

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**CWP-12179-2021
Date of decision: 03.02.2023**

SANTOSH KUMAR VERMA

.....Petitioner

VERSUS

UNION OF INDIA AND ANOTHER

.....Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present:- Petitioner in person.

Mr. Arihant Goyal, Central Govt. Counsel
for respondents.

VINOD S. BHARDWAJ, J. (Oral)

The present petition has been filed raising a challenge to the order dated 09.06.2021 (Annexure P-1) passed by the Registrar of Companies, Central Registration Centre, Ministry of Corporate Affairs whereby the application having SRN No.M21285994 dated 03.06.2021 for reservation of name of the proposed L.L.P. has been rejected.

2. The petitioner-in-person contends that he passed his graduation in Law in the year 1990 and enrolled as an Advocate with the Bar Council of Delhi vide Enrollment No.D-786/1990. He started his practice as an Advocate w.e.f. 11.10.1990 and continued as such till 20.04.1999 under the nomenclature “**S.K.VERMA & ASSOCIATES**”. Thereafter, the petitioner joined as Assistant Registrar with the Customs, Excise & Service Tax Appellate Tribunal, Government of India, Ministry of Finance, Department

of Revenue w.e.f. 21.04.1999. He superannuated from the said department on 13.03.2020. Post his superannuation, the petitioner was inclined to restart his practice under the same nomenclature and thus applied online for approval of the name of the proposed firm as “**S.K.VERMA AND ASSOCIATES LLP**” on the website of respondent No.1-Ministry of Corporate Affairs. The petitioner however received an e-mail on 03.06.2021 stating that the petitioner would have to resubmit his request for the reason conveyed as under:

"The objects of the proposed LLP will be incorporation of Practicing Chartered Accountancy firm and as per the Rule 18(2)(xvi) of LLP Rules, 2009, the prior approval from the regulatory authority is required to be furnished. Proposed name consist of the word "AND ASSOCIATES" which require prior approval from regulatory authority or remove it. Furnish new name"

3. The said communication clearly reflected that the respondents misunderstood the petitioner to be working as a firm of Chartered Accountancy whereas application was for a Law Firm as a “Limited Liability Partnership” which the petitioner had proposed to be constituted. Hence, a detailed reply was submitted by the petitioner on the website of respondents on 08.06.2021 stating that the application was not for a Chartered Accountancy firm but was proposed to operate as ‘Law Firm’ and the regulatory authority for the same is Bar Council of India.

4. The petitioner thereafter received the order dated 09.06.2021 rejecting the approval/reservation of the name “**S K VERMA AND ASSOCIATES LLP**” stating the following :

“The proposed name includes “AND ASSOCIATES” which

depicts professional activities related to CA/CS/CMA which requires in-principle approval from the concerned regulatory authority as per Rule 18(2) (xvi) of”.

5. Petitioner appearing in person submits that the communication is invalid as the provision of Rule 18 (2)(xvi) of Limited Liability Partnership Rules, 2009 (here-in-after referred as ‘the Rules’) is not applicable in the manner as interpreted by the respondents in the order.

6. Counsel appearing on behalf of the respondent No.1-Ministry of Corporate Affairs on the other hand reiterates their above stand and contends that the use of words “AND ASSOCIATES” is indicative of the profession and therefore the approval from the Governing Counsel of the said profession is required in terms of the aforesaid Rule. He, however, does not dispute that there was no other objection raised.

7. I have heard petitioner in person as well as the respondent’s counsel and have gone through the documents appended alongwith the present petition.

8. The Government of India, Ministry of Corporate Affairs, vide notification dated 01.04.2009 had notified the Limited Liability Partnership Rules, 2009 in exercise of the powers conferred under Section 79 (1) & (2) of the Limited Liability Partnership Act, 2008. The relevant Rule 18 (2) (xvi) reads thus:

“18(1) The name of the limited liability partnership shall not be one prohibited under the Emblems and Names (Prevention of Improper Use) Act, 1950

(2) A name shall not generally be reserved, if-

(i) it includes any word or words which are offensive to any section of the people;

(ii) the proposed name is the exact Hindi or English translation of the name of an existing limited

liability partnership in English or Hindi, as the case may be;

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(xvi) the proposed name of limited liability partnership includes the words company secretary, chartered accountant, advocates or such similar words as indicative of a profession, as part of the proposed name, the same shall be allowed only after obtaining approval from the Council governing such profession or such authority as may be nominated by the Central Government, in this behalf.

9. A reading of the aforesaid rules shows that a proposed name which includes similar words as indicative of a profession, as part of the proposed name can be allowed only after obtaining approval from the Governing Council of such profession or authority as has been nominated by the Central Government. The objection in question relates to the name of the concern and not the nature of activity being undertaken by the concern. The prohibition contained under the Act is that the proposed name should not include words as are indicative of a profession.

10. Even though the respondents have sought to assign an interpretation that, “AND ASSOCIATES” would be reflective of the profession of Advocacy, however, such interpretation may not be a correct interpretation of the provisions of the Rules. The perusal of the Rule shows that the requirement of approval from the Governing Council or Authority is required where the proposed name includes the words indicative of profession. The expressions used in the Rule are not exhaustive and are merely illustrative. The interpretation to be assigned to “or such similar words as indicative of a profession” has to be read in consonance with the

words that have already been used in the Rules. On application of principles of ejusdem- generis, the interpretation to be assigned to the words used later have to be drawn from the words used prior.

11. The Hon'ble Supreme Court while construing the principal of ejusdem- generis in the matter of "***Mahrashtra University of Health Science***" versus ***Satchikitsa Prasarak Mandal***" reported as (2010) 3 Supreme Court Cases 786 laid down the following principal"

"27. The Latin expression "ejusdem generis" which means "of the same kind or nature" is a principle of construction, meaning thereby when general words in a statutory text are flanked by restricted words, the meaning of the general words are taken to be restricted by implication with the meaning of the restricted words. This is a principle which arises "from the linguistic implication by which words having literally a wide meaning (when taken in isolation) are treated as reduced in scope by the verbal context". It may be regarded as an instance of ellipsis, or reliance on implication. This principle is presumed to apply unless there is some contrary indication [see Glanville Williams, The Origins and Logical Implications of the Ejusdem Generis Rule, 7 Conv (NS) 119]."

12. Further, in the matter of "***Jaiprakash Associates Limited (JAL) through its Director versus Tehri Hydro Development Corporation (India) Limited (THDC) through its Director***" reported as (2019) 17 SCC 786, the Apex Court has held that:

"22. Insofar as argument based on the principle of ejusdem generis is a concerned, the Division Bench has held that that is not applicable in the present case. We find that it is rightly so held. Ejusdem generis is the rule of construction. The High Court has negated this argument in the following manner: (Jaiprakash Associates case², SCC OnLine Del para 18)

"18. The rule of ejusdem generis guides us that where two or more words or phrases which are susceptible of analogous meaning are coupled together, a noscitur a sociis, they are to be understood to mean in their cognate sense and take colour from each other but only if there is a distinct genus or a category. Where this is lacking i.e. unless there is a category, the rule cannot apply."

As rightly held, the rule of ejusdem generis would be applied only if there is distinct genus or a category, which is lacking in the instant case. This rule is applicable when particular words pertaining to a clause, category or genus are followed by general words. In such a situation, the general words are construed as limited to things of same kind as those specified. In that sense, this rule reflects an attempt "to reconcile incompatibility between the specific and general words in view of the other rules of interpretation that all words in a statute are given effect if possible, that a statute is to be construed as a whole and that no words in a statute were presumed to be superfluous".

(Empahsis supplied)

13. The word "AND ASSOCIATES" is not a word indicative of any specific profession and is a generic word which can be used with any vocation or profession or activity undertaken by a person. Other such or similar words as contemplated in the said Rule would safely be words such as Doctors, Architects, Engineers, Accountants, Cost Accountants, Hotel Managers etc. The object of the Rule is to ensure that the distinct word for a profession is not registered as a 'Limited Liability Partnership' under the act and rules framed thereunder unless approval thereof is accorded by the Governing Council or the Authority as nominated by the Central Government. The interpretation proposed by the respondent cannot be extended to apply to the use of any other generic word which may be used

such as "& Associates" "& Sons", & "Brothers".

14. Having examined the provision of Rule as aforesaid and for the reasons recorded above, I do not find that the reasons assigned by the respondents in the impugned communication for declining registration of the LLP of the petitioner by the name as proposed by him on the aforesaid ground of the use of word "AND ASSOCIATES" as being a word indicative of a profession and mandating him to seek prior approval of the Bar Council of India is misplaced and is not sustainable and is liable to be set aside. The respondents are directed to proceed with the application of the petitioner as per law and to issue appropriate registration subject to all other necessary compliances as may be so required by law.

The present petition is, thus, allowed.

(VINOD S. BHARDWAJ)

JUDGE

FEBRUARY 03, 2023

Vishal Sharma

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No