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

+ **W.P.(C)-IPD 22/2024 with CM 75/2024**

ASHOK BHUTANI

.....Petitioner

Through: Ms. Shilpi Mehta Nanda and
Ms. Malvika Singhal, Advocates

versus

THE REGISTRAR OF TRADE MARKS & ANR.Respondents

Through: Ms. Nidhi Raman, CGSC with
Mr. Akash Mishra and Ms Rashi
Kapoor, Advocates for respondents

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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27.09.2024

CM 75/2024 (exemption from filing certified/ better copies)

1. Allowed, subject to just exceptions.

W.P.(C)-IPD 22/2024

1. The present writ petition has been filed seeking a direction to the respondents, to issue certificates of renewal of word mark "SNOWPEAK" bearing trademark registration nos. 468841 and 468842 in Class 34 [Chewing Tobacco] and Class 31 [Pan Materials] respectively.

2. The petitioner had filed two applications for registration of its word mark in 1987.

3. On 31st December, 1990, the petitioner was granted registration in respect of the aforesaid trademarks and registration certificates bearing nos. 172932 and 172642 were issued by the Trademark Registry on 31st



December, 1990 and 14th December, 1990, respectively. Subsequently, the two trademarks got renewed on 6th March, 1994 till 6th March, 2001, and thereafter, for a further period of seven years till 6th March, 2008.

4. The aforesaid trademarks were due for renewal on 6th March, 2008. Despite that, the respondent no.1 failed to serve O-3 notices upon the petitioner within the stipulated time.

5. In and around April, 2009, the petitioner realised that the petitioner has not received the renewal certificates in respect of the aforesaid trademarks. On 17th April, 2009, petitioner filed fresh renewal request in the prescribed form TM-12 and TM-13 for restoration and renewal of trademarks, in respect of which receipts were issued by the respondents. This was followed by various communication sent by the petitioner to the respondents seeking renewal of the certificates in favour of the petitioner. Since, the marks of the petitioner were not renewed, various RTI applications were also filed on behalf of the petitioner, and it did not elicit a favourable response.

6. Accordingly, the present writ petition has been filed seeking renewal of the trademark registrations.

7. The main ground taken in the writ petition is that the respondents are required to serve a notice in form O-3, in terms of Section 25(3) of the Trade Marks Act, 1999, which the respondents have failed to do. Thereby, the petitioner could not file the renewal applications on time.

8. When the petitioner came up for hearing before the Predecessor Bench on 07th August, 2024, the counsel for the respondents was asked to take instructions and file a status report.

9. Ms Nidhi Raman, learned CGSC, has returned with instructions and



states that the O-3 notices could not be traced by the respondents.

10. It is a settled position of law that issuance of O-3 notice is a mandatory requirement which has to be complied by the Trademark Registry.

11. In view of the instructions conveyed by the learned CGSC, it appears that O-3 notices have not been issued by the Trademark Registry to the petitioner in the present case.

12. Counsel for the petitioner also points out that the website of the Trademark Registry reflects that the aforesaid trademarks have been renewed only till 1994.

13. The writ petition is disposed of in terms of the following directions:

- a. Respondents are directed to issue the certificates of renewal of trademarks from the year 6th March, 2008 to 6th March, 2018 to the petitioner in respect of the aforesaid trademarks.
- b. Upon the petitioner filing fresh renewal applications and fulfilling the prescribed formalities, respondents shall restore and renew the trademarks bearing nos. 468841 and 468842 for further period of ten years with effect from 6th March, 2018.
- c. Respondents shall make necessary corrections in their database with respect to the renewal status and renewal dates of trademarks bearing nos. 468841 and 468842.

AMIT BANSAL, J

SEPTEMBER 27, 2024/ds