



\$~37

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 6th September, 2023
+ **CS(COMM) 625/2023 and I.A. 17142/2023-17147/2023**
RELIANCE INDUSTRIES LIMITED & ANR. Plaintiffs

Through: Mr. Sidharth Chopra, Mr. Yatinder Garg, Mr. Angad Makkar and Mr. Raunak Das Sharma, Advocates (M: 8100566300).

versus

AJIO ONLINE SHOPPING PVT LTD AND ORS. Defendants

Through: Ms Hetu Arora Sethi, ASC GNCTD (Cyber Cell, Delhi Police) (M: 9810368590).

Mr. Rajesh Ranjan, Advocate for UCO Bank

Mr. Harish Vaidyanathan Shankar CGSC with Mr Srish Kumar Mishra, Mr Sagar Mehlawat, Mr Alexander Mathai Paikaday, Mr Krishnan V and Mr M Sriram, Advocates for DOT (M: 9810788606).

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(ORAL)

1. This hearing has been done through hybrid mode.

I.A. 17145/2023 (for exemption)

2. This is an application seeking exemption from filing originals/certified/cleared/typed or translated copies of documents, left side margins, electronic documents, etc. Original documents shall be produced/filed at the time of Admission/Denial, if sought, strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side)



Rules, 2018.

3. Exemption is allowed, subject to all just exceptions.

4. Accordingly, application is disposed of.

I.A. 17144/2023 (for additional documents)

5. This is an application seeking leave to file additional documents under the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter, 'Commercial Courts Act'). The Plaintiff, if it wishes to file additional documents at a later stage, shall do so strictly as per the provisions of the Commercial Courts Act and the DHC (Original Side) Rules, 2018.

6. Application is disposed of.

I.A. 17146/2023 (exemption from advance service to the Defendants)

7. In view of the fact that the Plaintiffs have sought an *ex parte ad-interim* injunction along with the appointment of the Local Commissioner, exemption from advance service to the Defendants is granted.

8. Application is disposed of.

I.A. 17147/2023 (under Section 80 read with Section 151CPC)

9. This is an application filed by the Plaintiffs, seeking exemption from serving notice to Defendant No. 13- Department of Telecommunications (DoT) under Section 80 of the CPC.

10. Exemption is allowed. However, Mr. Harish V. Shankar, Id. CGSC has been requested to accept notice.

11. Accordingly, application is allowed and disposed of.

CS (COMM) 625/2023

12. Let the plaint be registered as a suit.

13. Issue summons to the Defendants through all modes upon filing of the



Process Fee.

14. The summons to the Defendants shall indicate that the written statement to the plaint shall be positively filed within 30 days from date of receipt of summons. Along with the written statement, the Defendants shall also file an affidavit of admission/denial of the documents of the Plaintiffs, without which the written statement shall not be taken on record.

15. Liberty is given to the Plaintiffs to file the replication within 15 days of the receipt of the written statement(s). Along with the replication, if any, filed by the Plaintiffs, an affidavit of admission/denial of documents of the Defendants, be filed by the Plaintiffs, without which the replication shall not be taken on record. If any of the parties wish to seek inspection of any documents, the same shall be sought and given within the timelines.

16. List before the Joint Registrar for marking of exhibits on 7th November, 2023. It is made clear that any party unjustifiably denying documents would be liable to be burdened with costs.

17. List before Court on 25th September, 2023.

I.A. 17142/2023 (u/O XXXIX Rules 1 & 2 CPC)

18. Issue notice.

19. The advent of digital technology has resulted in creation of various conveniences to customers but has also made it convenient to persons engaged in illegal and nefarious activities. The present case demonstrates how the cloak of digital platforms is being used to dupe innocent customers, by misusing an established brand name.

20. The present suit has been filed by Reliance Industries Limited and Reliance Retail Limited seeking to protect the trademark 'AJIO', its logo and other formative marks. The list of the marks of the Plaintiffs registered



before the Registrar of Trade Marks has been set out in paragraph 13 of the Plaintiff. Plaintiff No. 1 claims to be the largest private sector company in India and is engaged in a wide range of business including textiles, polyester, energy, telecommunications, entertainment, and digital services. Plaintiff No. 2-Reliance Retail Limited is the Indian retail Company of the Plaintiff No. 1 which was incorporated in the year 1999.


21. As per the Plaintiffs, Plaintiff No. 2 is the largest retailer in India in terms of revenues and has outlets which offers foods, groceries, apparel, footwear, toys, home improvement products, electronic goods, and farm implements and inputs. The e-commerce platform of the Plaintiff no.2, <https://www.ajio.com>, is stated to be a business to consumer (B2C) platform launched in 2016 along with the mobile app 'AJIO'. On the said e-commerce platform consumers can order and purchase goods online directly from the Retailer. It is conceded that the Plaintiff no.2 is not an intermediary.

22. The mark 'AJIO' both in word mark and in logo form/device mark and various brand extensions like AJIO LUXE, AJIO DHAN, AJIO SAMBANDHAM, AJIOMANIA, AJIO BUSINESS and WAJIO are registered in India since 2015 onwards. The case of the Plaintiffs is that 'AJIO' is one of the most popular brands in India which is evident from the three million customers, who visit the marketplace and 3 million apps downloads of the mobile app. The [ajio.com](https://www.ajio.com) marketplace is stated to have garnered 20% to 25% of the e-commerce net sales in the fashion category.

23. Recently, the Plaintiff learnt of several persons fraudulently having sent various communications under the name and style 'AJIO Online Shopping Pvt. Ltd.' with address of City Tower Complex Sasthitala Lane



Atghara, New Town Kolkata, West Bengal-Bengal-700052. The said letters have been issued to a large number of customers across the country. A sample of the letter which has been received is set out below: -



AJIO
ONLINE SHOPPING PVT. LTD.

Ajio Online Shopping Pvt.Ltd.
City Tower Complex Sasthitala Lane
., Atghara, New Town Kolkata,
West Bengal-Bengal-700052

Dear customer

Ajio Online Shopping Pvt Ltd is pleased to inform you that on the occasion of its birthday celebration the company has selected few of its customers in a random lucky draw contest. We are glad to amaze to inform you that you are one of those lucky customers that the company has selected.

It's our ultimate pleasure to announce your winning scratch coupon which you will be able to redeem by either calling on our Toll-free prize helpline number **9040378867 (09:00AM to 05:00 PM)** or you can also SMS or WhatsApp the Coupon Code to our Whsaap No. **9040378867** or visit our website

Please note that this is an internal initiative of the company solely meant for promotional purpose only and all the prize related information will only be available on our Toll-free prize helpline number **9040378867 (09:00 AM to 05:00 PM)**. This gift distribution is covered by our banking partner. The coupon value with this letter is guaranteed by HSBC Bank.

REDEMPTION RULES (Please read term & condition carefully)

1. The total amount coupon prize value will be credited directly to your bank account.
2. All government (central and state) taxes + processing fees toward the redemption of the prize money will be paid by the winner.
3. The charge levied will be collected in advance and will not be adjusted against the prize money under any circumstances.
4. All payment will be made on term of state and central government rule.
5. Your Bank Ac No must link with Aadhar Card and PAN Card.

Please fill form and send by WhatsApp or mail to us.


ACCOUNT HOLDER NAME-

BANK ACCOUNT NO-


IFSC CODE- BRANCH NAME-

MOBILE NO- BANK NAME-

PAN NO(if available) Aadhar no-


 For AJIO
*I accept all term & condition.

Customer Sign or Thumb Impression in This Box
*I accept all term & condition.



24. A perusal of the letter would show that the recipients of these letters



are being lured into believing that the said recipients had won prize money along with a scratch card coupon. Some samples of which is set out below: -



25. The said letter also mandates terms and conditions to be followed by

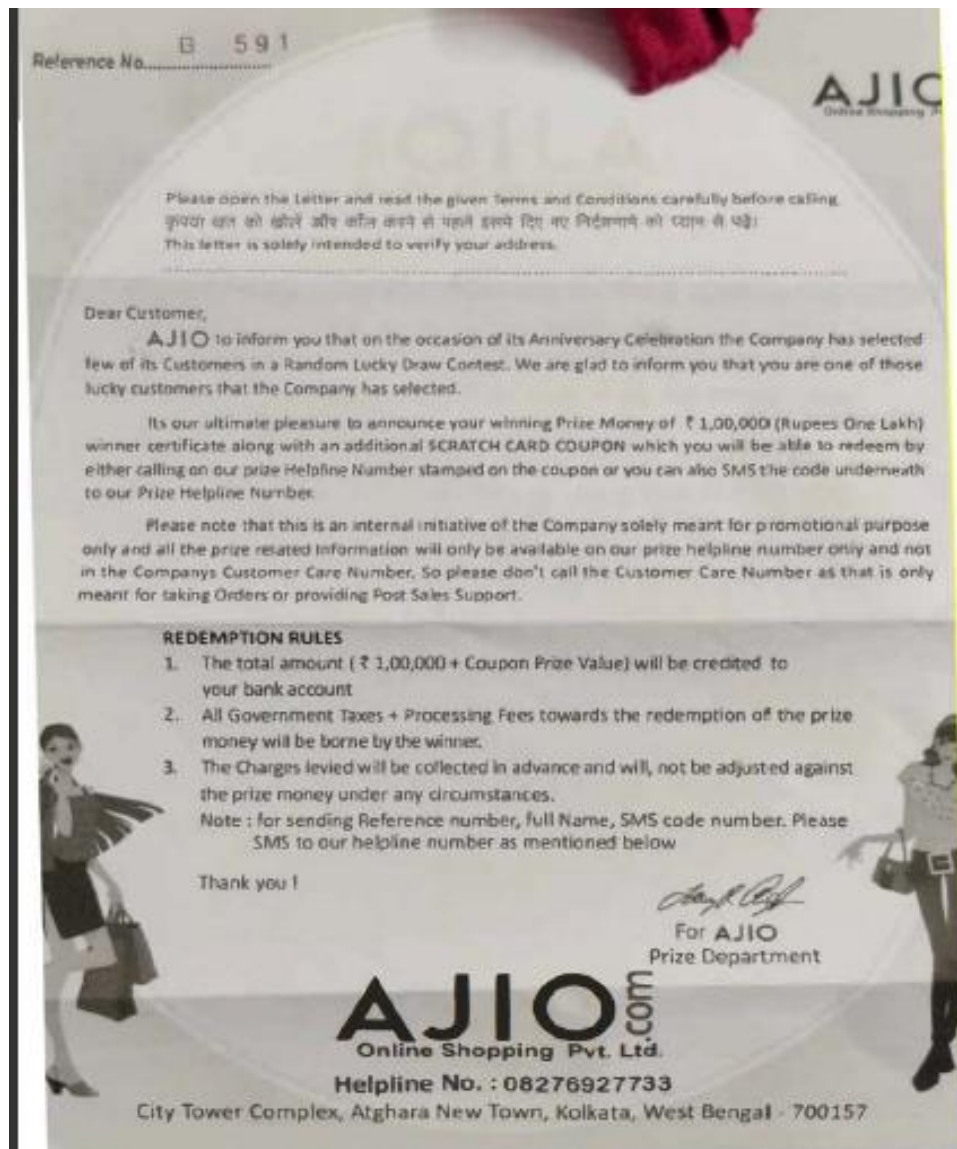


the user to claim the prize and reward in the scratch card. The preparators of these scam/schemes then proceed to collect money from innocent customers under the garb of payment of advance government taxes and processing fees.

26. In some of the variants of the scam, the perpetrators make the recipient deposit sums in the range of Rs.5,000/-, claiming that after the said deposit, the recipient would be eligible to encash the scratch card. A perusal of the various scratch cards would show that the sums mentioned in the scratch cards are to the tune of Rs.7,50,000/- and upto Rs. 10,00,000/-.

27. Mr. Chopra, Id. Counsel appearing for the Plaintiff submits that in fact several employees of the Plaintiffs have themselves received such communications and scratch cards. Affidavits of the employees of the Plaintiffs have also been placed on record in support of this submission of Mr. Chopra, Id. Counsel.

28. The manner in which the Defendants are promoting and hearing customers to deposit the money is by specifically calling upon the recipients not to use the Plaintiffs' customer care number but to only use the numbers which are provided by them. Sample letter to this effect is set out below:-



29. The Plaintiffs have also submitted that they have carried out some investigation into the said activities of the preparators of these scams. Upon further investigation, it was revealed that the persons who were carrying out these fraudulent and illegal activities were using various mobile numbers and bank accounts to receive the deposits. The details of which are as under:-

**List of Mobile Numbers with the name of Telecom Service Provider**

S. No.	Mobile Number	Telecom Service Provider
1.	8276916930	Airtel
2.	8276927733	Airtel
3.	8961741216	Airtel
4.	9040378867	Airtel
5.	8961845558	Airtel
6.	8961700894	Airtel
7.	8274013824	Airtel
8.	9038229590	Airtel
9.	8777694910	Jio
10.	7081274142	Vodafone
11.	9647708277	Vodafone
12.	8609347848	Vodafone
13.	6391947710	Vodafone
14.	6391340736	Vodafone
15.	9737344689	Vodafone
16.	9737851389	Vodafone
17.	7449729306	Vodafone
18.	8537990207	Vodafone
19.	7478817645	Vodafone



Details of Bank Accounts used and the Names of the Banks

S. No.	Bank / Defendant	Details of impugned Bank Account(s) of Rogue Defendants
1.	Jana Small Finance Bank / Defendant No. 7	Dev Kumar Kolkata Branch Savings Account No. 3206010038594947 IFSC Code – JSFB0004747
2.	Kotak Mahindra Bank / Defendant No. 8	Raja Bera Mumbai Central Branch Savings Account No. 1447095994 IFSC Code – KKBK0001348
3.	Kotak Mahindra Bank / Defendant No. 8	Sairunnisha Khatun Account No. 0547151463
4.	UCO Bank / Defendant No. 9	Ajio Promotion Branch – 22 Godown, Jaipur Account No. 06570110102763 IFSC Code – UCBA0001174

30. Accordingly, the Plaintiffs has filed the present suit impleading the fraudulent persons/company along with the mobile numbers operated as also bank accounts as Defendant Nos. 1 to 6. The three banks where the accounts used for conducting the fraudulent activity have been opened are arrayed as



Defendant No. 7 to 9. Defendant Nos. 10 to 12 are the telecom service providers and Defendant No. 13 is the DoT. Unknown persons referred to as Ashok Kumars have been impleaded as Defendant No. 14.

31. The prayer against the Defendants is that the Defendant Nos. 1 to 6 ought to be immediately restrained from using the mark 'AJIO' or sending out any communications thereof. The bank ought to freeze the bank accounts and the mobile numbers ought to be blocked.

32. After having perused the record and heard Id. Counsel, who has also presented the original letters received by various customers and forwarded to the Plaintiffs, the Court is convinced that this appears to be a large-scale operation carried out by unscrupulous individuals with the intention of collecting money under the name of 'AJIO' and 'AJIO Online Shopping Private Limited'. The letters and the scratch cards, etc., are so convincing that any customer or recipient would be unable to distinguish between the Plaintiffs' communications and those of the said entity or person.

33. In this view of the matter, the Court had requested to Ms. Hetu Arora Sethi, Id. ASC, who appears for the Cyber Cell Delhi Police, to appear in the matter and assist the Court.

34. Owing to the familiarity and reputation of the AJIO name and brand, whenever any customer receives such letters accompanied with scratch cards purportedly issued by the Plaintiffs, it is quite natural for such customer to believe the same to be true. Thus, the request for deposit of some initial fees to be eligible to avail of the scratch card offer is quite a deceptive request, which may be acceded to. The large number of letters that appear to have been received shows that there are several persons and may be even entities who are working in close collaboration with each other to illegally make



monetary gains. Owing to the experience in similar cases, it is also possible that bank accounts have been opened without giving the true name of the persons opening the same.

35. The Plaintiffs have clearly made out a *prima facie* case for grant of an *ex-parte ad-interim* injunction. The balance of convenience is also in favour of the Plaintiffs as also the larger public. Irreparable injury would be caused to the general public if an order of injunction is not granted.

36. Accordingly, an interim injunction is granted restraining the Defendant Nos. 1 to 6 and any one acting for and on their behalf from using the mark 'AJIO' or in any manner sending any communications whatsoever to any customers or public for further collecting monies into any of the bank accounts including any fresh bank accounts to be opened by them. Insofar as Defendant Nos. 7, 8 and 9 are concerned, they shall immediately freeze the bank accounts extracted above in paragraph 29 and shall file before this Court a complete statement of account for these bank accounts, from inception till date, including KYC details and any other information available with the respective banks. Any documents that may have been submitted by the said account holders shall also be filed on record.

37. The telecom service providers i.e., Defendant Nos. 10 to 12 shall immediately block all the above-mentioned mobile numbers and shall place on record entire documentation available with them in respect of the identity of the individuals who had registered the mobile numbers mentioned in paragraph 29.

38. The DoT shall issue blocking orders in respect of all these mobile numbers which shall be made non-operational with immediate effect. Mr. Harish Vaidyanathan Shankar, Id. CGSC to accept notice for DoT which



shall issue blocking orders within 24 hours.

39. If new numbers or any other bank accounts are identified by the Plaintiffs, they are free to move an application before this Court along with supporting evidence.

40. All the Defendants shall be served through email and considering the nature of the matter, also through the mobile numbers. The Registry to serve the Defendants through the mobile numbers mentioned in the Memo of Parties.

41. Mr. Rajesh, Id. Counsel appearing for UCO Bank may intimate the UCO Bank immediately without waiting for the signed order to be uploaded so that the bank accounts can be frozen immediately. The Delhi Police shall also inform the other banks to immediately freeze the bank accounts of the said bank. The original letters, which have been shown to the Court, may be placed on record.

42. List before the Court on 25th September, 2023.

I.A. 17143/2023 (for direction)

43. This is an application seeking directions to the Intelligence Fusion & Strategic Operations / Special Cell (New Delhi), Delhi Police (Cyber Cell) to identify the exact details of the Defendant Nos. 1 – 6 operating through mobile numbers as also bank accounts as identified in paragraph no. 29. The application also prays for a direction to the IFSO/Cyber Cell to investigate the issue expeditiously.

44. In view of the orders passed in *I.A. 17142/2023*, all the details available in the present file and any further details which may be received by the Plaintiffs may be communicated to the IFSO/Cyber Cell, Delhi Police through Ms. Hetu Arora Sethi, Id. ASC.



45. The Cyber cell, Delhi Police is directed to investigate into this entire matter and take action in accordance with law on an urgent basis. Let a status report be filed before the next date of hearing. The Id counsel for the Delhi Police is free to move an application, if any further directions are required to be passed, to safeguard the interest of the general public.

46. Application is allowed and disposed of.

PRATHIBA M. SINGH
JUDGE

SEPTEMBER 6, 2023
mr/am