IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

IN ITS COMMERCIAL DIVISION

COMMERCIAL MISCELLANEOUS PETITION (L) NO. 19054 OF 2026

Shripad Prakash Chavan ...Petitioner

Versus

Registrar of Trade Marks & Anr ...Respondents

Mr. Aditya Soni, *a/w Chetan Arvind Alai, Jayant Kalbhor, Pranit Pawar for the Petitioner.*

Mr. Yashodeep Deshmukh, *a/w Vaidehi Deshmukh, Rutwik Rao, Ashutosh Misra for Respondent No.1.*

ASHWINI JANARDAN VALLAKATI
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CORAM: SOMASEKHAR SUNDARESAN, J.

DATE: OCTOBER 12, 2026

ORDER :

1. This is an Appeal under Section 91 of the Trade Marks Act, 1999 ("***the Act***") by which, the Application for registration filed by the Petitioner has been rejected in reliance upon the deadline stipulated in Rule 46 of the Trade Marks Rule, 2017 ("***the Rules***") having been missed, inasmuch as the Petitioner, did not serve the evidence sought to be relied upon on the Opponent and merely left it with the Registrar.

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2. The facts of this case would justify an intervention by this Court in the interests of justice, inasmuch as the Opponent who launched the opposition proceedings, namely, Respondent No.2, had himself missed the deadline for filing the evidence in support of the opposition under Rule 45 by a wide margin. That delay was condoned.

3. The Application for registration of trademark was advertised on February 1, 2021 while the Notice of Opposition was filed by the Opponent on May 4, 2021. Thereafter, the counterstatement filed by the Petitioner as Applicant was dispatched to the Opponent and to the Registrar of Trade Marks on February 17, 2023 thereby triggering the timelines for various deadlines under the Rules.

4. Despite the counter statement having been filed on February 17, 2023, and the deadline for filing evidence under Rule 45(1) having expired on April 17, 2023, the evidence of the Opponent was filed only on September 5, 2023, and that too after the Opponent had been asked to show cause as to why the opposition should not be dismissed by issuance of a hearing notice on August 7, 2023. The evidence of the Opponent was filed on September 5, 2023. The Petitioner filed his evidence under Rule 46 well within the deadline on October 7, 2023. However, the lapse on the part of the Petitioner was in not

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serving the same on Respondent No.2 and on this ground, the Impugned Order came to be passed in reliance upon Rule 46(2) holding that the Application was deemed to have been abandoned.

5. Having heard Learned Advocates for the parties and having considered the legacy of the matter prior to the default on the part of the Applicant, by condonation of delay granted to Respondent No.2, in my opinion, it is only appropriate that the delay under Rule 46 also be condoned. I am also satisfied that such a course of action would be fair inasmuch as the Applicant has not totally missed out in furnishing the evidence and in fact, filed it with the Registrar well within the deadline but missed serving the same on Respondent No.2, the Opponent.

6. Therefore, taking into account the facts and circumstances of the case and the approach adopted by the Registrar by condoning the delay in filing the evidence by the Opponent, it is appropriate to now condone the delay in the Applicant serving his evidence on the Opponent, under Rule 46 as well. The delay is hereby condoned in exercise of appellate powers of this Court and the evidence is directed to be formally served on Respondent No.2 within a period of two weeks from the date of upload of this order on the Court's website. The file is restored to the roster of the Registrar, who shall from this point onwards resume the matter to conduct the registration and opposition proceedings in accordance with law.

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7. The Petition is ***finally disposed of*** in the aforesaid terms.

8. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]

Ashwini Vallakati

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