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The **Delhi High Court** in the case of **Toyota Jidosha Kabushiki Kaisha vs Tech Square Engineering [LPA 176/2023]** dated **May 04, 2026**, has held that, for purposes of Sections 11 and 57 of the Trade Marks Act, 1999, a foreign proprietor may succeed in rectification by proving that, on the date of the impugned application, its mark had acquired actionable recognition and spill-over reputation in India within the relevant consumer segment, even without formal commercial launch or direct sales in India. In assessing such reputation, the Court may legitimately rely on third-party imports, niche market presence, public-domain references and other material demonstrating recognition of the mark in India, especially for luxury goods.

Where such evidence establishes that the claimant's mark was a well-known trade mark in India, and the respondent's identical mark lacks bona fide adoption, the impugned registration is liable to be treated as wrongly remaining on the Register and removed under Section 57(2), added the Court, while holding that ALPHARD was a well-known trade mark at the time of the respondent's application. Finding the respondent's registrations to be in contravention of Section 11, the Court directed removal of Registration Nos. 3093216, 3093218 and 3093219 from the Register.

The Court observed that in a rectification action under Section 57(2), a mark can be removed if it is "wrongly remaining on the Register", and that this enquiry may require examination of whether the mark ought not to have been registered under Sections 9 or 11.

The Court noted that Toyota was not relying on a prior Indian registration or prior Indian application. Therefore, to succeed under Sections 11(1) and 11(2), Toyota had to show that ALPHARD qualified as an "earlier trade mark" by being a well-known trade mark in India on the date of the respondent's application. The Court emphasized that for determining whether a mark is well-known, the relevant test under Section 11(6) to (10) is recognition in the relevant section of the public, and not necessarily widespread recognition among the public at large.

The Court observed that, in the case of high-value luxury automobiles, reputation cannot be judged by standards applicable to mass-market goods. In such a niche market, imports, niche consumer visibility, and targeted recognition are of heightened evidentiary significance. The Court therefore accepted Toyota's submission that unsolicited importation by private parties was not neutral evidence, but reflected conscious market demand and recognition of the ALPHARD mark in India. The Court treated this as strong evidence of goodwill and reputation in India.

The Court held that the Single Judge erred in discounting third-party imports and public-domain references merely because they did not emanate from Toyota. It observed that "use"

is not confined to acts of the proprietor alone and may be inferred from third-party actions and public-domain material associating the mark with the goods or services.

On the respondent's claim of use, the Court found the documentary record weak. It noted that invoices were in the name of Tekstar Global Private Limited and not the respondent, and no proof of any legal nexus such as common shareholding, management control or formal commercial arrangement was shown. The Court also found that several invoices reflected cash transactions without adequate purchaser details, limiting their evidentiary value. It therefore held that the respondent had failed to discharge the burden of proving prior user and bona fide proprietorship.

Lastly, the Court pointed out that adoption of the identical mark ALPHARD in the same field or allied/cognate goods, coupled with inconsistent explanations by the respondent regarding the origin of the mark, raised serious doubt about the respondent's bona fides.