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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2026

PRONOUNCED ON : 26.10.2026

CORAM

THE HON'BLE DR.JUSTICE A.D.MARIA CLETE

CMA(TM) No. 31 of 2025

CNR:{HCMA012883812025}

Case QR

AND

CMP NO. 32017 OF 2025

Dr.Reddys Laboratories Limited
8-2-337, Road
No.3, Banjara Hills,
Hyderabad,
Telengana-500 034.

..Petitioner(s)

Vs

1. The Registrar Of Trademarks
   Intellectual Property Building,
   G.S.T. Road, Guindy,
   Chennai-600 032.

2. Nice Neotech Medical Systems Pvt Ltd.
   No. 85, Krishna Industrial Estate,
   Vannagaram, Mettukuppam
   Chennai 95.

..Respondent(s)

PRAYER IN CMA NO.31 OF 2025 – This Civil Miscellaneous Appeal is filed under Section 91 of the Trade Marks Act, 1999, read with Rule 2(4) of the Madras High Court Intellectual Property Rights Division Rules, 2022, (a) to admit this appeal, (b) to call for the records of the impugned application relating to the impugned order and issue an order setting aside/quashing the impugned order dated 22.08.2025 passed by the respondent No.1.

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PRAYER IN CMP No. 32017 of 2025 - To stay the operation of the Order dated 22.08.2025 passed by the Assistant Registrar of Trade Marks and G.I. in Trade Mark Application No. 1730955 and Opposition No. 797238.

For Petitioner(s):	Mr.G.Ramesh
For R1:	Mr.Gangadaran, CGSC
For R2:	Ms.V.Aswini Anjana

JUDGMENT

This Civil Miscellaneous Appeal is directed against the order dated 22.08.2025 passed by the Assistant Registrar of Trade Marks and Geographical Indications and Copyrights, Chennai, whereby Opposition No.797238 filed by the appellant was disallowed and Trade Mark Application No.1730955 filed by the second respondent for registration of the device mark "nice" in Class 10, in respect of medical equipment and apparatus, was accepted.

2. The appellant, Dr. Reddy's Laboratories Limited, states that it was incorporated in 1984 and is a leading pharmaceutical company engaged in the manufacture and marketing of active pharmaceutical ingredients, generic medicines, biosimilars and other pharmaceutical products in India and abroad. It claims to have established substantial goodwill and international reputation through its business operations, extensive distribution network, research facilities and continuous promotion of its products. According to the appellant,

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it adopted the trademark "NISE" in 1995, derived from the active pharmaceutical ingredient "Nimesulide" and the expression "Novel Inducer of Soothing Effect". The mark is used for pain-relieving medicines, including tablets and sprays, intended for inflammatory conditions, rheumatoid arthritis, postoperative pain, fever and menstrual pain. The appellant claims registrations for NISE and its formative marks in Class 5, including Registration Nos.803632 and 803620, dating from 26.05.1998, and subsequent registrations for NISE KID TABLETS, NISE MR TABLETS, NISE TABLETS, NISE DROPS, NISE SUSPENSION and NISE FLASH. It asserts that these registrations are valid and subsisting and that extensive sales, advertisements and continuous use have conferred substantial reputation and goodwill upon the mark, which it claims to be well-known.

3. The second respondent, Nice Neotech Medical Systems Private Limited, was incorporated on 10.07.2001 and is engaged in the manufacture and marketing of medical equipment and apparatus, particularly equipment used in neonatal intensive care. On 11.09.2008, it filed Application No.1730955 for registration of the device mark "nice" in Class 10 for "Medical Equipment and Apparatus", claiming use from 10.07.2001.The application was advertised in Trade Marks Journal No.1558 dated 15.10.2012, subject to the condition restricting the area to South India.

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4. The appellant filed Opposition No.797238 on 03.01.2013, contending that the second respondent's mark "nice" was visually and phonetically deceptively similar to its earlier registered mark "NISE". It was further alleged that registration and use of the impugned mark would be likely to cause confusion and deception among the purchasing public and prejudice the appellant's rights and goodwill associated with its registered trademark. It also pleaded that "NISE" is a well-known trade mark and that the adoption of the impugned mark was dishonest, invoked Sections 9(1)(a), 9(2)(a), 11(2), 11(3), 11(6), 11(7), 11(10), 12 and 18(1) of the Trade Marks Act, 1999, and asked the Registrar to refuse the application in exercise of the discretion under Section 18(4).

5. The second respondent filed its counterstatement on 08.05.2013. It objected that the notice of opposition had been verified by an agent without a power of attorney. On the merits, it claimed adoption and use of NICE from 10.07.2001, stated that it did not dispute the appellant's goodwill in medicinal and pharmaceutical preparations, described NICE as a dictionary word and NISE as a coined word, pleaded that the goods differ in price, packaging and use, and undertook not to use NICE for pharmaceutical preparations. The appellant filed evidence in support of opposition on 19.11.2013 through the affidavit of its Associate Director (Legal), P. Jayavardhan. The affidavit sets out the sales of the NISE family of marks from 1999-2000 to 2012-2013 and states that "both the rival marks have same sound". The second respondent evidence in support

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of its application is disputed. The appellant filed written submissions on 19.02.2025 and the second respondent on 20.03.2025.

6. After hearing the parties, the Assistant Registrar, by the impugned order dated 22.08.2025, held that the nature, character and performance of the goods, their trade channels and classes of purchasers were different and, therefore, there will not be any confusion will prevail between the rival marks applied in different classes i.e. 5 and 10. Accordingly, the opposition was disallowed and the second respondent's application was accepted. Thereafter, the mark was entered on the register under Certificate No.3914323 dated 10.10.2025.

7. Aggrieved by the order dated 22.08.2025, the appellant has preferred the present appeal contending that the Assistant Registrar failed to appreciate its prior adoption, continuous use, registrations and goodwill in the trademark "NISE" since 1995. It is alleged that the Assistant Registrar erroneously treated the goods as dissimilar merely because they fall under Classes 5 and 10, without considering that pharmaceutical products and medical equipment are allied and cognate goods within the healthcare sector, catering to overlapping consumers and trade channels. The appellant further contends that the rival marks "NISE" and "NICE" are phonetically identical and visually and structurally similar, the substitution of the letter "S" with "C" being insufficient to eliminate the likelihood of confusion or association. It is also alleged that the second

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respondent dishonestly adopted the impugned mark to take advantage of the appellant's reputation and that its claim of use from 10.07.2001 remained unsupported by evidence. According to the appellant, the Assistant Registrar failed to consider the documentary evidence of prior use and reputation, the likelihood of confusion in the healthcare sector and the applicable statutory provisions, and passed an unreasoned order contrary to settled legal principles. The appellant therefore seeks to set aside the impugned order, allow Opposition No.797238 and refuse registration of the second respondent's mark under Application No.1730955.

8. On 18.12.2025, Mr. Gangadaran, learned Central Government Standing Counsel, took notice for the first respondent. The first respondent has not filed any counter.

9. The second respondent, Nice Neotech Medical Systems Private Limited, represented by its Director and authorised signatory, Mrs. Sheeba Wilson, filed a counter-affidavit denying the grounds raised in the appeal. It contends that the appeal is devoid of merits and has been filed merely to prolong the opposition proceedings, which continued for several years before the Trade Marks Registry. According to the second respondent, the Assistant Registrar passed a reasoned order dated 22.08.2025 after considering the pleadings, evidence and submissions of both parties.

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10. The second respondent states that it was incorporated on 10.07.2001 and has been engaged in the manufacture and marketing of medical equipment and apparatus, particularly products used in neonatal intensive care. It claims to have honestly adopted the device mark "nice", which stands for "Neonatal Intensive Care Equipment", and the mark "neotech", signifying "neonatal technology", both derived from its corporate name and business activities. It filed Application Nos.1730955 and 1730956 on 11.09.2008 in Class 10, claiming use from 10.07.2001, and asserts that both marks have been continuously used in connection with its business. It relies upon its incorporation certificate, Memorandum and Articles of Association, trademark registration certificates, invoices, product catalogues and a consolidated statement issued by its Chartered Accountant to substantiate its claim of bona fide adoption and continuous use. It expressly does not dispute the appellant's goodwill and reputation in respect of pharmaceutical and medicinal preparations.

11. The second respondent specifically denies that the rival marks are deceptively similar or that their use is likely to cause confusion. It contends that the appellant's mark "NISE" is used for pharmaceutical preparations, particularly pain-relieving medicines containing Nimesulide, whereas its mark "nice" is used for specialised neonatal medical equipment. According to the

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second respondent, the respective goods differ substantially in their nature, purpose, price, mode of purchase, trade channels and class of purchasers. While the appellant's products are marketed through pharmaceutical distribution channels and pharmacies, the second respondent's equipment is purchased by hospitals, neonatal intensive care units and medical professionals through specialised procurement processes. The second respondent further contends that the appellant has neither established any actual instance of confusion or likelihood of confusion or association with its trademark, nor proved that the competing goods are similar or cognate in terms of trade.

12. The second respondent further contends that the competing marks must be compared as a whole, having regard to their appearance, meaning and the goods in respect of which they are used. It maintains that its device mark was independently adopted for its neonatal equipment business and that the appellant cannot claim exclusive rights over every phonetically resembling mark across different classes. It denies dishonest adoption, misrepresentation, passing off, dilution of reputation or any likelihood of commercial association. It also disputes the appellant's claim that "NISE" is entitled to protection as a well-known trademark across different classes merely by reason of its registrations and reputation in pharmaceutical products. According to the second respondent, the appellant has not established any actual confusion or demonstrated that it manufactures or markets neonatal medical equipment.

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13. Regarding the allegation of non-filing of evidence, the second respondent contends that it had filed evidence in support of its application on 19.02.2014, along with supporting documents, under Rule 51 of the Trade Marks Rules, 2002. It explains that certain physical records maintained by the Trade Marks Registry were damaged during the floods in December 2015 and were not completely digitized. Thereafter, the Registry issued communications in 2017 and 2018 for reconstruction of the records. The second respondent asserts that the absence of its evidence affidavit from the digitized records does not establish that no evidence was filed. It relies upon the documents available on the Registry portal, copies retained in its office records and materials produced in parallel Opposition No.796948 instituted by Nice Pharmaceuticals. It further contends that the Registrar did not treat its application as abandoned for non-filing of evidence and that the proceedings continued to be heard on merits. It also states that its written submissions were e-mailed to the hearing officer and uploaded on 21.03.2025 with his permission.

14. The second respondent further states that its application was examined on 17.08.2009, followed by a show-cause hearing on 11.09.2012, and was subsequently advertised in Trade Marks Journal No.1558 dated 15.10.2012. The appellant filed its opposition on 03.01.2013, to which the second respondent submitted its counterstatement on 08.05.2013. Thereafter, evidence and written

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submissions were filed, and the opposition was heard on several occasions between May 2024 and March 2025. According to the second respondent, the difficulties relating to the missing and damaged Registry records were brought to the notice of the Assistant Registrar, who considered the available materials before passing the impugned order.

15. The second respondent also contends that the appellant's reliance on the principles governing confusion between medicinal products is misplaced, since the present dispute concerns pharmaceutical preparations on the one hand and specialised neonatal medical equipment on the other. It submits that the Assistant Registrar correctly considered the nature and character of the respective goods, their functions, purchasers and trade channels and concluded that there was no likelihood of confusion. It maintains that the mere difference of one letter between the marks or their alleged phonetic resemblance cannot, without considering the surrounding circumstances, justify refusal of registration.

16. The second respondent further disputes the appellant's claim that "NISE" is a well-known trademark, stating that it has neither been declared well-known by any Court nor included in the Registry's list of well-known trademarks. It contends that, although the appellant may be the prior user of "NISE" for pharmaceutical preparations, the second respondent is the first adopter and prior

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user of "nice" for medical equipment and apparatus. Relying upon ***Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*, (2001) 5 SCC 73, *Corn Products Refining Co. v. Shangrila Food Products Ltd.*, AIR 1960 SC 142, and *Nandhini Deluxe v. Karnataka Cooperative Milk Producers Federation Ltd.*, (2018) 9 SCC 183,** it contends that the Assistant Registrar correctly appreciated the differences between the rival goods, their purchasers and trade channels, and the absence of likelihood of confusion, and passed a reasoned order disallowing Opposition No.797238. It therefore seeks dismissal of the appeal with costs.

17. Learned counsel for the appellant submitted that the Assistant Registrar had applied an erroneous legal test by treating the difference in classification as determinative of the similarity of goods. It was contended that Section 7 of the Trade Marks Act, 1999 provides for classification for registration purposes, whereas the statutory enquiry under Section 11 concerns the similarity of goods and likelihood of confusion. Referring to Sections 29(2), 29(3) and 29(4), learned counsel submitted that the Act recognises protection even where the competing goods are dissimilar, subject to the statutory conditions. Reliance was placed on **Corn Products Refining Co. v. Shangrila Food Products Ltd., AIR 1960 SC 142, FDC Ltd. v. Docsuggest Healthcare Services Pvt. Ltd., 2017 SCC OnLine Del 6381, and Wipro Enterprises Pvt. Ltd. v. Himalaya Wellness Company & Ors., FAO (OS) (COMM) 145/2023** decided on

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01.10.2024, to contend that goods falling under different classes may nevertheless be allied and cognate. Reference was also made to the Nice Classification to demonstrate the relationship between goods falling under Classes 5 and 10.

18. Learned counsel further submitted that the impugned order does not contain any finding that the rival marks are visually or phonetically dissimilar. According to learned counsel, the Assistant Registrar proceeded on the footing that similar marks could coexist because the goods were different, without independently examining the degree of resemblance between the marks. Reliance was placed on **K.R. Chinna Krishna Chettiar v. Sri Ambal& Co., (1969) 2 SCC 131, and Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73,** to contend that phonetic resemblance is an important factor and that the marks must be assessed from the standpoint of an average purchaser with imperfect recollection. It was further submitted that the Assistant Registrar merely reproduced the principles in **Cadila** without applying them to the facts of the case.

19. Learned counsel submitted that trademark protection is not necessarily confined to the goods presently manufactured by the proprietor and that the reasonable possibility of expansion into allied and cognate goods must also be considered. Reliance was placed on **Laxmikant V. Patel v. Chetanbhai Shah,**

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(2002) 3 SCC 65, Shree Rajmoti Industries v. Shri Vishwaprabha Food Products Pvt. Ltd., 2018 SCC OnLine Del 11595, and Burger King Company LLC v. Virendra Kumar Gupta, 2023 SCC OnLine Del 7735, to contend that an established proprietor is entitled to protection against confusing use in commercially related fields. It was further submitted that the Assistant Registrar failed to examine whether the appellant's established reputation could give rise to an assumption of commercial association between the competing undertakings.

20. Learned counsel further submitted that the second respondent's claim of user from 10.07.2001 required scrutiny in the light of the evidence actually available before the Registry. It was pointed out that the alleged Rule 51 affidavit was not available in the digitized records and that the documents subsequently produced from the second respondent's office could not automatically be treated as evidence duly filed and served in the opposition proceedings. Learned counsel also submitted that the mere incorporation of the second respondent on 10.07.2001 did not establish commercial use of the mark from that date, particularly when the invoices relied upon commenced only from 2005. Reliance was placed on **Suresh Kumar Jain v. Union of India, 2012 SCC OnLine Del 12, and Shiva Tobacco Company v. Md. Zaheeruddin, 2014 SCC OnLine IPAB 22,** concerning unsupported claims of prior user.

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21. Learned counsel further pointed out that the second respondent had given different explanations for the origin of its mark, describing "NICE" as a dictionary word before the Assistant Registrar and subsequently as an abbreviation of "Neonatal Intensive Care Equipment". It was contended that these explanations required consideration while assessing the bona fides of adoption. Learned counsel also referred to the territorial restriction of the second respondent's registration to South India and submitted that the significance of such restriction had not been adequately examined. It was therefore contended that the impugned order failed to address material issues and statutory requirements and was liable to be set aside.

22. Per contra, learned counsel for the second respondent submitted that the expression "NICE" was a legitimate abbreviation of "Neonatal Intensive Care Equipment" and that the adoption of an abbreviation connected with the corporate name and business was permissible under the Trade Marks Act. Reference was made to Sections 2(1)(m) and 2(1)(o) of the Act. Reliance was placed on **Laxmikant V. Patel v. Chetanbhai Shah, (2002) 3 SCC 65, Evergreen Sweet House v. Ever Green, 2008 (38) PTC 325 (Del), and T.V. Venugopal v. Ushodaya Enterprises Ltd., (2011) 4 SCC 85,** concerning the distinction between descriptive, suggestive and distinctive marks and the circumstances relevant to honest adoption.

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23. Learned counsel further submitted that the appellant's reliance on phonetic resemblance was insufficient, since the marks must be compared in their entirety and in the context of the goods for which they are used. Reliance was placed on **Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd., (2001) 5 SCC 73, South India Beverages Pvt. Ltd. v. General Mills Marketing Inc., FAO (OS) 389/2014,** decided on 13.10.2014 (Delhi High Court, Division Bench), and **Pernod Ricard India Pvt. Ltd. v. Karanveer Singh Chhabra, 2025 INSC 981** (Civil Appeal No.10638 of 2025, decided on 14.08.2025), to contend that deceptive similarity cannot be determined by isolating individual letters or sounds. It was further submitted that the Assistant Registrar was entitled to consider the overall commercial circumstances rather than phonetic similarity alone.

24. Learned counsel relied upon **Heifer Project International v. Heifer Project India Trust, 2024 SCC OnLine Del 2847,** and submitted that the appellant had failed to establish the necessary connection between the competing goods, trade channels and purchasers. It was contended that the principles governing confusion between medicinal preparations could not be mechanically applied to specialised medical equipment purchased through institutional procurement procedures. Reference was also made to **Corona Remedies Private Limited v. USV Limited (Gujarat High Court, Appeal from Order No.30 of 2015, decided on 12.08.2015)** to emphasise the

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relevance of the knowledge of purchasers, the circumstances of purchase and the degree of care exercised in selecting the goods.

25. Learned counsel further submitted that the doctrine of natural expansion could not be invoked merely on the basis of a hypothetical possibility of the appellant entering the medical-equipment industry. It was pointed out that "NISE" was associated with a particular pharmaceutical product, whereas "Dr. Reddy's" was the appellant's corporate mark. According to learned counsel, no research proposal, manufacturing plan, regulatory application or other contemporaneous material had been produced to establish a proposed expansion of the NISE mark into neonatal medical equipment. Reliance was placed on **RSPL Health Pvt. Ltd. v. Sun Pharma Laboratories Ltd., 2025:DHC:4961-DB, and Nandhini Deluxe v. Karnataka Cooperative Milk Producers Federation Ltd., (2018) 9 SCC 183,** to contend that trademark rights cannot be extended indiscriminately to commercially distinct goods.

26. Learned counsel further submitted that the alleged absence of the Rule 51 affidavit from the digitised Registry records could not, by itself, establish that no evidence had been filed. It was contended that the second respondent had produced the available office copies and supporting records and that the consequences of non-digitisation and loss of Registry records could not automatically be visited upon the applicant. The second respondent also relied

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on the continuation of the opposition proceedings on merits, without any order treating its application as abandoned, to dispute the appellant's procedural objections.

27. Further the learned counsel submitted that a quasi-judicial order cannot be set aside merely because its reasoning is brief, provided the material issues have been considered and the basis of the conclusion is discernible. Reliance was placed on **K. Kalpana Saraswathi v. P.S.S. Somasundaram Chettiar, (1980) 1 SCC 630.** It was contended that the Assistant Registrar had considered the relevant factors identified in Cadila, including the nature of the goods, their purchasers and modes of purchase, and had reached a reasoned conclusion regarding the absence of confusion. Learned counsel therefore prayed for dismissal of the appeal with costs.

28.**Points for Consideration:**

(i) Whether the second respondent's device mark “nice” is phonetically, visually and deceptively similar to the appellant's registered trademark “NISE”?

(ii) Whether, having regard to the nature of the competing goods, the class of purchasers, the trade channels and the modes of purchase, registration of the second respondent's mark is likely to cause confusion or association with the appellant's earlier trademark within the meaning of Section 11(1) of the Trade Marks Act, 1999?

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(iii) Whether the appellant has established its claim of a well-known trademark, dishonest adoption by the second respondent and the other grounds raised under Sections 11(2) and 11(3) of the Trade Marks Act, 1999?

(iv) Whether the order dated 22.08.2025 passed by the Assistant Registrar of Trade Marks, dismissing Opposition No.797238 against Application No.1730955, warrants interference by this Court?

Points 1 to 4:

29. The appellant is the registered proprietor of the trademark "NISE" in Class 5 in respect of pharmaceutical and medicinal preparations. The second respondent has obtained registration of the device mark "nice" in Class 10 in respect of medical equipment and apparatus. The appellant claims prior adoption and use of NISE and contends that the second respondent's mark is deceptively similar. The second respondent maintains that its mark was independently adopted and that the competing goods, purchasers and trade channels are different. The question is whether the rival marks are likely to cause confusion or association concerning the commercial origin of the goods.

Appellant – NISE	Second respondent – nice
NISE	nice

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30. On comparison, this Court finds that "NISE" and "nice" are phonetically similar. Both consist of four letters, the only difference being the substitution of "S" with "C". The device representation of the second respondent's mark does not eliminate their similarity in pronunciation. However, phonetic similarity alone is not conclusive. Under Section 11(1) of the Trade Marks Act, 1999, the Court must also consider the nature of the goods, their purchasers, trade channels and the likelihood of confusion or association with the earlier trademark.

31. In ***Cadila Health Care Ltd. v. Cadila Pharmaceuticals Ltd.*, (2001) 5 SCC 73,** the Hon'ble Supreme Court laid down seven factors for determining deceptive similarity, namely, the nature of the marks, their degree of resemblance, the nature of the goods, similarity in their character and performance, the class of purchasers having regard to their education, intelligence and degree of care, the mode of purchase and other surrounding circumstances. The Supreme Court further held that the weight to be attached to each factor depends upon the facts of the case and that equal weight need not be given to every factor.

32. Applying these principles, the appellant's NISE mark is used for pharmaceutical preparations, particularly medicines for pain and inflammatory conditions. The second respondent's product catalogue shows that it principally

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manufactures neonatal and infant-care equipment, including incubators, radiant warmers, phototherapy units, ventilators and respiratory-care apparatus used in hospitals and neonatal intensive-care units. The competing goods are materially different in their nature, function, purpose and manner of use. Their common connection with healthcare does not, by itself, establish a sufficient commercial relationship to give rise to confusion.

33. The class of purchasers and mode of purchase are also materially different. Pharmaceutical preparations are ordinarily purchased by patients and members of the public through pharmacies, often on prescription. The second respondent's specialised neonatal equipment is predominantly purchased by hospitals and medical institutions through doctors, biomedical engineers and procurement personnel. Such equipment is selected after considering its technical specifications, safety, suitability, performance and price. The purchasers therefore exercise a higher degree of care and attention. These circumstances are relevant under the fifth and sixth factors laid down in ***Cadila*** and weigh against the likelihood of confusion.

34. Section 11(1) also requires consideration of the likelihood of association with an earlier trademark. Thus, the question is not merely whether one product would be mistaken for another, but whether purchasers are likely to believe that the goods originate from the same or commercially connected undertakings.

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Although the rival marks are phonetically similar, the specialised nature of the second respondent's equipment, the knowledge of its purchasers and the manner of procurement weigh against such an inference. The appellant has not established sufficient circumstances showing that purchasers of the second respondent's medical equipment are likely to associate those goods with its NISE pharmaceutical business.

35. In **Nandhini Deluxe v. Karnataka Co-operative Milk Producers Federation Ltd., (2018) 9 SCC 183**, the Hon'ble Supreme Court held that, while determining deceptive similarity, the competing trademarks must be considered as a whole, having regard to their visual appearance, the nature of the products and the manner in which they are traded. The Supreme Court, notwithstanding the phonetic similarity between the marks "NANDHINI" and "NANDINI", found that their overall appearance, the products and the manner of trading were different and that an ordinary purchaser of average intelligence was unlikely to associate the goods of one party with those of the other. Thus, phonetic similarity alone is not conclusive, and the likelihood of confusion must be determined upon the facts and circumstances of each case.

36. The appellant's earlier registrations and commercial use of NISE in relation to pharmaceutical preparations are established. However, the second respondent's incorporation documents, product catalogue and other business

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records support its explanation that the mark "nice" was adopted in connection with its neonatal medical equipment business. The expression also forms part of its corporate name, Nice Neotech Medical Systems Private Limited, incorporated on 10.07.2001. Although incorporation does not, by itself, establish trademark use from that date, these circumstances support its explanation of independent adoption. Dishonest adoption cannot be inferred solely from phonetic similarity without sufficient evidence of deliberate imitation.

37. The appellant has also relied upon the goodwill and reputation acquired by NISE through long and continuous use. While the materials support its reputation in pharmaceutical preparations, Section 11(2) requires proof that the earlier trademark is well known in India and that use of the later mark without due cause would take unfair advantage of, or be detrimental to, its distinctive character or repute. The appellant has not sufficiently established these additional requirements. Likewise, the objection under Section 11(3)(a), based on passing off, cannot succeed without establishing a likelihood of misrepresentation regarding commercial origin, which has not been demonstrated in the circumstances of the present case.

38. The parties have also raised rival contentions concerning the filing of the second respondent's evidence under Rule 51 of the Trade Marks Rules, 2002.

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While the appellant disputes its filing, the second respondent refers to the loss and subsequent reconstruction of certain Registry records. Even without placing decisive reliance upon the disputed evidence, the appellant's earlier trademark rights have been considered, and the substantive requirements for refusing registration under Section 11 have not been established. The procedural objection therefore does not alter the conclusion on merits.

39. On an overall consideration of the factors laid down in ***Cadila***, this Court finds that the rival marks are phonetically similar. Nevertheless, the differences in the nature, character and purpose of the goods, the class of purchasers, their degree of care and the modes of purchase substantially weigh against the likelihood of confusion. The appellant has also failed to establish a likelihood of association concerning commercial origin, the additional requirements of Section 11(2), dishonest adoption or passing off under Section 11(3)(a).

40. The Assistant Registrar, having considered the differences between the competing goods, their purchasers and trade channels, rejected the appellant's opposition. Upon independent consideration of the evidence and the applicable legal principles, this Court finds that the conclusion reached by the Assistant Registrar does not warrant interference. Accordingly, the rival marks are held to be phonetically similar, but the remaining points concerning likelihood of confusion or association, well-known status, dishonest adoption, passing off and

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interference with the impugned order are answered against the appellant.

41. In the result, this Civil Miscellaneous Appeal is dismissed, confirming the order dated 22.08.2025 passed by the Assistant Registrar of Trade Marks and Geographical Indications and Copyrights, Chennai, disallowing Opposition No.797238 in respect of Trade Mark Application No.1730955. There shall be no order as to costs. Consequently, the connected miscellaneous petition, if any, is closed.

26-10-2026

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

AY

To

The Registrar Of Trademarks
Intellectual Property Building,
G.S.T. Road, Guindy,
Chennai-600 032.

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DR.A.D.MARIA CLETE J.

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