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

+ C.A.(COMM.IPD-PAT) 308/2022
SUZUKI MOTOR CORPORATION

..... Appellant

Through: Ms. Manisha Singh, Mr. Abhai
Pandey, Mr. Varun Sharma, Mr.
Manish Aryan, Mr. Gautam Kumar
and Ms. Shivani Singh, Advocates.

versus

CONTROLLER GENERAL OF PATENTS, DESIGNS AND
TRADEMARKS AND ANR

..... Respondents

Through: Ms. Nidhi Raman, CGSC with Mr.
Zubin Singh, Advocates and Mr.
Shankar Dayal Bhatnagar, Assistant
Controller.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

15.03.2024

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1. Mr. Shankar Dayal Bhatnagar, Assistant Controller, has joined the proceedings through video conferencing mechanism. On the last date of hearing, Ms. Nidhi Raman, CGSC for Respondents, had been requested to take instructions on whether Appellant may be permitted to make an auxillary request for claim amendment. On this aspect, Mr. Bhatnagar apprises the Court that although there is no specific provision in the Patents Act, 1970 [“*Act*”] that allows re-consideration of the appeal, however, if the Appellant were to demonstrate that the additions contained in the description of modified claims had occurred on account of errors related to translation/transliteration, Respondents can re-consider the issue.

2. At this juncture, Mr. Varun Sharma, counsel for Appellant, submits



that the objections have occurred on account of use of terms which were not found in the specification. Accordingly, he suggests that he can file an application for amendment which would remove all such references to terms that are not found in the specifications, so that the modified claims are within the scope of the claims/ specifications as originally submitted.

3. Considering the above, in the opinion of the Court, it would be appropriate for Appellant to file an appropriate application to that effect, which shall be considered by Respondents on its own merits, in accordance with law.

4. In light of the above, the present appeal is disposed of with the following directions:

(i) Appellant shall file an application under Section 57 of the Act within a period of two weeks from today to amend their modified claims. They shall ensure that such amendments are strictly limited to removing any inadvertent additions in terms of the aforementioned position taken before the Court.

(ii) Respondents shall consider the same on its own merits in accordance with law, and shall afford an opportunity of hearing to the Appellant before taking a final decision.

5. All rights and contentions of parties are left open. It is clarified that the Court has not examined any of the claims of the parties or made any comment on the merits of the case.

6. Disposed of.

SANJEEV NARULA, J

MARCH 15, 2024

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