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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2024

CORAM:

THE HON`BLE MR.JUSTICE P.B.BALAJI

WP (IPD) No.16 of 2024
and
WMP (IPD) No.3430 of 2024

M/s.V.A.Mishra & Sons,
New Vijaya Sweets,
No.2750, Vivekanand Circle,
Dharwad – 580 001, Karnataka,
Represented by its Partner

.. Petitioner

..Vs.

The Registrar of Trademarks,
Trademarks Registry,
Intellectual Property Building,
GST Road, Guindy,
Chennai – 600 032.

..

Respondent

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondent to accept the requests of renewal dated 27.03.2013 filed by the petitioner in Trade Mark Application No.573 095 in Class 30 and consequently direct the respondent to permit the petitioner to file subsequent renewal.

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For Petitioner : Mr.Shrivatsav for
Mr.K.R.Gunashekar

For Respondent : Mr.S.Janarthanam,
Senior Panel Central Government
Standing Counsel

O R D E R

The petitioner seeks issuance of Writ of Mandamus directing the respondent to accept the request of the renewal dated 27.03.2013 filed by the petitioner in Trade Mark Application No.573095 in Class 30 and to permit the petitioner to file subsequent renewal.

2. I have heard Mr.Shirvatsav, learned counsel for Mr.K.R.Gunashekar, learned counsel for the petitioner and Mr.S.Janarthanam, learned Senior Panel Central Government Standing Counsel for the respondent.

3. According to the petitioner, the Trademark Application was filed in the year 1992 and came to be examined by the respondent in the year 1998 and the registration was granted on 15.07.2003. Since the Application was

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registered subsequent to the initial term of life of the registration itself, the petitioner sought for renewal and the registration was renewed on 07.11.2003 and subsequently, it is seen that in March 2013, the petitioner was informed by their agent that the trademark had to be renewed and the Registry has indicated the date for renewal on 13.05.2009 in the website. Immediately thereafter, the petitioner has caused a communication to the respondent seeking the request for restoration of trademark removed, renewal of registration of the Trademark and also for payment of surcharge towards renewal of Trademark.

4.The grievance of the petitioner is that despite making repeated requests after making requisite payment, there has been no action taken by the respondent. The learned counsel for the petitioner would invite my attention to Section 25(3) of the Trademarks Act, 1999, which mandates the Registrar to send a notice in the prescribed manner, informing the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained. In this case, admittedly, I do not find any such mandatory notice having been

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issued by the Registrar and the affidavit also discloses that no such notice received from the respondent.

5. The learned counsel for the respondent is also unable to place any material before the Court to evidence the fact that the mandatory notice under Section 25(3) of the Trademarks Act, 1999 was duly sent to the petitioner.

6. For such reasons, I am inclined to accept the case of the writ petitioner and allow the Writ Petition. Accordingly, a Writ of Mandamus is issued directing the respondent to accept the request of renewal dated 27.03.2013 filed by the petitioner in Trade Mark Application No.573095 in Class 30 within a period of eight weeks. In the interregnum period, it is seen that the renewal period has also lapsed on 13.05.2019. Liberty is granted to the petitioner to make a further renewal request along with prescribed fee within a period of four weeks from today. Thereafter, within eight weeks, the respondent shall pass orders on the petitioner's request for renewal.

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7. In fine, this Writ Petition is allowed with the above directions. Consequently, connected Miscellaneous Petition is also closed. No costs.

01.07.2024

Index : Yes/No
Speaking/Non-speaking order
rkp
To

The Registrar of Trademarks,
Trademarks Registry,
Intellectual Property Building,
GST Road, Guindy,
Chennai – 600 032.

P.B.BALAJI, J.

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