OC-57

IPDPTA/48/2023
IN THE HIGH COURT AT CALCUTTA
ORIGINAL SIDE
[COMMERCIAL DIVISION]

TATA STEEL LIMITED (SR. 14/2021/PT/KOL)
VS
THE ASSISTANT CONTROLLER OF PATENTS AND DESIGNS

BEFORE:
The Hon'ble JUSTICE RAVI KRISHAN KAPUR
Date : 1st May, 2023

Appearance:
Mr. Nikunj Berlia, Adv.
Mr. Varun Kothari, Adv.

Mr. Ranjan Kumar Sinha, Adv.
Mr. S. Tiwari, Adv.

The Court:-

1. This appeal is against an order dated 12 November, 2020 passed by the Assistant Controller of Patent and Designs rejecting the application for grant of patent filed by the appellant. Briefly, the appellant had filed an application for grant of patent application by a complete specification titled “COATING COMPOSITION, COATED STEEL SUBSTRATE, ARTICLE AND PROCESSES THEREOF” relating to the field of material science and corrosion.

2. The present invention pertains to a steel substrate coated with an aluminium based alloy-coating composition which ultimately relates to a process for coating a steel substrate with an aluminium based alloy coating composition by employing a specific hot-dip process. The composition comprises of Aluminium (Al) at a concentration of approximately 77% to 80% (wt/wt), Zinc (Zn) at a concentration of approximately 0.5% to 12.5% (wt/wt), and Silicon (Si) at a concentration of approximately 9.5% to 10.5% (wt/wt) respectively. The coating on the

steel substrate is capable of providing high resistance to corrosion of the steel substrate and prevents decarburization during thermal treatment of the steel substrate.

3. By the impugned order, the subject application has been rejected on the ground, *inter alia*, that the objections raised by the respondent authorities were not answered and remained outstanding. The operative portion of the impugned order is as follows:

> *"Claims 1-20 submitted on 17/08/2020 are not satisfied with the objection in the hearing notice, as the claims 2-12 relates to a steel substrate, Claims 16-20 relates to a process for producing heat treated coated steel substrate, which does not constitute an invention as it is application/use of the invention i.e. an aluminium based alloy coating composition.*
> *In view of the submissions as well the claim amendments, I am not satisfied that objections of the hearing notice still stand. Since all objections are outstanding, and since no pre-grant representation u/s 25(1) is filed as per the records, proceeding to refuse the grant of patent on the basis of claims 1-20 submitted on 17/08/2020 U/S 15 and 43 of the Act."*

4. The respondent authorities are represented and fairly submit that there are no reasons in the impugned order nor have the amendments or the written submissions been considered by the respondent no.1.

5. It appears that in response to the First Examination Report, the appellant had comprehensively filed a Reply dated 10th December, 2019 providing a detailed response to the objections raised in the FER. Thereafter, the appellant had also filed a Response dated 17th August, 2020 to the hearing notice. Notwithstanding filing of the aforesaid pleadings, the impugned order fails to provide any reasons. The impugned order has

been passed mechanically without appreciation of the facts of this case. The impugned order is also in violation of the principles of natural justice. Reasons are the soul of any order passed by any judicial or quasi judicial authority. The main objective of providing reasons in any order is to provide clarity to the reader and to understand how and why any matter has been proceeded with and dealt with by the appropriate Authority.

6. I find that there are no reasons in the impugned order. The impugned order does not consider nor deal with the subject invention, the disclosures made along with the claims, the response filed by the appellant to the objections raised by the respondent authority in the FER nor the written submissions filed by the appellant post hearing of the matter. There are simply no reasons in the impugned order dealing with the merits of the subject application.

7. In view of the aforesaid, the instant appeal stands allowed. The matter is remanded back to the respondent authorities with a direction to dispose of the same within a period of eight weeks from the date of communication of this order and after giving an opportunity of hearing to the appellant. It is made clear that the concerned Officer is at liberty to decide all issues in accordance with law without being influenced by any observation made in this matter insofar as the merits of the case are concerned.

8. IPDPTA/48/2023 stands disposed of with the aforesaid directions.

(RAVI KRISHAN KAPUR, J.)

SK./S.Chandra.