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

\+ C.A.(COMM.IPD-TM) 77/2024 & I.A. Nos. 45326/2024 & 45327/2024

M/S SUPARSHVA SWABS I LIMITED .....Appellant

Through: Mr. Sudharshan Kumar Bansal with Mr. Arpit Dudeja, Advocates.
(M): 9810132015
Email: legal@unitedworld.co.in

versus

THE REGISTRAR OF TRADEMARKS & ANR. .....Respondents

Through: Mr. Farman Ali, SPC with Mr. Hussain Adil Taqvi, GP and Ms. Usha Jamnal, Advocate for respondent no. 1.
Mr. Farman Ali, SPC along with Mr. Hussain Taqvi. Advocate for respondent no. 2.

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

O R D E R

% 19.11.2024

I.A. No. 45327/2024 (Exemption from filing original and certified copies)

1. The present application has been filed under Section 151 of the Code of Civil Procedure, 1908 ("CPC") seeking exemption from filing certified/original/clear/typed/translated/legible copies with proper margin of documents.

2. Exemption is granted, subject to all just exceptions.

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3. Appellant shall file legible and clear copies of the documents, before the next date of hearing.

4. Accordingly, the present application is disposed of.

C.A.(COMM.IPD-TM) 77/2024 & I.A. No. 45326/2024 (for stay)

5. The present appeal has been filed under Section 91 of the Trade Marks Act, 1999 and Rule 156 of the Trade Mark Rules, 2017 against the order dated 09th April, 2024 passed by the learned Registrar of Trademarks pertaining to trademark 'NATURE WORKS' (word) under application no. 4482846 in Class 16 for the goods "Tissue paper & Napkins, Toilet Rolls, Wet Wipes" etc.

6. Learned counsel appearing for the appellant submits that the respondent no. 1 has not given any notice to the appellant as required under Section 21(2) of the Trade Marks Act, 1999 and Rule 18 of the Trade Mark Rules, 2017 for filing the counter statement. Thus, it is submitted that the impugned order dated 09th April, 2024 passed by the respondent no. 1 is erroneous, suffers from infirmity and is liable to be set aside.

7. Learned counsel appearing for respondent no. 1 has handed over a copy of the instructions which he has received from his client, wherein it is stated as follows:-

> *"xxx xxx xxx*
>
> *This is wrt trademark application no. 4482846*
>
> *On perusal of records, it is found that the Notice of Opposition was served on 06/11/2023. However, as per the email records, there is* ***NO*** *acknowledgement mail for the service of notice of opposition to the applicant or their agent.*
>
> *Acknowledgment mail is only found for opponents agent (aroraandarora@gmail.com).* ***No counter statement was filed/served in the above application.***

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Further, trademark registry will follow the directions of hon'ble court.
xxx xxx xxx"

8. Learned counsel appearing for the respondent no. 1 submits, that the email that was sent to the appellant, was bounced back. He admits to the fact that no acknowledgement for service of the notice of opposition was received from the appellant or its agent. Thus, he submits that the notice of opposition was not served upon the appellant.

9. Perusal of the impugned order dated 09th April, 2024 passed by the Registrar of Trademarks reads as under:-

THE TRADE MARKS ACT,1999

IN THE MATTER OF an Application No. **4482846 in Class 16** in the name of :

M/S SUPARSHVA SWABS (I) (Proprieter)

487/18, Peera Garhi, Rohtak Road, Near Punjab Hardware, New Delhi – 110087. .

AND

IN THE MATTER OF an Opposition No. **1241383** there to by

Mr. Madhu Malhotra (Opponent)

E-7, Sector-7, Noida, U.P. .

ORDER

Trade Mark Application No.**4482846** in Class **16** was advertised in journal no : 2105 dated **22/05/2023 .** Subsequently above opposition was filed under section 21(1) of the Trade Mark Act,1999 by the above named opponent on 22/09/2023 to oppose the registration of Trade Mark applied for.the Notice of Opposition was served to the applicant 04/11/2023 and till date no Counter statement filed by the applicant.

Hence,the application no.**4482846**in class **16** is deemed as ABANDONED by operation of section 21(2) of the Trade Mark Act,1999 and consequently opposition no/s. **1241383** abates.
There shall be no order as to cost in respect of the above proceeding.

Signed and Sealed at Delhi dated this 09 April, 2024

For Registrar Of Trade Marks

10. Perusal of the aforesaid order shows that the application no. 4482846 in Class 16 of the appellant, has been deemed to be abandoned, on the basis

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of operation of Section 21 (2) of the Trade Marks Act, 1999.

11. Considering the submission made before this Court, it is manifest that the notice of opposition was never served upon the appellant, on account of which no counter statement was filed by the appellant. Therefore, the registration application filed by the appellant cannot be deemed to have been abandoned, as the appellant has explained that no counter statement was filed by the appellant, in the absence of receipt of any notice of opposition.

12. Considering the submissions made before this Court, the following directions are issued:-

I. The impugned order dated 09th April, 2024 passed by the Registrar of Trademarks, is hereby set aside.

II. The trade mark application no. 4482846 in Class 16, as advertised in Journal no. 2105 dated 22nd May, 2023, is hereby revived.

III. The Registrar of Trademarks shall serve copy of the notice of opposition to the appellant, afresh.

IV. Upon receipt of notice of opposition, the appellant shall file its counter statement before the Registrar of Trademarks, in accordance with law.

13. With the aforesaid directions, the present appeal, along with pending applications, stands disposed of.

MINI PUSHKARNA, J

NOVEMBER 19, 2024
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