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

+ **C.A.(COMM.IPD-TM) 3/2026 & I.A. 1367/2026**

ESME CONSUMERS PVT LTD

.....Appellant

Through: Mr. Rishabh Srivastava and Ms.
Yasheswini Sharma, Advocates.

versus

THE REGISTRAR OF TRADE MARKS

.....Respondent

Through: Ms. Nidhi Raman, CGSC with Mr.
Om Ram and Ms. Nikita Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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15.04.2026

1. Matter is taken up today as 14.04.2026 was declared holiday on account of birthday of Dr. B.R. Ambedkar vide Notification No. 71/G-4/Genl.-I/DHC dated 10.04.2026.

2. This appeal is filed on behalf of the Appellant under Section 91 of the Trade Marks Act, 1999 ('1999 Act') read with Rule 156 of the Trade Marks Rules, 2017 laying a challenge to the impugned order dated 18.07.2025 passed by the Registrar of Trade Marks with a further direction to the Registrar to accept and advertise Application No. 5803649 in Class 03 of the



Appellant's Trade Mark “ Blue Heaven ” for publication in the Trade Mark Journal.



3. To the extent necessary, the facts are that Appellant filed its Trademark Application bearing No. 58036494 for registration of the



trademark **Blue Heaven** in Class 03 on 11.02.2023 in respect of goods being cosmetics such as eye liners, lipsticks etc. The application was examined by the Trade Marks Registry on 22.08.2023 and Examination Report was issued, to which reply was filed by the Appellant on 02.09.2023. Registrar objected to the registration of the applied mark under Section 11(1) of 1999 Act citing 03 marks.

4. Hearing notice was issued on 03.04.2024, scheduling the hearing for 06.05.2024, in which the Appellant urged that the objections did not survive inasmuch as out of three cited marks, two were registered under numbers 3960567 and 3963188 in the name of Mr. Gurnam Singh, sole proprietor of M/s G.C. Laboratories, however, by virtue of a duly executed Assignment Deed dated 27.03.2019, all rights, title and interest in the 02 marks along with associated goodwill and underlying business were lawfully assigned and transferred to Blue Heaven Cosmetics Pvt. Ltd. and subsequently, pursuant to order of NCLT, the said Company amalgamated with the Appellant and applications for recordal of Appellant's name as subsequent proprietor were pending consideration. As for the 3rd cited mark under Application No. 3712830 in the name of Giridhari Tekwani, trading as Tirupati Industries, it was brought forth that the said party stood permanently enjoined from using the mark BLUE HEAVEN vide judgement and decree dated 06.03.2021, passed by the learned District



Judge, Tis Hazari Courts in TM No. 138/2018 titled *M/s Blue Heaven Cosmetics Pvt. Ltd. v. M/s Tirupati Industries*. However, vide impugned order dated 18.07.2025, the learned Registrar rejected the application of the Appellant on the ground that the applied mark was deceptively similar to the cited marks and the goods and services covered under the said marks were also similar.

5. Learned counsel for the Appellant reiterates the above submissions made in response to the First Examination Report and urges that two of the three cited marks were opposed and the proprietor Mr. Gurnam Singh, sole proprietor of M/s G.C. Laboratories, assigned the marks vide Assignment Deed dated 27.03.2019 in favour of Blue Heaven Cosmetics Pvt. Ltd., which subsequently merged with the Appellant pursuant to order of NCLT dated 19.07.2024 passed in C.P.(CAA) 62/MB/2024 in C.A.(CAA)/267/MB/2023 and as for the third mark, a decree of permanent injunction has been passed against the proprietor of the mark and therefore the impugned order be set aside.

6. Ms. Nidhi Raman, learned CGSC for the Respondent relies on the written submissions and fairly does not dispute the above factual narrative as it is a matter of record but seeks to justify the impugned order on the ground that two cited marks were registered in the name of Mr. Gurnam Singh and even on the date of the impugned order they were in his name. It was only subsequent thereto that Appellant filed Form TM-M on 06.10.2025 for change of name and hence, no legal infirmity can be found with the order.

7. Having heard the counsels and on examination of the documents, I am of the view that the matter needs to be remanded for re-consideration. Admittedly, two of the cited marks have been assigned to the Appellant



though applications for name change are pending and in respect of the third cited mark the proprietor has been permanently enjoined. These crucial facts were overlooked by the Respondent and consequently, application for registration of the applied mark was rejected. Accordingly, impugned order dated 18.07.2025 is set aside and Registrar of Trade Marks is directed to decide the pending applications for change of name and thereafter proceed to accept and advertise Application No. 5803649 for registration of



Appellant's Trade Mark “ Blue Heaven ” in Class 03 and take further action, subject to objection(s)/opposition(s), if any. This exercise will be completed as expeditiously as possible and not later than three months from today.

8. Appeal is disposed of in the aforesaid terms. Pending application is also disposed of.

JYOTI SINGH, J

APRIL 15, 2026/RW