



CMP.No.8633 of 2024 and
CMA(PT).SR.No.87706 of 2023

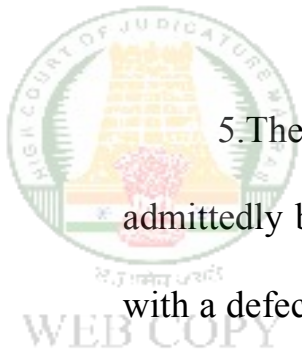
Dr.ANITA SUMANTH,J.

Mr.S.Janarthanam, learned Senior Panel Counsel accepts notice for the respondent and is armed with sufficient instructions to enable the closure of this petition. The prayer in the petition is for condonation of a period of 351 days in filing of this appeal.

2.The defence putforth by learned Senior Panel Counsel is by reference to the delay in filing. The impugned order is dated 10.03.2022. The appeal was filed by the petitioner on 06.06.2022 within the stipulated period of 90 days as provided under Section 117-A of the Patents Act, 1970. Admittedly, the appeal was not accompanied by a copy of the impugned order. With the abolishment of the Intellectual Property Appellate Board, the matter stood transferred to the file of this Court and was taken up for numbering by the Registry only on Notification of the Intellectual Property Division (IPD) of this Court on 05.04.2023.

3.Upon processing of appeal, an objection was issued by the Registry of the IPD of this Court on 09.06.2023 requiring the appellant to re-file the appeal in accordance with the IPD Rules. The appeal was refiled on 07.07.2023 accompanied by a certified copy of the impugned order.

4.The Registry yet again raised an objection in November 2023 calling upon the petitioner to file an application for condonation of delay as the appeal, originally filed on 06.06.2022 before the IPAB, was defective. Hence, this application.



5.The trajectory of events as above have been duly considered. The appeal has admittedly been filed on 06.06.2022 within the statutory period of limitation, albeit with a defect that the impugned order had not been filed along with the same. This is a curable defect and with the filing of the certified copy by the petitioner, stands rectified.

6.I am thus of the view that the subsequent re-filing of the appeal on 07.07.2023 can be viewed as a measure of rectification of defect and there is really no delay warranting condonation.

7.In light of the aforesaid, this civil miscellaneous petition is closed. Let the appeal be numbered, if it is otherwise in order, and be listed for admission.

16.04.2024

VS

CMP.No.8633 of 2024 and
CMA(PT).SR.No.87706 of 2023