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

% Judgment Delivered on: 28.10.2026

\# **CNR No. DLHC010993742025**

\+ **W.P.(C)-IPD 63/2025**

PARVEEN KUMAR GULATI TRADING AS APEXSEALS .....Petitioner

Through: Ms. Priyanshi Gupta, Mr. Kunal Khanna, Mr. Sakshmit Mathur and Mr. Parth Dabas, Advs.

versus

REGISTRAR OF TRADEMARKS .....Respondent

Through: Mr. Satya Ranjan Swain, CGSC with Mr. Kautilya Birat, Mr. Sanskar Gupta and Mr. Tushar Hazrati, Advs.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

JUDGMENT

VIKAS MAHAJAN, J (ORAL)

1. The present petition has been filed by the petitioner under Article 226 of the Constitution of India seeking following reliefs:

*a) Issue a writ of Certiorari or any other appropriate writ, order or direction, quashing the impugned removal of the Petitioner's registered trade mark "**APEXSEALS**" bearing Application No. 746049 from the Register of Trade Marks;*

b) Issue a writ of Mandamus or any other appropriate writ, order or direction, directing the Respondent to forthwith restore the Petitioner's said trade mark on the Register of Trade Marks with continuity of rights;

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c) Direct the Respondent to permit the Petitioner to file renewal upon payment of requisite fee"

2. The case set out by the petitioner in the present petition is that the petitioner had applied for the registration of the trademark "APEXSEALS" with the respondent/Registrar of Trademark, under Class 17 *vide* application no. 746049 on 24.12.1996, claiming user since 02.03.1993.

3. It is stated that the said application remained pending for several years, and was ultimately advertised in the trademark journal no. 1339 dated 01.02.2006. Consequently, the mark was registered and a certificate of registration bearing no. 604418 was issued to the petitioner on 10.02.2007 i.e. after the expiry of the initial statutory period of ten years from the date of application, in which the renewal has to be done.

4. It is further contended that after a change in the management and control of the petitioner's business, an internal audit revealed the aforesaid registration of the petitioner's trademark "APEXSEALS" has been removed from the trademark register of respondent on the basis of non-renewal of the registration.

5. Mr. Kunal Khanna, learned counsel appearing on behalf of the petitioner, submits that the validity of the registration of petitioner's trademark was till 24.12.2006 i.e. for a period of ten years reckoned from the date of making of the application for registration of trademark i.e. 24.12.1996, whereas the actual certificate for registration of the trademark was issued to him only on 10.02.2007, meaning thereby that prior to the issuance of certificate of registration, the validity of the trademark had expired.

6. He submits that aggrieved by the action of respondent, on 24.04.2025, the

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petitioner through its trade mark attorney, filed Form TM-M seeking a certified copy of the *Notice of expiration of last registration* (Form O-3)[1] and proof of dispatch thereof.

7. In response, the respondent issued only a "legal use certificate" dated 19.05.2025, confirming removal of the trademark but failed to provide the requested copies of the Form O-3 notice or proof of service.

8. Consequently, the petitioner filed an RTI application no. CGPDT/R/E/25/00705 seeking details as to the issuance of the Form O-3 notice. A reply was received to the said RTI application on 15.09.2025, wherein it was mentioned that *since the mark was registered after the expiry of it's validity period, the issuance of an O-3 notice is not applicable.* The response dated 15.09.2025 to the said RTI application has been set out hereinbelow for the ease of reference:

> *"With reference to your RTI application dated 18/08/2025, seeking information regarding the status of the trademark application No. 746049, the point-wise reply is as under:*
>
> > *As per the records, the subject application was originally filed on 24/12/1996 and was registered vide Certificate No. 604418 dated 10/02/2007 for a period of ten (10) years from the date of application (i.e. from 24/12/1996 to 24/12/2006). Since the mark was registered after the expiry of its validity period, the issuance of an O-3 notice is not applicable, as such notice is required to be issued within the prescribed period prior to the due expiry of the validity of the trade mark (Rule 64, 64 (3) of the Trade Marks Rules,*

[1] *After the Trade Mark Rules, 2017 came into effect, the "Form O-3" Notice was replaced by the "Form RG-3".*

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2002).”

9. Submission of Mr. Khanna is that in terms of Section 25(3) of the Trade Mark Act, 1999 (hereinafter, ‘the Act’) read with Rule 64 of the Trade Mark Rules, 2002 (hereinafter, ‘the Rules’) the respondent is obliged to send a notice in the prescribed manner to the registered proprietor of the mark, mentioning the date of expiration of the mark and the condition as to payment of fees upon which renewal of registration may be obtained, therefore, the respondent ought to have issued a notice in terms of Section 25(3) of the Act read with Rule 64, which was admittedly never sent to the petitioner.

10. In support of his submission, Mr. Khanna has placed reliance on the decision of a Coordinate Bench of this Court in ***Gopal Ji Gupta v. Union of India and Anr., W.P.(C) 7644/2017*** dated 18.03.2019 which in turn relies on the decision of the Division Bench of this Court in ***Union of India and Ors. v. Malhotra Book Depot [DB], 2013 SCC OnLine Del 828***.

11. *Per contra*, Mr. Satya Ranjan Swain, learned CGSC appearing for the respondent contends that in the situation like the present one, where the date of renewal was prior to the date of registration, Rule 64(3) does not contemplate giving of Form O-3 notice. In support of his contention, he has placed reliance on the decision of this Court in ***Mankind Pharma Limited v. Registrar of Trade Marks, W.P.(C)-IPD 8/2025***.

12. He submits on the date of registration i.e. 10.02.2007, the petitioner was aware that the registration has already expired on 24.12.2006, therefore, the petitioner cannot be allowed to contend that Form O-3 notice ought to have been issued to him.

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13. He further contends that in Form O-3 notice, the Registrar is required to mention name of the registered proprietor, date of expiry of trademark as well as the registration number, and these details were not in existence prior to the registration of the mark. Therefore, there was no occasion to issue Form O-3 notice.

14. Elaborating further, he contends that Rule 64(1) contemplates that Form O-3 notice is to be given at a date not less than one month, and not more than three months, before the expiration of the last registration of the trademark. He submits that since the registration had not been granted by that time, this condition also, could not have been complied with by the respondent-Registrar of Trademark.

15. Having heard the learned counsel for the parties and perused the record, the short question that arises for consideration in the present petition is whether the respondent/Registrar of Trade Marks could have removed the petitioner's registered trademark "APEXSEALS" bearing Application No. 746049 in Class 17 from the Register of Trade Marks on the ground of non-renewal, without issuing the prior statutory notice in Form O-3 as contemplated under Section 25(3) of the Act read with Rule 64 of the Rules.

16. The foundational facts which are not in dispute are that: (i) the renewal of mark became due on 24.12.2006 but the petitioner could not have applied for renewal prior to 10.02.2007 when the trademark itself came to be registered, and the certificate of registration was issued (ii) prior to the removal of petitioner's trademark from the Register of Trade Marks, no notice in Form O-3 under Section 25(3) of the Act read with Rule 64 of the Rules was ever issued or served

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upon the petitioner.

17. To appreciate the rival submissions of the parties, it is imperative to refer to the relevant statutory provisions governing the duration, renewal, removal, and restoration of registration of a trademark, which were in vogue when the certificate of registration was issued to the petitioner, on 10.02.2007.

18. Section 25(3) of the Trade Marks Act, 1999 contemplates giving of notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees, and the same is set out herein below:

> ***"25. Duration, renewal, removal and restoration of registration.***
> *(1) xxx xxx xxx*
> *(2) xxx xxx xxx*
> *(3) At the prescribed time before the expiration of the last registration of a trade mark* ***the Registrar shall send notice in the prescribed manner to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with the Registrar may remove the trade mark from the register****:*
>
> *Provided that the Registrar shall not remove the trade mark from the register if an application is made in the prescribed form and the prescribed fee and surcharge is paid within six months from the expiration of the last registration of the trade mark and shall renew the registration of the trade mark for a period of ten years under sub-section (2)."*
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> (emphasis supplied)

19. Likewise, relevant Rule 63 to 66 of the Trade Mark Rules, 2002 are extracted herein below:

"Renewal of Registration

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***63.**—(1) An application for the renewal of the registration of a trade mark shall be made on Form TM-12 and may be made at any time not more than six months before the expiration of the last registration of the trade mark.*
(2) Such application for renewal must be filed by the person who is the proprietor of the registered trade mark or his agent.

(3) If the proprietor, as set forth in the application for renewal is not the same person or the same legal entity as the registered proprietor, continuity of title from the registered proprietor in whose name the last renewal was effected to the present owner must be shown in the first instance by way of affidavit along with supporting chain of documents.

(4) The Registrar may accept an application for renewal from the managing trustee, executors, administrators and the like, when supported by court order or other evidence of authority to act on behalf of the present proprietor.

Notice before Removal of Trade Mark from Register

***64. -** (1) At a date not less than one month and not more than three months before the expiration of the last registration of a trade mark, if no application in Form TM-12 for renewal of the registration together with the prescribed fee has been received, the Registrar shall notify the registered proprietor or in the case of a jointly registered trade mark each of the joint registered proprietors and each registered user, if any, in writing in Form O-3 of the approaching expiration at the address of their respective principal places of business in India as entered in the register or where such registered proprietor or registered user has no principal place of business in India at his address for service in India entered in the register.*

xxx xxx xxx

(3) Where, in the case of a mark the registration of which (by reference to the date of application for registration) becomes due for renewal, the mark is registered after the date of renewal,

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the registration may be renewed by the payment of the renewal fee within six months of the actual date of registration and where the renewal fee is not paid within that period the Registrar shall, subject to rule 66, remove the mark from the register."

(4) The renewal of registration of a collective mark or a certification trade mark shall be in Form TM-12 along with the prescribed fee specified in the First Schedule.

Advertisement of Removal of Trade Mark from the Register

65. *If at the expiration of last registration of a trade mark, the renewal fees has not been paid, the Registrar may remove the trade mark from the register and advertise the fact forthwith in the Journal:*

Provided that the Registrar shall not remove the trade mark from the register if an application for payment of surcharge is made under proviso to sub-section (3) of section 25 in Form TM-10 within six months from the expiration of the last registration of the trade mark.

Restoration and Renewal of Registration

66. *An application for the restoration of a trade mark to the register and renewal of its registration under sub-section (4) of section 25, shall be made in Form TM-13 after six months and within one year from the expiration of the last registration of the trade mark accompanied by the prescribed fee. The Registrar shall, while considering the request for such restoration and renewal have regard to the interest of other affected persons.*

20. In the present case, the main contention of Mr. Swain, learned CGSC, appearing for the respondent is that because the registration certificate was issued on 10.02.2007, after the initial validity period calculated from the date of

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application had already expired on 24.12.2006, the petitioner ought to have applied for renewal within six months of actual registration under Rule 64(3) of the Rules, and that in such a situation, the respondent was neither required nor was in a position to issue a Form O-3 notice *at a date not less than one month and not more than three months before the expiration of the last registration*, as contemplated under Rule 64(1) of the Rules.

21. This Court notes that the aforementioned contention of Mr. Swain stands squarely covered by the decision of a Coordinate Bench of this Court in ***Gopal Ji Gupta*** (Supra) wherein similar facts were involved. In the said case, the petitioner, trading as M/s Kiran Textiles, applied for the registration of the Trademark "BINACA" (Registration No. 473696) in Class 25 on 15.06.1987 under the Trade and Merchandise Marks Act, 1958. The mark being valid for seven years, became due for renewal in 1994, however no steps were taken by the petitioner as the mark was only registered *vide* certificate dated 12.03.1998, which is evidently after the renewal date of the trademark.

22. Consequently, the petitioner first filed the renewal fee in 2001. In the meanwhile, on account of enactment of the Trademarks Act, 1999, the validity period of a trade mark registration was increased to ten years. Thereafter, despite the petitioner's efforts, the actual date of expiry was not informed to him, as the respondent's website merely showed the mark as registered without providing expiry details, and the Registrar failed to issue the mandatory notice in Form O-3 as required under Section 25(3) of the Act read with Rule 64(1) of the Trademark Rules, 2002. Upon realizing in May 2015 from the respondent's website that renewal was due, the petitioner filed a renewal application in Form

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TM-12 on 08.06.2015, which the respondent rejected as time barred on 15.06.2015, noting that no renewal fee had been filed after 2001. The respondent in the said case had taken a similar plea that as the petitioner received the registration certificate after the expiry of the first renewal due date, the renewal application/fee was required to be deposited within a period of six months from the date of registration, and that a notice under Form O-3 was not required to be issued.

23. Formulating the question as to whether the respondents could deny the consideration of the petitioner's application for renewal of the mark on the ground that the six-months period for filing the renewal application/deposit of fee had expired, the Coordinate Bench of this Court held that the answer has to be in the negative. The said answer was premised on the reasoning that the denial of consideration of the application for renewal has the effect of removing the mark of the petitioner from the Register of Trademarks, which is only permissible if a notice is given to the petitioner in Form O-3 as contemplated under Section 25 of the Trade Marks Act. Below extracted is the relevant portion from the decision of ***Gopal Ji Gupta*** (supra):

> *"11. A plea was taken by the learned counsel for the respondents that nothing precluded the petitioner to apply for renewal in the year 1998 itself. In this regard, Mr Bhatia has taken a plea that the petitioner had deposited the fee for renewal in the year 2001 for renewal of the Trademark, post 1994. In support of his submission, he had relied upon the document at page 40 of the paper book which is a copy of the note sheet of the file of the respondents wherein this aspect has been acknowledged.* ***The plea of the learned counsel for the respondents was that the same was after a delay of three years***

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> ***from the date of registration. According to him, the said renewal application/fee needs to be deposited within a period of six months. If that be so, the issue which arises for consideration is whether the respondents can deny the consideration of the application of the petitioner for renewal of the mark as the period of filing application for renewal/deposit of fee had expired. The answer has to be "NO" for the reason that denial of consideration of application for renewal has the effect of removing the Mark of the petitioner from the Register of the Trademarks i.e. something which is only permissible if a notice is given to the petitioner under section O-3 as has been contemplated under Section 25 of the Trademarks Act."***
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> (emphasis supplied)

24. In ***Gopal Ji Gupta*** (supra), the Coordinate Bench relied upon Division Bench judgment in ***Malhotra Book Depot [DB]*** (supra), wherein the Division Bench crystalized the observations of the learned Single Judge in the judgment[2] assailed before it in the appeal, in the following terms:

> *"4.* ***The learned Single Judge allowed the writ petition observing/finding/holding:***
>
> > *(a). that the Registrar in its counter affidavit, in response to the unequivocal plea in the writ petition, that the Notice in Form O 3 was not received by the respondent, had merely stated that removal of the mark could not have been done without following the due process as per the provisions of law and had thus made only a presumptive statement; further, the Registrar in para 7 of the counter affidavit had admitted that in various cases O-3 Notices had not been issued; the learned Single Judge thus concluded that in the respondent's case O-3 Notice had not been issued as provided for in Rule 67;*

[2] *Malhotra Book Depot v. Union of India, 2011 SCC OnLine Del 5086*

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(b). that under Section 25 of The Trade and Merchandise Marks Act, 1958 (the Act) (which was applicable in the year 1984 when the Registration of the mark of the respondent expired), the application for renewal of the registration could be made upon receipt of the Notice in Form O-3;

*(c)**. that the Registrar could remove the Trademark from the Register and advertise the factum of removal in the Journal only after a Notice in Form O-3 had been issued;***

(d). that the removal of the registered Trademark from the Register entails civil consequences for the registered proprietor of the mark;

*(e). **the said removal of the registered Trademark cannot be done without prior notice to the registered proprietor in the prescribed form;***

*(f). **mere expiration of the registration by lapse of time and the failure of the registered proprietor of the Trademark to get the same renewed, by itself, does not lead to the conclusion that the same can be removed from the Register by the Registrar of Trade Marks without complying with the mandatory procedure prescribed in Section 25(3) of the Act r/w Rule 67 of the Rules;***

*(g). **removal of the registered Trademark from the Register without complying with the mandatory requirements of Section 25(3) would itself be laconic and illegal;***

*(h). **that the plea of the Registrar that the application for restoration and renewal of the mark was beyond the time prescribed in Section 25(4) and Rule 69 could not be accepted because the removal of the mark from the Register was not in terms of Section 25(3) r/w Rules 67 and 68;***

*(i). **that under the Act and the Rules, mere lapse of the time***

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does not result in its removal and for which Notice in Form O-3 is required to be given;

(j). that in the facts of the present case, since the mandatory Notice in Form O-3 had not been given prior to the removal of the mark, the application seeking its restoration and renewal could not be said to be barred by time.”

(emphasis supplied)

25. The Division Bench in ***Malhotra Book Depot [DB]*** (supra), also explicitly held that a mark cannot be removed from the Register of Trademarks without compliance with the provisions of Section 25 and Rule 67 of the Trade and Merchandise Marks Rules. The Court observed that Section 25(3) cannot be interpreted as permitting removal without the condition of sending of notice being complied with. It was also held that removal for non-renewal has not been made automatic and that the Rules are subservient to the Act and cannot deviate from the provisions of the parent Act. It was thus, held that permitting removal *de hors* compliance with the notice requirement would be contrary to Section 25(3).

26. Relevant part of the decision in ***Gopal Ji Gupta*** (supra), wherein the decision in ***Malhotra Book Depot [DB]*** (supra) has been explained and quoted, is reproduced hereinbelow for ready reference:

“13. Suffice it to state that the Division Bench has upheld the judgment of the learned Single Judge on the aspect that a Trademark can be removed from the Register of Trademarks only after complying with the mandatory procedure prescribed under Section 25 read with Rule 67 of the Rules of 1959. The Division Bench also has in paras 16 to 20 held as under:

“16. Section 25(3) providing for sending of a notice

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prescribes removal of the trademark only "if" at the expiration of the time prescribed in the notice, the conditions required therein to be fulfilled have not been complied. *The Supreme Court recently in Head Master, Lawrence School Lovedale v. Jayanthi Raghu (2012) 4 SCC 793: AIR 2012 SC 1571 held that the use of the word 'if' is meant to indicate a condition.* ***Thus, Section 25(3) cannot be interpreted as permitting removal without the condition of sending of notice being complied with****. Earlier also, a Full Bench of the Punjab and Haryana High Court in Harbans Singh v. State of Punjab AIR 1987 P&H 19 held that the word 'if' is always expressive of a condition.*

17. *The scheme of the Rules regarding renewal of registration and restoration also suggests so. Rule 66 permits an application for renewal of registration to be made any time within six months before the expiration of the last registration. However, the removal for non-renewal has not been made automatic. If the registered proprietor does not make an application for renewal till two months prior to the expiration of the last registration, the Registrar is required to notify the registered proprietor of the approaching expiration (under Rule 67) and is to remove the trademark from the register only thereafter, as is evident from Rule 68 having been placed after Rule 67. If removal pursuant to non-renewal was to be de hors the notice for removal, Rule 68 would have followed Rule 66 and not Rule 67.* ***Though Rule 68 permits removal upon expiration of last registration and non-payment of renewal fee and does not make the same dependent upon compliance of Rule 67 but to read Rule 68 as permitting removal de hors compliance of Rule 67 would be contrary to Section 25(3) which as aforesaid permits removal only if at the expiration of the time prescribed in the notice required to be sent thereunder, the registered proprietor***

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has not applied for renewal. It is a settled principle of law that rules framed under a statute cannot override the statute. In Ispat Industries Ltd. v. Commissioner of Customs (2006) 12 SCC 583 it is held that the Rules are subservient to the Act and cannot deviate from the provisions of the parent Act. It was further held that the Rules are created to serve the object of the legislation and if there are two possible interpretations of a Rule, one which sub-serves the object of the provision in the parent statute ought to be adopted, as an interpretation to the contrary will make the Rule ultra vires the Act.

18. *We are therefore unable to appreciate the view of the IPAB that the two i.e. removal and renewal have no relation with each other.*

19. The Act and the Rules have prescribed the manner in which the trademark, which is universally identified as intellectual "property", is to be removed from the register and which removal has the effect of divesting the registered proprietor of his property rights in the registered trademark. Once the matter is seen in this light, we fail to see as to how a registered proprietor can be divested of his property rights in the registered mark in any manner other than the manner prescribed under the Act and the Rules. *The Constitutional principles applicable to tangible property would apply to intangible intellectual property also and which bar a person from being deprived of his property save in the manner prescribed by law. The Constitution Bench of the Supreme Court recently in K.T. Plantation Pvt. Ltd. v. State of Karnataka (2011) 9 SCC 1 held that the expression 'Property' in Article 300A which proclaims that no person can be deprived of his property save by authority of law meaning thereby that a person cannot be deprived of his property merely by an executive fiat without any specific legal authority or without the support of law made*

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by a competent legislature, is confined not to land alone, but includes intangibles like copyrights and other intellectual property and embraces every possible interest recognised by law. In Thukral Mechanical Works (supra) also it was held that registration of a trademark confers a very valuable right and removal of a mark from the register takes away the valuable right of a registered proprietor and has civil or evil consequences and therefore can be done only when the conditions laid down therefor are satisfied. It was yet further held that as removal takes away somebody's right, it deserves strict construction.

20. *The next question which arises for consideration is, what would be the effect of a removal from the register, without following the prescribed procedure. Section 25(4) makes the period of one year, prescribed for restoration of the mark to the register and renewal thereof, begin from the expiration of the last registration and not from the date of removal. We find it strange that though the right to restoration accrues on removal but the time prescribed to apply for restoration is from the expiry of the last registration. What will happen if removal itself is after one year from the expiry of the last registration as is the case here. Section 25(4) if literally read, applies only if the mark has been removed. If it were to be held that under Rule 66 renewal has to be applied for only within six months prior to the expiration of the mark and not after the expiration, then owing to the mark being not removed, the registered proprietor would not be entitled to avail of Section 25(4). The period of one year provided under Section 25(4) for applying for renewal would then become illusory. Section 25(4) can thus be held to be applicable only where removal is simultaneous to the expiration and not where removal is not so and is effected much after the date of expiration, as in the present case. Neither the Act nor Rules prescribe any limitation for applying for restoration and renewal in a*

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> *situation where the removal of the mark from the register is without issuing the notice in Form O-3. In the absence of any limitation having been prescribed, the only inference is that such application can be made at any time and in the decision whereon the LPA 564/2012 Page 23 of 28 Registrar would be entitled to take into consideration the relevant factors such as whether the same or a similar mark has in the interregnum being registered by any other person, etc.*
>
> ***14. In view of the position of law, it is clear that the mark cannot be removed from the Register of Trademarks without compliance with the provisions of Section 25 and Rule 67 of the Rules of 1959 which is akin to Rule 64 of the Trademarks Rules, 2002, which were in vogue when the impugned action was taken and there is no dispute that such a procedure was not followed.****"***
>
> (emphasis supplied)

27. In view of the law exposited in the above decisions, the respondent's contention that Rule 64(3) of the Rules does not require the issuance of a Form O-3 notice where the renewal date falls prior to the date of registration, cannot be accepted.

28. Further, the contention by Mr. Swain, that because the petitioner was already aware on the date of registration i.e. 10.02.2007 that the trademark had expired on 24.12.2006, the petitioner cannot contend that a Form O-3 notice ought to have been issued, is only to be noted to be rejected. As held in ***Malhotra Book Depot [DB]*** *(supra)*, the mere expiration of a registration by lapse of time, coupled with the failure of the registered proprietor to get the trademark renewed, does not by itself lead to the conclusion that the mark can be removed from the Register by the Registrar of Trade Marks without complying with the mandatory

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procedure prescribed under Section 25(3) of the Act read with the Rules.

29. The further submission of Mr. Swain, that since the relevant details required to be mentioned in the Form O-3 notice namely, the name of the registered proprietor, the date of expiry of the trademark, and the registration number, were not in existence prior to registration, the requirement of issuing a Form O-3 notice under Rule 64(1) could not have been complied with by the Registrar of Trade Marks, is also devoid of substance.

30. Once the mark was registered and Certificate of Registration bearing No. 604418 was issued on 10.02.2007, all the aforesaid details came into existence and were available. Therefore, even if the petitioner did not apply for renewal within six months from the actual date of registration i.e. 10.02.2007, the respondent could not have removed the petitioner's mark from the Register of Trade Marks without first issuing a Form O-3 notice as contemplated under Section 25(3) of the Act and calling upon the registered proprietor to renew the mark, as laid down in the decisions referred hereinabove.

31. Insofar as the reliance placed by Mr. Swain on the decision in ***Mankind Pharma Limited*** (supra) is concerned, the same does not come to the aid of the respondent in view of the binding precedent of the Division Bench of this Court in ***Malhotra Book Depot [DB]*** (supra), followed by the Coordinate Bench in ***Gopal Ji Gupta*** (supra) under similar facts where the giving of Form O-3 notice was held to be mandatory despite the certificate of registration having been issued after the expiry of the initial validity period of the trademark.

32. Accordingly, the present writ petition is allowed and the petitioner is permitted to file afresh Form TM-R for renewal in respect of his trademark, along

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with the prescribed fee, within a period of two weeks from today. The respondent shall accept such Form TM-R and process the same in accordance with the Rules.

33. The writ petition, along with pending applications, if any, stands disposed of in the aforesaid terms.

VIKAS MAHAJAN, J

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