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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **C.A.(COMM.IPD-PAT) 26/2025 & I.A. 7438/2026**

E3D A.C. A. L.

.....Appellant

Through: Mr. Vineet Rohilla and Ms. Gurneet Kaur, Advocates.

versus

ASSISTANT CONTROLELR OF PATENTS AND DESIGNS

.....Respondent

Through: Ms. Nidhi Raman, CGSC with Mr. Om Ram and Ms. Nikita Singh, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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29.04.2026

1. This appeal is filed on behalf of the Appellant under Section 117A (2) of the Patents Act, 1970 ('1970 Act') challenging order dated 27.01.2025 passed by the Respondent refusing grant of patent in Indian Patent Application No. 202217035565 as also for a direction to the Respondent to grant the patent.
2. Appellant filed the subject application as a National Phase Application on 16.02.2021 having PCT International Application No. PCT/IL2021/050182 and claiming priority from US Patent Application No. 62/977,746 dated 18.02.2020. On 21.06.2022, subject application was filed before Indian Patent Office and allotted Application No. 202217035565 for grant of patent in respect of invention titled 'MULTIPLE USE COMPUTERIZED INJECTOR'. Request for Examination was filed by the Appellant on 14.02.2023 and First Examination Report ('FER') was issued



by IPO on 16.08.2023, to which response was filed by the Appellant on 16.02.2024 along with amended claims 1-13. Appellant was heard on 25.09.2024, whereafter written submissions were filed on 08.10.2024 with amended claims 1-10. By impugned order dated 27.01.2025, Respondent refused the application on grounds of lack of inventive step, lack of sufficiency of disclosure and clarity.

3. During the pendency of this appeal, Appellant filed an application being I.A. No. 7438/2026 seeking permission to amend the claims of the subject application and take on record auxiliary set of claims filed as 'Appendix-A' to the application, without prejudice to the grounds raised in the present appeal and without accepting the correctness of the impugned order.

4. Learned counsel for the Appellant submits that by the proposed amendment, Appellant seeks to further narrow down the scope of independent claims 1 and 6 by introducing the features and clarifying that *'wherein said cassette assembly is axially received into said housing along said longitudinal axis; and wherein said cassette assembly is configured to be fully detached from said housing'*. It is urged that the proposed amendment is supported by original claim 5 and figure 15A and its corresponding descriptions at pages 24-25 of the complete specification as well as embodiment described at page 6, lines 17-18 and 21-22 thereof and therefore does not introduce any new matter and the scope of amended claims falls completely within the scope of originally filed claims. Consequent to the amendment, Appellant proposes deletion of claim 5 and renumbering of former claims accordingly. It is also submitted that amendment is by way of disclaimer and explanation and is not prejudicial to



any third party.

5. It is further submitted that proposed amendment merely restricts the scope of independent claims 1 and 6 and is permissible under Section 59(1) of 1970 Act. It is settled law that a party must be allowed to adduce evidence, which best represents its case and therefore, the amendment be allowed and auxiliary set of claims be taken on record in the interest of justice.

6. Ms. Nidhi Raman, learned CGSC appearing for the Respondent submits that there is no infirmity in the impugned order and insofar as the proposed amendment is concerned, the same cannot be allowed as there is no provision under 1970 Act to include the auxiliary claims. This submission is strenuously refuted by counsel for the Appellant and it is urged that this Court has in several judgments permitted amendments to include auxiliary claims. In this context, reliance is placed on the judgments of this Court in ***Daikin Industries Ltd. v. Assistant Controller of Patents and Designs*** in ***C.A. (COMM. IPD-PAT) 56/2024*** decided on 26.02.2026 and ***Fresenius Medical Care Deutschland GmbH v. Controller General of Patents, Designs and Trademarks and Another, 2025 SCC OnLine Del 2721***.

7. Heard learned counsels for the parties.

8. There is no dispute that Section 59 of 1970 Act deals with amendment of patent applications, which includes amendment to complete specification *albeit* with a rider that amendment can be made only by way of disclaimer, correction or explanation and has to be for purpose of incorporation of actual facts. Amendment cannot be in respect of matters not disclosed in the specification prior to the amendment and amended claims must fall within



the scope of claims as originally filed. It is settled that even at the appellate stage, amendments can be allowed if they are otherwise tenable in law. In the present case, Appellant seeks permission to carry out the proposed amendment. Looking at the nature of amendment sought, I am of the view, that it would be appropriate if the Respondent decides the proposed amendment since it would require technical expertise.

9. Accordingly, without expressing any opinion on the merits of the case, this appeal is disposed of with a direction to the Respondent to consider the amendment application in accordance with law and depending upon the outcome, decide the patent application afresh.

10. The decision will be taken by the Respondent within eight weeks from today after giving an opportunity of hearing on the amendment application to the Appellant. In case the amendment is allowed, Respondent shall proceed to hear arguments on the application for grant of patent on the amended claims and take a decision within two months from the date of decision on the amendment application.

11. Pending application stands disposed of.

JYOTI SINGH, J

APRIL 29, 2026/RW