IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.4868 OF 2025

1. Mr. Raju Patel,	]
trading as M/s. Anand Ply,	]
Having address at Mungali Road,	]
Bilaspur, Chhattisgarh, India	]
Through his Constituted Attorney:	]
Mr. Lalit Kumar,	]
R/at B-238, Sangam Vihar, New Delhi-110062.	]
	]
2. Matra Mobili Private Limited,	]
having its registered	]
office at: Khasra No.432, Plot No.14,	]
M.G. Road, Village Sultanpur, Gadaipur,	]
New Delhi – 110030	] .. Petitioners

Versus

The Registrar of Trade Marks, Mumbai,	]
having its office at :	]
Bhoudhik Sampada Bhavan, Head Post Office,	]
Shaikh Mistry Road, near Antop Hill,	]
Dosti Acres, Antop Hill, Mumbai – 400037.	] .. Respondent

Ms. Riya Kalra with Ms. Aditi Pareek, Advocates, i/by Jain Law Partners LLP, for Petitioner No.2.

Mr. Yashodeep Deshmukh with Mr. Ashutosh Misra, Ms. Vaidehi Pradeep, Mr. Rutwik Rao and Ms. Prathistha Shukla, Advocates for the Respondent.

CORAM	**:**	**RAVINDRA V. GHUGE, ACJ. &** **GAUTAM A. ANKHAD, J.**
RESERVED ON	**:**	**3rd July, 2026.**
PRONOUNCED ON	**:**	**21st July, 2026.**

JUDGMENT : { Per Gautam A. Ankhad, J. }

1. Petitioner No.1 is the original proprietor of the trade mark **"SUNDAY"**. By an Assignment Deed dated 29th November, 2024, Petitioner No.1 assigned this trade mark to Petitioner No.2. The Petitioners are unable to renew the trade mark registration bearing Application No.1823390 (**"Trade Mark"**) or rectify the alert reflected on the status page of the Respondent's website, which reads as follows:

> *"Trademark is likely to be removed due to non-filing of Renewal request given the prescribed time-limit."*

The Petitioners apprehend that the said Trade Mark will be removed from the Register of Trade Marks by the Respondent or may be claimed by a third-party. Hence this Petition.

2. The facts relevant for this Petition are briefly stated as follows:

(i) Claiming user of the trade mark "SUNDAY" since 1st February, 2008, Petitioner No.1 applied for its registration before the Respondent.

(ii) On 5th May, 2011, the Respondent issued a Registration Certificate in favour of Petitioner No.1. Its validity was until 29th May, 2019.

(iii) On 1st March, 2019, a notice for renewal in Form RG-3 dated 26th February, 2019 (earlier called as O-3 notice) under Section 25(3) of the Trade Marks Act, 1999 ("**Act**") was dispatched by the Respondent to M/s. Vishesh & Associates, the registered trade mark agent of Petitioner No.1.

(iv) On 11th November, 2024, Petitioner No.1 filed an Interlocutory Application before the Respondent seeking permission to renew the registration, *inter alia* contending that the Form RG-3 notice had never been served upon it. It was prayed that Petitioner No.1 be permitted to pay the renewal fees and the Trade Mark ought to be renewed/restored to the Register.

(v) On 29th November, 2024, Petitioner No.1 assigned the Trade Mark to Petitioner No.2. The requisite documents for recording the assignment were subsequently filed before the Respondent on 21st March, 2025.

(vi) Petitioner No.2 perused the Respondent's Webpage and learnt that an RG-3 Notice dated 26th February 2019 was uploaded on the E-Register. However, it was unable to track the said notice and allege that the same is not received by them. On 3rd January, 2025, Petitioner No.2, through its registered agent – M/s. Obhan & Associates, filed an application under the Right to Information Act, 2005 ("**RTI Act**") seeking particulars of the RG-3 notice issued by the Respondent.

(vii) On 20th February 2025, the Central Public Information Officer informed Petitioner No.2's agent that O-3 notice had been issued on 26th February, 2019 to the registered agents of Petitioner No.1, namely M/s. Vishesh & Associates stating the details of the letter and dispatch number.

(viii) Aggrieved by the aforesaid response, Petitioner No.2's agent preferred an appeal under Section 19 of the RTI Act. On 17th March 2025, the appellate authority dismissed the appeal and affirmed the information supplied by the CPIO. The order reads as under:

> *"Perused the content of First Appeal and the RTI reply given by CPIO and my observation is as below:*
>
> *The CPIO, Trade Marks Registry, Mumbai has given the required information to your RTI application dated 07/01/2025 as per the data available on digitized record.*
>
> *Reply to the queries raised in the Appeal is as follows:*
>
> *a) As per Trade Marks Registry e-record, the O-3 notice vide letter No.O3/2360962 was sent to the Agent on record M/s. Vishesh & Associates, 2, 3rd floor, Yeshwant Chambers, 18-B, Bharucha Marg, Kalaghoda, Fort, Mumbai 400 023 vide correspondence No.RG-3/7862612 and dispatch no.3835302 both dated 26/02/2019.*
>
> *b) The above was sent by Speed Post on 01/03/2019 and the tracking number is EM692402790IN.*
>
> ***DECISION** : The appeal hereby stands disposed of."*

3. Ms. Kalra, learned counsel appearing for the Petitioners, submitted that although the registration expired on 29th May, 2019, the Respondent can not remove the Trade Mark from the Register without first complying with the mandatory requirements prescribed under Section 25(3) of the Act read with Rule 58(1) of the Trade Marks Rules, 2017. The tracking number furnished by the Respondent is not traceable on the website of India Post, which displays the message *"Consignment details not found against the consignment number EM692402790IN."* The Respondent has not proved service of the notice contemplated under Section 25(3) of the Act. According to the learned counsel, the mere production of a dispatch number does not establish compliance with the statutory requirement of issuing the notice. It is contended that despite exercising due diligence, the Petitioners were unable to renew the registration because the mandatory notice was never served upon Petitioner No.1. In support of these submissions, reliance was placed on the decisions of this Court in ***Ipca Laboratories Limited vs. The Registrar of Trade Marks and Anr***[1], ***Cipla Ltd. vs. Registrar of Trade Marks***[2] and ***Cipla Ltd vs.***

1 Writ Petition (Lodging) No. 2015 and 2016 of 2014
2 2013 SCC OnLine Bom 1270

Union of India[3] to contend that in the absence of proof of service under Section 25(3), the trade mark cannot be removed from the Register.

4. Mr. Deshmukh, learned counsel appearing for the Respondent, tendered an affidavit dated 25th June, 2026, which is taken on record and marked "X-1" for identification. Mr. Deshmukh submitted that once a party fails to seek renewal within the statutory period, the Respondent has no power to extend the period prescribed under the Act. Petitioner No.1 was aware that the registration had expired on account of non-renewal and yet proceeded to assign the trade mark to Petitioner No.2. The Petitioners cannot now plead ignorance of the expiry of the registration.

5. It was submitted that the Respondent had duly issued the RG-3/O-3 renewal notice dated 26th February, 2019 and dispatched the same by India Post (speed post) on 1st March, 2019 to the registered agent of Petitioner No.1. The notice was also uploaded on the Respondent's online portal so as to notify the

[3] Writ Petition (Civil) - (IPD) No. 23 of 2025)

proprietor. In response to the RTI application, the Respondent furnished particulars of the dispatch of the statutory notice. The Petitioners are now attempting to take advantage of the unavailability of postal tracking records after the lapse of more than six years. Mr. Deshmukh submitted that neither the postal department nor the Respondent preserves such records indefinitely, and the fact that the India Post website presently displays *"Consignment details not found"* does not negate the fact that the notice was dispatched in 2019. Learned counsel further submitted that once a notice is properly addressed and dispatched by government post, a presumption of due service arises under Section 27 of the General Clauses Act, 1897. Reliance was placed on its Outward dispatch register, which shows that on 1st March, 2019 five renewal notices were dispatched to the registered agent of Petitioner No.1. Out of those five trade marks, renewal applications were filed by the agent in respect of two registrations, particulars whereof have been annexed to the affidavit. This substantiates that the renewal notices were in fact dispatched to the same agent in the ordinary course of business. On these grounds, he prayed for dismissal of the Petition.

Reasons and Conclusion

6. We have considered the rival submissions and perused the record. The controversy is a narrow one. The Petitioners do not dispute that the registration expired on 29th May, 2019 or that no Application for renewal was filed either before expiry or within the additional period of six months contemplated by the proviso to Section 25(3) of the Act. Their entire case rests upon the contention that the mandatory notice contemplated under Section 25(3) was never served upon Petitioner No.1. The question, therefore, is whether the Respondent has complied with the statutory requirement of issuance of the renewal notice.

7. Section 25 of the Act provides for the renewal of registration of a trade mark and reads as follows:

> *"**25. Duration, renewal, removal and restoration of registration**.—*
>
> *(1) The registration of a trade mark, after the commencement of this Act, shall be for a period of ten years, but may be renewed from time to time in accordance with the provisions of this section.*
>
> *(2) The Registrar shall, on application made by*

the registered proprietor of a trade mark in the prescribed manner and within the prescribed period and subject to payment of the prescribed fee, renew the registration of the trade mark for a period of ten years from the date of expiration of the original registration or of the last renewal of registration, as the case may be (which date is in this section referred to as the expiration of the last registration).

(3) At the prescribed time before the expiration of the last registration of a trade mark the ***Registrar shall send notice in the prescribed manner*** *to the registered proprietor of the date of expiration and the conditions as to payment of fees and otherwise upon which a renewal of registration may be obtained, and, if at the expiration of the time prescribed in that behalf those conditions have not been duly complied with the Registrar may remove the trade mark from the register:*

Provided that the Registrar shall not remove the trade mark from the register if an application is made in the prescribed form and the prescribed fee and surcharge is paid within six months from the expiration of the last registration of the trade mark and shall renew the registration of the trade mark for a period of ten years under sub-section (2).”

8. Sub-section (2) enables renewal of a trade mark upon an application being made in the prescribed period and upon the payment of the prescribed fee. Under sub-section (3), before the

expiration of the last registration of a trade mark, the Registrar is required to send notice in the prescribed manner informing the registered proprietor of the date of expiration and the conditions as to payment of fees upon which renewal can be obtained. If the prescribed conditions are not fulfilled within the stipulated period including under the proviso, the Registrar is empowered to remove the trade mark from the Register. Thus, the statutory scheme of Section 25 balances two competing considerations. On the one hand, it obliges the Respondent to notify the registered proprietor before removal of the trade mark. On the other hand, it places upon the proprietor the responsibility of ensuring timely renewal of its registration. The notice under Section 25(3) of the Act is intended to facilitate renewal. It is not intended to indefinitely preserve registrations which the proprietor himself has failed to maintain.

9. Rules 18 and 58 of the Trade Marks Rules, 2017 are relevant and are quoted:

Rule 18 : *Service of Documents by the Registrar*

(1) All communications and documents in relation to application or opposition matter or registered trade mark may be

served by the Registrar by leaving them at, or sending them by post to the address for service of the party concerned or by email communication.

*(2) __**Any communication or document so sent shall be deemed to have been served, at the time when the letter containing the same would be delivered in the ordinary course of post or at the time of sending the email**__.*

*(3) __**To prove such service, it shall be sufficient to prove that the letter was properly addressed and put into the post or the email communication was sent to the email id provided by the party concerned**__.*

<u>Rule 58</u> : *Notice before removal of trade mark from register*

*(1) In case no application for renewal of the registration in the prescribed form together with the specified fee has been received, __**the Registrar shall send, not more than six months before the expiration of registration of the trade mark, a notice in Form RG-3 at the address**__ of service informing the registered proprietor of the approaching date of expiration and the conditions, if any, subject to which the renewal of the registration may be obtained.*

(2) Where, in the case of a trade mark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trade mark is registered at any time within six

months before the date on which renewal is due, the registration may be renewed by the payment of the renewal fee within six months after the actual date of registration and where the renewal fee is not paid within that period, the Registrar shall subject to Rule 60, remove the trade mark from the register.

(3) Where, in the case of a trade mark the registration of which (by reference to the date of application for registration) becomes due for renewal, the trade mark is registered after the date of renewal, the registration may be renewed by the payment of the renewal fee within six months of the actual date of registration and where the renewal fee is not paid within that period the Registrar shall, subject to Rule 60, remove the trade mark from the register.

(4) The renewal of registration of a collective trade mark or a certification trade mark shall be in Form TM-R along with the prescribed fee as specified in the First Schedule.

10. Rule 58 prescribes the manner in which the notice contemplated under Section 25(3) is to be issued. It requires the Respondent to send a notice in Form RG-3 to the address for service not more than six months before expiry of registration. Equally significant is Rule 18, which deals generally with service of

documents by the Respondent. Rule 18(2) expressly provides that any communication sent by post shall be deemed to have been served when the letter would be delivered in ordinary course. Rule 18(3) further provides that, for proving such service, it is sufficient to establish that the letter was properly addressed and put into the post. In our view, the Rules when read with Section 25(3) of the Act requires proper dispatch to the address for service and not proof of acknowledgment by the addressee.

11. Tested on the above statutory framework, in our view, the Respondent has discharged its obligation. The Respondent has produced contemporaneous material, i.e. extract of its Outward dispatch register demonstrating that the statutory notice dated 26th February, 2019 was dispatched by India Post (Speed Post) on 1st March, 2019 to M/s. Vishesh & Associates. The queries under RTI reveal the correspondence number, dispatch number and the consignment tracking number. The entry at Sr.No.59 of its Outward dispatch register for 1st March, 2019 shows dispatch of five renewal notices on 1st March, 2019 to M/s. Vishesh & Associates including for the present matter. Documents are annexed which shows that

two out of those five trade marks mentioned in the said dispatch register were renewed by the very same agent pursuant to the notices so dispatched. This lends credence to the Respondent's assertion that the renewal notices were in fact dispatched in the ordinary course of business.

12. Once the Respondent establishes that the notice was properly addressed and dispatched by Government Speed Post to the address for service, the statutory presumption contained in Rule 18 read with Section 27 of the General Clauses Act comes into operation. Section 27 provides that where a statute authorises service by post, service shall be deemed to have been effected once the document is properly addressed, prepaid and posted, unless the contrary is proved. The presumption is rebuttable but continues to operate until displaced by cogent evidence. The Petitioner has failed to do so in this case.

13. The Petitioners case hinges upon the current website status of India Post which displays the message *"Consignment details not found"* against the consignment tracker. In our view, this is not sufficient to dislodge the Outward Dispatch Register

produced by the Respondent or rebutting the statutory presumption. The notice was dispatched on 1st March, 2019, whereas the Petitioners sought to verify the tracking details only in the year 2025, after a lapse of more than six years. It is neither pleaded nor demonstrated that the postal department or the Respondent preserves online tracking information indefinitely. In these circumstances, the non-availability of online tracking details after six years cannot give a cause of action to Petitioner No.2 to allege that the notice was never dispatched. More so, when the same agent who received the 5 notices, obtained the renewals for his 3 clients. The Entry 59 of the Outward Register records tracking numbers of all 5 notices including for the present Petitioner. We may note that the agent (Vishesh & Associates) is not a party to this Petition nor has it filed any affidavit to state whether the notices mentioned in the outward register were not received by him.

14. This appears to be a case of reverse engineering where the Petitioners have sought to build-up their case entirely upon the response received to its RTI application. The registration expired on 29th May, 2019. Yet Petitioner No.1 remained inactive for more than

five years and approached the Respondent only on 11th November, 2024 by filing an interlocutory application seeking permission to renew the registration. While no reasons are given for this delay, it is apparent that the said Application was filed in the anticipation of the assignment of trade mark which was done on 29th November, 2024 in favour of Petitioner No.2. It can be safely assumed that when Petitioner No.2 executed the Deed of Assignment on 29th November, 2024, it would have undertaken the usual commercial due diligence including on the validity of the Trade Mark. The assignment was thus effected even though the registration had expired and that renewal had not been granted. The Form RG-3 Notice is admittedly uploaded by the Respondent on its Online Portal. It is annexed by the Petitioner No.2's Agent as a part of its RTI Application. The Petitioners are aware of the same. Petitioner No.2, being an assignee, cannot acquire any better right than its assignor. The notice under Section 25(3) is intended to facilitate renewal. It cannot absolve a proprietor from the responsibility of monitoring the validity of its own registration.

15. The Petitioners' apprehension that the trade mark may

be removed from the Register or may become available for adoption by third parties cannot be a ground to claim reliefs. If the Petitioners argument is accepted, then it would interfere with the statutory scheme by permitting renewal after several years of inaction, notwithstanding the Respondent having demonstrated compliance with the statutory requirement of issuing the renewal notice.

16. There is no quarrel with the proposition canvassed by the Petitioners that compliance with Section 25(3) is mandatory. The decisions relied upon by the Petitioners in decision of this Court in ***Ipca Laboratories, Cipla Limited*** and the decision of the Delhi High Court in ***Cipla Limited (supra)*** are clearly distinguishable. In ***Ipca Laboratories***, the Registrar of Trade Marks was directed to grant restoration and/or renew the Petitioners' trade mark therein on the ground that no notice was received by the Petitioner under Section 25(3) of the Act. However, the judgment does not indicate that the Registrar of Trade Marks had taken any steps to serve the Petitioners with the requisite notice, which is admittedly undertaken in the present case.

In ***Cipla Laboratories***, a co-ordinate Bench of this Court held that a public notice does not constitute a valid compliance of the mandate laid down in Section 25(3). At paragraph 12, the Court held that, *"There is nothing on record to either establish or indicate that the requisite notice was sent to the petitioner. There are no circumstances that warrant an inference to that effect"*. It was in that factual backdrop that this Court upheld the argument of non-compliance of Section 25(3). The said decision does not advance Petitioners' case in the present facts as the Respondent has duly sent a notice to the registered trade mark agent of Petitioner No.1.

The decision of the Delhi High Court in ***Cipla Laboratories*** is equally of no assistance to the Petitioners. The Delhi High Court allowed the Petitioner therein to file an Application seeking restoration of the trade mark on the ground that the tracking report of the O-3 Notice was not traceable. The same is not the case here. The Respondent has produced the records indicating the correspondence number and consignment number of the notice. The records clearly establish that the Respondent took the steps to serve the notice upon the Petitioner No.1's trade mark agent. The same agent got the renewals for 3 out of the 5 clients, when the notices were served on it. The failure of Petitioner No.1 to retrieve the consignment details from the website of India Post is not attributable to the Respondent.

17. For the above reasons, we are of the view that the Respondent has discharged its obligation under Section 25(3) of the Act read with Rule 58 of the Trade Marks Rules, 2017. Once issuance and dispatch of statutory notice is proved, the presumption of service under Rule 18 and Section 27 of the General Clauses Act necessarily follows. The Delhi High Court in ***Guruji Enterprises Pvt. Ltd. vs. Union of India***[4] and ***International Business Machines Corporation vs. Tivoli Gardens***[5] has held that Rule 18 requires proof only of proper dispatch and not proof of actual delivery. Likewise, under Section 27 of the General Clauses Act, the Hon'ble Supreme Court has held in ***M/s. Madan and Co. vs. Wazir Jaivir Chand***[6] that once dispatch is proved, the burden shifts to the addressee to rebut the presumption of service. Apart from bald assertions, the Petitioners have not produced any cogent material to

4 2017 SCC Online Del 7624 (DB)
5 2026 SCC Online Del 828
6 (1989) 1 SCC 264

rebut the presumption or establish any legal infirmity in the action of the Respondent.

18. Hence, this **Writ Petition is dismissed. Rule is discharged.**

19. There shall be no order as to costs.

[GAUTAM A. ANKHAD, J.]   [ACTING CHIEF JUSTICE]