OCD-12

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
SPECIAL JURISDICTION
ORIGINAL SIDE

[COMMERCIAL DIVISION]

IPDTMA/79/2023
IA NO. GA/1/2024

GOJO INDUSTRIES INC
-VS-
THE REGISTRAR OF TRADE MARKS AND ANR

BEFORE:
The Hon'ble JUSTICE KRISHNA RAO
Date : September 17, 2024.

Appearance:
Mr. Sayantan Basu, Adv.
Ms. Ragini Ghosh, Adv.
Ms. Sayanika De, Adv.
Mr. Manoj Gupta, Adv.
... for the Appellant

Mr. Sayan Roy Chowdhury, Adv.
Mr. Tanmoy Roy, Adv.
Mr. Deep Bhattacharya, Adv.
... for the respondent no.2

The Court: Mr. Sayantan Basu, learned counsel, is appearing for the Appellant.

Mr. Sayan Roy Chowdhury, learned counsel, is appearing for the respondent no. 2.

None appears on behalf of the respondent no.1.

The appellant has filed the present appeal under Section 91 of the Trade Marks Act, 1999 against the order passed by the Hearing Officer of Trade Marks dated 31st March, 2023.

Counsel for the appellant has relied upon the judgment passed by this Court in the case of ***Visa International Ltd. Vs. Visa International Service Association & Anr.*** being ***IPDTMA/82/2023 with GA-COM/1/2024*** dated 02nd August, 2024 wherein this Court held that the "The Registrar dealing with an application under the Trade Mark Act is a quasi judicial and delegation of power under sub-section (1) of Section 3 of the Act are not empowered to pass quasi judicial orders." He submits that in the present case the same officer has passed the impugned order being a Hearing Officer of the Trade Marks.

Considered the submissions made by the Counsel for the appellant. Perused the judgment passed by this Court in the case of ***Visa International Ltd. (Supra)***. The impugned order dated 31st March, 2023 is passed by the same officer who was engaged on contract basis as Hearing Officer or Associate Manager who is not competent to pass quasi judicial order.

Accordingly, the impugned order is set aside and quashed.

The matter is remanded back to the Registrar of Trade Marks, Kolkata to hear the matter afresh by himself or by any competent officer other than the Officer who passed the impugned order and to pass reasoned and speaking order by giving an opportunity of hearing to all the parties of the objection within a period of one year from the date of receipt of the copy of this order.

Though this Court has not gone into the merit of this case, all the points have been kept open to be decided either by the Registrar himself

or the competent officers appointed by the Registrar for disposal of the matter.

IPDTMA/79/2023 is disposed of.

Consequently, IA No. GA/1/2024 is also disposed of.

(KRISHNA RAO, J.)

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