolia*, St.), Haritaki (*Terminalia chebula*, P.), Bala (*Sida cordifolia*, Rt.), Tamalaki (*Phyllanthus niruri*, Pl.), Vasa (*Adhatoda vasica*, Lf.), Jiwanti (*Leptadenia reticulata*, Pl.), Shati (*Hedychium spicatum*, Rz.), Musta (*Cyperus rotundus*, Rz.), Pushkara (*Inula recemosa*, Rt.), Kakanasika (*Martynia annua*, Fr.), Mudgaparni (*Phaseolus trilobus*, Pl.), Mashaparni (*Teramnus labialis*, Pl.), Vidari (*Pueraria tuberosa*, Rt. Tr.), Punarnava (*Boerhavia diffusa*, Rt.), Utpala (*Nymphaea stellata*, Fl.), Sukshamaila (*Elettaria cardamomum*, Fr.), Agarū (*Cinnamomum zeylanicum*- official substitute, St.Bk.), Shweta Chandan (*Santalum album*, Ht. Wd.), Riddhi (*Dioscorea bulbifera* – official substitute, Rt. Tr.), Vriddhi (*Dioscorea bulbifera* – official substitute, Rt. Tr.), Meda (*Asparagus recemosus* – official substitute, Rt.), Mahameda (*Asparagus recemosus* – official substitute, Rt.), Jivaka (*Pueraria tuberosa* – official substitute, Rt. Tr.), Rishabhak (*Pueraria tuberosa* – official substitute, Rt. Tr.), Kakoli (*Withania somnifera* – official substitute, Rt.), Kshirkakoli (*Withania somnifera* – official substitute, Rt.) each 0.396g and Amalaki (*Emblica officinalis*, Fr., Fr. Pulp) 90.0g, Ghrita, Tila tail (*Sesamum indicum*, oil) each 1.38g, Sharkara 59.5g, Madhu 4.76g and Powder of the following – Pippali (*Piper longum*, Fr.) 0.79g, Vamsha (*Bambusa bambos*, S.C.) 1.58g, Tvak (*Cinnamomum zeylanicum*, St.Bk.), Sukshamaila (*Elettaria cardamomum*, Fr.), Tvakpatra (*Cinnamomum tamala*, Lf.), Nagkesara (*Mesua ferrea*, Stmn.), Abhrak Bhasma each 0.1g, Mukta Pishti 0.06g, Akarkarabha (*Anacyclus pyrethrum*, Rt.) 0.126g, Lavanga (*Syzygium aromaticum*, Fl. Bd.) 0.128g, Kumkum (*Crocus sativus*, Sty./Stg.) 0.0075g. Preservative-Sodium Benzoate

Ingredients in *Patanjali Special Chyawanprash*:



56. As the Plaintiff advertises that its *DABUR Chyawanprash* contains more than 40 Ayurvedic herbs, the Defendant has deliberately, with an intention to malign, defame and denigrate *DABUR Chyawanprash* has released the Impugned Print Ad with ‘50 ingredients’ comparison; clearly identifying and targeting *DABUR Chyawanprash*. It is settled law that serious comparison cannot be founded on untruthful statements. The Plaintiff is filing its advertisements of *DABUR Chyawanprash* containing more than 40 Ayurvedic herbs, as separate documents along with the instant Suit.

57. The average impressionable Indian consumer is well aware that Chyawanprash is an ayurvedic medicine and given that *DABUR Chyawanprash* is a household brand, they are likely to believe that other than the Defendant's *Patanjali Special Chyawanprash*, Chyawanprash including *DABUR Chyawanprash* in the market, are spurious, adulterated or misbranded drugs (under the D&C Act), and should be rejected/shunned.

58. Alternately, the mischievous claim/suggestion made in the Impugned Advertisement is that other Chyawanprash (including *DABUR Chyawanprash*), are not based on 'correct' Ayurvedic texts, therefore they would not provide any benefit including boost to immunity. By making such a claim, apart from defaming and denigrating all Chyawanprash including *DABUR Chyawanprash*, the Defendant has heaped ridicule on other authoritative Ayurvedic texts (in existence for thousands of years) by suggesting that the formulation of Chyawanprash prescribed under other Ayurvedic texts (falling part of the First Schedule of D&C Act) are wrong and only the ayurvedic text, based on which *Patanjali Special Chyawanprash* is made, is the correct/appropriate formulation i.e., *shreshtam* (the very best).

59. The Defendant No.1 Company in the Impugned TVC goes to the extent of saying that *Patanjali Special Chyawanprash* which is prepared as per the Defendant's purported original Ayurvedic Text, prevents the body from becoming a 'medical stone' implying that consumption of all other Chyawanprash including *DABUR Chyawanprash*, would result in the body become a repository of medical store.

60. Such claim and denigration of Chyawanprash irreversibly and irreparably erodes the reputation, good will and consumer identification of *DABUR Chyawanprash* built over 70 years, with painstaking effort and huge investments, which is unquantifiable.

61. It is pertinent to state that the Ministry of AYUSH, Govt. of India, in the light of several false and misleading advertisements and statements made by several manufacturers, issued a general advisory dated 19.01.2021, clearly stating that all ASU Drug manufacturers are advised:

"...not to make and publicize any inappropriate statement or misleading claims against classical / shastriya ASU Drugs and the State / UT Licensing Authorities / Drug Controllers may take necessary action on the issuance of denigrating

classical ASU formulation in terms of its name and use amounting to misleading in nature under the provisions of the Drugs & Magic Remedies (Objectional Advertisement) Act, 1954 and D&C Act.”

The said Advisory continues to be in operation and the Impugned Advertisements are in clear violation of the said advisory as the Impugned Advertisements makes false and misleading claims in relation to its product and denigrates classical ayurvedic medicine Chyawanprash manufactured by other players in the marker including the Plaintiff. Needless to state, the conduct of the Defendant No.1 Company (and its Brand Ambassador Mr. (Baba) Ramdev), in making misleading and false claims during the COVID-19 pandemic, has come under critical examination of the Hon’ble Supreme Court of India, and several directions were issued against the Defendant No.1 Company and against AYUSH authorities who did not take any action against misleading and false claims, made by the Defendant No.1 Company.

62. In fact use of words ‘original’, ‘Special’ and / or ‘Shreshtham/ Sarv-Shreshth’ by the Defendant as a prefix to the name of the classical ayurvedic medicine “Chyawanprash” also tantamount to

misleading viewers/ consumers into believing that Defendant's Chyawanprash is an extra-ordinary product in comparison to other Chyawanprash in the market including Plaintiff's Dabur Chyawanprash and is a clear violation of Rule 157 (1-B) of the Drugs Rules which was introduced to prohibit manufacturers from making such misleading comparisons by specifically prohibiting ASU Drugs manufacturers from using any 'prefix' or 'suffix' with the name of any Ayurvedic drug falling under Section 3(a) of the D&C Act, except as described in the authoritative books. Though the book *Ayurveda Sar Sangraha* describes formulation as Chyawanprash (special) but the manner in which Defendant is writing 'special' as prefix and also using words like 'original' and 'Shreshtham / Sarv-Shreshth' as prefix is misleading and in violation of Rule 157 (1-B) of the Drugs Rules.

63. Furthermore, the Plaintiff's *DABUR Chyawanprash* (and all other Chyawanprash) being a Classical Ayurvedic Medicine in existence for 1000s of years, the implication of usage of the words 'ordinary' by the Defendant in its Impugned Advertisements (TVC and Print) is necessarily denigrating and disparaging.

64. Interestingly, from a perusal of the list of ingredients of the Defendant's Patanjali Chyawanprash, it appears that *Makardwaj* powder which is a formulation containing Mercury / *Hingula* and Sulphur. *Hingula* i.e., Mercury is listed at serial no.21 of Schedule E-1 to the Drug & Cosmetics Rules, which enumerates the list of poisonous substances under ASU Systems of Medicines. In this context, it is relevant to state that the Central Consumer Protection Authority ("CCPA") has issued an Advisory dated 14.07.2022 directing all manufactures of ASU Drugs and Medicines as per Rule 161 (2) of the Drug Rules, who manufacture ASU Drugs and Medicines made up of a substance specified under Schedule E-1 of the Drug & Cosmetics Rules, shall label their product to include a disclaimer, "*Caution: To be taken under medical supervision.*"

65. In light of the above, it is also pertinent to state that the Defendants have not issued any such disclaimer in compliance with the above advisory either in the Impugned Print Advertisement or the Impugned TVC, and have gone to the extent of promoting their product to *maasoom bacche* i.e., innocent infants, children etc., in the advertisements, and the same would also constitute misleading advertisements, against public interest.

66. Viewed in this context, the Defendant Companies ought to have exercised caution before issue of the Impugned Advertisements, but it appears the Defendants continue in their brazen and blatantly fallacious and misleading advertisements, solely with a view to garner sales, at the cost and consequences of unsuspecting and gullible consumers.

67. It is settled law that when a serious comparison is made, it must be truthful and such serious comparison crosses the boundary of puffery in the Impugned Advertisements; hence impermissible if they are untruthful. In this context, it reiterated that Chyawanprash is a Classical ayurvedic medicine, as defined in Section 3(a) of the D&C Act; hence even otherwise, untruthful claims cannot be made in respect of medicines.

68. Such statement / claim / direction exceeds the *Lakshman Rekha* of permissible advertising and squarely falls within the scope objectionable advertising under the Drugs and Magic Remedies Act, 1954 r/w the Drug Rules, 1945.

69. The Defendant in the Impugned Advertisements is denigrating, defaming and disparaging other Chyawanprash

including *DABUR Chyawanprash*, by calling all Chyawanprash as 'ordinary' solely based on the fallacious allegation that:

- (i) *DABUR Chyawanprash* and other Chyawanprash are not prepared as per the authoritative Ayurvedic Text, adopted by the Defendant for manufacture of *Patanjali Special Chyawanprash* ;
- (ii) The Plaintiff and other Chyawanprash contain only 40 herbs and are therefore ordinary and should be rejected by consumers, whereas the Defendant's Special Chyawanprash contains 51 medicinal herbs, thereby making it special / original and authentic;
- (iii) The Plaintiff and other Chyawanprash have no gyaan / knowledge of Ayurveda and Vedas to prepare Chyawanprash; and
- (iv) Only *Patanjali Special Chyawanprash* can be consumed by "maasoom" infant/babies, therefore all other Chyawanprash are 'ordinary', not authentic and inferior to *Patanjali Special Chyawanprash* , and do not provide any health benefits.

70. The Defendant, instead of advertising the positive attributes of its product on a stand-alone basis, in the Impugned Advertisements, has represented that all other Chyawanprash including *DABUR Chyawanprash* do not provide immunity. This clearly demonstrates the *malafide* intentions of the Defendant in the release of the Impugned Advertisements and constitutes generic disparagement of the entire class of Chyawanprash products.

71. The Defendant is conscious of the reputation and goodwill of *DABUR Chyawanprash* and in spite of the same, deliberately seeks to destroy the reputation, goodwill and brand image of *DABUR Chyawanprash* for garnering a market share for *Patanjali Special Chyawanprash* by misleading consumers and making completely false and baseless claims of Ayurvedic Medicines and the authoritative texts listed in First Schedule of the D&C Act.

72. The Defendant's act has resulted in dilution and debasement of the reputation and goodwill earned of the Plaintiff for the past over 75 years, thereby causing irreparable harm and injury to the Plaintiff's reputation as manufacturer and marketer of *DABUR Chyawanprash*, which cannot be measured or compensated in monetary terms.

73. The Plaintiff states that the Impugned Advertisements are also against larger public interest as Chyawanprash is extremely popular and a common household Ayurvedic Drug, being consumed by all age groups starting from 3 years of age. The Impugned Advertisements are malicious and is being issued by the Defendant with an intention to shake consumers' faith and trust in other brands of 'Chyawanprash' which they would be consuming by disparaging, defaming, demeaning and denigrating all brands by classifying the formulation as '*ordinary*' and suggesting that the formulation is incomplete and inferior, and only the Defendant's Chyawanprash is *shrestam, original* and the very best.

74. The Impugned Advertisements are aimed at the Plaintiff and questions completeness/effectiveness of *DABUR Chyawanprash* formulation (which is prepared as per *Rastantrasara va Siddha Prayoga Samgraha*, listed in the First Schedule to the D&C Act) as the Plaintiff is the market leader in Chyawanprash segment for decades with present market share of 61.60%.

75. The Impugned Advertisements dilute the reputation and goodwill of the *DABUR Chyawanprash* in specific and Chyawanprash in general; hence constitutes generic disparagement.

The Plaintiff being the market leader for Chyawanprash in India will suffer immeasurably by the continued telecast/ dissemination of the Impugned Advertisements. In addition, the Plaintiff being the market leader of Chyawanprash, such generic disparagement of Chyawanprash, also gives rise to a cause of action, in favour of the Plaintiff.

76. In view of the submissions made above, the Plaintiff has a strong *prima facie* case in its favour. The Defendant has issued the Impugned Advertisements only recently and its product can be marketed through other advertisements also. Hence, the balance of convenience is in favour of the Plaintiff. Irreparable loss and damage would be caused to the Plaintiff, if the Impugned Advertisements continue to be telecast/printed.

77. The cause of action in the present suit arose when the Plaintiff started issue/telecast of the Impugned Advertisements. The cause of action arose on 11 December 2024 when the Plaintiff came to know about the Impugned TVC on Television Channels. The cause of action also arose on 15.12.2024 when the Plaintiff came across the Impugned Print Ad published in the Delhi Edition of Dainik Jagaran. The cause of action is continuing and arises on every occasion when

the Impugned advertisements are printed, published or aired in the media. The cause of action in the present case is a continuous and recurring one and continues till such time, the Defendant is restrained by an Order of Injunction by this Hon'ble Court. The suit is within time and no part of its claim is barred by the Limitation Act.

78. The registered offices of the Plaintiff and the Defendant No.1 Company are within the territorial jurisdiction of this Hon'ble Court, and the Impugned Advertisements have been printed, aired and published in Delhi and viewed by millions of impressionable persons within the territorial jurisdiction of this Hon'ble Court. The cause of action in respect of the instant suit in favour of the Plaintiff within the jurisdiction of this Hon'ble Court. Additionally, the Plaintiff's *DABUR Chyawanprash* and the Defendants' products are sold in Delhi. Defendant No.2 further distributes the Defendants' *Patanjali Special Chyawanprash*, extensively in Delhi. Therefore, this Hon'ble Court has territorial jurisdiction to entertain and adjudicate the present suit.

79. The Plaintiff respectfully submits that no similar suit for the same cause of action has been filed or is pending before any other

Court including this Hon'ble Court and no similar relief has been sought for before any other Court.

80. The present suit involves a commercial dispute within Rule 2 (i) (ii) of the Delhi High Court Intellectual Property Rights Division Rules, 2022 for matters pertaining to disparagement, unfair competition, comparative advertising, etc. The Plaintiff estimates the value of the damages asserted in the present suit to be in excess of Rs. 2 crores. Resultantly, the present dispute is a commercial dispute having a specified value of above Rs. 2 crores and is liable to be tried by the Commercial Division of this Hon'ble Court.

81. The Plaintiff submits that all documents in the power, possession, control or custody of the Plaintiff, pertaining to the facts and circumstances of the proceedings have been disclosed and copies thereof are filed as documents with the plaint. The Plaintiff does not have any other documents in their power, possession, control or custody at present and the Plaintiff craves leave of this Hon'ble Court to refer to and rely upon additional documents, if the Plaintiff comes to possess the same in future. The Plaintiff states that the documents filed along with the plaint are true/authentic documents/copies of their respective originals.

82. It is further submitted that an application under O. XXXIX, Rule 1 and 2 of the Code of Civil Procedure, 1908 seeking urgent *ex parte* ad-interim interim reliefs against the Defendant has been filed along with the present Suit. Therefore, the present suit is liable to be exempted from pre-institution mediation as per Section 12A of the Commercial Courts Act, 2015.

83. The present suit has been preferred *bonafide* and the Plaintiff is entitled to reliefs claimed.

84. The value of the suit for the purposes of court fee and jurisdiction is as follows:

- a) For an order of permanent injunction and mandatory injunction as prayed for in Prayer Clauses A, B and C respectively of the suit is valued for purposes of court fee and jurisdiction at Rs. 200/- each and court fee of Rs. 20/- for each prayer is affixed thereon; Total court fee of Rs. 60/- is affixed;
- b) For an order for damages in Prayer Clause C of the suit, this relief is provisionally valued for the purposes of court fee at Rs. Rs 2,05,00,000/- and a total court fee of Rs 2,05,000/- /- is to be affixed. The Plaintiff has filed an application for grant of

extension of time for deposit of court fee. The Plaintiff undertakes to make up the deficiency of court fee, if any, once the actual damages are ascertained and awarded to the Plaintiff, by this Hon'ble Court. The Plaintiff at present has no means of ascertaining the damages they will be entitled to and undertake to make up the deficient court fee once the accounts are rendered by the Defendants;

- c) For an order for costs of the present proceedings for the purpose of court fees and jurisdiction is valued at Rs 200/- and the court fee of Rs 20/- is affixed thereon. Thus, the total court fee of Rs. 20/- is affixed thereon;

The present suit is valued for the purposes of court fee and pecuniary jurisdiction at Rs 2,05,00,000/- and a total court fee of Rs 2,05,000/-

PRAYER

In view of the facts and premises aforesaid it is most humbly prayed that:

- A. Permanent injunction restraining the Defendants, their directors, principals, officers, employees, agents, distributors,

franchisees, representatives and assigns from issuing, printing, or telecasting the Impugned Advertisements or in any other manner disparaging the goodwill and reputation of the Plaintiff and its product Chyawanprash - *DABUR Chyawanprash* in any other advertisements and in all media whatsoever including the electronic media, social media and/or print media by referring to Chyawanprash as 'ordinary' or without any immunity boosters or other attributes of Chyawanprash and/or in any other manner whatsoever denigrating Chyawanprash;

- B. Permanent injunction restraining the Defendants, their directors, Key personnel, officers, employees, agents, distributors, franchisees, representatives and assigns from Printing, Issuing or telecasting the Impugned Advertisements, in any language or issuing any other advertisement which is in any manner disparaging the goodwill and reputation of the Plaintiff and its *DABUR Chyawanprash* in any other advertisements and in all media whatsoever including the electronic media, social media and/or print media by referring to Chyawanprash as 'ordinary' or without any immunity

boosters or other attributes of Chyawanprash and/or in any other manner whatsoever denigrating Chyawanprash;

- C. An order for Mandatory Injunction directing the Defendants, their directors, Key personnel, officers, employees, agents, distributors, franchisees, representatives and assigns to remove/ take down the Impugned Advertisements (TVC and Print ads) from all electronic medium and Print media including on national television channels (entertainment, news and religious) including on Colors, Star, Zee, Sony, Aaj Tak, ABP, IBC, India TV, News 18, Aastha, Sanskar, etc. and other digital mediums and print mediums and platforms on the World Wide Web/ Internet, Newspapers, etc.
- D. An order for rendition of accounts of profit illegally earned by the Defendants from its Impugned Advertisements and a decree for an amount so found due or in the alternative a decree for Rs. 2,01,01,000/- (Rupees Two Crore and One Lac Only) towards damages that has been provisionally valued, may be passed in favour of the Plaintiff and against the Defendant;

- E. Costs of the suit be awarded to the Plaintiff; and
- F. Any other relief which the Hon'ble Court thinks fit and proper in the circumstances of the case be allowed in favour of the Plaintiff and against the Defendant.

(AUTHORIZED REPRESENTATIVE)

PLAINTIFF
DABUR INDIA LIMITED

THROUGH:

R. JAWAHAR LAL
ENR. NO. D-933/1992
J-LAW OFFICES
ADVOCATE FOR THE PLAINTIFF
E-11, THIRD FLOOR, DEFENCE COLONY,
NEW DELHI-110 024
PH. NO. 9958996312
Email: Jawahar@JLaw.in

NEW DELHI

DATE:

VERIFICATION:

I, Vishesh Kumar, Authorized Representative of the Plaintiff do verify that the averments made in paragraphs 1, 2, 3, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60 of the plaint are based on information received and derived from the records of the Plaintiff and are believed by me to be true, the averments made in paragraphs 4, 5, 6, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 84 of the plaint are based upon legal advice received by the Plaintiff, believed by me to be true and the averments made in the last paragraph is the humble prayer of the Plaintiff before this Hon'ble Court.

Verified at New Delhi on this ____ day of December 2024

(AUTHORIZED REPRESENTATIVE)
PLAINTIFF
DABUR INDIA LIMITED

IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI
ORDINARY ORIGINAL COMMERCIAL JURISDICTION

C.S.(COMM) No. _____ OF 2024

IN THE MATTER OF:

DABUR INDIA LIMITED

... PLAINTIFF

-Versus-

PATANJALI AYURVED LIMITED

& Anr.

... DEFENDANTS

AFFIDAVIT-CUM-STATEMENT OF TRUTH

I, Vishesh Kumar, son of Ms. Pallavi, aged about 29 years, working for gain at Dabur India Limited, having its registered office at 8/3 Asaf Ali Road, New Delhi – 110002, do solemnly affirm and state as under:

1. I am working for gain with Dabur India Limited and I am authorized to institute the present suit and affirm this affidavit.
2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto and hence competent to swear the present affidavit.

3. That I have read and understood the contents of the plaint and state that the contents of the same are true and correct to my knowledge. I state that the plaint has been drafted by our counsel under my instructions and I affirm the contents thereof.

4. That the averments made in paragraphs 1, 2, 3, 7, 8, 9, 10 , 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55,56, 57, 58, 59, 60 of the plaint are based on information received and derived from the records of the Plaintiff and are believed by me to be true, the averments made in paragraphs 4, 5, 6, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83 and 84 (including the Prayer Clause) of the plaint are based upon legal advice received by the Plaintiff, believed by me to be true and the averments made in the last paragraph is the humble prayer of the Plaintiff before this Hon'ble Court.

5. I say that there is no false statement or concealment of any material fact, document or record and I have included

information that is according to me, relevant for the present suit.

6. I say that all documents in the power, possession, control or custody of the Plaintiff, pertaining to the facts and circumstances of the proceedings initiated by the Plaintiff have been disclosed and copies thereof already annexed with the original Plaintiff may kindly be annexed and read with the amended plaintiff, and that the Plaintiff do not have any other documents in their power, possession, control and custody.
7. I say that the above-mentioned pleading comprises of a total of 62 pages, each of which has been signed by me.
8. I state that the Annexures hereto are true copies of the documents referred to and relied upon by the Plaintiff.
9. I say that I am aware that for any false statement or concealment, I shall be liable for action against me under the law.

DEPONENT

VERIFICATION:

Verified at New Delhi on ____ day of December 2024 that the contents of the foregoing affidavit are true and correct to my knowledge. No part of the affidavit is false and nothing material has been concealed therefrom.

DEPONENT