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

+ **C.A.(COMM.IPD-TM) 53/2021**

CRS HOLDINGS, INC

.....Appellant

Through: Mr. Manish Biala, Advocate.

(M): 9810333571

Email: manish@anandandanand.com

versus

THE REGISTRAR OF TRADE MARKS

.....Respondent

Through: Ms. Saumya Tandon, CGSC.

(M): 9810907029

Email: adv.tandonsaumya@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

14.02.2025

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1. The present appeal has been filed challenging the order dated 13th December, 2018, and statement of grounds of refusal dated 04th April, 2019, by which the respondent, has rejected the appellant's application no. 2887036 in Class 6 for the mark 'CARTECH' on a '*proposed to be used*' basis. The said application of the appellant was rejected on the ground of another cited mark i.e., 'CARTEC', which is already registered under no. 2757775 dated 17th June, 2014 with the user claim since 01st January, 2010.

2. It is the case on behalf of the appellant that the documents on record categorically show that the appellant has registration of the mark 'CARTECH' in various countries across various jurisdictions, including, European Union, United States, Switzerland, Italy, France, Canada, Israel and Mexico. Further, learned counsel appearing for the appellant has also relied upon documents on record, to show that the registration of the mark



‘CARTECH’ in favour of the appellant in Canada is as far as back 17th July, 1970. Further, in France, the appellant has trademark registration of the year 1988. The appellant also relies upon the document on record to show that the cited mark ‘CARTEC’, was registered in the European Union, only in the year 2007, and in Italy, in the year 2004.

3. Thus, it is the case of the appellant that the mark of the appellant ‘CARTECH’ and the cited mark ‘CARTEC’ have been co-existing in other countries of European Union, including, Italy for a long time. Further, neither the appellant nor the owner of the cited mark, ‘CARTEC’ have opposed each other’s trademarks. Thus, it has been argued before this Court that the application of the appellant is entitled to be taken into consideration and ought to be advertised by the Trademark Registry.

4. Considering the submissions made on behalf of the appellant before this Court, this Court had directed the learned counsel appearing for the respondent to take instructions as to whether the present case can be remanded back to the Trademark Registry for consideration of the various documents filed before this Court, wherein, it has been shown that the proposed mark of the appellant, i.e., ‘CARTECH’, and the cited mark ‘CARTEC’, are co-existing in other countries, without opposing each other’s mark.

5. Today, learned counsel appearing for the respondent submits that she has taken instructions and that the matter can be remanded back to the Trademark Registry to consider the documents of the appellant, in regard to the submissions made before this Court.

6. Learned counsel appearing for the appellant submits that he may be granted liberty to file the requisite documents showing its co-existence with



the cited mark 'CARTEC' in various other countries, before the Trademark Registry, for consideration of this aspect by the Trademark Registry.

7. Liberty is so granted.

8. Accordingly, the following directions are issued:

8.1 The impugned order dated 13th December, 2018, followed by statement of grounds of refusal dated 04th April, 2019, with respect to application no. 2887036 for the mark 'CARTECH', in Class 6, is hereby set aside.

8.2 The application of the appellant i.e., no. 2887036 for the mark 'CARTECH', in Class 6, is hereby revived.

8.3 The appellant is granted liberty to file documents before the Trademark Registry in support of its claim of co-existence between its mark and the cited mark, in various countries. The said documents shall be filed by the appellant within a period of four weeks from today.

8.4 The matter is remanded back to the Trademark Registry to consider the case of the appellant afresh, on the basis of the documents to be filed by the appellant.

9. The application of the appellant shall be considered expeditiously, in accordance with law.

10. The Registry is directed to supply a copy of the present order to the Office of the Controller General of Patents, Designs and Trade Marks of India, on E-mail Id: llc-ipo@gov.in, for compliance.

11. With the aforesaid directions, the present appeal is disposed of.

MINI PUSHKARNA, J

FEBRUARY 14, 2025/c