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

\+ C.A.(COMM.IPD-TM) 81/2024

SPACEMAN SPIRITS LAB PRIVATE LIMITED .....Appellant
Through: Ms. Ramya Agarwal, Advocate.

versus

THE REGISTRAR OF TRADE MARKS TRADEMARKS REGISTRY .....Respondent
Through: Ms. Nidhi Raman, CGSC with Mr. Zubin Singh and Mr. Akash Mishra, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT BANSAL

O R D E R

% 13.12.2024

1. This appeal has been filed under Section 91 of the Trade Marks Act, 1999 impugning the order passed by the Senior Examiner of Trade Marks on 22nd August, 2024 in Trade Mark Application No.5940723 for the trademark '*Sitara Rum from India*'.

2. By way of the impugned order, the aforesaid trade mark application has been rejected.

3. Ms. Ramya Aggarwal, counsel appearing on behalf of the appellant submits that the impugned order was passed without hearing counsel for the appellant.

3.1 Ms Aggarwal submits that on the particular date, when the hearing was fixed, *i.e*. 22nd August, 2024, she could not appear due to some personal difficulty.

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4. The impugned order records that the same was passed after hearing the submissions of the applicant/authorized agent.

5. Notice in this appeal was issued on 5th December, 2024 and counsel for the respondent was asked to take instructions whether the impugned order was passed in the absence of counsel for the appellant.

6. Ms. Nidhi Raman, CGSC has returned with instructions that even though the impugned order was passed without any oral hearing being given to the appellant, the same was passed on the basis of the reply to examination report filed by the appellant.

6.1 Ms Raman further pointed out that the appellant had failed to file the requisite Form TM-A for extension of time.

7. I have heard the parties and perused the material on record.

8. Having heard the counsel for the parties it would be in the interest of justice that an opportunity of hearing is given to the appellant. Evidently, in the present case, the order was passed without a hearing being given to the appellant.

9. In view of the above, on this short ground alone, the impugned order dated 22nd August, 2024 is set aside and the matter is remanded back to the Trademark Registry.

10. The Trademark Registry shall issue a fresh hearing notice to the appellant and pass an order, after giving an opportunity of hearing to the appellant.

11. It is clarified that this order is being passed without making any observations on the merits of the case.

12. The appeal stands disposed of accordingly.

13. The Registry is directed to supply a copy of the present order to the

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Trademark Registry, at e-mail – "llc-ipo@gov.in" for compliance.

AMIT BANSAL, J

DECEMBER 13, 2024
Vivek/-

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