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

% **Date of decision: 15.09.2026**

CNR No. DLHC010417692026

+ **LPA 688/2026 & CM APPL. 59871-59872/2026**

ADS SPIRITS PVT. LTD.

.....Appellant

Through: **Mr. Ankit Sahni, Ms. Kritika Sahni &
Mr. Chirag Ahluwalia, Advs.**

versus

THE REGISTRAR OF TRADE MARKS

.....Respondent

Through: **Mr. Gaurav Barathi, SPC with Ms.
Manvi Goyal, Ms. Amita Singh &
Mr. Chirantan, Advs.**

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

AVNEESH JHINGAN, J. (ORAL)

1. This is an appeal filed against the decision dated 21.07.2026 of the learned Single Judge in appeal in C.A.(COMM.IPD-TM) 8/2026 and I.A. 3697/2026 under Section 91 of the Trade Marks Act, 1999 (for short 'the Act').

2. The appellant aggrieved of the order dated 30.10.2025 rejecting the application filed for registration of the trademark 'OFFER' passed by the Senior Examiner of Trade Marks, Geographical Indication and Copyright was before the learned Single Judge in appeal. The appeal was accepted and the issue under consideration was the registration of the mark 'OFFER' in



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Class 33 for goods “alcoholic beverages, except beers; alcoholic preparations for making beverages”. The respondent had issued an examination report raising objection under Section 9(1)(a) of the Act stating that “the mark is a common surname/personal name/geographical name/ornamental or a non-distinctive geometrical figure and as such it is not capable of distinguishing the goods or services of one person from those of others”.

2.1 The learned Single Judge after considering the factual aspects and the judgments cited by both parties concluded that the rejection was a result of non-application of mind at the stage of issuing the examination report and that a wrong test for determining the registration of the trade mark was applied. Section 9(1)(a) of the Act does not recognise the test of being ‘unique’ and the respondent had not even entered into the exercise of examining the mark ‘OFFER’ on the concept of distinctiveness and had erred in refusing registration. It was considered that ‘offer’ and ‘discount’ were not synonyms. The impugned order was set aside and directions were issued for considering the application afresh as per Section 9(1)(a) of the Act and testing the distinctiveness of the mark ‘OFFER’ vis-à-vis alcoholic beverages in respect of which registration was sought. The respondent was directed to decide the application within four months from the date of disposal of the appeal. Hence, the present appeal.

3. Learned counsel for the appellant contends that the basis for rejection, the test of uniqueness, was eroded and the learned Single Judge erred in not directing publication under Section 20 of the Act read with Rule 39 of the Trade Marks Rules, 2017.

3.1 It is submitted that no reasons were given for rejecting prayer (b)



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made in the appeal that the respondent be directed to process the registration of the trademark application of the application. Reliance is placed on the decision of the Supreme Court in *Nadakerappa since deceased by L.Rs. and Ors. v. Pillamma since deceased by L.Rs. and Ors.*, AIR 2022 SC 1609. The prayer (b) is quoted below:

“b. Direct the Respondent to process the registration of Appellant's Trade Mark Application No. 5514779 in Class 33 for the 'OFFER' mark and advertise the said mark of the Appellant in the Trade Marks Journal.”

4. *Per Contra*, the directions of this court are being complied with. The application is being considered, hearing has taken place on 19.08.2026 and the matter would be decided as per the directions of the High Court.

5. Before proceeding further, it would be apposite to reproduce Section 20 of the Act:-

“20. Advertisement of application.—

(1) When an application for registration of a trade mark has been accepted whether absolutely or subject to conditions or limitations, the Registrar shall, as soon as may be after acceptance, cause the application as accepted together with the conditions or limitations, if any, subject to which it has been accepted, to be advertised in the prescribed manner:

Provided that the Registrar may cause the application to be advertised before acceptance if it relates to a trade mark to which sub-section (1) of section 9 and sub-sections (1) and (2) of section 11 apply, or in any other case where it appears to him that it is expedient by reason of any exceptional circumstances so to do.

(2) Where—

(a) an application has been advertised before acceptance under sub-section (1); or

(b) after advertisement of an application,—



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- (i) an error in the application has been corrected; or
- (ii) the application has been permitted to be amended under section 22,

the Registrar may in his discretion cause the application to be advertised again or in any case falling under clause (b) may, instead of causing the application to be advertised again, notify in the prescribed manner the correction or amendment made in the application.”

6. The advertisement in the prescribed manner under Section 20 of the Act follows acceptance of the application for registration of the trade mark. In the present case, the application has not reached the stage of acceptance.

7. The order of rejection was set aside on the ground of non-application of mind at the stage of examination and applying a test alien to Section 9(1)(a) of the Act. The authorities under the statute are better equipped to deal with applications for registration of trade marks at the initial stage rather than this court venturing into this exercise in appeal and deciding the acceptance of the application. The appeal was decided by a detailed order giving reasons for remanding the matter.

8. There is no quarrel with the proposition laid down by the Supreme Court in *Nadakerappa* (supra) that the remand cannot be ordered as a matter of routine. In the present case, having regard to the nature of controversy and the procedure prescribed under the Act, the learned Single Judge for reasons recorded has remanded the matter with a direction to decide it in a time bound manner.

9. It cannot be lost sight of that the application is being reconsidered and the parties have been heard on 19.08.2026. There is no legal or factual error calling for interference in an intra court appeal.



10. The appeal is dismissed.
11. Pending applications stand disposed of.

AVNEESH JHINGAN, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 15, 2026

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Reportable: Yes