

(2010) 05 IPAB CK 0001

In the Intellectual Property Appellate Board

Case No : M.P. Nos. 18, 19/10 In ORA/59/05/TM/DEL

Vee Excel Drugs And Pharmaceuticals (P) Ltd.	APPELLANT
Vs	
Hab Pharmaceuticals And Research Ltd. And Ors.	RESPONDENT

Date of Decision : 26-05-2010

Acts Referred:

Trade Marks Act, 1999 — Section 92

Citation : (2010) 05 IPAB CK 0001

Hon'ble Judges : S. Usha, J; Syed Obaidur Rahaman, Technical Member

Bench : Division Bench

Final Decision : Allowed

Judgement

S. Usha, J

M.P. No. 19/10

1. Miscellaneous Petition filed by the Respondent to condone the delay of four days in filing the miscellaneous petition to take on record additional documents as per the direction of this Appellate Board.

2. We find no reason for disallowing the miscellaneous petition. The miscellaneous petition has been filed as per the directions of this Appellate Board and there has been a delay of four days. The reason for the delay is that the signatory was not in station. We, therefore, are of the view that the delay can be condoned and the miscellaneous petition is liable to be allowed. Accordingly M.P. No. 19/10 is allowed.

M.P. No. 18/10

3. Miscellaneous petition filed by the Respondent to take on record the additional documents like sale invoices, bills, assessment orders etc. The reason for filing the same at such belated stage is that certain developments had taken

place.

4. The counsel for the applicant had opposed to taking on record those documents. As per Section 92 of the Trade Marks Act, 1999, though the

Appellate Board shall not be bound by the Code of Civil Procedure, but shall be guided by the principles of natural justice. Filing of additional

documents cannot be shut down without any reason. The Tribunals are entitled to adopt a procedure which is fair and just. The case on hand being a

rectification application, a case of first instance has to be tried in a just and fair manner. Documents of such nature being filed at this belated stage can

be taken on record if there is no express bar to accept the same.

5. Following the principles laid down by the Apex Court and other High Courts, we are of the view that the documents shall not be shut down at any

stage. We, therefore, take on record the additional documents with a direction to the Respondent / applicant to file their affidavit of documents within

a period of three weeks from the date of receipt of the order. Accordingly, miscellaneous petition No. 18/10 is allowed.