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

\+ C.A.(COMM.IPD-TM) 46/2024, I.A. 31481/2024-For stay of impugned order dt. 29.01.24, I.A. 31483/2024- Summoning of record.

TIRUPATI UDYOG .....Appellant

Through: Mr. Shravan Kumar Bansal and Mr. Ajay Amitabh Suman, Advocates

versus

THE REGISTRAR OF TRADE MARKS & ANR. .....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Zubin Singh, Advocate and Mr. Aakash Meena, GP for Respondent No. 1/UOI.
Mr. Rahul Kumar, Advocate with Ms. Akanksha Singh, Advocate for R- 2.

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C.A.(COMM.IPD-TM) 47/2024, I.A. 31506/2024 for stay of impugned order dt. 29.01.24

TIRUPATI UDYOG .....Appellant

Through: Mr. Shravan Kumar Bansal and Mr. Ajay Amitabh Suman, Advocates

versus

THE REGISTRAR OF TRADE MARKS & ANR. .....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr. Zubin Singh, Advocate and Mr. Aakash Meena, GP for Respondent No. 1/UOI.
Mr. Rahul Kumar, Advocate with Ms. Akanksha Singh, Advocate for R- 2.

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CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

O R D E R

% 05.09.2024

1. By virtue of the present appeals, the appellant seeks quashing and setting aside of the impugned order dated 29.01.2024 passed by the respondent no.1 whereby fresh documents filed by the respondent no.2 have been taken on record.

2. Learned counsel for the appellant, at the outset, relying upon ***ITC Limited Vs. The Deputy Registrar of Trade Marks and Ors*** 2024:DHC:1603 and ***Md. Islamuddin Vs. S. S. Kapoor*** 2022:DHC:4587, submits that though the Registrar (respondent no.1) on one hand has allowed the Interlocutory Petition dated 15.01.2024 (I.P.) of the respondent no.2 whereby further evidence under Rule 48 of the Trade Marks Rules, 2017 have been taken on record, however, the appellant has not been accorded any opportunity for filing reply thereto as the opposition proceedings initiated by the appellant have been put up for final hearing.

3. Learned counsel for the respondent no.2, on the other hand, submits that since, *admittedly*, the appellant herein had duly filed a detailed reply to the I.P., there was no occasion for the respondent no.1 to give any opportunity to the appellant herein.

4. Considering that the respondent no.1 has allowed the I.P. of the respondent no.2 after recording that it is "... ... *in the interest of fairness and equality, equal opportunities should be afforded to all parties involved to present their representative cases ... ...*", however, there is no

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finding(s) qua (not) giving an opportunity to the appellant for filing a response thereto.

5. As such, in view of the aforesaid as also since the learned counsel for appellant is left without any chance of controverting the said documents at the time of addressing final arguments and also as held in ***ITC Limited*** (supra) and ***Md. Islamuddin*** (supra), the respondent no.1 is directed to give an opportunity to the appellant for filing a reply qua the fresh set of documents filed by the respondent no.2 alongwith I.P. dated 15.01.2024 within a period of four weeks so that they can also be considered by the respondent no.1 at the time of final hearing of the opposition proceedings.

6. Accordingly, the appeals alongwith pending applications, are disposed of.

SAURABH BANERJEE, J

SEPTEMBER 5, 2024/akr

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