

IN THE HIGH COURT AT CALCUTTA
Intellectual Property Rights Division
Special Division
Original side

BEFORE:

The Hon'ble Justice Ravi Krishan Kapur

IPDPTA No.116 of 2023

UPL Limited

Vs

Haryana Pesticides Manufactures Association & Anr.

For the petitioner : Mr. Subhatosh Majumder, Advocate
Mr. Paritosh Sinha, Advocate
Mr. Sarosij Dasgupta, Advocate
Ms. Mitul Dasgupta, Advocate
Mr. K. K. Panday, Advocate
Mr. Manosij Mukherjee, Advocate
Mr. Teesham Das, Advocate
Ms. Mallika Bothra, Advocate
Ms. Sonia Nandy, Advocate

For the respondent no 1 : Mr. Ajay Amitabh Suman, Advocate
Mr. SomnathDe, Advocate
Ms. Antara Dey, Advocate

For the respondent no 2 : Ms. Rashmi Bothra, Advocate
Mr. Madhu Jana, Advocate
Mr. Jeet Brahma, Advocate
Mr. Ujjal Rajak, Advocate

Judgment reserved : 16.12.2025

Judgment on : 05.02.2026

Ravi Krishan Kapur, J.:

1. The appellant challenges an order dated 27 April 2023 rejecting an application for patent based on the pre-grant opposition filed by the respondent no 1 under section 25 of the Act. The grounds for dismissal are lack of novelty under section 25(1)(b), lack of inventive steps under section 25(1)(e) and the invention being a mere admixture and not an invention under section 25(1)(f) alongwith section 3(e) of the Patents Act 1970.

2. Briefly, the invention titled “HERBICIDAL COMBINATIONS” is a herbicidal combination for controlling undesirable plants targeting weeds wherein herbicides are selected from three different classes namely Triazolone herbicide, Photosystem II inhibitor herbicide and either ALS inhibitor herbicide selected from Imidazolinone herbicides or bleacher herbicide. The invention is alleged to demonstrate unexpected advantages and excellent synergistic control on weeds when applied in combination although found to be ineffective when applied individually.
3. The petitioner filed the application on 26 March 2018 which was numbered 201831011137 and published on 27 September 2019. On 24 January 2020, the respondent authorities issued the First Examination Report (FER). On 22 July 2020, a reply was filed in response to the FER. Subsequently, on 30 September 2020 a pre-grant opposition was filed by the respondent no 1 against the subject invention and the appellant filed its Statement of Reply. To overcome the objection of lack of novelty raised in the FER, claim 1 had been amended which was filed with the FER response by deleting the compound amicarbazone earlier claimed. The pre grant opposition hearing was held on 7 April 2022. After completion of the hearing, the parties filed their written submissions on 22 April 2022 and the impugned order came to be passed.
4. The crux of the grievance of the appellant is that the respondents failed to provide the appellant with an opportunity of hearing under sections 14 or 15 of the Act. Thus, there was no separate proceeding i.e, one under section 15 of the Act and another hearing under section 25(1) of the Act held before passing of the impugned order. In passing a single composite order disposing of the entire proceedings under section 25(1)

of the Act, there has been a violation of the Act and the Rules framed thereunder. It is contended that the respondent no.2 failed to deal with the prior arts relied on by the respondent no.1 and erroneously rejected the invention on the ground of lack of inventive steps. The respondent no 2 also failed to consider the data provided in the specifications. The impugned order mechanically reproduces the submissions of the respondent no.1 without any application of mind by the respondent no.2. The prior arts cited in the FER were verbatim copies of the documents cited in the International Search Report. It was only in the pre-grant representation that new prior arts being D3 to D5 were introduced. In any event, there are no reasons in the impugned order.

5. On behalf of the respondent Controller, it is submitted that the impugned order has been passed in conformity with all statutory provisions. In such cases, where an opposition ensues post FER, consolidation is permissible. The order has been passed after a scrutiny of the prior arts and after considering all the data submitted by the appellant. In any event, the impugned order is adequately reasoned. There has been no infraction of the Rules and no separate hearing was necessary either under section 14 or 15 of the Act.
6. On behalf of the private respondent no.1, it is contended that the appellant had attempted to claim 304 herbicidal permutations and combinations without any concrete experimental proof and only providing superficial arguments using vague phrases as *may be* in the complete specification. The invention does not satisfy the requirement of novelty. The composition and combination claimed in the invention were mere admixtures of known active ingredients resulting in obvious

aggregation and the same did not disclose any synergistic effect. In such circumstances, there is no infirmity in the impugned order and the appeal should be dismissed.

7. For convenience, the relevant sections and Rules are as follows:

14. *Consideration of report of examiner by Controller.-- Where, in respect of an application for a patent, the report of the examiner received by the Controller is adverse to the applicant or requires any amendment of the application, the specification or other documents to ensure compliance with the provisions of this Act or of the rules made thereunder, the Controller, before proceeding to dispose of the application in accordance with the provisions hereinafter appearing, shall communicate as expeditiously as possible the gist of the objections to the applicant and shall, if so required by the applicant within the prescribed period, give him an opportunity of being heard.*

15. *Power of Controller to refuse or require amended applications, etc., in certain cases.--Where the Controller is satisfied that the application or any specification or any other document filed in pursuance thereof does not comply with the requirements of this Act or of any rules made thereunder, the Controller may refuse the application or may require the application, specification or the other documents, as the case may be, to be amended to his satisfaction before he proceeds with the application and refuse the application on failure to do so.*

25. *Opposition to the patent.-- (1) Where an application for a patent has been published but a patent has not been granted, any person may, in writing, represent by way of opposition to the Controller against the grant of patent on the ground--*

(a) that the applicant for the patent or the person under or through whom he claims, wrongfully obtained the invention or any part thereof from him or from a person under or through whom he claims;

(b) that the invention so far as claimed in any claim of the complete specification has been published before the priority date of the claim--

(i) in any specification filed in pursuance of an application for a patent made in India on or after the 1st day of January, 1912; or

(ii) in India or elsewhere, in any other document:

Provided that the ground specified in sub-clause (ii) shall not be available where such publication does not constitute an anticipation of the invention by virtue of sub-section (2) or subsection (3) of section 29;

(c) that the invention so far as claimed in any claim of the complete specification is claimed in a claim of a complete specification published on or after the priority date of the applicant's claim and filed in pursuance of an application for a patent in India, being a claim of which the priority date is earlier than that of the applicants claim;

(d) that the invention so far as claimed in any claim of the complete specification was publicly known or publicly used in India before the priority date of that claim.

Explanation.--For the purposes of this clause, an invention relating to a process for which a patent is claimed shall be deemed to have been publicly known or publicly used in India before the priority date of the claim if a product made by that process had already been imported into India before that date except where such importation has been for the purpose of reasonable trial or experiment only;

(e) that the invention so far as claimed in any claim of the complete specification is obvious and clearly does not involve any inventive step, having regard to the matter published as mentioned in clause (b) or having regard to what was used in India before the priority date of the applicant's claim;

(f) that the subject of any claim of the complete specification is not an invention within the meaning of this Act, or is not patentable under this Act;

(g) that the complete specification does not sufficiently and clearly describe the invention or the method by which it is to be performed;

(h) that the applicant has failed to disclose to the Controller the information required by section 8 or has furnished the information which in any material particular was false to his knowledge;

(i) that in the case of a convention application, the application was not made within twelve months from the date of the first application for protection for the invention made in a convention country by the applicant or a person from whom he derives title;

(j) that the complete specification does not disclose or wrongly mentions the source or geographical origin of biological material used for the invention;

(k) that the invention so far as claimed in any claim of the complete specification is anticipated having regard to the knowledge, oral or otherwise, available within any local or indigenous community in India or elsewhere, but on no other ground and the Controller shall, if requested by such person for being heard, hear him and dispose of such representation in such manner and within such period as may be prescribed.

R.55(5): *[Opposition to the patent.] On consideration of the statement and evidence filed by the applicant, the representation including the statement and evidence filed by the opponent, submissions made by the parties, and after hearing the parties, if so requested, the Controller may either reject the representation or require the complete specification and other documents to be amended to his satisfaction before the patent is granted or refuse to grant a patent on the application, by passing a speaking order to simultaneously decide on the application and the representation ordinarily within one month from the completion of above proceedings.] [Substituted by S.O. 1418(E), dated 28.12.2004, for Rules 55 to 57 (w.e.f. 1.1.2005).*

8. On a reading of the above provisions it follows that a pre grant opposition and an application upon examination are both required to be heard separately i.e. under section 25(1) and section 14 respectively. These are distinct, separate and independent stages under the Act. To this extent, the statutory scheme of the Act segregates pre-grant opposition proceedings and examination proceedings under sections 14 – 15 of the Act. The respondent no 1 is not a party to the original proceeding. The respondent no 1 is only a party to the proceeding under 25(1) of the Act. Neither the Act nor the Rules contain any provision for impleading a representor /opponent into the arena of examination under section 14. Rule 55(5) of the Rules provides that the Controller may either reject the representation or require the complete specification and other documents to be amended to his satisfaction before the patent is granted or refused by passing a speaking order in

the opposition proceeding which is to be simultaneously decided alongwith the proceedings under section 14 and 15 of the Act.

9. Since the objections raised in the FER were different from those raised in the representation under section 25(1), the Controller was obliged to provide separate hearings i.e.(i) to deal with the pre-grant opposition and (ii) to deal with the application under examination and then pass separate orders dealing with all the aspects respectively in both cases. Moreso, prior arts were taken into consideration which had not been referred to in the FER. At the examination stage, all the six prior arts cited in the FER were verbatim copies of the documents in the ISR (International Search Report). However, in the pre-grant representation though prior arts D1 and D2 were common to the FER but D3 to D5 were different. Regardless of the merits or demerits of the prior arts, consideration of the same required separate proceedings. In view of the procedural irregularity, the appellant has been denied an opportunity to deal with the remaining 4 (four) prior arts which were not common at the stage of the pre grant opposition. Significantly, the appellant had categorically requested for a hearing in the reply to the FER dated 22 July 2022. This would be evident from the response to the FER. This request for hearing was not acceded to. In such circumstances, there is no merit in the contention that there was no request for hearing as mandated under section 14 of the Act. It is also pertinent to highlight that the document D4 cited by the respondent no.2 in the FER could not be traced on the internet and was specifically brought to the notice of the respondent no. 2 by the appellant through an e-mail dated 14 July 2020. In such circumstances, the respondent no.2 was requested

to provide a copy of the same so that the appellant could respond to the same. However, since there was no response from the respondent no.2, the appellant in the reply to FER mentioned the non-availability of prior art D4. This was never dealt with by the respondent no.2.

10. By passing a single and combined order for both the proceedings conjointly, without a hearing under section 14 there is a serious procedural infirmity which goes to the root of the impugned order and vitiates the same. The scope of the objection was not clear and the appellant was at a loss to rebut the objection raised. [*Gilead Pharmasset, LLC vs. Union of India & Anr. 2015 SCC OnLine Del 7014*]. To this extent, the procedure adopted by the respondent no.2 in passing the impugned order is in violation of the principles of natural justice and defeats the scheme of the Act and Rules framed thereunder.
11. The impugned order also indicates that the respondent no.2 has mechanically adopted the arguments and written submissions in the opposition. The submissions and the data analysis brought on record by the appellant have not been dealt with in the impugned order. There is also an absence of reasons in the impugned order. The appellant had not only filed their submissions but also relied on case laws. In the impugned order, the respondent no.2 has merely taken extracts from the submissions of the respondent no.1 and concluded that “*office is of the same opinion as the opponent’s views*”. As such, there is no independent application of mind by the respondent no.2. It is now well settled that reasons are the soul of all judicial and *quasi judicial* orders.

In *S.N Mukherjee vs Union of India*, (1990) 4 SCC 594 it has been held as follows:

“39. The object underlying the rules of natural justice “is to prevent miscarriage of justice” and secure “fair play in action”. As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. The rules of natural justice are not embodied rules. The extent of their application depends upon the particular statutory framework whereunder jurisdiction has been conferred on the administrative authority. With regard to the exercise of a particular power by an administrative authority including exercise of judicial or quasi-judicial functions the legislature, while conferring the said power, may feel that it would not be in the larger public interest that the reasons for the order passed by the administrative authority be recorded in the order and be communicated to the aggrieved party and it may dispense with such a requirement.”

“40. For the reasons aforesaid, it must be concluded that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

41. We may now come to the second part of the question, namely, whether the confirming authority is required to record its reasons for confirming the finding and sentence of the court martial and the Central Government or the competent authority entitled to deal with the post-confirmation petition is required to record its reasons for the order passed by it on such petition. For that purpose it will be necessary to determine whether the Act or the Army Rules, 1954 (hereinafter referred to as ‘the Rules’) expressly or by necessary implication dispense with the requirement of recording reasons. We propose to consider this aspect in a broader perspective to include the findings and sentence of the court martial and examine whether reasons are required to be recorded at the stage of (i) recording of findings and sentence by the court martial; (ii) confirmation of the findings and sentence of the court martial; and (iii) consideration of post-confirmation petition.”

12. The participation of the respondent no.1 before the Controller is also a serious infraction. A pre grant opposition does not grant a right of audience to any party before the Controller at the examination stage nor does it provide them with a right of participation in an examination proceeding. The examination proceeding is confined to the participation of the applicant and the Controller. There is no provision under Act which allows a third party to be impleaded directly or indirectly during

the stage of examination. To this extent, examination and pre-grant opposition are two separate proceedings under the Act and must be carried out independently. In *Novartis AG vs Natco Pharma Limited and Another (2024 SCC Online Del 152)* it was held as follows:

“129. In summation we deem it apposite to elucidate our conclusions as follows:—

- A. The *examination process* is one which is initiated by the Controller in discharge of the statutory duty and obligation cast upon that authority. The examination of the patent application is a duty cast upon the Controller exclusively and proceeds independent of the objections that may or may not be preferred. While an objection does act in aid of the *examination process*, the same is intended to merely facilitate and assist the Controller in holistically examining the patent application. It does not detract from the independent duty and obligation cast upon the Controller to be satisfied that the application merits grant.
- B. The pre-grant opposition stage opens the floor for eliciting a multitude of opinions extending beyond direct stakeholders to persons opposing the application for varied reasons. It enables the Controller to gather insights from a broad spectrum of sources as opposed to those who may have a direct stake in the matter. The *opposition procedure* structured as above leads to a comprehensive exploration of objections and perspectives aiding the Controller in making an informed decision.
- D. The process is thus an open and participatory exchange ensuring that the evaluation process benefits from views expressed by a diverse body of opponents. While persons interested may also be in the fray, the Controller invites objections for the purposes of ascertaining and eliciting the views of a large cross section of persons who may for varied reasons seek to oppose the grant.
- E. The *opposition process* as envisaged under the Act has a specific and a targeted purpose. Its primary objective is to provide a platform for *any person* to express objections and concerns regarding a patent application. The objections received during the *opposition process* play a crucial role enabling the Controller to have the benefit of diverse views on the question of grant including whether the application should be rejected or if amendments to the complete specifications are warranted. The *opposition process* therefore serves the avowed purpose of allowing external inputs to be placed for the consideration of the Controller enabling it to make a well-informed decision regarding the grant of the patent application.
- F. However, the opposition by itself is not the sole determinative of whether the patent is liable to be granted. This since the mere rejection of the opposition would not inevitably result in the grant of a patent. The rejection of an opposition would not, ipso facto, lead to the grant of the patent or compel and bind the Controller to allow the patent application. Notwithstanding the rejection of an opposition, the Controller is legally as well as statutorily bound to independently examine the patent application based on the FER as well as on its enquiry on whether the patent is liable to be granted in law.
- G. The *examination process* serves a wider and significant objective. This stage involves an in-depth assessment of the patent application, ensuring it complies with the statutory requirements for patent approval and facilitates a thorough and independent evaluation of the application by the examiner and the Controller. Maintaining a clear distinction between the *examination* and the *opposition process* is essential to not only fulfil the underlying objectives sought to be achieved but are also fundamental in ensuring that the sanctity and efficacy of each stage is maintained.
- H. This separation helps in striking a balance between the need for a rigorous examination and the task of including various perspectives in the decision-making process. The *examination process* demands a focused evaluation of the patent application against set legal standards wherein the Controller is tasked with the duty

to ensure that only deserving inventions are granted patent protection. On the other hand, the *opposition process* serves as a forum for external stakeholders or any person to voice concerns and provide valuable insights thus contributing to a more comprehensive evaluation of the patent application.

- I. To merge the process would be to compromise the rigors of examination since external inputs, though valuable, are best considered within the distinct and specific framework of the opposition. Merging these distinct processes would render the entire system unwieldy and counterproductive quite apart from negatively impacting the legislative policy of expeditious consideration. The separation, thus, subserves the legislative intent and allows for a more structured and organized approach where objections from various sources are factored in without disrupting the streamlined process of examination of the patent application.
- J. The “*hearing*” that is contemplated in Rule 55 clearly appears to be confined to the representation alone, a position which clearly emerges upon a conjoint reading of sub-rules (3), (4) and (5). It is pertinent to note that sub-rule (3) visualizes the applicant being placed on notice if the Controller “*on consideration of the representation*” be “*of the opinion*” that the application for patent should either be refused or the complete specification amended. The process of a hearing thus gets triggered upon the Controller on a consideration of the representation being of the opinion that the opponent has raised issues which either warrant the patent application being rejected or the specification being amended. Once the Controller is satisfied that the representation raises questions worthy of consideration, it would proceed to place the applicant on notice enabling it to file its statement and evidence.
- K. However, these proceedings are unconcerned with issues that the Controller may have flagged in the course of the *examination process*. Thus, the right to oppose and to be heard is indelibly pivoted to the representation for opposition as distinct from questions that may arise from the FER or those that the Controller may identify as germane and material in the *examination process*.
- L. It is also relevant to note that the opponent can claim a right of hearing only if the Controller is satisfied and is of the opinion that the representation merits consideration. A mere filing of a representation would not prompt or precipitate issuance of notice under Rule 55(4). The matter becomes contentious only once the Controller takes cognizance of the representation and issues notice to the applicant. It is at that stage and for the aforesaid reasons that the principles of natural justice become applicable.
- M. It is thus apparent that the right of hearing that is contemplated in Rule 55(5) is one which is concerned solely with the adjudication and disposal of the representation for opposition. The opponent cannot be countenanced to have a right of hearing in the *examination process* merely because the statute confers such an opportunity at the stage where the Controller is considering the representation. While the pre grant opposition indisputably facilitates the decision-making function of the Controller, we find ourselves unable to accept the contention that the opponent must consequentially be recognised to have the right of participation or audience in the *examination process*.
- N. We are also convinced that the statutory scheme as articulated by us above does not amount to either a denial or exclusion of the natural justice principles as was contended by the respondents. As was noted in the preceding parts of this decision, the opponent stands conferred a right to raise objections once the application is advertised. However, the *examination process* comprises of an independent evaluation and assessment of the patent application. The said exercise is not dependent upon an objection that may be raised. The provisions contained in Chapter IV of the Act do not envisage opponents or objectors being accorded an audience either before the examiner or the Controller. Consequently, the question of denial of a right of hearing does not arise at all.
- O. The invocation of the doctrine of the principles of natural justice being liable to be read into the statute in the absence of an express exclusion is equally misconceived when one bears in mind the scheme underlying Chapter IV. The provisions enshrined in that part are fundamentally concerned with the examination and evaluation of the

patent application by the examiner and the Controller. That is an obligation placed upon the Controller and one which is disassociated from opposition proceedings which form the subject matter of Chapter V.

- P. As we observed earlier, the rejection of an opposition would not ipso facto lead to the grant of a patent. The statute in any case neither deprives a person from opposing the grant nor does it leave an interested person with a *fait accompli*. The rights of interested persons stand sufficiently safeguarded and preserved by Section 25(2). In both contingencies, the opponent can claim and is in fact conferred a right of hearing compliant with the principles of natural justice.
- Q. More fundamentally, the right of hearing as asserted by the respondents proceeds in ignorance and disregard of the nature and extent of the *opposition process*. We have already held that the representation for opposition is principally aimed at aiding and facilitating the examination of the patent application. The representation is per se neither adversarial nor contentious. The pre grant opponent merely aids the Controller in a holistic examination of the patent application. Secondly, the opposition in any case is confined to the grounds specified in Section 25(1). It is thus obligatory for the Controller to hear the opponent on the grounds of challenge that are raised. We fail to appreciate how the objector could claim a right of hearing in respect of grounds which were neither raised nor urged at its behest. It is this which convinces us to hold that the opponent can assert a right of hearing only in respect of the representation and cannot be recognised to have a right to intervene in the *examination process*.
- R. In opposition proceedings, the focus primarily is on the grounds brought forward by the opponent, confining its examination to the issues raised in the opposition. This examination is triggered by information that emerges and is deemed prima facie to affect the application for grant and the claim for a patent. Thus, the significance of opposition lies in its role in aiding the Controller in conducting a comprehensive examination of the patent application.
- S. Unlike an adversarial process, the opposition merely contributes to the overall assessment of the patent application and thus would not sustain a right of hearing being claimed in the *examination process*. The opponent's right to a hearing is circumscribed by the grounds specified in Section 25(1). The right of hearing is tethered to the grounds articulated in the opposition, ensuring that the opponent has a platform to present arguments and evidence in connection with the challenges they have raised. This reinforces our view that the opponent's right to a hearing pertains specifically to the representation stage and does not grant them the entitlement to intervene in the broader *examination process*.
- V. We find that the impugned judgment failed to test the allegation of violation of the natural justice principles on the bedrock of prejudice and manifest injustice. It also failed to bear in consideration the highly belated objection which was preferred by Dr. Kanchan Kohli, a day after the closure of hearing on PGOs and for which no plausible explanation was proffered. Bearing in mind the legislative mandate of Section 43(1), the Controller as well as Courts would be well advised to ensure that the pre grant opposition right is not abused and the *examination process* inordinately delayed or derailed by the filing of serial objections.
- W. The learned Single Judge also misconstrued the Rule 55 hearing and which stands confined to the objections that may come to be preferred. The aforesaid Rule cannot be interpreted or recognised as seeking to either accord a participatory role upon the objector in the *examination process* or conferring a right to be heard in the course thereof.
- X. For reasons noted in the body of this judgment, we are of the firm opinion that the *examination* and *opposition process* though statutorily structured to proceed parallelly are independent and separate. It would be wholly incorrect to understand the provisions of the Act and the Rules as contemplative of convergence or merger."

13. It was also contended by the respondent no. 1 that the ground of sufficiency under Section 10(4)(a) mandates that the specification must enable the invention to be performed to the full extent of the monopoly claimed and on this ground the invention was liable to be rejected under Section 10(4)(a) of the Act. However, the impugned order has not been passed on the ground of insufficiency but on the ground of lack of inventive steps under Section 2(j)(a) and being an admixture under Section 3(e). The insufficiency objection though raised in the FER was later waived by the Controller. In view of the scheme of the Act and the pre-grant opposition, the respondent no. 1 has no *locus* to agitate such objection in this appeal and is barred from doing so. To this extent, the decision cited on behalf of the respondent no. 1 in *Caleb Suresh Motupalli Vs Controller of Patents*: Judgment dated 29.01.2025 passed in *CM.A. (PT) No. 2 of 2024* Madras High Court and *The Regents of the University of California Vs. The Controller of Patents: 2025:DHC:1105* are inapplicable.
14. In view of the serious procedural infirmity, all remaining questions on merits require no consideration. Regardless of the practicality in passing a composite order in appropriate cases, in the facts of this case a separate hearing both under sections 25(1) and 14 should have been granted to the appellant. The impugned order also fails to indicate the portion of the order dealing with section 15 and section 25(1) respectively. Since the respondent authorities decided to pass a common order under section 15(1) and under section 25(1) of the Act it was necessary that the order indicates which portion of the order relates to section 15 and which portion relates to Section 25(1) of the Act. Such

a practice ensures that a common order deals with objections both under section 14 and under section 25(1) of the Act and makes the same readily identifiable. In such circumstances, both on the ground of procedural impropriety as well as violation of the principles of natural justice it would be appropriate to remand the matter for hearing afresh. [*Gilead Pharmasset, LLC vs. Union of India & Anr. 2015 SCC OnLine Del 7014*]. Being fully mindful that a remand should be exercised only in exceptional cases, in cases where there is a clear violation of principles of natural justice and procedural impropriety discretion always vests with the Court to remand a matter for effective adjudication to an Expert Tribunal. [*Klassic Wheels Private Ltd. Vs The Assistant Controller of Patents and Designs and Anr. 2018 SCC OnLine Cal 3387 and F. Hoffmann-LA Roche AG and Another Vs NATCO Pharma Limited 2025 SCC OnLine Del 6390*].

15. In the above circumstances, IPDPTA 116 of 2023 stands allowed. The matter is remanded to a different Controller for re-consideration of the application afresh after giving the parties an adequate opportunity of hearing and considering all the materials brought on record. It is made clear that the Court has not gone into the merits of the case and all points on merits are left open for the respondent authority to decide afresh in accordance with law within a period of twelve weeks from the date of communication of this order.

(Ravi Krishan Kapur, J.)