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CMA(PT) No. 36 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-06-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CMA(PT) No. 36 of 2024

Lev- El Diagnostics Of Heart Diseases Ltd
P.O.Box 357 Kibbutz Shefayim 6099000 Israel.

..Petitioner(s)

Vs

Controller of Patents and Designs
Government of India, Patent Office, Intellectual
Property Rights Building GST Road, Guindy,
Chennai 032

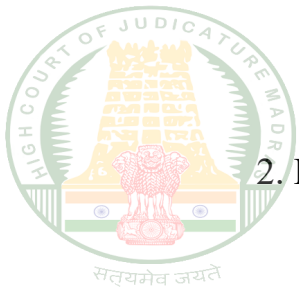
..Respondent(s)

PRAYER:- Civil Miscellaneous Appeal filed under Section 117A of the Patents Act, 1970 against the order of the Controller of Patents and Designs to call for the records of the Respondent culminating in the Impugned order dated 01.04.2024 rejecting the Grant of Patent and Set Aside the same and consequently direct Grant of the Patent in respect of the Appellants Application No. 1699/CHENP/2013.

For Petitioner(s):	Mr.Rahul Balaji
For Respondent(s):	Ms.A.Anuradha, CGSC

JUDGMENT

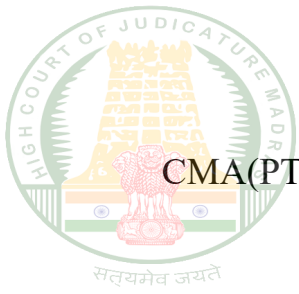
The present Civil Miscellaneous Appeal had been filed challenging the order of the Controller of Patents and Designs in the Impugned order dated 01.04.2024 rejecting the Grant of Patent and consequently direct Grant of the Patent in respect of the Appellants Application No. 1699/CHENP/2013.



2. Heard the learned counsels appearing on either side.

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3. Learned counsel appearing for the applicant would submit that in an application for patent filed by the appellant, an amendment was sought for in an application seeking amendment. He would submit that the authority namely the respondent herein without assigning any reasons whatsoever for rejecting the amendment as envisaged under Section 59, had held that the significant change in the scope of the claim cannot be allowed to enlarge the original claim, that too without any reasons as to how such amendments seek to significantly change scope of the original claim. He would submit that the respondent had recorded the independent claims as originally filed and had also set-out the amended claims in the order impugned. Having done so, the respondent had failed to analyse the original claim vis-a-vis the amended claims to come to a conclusion that the amendment had enlarged the scope of the original claims and hence, the orders suffers from unreasonableness and smacked with arbitrariness being a colourable exercise of power. He would submit that Section 57 of the Patent Act permits amendments and such amendments should be in consonance with Section 59 of the Act. He would submit that the respondent had failed to perform a statutory obligation in considering the amendment in proper prospective and had rejected the claim of the appellants. In that context, he would also rely upon the judgment of this Court in

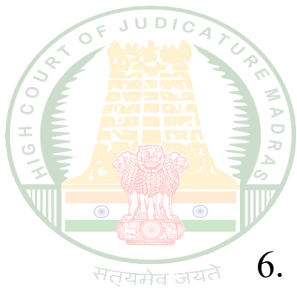


CMA(PT).No.64 of 2024 dated 20.03.2025.

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4. Countering his arguments, learned Standing Counsel appearing on behalf of the respondent would submit that a categorical finding had been given by the respondent indicating that the amendments sought for had not confined itself to the scope of the original application. Hence, the same contravenes the Provisions of Section 59 of the Act. She would submit that the original claim discloses a specific method of calculating a parameter based upon analysing peak intervals between the heart beat and the serious ECG measurements likely for research purposes. However, the amendment discloses a complete system for real-time HRV monitoring and potential treatment using a two dimensional coordinate system to achieve a comparison with reference values linked to a medical conditions suggesting a clinical application for risk assessment and potentially guiding treatment decisions.

5. In such view of the matter, she would submit that parameters in the amendments sought for travels beyond the scope of the original application. In such view of the matter, she would submit that there is no infirmity or illegality in the order impugned in this appeal and had also relied upon the judgment of the High Court of Delhi in the case of *Nippon A&L INC Vs The controller of Patents (C.A.(COMM.IPD-PAT)11/2022)*.



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6. I have considered the submissions made by the learned counsels appearing on either side and perused the materials available on record.

7. The patent sought for had been refused primarily on the ground that the amendment that had been sought for travels beyond the scope of the original application for patent by placing reliance upon Section 59 of the Patents Act. The reason attributed by the respondent is that the original claim for which the patent was likely for research purpose and the present amendment is sought for such as clinical application for potentially guiding treatment decisions.

8. A reading of the original application would indicate that the invention purported to be patented was on the reason that there are excessive variations among different practitioners in the effective rate of ICD implantation and proper breath therapy in the view of the identification of inadequate risk stratification. The claims made based upon the brief summary of the invention was that the patent is for a method for measuring heart rate variability by calculating the HRV a relative density parameter and including providing of treatment. Even, under the impugned order, the respondent had arbitrarily recorded that the original claim was only for research purposes and the amended claim discloses suggestion of clinical application for risk assessment and



potentially guiding treatment decisions. To reject the application, this finding in the considered view of the Court is without proper appreciation of the original claim vis-a-vis the amended claim.

9. In such view of the matter, this Court is of the view that the scope of the claim remains the same. In view of the same, the impugned order 01.04.2024 rejecting the Grant of Patent is set aside and the matter is remanded for reconsideration on the following terms:

(a) In order to preclude the possibility of pre determination , an officer other than the officer who issued the impugned order shall undertake re-consideration.

(b) After providing a reasonable opportunity to the appellant, a reasoned decision shall be issued within a period of four months from the date of receipt of a copy of this order.

(c) For the avoidance of doubt, it is made clear that no observation has been made on the merits of the patent application.

10. On the above terms, this Appeal is disposed of. However, there shall be no order as to costs.

23-06-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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