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

+ **W.P.(C)-IPD 13/2023 & CM 26/2023**

**MR. RAJESH KUMAR TRADING AS VIJAY
CHEMICALS**

.....Petitioner

Through: Mr. Shailen Bhatia, Mr. Raghav
Bhalla and Ms. Sruthi Venugopal,
Adv.
M: 9818558690

versus

**UNION OF INDIA MINISTRY OF INDUSTRY
& ORS.**

.....Respondents

Through: Ms. Nidhi Raman, CGSC with Mr.
Zubin Singh, Adv. for UOI
M: 9555672532
Mr. Vivek Nagar, GP for R-2.
M: 9971873007

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

ORDER

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06.02.2025

This Case is being taken up today as 05th February, 2025 was declared as a holiday on account of 'General Election to Legislative Assembly of NCT of Delhi'.

1. The present petition has been filed under Articles 226 and 227 of Constitution of India for issuance of appropriate directions to the respondents to accept the renewal fees for trademark registration no. 523963 in Class 31 and issue renewal certificate, as no notice under Rule 58 of the Trade Marks Rules, 2017 was ever issued to the petitioner.



2. It is the case of the petitioner that the petitioner honestly and *bonafidely* adopted and started using the trademark 'KAKA' for its goods. The petitioner applied for registration of its trademark on 05th February, 1990 under no. 523963 in Class 31 for goods being Pan Masala.
3. Subsequently, after completion of due formalities the trademark application of the petitioner being no. 523963 in Class 31, was published in the Trade Marks Journal on 01st January, 1998 and thereafter, the mark of the petitioner was registered.
4. It is the case of the petitioner that the petitioner was never intimated about the registration of its trademark and was never issued the registration certificate. It was only when the petitioner inspected the online Status Report that it came to the knowledge of the petitioner that the Registrar of Trademarks had granted registration to the trademark of the petitioner.
5. It is submitted that since the petitioner did not receive the registration certificate, as a matter of abundant precaution the petitioner filed a request on Form TM-12 for renewal of trademark no. 523963 in Class 31, but, the same was not reflected on the Status Report of the petitioner's trademark registration.
6. Subsequently, the petitioner received legal proceeding certificate in the year 1998, wherein, it was mentioned that the trademark was registered and renewed from 1997. However, it is submitted that the online status Report of the petitioner's trademark registration mentioned the validity of the trademark till 05th February, 1997 only.
7. It is submitted that no renewal certificate was issued by the Registrar of Trademark.
8. It is further the case of the petitioner that the respondent no.2 never



issued Notice of O3 for renewal of the trademark as per provisions of Section 25(3) of the Trade Marks Act, 1999 and Rule 64(1) of the Trade Marks Rules, 2002.

9. Learned counsel appearing for the petitioner relies upon the short affidavit filed on behalf of respondent nos.2 and 3, wherein, they have admitted that no O3 Notice was issued by The Trade Mark registry.

10. Today, learned counsel appearing for respondent nos. 2 and 3 has handed over copy of the affidavit filed on behalf of respondent nos. 2 and 3 and submits that as per the said reply, the details of issuance of O3 Notice are not available in the file of the respondent.

11. The short affidavit filed on behalf of respondent nos. 2 and 3 is taken on record.

12. This Court notes that in their reply, the respondent nos. 2 and 3 have categorically admitted as follows:

“xxx xxx xxx

7. It is stated that in compliance with the said provision, an O3 Notice was to be issued by the Trademark Registry to the petitioner in the Trademark Application No. 523963. However, the detail of the issue of O3 Notice in the aforementioned trademark application is not available.

xxx xxx xxx”

(Emphasis Supplied)

13. Learned counsel appearing for the respondents submits that in view of the aforesaid stand, the respondents have no objection if the matter is remanded back for consideration of the application of the petitioner for renewal of its mark.

14. Considering the aforesaid and in view of the clear stand of the petitioner that no Notice of O3 for renewal of the trademark was ever



received, as per Section 25(3) of the Trade Marks Act, 1999, and Rule 64(1) of the Trade Marks Rules, 2002, the present petition is accordingly allowed.

15. The respondents are directed to consider the application of the petitioner for renewal of registration no. 523963 in Class 31, in accordance with law.

16. With the aforesaid directions, the present petition, along with the pending application, is disposed of.

17. 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.

MINI PUSHKARNA, J

FEBRUARY 6, 2025/kr