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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	*13.10.2025*
PRONOUNCED ON	11.12.2025

CORAM :

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.M.A.(PT) No.44 of 2024

Titan Company Limited
'Integrity' No.193, Veerasandra
Electronics City P.O.
Hosur Main Road
Bangalore - 560 100

Through its Authorised Representative
Mr.R.Karthikeyan
Deputy Group Manager - Legal of Titan Company Lmited
'Integrity', No.193, Veerasandra
Electronics City
P.O. Off Hosur Main Road
Bangalore - 560 100 .. Appellants

vs

The Controller of Patents & Designs
Patents Office
IPR Building, SIDCO Plot
GST Road, Guindy
Chennai 600 032 .. Respondent

Prayer : Civil Miscellaneous Appeal filed under Section 117A of the Patents Act against the order passed in Patent Application No.202041004928 dated 06.02.2024 by the respondent.

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For Appellant : Mr.Kapil Kumar for
M/s.K and S Partners

For Respondent : Ms.R.Durgarani,
Central Govt. Standing Counsel

JUDGMENT

The present appeal is filed to set aside the impugned order passed by the Controller of Patents & Designs, namely the respondent in Indian Patent Application No.202041004928 and grant patent in respect of the said application.

The brief facts are as follows:

2. An application was made by the appellant on 04.02.2020 in Patent Application No.202041004928 for grant of patent titled "A Jewellery Assembly". The said application was rejected by stating that the claims made by the appellant falls under Section 3(l) of Patents Act and therefore, it is a suitable subject matter for a design application and not for a patent application. The appellant seeks patent for an invention titled "A Jewellery Assembly". According to the appellant, the said invention comprises of a base member, plurality of walls, and at least one segment defined between each adjacent walls of the plurality of walls, wherein, each of the at least one segment is defined

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with an inclination and a cavity is defined in a substantially central region of the base member; at least one gemstone disposed in the cavity; and a plurality of elongated gemstones disposed at a periphery of the cavity, wherein each of the plurality of elongated gemstones is configured to hold the at least one gemstone in the cavity; wherein, at least one gemstone and the plurality of elongated gemstones resembles a single unified square shaped gemstone.

3. According to the appellant, the structural configuration of jewellery assembly aids in reducing cost of the jewellery as it eliminates the need of expensive large diamonds of high cartage, as the configuration aids in accommodating a plurality of smaller gemstones which resemble a unified square shaped gemstone. Therefore, the application does not claim an aesthetic creation, rather it claims for technical structural features of the jewellery assembly. The appellant challenged the rejection of the invention under the Patents Act and contended that the text of the description focuses on technical aspects such as structural features as well as design features. The respondent had chosen to focus only on design features and failed to notice the detailed description of the intended structural features of the invention achieving the desired outcome.

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4. It is further claimed that the real substance of the claimed invention lies in the constructional arrangement of the plurality of elongated gemstones to hold the central gemstone to form a single gemstone of larger size. This will reduce the overall cost of the jewellery. Thus the aspects disclosed in claim of invention does not relate to any literary, artistic or any aesthetic creation.

5. The learned counsel for the appellant contended that the rejection order was passed without application of mind as the respondent has misconstrued the concept of registration under the Patents Act and the Designs Act. The impugned order is only focussed on the reasons to bring the invention under aesthetic creation and not on the registration of the patent. In support of his contentions, the learned counsel for the appellant has relied on the judgment passed by the Delhi High Court on 04.11.2022 in ***Avery Dennison Corporation Vs. Controller of Patents and Designs.*** The relevant paragraph is extracted hereunder:

> *"39. The improvement in the present case between the prior art and the subject invention is clearly decipherable. The same does not lack inventive step. The fact that it was not obvious to a person skilled in the art is clear from the lack of any other prior art document addressing the problems in the prior art and suggesting any solutions close to the invention despite the gap of more than 18 years. D1 and D3 are of a period prior to D2,*

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though, dealing with fastening guns and fasteners. The closest prior art identified is D2 and the subject application discloses a technical advancement in comparison with the closest prior art and the features comprising inventive step are not obvious to a person skilled in the art and therefore, the subject patent application satisfies the test of inventive step."

By citing the above judgment, the learned counsel argued that if the subject application discloses a technical advancement and features comprising inventive steps which are not obvious to a person skilled in the art, the subject patent application satisfies the test of inventive step.

6. By relying upon the judgment of ***Dura-Line India Pvt Ltd. Vs. Jain Irrigation Systems Ltd.*** *dated* ***19.05.2025*** of the Delhi High Court, the learned counsel for the appellant argued that as per the observation made in the above judgment, functional and constructional features in an invention are structural and technical aspects which fall within the ambit of patent registration. The learned counsel argued that as per the claim raised by the appellant, the structural configuration of the jewellery assembly aid in reduction of cost, therefore it is patentable.

7. Per contra, the learned counsel appearing for the respondent contended

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that the impugned order is in consonance with the Patent Act. She reiterated her submissions by referring the impugned order, more specifically paragraphs 15 to 19 and argued that the authority has clearly applied his mind and has given a categorical finding. To substantiate her contentions, the learned counsel for the respondent referred to the decision of the Hon'ble Apex Court in ***M/s.Bishwanath Prasad Radhey Shyam Vs. Hindustan Metal Industries,*** reported in ***(1979) 2 SCC 511,*** wherein it was held that, for grant of patent, the invention must be something more than a mere workshop improvement.

8. The argument advanced by the appellant is that the respondent has literally failed to consider the application made, the technical aspects of invention and has only focussed on the design features. In catena of judgments, the Hon'ble Supreme Court and various High Courts have observed that the Controller, while passing an order, should apply his/her mind with regard to the claim made by the applicant and all the objections raised for grant of patent.

9. A plain reading of the impugned order clarifies that it is not in consonance with the order passed by the Delhi High Court in ***Adama Makhteshim Ltd. Vs. The Controller of Patents dated 01.05.2023*** in ***C.A. (COMM.IPD-PAT) 167/2022***. In the aforesaid judgment, in paragraph Nos.10

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and 11, the Delhi High Court has categorically held that a finding should be complete and all the objections raised for grant of patent shall be examined and discussed at the time of passing an order. For brevity, paragraph Nos.10 and 11 of the said judgment are extracted hereunder:

> *"10. Before parting, the court would like to address an issue that has been observed in several other appeals arising from the refusal of patent applications. It is well-known that patent applications have a limited term, a substantial portion of which is spent in the office of the Controller of Patents and Designs. In the instant case, the application for the subject invention was filed in 2016, and nearly half of the life of the patent has already elapsed. Although the Hearing Notice raised objections under several sections of the Act, the application has been rejected only on one ground, without addressing the other objections. Therefore, while exercising appellate jurisdiction at this stage, the court cannot delve further into the matter as no reasoning is discernible on the other grounds of objections, and the matter must be remanded back for fresh consideration.*
>
> *11. Thus, it must be observed that since the orders of the Controller under Section 15 of the Act are subject to judicial review in appeal, it would be advisable for the Controller to examine all grounds of objection while deciding an application, even if the application is found to be non-patentable on any one of the preliminary or technical grounds. This approach would expedite the process of granting patents by allowing the courts*

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to assess the patentability of inventions if the technical objection is overruled. Only if the merits of the claims and issues relating thereto are interlinked with technical grounds, this approach may not be feasible, and an observation should be recorded to that effect. However, in situations where the grounds of refusal mentioned in the hearing notice are independent and can be examined as such, a comprehensive order should be passed addressing all of the objections."

10. Paragraph 14 of the impugned order states that there is no technical problem and there is no technical solution. When a decision is taken contrary to the claim made by the appellant, opportunity must be given to the appellant before making a determination on the issue of registration of invention. It is the contention of the appellant that the present invention does solve a problem related to gemstone setting and manufacturing precision in order to achieve a solution of reduced cost for an attractive jewellery assembly by using multiple small gems to give an effect of a single large gem. According to the appellant, the respondent has failed to apply the said reasoning while deciding the present case despite citing the same.

11. It is appropriate to refer to Section 2(d) of the Designs Act, 2000 as the respondent has rejected the patent application of the appellant on the ground

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that the invention covered under the present application is a suitable subject matter for a design application. Section 2(d) of the Designs Act, 2000, reads thus:

> *(d) "design" means only the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device, and does not include any trade mark as defined in clause (v) of sub-section (1) of section 2 of the Trade and Merchandise Marks Act, 1958 (43 of 1958) or property mark as defined in section 479 of the Indian Penal Code (45 of 1860) or any artistic work as defined in clause (c) of section 2 of the Copyright Act, 1957 (14 of 1957).*

12. The impugned order though narrates the case of the appellant and comes to the conclusion that it does not solve any technical problem as claimed by the appellant, on a plain reading of the impugned order, it is clear that the respondent had not taken into consideration the written submission filed by the appellant with regard to his claim of technical problem and solution.

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13. It is also incumbent on the respondent to consider the contentions raised in the written submission filed by the appellant herein. Failure to discuss the points raised in the written submission made by the appellant, clearly demonstrates that the authority has not applied his mind at the time of rejection of the application made by the appellant herein.

14. It is well settled that when an authority passes an order, the order should speak about the analysis of the claims and submissions made by the appellant and the authority ought to have given an opportunity to the appellant before passing the final order rejecting the patent application filed by the appellant. In the absence of any notice given to the appellant, the impugned order cannot be sustained.

15. In view of the same, the impugned order is set aside and the matter is remanded to the authority for a fresh consideration. The said exercise shall be completed as expeditiously as possible. No costs.

11.12.2025

Index:Yes
Non-speaking order

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Neutral Citation:Yes
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N.SENTHILKUMAR, J.

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