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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 3rd November, 2022*+ **C.A.(COMM.IPD-TM) 65/2022****VISAGE BEAUTY AND HEALTHCARE PVT. LTD.... Appellant**

Through: Ms. Aamna Hasan, Ms. Anupriya Shyam and Mr. Vaibhav, Advocates (M: 8447227930).

versus

REGISTRAR OF TRADEMARKS**..... Respondent**

Through: Mr. Harish Vaidyanathan Shanker, CGSC with Mr. Srish Kumar Mishra, Mr. Sagar Mehlawat and Mr. Alexander Mathai Paikaday, Advocates (M: 9810788606).

CORAM:**JUSTICE PRATHIBA M. SINGH****Prathiba M. Singh, J.(Oral)**

1. This hearing has been done through hybrid mode.
2. The present appeal arises out of the impugned order dated 27th October, 2020 by which the application of the Appellant for the mark 'GLOW-GETTER' has been rejected by the Registrar of Trademarks.

The details of the said mark as under:

Mark	Application No.	Application Date	Class	Applicant
GLOW-GETTER	2881329	13 th January, 2015	3 For cosmetics, beauty care products, skin care products, hair care products	Visage Beauty & Health Care P. Ltd.

3. Vide the impugned order, the application of the Appellant has been refused under Section 9(1)(b) of the Trademarks Act, 1999 (*hereinafter "Act"*), on the ground that the said mark consists of words which may be used in trade to designate the kind, quality of goods, etc.

4. Submissions have been heard.

5. The mark 'GLOW-GETTER' is sought to be registered in respect of cosmetic and beauty care products. The word 'GLOW' *per se* may be a word which may be used by various third parties in respect of cosmetics. However, the combination 'GLOW-GETTER' as a composite mark cannot be rejected in Sections 9 and 11 of the Act, as the same does not directly describe the kind, quality, etc. of the products concerned. This is also the position that has been upheld in the decision of this Court in *Dubai Islamic Bank v. Union of India [W.P.(C)12749/2019 decided on 4th December, 2019]*, reiterated in *Skechers, USA II v. Union of India & Ors. [W.P.(C)-IPD 90/2021, decided on 14th July, 2022]*. The relevant extract of the *Dubai Islamic Bank (supra)* reads as under:

"11. The mark - 'DUBAI ISLAMIC BANK - THE BETTER WAY TO BANK' is clearly a composite mark, which does not just have the words 'Dubai' and 'Bank', but also has a slogan. Such a mark should not have been refused simply on the basis of the fact that there is an indication of the geographical origin i.e., the word DUBAI. Obviously, when a bank seeks a trade mark registration, the word 'Bank' usually appears in the mark. The appearance of the said word would not

by itself make the mark inherently descriptive or make it lack distinctiveness. A perusal of the illustrative list above shows that the names of most banks use a geographical name, the word 'Bank', as also a slogan."

6. Accordingly, the present application is directed to proceed for registration in the following terms:

- i) No exclusive rights in the word 'GLOW' *per se* shall vest in the Appellant. This disclaimer shall be reflected in the trade marks journal at the time of advertisement as also if the mark ultimately proceeds for registration of the Appellant's mark.
- ii) The rights in the said mark shall be restricted to the combination of the words 'GLOW' and 'GETTER' with a hyphen as depicted above.

7. With these directions, the Trademark Registry may proceed to advertise the mark.

8. It is made clear that the present order shall not have effect on any oppositions, if filed, against the Plaintiff's mark.

9. With these observations, the present petition with all pending applications is disposed of.

10. Copy of today's order be supplied to the Trademark Registry at llc-ipo@gov.in.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 3, 2022/MR/MS