



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 18.03.2025

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

(T)OP(TM)/442/2023
(ORA/177/2011/TM/CHN)

Sumeet Appliances Private Limited,
a company incorporated under the Indian Companies Act, 1956,
having its corporate office at Plot No.315-A,
Kankai Kripa C.H.S.Ltd. Chikoowadi,
Shimpoli Road, Borivali (W), Mumbai 400 092. ... Petitioner
-VS-

1.Sumeet Research & Holdings Limited,
a company incorporated under the Indian Companies Act,
having its office at 55, Industrial Estate, Ambattur,
Chennai 600 058.
2.The Deputy Registrar of Trade Marks,
The Trade Marks Registry, IPR Building,
Industrial Estate, SIDCO RMD Godown Road,
Near Eagle Flask Factory,
GST Road, Guindy, Chennai 600 032. ... Respondents

PRAYER: Transfer Original Petition (Trade Marks) is filed under Sections
47, 57 and 125 of the Trade Marks Act, 1999, praying that registered trade
mark No.819556 in class 07 be expunged / removed from the Register with

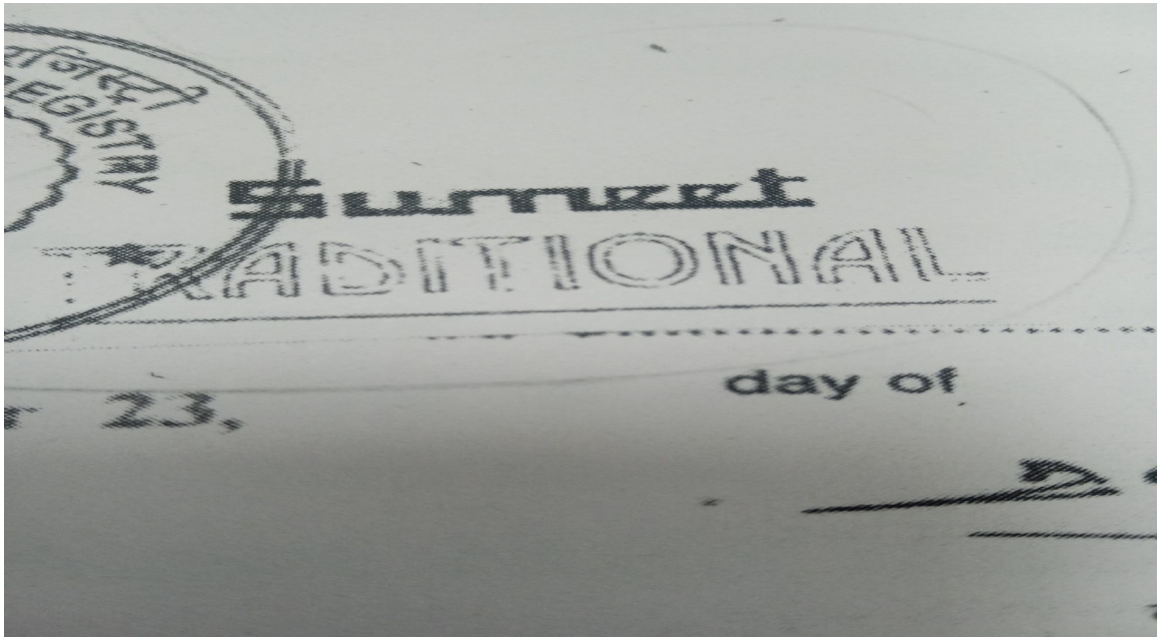


costs.
WEB COPY For Petitioner : Mr.S.Namasivayan

For Respondents : Mr.K.Subbu Ranga Bharathi, CGSC for R2
No Appearance for R1

ORDER

By this petition, the petitioner seeks rectification of the register of trade marks by expunging the following Trade Mark No.819556:



from the said register.



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2. In spite of service of notice on the first respondent on 18.10.2023, the said respondent was not present at the hearing on 27.02.2025. After noticing that one Mr.Prasad Rao had appeared on behalf of the said respondent on 17.11.2023 and 18.12.2023, but not thereafter, this Court directed the Registry to print the name of the first respondent in the cause list for today's hearing. In spite of the name of the first respondent being printed in the cause list, the first respondent continues to remain unrepresented at today's hearing. Therefore, the matter is proceeded with in the absence of the first respondent.

3. Learned counsel for the petitioner invited my attention to the petitioner's registered word mark SUMEET in class 7 in relation to mixing machines (electric) for kitchen use. He points out that the legal use certificate specifies that the mark is being used since 01.01.1964 and that the original date of registration is 18.04.1970. As evidence of use, learned counsel refers to the certificate of Suresh C.Shah, Chartered Accountant, in respect of sales turn over and advertising expenditure. He also relies upon invoices issued by sister concerns of the petitioner and the petitioner



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between 19.07.2000 and 01.04.2010. He points out that the invoices issued from the year 2005 are in the name of the petitioner.

4. By referring to the impugned mark of the first respondent, learned counsel submits that the said mark was also registered in class 7 in relation to identical goods, namely mixing machines (electric) and its accessories for kitchen use. Therefore, learned counsel submits that the use of a nearly identical mark in relation to identical goods is likely to cause deception and confusion among the public.

5. The legal use certificate in respect of the petitioner's registered trade mark is on record. Such certificate discloses that the petitioner obtained registration for the word mark SUMEET in class 7 in respect of mixing machines (electric) for kitchen use, and also indicates use since 01.01.1964. The registration date is 18.04.1970. As evidence of use, the petitioner has placed on record the Chartered Accountant's certificate dated 26.04.2011. This certificate contains details of sales turn over and advertising expenditure of several group companies, including the petitioner,

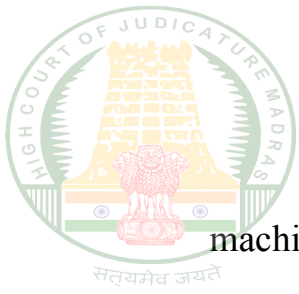


from the year 1969 to the year 2010.

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6. The petitioner has also placed on record several invoices relating to the sale of goods bearing the petitioner's trade mark. It is noticeable that several invoices were issued by the petitioner and by group companies of the petitioner. By way of illustration, the petitioner has placed on record invoice dated 21.09.2005, which was issued by the petitioner, in respect of the sale of SUMEET mixer grinders. Likewise, invoice dated 01.04.2010 relating to the sale of SUMEET grinderman is also on record.

7. The impugned trade mark extracted above at paragraph 1 contains the prominent feature Sumeet. The advertisement of such mark, which is also on record, discloses that the application was made on proposed-to-be used basis on 17.09.1998. Thus, it is evident that the petitioner's use is from 01.01.1964, whereas, the first respondent's use was subsequent to 17.09.1998. In effect, the petitioner is both the prior user and prior registrant of trade mark SUMEET. The registration certificate for the impugned mark also discloses that the registration is in class 7, and in relation to mixing



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machines (electric) and accessories for kitchen use. The use of a nearly identical trade mark in relation to identical goods is likely to cause deception or confusion among consumers. In the face of the evidence of use over a considerable period of time, which clearly pre dates use by the first respondent, the entry relating to the impugned mark should not have been made. Hence, the petitioner has established a case for rectification.

8. For reasons aforesaid, (T)OP(TM)/442/2023 is allowed by directing the Registrar of Trade Mark to expunge the entry relating to Trade Mark No.819556 in class 7 from the register of trade marks. This action shall be completed within ***four weeks*** from the date of receipt of a copy of this order. There shall be no order as to costs.

18.03.2025

rna

Index : Yes / No

Internet : Yes / No

Neutral Citation: Yes / No



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To

The Deputy Registrar of Trade Marks,
The Trade Marks Registry, IPR Building,
Industrial Estate, SIDCO RMD Godown Road,
Near Eagle Flask Factory,
GST Road, Guindy, Chennai 600 032.

SENTHILKUMAR RAMAMOORTHY,J



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