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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010142162026

+ **C.A.(COMM.IPD-TM) 19/2026 & I.A. 9420/2026**

**rites limited (FORMERLY RAIL INDIA TECHNICAL AND
ECONOMIC SERVICE LIMITED)Appellant**

Through: Mr Rishabh Srivastava and Mr. Sahil
Gupta, Advocates.

versus

THE REGISTRAR OF TRADE MARKSRespondent

Through: Ms. Nidhi Raman, CGSC with Mr.
Rishay Raj and Ms. Nikita Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **06.08.2026**

1. This appeal is filed on behalf of the Appellant under Section 91 of the Trade Marks Act, 1999 ('1999 Act') challenging impugned order dated 25.11.2025 passed by the Registrar of Trade Marks/Respondent, whereby the trademark application filed by the Appellant for registration of the trademark RITES has been treated as 'abandoned' under Section 132 of 1999 Act.

2. To the extent necessary, the facts are that Appellant commenced use of trademark RITES on 26.03.2008 in relation to construction, infrastructure consultancy and allied services. On 25.05.2023, Appellant filed Trademark Application bearing no. 5951147 in Class 37 for the said mark. Hearing notice was issued on 12.09.2025 and the hearing was conducted on 12.11.2025 and the Hearing Officer informally indicated filing of additional documents but no written direction was passed and no timeline was fixed.



On 13.11.2025, Appellant uploaded additional documents, however, due to technical error the documents were inadvertently uploaded in a related application instead of the present one and on 25.11.2025, Respondent passed the impugned order treated the present application as ‘abandoned’ on the ground that instead of filing the supporting documents of use from 26.03.2008 within two days’ time sought, the documents were not filed despite passage of 12 days.

3. Learned counsel for the Appellant submits that Respondent erred in treating the Trademark Application as ‘abandoned’ and has given no cogent reason to do so, save and except, that supporting documents were not filed within two days. Appellant had uploaded the user documents on the next date of hearing i.e., on 13.11.2025, however, due to clerical oversight the documents were inadvertently uploaded against application no. 515449. In any event, Trade Marks Registry has itself repeatedly recognised and affirmed Appellant’s proprietary rights in the mark RITES by granting multiple trademark registrations in the same mark *inter alia* in Classes 37 and 42. The existence of these registrations is a statutory recognition of longstanding use and distinctiveness of the RITES marks and reinforces Appellant’s legitimate expectations of consistent treatment by the Registry.

4. It is further argued that Section 132 of 1999 Act is not a punitive provision and can be invoked by the Registrar when in his opinion the applicant is in default in prosecution of the application filed under the 1999 Act. However, before treating the application as ‘abandoned’, the Registrar is under a statutory mandate to give a notice to the defaulting applicant to remedy the default within a time specified and if so desired, an opportunity of being heard. It is only when the applicant does not remedy the default



within the time specified in the notice, the application will be treated as 'abandoned'. In the instant case, no notice of default was given to the Appellant, assuming that there was a default and therefore, treating the application as 'abandoned' is completely arbitrary and untenable in law.

5. Ms. Nidhi Raman, learned CGSC appearing for the Respondent defends the impugned order and submits that despite granting time to the Appellant to produce documents to substantiate its claims of use from 26.03.2008, Appellant failed to furnish the requisite documents and no fault can be found in the order.

6. Having learned counsels for the parties, I am of the view that there is merit in the contention of the Appellant that the impugned order has been passed more in violation than in compliance of Section 132 of 1999 Act. The said provision enables the Registrar of Trade Marks to treat an application for registration of the trademark as 'abandoned' in case in his opinion, applicant defaults in prosecution of the application. However, the provision mandates the Registrar to give a notice to such an applicant requiring the applicant to remedy the default within the specified period and if so desired, even an opportunity of hearing. It is only when the notice is given and the applicant does not remedy the default within the specified time, the Registrar can treat the application as 'abandoned'. Therefore, notice under Section 132 to the defaulting applicant is a *sine qua non* before an action is taken.

7. In the instant case, the hearing was scheduled on 12.11.2025 and on 13.11.2025, Appellant uploaded the supporting documents *albeit* against a wrong application. Even if the Respondent considered the technical glitch to be a default in prosecution, he was bound to give a notice to the Appellant to



remedy the default and upload the documents in support of the user claim from 26.03.2008. Without giving the notice, application has been considered as 'abandoned' vide order dated 25.11.2025 and as rightly contended by counsel for the Appellant, *sans* the notice to remedy the default, the order is legally untenable.

8. Accordingly, this appeal is allowed setting aside order dated 25.11.2025. Respondent shall grant opportunity to the Appellant to furnish the requisite supporting documents for substantiating its claim for user with a timeline to do so and thereafter, proceed in accordance with law.

9. Appeal stands disposed of along with pending application with no expression on the merits of the case.

JYOTI SINGH, J

AUGUST 6, 2026/RW