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

\+ C.A.(COMM.IPD-TM) 27/2024 & I.As. 9639-9640/2024

LIBERTY GROUP MARKETING DIVISION ..... Appellant

Through: Mr. Kapil Wadhwa, Mr. Surya Rajappan, Ms. Tejasvini Puri and Ms. Vasanthi Hariharan, Advocates.

versus

REGISTRAR OF TRADE MARKS ..... Respondent

Through: Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra, Mr. Alexander Mathai Paikaday, Mr. Lakshay Gunawat and Mr. Krishnan V., Advocates.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 01.05.2024

1. The present appeal impugns order dated 13th June, 2023[1], whereby the Appellant's application for the trademark "  " in Class 32 for *"Beers; non-alcoholic beverages; mineral and aerated waters; fruit beverages and fruit juices; syrups and other non-alcoholic preparations for making beverages*", has been refused on the ground of Section 11 of the

[1] "Impugned Order"

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Trade Marks Act, 1999[2] in light of the cited mark "

"[3] in the First Examination Report.

2. After some arguments, Mr. Kapil Wadhwa, counsel for the Appellant, states that he shall take appropriate steps to have the Impugned Mark rectified/ cancelled. However, he prays that the Petitioner's application, which has been refused, be kept pending so that they do not lose out on the seniority claim from the date of the said application[4].

3. In light of the prayer made by Mr. Wadhwa, the Court is inclined to set aside the impugned order. Accordingly, the Petitioner's application is restored to its original number. The same shall be now taken up for hearing at request of the Petitioner on furnishing proof to the Senior Examiner of the Trademarks that the Cited Mark has been cancelled/ rectified, or the objection raised no longer sustains.

4. It is clarified that the Court has not expressed any opinion on the merits of the case. The Petitioner's application shall now be considered on its own merits, subject to Petitioner succeeding in taking appropriate steps to have the impugned cited mark referred above rectified.

5. The appeal along with pending applications are disposed of.

SANJEEV NARULA, J

MAY 1, 2024
as

[2] "the Act"
[3] "Cited Mark"
[4] Date of application: 5th June, 2020.

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