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

\# **CNR No. DLHC010182882025**

\+ C.A.(COMM.IPD-TM) 16/2025

M/S AMALA EARTH PRIVATE LIMITED .....Appellant

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

versus

THE REGISTRAR OF TRADE MARKS .....Respondent

Through: Ms. Nidhi Raman, CGSC with Ms. Nikita Singh and Mr. Rishay Raj, Advs.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

O R D E R

% 03.11.2026

1. The present appeal has been filed under Section 91 of the Trade Marks Act, 1999 read with Rule 156 of the Trade Marks Rules, 2017 assailing the order dated 01.01.2025, whereby the Application No.6060045 filed by the appellant for the registration of its trademark " " in Class 05 was refused.

2. Mr. Rishabh Srivastava, learned counsel appearing on behalf of the appellant, submits that the impugned order is non-speaking.

3. Elaborating on his submission, he contends that in the reply filed by the appellant in response to the Examination Report, a detailed stand had been taken by the appellant.

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4. He submits that the appellant, in its reply, had given the details of the trademark "  " which had been registered by the respondent in different classes viz. Classes 03, 05, 08, 21, 29, 30 and 35. He submits that this aspect has not at all been considered by the Registrar of Trade Marks.

5. He further contends that in the reply, it has also been stated by the appellant that the mark "ONE" cited under Application No.3897214 in Class 05 is easily distinguishable from the applicant's mark.

6. Likewise, the cited mark "ONE SPORTS NUTRITION" under Application No.4471775 in Class 05 is also distinguishable and vastly different.

7. He submits that in the reply, the appellant had also stated that the manner in which the expression "ONE" is being used cannot be construed as a generic term inasmuch as the same is an acronym of *"Organic, Natural and Earth Friendly Living"*. Further, there are dots between 'O', 'N' & 'E'.

8. According to him, had all these aspects been adverted to by the learned Registrar, he would have come to a different conclusion.

9. In support of his contention, Mr. Srivastava has relied upon the decision of a Co-ordinate Bench of this Court in ***Disruptive Health Solutions Private Limited. v. Registrar of Trade Marks, 2022 SCC OnLine Del 2002,*** to contend that while considering the application for registration, the other registrations of the applicant would have a bearing on the capability of the mark obtaining registration. The relevant extract from the said decision reads thus:

> *"10. The general rule regarding distinctiveness is that a mark is capable of being protected if either it is inherently distinctive*

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> *or has acquired distinctiveness through secondary meaning. In the spectrum of distinctiveness, the first category of marks is of arbitrary, fanciful and invented marks which is of absolute distinctiveness. Similarly, suggestive marks can also be registered due to their inherent distinctiveness. Descriptive marks can be registered as trademarks provided secondary meaning is established. Insofar as descriptive marks are concerned, just because some portion of the mark may have some reference or indication as to the products or services intended for, the same may not be liable to be rejected straightaway. In such a case, the merits of the marks would have to be considered along with the extent of usage.* ***Other registrations of the applicant would also have a bearing on the capability of the mark obtaining registration.*** *The owner of a mark is always entitled to expand the goods and services, as a natural consequence in expansion of business."*

10. Likewise, reliance has also been placed on another decision of this Court in ***Psychotropic India Limited v. The Registrar of Trade Marks, 2026 SCC OnLine Del 446,*** to submit that the Trade Mark Registrar is a *quasi* judicialauthority and the order passed by such an authority should be a speaking one. The least expected from the adjudicating officer is to peruse the reply and extend the bare courtesy of application of mind and not doing so is complete abdication of *quasi*-judicial functions vested in the Registrar under the Trade Marks Act, 1999 and Trade Marks Rules, 2017. The relevant extract from the said decision reads thus:

> *"11. However, as rightly flagged by the Appellant, the impugned order does not deal with any of these submissions and merely proceeds on the ground that the applied trademark is similar to the cited trademark DESOPILL and the goods in question are also similar.* ***Time and again, this Court has emphasised that even a quasi-judicial authority must apply its mind to the submissions made before it and take into consideration all material brought before it, prior to taking a***

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> ***decision. The importance of passing a reasoned and speaking order indicating cogent reasons, which weighed with the authority to come to the decision, needs no reiteration.*** *The Bombay High Court in* ***I Am The Ocean (supra)*** *has observed that albeit detailed submissions were placed on record by the Petitioner in support of its plea to register the applied mark but the impugned order makes no reference to them while holding that the cited marks were identical/similar. The impugned order also lacked cogent reasons. Significantly, the Court also noted that in several matters in the past, submissions and documents, which form part of the replies before the Registrar of Trade Marks, were not considered****. The least expected of an adjudicating officer is to peruse the reply and extend the bare courtesy of application of mind and not doing so is complete abdication of quasi-judicial functions vested in the Registrar under 1999 Act and 2017 Rules.****"***

11. Reliance has also been placed on the decision of this Court in ***Mensa Brand Technologies Private Limited v. Registrar of Trade Marks, 2025 SCC OnLine Del 5601,*** to submit that punctuation contributes to the overall visual and phonetic uniqueness of the trademark. The relevant extract from the said decision reads thus:

> *"22. The Subject Trade Mark, though composed of familiar words, is presented in a distinctive configuration.* ***The dot between "PRO" and "FITNESS" is not merely punctuation, it creates a break in meaning and contributes to the overall visual and phonetic uniqueness of the Trade Mark. This nuance has not been addressed in the Impugned Order."***

12. I have heard the learned counsel for the appellant, as well as the learned counsel for the respondent.

13. A perusal of the reply to the Examination Report, shows that the appellant in the said reply has, *inter alia*, stated that – (i) the appellant has been continuously using the label mark in distinctive get-up, make up and

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artistic manner since 10.08.2023, and by virtue of such user the said mark has acquired substantial goodwill and reputation amongst the public; (ii) the mark of the appellant is highly distinctive and capable of being distinguishable; (iii) the appellant's trademark(s)have already been registered under different Classes. That apart, the appellant had also given justification that the cited mark "ONE" and "ONE SPORTS NUTRITION", are distinguishable and different from the label mark of the appellant which is depicted in a distinct and artistic manner. Additionally, the dots are also being used between 'O', 'N' & 'E'.

14. The learned Registrar has refused the application of the appellant for registration only for the reason that the mark applied for registration is identical with / similar to earlier trademarks on record, as mentioned in the examination report, therefore, there exists a likelihood of confusion in the mind of public. The relevant extract from the impugned order is reproduced herein below:

> *"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 marks is objectionable under Section 11(1) of the Trade Marks Act 1999.***
>
> *A perusal of all the documents on record and submission made by the applicant / authorized agent, it is concluded that applied marks is not registrable because of the reason stated as above, Hence application no. 6060045 cannot be accepted and refused accordingly."*

15. A conjoint reading of the reply to the examination report and the impugned order, make itclear that the impugned order does not advert to the

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various submissions put forth by the appellant in its reply to the examination report. Mere use of the words or the language of Section 11(1) of the Act in the impugned order without dealing with the grounds put forth by the appellant in its reply to the Examination Report cannot pass the test of a speaking order.

16. The law is well settled that where an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. As noted in ***PsychotropicIndia*** (supra), the minimum that is required of an adjudicating officer is to peruse the reply and extend the bare courtesy of application of mind.

17. In that view of the matter,the impugned order cannot be sustained. The present appeal is, therefore, allowed and the impugned order dated 01.01.2025 is set aside.

18. The matter is remanded to the learned Trademark Registrar for deciding the same in accordance with law, within a period of six weeks.

19. The appeal is disposed of in the above terms.

20. It is clarified that no observations have been made by this Court on the merits of the case.

VIKAS MAHAJAN, J

NOVEMBER 3, 2026
aj/sj

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