

K.S. Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL MISCELLANEOUS PETITION NO.13 OF 2023

DSM IP Assets B.V.

...Petitioner

Versus

The Senior Examiner of Trade Marks, Mumbai ...Defendant

Mr. Aditya Mahadevia a/w Mr. Karan Khiani i/b Gaurav Pande & Rashmi Singh, Advocate for Petitioner.

Mr. Pranav Thackur, Advocate for Trade Marks Registry.

CORAM : R.I. CHAGLA, J.

DATE : 19TH JUNE, 2023.

ORDER :

1. By this Commercial Miscellaneous Petition, the Petitioner is seeking quashing and setting aside of the Respondent's order dated 24th August, 2021.

2. Having taken a view in Commercial Miscellaneous Petition No.19 of 2023 where a similar order as the present impugned order passed by the Senior Examiner of Trade Marks required setting aside

and matter to be remanded back, a similar order is required to be passed herein. This was upon considering that although the impugned order had referred to Section 9(1)(b) of the Trade Marks Act, 1999, the provision did not form part of the objections raised by the Trade Marks Registry. Thus, no opportunity had been given to the Petitioner to respond to this provision being applicable.

3. Accordingly, the impugned order dated 24th August, 2021 is set aside and matter remanded back to the Senior Examiner of Trade Marks to grant an opportunity to the Petitioner to respond to the objections, particularly, the objection under Section 9 (1)(b) of the Trade Marks Act, 1999.

4. The Respondent / Senior Examiner of Trade Mark shall pay due adherence to the order dated 14th June, 2023 passed in Interim Application (L) No.4264 of 2023 in Commercial Miscellaneous Petition (L) No.3899 of 2023 namely *I Am The Ocean, LLC Vs. Registrar of Trade Marks* in passing the fresh order upon remand. The Respondent / Senior Examiner of Trade Marks shall carry out the exercise and pass reasoned order within a period of twelve weeks from the date of this order.

5. Commercial Miscellaneous Petition is accordingly disposed of.

[R.I. CHAGLA, J.]