



2025:DHC:6286



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

% Judgment delivered on: 31.07.2025

+ **C.O. (COMM.IPD-TM) 63/2024, I.A. 29742/2024, I.A. 29743/2024, I.A. 29744/2024, I.A. 29745/2024 & I.A. 29746/2024**
STAR SINTERED PRODUCTS LTDPetitioner

versus

MR KARAN BHUTANI TRADING AS M/S KMSP INDUSTRIES
& ANR.Respondents

+ **CS(COMM) 97/2022, I.A. 12853/2022 & I.A. 12858/2022**
STAR SINTERED PRODUCTS LTD. AND ANR.Plaintiffs

versus

KARAN BHUTANIDefendant

+ **C.O. (COMM.IPD-TM) 64/2024, I.A. 29769/2024, I.A. 29770/2024, I.A. 29771/2024, I.A. 29772/2024 & I.A. 29773/2024**
STAR SINTERED PRODUCTS LTDPetitioner

versus

MR KARAN BHUTANI TRADING AS M/S KMSP INDUSTRIES
& ANR.Respondents

+ **C.O. (COMM.IPD-TM) 65/2024, I.A. 29763/2024, I.A. 29764/2024, I.A. 29765/2024, I.A. 29766/2024 & I.A. 29767/2024**
STAR SINTERED PRODUCTS LTDPetitioner

versus

MR KARAN BHUTANI TRADING AS M/S KMSP INDUSTRIES
& ANR.Respondents



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+ **C.O. (COMM.IPD-TM) 66/2024, I.A. 29779/2024, I.A. 29780/2024, I.A. 29781/2024, I.A. 29782/2024 & I.A. 29783/2024**

STAR SINTERED PRODUCTS LTD

.....Petitioner

versus

MR KARAN BHUTANI TRADING AS M/S KMSP INDUSTRIES
& ANR.Respondents

+ **C.O. (COMM.IPD-TM) 67/2024, I.A. 29774/2024, I.A. 29775/2024, I.A. 29776/2024, I.A. 29777/2024 & I.A. 29778/2024**

STAR SINTERED PRODUCTS LTD

.....Petitioner

versus

MR KARAN BHUTANI TRADING AS M/S KMSP INDUSTRIES
& ANR.Respondents

Advocates who appeared in these cases

For the Petitioner : Mr. Amit Jain, Mr. Shailen Bhatia and Mr. Raghav Bhalla, Advocates

For the Respondents : Mr. Satish Kumar, Mr. Rakesh Tiwari and Mr. Shiv Kumar Yadav, Advocates for R-1. Ms. Nidhi Raman, CGSC with Mr. Om Ram, Advocate for R-2 in C.O. (COMM.IPD-TM) 63/2024

Mr. Vinay Yadav, SPC, Ms. Kamna Behrani, Mr. Ansh Kalra and Mr. Siddharth Gautam, Advocates for R-2

Ms. Rupali Bandhopadhyaya, CGSC with Mr. Abhijeet Kumar and Ms. Amisha Gupta, Advocates for R-2 in C.O. (COMM.IPD-TM) 64/2024

Mr. Arnav Kumar, CGSC with Ms. Gitanjali Vohra, Advocate for R-2 in C.O. (COMM.IPD-TM) 65/2024, 66/2025 & 67/2025



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**CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA**

JUDGMENT

TEJAS KARIA, J.

IA No.48849/2024 in O.A. 223/2024 in C.O. (COMM.IPD-TM) 63/2024, IA No. 48832/2024 in O.A. 219/2024 in C.O. (COMM.IPD-TM) 64/2024, IA No.48833/2024 in O.A. 220/2024 in C.O. (COMM.IPD-TM) 65/2024, IA No.48834/2024 in O.A. 221/2024 in C.O. (COMM.IPD-TM) 66/2024 & IA No.48848/2024 in O.A. 222/2024 in C.O. (COMM.IPD-TM) 67/2024 (All for condonation of delay in filing the Appeals).

1. For the reasons stated in the Applications, the same are allowed.
2. The Applications are disposed of.

O.A. 223/2024 in C.O. (COMM.IPD-TM) 63/2024, O.A. 219/2024 in C.O. (COMM.IPD-TM) 64/2024, O.A. 220/2024 in C.O. (COMM.IPD-TM) 65/2024, O.A. 221/2024 in C.O. (COMM.IPD-TM) 66/2024 & O.A. 222/2024 in C.O. (COMM.IPD-TM) 67/2024

INTRODUCTION

3. The present Appeals arise from proceedings in the Rectification Petitions (“**Rectification Petitions**”) filed against the registered Trade Marks of the Appellant, wherein the Appellant’s right to file the Reply in the Rectification Petitions was closed by the learned Joint Registrar of this Court *vide* order dated 23.09.2024 (“**Impugned Order**”). The Appellant and the Respondent herein are Respondent No. 1 and the Petitioner respectively in the Rectification Petitions. The Parties are referred to by their standing in the present Appeals.



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FACTUAL BACKGROUND

4. The Respondent herein has filed the Rectification Petitions before this Court seeking rectification of the registration of the Trade Marks by the Appellant under Sections 9, 11, 18, 47 and 57 of the Trade Marks Act, 1999 (“Act”) and for directions to the Registrar of Trade Marks to remove the said Trade Marks from the register under Section 47 / 57 / 125 of the Act.

5. It is stated that the Appellant and the Respondent are into litigation since 2017 as Suit between the parties bearing CS. 217/2021 titled as “*Star Sintered Products Limited and Ors. Vs. Karan Bhutani*” (“**Suit**”) for permanent and mandatory injunction restraining passing of, dilution, damages and rendition of account and counterclaim under CS. 218/2021 titled as “*Karan Bhutani vs Star Sintered Products Limited & Anr*” (“**Counterclaim**”) are pending before the learned District Judge-02, North East District, Karkardooma Courts, Delhi (“**Trial Court**”). According to the Appellant, the Respondent has not sought any permission from the learned Trial Court before filing the Rectification Petitions before this Court and that the Rectification Petitions are devoid of merits and ought to be dismissed as such.

6. It is the Appellant’s case, that the Appellant was not aware of the Rectification Petitions and, therefore, the Appellant had not entered the appearance. However, the Appellant was appearing in CS(COMM) 97/2022 (“**HC Suit**”) titled as “*Star Sintered Products Ltd. & Anr. Vs Mr.Karan Bhutani trading as M/s KMSP Industries*” filed by the Respondent before this Court. The HC Suit is for permanent injunction restraining the infringement of Trade Mark, passing off, violation of corporate name of the



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Respondent, violation of copyright, damages, delivery up, etc. It is the Appellant's case that the Appellant for the first time became aware of the Rectification Petitions filed by the Respondent when the said Rectification Petitions were clubbed with the HC Suit on 25.09.2024.

7. The order dated 20.05.2024 passed by this Court in the Rectification Petitions does not record the appearance of the Appellant. However, it states that the Notice was accepted by the Appellant and a time of eight weeks was given to the Appellant to file the Reply in the Rectification Petitions. *Vide* order dated 20.05.2024, this Court further directed that the Rectification Petitions be listed before the learned Joint Registrar for completion of pleadings. Accordingly, the Rectification Petitions were listed before the learned Joint Registrar on 10.07.2024, and the order passed on that date records that the Notice was accepted by the Appellant in the Rectification Petitions on 20.05.2024; however, no Reply was filed by the Appellant thereafter. The learned Joint Registrar *vide* order dated 10.07.2024 further granted a last opportunity to the Appellant to file the Reply within four weeks and listed the matter for completion of pleadings on 23.09.2024.

8. The order dated 10.07.2024 also did not mark any appearance of the Appellant. On the next date before the learned Joint Registrar on 23.09.2024, it was observed that despite repeated opportunities the Appellant did not file his Reply and that none had appeared on behalf of the Appellant as well. Accordingly, the learned Joint Registrar *vide* the Impugned Order closed the Appellant's right to file the Reply to the Rectification Petitions.



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9. The present Appeals have been filed against this Impugned Order closing the Appellant's right to file the Reply in the Rectification Petitions.

10. It is the case of the Appellant that there was no effective service of summons in accordance with the Delhi High Court (Original Side) Rules, 2018 in the Rectification Petitions and that the Appellant became aware of the pendency of the Rectification Petitions only when the same were clubbed with the HC Suit on 25.09.2024. It is the Appellant's case that the right to file a reply commences only upon proper service of summons, which allegedly never occurred. The Appellant also submits that he has actively participated in related proceedings with the Respondent since 2017 and there was no reason to deliberately not file the Reply to the Rectification Petitions. The Appellant further submits that the delay in appearance and filing of the Reply was unintentional and that the prompt steps were taken upon gaining knowledge of the proceedings in the Rectification Petitions.

11. The learned Counsel for the Appellant submitted that the Impugned Order has failed to appreciate that the period of limitation to file the Reply would commence only when the Notice was duly served upon the Appellant. Therefore, the closure of the Appellant's right to file the Reply in the Rectification Petitions without effective service will result in grave prejudice to the Appellant's substantive rights.

12. As regards the Notice issued on 20.05.2024, it was submitted by the learned Counsel for the Appellant that no notice was ever received by the Appellant in the Rectification Petitions on 20.05.2024. It was further submitted that even the order dated 20.05.2024 reveals that there was no appearance on behalf of the Appellant on 20.05.2024.



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13. In Reply to these Appeals, the Respondent has submitted that the Rectification Petitions filed by the Respondent were first listed before this Court on 20.05.2024. The Reply further states that the Appellant was served in advance with the complete set of paper book of the Rectification Petitions at the time of filing the Rectification Petitions and that the service was effected directly *via* email to the Appellant and additionally on the present Counsel for the Appellant.

14. The Reply further states that on the said date i.e., 20.05.2024, the Appellant was represented through its Counsel, however, no formal appearance was marked, though the Counsel was present and accepted the Notice on behalf of the Appellant. It is further stated in the Reply that there was no occasion for issuance or service of Notice in the Rectification Petitions as the Counsel for the Appellant accepted the same.

15. It is further submitted by the learned Counsel for the Respondent that the Rectification Petitions were served in advance to the Appellant and at no point the Appellant has sought another copy of the Rectification Petitions, thereby making it clear that the Appellant was in possession of the paper book and represented through Counsel on 20.05.2024.

16. It is further submitted by the Respondent that the order dated 20.05.2024 has attained finality and the Appellant, cannot now contend that the Notice was not accepted by his Counsel on the said date.

17. It is further stated in the Reply that despite being aware of the pendency of the Rectification Petitions and despite having accepted the



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Notice in the said proceedings, the Appellant deliberately chose not to appear on subsequent dates of hearing.

18. It is further stated in the Reply that the order dated 10.07.2024 passed by the learned Joint Registrar observing that the Notice was accepted by the Appellant in the Rectification Petitions on 20.05.2024; no Reply was filed by the Appellant and that a last opportunity to file the Reply within four weeks was granted to the Appellant was available on the website of this Court and the Appellant is presumed to have knowledge of the same. Despite repeated latitude being granted by this Court, the Appellant has failed to file the Reply to the Rectification Petitions, therefore the learned Joint Registrar *vide* the Impugned Order has rightly closed the Appellant's right to file the Reply.

19. It is further submitted by the Respondent that the HC Suit was listed before this Court on 09.08.2024 and 25.09.2024. On 09.08.2024, this Court was pleased to observe that the HC Suit be listed along with the Rectification Petitions. The Appellant was represented through Counsel on 09.08.2024 and was, therefore, again made aware of the pendency of the Rectification Petitions.

20. It is further stated in the Reply that the Appellant, remained silent for over a month and a half after 09.08.2024 and has failed to explain this delay. It is submitted that despite being aware of the pendency, no steps were taken to file the Reply and, therefore, the Appellant's conduct in ignorance is a deliberate attempt to evade the proceedings in the Rectification Petitions.



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21. It is submitted by the learned Counsel for the Respondent that the Appellant's claim of not having knowledge of the Rectification Petitions is false and contrary to record and that this is a standard practice employed by the Appellant in various cases.

22. A Rejoinder to the Reply has also been filed by the Appellant, which states that no Notice was ever issued in the Rectification Petitions in terms of Order V Rule 1(1) of the Code of Civil Procedure, 1908, read with Rule 1 of Chapter VI of the Delhi High Court (Original Side) Rules, 2018. Therefore, the Impugned Order has seriously prejudiced the substantive and valuable rights of the Appellant by taking away the right to defend the Rectification Petitions.

23. The Rejoinder filed by the Appellant states that even the order dated 20.05.2024 reveals that there was no appearance on behalf of the Appellant. The Rejoinder further states that no Notice was ever received by the Appellant in respect of the Rectification Petitions on the said date 20.05.2024 and the Appellant only became aware of Rectification Petitions on 25.09.2024, when the HC Suit was listed before this Court along with Rectification Petitions.

24. It is submitted that the Impugned Order has caused serious prejudice and curtailed the Appellant's valuable right to contest the Rectification Petitions and is therefore vitiated both in law and on facts, having been passed without ensuring proper service and opportunity to the Appellant.



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SUBMISSIONS BY THE APPELLANT

25. The learned Counsel for the Appellant submitted that the Appellant was never properly served with the Notice in the Rectification Petitions and that if the Appellant had been served, he would have certainly appeared and filed its reply, as he has always participated in litigation related to these Trade Marks since 2017. It is submitted that even though an order dated 09.08.2024 is relied on by the Respondent to show the Appellant's knowledge, the said Counsel was appearing in the HC Suit and not in the Rectification Petitions.

26. It is further submitted that the first appearance by the Appellant in the Rectification Petitions was on 25.09.2024. When it became aware of the pendency, the Appellant expeditiously took necessary steps without any attempt to delay the Rectification Petitions. It is further submitted that there was no reason to avoid or delay the Rectification Petitions as the Appellant has been contesting similar matters since 2017.

27. The learned Counsel for the Appellant further relied on the history of litigation between the parties and pleadings to highlight the consistent appearances in the HC Suit filed before this Court.

28. The learned Counsel for the Appellant submitted that the closing of his right to file the Reply was based on non-appearance orders particularly order dated 23.09.2024, and is attributable to lack of prior knowledge or service, and not negligence. Therefore, given the circumstances, the closure was unduly harsh. The learned Counsel pointed out the orders passed in the HC Suit and the Rectification Petitions, and submitted that the Appellant's presence is marked in the HC Suit but not in the Rectification Petitions, and



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submitted that the said non-appearance supports the Appellant's submission that he had no effective Notice in the Rectification Petitions.

29. The learned Counsel for the Appellant further submitted that the Appellant has no incentive to avoid participation in the proceedings in the Rectification Petitions, given that his entire defence in the HC Suit has a nexus with that of Rectification Petitions and that the Appellant would never avoid participating in hearings that go to the core of his case. It is submitted that the Appellant's actions reflect *bona fide* conduct and prompt steps undertaken to address any procedural defaults as soon as they came to his attention. Therefore, the Impugned Order closing the Appellant's right to file the Reply in the Rectification Petitions deserves to be set aside.

SUBMISSIONS BY THE RESPONDENT

30. The learned Counsel for the Respondent submitted that the Appellant was duly served the Notice in the Rectification Petitions and it is evidenced by several orders specifically, the order dated 20.05.2024, where this Court recorded that the Notice was accepted by and on behalf of the Appellant. The learned Counsel submitted that the Appellant on the said date had appeared virtually but did not mark their appearance. It is further submitted that even if the Appellant claims not to have appeared, the knowledge can be imputed from participation in related matters.

31. The learned Counsel for the Respondent further submitted that the Appellant's shifting stance about lack of knowledge and service is a tactical ploy to delay the adjudication of the Rectification Petitions and that the Respondent having regularly participated, the case should now proceed



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without reopening issues rightfully closed for want of the Appellant's timely participation.

32. Lastly, it is submitted that the right to file the Reply was closed after being given repeated opportunities along with extensions. Therefore, the closing of the right to file the Reply *vide* the Impugned Order is justified and does not warrant any interference.

ANALYSIS AND FINDINGS

33. The primary issue arising for consideration in the present Appeals is whether the Impugned Order whereby the Appellant's right to file the Reply to the Rectification Petitions was closed, is justified in law and on facts.

34. The material placed on record reveals that the Appellant's presence has been marked in the HC Suit but not in the Rectification Petitions prior to 25.09.2024. The Respondent has relied on orders dated 20.05.2024 and 09.08.2024 to submit that the Appellant had knowledge of the Rectification Petitions. The relevant part of the order dated 20.05.2025 passed by this Court in the Rectification Petitions and the order dated 09.08.2024 passed by this Court in the HC Suit are reproduced below-

The order dated 20.05.2024-

“3. C.O. (COMM.IPD-TM) 63/2024 has been transferred from the Bench of Hon'ble Mr. Justice Sanjeev Narula on account of matters being connected.

4. Issue notice.

5. Notice is accepted by counsel appearing on behalf of respondent no.2, Registrar of Trademarks, in all above captioned petitions, as also by respondent no.1 in these petitions.

6. Reply be filed with next 8 weeks with copies to the opposing side; rejoinder be filed thereafter before the next date of hearing.”



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The order dated 09.08.2024-

- “1. Written submissions on behalf of the plaintiffs, along with judgments, are stated to have been re-filed yesterday, i.e., 08th August, 2024.
2. Let the Registry place the same on record.
3. Learned counsel for the plaintiffs submits that connected matters being C.O. (COMM.IPD-TM) 64/2024 and other connected matters, are listed for hearing on 25th September, 2024. He, thus, submits that the present matter be listed, along with the same.
4. Accordingly, list the present suit along with C.O. (COMM.IPD-TM) 64/2024 and other connected matters, on 25th September, 2024.”

35. Before proceeding to the factual aspects of the case, it is pertinent to examine how procedural lapses have been addressed in situations where lapses have the effect of curtailing a party’s right in proceedings. The Supreme Court in *N. Balakrishnan v. M. Krishnamurthy*, (1998) 7 SCC 123 has observed that:

11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties



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do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

12. A court knows that refusal to condone delay would result in foreclosing a suitor from putting forth his cause. There is no presumption that delay in approaching the court is always deliberate. This Court has held that the words “sufficient cause” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice vide Shakuntala Devi Jain v. Kuntal Kumari [AIR 1969 SC 575 : (1969) 1 SCR 1006] and State of W.B. v. Administrator, Howrah Municipality [(1972) 1 SCC 366 : AIR 1972 SC 749].

13. It must be remembered that in every case of delay, there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put forth as part of a dilatory strategy, the court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time, then the court should lean against acceptance of the explanation. While condoning the delay, the court should not forget the opposite party altogether. It must be borne in mind that he is a loser and he too would have incurred quite large litigation expenses. It would be a salutary guideline that when courts condone the delay due to laches on the part of the applicant, the court shall compensate the opposite party for his loss.

36. In the same vein, the discretionary jurisdiction of a court to extend time or grant procedural indulgence where warranted by the circumstances is also well established. The observations of the Supreme Court in the case of **Nashik Municipal Corpn. v. R.M. Bhandari, (2016) 6 SCC 245** are relevant to the present case and the same are reproduced below:

“13. In Chinnamarkathian v. Ayyavoo [Chinnamarkathian v. Ayyavo



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o, (1982) 1 SCC 159] , this Court called in the principle of equity and held that the court has the jurisdiction to examine alteration or modification which may necessitate extension of time. In para 15, this Court held as under : (SCC p. 168)

“15. ... It is a well-accepted principle statutorily recognised in Section 148 of the Code of Civil Procedure that where a period is fixed or granted by the court for doing any act prescribed or allowed by the Code, the court may in its discretion from time to time enlarge such period even though the period originally fixed or granted may expire. If a court in exercise of the jurisdiction can grant time to do a thing, in the absence of a specific provision to the contrary curtailing, denying or withholding such jurisdiction, the jurisdiction to grant time would inhere in its ambit the jurisdiction to extend time initially fixed by it. Passing a composite order would be acting in disregard of the jurisdiction in that while granting time simultaneously the court denies to itself the jurisdiction to extend time. The principle of equity is that when some circumstances are to be taken into account for fixing a length of time within which a certain action is to be taken, the court retains to itself the jurisdiction to re-examine the alteration or modification of circumstances which may necessitate extension of time. If the court by its own act denies itself the jurisdiction to do so, it would be denying to itself the jurisdiction which in the absence of a negative provision, it undoubtedly enjoys.”

37. As regards the submission that the paper book of the Rectification Petitions was already served on the Appellant giving knowledge of the proceedings in Rectification Petitions is concerned, the same cannot dispense with the requirement of service of Notice. In ***Sunil Gupta v. Asset Reconstruction Co. (India) Ltd.***, 2022 SCC OnLine Bom 2159, the Division Bench of the Bombay High Court was dealing with a situation where an *ex parte* decree passed by the Debts Recovery Tribunal was challenged on the ground that the petitioners therein were never served. In response, the respondent contended that the petitioners had prior knowledge of the proceedings and had earlier filed objections, an advocate appearing on their behalf had also sought time. The Bombay High Court in the said case



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observed that mere filing of any application or the act of seeking time by an advocate allegedly on behalf of a party does not dispense with the statutory requirement of service under law. The Bombay High Court further observed that mere knowledge of the pendency of proceedings cannot be treated as a substitute for proper service and that the right of a party to defend cannot be taken away merely on the basis of presumed awareness.

38. The observations of the Supreme Court as reproduced above further underscore the importance of ensuring that procedural rules serve the ends of justice and are not applied in a manner that results in undue prejudice.

39. In the present case, it is evident that the Appellant's appearance is not marked on dates prior to the date on which the HC Suit was clubbed with Rectification Petitions. The Appellant had no incentive to delay proceedings in the Rectification Petitions having a direct bearing on the HC Suit for injunction and damages pending before this Court, as well as the Counterclaim before the learned Trial Court. It is also a matter of record that the Appellant had been participating in the HC Suit even prior to its clubbing with the Rectification Petitions. Therefore, the Appellant had no reason to stay away from the proceedings in the Rectification Petitions while pursuing his defence in parallel litigation.

40. The order dated 20.05.2024 does state that the Notice was issued and accepted on behalf of "Respondent No. 1", i.e., the Appellant herein. However, there is no formal appearance recorded for the Appellant, nor is it clear who accepted the said Notice. None of the orders passed in the Rectification Petitions prior to 25.09.2024 record the Appellant's presence. In such circumstances, it would not be possible to attribute the delay to the



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Appellant. In view of the ambiguity on record, it would be in the interest of justice to give benefit of doubt to the Appellant. Accordingly, the Impugned Order passed by the learned Joint Registrar is set aside. The Appellant is granted one last opportunity of two weeks to file its Reply to the Rectification Petitions, subject to imposition of costs of Rs 25,000/- payable to the Delhi High Court Staff Welfare Fund [A/C 15530110074442; IFSC UCBA0001553] within two weeks.

41. The present Appeals are allowed in the aforesaid terms.

C.O. (COMM.IPD-TM) 63/2024, CS(COMM) 97/2022, C.O. (COMM.IPD-TM) 64/2024, C.O. (COMM.IPD-TM) 65/2024, C.O. (COMM.IPD-TM) 66/2024 & C.O. (COMM.IPD-TM) 67/2024

42. List on 17.09.2025.

TEJAS KARIA, J

JULY 31, 2025/hk