

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.09.2017

Coram

THE HONOURABLE Mr.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE Mr.JUSTICE P.D.AUDIKESAVALU

W.P.No.24502 of 2013
and
M.P.No.1 of 2013

SURU INTERNATIONAL PVT. LTD.,
Represented by its Director,
Mr.Jitesh Shah,
Having Office at
C-6, Sona Udyog,
Adhere (E), Mumbai - 400 069. Petitioner

Vs.

1. B.Braun Melsungen AG
Carl Braun Strasse 1
34212 Melsungen
Germany.
2. Intellectual Property Appellate Board (IPAB)
2nd Floor, Guna Complex, Teynampet,
Chennai - 600 018.
3. The Controller General of Patents & Designs,
Patent Office, IPR Building,
GST Road, Guindy, Chennai - 600 032. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent culminating in the impugned order No.107/2012 dated 19.04.2012 passed in revocation application ORA/3/2008/PT/CH to revoke the Patent No.210062 granted on 17.09.2007 and after considering the legality and propriety thereof to partially quash the impugned order to the extent that the second respondent has refrained from revoking the Patent No.210062 and instead remanded the matter back to Patent Office to consider the matter de novo; and consequently pass such further orders for revoking the patent by operation of Section 64(1)(m) of the Patents Act, 1970.

For Petitioner : Mr.P.S.Raman
Senior Counsel
For Ms.Pushpa Menon

For 1st Respondent : Mr.M.S.Bharath

For Respondents 2 & 3 : Mr.T.V.Krishnamachari

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

A Joint Memo (received by the Registry on 13.09.2017) is filed on behalf of the Petitioner and the 1st Respondent through their Learned Counsels on record. The contents of Joint Memo reads as follows:

"1.The impugned order of the IPAB (Intellectual Property Appellate Board) dated 19.04.2012 in ORA/3/2008/PT/CH is set aside to the extent of having remanded the matter back to the Controller of Patents in para 10 of the impugned order.

2.The matter shall be remanded back to the IPAB with direction to decide the matter de novo whether the Patent No.210062 is liable to be revoked under the grounds taken by the Petitioner in the revocation petition filed in the IPAB under ORA/3/2008/PT/CH."

2.In view of the Joint Memo filed by the respective parties, recording the contents of Joint Memo, this Court sets aside the impugned order (No.107/2012) in ORA/3/2008/PT/CH dated 19.04.2012 of the 2nd Respondent/Intellectual Property Appellate Board to the limited extent of ordering remand of the matter back to the Controller General of Patents & Designs, Chennai (3rd Respondent in Writ Petition) as made mention of in para 10 of the impugned order.

3.In the aforesaid view, the 2nd Respondent/Intellectual Property Appellate Board, Chennai is directed to decide the subject matter in issue De novo viz., whether the Patent No.210062 is liable to be revoked under the grounds raised by the Petitioner in the Revocation Petition filed before the Appellate Board in ORA/3/2008/PT/CH. It is abundantly made clear that the Joint Memo filed by the respective parties shall form part and parcel of the order passed by this Court in this Writ Petition.

4.The Writ Petition shall stand disposed of, in above terms.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. B.Braun Melsungen AG
Carl Braun Strasse 1
34212 Melsungen
Germany.
2. The Intellectual Property Appellate Board (IPAB)
2nd Floor, Guna Complex, Teynampet,
Chennai - 600 018.
3. The Controller General of Patents & Designs,
Patent Office, IPR Building,
GST Road, Guindy, Chennai - 600 032.

+1cc to Mr.T.V.Krishnamachari, Advocate, S.R.No.67207

+1cc to Mr.M.S.Bharathi, Advocate, S.R.No.67651

W.P.No.24502 of 2013

NM(CO)
CA(10/10/2017)

सत्यमेव जयते
WEB COPY