$~41

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ C.A.(COMM.IPD-PAT) 27/2024

PARIJAT INDUSTRIES INDIA PRIVATE LIMITED ..... Appellant

Through: Mr. Amit Sibal, Senior Advocate with Mr. Pravin Anand, Ms. Archana Shankar, Mr. Devinder Rawat, Mr. Achuthan Sreekumar, Mr. Ankit Handa, Mr. Rohil Bansal and Mr. Swastik Bisarya, Advocates.

Versus

DEPUTY CONTROLLER OF PATENTS AND DESIGNS & ANR. ..... Respondents

Through: Mr. Harish Vaidyanathan Shankar, CGSC with Mr. Srish Kumar Mishra and Mr. Alexander Mathai Paikaday, Advocates for R-1.

Mr. G. Nataraj, Mr. Shashikant Yadav and Mr. Rahul Bhujbal, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 15.05.2024

1. The present appeal under Section 117A of the Patents Act, 1970[1] impugns order dated 31st March, 2024[2] passed by Respondent No. 1, Deputy Controller of Patents and Designs, whereby he has disagreed with the recommendations of the Opposition Board under Rule 56(4) of the Patent Rules, 2003 and allowed the opposition of Respondent No. 2 under Sections 25(2)(b), (e), (f) and (g) of the Act, thereby revoking the Appellant's Indian

[1] "the Act"

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/05/2024 at 11:27:41

Patent No. 372550 for the invention entitled "A SYNERGISTIC MITICISAL COMPOSITION" and removing it from the Register of Patents.

2. The appeal was substantially heard on the previous date when Mr. Amit Sibal, Senior Counsel for Plaintiff, submitted that while passing the Impugned Order, Respondent No. 1 failed to consider the arguments and written submissions of the Appellant and furthermore, erroneously rejected the recommendations of the Opposition Board without assigning any reasons thereto.

3. In light of the above, Mr. Harish Vaidyanathan Shankar, CGSC for Respondent No. 1, was directed to examine the matter and take necessary inputs from the Patent Office regarding the grounds urged by the Appellant. Mr. Vaidyanathan after due examination of the issues and consultations with the Controller, submits that even though there is some analysis and reasoning given in the Impugned Order, indicating due application of mind, the Court may take an appropriate view in the matter if such reasoning does not support the conclusion of findings in the Impugned Order.

4. At the same time, Mr. G. Nataraj, counsel for Respondent No. 2, without prejudice to his rights and contentions, states that he would not have an objection if the Court were to set aside the Impugned Order for lack of adequate reasoning, and direct a fresh reconsideration of the opposition, in a time bound manner. As such, he reserves all rights and contentions to be urged at the stage of reconsideration. Further, Mr. Nataraj suggests that the Court to appoint an officer other than the one who has passed the Impugned

[2] "Impugned Order"

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/05/2024 at 11:27:41

Order at the stage of reconsideration. He clarifies that this suggestion is made in good faith, and in order to allay any concerns of the Appellant for fair adjudication and the suggestion should not be construed as casting any aspersion on the integrity and competence of the officer who has passed the Impugned Order.

5. Mr. Sibal is agreeable and makes a similar request for *de novo* reconsideration.

6. The Court has considered the aforenoted submissions of the parties and examined the Impugned Order. In the opinion of the Court, the reasoning given by Respondent No. 1, for revoking the Appellant's Indian Patent No. 372550 under Section 25(4) of the Act, is inadequate and does not meet the standards of judicial reasoning set by this Court. Although, the absence of reasoning in the Impugned Order calls for an elaborate discussion, however, there is no need to further deliberate on this issue as there is a consensus between parties that the matter requires fresh consideration.

7. In light of the foregoing, the present appeal is allowed with following directions:

(i) The Impugned Order dated 31st March, 2024 passed by Respondent No. 1 is set aside.

(ii) Indian Patent No. 372550 is reinstated into the Register of Patents, i.e., including the e-register.

(iii) The opposition of Respondent No. 2 is also restored to its original position.

(iv) The Controller General of Patents and Designs is requested to appoint

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/05/2024 at 11:27:41

a suitable officer to reconsider the opposition of Respondent No. 2 and render a fresh decision thereon. Hearing shall be conducted within eight weeks from today and a decision thereon, be rendered within a period of four weeks thereafter.

(v) The Controller of Patents and Designs shall afford a reasonable opportunity to both parties to make their submissions.

(vi) All rights and contentions of Appellant as well as Respondent No. 2, on the merits of the case, are left open.

(vii) The recommendations rendered by the Opposition Board are preserved and upon reconsideration, the Controller shall render a decision uninfluenced by any observations made in the Impugned Order.

(viii) It is made clear that the rights and contentions of Respondent No. 2 to assail the recommendations of the Opposition Board, are left intact.

8. Disposed of.

SANJEEV NARULA, J

MAY 15, 2024
d.negi

This is a digitally signed order.
The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above.
The Order is downloaded from the DHC Server on 20/05/2024 at 11:27:41