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

+ W.P. (C) No. 3059/2020

INTELLECTUAL PROPERTY ATTORNEYS ASSOCIATION

(IPAA) AND ANR.

..... Petitioners

Through Mr. Chander M. Lall, Sr. Adv. With
Ms. Archana Sahadeva, Mr.
Gurvinder Singh, Ms. Nancy Roy,
Mr. Rahul Vidhani and Mr. Gaurav
Miglani, Advocates.

versus

THE CONTROLLER GENERAL OF PATENTS, DESIGNS AND
TRADE MARKS AND ANR. Respondents

Through Mr. Harish Vaidyanathan Shankar,
Advocate for respondent Nos. 1 & 2.
Mr. Akhil Mittal, Standing Counsel
for respondent No. 3.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER
21.05.2020

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CM APPL. No. 11245/2020 (Exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

CM APPL. No. 11244/2020 in W.P. (C) No. 3059/2020

1. Hearing has been conducted through Video Conferencing.
2. Present application has been filed by the Petitioner seeking quashing of Public Notice dated 18.05.2020 and restraining the Respondents from

acting on it. Further direction is sought to Respondent No. 1 to issue a clarificatory Public Notice for all IP Statutes, in compliance of the Order passed by the Supreme Court on 23.03.2020 in *Suo Moto*, Writ Petition (Civil) No. 3/2020.

3. Mr. Chander M. Lall, Learned Senior Counsel appearing on behalf of Petitioners submits that Supreme Court took *Suo Moto* cognizance of the adverse situation arising out of the Pandemic Covid-19, resulting in difficulties faced by the litigants across the Country in filing their petitions, applications etc. within the period of limitations, prescribed under the various Statutes. Accordingly, on 23.03.2020, Supreme Court extended the limitation periods prescribed under General Law or Special Law, w.e.f. 15.03.2020, till further order/s to be passed by the Supreme Court, in the said petition.

4. Learned Senior Counsel further points out that the present petition had been filed by the Petitioners challenging Public Notices dated 23.03.2020, 25.03.2020, 15.04.2020 and 04.05.2020 issued by Respondent No. 1. The Notices pertained to limitation period/extension of timelines in relation to various pleadings/filings to be done under various IP Statutes in the Country. Respondent No. 1 had Notified that all due dates of timelines prescribed under different IP Acts and Rules, with respect to filing of any reply/document, payment of fees etc. regarding any IP application would be 18.05.2020. Relying on the Order dated 23.03.2020, passed by Supreme Court, the present petition was allowed vide order dated 11.05.2020 and operation of the Public Notice dated 04.05.2020 was suspended.

5. Mr. Lall, Learned Senior Counsel submits that despite the Order of the Supreme Court and of this Court, respondent No. 1 has issued the

impugned Notice, whereby, deadlines falling between 15.03.2020 and 17.05.2020 have been extended to 01.06.2020, while timelines from 18.05.2020 and onwards have not been extended. This essentially implies that failure to meet the timelines would result in valuable rights of the stakeholders, being adversely affected.

6. It is argued that the impugned Notice is in complete violation of the Directions issued by the Supreme Court on 23.03.2020 and this Court on 11.05.2020. No Court, Tribunal or Authority has the power to fix outer timelines of limitation under any Statute until further orders of the Supreme Court.

7. It is argued that merely because a skeletal staff is now working in the various IP Offices, under the administrative control of Respondent No. 1 cannot lead to a conclusion that the lockdown has ended. Respondent No. 1, by not extending the timelines expiring on 18.05.2020 and thereafter, has put the Litigants and the Attorneys in a jeopardy by forcing them to move out of their houses and file oppositions/counter statements/evidences etc. at the IP Offices in order to avoid the applications, oppositions, rectifications being abandoned. Even the extension of limitation between 15.03.2020 and 17.05.2020 to an outer timeline of 01.06.2020 is placing enormous burden of the stakeholders, as the window is too narrow.

8. Learned Senior Counsel contends that reliance in the impugned Notice on the Order passed by the Supreme Court on 06.05.2020, is wholly misplaced as the said Order was passed only in the context of the Arbitration and Conciliation Act, 1996 and the Negotiable Instruments Act.

9. Issue notice.

10. Mr. Harish Vaidyanathan accepts notice on behalf of Respondent

Nos. 1 and 2 and Mr. Akhil Mittal accepts notice on behalf of Respondent No. 3.

11. Mr. Harish Vaidyanathan, seeks to defend the impugned Notice. During the course of hearing Mr. Vaidyanathan has handed over a copy of Public Notice issued on 20.05.2020 and submits that petitions (without fee) under Sub-Rule (6) of Rule 6 of Patents Rules have been provisioned through E-filing mode and it is also be Notified that delay in transmitting or re-submitting documents to the Patent Office may be condoned / timeline be extended by the Controller on a petition made in that respect.

12. I have heard the learned counsels for the parties.

13. In the wake of the pandemic Covid-19, Supreme Court took Suo Moto cognizance of the difficulties and challenges faced by litigants in filing petitions/appeals /suits and other proceedings within the timelines laid down by various Statutes and passed an Order on 23.03.2020 extending the limitation prescribed under the General Law or the Special Law. Relevant part of the order reads as under:-

“This Court has taken Suo Motu cognizance of the situation arising out of the challenge faced by the country on account of Covid-19 Virus and resultant difficulties that may be faced by litigants across the country in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation prescribed under the general law of limitation or under Special Laws (both Central and/or State)

*To obviate such difficulties and to ensure that lawyers/litigants do not have to come physically to file such proceedings in respective Courts/Tribunals across the country including this Court, it is **hereby ordered that a period of limitation in all such proceedings, irrespective of the limitation prescribed under the general law or Special Laws***

whether condonable or not shall stand extended w.e.f. 15th March 2020 till further order/s to be passed by this Court in present proceedings.”

14. Plain reading of the order dated 23.03.2020 makes it clear that the Supreme Court has extended the periods of Limitation in respective proceedings, irrespective of the Limitation period prescribed under the General Law or any Special Statute and the extension is to continue until further orders passed by the Court in the said petition. It is thus not open to any Court, Tribunal or Authority to impose timelines on the Limitation period, even if it is prescribed under a Special Statute. The order of the Supreme Court is as much binding on Respondent No.1 as on any other Court or Tribunal. It is not understood what prompted Respondent No.1 to issue the impugned Public Notice in the backdrop of the order dated 23.03.2020 as also order dated 11.05.2020 passed by this Court suspending the operation of its earlier Notice dated 04.05.2020, issued on similar lines.

15. Respondent No. 1 is directed to file an affidavit within a period of two weeks, in response to the present application. Rejoinder, if any, be filed by the Petitioners before the next date of hearing.

16. In the meantime, the operation of Public Notice dated 18.05.2020 and Public Notice dated 20.05.2020 is stayed, until further orders of this Court.

17. List on 17.06.2020.

JYOTI SINGH, J

MAY 21, 2020

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