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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

CORAM

MR.JUSTICE N.SESHASAYEE

CMA(PT) No.24 of 2023 and C.M.P. No.18203 of 2023

TVS Motor Company Limited
"Chaitanya", No.12 Khader Nawaz Khan Road
Nungambakkam, Chennai 600 006
Tamil Nadu, India ... Appellant

Vs.

1.The Controller of Patents and Designs
Intellectual Property Building
G.S.T. Road, Guindy
Chennai 600 032

2.The Assistant Controller of Patents and Designs
The Patent Office, Property Building
Sampada Bhawan, No.32, Sector 14,
Dwarka, Delhi - 110 078 ... Respondents

Prayer : Civil Miscellaneous Appeal filed under Section 117-A of the Patents Act, 1970 to set aside the order of the respondents dated 28.01.2021 made in Indian Patent Application No.799/CHE/2011 and for a consequential direction to enter the patent in the Patent Register.

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For Appellant : Ms.Vindhya S.Mani
for M/s.Lakshmi Kumaran & Sridharan

For Respondent : Mr.A.R.Sakthivel,
Senior Panel Counsel

JUDGMENT

This appeal is directed against the order of the first respondent dated 28.01.2021, wherein the first respondent had refused to patent a certain invention of the appellant, which according to it relates to a "Starting system for a vehicle" and more particularly to a pull starter mechanism for a scooter type motorcycle. The invention was rejected for lack of inventive steps within the meaning of Section 2(1)(ja) of the Act.

2. The learned counsel for the appellant submitted that along with this appeal, the appellant had filed its amended claims and requires that the Controller may consider its amended claim. Inasmuch as the appellant only seeks consideration of the patent controller to its amended claims now filed before this court, it is only appropriate that the matter goes back to the Patent Controller for him/her to apply his/her mind to the amended claims.

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3. In view of the same, this appeal is allowed. The matter is remanded back to the first respondent. To save embarrassment to the Controller who had earlier passed the order, this court now requires that the appellant's application be considered by some other patent controller. Since the appellant has filed its application sometime in 2011, this court requires such Patent Controller who would now be in-charge of appellant's application to dispose of the same, as expeditiously as possible at any rate, not later than six months from the date on which controller takes cognizance of the application. No costs. Consequently, the connected civil miscellaneous petition is closed.

08.02.2024

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

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N. SESHASAYEE, J.

Asr

To

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