



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

% Judgment delivered on: 31.07.2025

+ **CM(M)-IPD 15/2025**

VI-JOHN HEALTHCARE INDIA LLPPetitioner

versus

DABUR INDIA LIMITEDRespondent

Advocates who appeared in this case

For the Petitioner : Mr. Neeraj Grover, Ms. Harshita Chawla, Mr. Angad Deep Singh & Ms. Mohona Sarkar, Advocates.

For the Respondent : Mr. Mohd. Sazid Rayeen & Mr. Avijit Sharma, Advocates.

CORAM:
HON'BLE MR. JUSTICE TEJAS KARIA

JUDGMENT

TEJAS KARIA, J

CM APPL. 115/2025 (Exemption)

1. This is an Application seeking exemption from filing certified copies of the Documents.
2. The exemption is allowed, subject to just exceptions.
3. The Application stands disposed of.

**CM APPL. 183/2025**

4. This is an Application under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (“**CPC**”) seeking amendment of the Petition.

5. This Application has been filed by the Petitioner to amend the Petition to incorporate the challenge to the Order dated 07.08.2024 (“**First Impugned Order**”) passed by the learned District Judge, Commercial Court-13, Central District, Tis Hazari Courts, Delhi (“**Trial Court**”) in C.S. COMM 776/2024 titled as “*Dabur India Limited Vs. VI-John Healthcare India LLP*” (“**Suit**”) pursuant to the Order dated 05.05.2025 passed by this Court.

6. For the reasons stated in this Application, the amendment as sought in Paragraph 4 of this Application is allowed. The amended Petition filed along with this Application is taken on record.

7. Accordingly, the present Application stands disposed of.

CM(M)-IPD 15/2025 & CM APPL. 114/2025

8. The Petitioner has filed the present Petition under Article 227 of the Constitution of India, 1950, being aggrieved by the Order dated 06.02.2025 (“**Second Impugned Order**”) passed by the learned Trial Court in the Suit, whereby the learned Trial Court disposed of the Application dated 24.10.2024, filed under Order VIII Rule 1 read with Section 151 of CPC and Section 5 of the Limitation Act, 1963 (“**Application**”), seeking condonation of delay of 48 days in filing the Written Statement in the Suit.

9. *Vide* the Second Impugned Order, the learned Trial Court allowed the Application and condoned the delay in filing the Written Statement, subject



to payment of cost of ₹25,000/- for each day's delay by the Petitioner to the Respondent.

10. The Respondent has filed the Suit claiming infringement of Trade Mark, copyright, passing off and damages to the tune of ₹2,50,000/- against the Petitioner before the learned Trial Court with respect to its packaging



claiming to be aggrieved by the use of



packaging by the Petitioner and the descriptive use of the word "MISWAK" by the Petitioner on its packaging.

11. The Suit was listed for the first time on 18.07.2024 and the learned Trial Court issued summons in the Suit and notice of the Application for grant of injunction to the Petitioner which were made returnable on 07.08.2024, without granting an *ex parte* injunction in favour of the Respondent.

12. The summons in the Suit was served upon the Petitioner on 05.08.2024 and the Petitioner entered the appearance on 07.08.2024. On the date of appearance, the learned Trial Court passed the First Impugned Order, recording that the Petitioner was served with the summons on 05.08.2024 and directed the Petitioner to file Written Statement in conformity with the provisions of the Commercial Courts Act, 2015 within 30 days from



07.08.2024. The First Impugned Order further directed that any delay in filing of the Written Statement or Replication may be considered subject to a cost of ₹25,000/- for each day of delay, and directed that as far as the cost was concerned, the First Impugned Order was final and the learned Trial Court would not reduce the cost in any eventuality and listed the Suit on 27.09.2024 for case management hearing and arguments on the Application for injunction.

13. It is submitted by the Petitioner that upon the service of the documents in the Suit, the Petitioner came to know that the Respondent had filed another suit against the Petitioner before the learned Saket Court being CS COMM 73/2024 (“**Saket Suit**”).

14. After the directions to file the Written Statement in the First Impugned Order, the Parties made a substantial headway in the settlement discussions, which were already ongoing between them.

15. It is submitted by the Petitioner that when the matter was listed before the learned Trial Court on 27.09.2024, the Petitioner informed the learned Trial Court that the Written Statement could not be filed as the Parties were exploring the possibility of an amicable settlement. The learned Trial Court adjourned the Suit at the request of the learned Counsel for the Petitioner for reporting the outcome of the settlement and further proceedings on 25.10.2024.

16. At the hearing held on 30.09.2024 in the Saket Suit, the Parties sought time for Settlement and the learned Saket Court granted time for Settlement and listed the Saket Suit on 20.11.2024.

17. It is submitted by the Petitioner that as the finalization of the settlement in the Saket Suit was taking some time, the Saket Suit was



adjourned to 20.11.2024. In view of the same, the Petitioner decided to file the Written Statement in the Suit before the learned Trial Court to avoid any further delay, in case the settlement discussions did not fructify for any unforeseen reason.

18. Accordingly, the Petitioner finalized the Written Statement and filed the same before the learned Trial Court on the second date fixed after entering the appearance i.e., on 25.10.2024. Along with the Written Statement, the Application was filed duly explaining the *bona fide* reasons for the delay in filing the Written Statement and also placing the order sheets in the Saket Suit to support the averments made in the Application.

19. The Petitioner has submitted that in the Order dated 25.10.2024 passed by the learned Trial Court in the Suit, it is recorded that the Petitioner filed the Written Statement along with the Application and reply to the Application for injunction. The learned Trial Court directed the Respondent to file Reply to the Application and a Rejoinder to the Reply to the Application for injunction in advance, and listed the Suit for arguments on 16.01.2025.

20. In the meantime, *vide* Transfer Order / Notification dated 25.10.2024, the Presiding Officer of the learned Trial Court, who had passed the Orders dated 07.08.2024, 27.09.2024 and 25.10.2024, was transferred and the matter was listed before the successor Presiding Officer on 16.01.2025.

21. On 16.01.2025 the learned successor Presiding Officer transferred the Suit to another Court for personal reasons. The Suit was listed before another court on 06.02.2025. However, the Respondent had not filed a Reply to the Application. In view of the same, the averments in the Application were not controverted by the Respondent.



22. It is submitted by the Petitioner that the Petitioner also relied upon by the final Order dated 23.12.2024 passed in the Saket Suit, wherein the learned Saket Court finally disposed of the Saket Suit in view of the settlement arrived at between the Parties. It is also submitted by the Petitioner that the Petitioner relied upon the various orders passed by this Court in similar IPR suits, wherein the damages sought were over ₹2,00,00,000/- (Rupees Two Crores only), however, the cost imposed for condonation of delay in filing of written statement was in the range of ₹5,000/- to ₹10,000/-.

23. It is submitted by the Petitioner that despite making the above submissions before the learned Trial Court, the Application was allowed subject to cost of ₹25,000/- for each day of 48 days' delay, which amounted to ₹12,00,000/-, without considering the grounds contained in the Application and in absence of any serious objection from the Respondent.

24. It is submitted by the Petitioner that the cost imposed was totally disproportionate to the final relief of damages sought in the Suit, which was only ₹2,50,000/-.

25. Being aggrieved by the Second Impugned Order, the present Petition has been filed.

26. The Respondent appeared on the advance service of the Petitioner. Heard the learned Counsel for the Petitioner and the Respondent.

27. Considering the facts and circumstances, the Second Impugned Order imposed the cost of ₹25,000/- for each day of delay solely by relying upon the First Impugned Order, wherein the learned predecessor Presiding Officer had fixed the amount of cost to be paid in case of delay in filing of the Written Statement. The learned Trial Court also observed that unless the



Petitioner sought review of the First Impugned Order or the same was set aside from a higher Court, the First Impugned Order was final and binding on the learned Trial Court. Accordingly, the Application was allowed, subject to payment of cost of ₹25,000/- for each day's delay by the Petitioner to the Respondent *vide* the Second Impugned Order.

28. The Second Impugned Order has been passed without considering the averments made in the Application and only relying on the First Impugned Order. The reasoning given by the learned Trial Court, that unless the First Impugned Order is reviewed or set aside the same is binding, is not justified as the First Impugned Order was passed peremptorily on the first date of appearance of the Petitioner. At the time of passing of the First Impugned Order, there was no delay and the said Order only cautioned the Parties that, in case of delay, a cost of ₹25,000/- per day will be imposed. The said Order was precautionary and deterrent in the nature and not a penalty imposed upon the Parties. As on the date of passing the First Impugned Order, there was no occasion to consider any delay by the Parties as the time to file the Written Statement had commenced only on the date of passing of the First Impugned Order.

29. Although the First Impugned Order states that the same is final insofar as it relates to imposition of cost in case of any delay in filing the Written Statement, there is no absolute bar on the learned Trial Court to consider the subsequent developments and condone the delay if justifiable grounds are made out in the Application for condonation of delay.

30. The Second Impugned Order does not even consider the submissions made by the Petitioner on the ground of delay that the parties were exploring possibility of amicable settlement, which is evident from the orders passed



by the learned Trial Court as well as the learned Saket Court. The only reason, which is provided in the Second Impugned Order is reliance upon the First Impugned Order. Any application filed by the parties has to be decided on its own merits, independently, and without being influenced or bound by the previous orders passed by the same court in case there are subsequent developments and the circumstances prevailing at the time of passing of the previous order have changed while considering the application at a later stage. It is incumbent upon the Court to examine the facts and submissions without being influenced by the previous orders passed in a different context. The Court should at least examine the grounds made out for delay and cannot brush it aside only on the ground that the previous order was binding.

31. The First Impugned Order had no occasion to impose cost and the observations made therein were only precautionary so that the Parties are encouraged to comply with the timelines. When the Respondent had not even filed Reply to the Application and had not raised any objection thereto, the learned Trial Court ought to have considered the fact that the Parties were exploring the possibility of settlement, which was also recorded in the previous Order dated 27.09.2024 passed by the learned Trial Court.

32. The learned Trial Court also lost sight of the implications of passing of the Second Impugned Order, which resulted in imposition of the cost amounting to ₹12,00,000/- upon the Petitioner, whereas the Respondent's main relief in the Suit was payment of ₹2,50,000/- by way of damages. Clearly, the cost imposed by the learned Trial Court in the Second Impugned Order was disproportionate to the main relief sought in the Suit.



33. The Second Impugned Order was passed without considering the submission of the Petitioner regarding the fact of settlement of the Saket Suit between the Parties. The Court should always encourage the settlement between the parties and if the parties are exploring the possibility of amicable settlement, the Court should always accommodate and grant time to the parties in accordance with law.

34. As the delay in filing of the Written Statement is only 48 days and well within the outer limit of 120 days as prescribed, it cannot be said that there was an inordinate delay on the part of the Petitioner without any justifiable reason. The reason for delay as mentioned in the Application and submitted before the learned Trial Court at the time of passing of the Second Impugned Order, was justified. However, the same was entirely ignored by the learned Trial Court while passing the Second Impugned Order.

35. In view of the above, the First Impugned Order and the Second Impugned Order, insofar as they relate to the imposition of cost for delay in filing of the Written Statement are set-aside.

36. Accordingly, the present Petition is allowed, and it is directed that the delay in filing the Written Statement to the Suit is condoned without payment of any cost by the Petitioner to the Respondent. The Written Statement shall be taken on record by the learned Trial Court. The pending Application is disposed of. No order as to costs.

TEJAS KARIA, J

JULY 31, 2025

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