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

Date of Decision:- 8th December, 2023.

+ **C.A.(COMM.IPD-TM) 82/2021**

RALSON (INDIA) LIMITED

..... Appellant

Through: Ms. Zeba Tarannum Khan with Ms.
Sreelakshmi Menom, Advs. (M.
9818558690)

versus

KUNAL TALUJA AND ANR

..... Respondents

Through: Mr. Harish Vaidyanathan Shankar,
CGSC, with Mr. Srish Kumar Mishra,
Mr. Alexander Mathai Paikaday &
Mr. Krishnan V., Advocates (M:
9810788606).

CORAM:

JUSTICE PRATHIBA M. SINGH

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. This is an appeal filed by the Appellant -Ralson (India) Limited, against the impugned order dated 4th May, 2018, wherein the Id. Deputy Registrar of Trade Marks dismissed the trade mark opposition filed by the Appellant.
3. The Respondent no.1 – Kunal Taluja filed an application for registration of the mark ‘RAMCO’ bearing number 1797072 in Class 6 under the Trade Marks Act, 1999. The said mark was advertised in the Trade Marks Journal No. 1665 published on 3rd November, 2014, the extract of



which is set out below:

Trade Marks Journal No: 1665 , 03/11/2014 Class 6

RAMCO

1797072 19/03/2009

KUNAL TALUJA

SURINDER MOHAN TALUJA

SANYOGITA RANI

trading as ;M/S RAMSONS TYRES

C-53, PHASE III, FOCAL POINT, LUDHIANA-141001 (PUNJAB)

MANUFACTURERS, SUPPLIERS, IMPORTERS & EXPORTERS

Address for service in India/Agents address:

FURI TRADE MARK CO.

"BRAND HOUSE", 54-55, SUPER CYCLE MARKET, OPP. KWALITY KANDA, GILL ROAD,
LUDHIANA-141003 (PUNJAB).

Used Since : 01/01/1983

DELHI

ALL KINDS OF STEEL BALLS, CYCLE STEEL BALLS, BELLS, LOCKS, COMMON METALS & THEIR ALLOYS, FERROUS & NON-FERROUS CASTINGS, NUTS, BOLTS, STUDS, WASHERS, FASTENERS PRODUCTS AND OTHER COMMON METAL PRODUCTS INCLUDED IN CLASS 6 FOR SALE IN INDIA & FOR EXPORT.

4. The Appellant claims to be the first adopter of the mark 'RALSON' for tyres, tubes and also parts and accessories for cycle, rickshaw and auto vehicles. The Appellant was aggrieved by the above application for registration and accordingly opposed the same vide Opposition No. DEL-823274 dated 19th December, 2014. The said opposition was dismissed by the impugned order dated 4th May, 2018.
5. The dismissal of the Opposition by Respondent No.2- the 1d. Deputy Registrar of Trade marks was on the ground of non-filing of evidence in support of the opposition. The said order reads as under:-

"Proceedings were initiated under Section 21 of the Trade Mark Act, 1999, by the above named opponent to oppose the registration of trade mark applied for by the



above named applicant and whereas the Counter Statement was filed by the applicant and the same was served to the opponent vide 1814,15 dated 24/07/2017 and whereas within the time prescribed under the rules, neither any evidence in support of opposition was filed nor any statement was submitted on behalf of the opponent to the effect that the opponent does not desire to adduce evidence but wants to rely on the facts mentioned in the Notice of Opposition the abovementioned opposition is therefore deemed to have been abandoned under Rule 45(2) of the Trade Marks Rules 2017.

IT IS HEREBY FURTHER ORDERED that there shall be no order as to cost of these proceedings.”

6. The short ground that has been raised in this appeal is that the counter statement was not served upon the Appellant at the address for service by post by the Trade Marks Registry. Ld. Counsel for the Appellant argues that e-mail service is not sufficient service in accordance with the Trade Marks Act, 1999 and Trade Marks Rules, 2017.

7. Ld. Counsel relies upon the decision of the Coordinate Bench of Delhi High Court in **C.A.(COMM.IPD-TM) 69/2022** titled **M/s Mex Switchgears Private Limited. 9th Kilometer, Mex Estate, Pathankot Road, Jalandhar v. Vikram Suri Trading As M/s Armex Auto Industries**. In the said decision, the Court has observed as under:-

“7. Section 143 of the Trade Marks Act states that an address for service, stated in an application or notice of opposition shall, for the purposes of the said application or notice of opposition, be deemed to be the address of the applicant or the opponent, and permits service of all documents in relation to the application or the notice of opposition by leaving the



documents at, or sending them by post to, the said address as provided in the application or notice of opposition.

8. **In the event that an e-mail ID is provided by an applicant or an opponent in the notice of opposition, I do not think that there can be any manner of doubt that service of documents relating to the application or the notice of opposition at the said e-mail ID would suffice as service within the meaning of Section 143 of the Trade Marks Act.** This is because, by providing his e-mail ID in the application or notice of opposition, the applicant or opponent clearly agrees to communications be addressed to him at the said e-mail ID. A message is clearly conveyed to the Registrar that service could be effected even at the said e-mail ID. The words “leaving them at” as employed in Section 143, in my view, have to be read expansively enough to cover service by e-mail where the applicant or the opponent provides an e-mail ID in the application or notice of opposition. In other words, if the applicant or the opponent provides an e-mail ID in the application or notice of opposition, it would not be open to the applicant/opponent to then argue that, though the documents relating to the application or the notice of opposition were sent by e-mail to the said e-mail ID, there has, nonetheless, been no service within the meaning of Section 143 of the Trade Marks Act.

9. In the present case, however, it is not in dispute that no e-mail ID was provided by the appellant in its notice of opposition. As such, it cannot be said that the e-mail ID at which the documents were sent by the Registry constitutes an “address for service” within the meaning of Section 143 of the Trade Marks Act. The Registry of Trade Marks is at liberty to effect service of documents by e-mail only where the party being served has provided an e-mail ID in the application or notice of opposition. Where no such e-mail ID is provided, sending of the documents by e-



mail, even if it is in fact sent to the e-mail ID of the party concerned, would not constitute service of documents within the meaning of Section 143 of the Trade Marks Act.”

8. The above decision is clear to the effect that if an e-mail ID is provided by the Applicant or the Opponent in the notice of the opposition, service on the email ID would suffice as service under Section 143 of the Trade Marks Act, 1999.

9. In the present case, notice of opposition was filed on 12th December, 2014. Thereafter, a form TM-M dated 16th April, 2018 was filed by the Appellant giving the following details:-

PART A

1.	Applicant or Registered Proprietor/Opponent/Third Party Making the Application/Request	OPPONENT
	FEE	Rs.3000/-
	Name:	M/S RALSON (INDIA) LIMITED
	Trading as	M/S RALSON (INDIA) LIMITED
	Address:	J-38, UDYOG NAGAR, ROHTAK ROAD, DELHI-110041
		DELHI, INDIA
	Address for service:	MADAMSER & CO. FLAT NO.E (G.F), SAGAR APARTMENTS, 6, TILAK MARG, NEW DELHI-110001
		DELHI, INDIA
	Mobile No:	9818558690
	e-mail address:	madamsr@gmail.com



10. The form TM-M under the Trade Marks Act, 1999 is a miscellaneous filing form which is filed in respect of a trademark Application/ Opposition/Rectification. The TM-M form filed by the Appellant, in effect, provides the details of the Attorney/ Agent appearing for the proceedings before the Trademark Registry. Further, an e-mail address having been found a mention in the Form TM-M filed by Appellant, it cannot be held that service of the counter statement on email is not sufficient.

11. It is now too well settled that service of court pleadings and documents can be made through email. This is recognised in almost all Courts and tribunals. By way of illustration, even as per Chapter VI of the Delhi High Court (Original Side) Rules, 2018, the various modes of Service of notice which clearly includes issuance of notice/ service via e-mail. The rule is set out below:

1. Service of notice

*(e) (e) Notwithstanding anything contained in Order V rule 10 of the Code, the Court may, in the very first instance, issue summons by registered post (acknowledgement due) **or by authorized courier or by fax or electronic mail service, SMS or any other web based or virtual communication mode** or permit the plaintiff to serve the summons dasti; in addition to the ordinary way. Court may direct service of summons by all modes of service simultaneously or in any combination of any of the modes of service. **For this purpose, the publicly available e-mail address and fax number, either on the website of the party or in public domain/ records shall be deemed to be the correct e-mail address and fax number respectively.***



Thus, as a general proposition, email service is good service so long as the said email address is correct as reflected in the Forms and pleadings filed by the parties.

12. However, Id. Counsel for the Appellant submits that the said e-mail provided in the TM-M form was not being used regularly by the Agent of the Appellant. Further, she also submits that the mark, opposed by the Appellant, and granted via the impugned order, has also not been renewed since 19th March, 2019 and is likely to be removed.

13. Under these circumstances, when the renewal fees has not been paid, an opportunity can be granted to the Appellant to file the evidence. Accordingly, the impugned order dated 4th May, 2018 granting the registration of the trade mark application 1797072 in class 06 and taking the opposition- DEL.-823274 as abandoned, is set aside.

14. The Appellant is permitted to file the evidence within two months before the Registrar of Trade marks. Let the same be served upon the Respondents and the opposition be proceeded in accordance with law.

15. The status on the Registrar of Trade marks website shall, accordingly, be changed as 'opposed', within a period of two weeks.

16. The appeal is allowed and is disposed of accordingly.

17. The above order shall not be treated as a precedent and the order has been passed in the unique facts and circumstances of this case.

PRATHIBA M. SINGH
JUDGE

DECEMBER 08, 2023/Mr/bh

(corrected and released on 15th December, 2023)