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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-02-2026

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA(TM) No. 29 of 2025
AND
CMP NO. 31487 OF 2025

Amara Raja Energy And Mobility Limited
(previously known as Amara Raja Batteries Ltd.,) Rep through its Authorised Signatory, Having registered office at Renigunta -Cudappah Road, Karakambadi, Tirupati 517520, Andhra Pradesh.

Appellant(s)

Vs

1. The Registrar of Trade Marks
Intellectual Property Building,
G.S.T. Road, Chennai 032.

2.The Assistant Registrar of Trade Marks
Intellectual Property Building,
G.s.t. Road, Chennai 032.

3.Sri Ganesh Agencies
Rep By Its Proprietor, Ganesh Kumar, 908, Anand Market,
Yamuna Nagar 135001, Haryana.

Respondent(s)

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PRAYER

Civil Miscellaneous Appeal filed under Section 91 of the Trade Marks Act paying to set aside the order dated 20.12.2024 passed by the 2nd Respondent as illegal, to direct the 1st respondent and 2nd respondent to give an opportunity to the Appellant to file their Counter Statement and pass such further order as this Honble court may deem fit and proper in the circumstances of the case and thus render justice.

For Appellant(s):	Mr.Jose John for M/s.Kind and Patridge
For Respondent(s):	Mr.G.Mutharasu Central Government standing counsel for R1 and R2 Mr.K.M.Anand for R3

ORDER

When this appeal came up for hearing on 29.01.2026, this Court after hearing both sides passed the following order:-

This appeal has been filed against the impugned proceedings of the 2nd respondent dated 20.12.2024 rejecting the application filed by the appellant as deemed to have been abandoned by operation of Section 21(2) of the Trade Marks Act, 1999 (hereinafter referred to as the Act).

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2. The main ground that was urged by the learned counsel for the appellant is that the appellant company was not served with the notice of opposition filed by the 3rd respondent. In view of the same, there was no occasion for the appellant to file their response for the notice of opposition. In such a scenario, the 2nd respondent came to an erroneous conclusion that the application submitted by the appellant is deemed to have been abandoned.

3. To substantiate the fact that the appellant did not receive the notice of opposition, the learned counsel for the appellant placed reliance upon the extract of the copy of the e-mail inbox of the appellant's agent available at Page No.54 of the Paper book.

4. Per contra, the learned Central Government Standing counsel during the last hearing held on 22.01.2026 filed typed set of papers containing the copy of the opposition notice and also the dispatch and mail sent by the Trade Mark Registry, Chennai, where it is mentioned that insofar Application No.5547423 is concerned, the opposition notice was despatched to the email id of the appellant on 24.06.2024 and it was also successfully received by the appellant.

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5. The appellant has taken a very specific stand that the notice of opposition was not served and even in Paragraph 10 of the affidavit filed in support of the appeal, the appellant has taken a very specific stand in this regard.

6. The learned counsel for the appellant brought to the notice of this Court the judgement in ***[Ramya S Moorthy Vs. Registrar of Trade Marks and another]*** *reported in* ***2023 SCC online Madras 5305*** *and the relevant portions in the judgement are extracted hereunder:-*

3. Mr.S.Janarthanam, learned Special Panel Counsel, relies on Rules 17 and 18 of the Trade Marks Rules, 2017, and contends that notice may be served through e-mail to the address provided by the applicant, and that service of notice by e-mail is deemed to be proper service upon dispatching the e-mail. By drawing reference to the document evidencing dispatch of the opposition notice to the applicant / petitioner on 19.01.2023, he points out that the status specified therein is "success".

4. The case turns on Section 21 (2), which is set out below: "(2) The Registrar shall serve a copy of the notice on the applicant for registration and, within two months from the receipt by the applicant of such copy of the notice of opposition, the applicant shall send to the Registrar in the prescribed manner a counter-statement of the grounds on which he relies for his application, and if he does not do so he shall be deemed to have abandoned his application."

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5. Rules 17 and 18 deal with the address for service and service of notice, respectively, and Rule 18(2), which is of particular relevance, is set out below:

"(2) Any communication or document so sent shall be deemed to have been served, at the time when the letter containing the same would be delivered in the ordinary course of post or at the time of sending the e-mail."

6. Rule 18(2) incorporates a legal fiction with regard to service of notice by post and e-mail. As regards service of notice by e-mail, it provides that notice would be deemed to be served "at the time of sending the e-mail". If construed literally, this would mean no more than proof of transmission of the e-mail. Especially in the context of the non-incorporation of the provision for deemed receipt in the statute, if so construed, Rule 18(2) would not be in consonance with Section 21(2) which provides that the time limit for filing the counter statement would run from the date of receipt by the applicant of the notice of opposition. In this regard, it should also be borne in mind that the substantive right of an applicant seeking registration of trade marks is at stake. Therefore, I conclude that the prescribed time limit would only run from the date of receipt of the e-mail, and the document relied on by the Registrar of Trade Marks does not qualify as evidence of receipt by the petitioner. The petitioner, however , acknowledges receipt of the notices of opposition after the impugned orders were passed.

7. On a careful reading of the above judgement, it is quite apparent that where the service of notice was effected through email and if such service of notice is construed as deemed to have been served, in the absence of any proof of actual receipt of notice, it will not be in consonance with Section 21 (1) of the Act, which provides

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the time limit for filing the counter statement for opposition of two months from the receipt of the opposition notice.

8. The learned counsel for the petitioner submitted that what has been filed by the 2nd respondent is only the despatch email and there is absolutely no proof that this email was actually received in the inbox of the appellant's agent.

9. It is also brought to the notice of this Court that in order to effectively deal with this issue, an order was passed in WP (IPD) No.3 of 2025 dated 03.04.2025 to the following effect:-

6. In Ramya S. Moorthy v. Registrar of Trademarks and another, order dated 10.08.2023, W.P.(IPD)Nos.3 & 4 of 2023, I dealt with a case wherein the facts and circumstances were substantially similar. After noticing that sub~section (2) of Section 21 of the Trade Marks Act, 1999 stipulates that the time limit of two months for the trade mark applicant to file a counter statement runs from the date of receipt of the notice of opposition, I concluded that Rule 18(2) of the Trade Marks Rules, 2017 is not in consonance with the statutory prescription, inasmuch as it provides for deemed service upon despatch of e~mail to the trade mark applicant. After further recording that the substantive right of the trade mark applicant is at stake, I allowed the writ petition. The petitioner herein, who is similarly situated, is also entitled to similar relief.

7. By the impugned order, it was also recorded that the

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opposition abates. On account of restoring the trade mark application, it is just and necessary that the opposition be restored.

8. For reasons aforesaid, W.P.(IPD)No.3 of 2025 is allowed by quashing the order impugned herein. As a corollary, Application No.6180911 and Opposition No.1323965 are restored to the file of the Registrar of Trademarks for reconsideration. The petitioner is permitted to file the counter statement in response to the notice of the opposition within a maximum period of one month from the date of receipt of a copy of this order. The Registrar of Trademarks is directed to reconsider the matter on merits after providing a reasonable opportunity to the petitioner and the 2nd respondent herein.

9. In order to avert a repetition of the present scenario, it would be appropriate for the Controller General of Patents, Designs & Trademarks to adopt a technical solution whereby proof of receipt of the e~mail by the recipient is available to the Registrar of Trademarks. There will be no order as to costs. Consequently, connected miscellaneous petition is closed.

10. In the above order, this Court had directed the concerned authority to adopt a technical solution whereby proof of receipt of email by recipient is available to the Registrar of Trade Marks.

11. Insofar as the 3rd respondent is concerned, they will not have any say with respect to the actual service of the opposition notice on the appellant. Therefore, clarification must be given only by respondents 1 and 2.

12. The learned counsel for the appellant also

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brought to the notice of this Court that the 2nd respondent ought not to have entertained the opposition for the simple reason that the authorisation was granted to the agent for the Trade Mark of "Kissan" and whereas with this authorisation, the opposition has been filed by the agent for the Trade mark "Amaron". Insofar this issue is concerned, it will be gone into at a later point of time. This Court wants to get a clarification from the respondents 1 and 2 for the actual service of notice on the appellant.

13. Post this appeal under the caption "for orders" on 05.02.2026.

2. When the matter was taken up for hearing today, the learned Central Government standing counsel appearing for 1st respondent once again reiterated the dispatch and mail prepared by the Trade Mark Registry and which was shown to the Court during the previous hearing. The learned counsel submitted that apart from this material, there is no other material available with the 1st respondent.

3. In the considered view of this Court, the date of receipt of notice is a very vital fact which will decide as to whether a person has abandoned the application in the light of the operation of

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Section 21(2) of the Act. This Court kept this important issue in mind while passing the earlier order in WP IPD No.3 of 2025. Inspite of the same, till date, the authorities have not come up with a technical solution to prove the actual receipt of the email by the recipient. Under such circumstances, where the notice is sent by email, the authorities will face the very same problem in every case since they will not be able to place before the Court proof of the actual receipt of the email by the recipient.

4. Even in the case in hand, the respondents 1 and 2 are facing the same issue. In view of the same, this Court holds that there is no proof of receipt of the notice of opposition filed by the 3rd respondent and therefore, the application submitted by the appellant cannot be said to have been abandoned on the ground that the appellant did not file a counter to the opposition.

5. In the light of the above discussion, the impugned proceedings of the 2nd respondent dated 20.12.2024 is hereby quashed. As a corollary, the application No.5547423 and opposition No.1323716 are restored to the file of the 1st respondent for re-

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consideration. The appellant is permitted to file the counter statement for the opposition within a period of 30 days from the date of receipt of the copy of this order. On receipt of the same, the 1st respondent is directed to re-consider the matter on merits after providing reasonable opportunity to the petitioner and the 3rd respondent.

6. Before drawing the curtains, this Court once again reminds the respondents 1 and 2 regarding the earlier order passed in WP IPD No.3 of 2025 where this Court specifically directed the authorities to adopt a technical solution by providing proof of receipt of an email by the recipient. If the authorities do not act effectively on this issue, every other case of rejection of the application on the ground of abandonment will be put to challenge before this Court and it will only over burden the authorities. Hence, the Controller of General of Patents (Design and Trade Marks), will come up with a solution within a period of four weeks from the date of receipt of a copy of this order.

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7. In the result, this appeal is allowed in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

05-02-2026

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Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

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To

1.The Registrar of Trade Marks
Intellectual Property Building,
G.S.T. Road, Chennai 032.

2.The Assistant Registrar of
Trade Marks
Intellectual Property Building,
G.s.t. Road, Chennai 032.

3.Sri Ganesh Agencies
Rep By Its Proprietor, Ganesh
Kumar, 908, Anand Market,
Yamuna Nagar 135001, Haryana.

4. The Controller General of Patents
(Designs and Trade Marks)

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N.ANAND VENKATESH J.
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