OCD-10

ORDER SHEET

IPDTMA/4/2024

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION
ORIGINAL SIDE

[Commercial Division]

ELECTRONICA INDIA LIMITED
-VS-
THE REGISTRAR OF TRADE MARKS AND ANR

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : June 18, 2024.

Appearance:
Mr. Ranjan Bachawat, Sr. Adv.
Mr. Shuvasish Sengupta, Adv.
Mr. Sagnik Basu, Adv.
Mr. Soupayan S. Roy, Adv.
Mr. Arya Banerjee, Adv.
... for the appellant

Mr. Sunil Singhania, Adv.
Mr. Sailendra Kumar Tiwari, Adv.
Mr. Shivansi Indoria, Adv.
... for the respondents

The Court: Mr. Ranjan Bachawat, learned senior counsel, is appearing for the appellant. Mr. Sunil Singhania, learned counsel, is appearing for the respondents.

The appellant has filed the present appeal under Section 91 of the Trade Marks Act, 1999 being aggrieved and dissatisfied with the impugned order dated 14th February, 2024 passed by the learned Senior Examiner of Trade Marks by rejecting the Trade Mark Application No.4167498 under Class 9 for registration of Trade Mark “ELECTRONICA” (word).

Counsel for the appellant submits that the order passed by the respondent no.2 is without any reason and the respondent no.2 has passed the order after a period of one year from the date of hearing through virtual mode.

Counsel for the appellant has also submitted that on 15th February, 2023, the respondent no.2 had taken up the application for hearing through virtual mode but there was some disturbances in the connectivity and as such the counsel for the appellant could not able to place all the relevant documents and to make submission before the respondent no.2 and as such, on 17th February, 2023, counsel for the appellant had informed the respondent no.2 as due to some network error the counsel for the appellant could not able to make proper submission and requested to provide for another opportunity of hearing. Though the request made by the appellant was received by the respondent no.2 but the respondent no.2 has not given any response to the request dated 17th February, 2023 and had passed the impugned order after a period of one year i.e. on 14th February, 2024 by rejecting the application filed by the appellant.

Counsel for the appellant has raised several grounds in the present appeal but this Court finds that it would not be proper to go into further merit of the matter as this Court is inclined to set aside the impugned order dated 14th February, 2024 only on the ground that hearing was concluded on 15th February, 2023 and the respondent no.2 had passed the impugned order on 14th February, 2024 i.e. after a period of one year. On 17th February, 2023 the appellant had informed the respondent no.2 that due to some connectivity

problem, counsel for the appellant was not able to make proper submission and prayed for opportunity of hearing but without giving any opportunity of hearing, the respondent no.2 has passed the impugned order.

In view of the above, without going into further merit of the case, the impugned order dated 14th February, 2024 is set aside and quashed by remanding the matter with a direction to hear the application filed by the appellant being Application No.4167498 and after giving an opportunity of hearing to the appellant to pass a reasoned and speaking order. The appellant is at liberty to file all the documents which the appellant intends to rely upon before the concerned authority.

It is expected that the respondent no.2 or any competent officer under law will pass reasoned and speaking order by giving an opportunity of hearing to all the connected parties, preferably within a period of four months from the date of receipt of this order.

IPDTMA/4/2024 is disposed of.

(KRISHNA RAO, J.)

RS