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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.03.2024

CORAM: JUSTICE N.SESHASAYEE

W.P. (IPD) No.3 of 2024 and
W.M.P. (IPD) No.4 of 2024

Versuni Holding B.V.,
High Tech Campus
42, 5656, AE Eindhoven
The Netherlands
Represented by Constituted Attorney
Dr.Ravi Tumkur ... Petitioner

Vs

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

2.Suman Das

3.Amitava Mitra ... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India for a writ of certiorarified mandamus calling for the records of the 1st respondent pertaining to Patent Application No.201741025802, in respect of pre-grant opposition hearing conducted on the 9th January 2024 vide hearing notice

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dated 14.12.2023 and quash the same and consequently direct the 1st respondent to issue notice under Rule 55(3) of the Patents Rules, 2003 to the petitioner to respond to and address the same under Rule 55(4).

For Petitioner : M/s.Archana Shankar
K.Premchandar, N.C.Vishal
N.Shrivastav

For Respondents : Mr.Rajesh Vivekanandan,
Dy. Solicitor General of India for R1
Mr.Adarsh Ramanujam for R2

O R D E R

The grievance of the petitioner is that it had applied for patenting its invention, which invited two pre-grant oppositions. However, without circulating the copy of the written statements of the two who opposed the grant of patent, the Patent Controller had issued a hearing notice, thereby denying the petitioner an opportunity to know the contents of the written statements to enable it to complete its pleadings by filing its reply statements under Rule 55(4). The said notice of hearing is now under challenge.

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2. The learned counsel for the petitioner added that the Patent Office did not share the copies of the written statements of those who opposed the grant of patent, in spite of the fact that the petitioner had mailed to the Patent Office at least ten times seeking a copy of the same.

3. The first respondent, the Controller of Patents did not file its counter, but the learned Deputy Solicitor General of India, on instructions from the first respondent, submitted that there is an inadvertent mistake on the part of the Patent Controller to serve a copy of the written statements of the respondents 2 and 3 to the petitioner. The said statement of the learned counsel appearing for the first respondent is recorded. This now settles the issue.

4. Now, the first respondent is required to serve a copy of the written statements of respondents 2 and 3 on the petitioner and to grant the petitioner time to respond to the same with a reply statement and to dispose of the opposition, strictly in accordance with the procedure contemplated under the Patent Act and the Rules framed thereunder.

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5. Accordingly, the writ petition is allowed and the pre-grant hearing notice dated 14.12.2023 is set aside and the matter is now remanded back to the Controller. To save embarrassment to the Controller in question, this court directs that the entire matter be placed before some other Controller, who can now resume the proceedings where the erstwhile Controller had left. No costs. Consequently, the connected WMP is closed.

20.03.2024

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

To

The Deputy Controller of Patents and Designs
The Patent Office
Intellectual Property Office Building
G.S.T. Road, Guindy
Chennai - 600 032

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N.SESHASAYEE, J.,

Asr

W.P. (IPD) No.3 of 2024

20.03.2024