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

+ **C.A.(COMM.IPD-PAT) 268/2022 & I.A. 24364/2023**

PROCTER AND GAMBLE COMPANY Appellant

Through: Mr. Hari Subramaniam & Mr. Sanuj
Das, Adv. (M: 9899844920)

versus

CONTROLLER OF PATENTS AND DESIGNS Respondent

Through: Mr. Harish Vaidyanathan Shankar,
CGSC, with Mr. Srish Kumar Mishra,
Mr. Sagar Mehlawat and Mr.
Alexander Mathai Paikaday, Advs.
(M: 9810788606)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **06.12.2023**

1. This hearing has been done through hybrid mode.
2. This is an appeal filed by the Appellant- The Procter & Gamble Company under Section 117A of The Patents Act, 1970 challenging the impugned order dated 8th October, 2018, passed by the Respondent- Controller of Patents and Designs. Vide the said order the Appellant's patent application titled '**A *DETERGENT COMPOSITION COMPRISING LIPASE VARIANT***' bearing Indian Patent Application No. **5444/DELNP/2007**, having a priority date of 22nd February, 2005 was refused. The patent was refused on the ground of lack of inventive step under Section 2 (1)(ja) of The Patents Act, 1970, citing two prior art D1 & D2.
3. The submission of Mr. Hari Subramaniam, ld. Counsel for the



Appellant is that the order was passed by the Deputy Controller, four years after the hearing took place on 29th September, 2014. It is, further, emphasized that on 5th October, 2018, certain clarifications were sought from the Applicant which was a Friday and before the Applicant could even respond to the same, the decision came on the next working day *i.e.*, on Monday, 8th October, 2018. He further submits that under Section 8(2) which was the subject matter of the notice dated 5th October, 2018, the Applicant has six month's time to respond to the email of the patent office. However, without waiting for the reply the patent was refused on the ground of lack of inventive step. It is his submission that the impugned order is not sustainable on these grounds as the same is contrary to the principles of natural justice.

4. Ld. counsel for the Respondent to seek instructions.
5. List on 8th December, 2023.

PRATHIBA M. SINGH, J.

DECEMBER 06, 2023

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