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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2024

CORAM

MR.JUSTICE N.SESHASAYEE

C.M.A. (PT) No.31 of 2023

Robert Bosch Limitada
Via Anhanguera, KM 98
Vila Boa Vista, 13065-900 - campinas - SP,
Brazil,
Nationality : Brazil
Rep. by its Authorised Representative
Mr.Raghavan Ravindran Nair
De Penning & De Penning, having office at
No.120, Velachery Main Road, Guindy
Chennai - 600 032 ... Appellant

Vs.

Deputy Controller of Patents and Designs
Government of India, Patent Office
Intellectual Property Rights Building
GST Road, Guindy
Chennai - 600 032 ... Respondents

Prayer : Civil Miscellaneous Appeals filed under Section 117-A of the Patents Act, 1970 to call for the records of the respondent culminating in the impugned order dated 09.02.2022 rejecting the grant of patent and set aside the same and consequently direct grant of the patent in respect of appellant's Application No.201944047484.

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For Appellant : Mr.S.Shivathanu Mohan
for M/s.S.Ramasubramaniam and
Associates

For Respondent : Mr.A.R.Sakthivel,
Sr. Panel Central Govt. Stdg. Counsel

JUDGMENT

The appellant herein challenges the order of the respondent dated 09.02.2022 by which he declined to patent appellant's invention involving a method for controlling the temperature of fuel injected into a combustion engine that allows for a reduction in the amount of fuel injected into engines that may be powered both by pure gasoline and by ethanol or by any bio-fuel mixture.

2. The learned counsel for the appellant submitted that the application was rejected essentially on the ground that it was more theoretical and there is insufficiency of description of the alleged invention. He added that neither the First Examination Report nor the hearing notice of the controller ever made a statement that there is insufficiency in description and beyond that the controller did not engage himself on the inventive steps involved.

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3.Heard the learned counsel for the respondent.

4.This court weighed the rival submissions and perused the records available in the form of typed set of papers and is satisfied that neither the First Examination Report nor the hearing notice had indicated that the appellant's application lacked sufficiency of description of the invention. Necessarily, the appellant would not have had an opportunity to provide necessary description to make it sufficient if only that is what the controller had intended.

5. In view of the same, this court left with little choice but to allow this appeal and remand the matter back to the respondent for a *de novo* consideration. To save embarrassment to the Controller who passed the impugned order, the application will now be considered by another controller. No costs.

10.01.2024

Asr
Index: Yes/No
Speaking Order / Non-Speaking Order
Neutral Citation: Yes / No

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N. SESHASAYEE, J.

Asr

To

The Deputy Controller of Patents and Designs
Government of India, Patent Office
Intellectual Property Rights Building
GST Road, Guindy
Chennai - 600 032

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