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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM : JUSTICE N.SESHASAYEE

(T) CMA(PT) No.41 of 2023
(OA/19/2020/PT/CHN)

Ibrum Technologies
Site No.15, Top Floor, II Cross, Vinayaka Layout
Opp. to SGR Dental College, Munnekolala
Marathahalli, Bengaluru - 560 037. .... Appellant

Vs

The Controller of Patents
Boudhik Sampada Bhavan
Anna Salai, Guindy Industrial Estate
SIDCO Industrial Estate
Guindy, Chennai - 600 032. ..... Respondent

Prayer : Transferred Civil Miscellaneous Appeal filed under Section 117A of the Patent Act, 1970 against the order dated 11.03.2020 passed by the Controller of Patents and Designs in the matter of the Patent Application No.201841038461.

For Appellant : Mr.S.P.Vijayaragavan

For Respondent : Mr.S.Diwakar
Central Govt. Senior Panel Counsel

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JUDGMENT

The appellant herein claims that it has invented a novel Intelligent Indoor Air Quality Monitoring, Controlling, and Alerting System for domestic use. This Court is informed that it is a package invention involving multiple branches of science. The appellant had made its application on 10.10.2018 with ten claims, and it came to be dismissed by the Controller vide her proceedings dated 11.03.2020. This proceedings is now under challenge, essentially on the ground that the Appellant's Attorney could not complete his oral submissions before the Controller.

2. Pursuant to the application made, the respondent came out with an First Examination Report (FER) on 27.11.2018, with three prior documents (D1 to D3) objecting to the appellant's prayer for grant of patent. The appellant had replied to the FER. This was followed by a hearing notice dated 16.08.2019. The appellant had filed its written submissions to the same. On 15.10.2019, the appellant was allotted oral hearing for 30 minutes between 11.00 a.m. to 11.30 a.m., It was a virtual hearing, and the appellant counsel was heard till 11.30 a.m., and sharp at 11.30 a.m., and midway through the arguments of the counsel for the appellant, the virtual hearing got snapped. At around

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11.40 a.m. that date, the appellant counsel has sent an email to the Patent Controller informing it. Thereafter, the appellant had filed its written submission as required under Rule 28(7) of the Patent Rules. After evaluating the same, the Patent Controller came to the conclusion that the appellant's invention does not comply with the requirements under Sections 2(1)(ja), 3(k) and 10 of the Patents Act, 1970, and rejected the same.

3. Heard both sides. The learned counsel for the appellant made a fervent plea that if only the appellant's counsel was allowed to complete his arguments, there is a fair chance that he would have convinced the Controller about the novelty of its invention. The counsel for the respondent submitted that all the opportunities which the statute required to extend to the appellant, has indeed been extended, and the appellant has also filed its written submissions under Rule 28(7).

4. Without any intent to set the present case as a precedent, the appellant would be given 15 minutes additional time to present his case. This Court expects the Controller to refresh her memory to the entire facts of this case and be ready for the hearing, in order, the appellant's counsel could complete

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his/her argument within 15 minutes, and thereby deny him/her an opportunity to make a complaint later along the similar lines. The submissions of the appellant should direct on explaining anything that is not there in the written submissions made under Rule 28(7) to the extent it is required to be made. The appellant is also granted another opportunity to file its written submissions under Rule 28(7), and if in the eventuality of the appellant's inability to complete the arguments yet again, then whatever it considers as ought to have been argued, may figure in its written submissions to be filed under Rule 28(7).

5. To conclude, the appeal is allowed, and the order of the Patent Controller dated 11.03.2020 is set aside. The matter is remanded back to the same Patent Controller for complying with what is indicated in the last preceding paragraph. The appellant is free to introduce any amendments to its ten claims that it had made in its application dated 10.10.2018, if it feels necessary in the course of its hearing. No costs.

01.02.2024

Index : Yes / No
Speaking order / Non-speaking order
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To:

The Controller of Patents
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N.SESHASAYEE.J.,

ds

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