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

% *Date of Decision : 07.08.2025*

+ C.A.(COMM.IPD-TM) 89/2024

IMPRESARIO ENTERTAINMENT AND HOSPITALITY
PRIVATE LIMITEDAppellant

Through: Ms. Shikha Sachdeva, Ms. Kriti Rathi
& Mr. Jaskaran Singh Bindra,
Advocates.

versus

THE REGISTRAR OF TRADEMARKSRespondent

Through: Ms. Nidhi Raman, CGSC with Mr.
Om Ram, Advocate.

**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

TEJAS KARIA, J. (ORAL)

1. The present Appeal has been filed on behalf of the Appellant under Section 91 of the Trade Marks Act, 1999 (“Act”) read with Rule 156 of the Trade Marks Rules, 2017, aggrieved by the order dated 17.09.2024 (“**Impugned Order**”) passed by the Respondent, the Registrar of Trade Marks, Trade Marks Registry, New Delhi against the Trade Mark



‘ **(“Subject Trade Mark”)** under Trade Mark Application No. 5596291 in Class 16 (“**Subject Application**”).




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2. The Appellant is engaged in providing restaurant services since the year 2001 including but not limited to managing and operating restaurants and coffee shops, providing expertise relating to the provision of food and drinks. The Appellant at present is already running restaurants and coffee shops, pan-India.

3. The Appellant has its first registration for the Trade Mark




‘Impresario’ dating back to the year 2009 being ‘’, under Trade Mark Application No. 1890281 in Class 43. In extension of its brand ‘Impresario’, the Appellant has over the years sought registrations across various classes. The Appellant on 05.09.2022 sought to register the Subject



Trade Mark, i.e., ‘’.

4. The learned Counsel for the Appellant submitted that an Examination Report was issued by the Respondent on 05.06.2023, wherein an objection was raised under Section 11(1) of the Act on the basis that of the Subject



Trade Mark is identical with / or similar to the mark ‘’, registered under number 1037212 in Class 16 under the name of Impresario Event Marketing Co. Pvt. Ltd. (“**Cited Trade Mark**”) and because of such identity or similarity, there exists a likelihood of confusion on the part of the public. Although the Examination Report was not officially served upon the



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Appellant, a formal response to the Examination Report was filed by the Appellant on 19.10.2023 on basis of the Examination Report available in the Trade Marks Registry's online records.

5. It was submitted that the Appellant filed a response to the Examination Report on October 19, 2023, which was duly taken on record, wherein it was submitted that the Appellant is the registered Proprietor of the IMPRESARIO Marks, which acts as a source identifier to consumers and associates the Subject Trade Mark with Appellant's goods and services. It was submitted that the Appellant had initiated cancellation proceedings against the cited mark, which is still pending before the High Court of Judicature at Madras titled as '*Impresario Entertainment & Hospitality Pvt. Ltd v. Impresario Event Marketing (P) Ltd.*' bearing (T)OP(TM)/25/2023. Hence, the Cited Trade Mark cannot be considered as a bar for registration of the Subject Trade Mark.

6. The learned Counsel for the Appellant submitted that the Respondent scheduled a hearing by notification dated 11.07.2024 to be conducted through video conferencing on 11.09.2024.

7. The learned Counsel for the Appellant submitted that prior to the hearing scheduled for 11.09.2024, the Appellant electronically filed and placed on record with the Respondent an Authorization Letter dated 10.09.2024 ("**Authorization Letter**"). The Authorization Letter contained information regarding the 'Impresario' brand, its manner of use over the internet, website and social media platforms, prior registrations for the 'Impresario' Trade Marks across classes relevant to its business along with its Registration Certificates.

8. The learned Counsel for the Appellant further contended that the



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Authorization Letter also contained a copy of the Joint Memorandum of Compromise dated 30 April 2024 between the Appellant and the Proprietor of the Cited Trade Mark, wherein it was mentioned that the Appellant and the Proprietor of the Cited Trade Mark have jointly agreed to co-exist and the same was duly filed before High Court of Judicature at Madras.

9. The learned Counsel for the Appellant submitted that on the scheduled date of hearing on 11.09.2024, the Appellant had joined the hearing through video conferencing platform 'Dynamic Trademark Utilities: Cause List for Hearing Case' and was in the virtual waiting room from 10:30AM till 01:30PM. However, the hearing did not commence within the stipulated time and the Appellant's agent was not allowed to enter the virtual hearing room.

10. The learned Counsel for the Appellant submitted that since the Appellant's agent was unable to join the virtual hearing, the Appellant was unable to make submissions in support of their Subject Application. The Appellant's agent, post the hearing, addressed an e-mail on 11.09.2024 to the Respondent on the official e-mail addresses being: mumbai.tnr@.nic.in and hodel.tnr@.nic.in regarding the said issue ("**E-mail**") and had requested the Respondent to not pass any adverse order against the Subject Trade Mark and to give the Appellant an opportunity of hearing since it was the first hearing in the matter.

11. The learned Counsel for the Appellant submitted that despite the E-mail, the Respondent passed the Impugned Order on 17.09.2024 rejecting the registration of the Subject Trade Mark on the ground of similarity with the prior existing Trade Mark on the Trade Mark Register. The relevant extract of the Impugned Order is reproduced below:



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“The mark applied for registration is identical with /similar to earlier trademarks on record, as mentioned in the Examination report and by similarity of marks as well as similarity of goods and services covered under such marks, there exists a likelihood of confusion in the mind of public. As such the registration of the mark is objectionable under Section 11(1) of the Trade Marks Act 1999.”

12. A bare perusal of the Impugned Order shows that the decision of the Respondent does not consider the submissions and documents submitted along with the Authorisation Letter. Additionally, the Impugned Order was passed despite receiving E-mail from the Appellant that the Appellant’s Agent was not allowed to join the hearing. *Vide* order dated 23.12.2024, Notice was issued in this Petition, which was accepted by the learned CGSC appearing for the Respondent. Although time of four weeks was granted to file Reply to the Petition to the Respondent, on 17.04.2025, the learned CGSC submitted that the Respondent does not wish to file the Reply and would be filing Written Synopsis. However, the same was also not filed.

13. During the hearing, the learned CGSC did not deny the receipt of E-mail by the Respondent. Hence, it was incumbent upon the Respondent to address the grievance of the Appellant regarding not being permitted to join the hearing, before proceeding to pass the Impugned Order.

14. Any decision without affording an effective hearing opportunity is contrary to the fundamental tenets of principles of natural justice. It is imperative that due process is followed, and all parties are given sufficient opportunity to present their case.

15. If a party submits that it was not able to join the fundamental principle



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of *audi alteram partem* demands that adequate opportunity be provided to the concerned parties to present their case and respond to adverse material. Where such opportunity is denied or the procedural requirements are not substantially complied with, the resultant order suffers from the vice of violation of natural justice. This Court is of the view that the denial of effective participation through technical impediments or procedural lacunae constitutes a grave violation of the principle of *audi alteram partem*, which is the cornerstone of fair adjudication.

16. In any event, the Respondent ought to have considered all the documentary evidence available for coming to the decision. However, the Impugned Order is silent on any of the submissions or documents despite the Respondent has observed that “*I have gone through the records*”. The Impugned Order records that “*After perusal of all the documents on record it is concluded that.....*”. It is evident from the conclusion that the Respondent has not considered the documents submitted by the Appellant along with the Authorisation Letter, especially the Joint Memorandum of Compromise dated 30.04.2024 filed before High Court of Judicature at Madras wherein the Appellant and the Proprietor of the Cited Trade Mark jointly agreed to co-exist.

17. Furthermore, the doctrine of legitimate expectation creates a corresponding duty upon statutory bodies to conduct the proceedings in a manner that is not only fair but also appears to be fair to a reasonable observer. Where an applicant or their duly authorized representative is precluded from effectively participating in the proceedings, either through inadequate notice, technical impediments, or procedural irregularities, such exclusion constitutes a denial of substantive rights. It is consistently held



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that administrative convenience cannot override the fundamental requirement of affording a meaningful hearing.

18. In view thereof, the Impugned Order dated 17.09.2024 is hereby set aside and the matter is remanded back to the Respondent for giving an opportunity of hearing and consider all the material available on record before making the decision. The Respondent shall give a hearing to the Appellant in accordance with law and decide the Appellant's Application preferably within a period of six months from the date of receipt of this Order.

19. The Registry is directed to send a copy of this Order to the Office of Controller General of Patents, Designs and Trade Marks of India for compliance.

20. With the aforesaid directions, the present Appeal is allowed.

TEJAS KARIA, J

AUGUST 7, 2025

Ap/N