



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-12-2025

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THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

CMA(TM) No. 14 of 2025

1. P.G.Purushan (a) P.G Purushan
Vaidyar,
Deepaam House, Kuzhimattom
Post, Kottayam, Kerala 686533

Appellant(s)

Vs

1. The Registrar of Trademarks
The Trademarks Registry, I.P.O.
Building, GST Road, Guindy,
Chennai 32.

Respondent(s)

PRAYER

Appeal filed under Section 91 of the Trade Marks Act, 1999, praying to allow the appeal by Setting aside the Order of the respondent dated 21.01.2025 with consequential direction to respondent to consider the Trade Mark Application No.5840318 filed on 09.03.2023 in terms of the Form TM M filed on 17.10.2023 and 23.01.2025.

For Appellant(s): Ms. Deepika



Dinesh Kumar
Rinsup Ria .M

For
Respondent(s):

Mr.T.Sri Krishna Bhagavat,
Central Govt.Standing
Counsel

ORDER

This appeal has been filed challenging the impugned proceedings of the respondent dated 21.01.2025 and for a consequential direction to the respondent to consider the Trade mark Application No.5840318 filed on 09.03.2023.

2. Heard Ms.Deepika, learned counsel for the Appellant and Mr.T.Sri Krishna Bhagavat, learned Central Government Standing counsel for respondent.

3. The appellant is involved in the manufacturing of Health Mix, Supplemental power, Cereals etc., The appellant had adopted the mark “STIMULAID” and in order to protect the said mark, the appellant filed the Trade Mark Application No.5840318 in class – 30 of the Trade Marks Act, 1999 (hereinafter referred to as the “Act”).

4. The further case of the appellant is that the application



was examined and an examination report dated 16.09.2023 was generated. As per the examination report, the Examiner directed the applicant to delete certain words from the description of the goods as the same falls under class – 5 and not class – 30.

5. The specific case of the appellant is that within the prescribed period of 30 days, the appellant submitted the reply for the examination report and in the said reply, the appellant had also agreed to delete the word from the goods of description by filing form TM-M and specifies “Health Mix” as required by the Examiner. The appellant also requested that the application may be proceeded for acceptance and advertisement in the Trade Mark Journal. The appellant thereafter received a notice dated 12.07.2024 addressing the date of hearing of the application on 14.08.2024. The appellant also attended the hearing through their Trade mark Attorney. Even thereafter yet another notice was issued and this hearing was not attended by the appellant.

6. The grievance of the appellant is that the respondent proceeded to pass the impugned proceedings and rejected the application on the ground that the Trade Mark application has been



abandoned since the requirement as raised in the examination report dated 16.09.2023 under Rule 33 has not been complied with. It is under these circumstances, the present appeal came to be filed before this Court.

7. In the considered view of this Court, it is seen that pursuant to the examination report dated 16.09.2023, the appellant has infact submitted the reply by complying with the directions issued by the examiner and thereafter, had also attended the enquiry through its trade mark attorney. The appellant has also taken a stand that form TM-M has been filed and it was taken on record and therefore, there is no question of coming to a conclusion that the appellant had abandoned the trade mark application.

8. This Court finds a lot of force in the submission made by the learned counsel for the Appellant. The fact that the appellant had submitted Form TM-M and had also subsequently attended the hearing shows that the appellant has not abandoned the Trade Mark Application. Hence, this Court is inclined to interfere with the impugned proceedings of the respondent dated 21.01.2025 and the same is hereby set aside. There shall be a direction to the respondent



to proceed further to consider the trade mark application submitted by the appellant and if the appellant has complied with all the formalities, the respondent shall proceed further to accept the application and advertise the mark in the Trade Mark Journal.

9. In the result, this appeal is allowed in the above terms. No costs.

11-12-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

1.The Registrar of Trademarks
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