

(2026) 08 DEL CK 4464
In the Delhi High Court
Case No : W.P.(C)-IPD 5/2026

Amrit Singh Mehta Trading As Mehta Cosmetics	APPELLANT
Vs	
Controller General Of Patents, Designs And Trade Marks	RESPONDENT

Date of Decision : 04-08-2026

Acts Referred:

Constitution of India — Article 226
Trade Marks Act, 1999 — Section 25(3), 25
Right to Information Act, 2005
Trade Marks Rules, 2002 — Rule 64(3)
Companies Act, 1956

Citation : (2026) 08 DEL CK 4464

Hon'ble Judges : Jyoti Singh, J

Bench : Single Bench

Advocate : Mr. Siddharth Yadav, Mr. Nageshwar Kumar, Mr. Prashant Jain, Mr. Ayush Dey, Ms. Manisha Agrawal Narain, Mr. Adhiraj Singh

Judgement

JYOTI SINGH, J. (ORAL)

1. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India for a direction to the Respondent to restore and reinstate the trademark registration of the trademark 'BLUE CHIP' bearing trademark application No. 577478 in Class 03, under the provisions of Trade Marks Act, 1999 ('1999 Act') as also to permit the Petitioner to file appropriate application for renewal of the trademark registration.

2. To the extent necessary, the facts of the case as pleaded in the petition are that Petitioner filed a trademark application bearing No. 577478 on 21.07.1992 for registration of the mark BLUE CHIP in Class 03. The mark BLUE CHIP was registered in Class 03 on 03.08.2005 but the registration certificate was not received by the Petitioner. In the absence of renewal application by the Petitioner, the trademark was removed from the Register of Trade Marks and the status was reflected in the Trade Marks Journal No. 1442 on 16.06.2010 as 'Expired on 21.07.2002 & Removed'.

3. It is stated in the petition that in order to ascertain whether any communication was sent by the Respondent regarding the trademark registration or renewal, Petitioner filed several applications under the Right to Information Act, 2005. By letter dated 10.10.2025, Trade Marks Registry informed the Petitioner that registration was granted on 03.08.2005 vide registration certificate no. 405395 and that renewal intimation notices (RG-3/O-3) are issued only when renewal becomes due after date of registration, thereby implying that no notice was issued in the present case since registration was granted after the first renewal date had passed. Despite further RTI applications, Respondent did not respond to the query as to whether the registration certificate was despatched to the Petitioner or to the recorded agent and having no option, Petitioner has approached this Court.

4. Learned counsel for the Petitioner submits that it is the statutory obligation of the Registrar of Trade Marks to serve the registration certificate on the registered proprietor but in the instant case, the certificate was never received by the Petitioner. Rule 64(3) of Trade Marks Rules, 2002 ('2002 Rules') provides that where the registration of the mark takes place after the date on which renewal becomes due by reference to the date of the application, registered proprietor is entitled to make the renewal application within six months from actual date of registration. In the present case, Trade Marks Application was filed on 21.07.1992 and hence, the renewal date was 21.07.2002 but the registration was granted only on 03.08.2005. By operation of Rule 64(3), Petitioner was entitled to renew the trademark upto 03.02.2006 i.e., within six months from 03.08.2005. The statutory renewal window vested a clear legal right in favour of the Petitioner, however, since the registration certificate was never received, the renewal application was not filed and this has deprived the Petitioner of a valuable right to renew the registration in the mark BLUE CHIP.

5. It is further urged that in response to RTI applications, the only response from the Respondent vide letter dated 24.12.2025 was that as per physical file record, details of despatch particulars are not traceable. This position cannot work to the detriment of the Petitioner. In the absence of sending the registration certificate to the Petitioner as also notice in Form-O2 for renewal under Section 25(3) of 1999 Act, prior to removing the mark from the Register, removal of the mark from the Register is wholly unjustified.

6. Ms. Manisha Agrawal Narain, learned CGSC appearing for the Respondent submits that Petitioner has approached this Court belatedly and with passage of time physical records are not traceable and therefore, at this stage, Respondent is unable to make a statement on whether the registration certificate and/or notice in Form-O2 was sent.

7. Heard learned counsels for the parties and examined their submissions.

8. As per the factual narrative in the petition, Petitioner had filed Trade Mark Application for registration of the mark BLUE CHIP in Class 03 on 21.07.1992 and

admittedly, the mark was registered on 03.08.2005. Owing to the Petitioner not filing the renewal application along with prescribed fee, the mark was removed from the Register on 16.06.2010. The main plank of the argument of the Petitioner is that the registration certificate was not sent to the Petitioner and hence, he had no knowledge of the registration and consequently, Petitioner did not seek renewal of the registration before the expiry date. It is also urged that as per Rule 64(3) of 2002 Rules, it is the right of the Petitioner to seek renewal of registration within six months from the actual date of registration, however, since the registration certificate was not received, Petitioner was unable to take steps for renewal. Petitioner also raises a grievance of non-issuance of notice in Form-O2.

9. Rule 64(3) of 2002 Rules provides that 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, registration may be renewed by payment of renewal fee within six months of the actual date of registration and where the renewal fee is not paid within the said period, Registrar shall, subject to Rule 66, remove the mark from the Register. Therefore, where the mark is registered after date of renewal, the registered proprietor has a window of six months from the date of registration to seek renewal of the registration by paying the prescribed renewal fee. In the present case, Petitioner has taken a categorical position that after the mark was registered on 03.08.2005, registration certificate was not received by the Petitioner. Response of the Respondent under the RTI Act does not refute this position and instead in the last response sent on 24.12.2025, it is stated that the physical records are not traceable. Therefore, the stand of the Petitioner of non-receipt of the certificate is uncontroverted. As per record, the application for registration was filed on 21.07.1992 and the registration was granted only on 03.08.2005 i.e., after 13 years and was well after the date of renewal and thus Rule 64(3) gets attracted, which means that a window of six months was available to the Petitioner to seek renewal from the actual date of registration. However, since the registration certificate was not received, Petitioner was unaware of the registration and consequently of the expiry date of the registration and naturally, no steps were taken to seek renewal within the available period of six months. Therefore, Petitioner cannot be blamed for not filing the renewal application.

10. It is equally uncontroverted that Respondent did not send the notice under Form-O2 (now Form-O3) to the Petitioner before removing the mark BLUE CHIP from the Register of Trade Marks. It is no longer *res integrata* that issuance of notice under Form-O2/O3 is a mandate of law under Section 25(3) of 1999 Act and Registrar is obliged to send the same to the registered proprietor before expiry of last registration. In ***Union of India & Ors. v. Malhotra Book Depot, 2013 SCC OnLine Del 828***, this Court observed as follows:-

“13. Even otherwise, on a plain reading of Section 25, the inescapable conclusion is that

though the period of registration was prescribed as seven years, renewable from time to time on application in the prescribed manner within the prescribed time [under Sub-Sections (1) & (2)] but the removal of the mark from the register has been made subject to sending of a notice in the prescribed manner calling upon the registered proprietor to renew the mark and permitted only upon the failure of the registered proprietor to do so [under Sub-Section (3)] and not merely on the failure of the registered proprietor to apply for renewal within the prescribed time.

14. The Supreme Court, though in the context of a Rent Legislation, in *E. Palanisamy v. Palanisamy* (2003) 1 SCC 123 reiterated in *Sarla Goel v. Kishan Chand* (2009) 7 SCC 658, emphasized the importance of following the statutory procedure step by step and held an earlier step to be a precondition for the next step and it being impermissible to straightaway jump to the last step. It was further held that the last step can come only after the earlier step has been taken. The Trade Marks Act is an Act for the benefit of the proprietors of trademarks (refer *Thukral Mechanical Works v. P.M. Diesels Pvt. Ltd.* (2009) 2 SCC 768). When the Act itself has prescribed the procedure for removal, we do not find any justification for holding the said procedure to be not mandatory or not binding on the Registrar or to uphold the removal even if such procedure is not followed. We are here concerned with the legislative interpretation and cannot be guided by the consequences as argued by the counsel for the appellants, which may follow as a result of the said interpretation. Where the statute is clear, the Court has to give effect to the right created and should not restrict that right merely in order to minimize litigation. It has been held in *Coal India Ltd. v. Saroj Kumar Mishra* (2007) 9 SCC 625 that legislative interpretation cannot be rejected merely for the reason of opening the floodgates of applications or litigations.

15. The Supreme Court in *Sukhnandan Saran Dinesh Kumar v. Union of India* (1982) 2 SCC 150 also held that where the power conferred to do a certain act is a conditional one, the satisfaction of that condition giving rise to the occasion to exercise the power is a must. Similarly in *competent authority v. Barangore Jute Factory* (2005) 13 SCC 477 it was observed that when each step is a consequence of an earlier step in the sense that all steps are linked to the initial one, upon the initial step being not in accordance with law, the foundation goes and the rest of the edifice falls.

16. Section 25(3) providing for sending of a notice 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* 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 & 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."

11. This position of law was re-affirmed by this Court in ***Rakesh Kumar Mittal v. Registrar of Trade Marks, 2025 SCC OnLine Del 3860***, holding that before removal of the trademark from the Register, issuance of notice under Section 25(3) is a mandatory pre-condition. Court referred to the judgment in ***Malhotra Book Depot (supra)***, in this regard as also the judgments of the Bombay High Court in ***Cipla Ltd. v. Registrar of Trade Marks and another, 2013 SCC OnLine Bom 1270*** and ***Kleenage Products (India) Private Limited a company registered under the Companies Act, 1956, having its registered office at Gat No. 227, 228 & 230, Alandi Markal Road, Village***

Markal, Tal : Khed, Dist. Pune 412105, Maharashtra v. Registrar of Trade Marks Boudhik Sampada Bhawan, S.M. Road, Antop Hill, Mumbai and Others, 2018 SCC OnLine Bom 46 and the judgments of this Court in **Gopal Ji Gupta v. Union of India and Another, 2019 SCC OnLine Del 7670; Promoshirt SM. Pvt. Ltd. v. Registrar of Trade Marks, 2024 SCC OnLine Del 7722**; as also the order in **Ashok Bhutani v. The Registrar of Trade Marks & Anr., W.P.(C)-IPD 22/2024**, decided on 27.09.2024, where Courts have consistently held that mere expiration of trademark registration by lapse of time and/or failure of registered proprietors to get renewal, does not *ipso facto* justify the removal of the mark from the Register and such removal must be preceded by strict compliance with the procedural requirement of sending FORM-O3 notice by the Registrar, notifying the registered proprietor of the impending expiration of the registration and conditions for its renewal. In **Rakesh Kumar Mittal (supra)**, the Court allowed the writ petition and restored the registration of the mark in question and permitted the Petitioner to file renewal application and comply with all necessary formalities. The same direction was given by this Court in **Vijay Kumar Salwani Trading as M/s Modern Namkeen Bhandar v. Union of India and Anr., W.P.(C) 9270/2015**, noting that there was non-compliance of the mandate of Section 25(3).

12. In the present case, admittedly Form-O2 notice was not sent to the Petitioner before removing its mark BLUE CHIP from the Register and thus there is a clear violation of Section 25(3) of 1999 Act. Therefore, in my view, Petitioner cannot be faulted, since the non-filing of renewal application was due to non-receipt of the registration certificate as also the notice in Form-O2, prior to removal of the mark from the Register of Trade Marks. For both these reasons, the present writ petition is allowed. Respondent is directed to restore and reinstate the trademark registration under Application no. 577478 in Class 03 for the mark BLUE CHIP in favour of the Petitioner. It will be open to the Petitioner to file the renewal application with the prescribed fees and comply with all other requisite formalities for renewal of the registration within a maximum period of six weeks from today and on receipt of the application and completion of all formalities, Respondent shall proceed to consider the renewal application and needless to state that if the application is found in order, Respondent shall renew the registration in favour of the Petitioner, within three months from the date of completion of all formalities by the Petitioner.

13. Writ petition is disposed of in the aforesaid terms.