



W.P.No. 3249 of 2021

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MRS. JUSTICE N.MALA**

**W.P.No. 3249 of 2021
and
W.M.P.No.3694 of 2021**

Future Gaming and Hotel Services Pvt. Ltd.,
(Formerly Hall Marc Hospitality Private Limited)
54, Mettupalayam Road, G.N. Post
Coimbatore 641 029

... Petitioner

Vs.

1. India G6 Hospitality IP LLC
4001 International Parkway, Carroiton,
Texas 75007, USA.

2. The Registrar of Trademarks
Trademark Registry
Boudhiksampada Bhawan
G.S.T Road, Guindy
Chennai 600 032
Respondents

...

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, calling for the records in order dated 15.12.2020 passed by the Honble Intellectual Property Appellate Board in ORA / 27 / 2020 / TM / CHN and quash the same.



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For Petitioner : Mr.A. Prabhakara Reddy
for M/s APR Associates
For Respondents : Mr. Ramesh Ganapathy for R1

ORDER

(Order of the Court was made by J.NISHA BANU, J.,)

Challenging the order dated 15.12.2020 passed by the Intellectual Property Appellate Board, Chennai, in O.R.A/27/2020/TM/CHN, the petitioner has filed the present Writ Petition, whereby the petitioner's trademark was removed from the Register of Trademarks, which is registered under No.2750029 in class 43.

2.It is the case of the 1st respondent that they filed an ORA before the Intellectual Property Appellate Board, Chennai, (in short 'the Board') stating that their company is headquartered in Texas and is renowned for hospitality services since 1962.

3.The petitioner-Company herein filed an application for the trademark #6 under application No.2693964 in class 43. Upon hearing both sides, the Board vide the order impugned in this Writ Petition, removed the mark '6' from



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the Register, on the ground that it is wrongly registered by the 2nd respondent herein and cancelled the same under the provisions of Section 47(1)(a) and (b) and Section 57 of the Trade Marks Act, 1999. Aggrieved by the cancellation, the petitioner has filed the present Writ Petition.

4.It is the specific contention of the learned counsel for the petitioner that the impugned order was passed without hearing the petitioner. Owing to Covid – 19 pandemic, he could not engage an Advocate. On 15.12.2020, the Intellectual Property Appellate Board, Chennai, passed an exparte order against the petitioner.

5.Heard both sides and perused the materials available on record.

6.The petitioner two petitions, seeking extension of time for filing counter statement and to set aside the exparte order dated 10.12.2020 and to reopen the main ORA on 18.12.2020. Without considering the said petitions, the Board passed the final order, by cancelling the trademark belonging to the petitioner herein.

7.Taking note of the facts and circumstances of this case, we are inclined



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to set aside the order dated 15.12.2020. Accordingly, the impugned order dated 15.12.2020 is set aside. The petitioner is directed to present the matter before the appropriate Bench, dealing with Intellectual Property matters, for fresh consideration.

8.The Writ Petition stands allowed on the above terms. No costs.
Consequently connected miscellaneous petition is closed.

J.)
Index : Yes / No
Internet : Yes / No
Neutral citation : Yes / No
Jer

(J.N.B., J.) (N.M.,

15.09.2023

To
The Registrar of Trademarks
Trademark Registry
Boudhiksampada Bhawan
G.S.T Road, Guindy
Chennai 600 032



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J. NISHA BANU, J.
and
N.MALA, J.

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