

INTELLECTUAL PROPERTY APPELLATE BOARD

Guna Complex, Annexe-I, 2nd Floor, 443, Anna Salai, Teynampet, Chennai – 600 018

M.P. NO.5 of 2016 IN OA/3/2016/PT/DEL AND OA/3/2016/PT/DEL

MONDAY THIS THE 7TH DAY OF MARCH, 2016

Hon'ble Shri Justice K.N. Basha
Hon'ble Shri D.P.S. Parmar

... Chairman
... Technical Member (Patents)

TRYTON MEDICAL INC.
A DELAWARE CORPORATION,
HAVING HEAD QUARTERS AT
100 PARK FORTY PLAZA,
SUITE 325, DURHAM, NC 27713,
UNITED STATES.

... Appellant

(Represented by –MS. Mamta Jha)

Vs.

1. CONTROLLER GENERAL OF PATENTS & TRADE MARKS,
BOUDHIK SAMPADA BHAWAN,
S.M. ROAD, NEAR ANTOP HILL POST OFFICE,
ANTOP HILL, MUMBAI – 400 037. ...Respondent No.1
- ...
2. ASSISTANT CONTROLLER OF PATENTS & DESIGNS,
PATENT OFFICE BRANCH,
PLOT NO.32, SECTOR-14, DWARKA,
NEW DELHI - 110075. ...Respondent No.2

(Represented by: None)

ORDER (No.31/2016)

Hon'ble Shri Justice K.N. Basha, Chairman

This matter is taken up today on the mentioning made by Ms. Mamta Jha, the learned counsel for the Petitioner/Appellant.

2. Mr. Hemant Singh, the learned counsel has appeared in MP.No.2/2016 in OA/10/2014/PT/DEL filed seeking for the direction to the Assistant Controller of Patents to comply with the order passed by this Bench dated 24/03/2015 in OA/10/2014/PT/DEL setting aside the order of the Assistant Controller of Patents dated 02/07/2013 rejecting the relief sought for by the appellant for extension of time observing that there is a specific provision under Rule 138 to condone the delay and as such there is no justification for the Controller to overlook the said provision. In the said order this Bench remanded the matter for fresh consideration of the Controller in a manner known to law as per the entitlement of

the appellant/applicant for seeking the relief of examination of the patent sought for by the appellant/applicant. The fact remains that this Bench directed the Controller of Patents to examine the claim of the patent made in the Indian National Phase Application derived from Petitioner/Appellant's International Application under PCT being PCT/US2010/040962 dated 2nd July, 2010. Mr. Hemant Singh, the learned counsel contended during our sitting at Delhi Bench that the Controller in utter defiance and disobedience of the order passed by this Bench dated 24/03/2015 passed an order dated 19/01/2016 once again rejecting the application of the appellant/petitioner on the ground that the application is time barred beyond the prescribed time limit and as per Rule 22 of the Patent Rules, 2003 the same as deemed to have been withdrawn.

3. We have expressed our view to the submission of the Mr. Hemant Singh the learned counsel for the petitioner that M.P No.2/2016 in OA/10/2014/PT/DEL is not maintainable as OA/10/2014/PT/DEL was already disposed of by passing an order dated 24/03/2015 and as such the remedy available for the petitioner is only to file an appeal challenging the order of the Assistant Controller of Patents dated 19/01/2016. We have also orally observed that it is open to the petitioner to prefer an appeal and mention the same before the Principal Bench if they consider the matter is so urgent. Accordingly, the learned counsel withdrawn the said M.P. No.2/2016 as per our order dated 23/02/2016.

4. Under the above said circumstance the present appeal is preferred challenging the order dated 19/01/2016 passed by the Assistant Controller of Patents, New Delhi refusing entry as well as examination of Indian National Phase Application derived from Petitioner/Appellant's International Application under PCT being PCT/US2010/040962 dated 2nd July, 2010 along with the appeal the appellant also filed M.P. No.5/2016 praying to fix the hearing of the appeal urgently on 07/03/2016 itself.

5. Ms. Mamta Jha, the learned counsel for the appellant would submit that the present appeal has been filed and numbered before the Registry of Delhi Bench and also informed the respondent namely the second respondent herein

about the filing the appeal and mentioning of the same for early hearing on 07/03/2016 as per the letter dated 04/03/2016 in person to the office of the second respondent. The learned counsel for the appellant would also produce the typed set of papers of the appeal before us today for the purpose of hearing and disposal of this appeal. The Registry of IPAB also verified the Delhi Registry and informed the appeal has been properly filed and numbered and also further informed that the MP was also numbered by the Delhi registry as MP No.5/2016.

6. Considering the nature of the impugned order dated 19/01/2016 passed by the second respondent herein which is not only contrary to the finding and decision of this Bench dated 24/03/2015 but also the impugned order was passed in willful disobedience of the appellate authority namely IPAB and coupled with the fact that the instant application of the appellant/applicant seeking for the relief of grant of patent is pending right from the year 2010 we are constrained to take up the appeal for hearing and disposal today itself.

7. Ms. Mamta Jha, the learned counsel would contend that this Bench gave a specific direction as per the order dated 24/03/2015 by setting aside the earlier order of the Controller dated 02/07/2013 and directing the Controller to examine the application for the relief of granting patent in the manner known to law by providing all opportunities to the appellant/applicant. It is contended that this Bench has set aside the order passed by the Assistant Controller holding that there is no justification for the Controller to over look the Rule 138 of the Patent Rules, 2003 (hereinafter referred to as Rules) existing at the relevant point of time wherein one month time is to be extended from the completion of prescribed period of 31 months from the date of application. It is further contended that the Assistant Controller of Patents has wrongly held that the Hon'ble IPAB has only set-aside the earlier order of the Controller but not condoned the delay. It is submitted such finding is made by the Assistant Controller in utter defiance and in willful disobedience of the order of this Bench as this Bench set-aside the earlier order of the Assistant Controller refusing the instant application as time barred and as per Rule 22 deemed to have been withdrawn and consequently

directed the Assistant Controller to consider the instant application by examining the patents sought for by the appellant/applicant. It is further submitted that the application of the appellant/applicant was not at all examined on merits and the Assistant Controller placed reliance on the amended rules under Rule 138 clause 2 which came into force from 15/10/2013 subsequent to the relevant period in the instant case. It is pointed out that even the said factor of amendment was brought to the notice of this Bench at the time of passing the order dated 24/03/2015. The learned counsel for the appellant would vehemently contend that the impugned order was passed in total non application of mind and overlooking the findings given by this Bench in respect of direction and consider the matter on merits by examining the application for the claim of patent by the appellant.

8. The learned counsel in support of the contention would also place reliance on the decision of the Supreme Court reported in **AIR 1992 Supreme Court 711 – Union of India Vs. Kamlakshi Finance Corporation Ltd.**

9. We have given our careful and anxious consideration to the contention put forward by the learned counsel for the appellant and also perused the entire materials including the perusal of the impugned order coupled with our earlier order dated 24/03/2015 in OA/10/2014/PT/DEL.

10. At the outset, we are constrained to state that the perusal and reading of the impugned order dated 19/01/2016 passed by the Assistant Controller of Patents & Designs, New Delhi demonstrates that it is a classic case of blatant, flagrant, willful and deliberate violation of the principles of judicial discipline by deliberately misreading and misinterpreting the findings rendered by this Bench in its order dated 24/03/2015 in OA/10/2014/PT/DEL.

11. In our order dated 24/03.2015 we have incorporated the provisions under the Rules 20, 22 and 138 existing at the relevant period of instant case and thereafter held hereunder.

“11. Reading the above said provisions would make it abundantly clear that the Controller undoubtedly vested with the power to extend the time after condoning the delay after expiry of prescribed period of 31months for submitting the National Phase

Application. It is pertinent to note that in the impugned order, the Controller placed reliance on the provision under Rule 20 and 22 holding that the prescribed time limit of 31 months as already been expired and as a result as per Rule 22 the International Application shall be deemed to be withdrawn that the non consequence under Rule 20. At this stage, we are constrained to state that the Controller not at all assigned any reason for overlooking the provision under Rule 138 which provides for the Extension of a period of one month after expiry of the period of 31 months.”

We have also further held in the said order that Rule 138(2) existing at the relevant point of time of the instant application was also clearly interpreted by the Madras High Court in the decision of **Nokia Corporation** case which we have placed reliance in the later portion of this order. Added to the said factors we have also recorded the fair submission of the learned counsel for the appellant in respect of the subsequent amendment made to Rule 138 as hereunder.

“15. The learned counsel for the appellant also fairly submit that the provision under Rule 138 underwent an amendment subsequent to the relevant period in the instant case which came into force from 15/10/2013 where Chapter III and as a result there is no provision as on date to seek the relief of condonation of delay or extension of time beyond the extended period of 31 months as per Chapter III of the Rules. This amendment makes it clear that the legislature may intend to change for fixing the prescribing time once for all without providing any extension of time. But as far as the instant case is concerned there is a specific provision under rules as per Rule 138.”

Thereafter, we have ultimately held as hereunder.

“But as far as the instant case is concerned there is a specific provision under ruled as per Rule 138 and as such **there is no justifications for the Controller to overlook or brush aside the said provision and to reject the relief sought for by the appellant for extension of time** (emphasis supplied by us). In view of the aforesaid reasons, we are constrained to set-aside the impugned order dated 02.07.2013.”

12. The above said findings rendered by us makes it abundantly clear that we have condoned the delay of eight days and extended the time and consequently set aside the order passed by the Assistant Controller of Patents and Designs dated 02/07/2013 and as such the finding of the Assistant Controller of Patents that this Bench has only set-aside the earlier order of the Controller but not condoned the delay is not only factually incorrect but also it would amount to willful and deliberate misinterpretation of our finding. Added to that findings we have given a specific direction to the Assistant Controller in our order dated 24/03/2015 as here under :-

“Consequently, this matter is remanded for consideration of the office of Controller in a manner known to law by providing all opportunities as per the entitlement of the appellant/applicant for seeking the relief of examination of the patent sought for by the appellant/applicant etc.(emphasis supply by us). It is made clear that the time consumed for

*disposal of the application for condonation of delay and extension of time and as well as the time consumed for filing of the present appeal and disposal of the same is to be excluded **enabling the appellant to take steps as contemplated under provision of the Act and Rules for the examination of the claimed patent etc.** (emphasis supplied by us)”*

13. In spite of the above said specific findings and directions the Assistant Controller of Patents and Designs instead of taking the application for examination on merits for the relief of grant of patent proceeded to consider once again relating to the delay in preferring the International Application dated 13/02/2012 for filing as a National Phase Application and deliberately misread our findings and overlooked the specific directions. It is pertinent to note that the Assistant Controller has incorporated the arguments of the appellant wherein it is specifically stated that the procedure adopted by the Assistant Controller is in willful violation of the order of this Bench dated 24/03/2015 in OA/10/2014/PT/DFEL. The said argument is also incorporated in the impugned order about the reliance placed by this Bench in the decision of Hon’ble Madras High Court reported in **2011 (46) PTC 70 (MAD)—Nokia Corporation Vs. Deputy Controller of Patents and Designs**. This Bench also distinguished the decision of the Hon’ble Delhi High Court reported in **2011 (46) PTC 122 (Del) – Nippon Steel Corporation Vs. Union of India** as hereunder.

*“12. In our considered view, the prescribed period includes the extended period of one month in the event of the petitioner/appellant showing the sufficient cause to condone the delay of 8 days. It is also relevant to state at this stage as per Rule 138(2) any request for extension of time made under the Rules shall be made before the expiry of prescribed period. In respect of this position, the Madras High Court in the decision reported in **2011 (46) PTC 70 (Mad)** held hereunder.*

30. At the same time, under Rule 138, period for submitting the application can be extended by one month, if a good cause is shown by the applicant.

31. The Controller is vested with power to extend the time by one month by exercising the powers under the rules. Rule 138 of the Patents Rule is independent of Rule 6(5) or Article 48 and Rule 82 of PCT.

32. The learned Deputy Controller was also not right in coming to the conclusion that in view of proviso to Rule 138, the application for extension of time could only be moved within the period stipulated under Rule 20 ie. 31 months, as reading of Rule 138 would show that the rule making authority has used two terms 1) prescribed time under the rules 2) period for which time could be extended.

33. The time prescribed under Rule 20 is 31 months, and the period, which could be extended by taking into consideration of facts and circumstances, is one month.

34. The application for extension is required to be made within the period prescribed. Therefore, proviso would come into operation for the purpose of calculating period of one month. **On true interpretation of Rule 138, it is held that application for extension is to be filed within one month after expiry of prescribed time under Rule 20 (emphasis supplied by us).** In case, an application is moved for extension of time by one month or shorter period, it is required to be decided on merit by taking into consideration facts and circumstances of each case.

35. **It is a well settled law that the Courts and statutory authorities are to do substantial justice (emphasis supplied by us).** The object of Rule 138 is that prescribed time under Rule 20 can be extended by period of one month on showing of sufficient cause. As already observed above, it is the discretion of the Controller to extend the period of facts and circumstances of the case, but it was not correct on the part of the Deputy Controller to have rejected the application, by treating it to be not maintainable, as having been filed after expiry of prescribed time under Rule 20 of the Patents Rules 2003. The merits of the facts disclosed were to be considered, Rule 6(5) or Article 48 and Rule 82 of PCT rule do not govern powers under Rule 138, as the Controller under this rule is to exercise quasi judicial power.

13. *We have to go by the harmonious interpretation of Rule 20 prescribing a period of 31 months and Rule 138 prescribing a period of one month for extension and ultimately to arrive at conclusion on the basis of the sufficient cause shown by the appellant for condoning the delay of extending the time. The decision of the Hon'ble Madras High Court is direct to the issue involved in the instant case and as such the same is applicable to the present case.*

14. *As far as the decision of the Hon'ble Delhi High Court is concerned, it is to be stated that the issue involved in the said decision is whether the amendment to the application could be permitted which is deemed to have been withdrawn. It is seen that there is a failure to make request for examination of application for patent within a period of 48 months from the date of priority of the application. It is pertinent to note that in respect of the said issue there is absolutely no provision either under the Act or under the Rule for enabling the applicant to resort to amendment after the expiry of the prescribed period of 48 months. The learned Judge of the Hon'ble Delhi High Court in the decision reported in **2011 (46) PTC 122 (Del) – Nippon Steel Corporation Vs. Union of India** has held hereunder.*

22. This Court is unable to agree with the above submission of Mr. Chandra. Rule 137 only applies to the amendment of a document for which there is no special provision in the Act. Section 57(5) of the Act does provide for amending the priority date. However, the Petitioner's request for amending the priority date is with a view to indirectly get the time for filing the RFE extended. In the considered view of this Court, the power under Rule 137 cannot be invoked by the Office of the CoP in the circumstances of the present case to permit an amendment to a patent application that has already been withdrawn by operation of Section 11-B(4) of the Act.

27. Merely because there is no time limit prescribed for filing an application for amendment of the priority date, it does not mean that such application can be filed even after a patent application ceases to exist in law. Once an application is deemed to have been withdrawn by an applicant. In terms of Section 11-B(4) of the Act, the CoP cannot entertain an application for amending any portion of such application. It is not possible to accept the submission of the learned Senior counsel for the Petitioner that the CoP is bound to allow an amendment at any time, even after the deemed withdrawal of such application and that once such amendment is allowed it would relate back to the date of the filing of the application and thereby revive the application. This submission is contrary to the scheme of the Act and Rules. Also, in view of what has been stated by the D CoP in the email of 2nd February 2011 there is a doubt whether an applicant can seek to amend the priority date at its sweet will to any date of its choice. However, for the purpose of the present case, it is beyond doubt that the CoP could not have after the deemed withdrawal of the Petitioner's patent application on 9th February 2010, permitted it to amend the priority date of such application.

Therefore the issue involved in the Hon'ble Delhi High Court decision is entirely different from that issue involved in the instant case."

14. Therefore, in our order dated 24/03/2015, we have distinguished the Hon'ble Delhi High Court decision from the Hon'ble Madras High Court decision in **Nokia Corporation** case. The Assistant Controller made a vague statement to the effect that the Hon'ble Madras High Court decision was challenged by filing a writ appeal and even the writ appeal number is not mentioned. Further it is not the case of the Assistant Controller that the learned Single judge decision was stayed by the Division Bench of the Hon'ble Madras High Court in the writ appeal.

15. It is pertinent to note that the Assistant Controller of Patents verbatim repeated his earlier findings in the order dated 02/07/2013 which we have set-aside for placing reliance on the decision of the Hon'ble Delhi High Court in **Nippon Steel Corporation** case stating that the said decision was not challenged further and also stating that the Patent Office Delhi falls under the jurisdiction of the High Court of Delhi. The Assistant Controller has not whispered a word about this Bench decision dated 24/03/2015 in OA/10/2014/PT/DEL distinguishing the Hon'ble Madras High Court decision and the decision of the Delhi High Court and holding that the Hon'ble Madras High Court decision is squarely applicable to the issue involved in the instant matter. This attitude of the Assistant Controller of Patents is nothing but a deliberate and willful disobedience of the decision of the Appellate Authority, IPAB. We are constrained to state that this is a clear case of judicial indiscipline.

16. The learned counsel for the appellant has rightly placed reliance on the decision of Hon'ble Apex Court in **Union of India and Others Vs. Kamlakshi Finance Corporation** reported in **(1992) 1 SCC 648**. In the said decision, the Hon'ble Apex Court has stated the facts as hereunder.

"3. When the matter thus went back to the Assistant Collector he passed an order on 12.05.89, reiterating the conclusion that had been reached by his predecessor. He also did not give any reasons as to why the order of the Collector (Appeals) in respect of the Borivili plant was not followed. Not only this, the assessee had place before him a decision of the Central Excise and Gold Control Appellate Tribunal (the Tribunal) in the case of M/s. Chetna Plycoats (P) Ltd., reported in (1988(37) ELT 252) to a similar effect. The Assistant Collector distinguished it observing that the said decision had not been agreed to by the Department which had filed an appeal to the Supreme Court therefrom. The second order passed by the Assistant Collector was practically a repetition of the earlier order.

4. The assessee thereupon filed a Writ Petition in the Bombay High Court. The High Court quashed the order of the Assistant Collector and directed the department to allocate the matter to a competent officer to pass a proper order. The Union of India has preferred this appeal. The learned Additional Solicitor General, appearing for the Union, fairly concedes that so far as the merits are concerned, the department can have no grievances, since the High Court has only set aside the order of the Assistant Collector and remanded the matter back for a proper consideration and a proper order.....

5. The learned Additional Solicitor General, however, submits that the learned Judges have erred in passing severe strictures against the two Assistant Collectors who had dealt with the matter. He submitted that these officers had given reasons for classifying the goods under heading 39.19 and not 85.46 and could do no more. He submitted that they acted bonafide in the interests of Revenue in not accepting a claim which, they felt, was not tenable."

17. The Hon'ble Apex Court thereafter held hereunder.

"6.The High court has, in our view, rightly criticized this conduct of the Assistant Collectors and the harassment to the assessee caused by the failure of these officers to give effect to the orders of authorities higher to them in the appellate hierarchy. It cannot be too vehemently emphasised that it is of utmost importance that, in disposing of the quasi-judicial issues before them, revenue officers are bound by the decisions of the appellate authorities (*emphasis supplied by us*). The order of the Appellate Collector is binding on the Assistant Collectors working within his jurisdiction and the order of the Tribunal is binding upon the Assistant Collectors and the Appellate Collectors who function under the jurisdiction of the Tribunal. **The principles of judicial discipline require that the orders of the higher appellate authorities should be followed unreservedly by the subordinate authorities. The mere fact that the order of the appellate authority is not 'acceptable' to the department – in itself an objectionable phrase – and is the subject matter of an appeal can furnish no ground for not following it unless its operation has been suspended by the competent court.**(*emphasis supplied by us*)."

18. Lastly, the Hon'ble Apex Court held hereunder.

"8.The observations of the High Court should be kept in mind in future and the utmost regard should be paid by the adjudicating authorities and the appellate authorities to the requirements of judicial discipline and the need for giving effect to the orders of the higher appellate authorities which are binding on them."

19. The Hon'ble Gujarat High Court in **Wyeth Holdings Corpn. and Anr. VS. Controller General of Patents** reported in **2007 (34) PTC 1 Guj** held hereunder.

"3. Before I deal with the merits of the matter, the judicial conscience warrants me to discharge an unpleasant duty.

Mr. P.M. Thakkar, learned senior counsel for the petitioner invited my attention to the fact that a decision of the IPAB in the matter of Asian Paints (*supra*) was cited before

respondent No.2 the Assistant Registrar before he passed the impugned order. But, still, he has passed the order impugned overlooking a binding decision of IPAB. That being so, this Court called upon learned advocate for respondent Nos. 1, 2 and 3 to file an affidavit, so that it may not be said that before passing an order against respondent No.2, an opportunity was not given.

It is shocking that an Assistant Registrar has filed an affidavit which shocks the judicial conscience. The Assistant Registrar respondent No.2 in his affidavit affirmed on 05.08.2006 has admitted that the decision of IPAB was cited before him respondent No.2 at the time of passing of the order under challenge in this petition. Paragraph No.4 (c). of the affidavit in reply reads as under:

With respect to the binding decision of IPAB delivered in February, 2006, which was required to be followed by me in the judgment passed by me after February, 2005 (sic 2006), I humbly state and submit that I have observed in my reported judgment, 2006 PTC 32 (REGISTRAR) at para 63 as follows:

The said decision of the Hon'ble IPAB was based on what was argued before it on flimsy (sic flimsy) ground without taking into consideration the drastic change of fundamental characters in Rules and clear, specific and imperative language and intent of the Legislature, and the basic principles of law/binding precedent laid down by the Hon'ble Apex Court and the conduct of the opponent. Therefore with immense respect, the said decision being the decision in personam is applicable to the parties involved therein.

Further, at para 68 of the said affidavit (sic 0 judgment), it was observed-

As far the reliance placed on the decision of Hon'ble IPAB by the Ld. Advocate for the petitioner/opponent, I am of the view that the facts and circumstances in the case before the Hon'ble Board are entirely different from the facts of the case on hand and as such as per ratio laid down by the Hon'ble Apex Court in the case AIR 1975 SC 915 (Supra) and other cases referred to herein above, the decision of the Hon'ble IPAB would not help the petitioner.

5. This binding judgment of the IPAB is brushed aside by respondent No.2. Not only that, he has filed an affidavit before this Court stating that, 'he (respondent No.2) has already dealt with the binding decision of the IPAB in his reported judgment in **2006 PTC 32 (REG)**' The language used in paragraph No.63 of that reported judgment, reproduced in paragraph No.3 hereinabove, is offensive and contemptuous. The Assistant Registrar respondent No.2 is duty bound to follow a binding decision of the appellate forum. He cannot distinguish the same by observing that, 'The said decision of the Hon'ble IPAB was based on what was argued before it on flimsy (sic flimsy) ground without taking into consideration the drastic change of fundamental characters in Rules, and clear, specific and imperative language and intent of the Legislature, and the basic principles of law/binding precedent laid down by the Hon'ble Apex Court.

6. If this not checked, this will lead to further chaos. As there is already enough chaos. Let there be no further chaos created. A subordinate officer distinguishing a binding decision of the higher forum in such language must be dealt with strictly.

8. In the case on hand, even if, 'the Assistant Registrar had reservation on the correctness of the decision of the IPAB, he had no option then to follow the order of the higher appellate authority.' The conduct of respondent No.2 the Assistant Registrar is still grave. He has an audacity to come before the High Court and file an affidavit justifying his act. As observed hereinabove, if this is allowed, it will end into, an unending chaotic situation', which will not be in the interest of public at large. The public at large still reposes confidence in the judiciary as it still maintains "judicial discipline."

The Gujarat High Court has also followed the decision of Hon'ble Apex court in Union of India vs. Kamlakshi Finance Corporation Ltd. cited supra.

20. The principles laid down in the decisions of the Hon'ble Apex Court and the Hon'ble Gujarat High Court cited supra are squarely applicable to the issue involved in the case on hand as in this case also the Assistant Controller of Patents & Designs, New Delhi has willfully and deliberately overlooked and brushed aside the order of this Bench dated 24/03/2015 made in

OA/20/2014/PT/DEL and verbatim repeated the same order earlier passed by him by the order dated 02/07/2013 which we have set-aside as per our order dated 24/03/2015 but even in the present impugned order by assigning the same reasons which would amount to clear case of willful disobedience of the order of the appellate authority and judicial indiscipline.

21. In view of the aforesaid reasons, we are constrained to set aside the impugned order dated 19/01/2016 passed by the Assistant Controller of Patents and Designs, Patent Office, Delhi and direct the Assistant Controller of Patents and Designs, Delhi to take on record the Indian National Phase Application derived from International Application No.PCT/US/2010/040962 of the appellant and proceed with the examination of the said application by affording adequate and reasonable opportunity for the applicant/appellant to put forth their case. Once again it is made clear that the time consumed for disposal of the application for condonation of delay and extension of time and as well as the time consumed for filing of the present appeal and disposal of the same is to be excluded enabling the appellant to take steps as contemplated under provision of the Act and Rules for the examination of the claimed patent. It is made further clear that the application of the appellant shall be disposed of as expeditiously as possible.

(D.P.S. PARMAR)
TECHNICAL MEMBER (PATENTS)

(JUSTICE K.N. BASHA)
CHAIRMAN

Reportable :Yes/No

srk