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

% Judgment delivered on: 17.01.2026

\+ **C.O. (COMM.IPD-TM) 176/2024 & I.A. 39130/2024**

GM MODULAR PVT. LTD. .....Petitioner

versus

MUMTAZ AHMED & ANR. .....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Ajay Amitabh Suman, Mr. Shravan Kumar Bansal, Mr. Rishi Bansal, Mr. Deepak Srivastava, Mr. Rishabh Gupta, Ms. Shruti Manchanda and Ms. Deasha Mehta, Advocates.

For the Respondents : Ms. Nidhi Raman, CGSC with Mr. Mayank S. and Mr. Om Rai, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

1. The present Rectification Petition has been filed under Section 57 of the Trade Marks Act, 1999 ("**Act**") seeking rectification of the Register of Trade Marks by cancellation / removal of the Trade Mark ' GMW ',

registered under Trade Mark Application No. 1978669 in Class 11 ("**Impugned Trade Mark**") in favour of Respondent No. 1.

PROCEEDURAL BACKGROUND:

2. The Notice in the present Petition was issued *vide* Order dated 11.09.2024 and the Respondents were given a time of four weeks to file their respective replies to the present Petition. *Vide* Order dated 06.12.2024, it was recorded that the Petitioner filed an Affidavit of Service to show that Respondent No. 1 had been served, however none appeared for Respondent No. 1. On 16.04.2025, Respondent No. 1 was directed to be served through the Trade Mark Agent through which the Application for the Impugned Trade Mark was filed.

3. Respondent No. 1 failed to appear even on 13.08.2025, and, therefore, Respondent No. 1 was directed to be proceeded *ex-parte*. The learned Counsel for the Petitioner made submissions on 26.11.2025 and the judgment was reserved.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

4. The learned Counsel for the Petitioner made the following submissions:

4.1 The Petitioner is engaged in the business of manufacture and trade of a wide range of electrical goods, electrical switches, accessories, appliances, electronic components and other allied and related goods and offering services in connection therewith ("**Petitioner's Goods and Services**") under the Marks, 'GM',

‘’, ‘’, ‘’ and ‘’ (“**Petitioner’s Trade Marks**”).

4.2 Ever since the *bona fide* and honest adoption of the Petitioner’s Trade Mark, ‘GM’ in the year 1999, the Petitioner has been honestly, continuously, commercially, openly, exclusively and to the exclusion of others, uninterruptedly and in the course of trade and as proprietor thereof using the Petitioner’s Trade Marks in relation to the Petitioner’s Goods and Services and has built up a valuable trade, goodwill and reputation thereunder. The Petitioner’s Goods and Services being carried on by the Petitioner under the Petitioner’s Trade Marks is very extensive and the Petitioner’s Goods and Services thereunder have been traded in large quantities in all major parts of the country. The Petitioner has obtained registrations for the Petitioner’s Trade Marks in various classes. The details of registration of the Petitioner’s Trade Marks are as under:

S. No.	Trade Mark	Application No.	Class	Date of Application	Logo / label
1.	GM INDIA	1277293	6	07/04/2004	
2.	GM INDIA	888186	7	25/11/1999	

3.	GM	934451	7	26/06/2000	
4.	GM	934456	7	26/06/2000	
5.	GM INDIA	888187	9	25/11/1999	
6.	GM	934452	9	26/06/2000	
7.	GM	934454	9	26/06/2000	
8.	GM INDIA	888188	11	25/11/1999	
9.	GM	934453	11	26/06/2000	
10.	GM	934455	11	26/06/2000	
11.	GM INDIA (LABEL)	1277292	17	07/04/2004	
12.	GM (DEVICE)	979183	21	26/12/2000	
13.	GM INDIA (DEVICE)	1252933	37, 38	03/12/2003	

4.3 The artistic work involved in the Petitioner's Trade Mark, ' ' ("**Petitioner's Artistic Work**") is an original artistic work and the Petitioner is the owner and proprietor of the copyright therein within the meaning of the Copyright Act, 1957. The Petitioner's Artistic Work is also registered under the

Copyright Act under No. A-64280/2003. The Petitioner has been dealing with the Petitioner's Artistic Work in the course of trade in relation to the Petitioner's Goods and Services.

4.4 The Petitioner has invested significantly in the promotion and marketing of the Petitioner's Trade Marks, dedicating considerable financial resources to ensure their prominence in the relevant market sectors. As a result, the Petitioner's Trade Marks have become synonymous with Petitioner's corporate identity and is an essential element of its business branding. The prolonged, continuous, and public utilization of the Petitioner's Trade Marks has generated significant goodwill and a strong reputation, which is exclusively associated with the Petitioner. The goodwill of the Petitioner's Trade Marks is evident by the revenue earned by the Plaintiff while dealing with the Petitioner's Goods and Services under the Petitioner's Trade Marks. The revenue earned by the Petitioner since the Financial Year ("**FY**") 2005-06 until the FY 2020-21 is as under:

FINANCIAL YEAR	SALES [IN CRORES]
2005 – 2006	1.58
2006 – 2007	2.53
2007 – 2008	3.31
2008 – 2009	5.25
2009 – 2010	8.84
2010 – 2011	13.50
2011 – 2012	15.46
2012 – 2013	38.15
2013 – 2014	83.52
2014 – 2015	122.00
2015 – 2016	169.36
2016 – 2017	509.57
2017 – 2018	825.11

2018 – 2019	1102.36
2019 – 2020	1116.42
2020 – 2021	1372.49

4.5 Respondent No. 1 is an entity trading as *Grand Metal Works* and is engaged in selling of electric fans, blowers, heaters and parts and accessories. In the third week of August 2024, the Petitioner through its Attorney during a routine survey through the online records of the Trade Marks Registry came across the registration for the Impugned Trade Mark in Class 11 on 11.06.2010, with a claimed user since 01.04.2007. The Application for registration of the Impugned Mark was filed in Class 11 for "all kinds of electric fans, blowers, heaters & parts & accessories thereof".

4.6 Respondent No. 1 has dishonestly adopted the Impugned Trade Mark. The Impugned Trade Mark is deceptively and confusingly similar to the Petitioner's Trade Marks phonetically, visually, structurally, conceptually and in its essential features. The goods and business in respect of which the Impugned Trade Mark is registered is also similar and allied and cognate as that of the Petitioner. This Court in ***GM Modular Pvt. Ltd. v. Mayur Electromeck Pvt. Ltd.,*** Neutral Citation: 2024:DHC:2411, passed an order directing the rectification of the Register of Trade Marks by deletion of the Mark '

', registered under Trade Mark No. 1332839 in Class 9 from the

Register of Trade Marks. Therefore, the Impugned Trade Mark which comprises the Mark, 'GMW' deserves to be cancelled.

4.7 In light of the above, it is stated that the Impugned Trade Mark has been wrongly entered in the Register of Trade Marks and, therefore, is liable to be cancelled in terms of Section 57 of the Act.

SUBMISSIONS ON BEHALF OF RESPONDENT NO. 2:

5. The learned CGSC appearing for Respondent No. 2 submitted that Respondent No. 2 is a formal party and shall comply with any directions passed by this Court.

ANALYSIS AND FINDINGS:

6. At the outset, in the absence of any appearance and Reply by Respondent No. 1, the averments made in the present Petition have remained uncontroverted. Accordingly, for all purposes, the pleadings herein are deemed to have been admitted by Respondent No. 1.

7. The material placed on record demonstrates that the Petitioner is the prior adopter and prior user of the Petitioner's Trade Marks. The Petitioner has been able to establish its case of being the prior user of the Petitioner's Trade Marks which was coined and adopted by the Petitioner in 1999 and the Petitioner has subsequently incorporated the Mark, 'GM' in the Petitioner's Trade Marks being used to sell processing, marketing and sale of the Petitioner's Goods and Services.

8. The Petitioner has acquired considerable goodwill in the market which is evident through the year wise annual sales data produced by the Petitioner, which shows sales of ₹1372.49 crores in the FY 2020-21. Respondent No. 1 has received registration of the Impugned Trade Mark in 2010 claiming user

since 01.04.2007 in Class 11 with respect to goods identical or similar to the Petitioner's Goods and Services under the Petitioner's Trade Marks. The adoption of the Impugned Trade Mark by Respondent No. 1 is nothing but an attempt to ride the goodwill of the Petitioner's Trade Marks without any justification for the same.

9. It is trite law that a prior user's rights will override the rights of a subsequent user even though the latter's Mark may be a registered Trade Mark. The Petitioner has categorically pleaded use of the Petitioner's Trade Marks from 1999 and the claim of prior use is substantiated by various invoices produced by the Petitioner, therefore it has claimed that the use of the Petitioner's Trade Marks is prior to the use of the Impugned Trade Mark by Respondent No. 1. Respondent No. 1 has themselves applied for the registration of the Impugned Trade Mark claiming user since 01.04.2007. Thus, it has been established that the Petitioner is the prior user of the Petitioner's Trade Marks.

10. Therefore, prior use of the Petitioner's Trade Marks, registrations and the continuous and uninterrupted use of the Petitioner's Trade Marks in the course of trade in respect of sale, processing and marketing of the Petitioner's Goods and Services demonstrate that the Petitioner's Trade Marks have become associated with the Petitioner.

11. Respondent No. 1 has subsequently adopted the Impugned Trade Mark, which is identical and / or deceptively similar to the Petitioner's Trade Marks for identical goods. Such conduct undermines the sanctity of the Register of Trade Marks and highlights the necessity to uphold and protect the rights of *bona fide* proprietors. It is evident that the entry relating to the Impugned

Trade Mark is wrongly remaining on the Register of Trade Marks warranting rectification under Section 57 of the Act.

12. In view of the Petitioner's prior use, the identity of the competing Marks, the similarity of goods, the likelihood of confusion, and the lack of *bona fide* adoption or use by Respondent No. 1, the Impugned Trade Mark is liable to be removed from the Register of Trade Marks.

13. Accordingly, the present Petition is allowed, and Respondent No. 2 is directed to remove the Impugned Trade Mark, '  ' registered under Trade Mark Application No. 1978669 in Class 11 from the Register of Trade Marks.

14. The present Petition and the pending Application stand disposed of.

15. A copy of the present order is directed to be sent to the Trade Mark Registry at e-mail: llc-ipo@gov.in for compliance.

TEJAS KARIA, J

JANUARY 17, 2026
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