India

“Sukesh Behl v. Phillips”

**Decision of the High Court of Delhi at New Delhi
7 November 2014 – Case FAO(OS) No. 16**

*Maj. (Retd.) Sukesh Behl & Anr. v. Koninklijke Phillips
Electronics*

Patents Act 1970, Secs. 8, 12, 64(1)(m)

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Keywords Patent revocation · Provision of details · Re-application in a foreign country

1. It is mandatory to comply with the requirements under Sec. 8(1) of the Patents Act and non-compliance of the same is one of the grounds for revocation of the patents under Sec. 64(1)(m). However, the fact that the word “may” is used in Sec. 64(1) itself indicates the intention of the legislature that the power conferred thereunder is discretionary. It clearly confers a discretion upon the authority/Court while exercising the power of revocation.
2. Therefore, though any violation of the requirement under Sec. 8 may attract Sec. 64(1)(m) for revocation of the patent, such revocation is not automatic.
3. It is always open to the Court to examine the question whether the omission to furnish the information required in accordance with Sec. 8(1) was deliberate or intentional. The revocation follows only if the Court is of the view that the omission to furnish the information was deliberate.