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

+ **W.P.(C)-IPD 48/2025**

**RINKU GUPTA PROPRIETOR OF GUPTA CHAT
CORNER**

.....Petitioner

Through: Mr. Pranav Gupta, Mr. Sajan Shankar
Prasad & Mr. Kuldeep Rana,
Advocates.

versus

REGISTRAR OF TRADEMARKS & ANR.Respondents

Through: Mr. Piyush Beriwal, Advocate for
Respondent No. 1
Mr. Gaurav Barathi, SPC (through
VC) Ms. Priya Singh, GP for UoI
(through VC) for UOI, Respondent
No. 2

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

% **07.08.2025**

CM 204/2025 (Condonation of delay in re-filing)

1. For the reasons mentioned in the Application, the delay of 45 days in re-filing the Petition is condoned.
2. The Application stands disposed of.

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3. The present Writ Petition has been filed by the Petitioner being aggrieved by the delay in the Examination of the Trade Mark Application bearing No. 6684572 (“**Subject Application**”) by Respondent No. 1 for



registration of the Device Mark (“**Subject Mark**”) in
Class 43.

4. The learned Counsel for the Petitioner submitted that the Petitioner



has been running the business of providing restaurant and catering services and other allied and cognate services under the name Gupta Chaat Corner bearing the Subject Mark. The Petitioner filed the Subject Application before the Respondent No. 1 for registration of the Subject Mark in Class 43 on 24.10.2024 claiming user since 03.07.2006 in respect of services namely Restaurant Services, Fast Food Centre, Catering Services and other allied and cognate services under Class 43. However, until the filing of the present Writ Petition the Subject Application has not been examined and the Trade Mark Application Queue List expects the Subject Application to be examined in 188 working days. The Respondent No. 1 has, accordingly, failed to examine the Subject Application in accordance with Rule 33 of the Trade Mark Rules, 2017 (“**Rules**”).

5. The learned Counsel for the Respondents submitted that the Petitioner has an alternate efficacious remedy under Rule 34 of the Rules, which provides for an expedited processing of an application for registration of a Trade Mark and the Petitioner can follow the procedure laid down for an expedited processing of the Subject Application.

6. Although an alternate remedy by itself does not divest this Court of its powers under Article 226 of the Constitution of India, 1950, when an efficacious alternate remedy is provided by law, this Court does not exercise the power under Article 226 of the Constitution of India, 1950.

7. Rule 34 of the Rules lays down an alternate remedy for the applicants requiring an expedited process of their Trade Mark applications. Therefore, the Petitioner has an alternate efficacious remedy.

8. This Court in ***Kaira District Coop. Milk Producers Union Ltd. v. Registrar of Trademarks*** 2023 SCC OnLine Del 1730, has held that while



exercising the powers under Article 226 of the Constitution of India, 1950, the Court must not easily assume that the remedy provided in the Act is inadequate or not efficacious.

9. The relevant extract of the judgment in ***Kaira District Coop.*** (supra) is reproduced hereunder:

“9. Where, however, the Court, on a studied analysis of the facts, feels that the situation before it is one in which the litigant is entitled to seek a remedy for which the legislature has provided no adequate or efficacious provision, relief can unquestionably be granted under Article 226. The Court must not, however, presume, too easily, that the reliefs provided by statute are inadequate or not efficacious. The litigant who so asserts must prove the assertion to the hilt. Mere delay or expense, were the litigant to avail the statutorily provided remedy, cannot constitute justifiable ground for the Court to provide succour under Article 226. Else, Article 226 would cease to confer extraordinary, but would be conferring, instead, alternative, jurisdiction on the Court.”

10. The Petitioner cannot be allowed to bypass the statutory alternate remedy, which is efficacious. The Petitioner is required to exhaust the statutory alternative remedy available under Rule 34 of the Rules. The additional cost of availing the alternate remedy under Rule 34 of the Rules is not a ground on which the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India, 1950 can be invoked.

11. In view of there being an alternate efficacious remedy available to the Petitioner, this Petition is, accordingly, dismissed without any order as to costs.

TEJAS KARIA, J

AUGUST 7, 2025/ ‘ak’