



2025:DHC:8585



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision : 24.09.2025*+ **C.A.(COMM.IPD-TM) 127/2021**

ABC MECHANICALSAppellant
Through: Mr. Amit Jain, Mr. Raghav Bhalla
and Ms. Ishita Suri, Advocates.

versus

ABC TRADE AGENCIES AND ANR.Respondents
Through: Ms. Arunima Dwivedi. CGSC with
Ms. Monalisha Pradhan and Ms.
Himanshi Singh, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

TEJAS KARIA, J. (ORAL)

INTRODUCTION

1. The present Appeal has been preferred against the order dated 25.08.2015 (“**Impugned Order**”), passed by the learned Examiner of Trade Marks filed by the Appellant under Form TM-16 dated 06.09.2012 in respect of TM/Apl/RU/OPPNo.406193 in Class 11 (“**Subject Application**”), whereby, the learned Examiner of Trade Marks has dismissed the Subject Application for amendment of Counter Statement.
2. The present Petition has been transferred from the Intellectual Property Appellate Board (“**IPAB**”) consequent upon the abolition of IPAB, and upon promulgation of the Tribunals Reforms (Rationalization and



Conditions of Service) Ordinance, 2021.

FACTUAL BACKGROUND

3. On 31.05.1983, Mr. Jaswant Singh Khalsa, trading as *M/s ABC Mechanicals*, i.e, the Appellant filed an Application for the Trade Mark 'ABC' ("**Subject Mark**") for the goods, Electric fans of all kinds and parts thereof, included in Class 11. The Subject Application was advertised in the Trade Marks Journal dated 16.09.1987.

4. Respondent No. 1, i.e., *M/s ABC Trade Agencies* filed an Opposition No. DEL-4895 ("**Opposition**") against the aforesaid advertisement of the Subject Application in the Trade Marks Journal dated 16.09.1987. Thereafter, Mr. Jaswant Singh filed his counter statement on Form TM-6 in 1988, however, Respondent No. 1 did not file any evidence till 1991. The learned Deputy Registrar of Trade Marks *vide* order dated 25.02.1991, deemed the Opposition to be abandoned. Thereafter, the Registrar of Trade Marks issued the Registration Certificate and the Subject Mark was registered from the date of the Subject Application, i.e., 31.05.1983 and the Subject Mark has been renewed from time to time.

5. On 15.04.1998, Respondent No. 1 filed a rectification petition on Form TM-26 seeking rectification in the Register of the Trade Marks to remove the Subject Mark from the Register of the Trade Marks. The learned Deputy Registrar of the Trade Marks passed the order dated 15.04.2002, wherein, the Subject Mark was directed to be removed from the Register of the Trade Marks. The Appellant, thereafter, being aggrieved by the order dated 15.04.2002, preferred an appeal against the order dated 15.04.2002. The appeal against the order dated 15.04.2002 was filed before this Court,



however, it was later transferred to the IPAB.

6. The IPAB *vide* order dated 06.07.2011 set aside the order dated 15.04.2002 and remanded the matter back to the Trade Marks Registry to be decided afresh. In the order dated 06.07.2011, it was observed as under:

“We have seen for ourselves, the certified copy of the cover which shows the words incomplete address without Block, Colony and Lane are illegible and therefore, we are not going into the merits. It is clear that Appellant had no opportunity to make his submissions on 02.04.2022 because the notice sent to him was returned unserved for want of complete address. The matter is therefore remanded back to the Trade 3 Marks Registry to issue notice to both the parties and to deal the matter in accordance with law, not being influenced by the findings.”

7. Thereafter, the Appellant filed an interlocutory petition in the rectification proceedings, seeking permission to file additional documents, which are necessary for proper adjudication of the controversy between the parties.

8. At the stage of arguments, the Counsel for Respondent No. 1, took a preliminary objection that the additional affidavit of Mr. Gurpreet Singh is accompanied by a copy of agreement dated 11.05.1991 and the same is not pleaded in the counter statement in the rectification proceedings and the Appellant ought to have filed an amendment application. Hence, the Subject Application was filed by the Appellant, which was dismissed by the learned Examiner of Trade Marks *vide* the Impugned Order.

9. Hence, the present Appeal has been filed praying for setting aside of the Impugned Order.

SUBMISSIONS ON BEHALF OF THE APPELLANT

10. The learned Counsel for the Appellant submitted that the Impugned



Order was passed without affording the Appellant an opportunity of being heard, which is contrary to the principle of *audi alteram partem*.

11. The learned Counsel for the Appellant submitted that the learned Examiner of Trade Marks had no authority to finally dispose of the Subject Application. The Subject Application could only be adjudicated by a duly designated hearing officer after an opportunity of hearing is given to both the parties.

12. The Impugned Order reads as under:

“This is to inform you that the above mentioned TM-16 can not be allowed for the following reasons:

FORMS CAN NOT BE CORRECTED BY WAY OF TM-16 AND ALSO THE MARK IS ALREADY REGISTERED. HENCE TM-16 IS NOT MAINTAINABLE.”

13. The learned Counsel for the Appellant submitted that the Impugned Order suffers from an error apparent on the face of record. The Impugned Order contains a single line and is wholly unreasoned, provides no basis for rejection of the Subject Application, and hence does not meet the standard of a speaking order in accordance with the law.

14. Accordingly, the Impugned Order has been passed without giving the Appellant an opportunity of being heard and is an unreasoned and non-speaking order is contrary to the principles of natural justice and deserves to be set aside.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

15. Respondent No. 1 was directed to pay Cost *vide* order dated 24.09.2025, however, the cost has not been deposited by Respondent No. 1. None appeared for Respondent No. 1.



16. Ms. Arunima Dwivedi, the learned Counsel for Respondent No. 2, the Registrar of Trade Marks, submitted that the Impugned Order has been passed after duly considering the facts and documents on record and no error has been committed by Respondent No. 2 while passing the Impugned Order. Hence, the Appeal deserves to be dismissed.

ANALYSIS AND FINDINGS

17. Considering the submissions on behalf of the Parties and the record, a bare perusal of the Impugned Order shows that the decision of Respondent No. 2 is devoid of any reasoning and does not disclose consideration of the Appellant's submissions.

18. It is trite law that a non-speaking, unreasoned or cryptic order passed or judgment delivered without taking into account the relevant facts, evidence available and the applicable law cannot be sustained.

19. The relevant facts and submissions are not considered and the Impugned Order has been passed without recording any reasons. The Impugned Order does not reflect that the same was passed after a due consideration of the relevant facts and submissions.

20. Any decision without affording an effective hearing opportunity without giving reasons is contrary to the fundamental tenets of natural justice. It is imperative that due process is followed, and all parties are given sufficient opportunity to present their case and thereafter a speaking and reasoned order is passed. It is imperative that due process is followed, and all parties are given sufficient opportunity to present their case.

21. The fundamental principle of *audi alteram partem* demands that adequate opportunity be provided to the concerned parties to present their



case and respond to adverse material. Where such opportunity is denied or the procedural requirements are not complied with, the resultant order is in violation of the principles of natural justice.

22. Furthermore, the doctrine of legitimate expectation creates a corresponding duty upon statutory bodies to conduct the proceedings in a manner that is not only fair but also appears to be fair to a reasonable observer. Where an applicant or their duly authorized representative is precluded from effectively participating in the proceedings, either through inadequate notice, technical impediments, or procedural irregularities, such exclusion constitutes a denial of substantive rights. It is consistently held that administrative convenience cannot override the fundamental requirement of affording a meaningful hearing and providing the reasons for arriving at a conclusion after duly considering the facts and circumstances of each case.

23. The Impugned Order has been passed in a haste and is a single sentence order dismissing the Subject Application without giving the Appellant an opportunity to be heard. The Impugned Order is contrary to the principles of natural justice and is, accordingly, unsustainable.

24. In view of the above, the Impugned Order dated 25.08.2015 is hereby set aside and the matter is remanded back to Respondent No. 2 for passing a reasoned order after giving the Parties an opportunity of being heard and considering all the material available on record before making the decision.

25. Respondent No. 2 shall give a hearing to the Parties in accordance with law and decide the Subject Application, as expeditiously as possible, preferably within a period of eight weeks from the date of the receipt of this



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Order.

26. The Registry is directed to send a copy of this Order to the Office of Controller General of Patents, Designs and Trade Marks of India for compliance.

27. With the aforesaid directions, the present Appeal is disposed of.

TEJAS KARIA, J

SEPTEMBER 24, 2025

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Click here to check corrigendum, if any