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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ C.O.(COMM.IPD-PAT) 3/2021, I.A. 5878/2023, I.A. 17475/2023 &
I.A. 20877/2025

MSN LABORATORIES PVT. LTD.Petitioner
Through: Mr. Rahul Bhujbal, Advocate.

versus

THE CONTROLLER OF PATENTS & ANR.Respondents
Through: Mr. Syed Abdul Haseeb, CGSC with
Mr. Muhammad Aamir Khan,
Advocates for R-1.
Mr. Ramesh Singh, Senior Advocate
with Dr. Sanjay Kumar, Ms. Arpita
Sawhney, Ms. Pallavi Kiran, Mr. Arun
Kumar Jana, Ms. Akshita Prasad, Ms.
Pratiksha Varshney and Ms. Atiksha
Girdhar, Advocates for R-2.

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
24.03.2026

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1. Learned counsel for the petitioner has handed over the judgment of the learned Division Bench in an appeal bearing no. *LPA 129/2025* titled "*Boehringer Ingelheim Pharma GMBH and CO KG vs. The Controller of Patents & Anr*" in which the following two questions were raised i.e. (A) *Whether a revocation petition, under Section 64 of the Patents Act, 1970, can be instituted or can survive after the petitioner has pleaded invalidity of the patent, of which revocation is being sought, as a defence under Section 107(1) of the Patents Act, in a suit instituted by the patentee against it?* and; (B) *Whether a revocation petition can be instituted or can continue after the patent, of which revocation is being sought, has expired?*", and have been answered in



para 90 of the said judgment as under:

“90. We therefore, agree with the learned Single Judge on both the issues framed by him. More particularly, we hold that

(i) a revocation petition would be maintainable, and would continue to survive, even after the patent of which revocation is sought expires by efflux of time, and

(ii) a revocation petition can be instituted even after a Section 107 invalidity defence is taken in the infringement suit.”

2. The said judgment is taken on record.

3. As against the judgment dated 24.02.2026 passed by the learned Division Bench in the aforesaid appeal, Mr. Ramesh Singh, learned senior counsel for respondent no.2 submits that a Special Leave Petition has been filed on 16.03.2026 and is likely be listed in the next four weeks.

4. Having regard to the fact that the same issue has already been challenged by the respondent no.2 before the Supreme Court, it would be appropriate to await the orders which may pass therein.

5. Accordingly, list on 13.07.2026.

TUSHAR RAO GEDELA, J

MARCH 24, 2026

Sumit