

(2022) 09 CHH CK 0067

In the Chhattisgarh High Court

Case No : Writ Appeal No. 309 Of 2021, 438 Of 2022

Amit Kumar Jaiswal

APPELLANT

Vs

Chhattisgarh State Co-Operative Tribunal

RESPONDENT

Date of Decision : 30-09-2022

Acts Referred:

Chhattisgarh State Co-operative Societies Act, 1960 — Section 78, 78(1)(b)
General Clauses Act, 1897 — Section 6, 6(c), 6(e)
Securities and Exchange Board of India Act, 1992 — Section 15Z

Citation : (2022) 09 CHH CK 0067

Hon'ble Judges : Arup Kumar Goswami, CJ;Deepak Kumar Tiwari, J

Bench : Division Bench

Advocate : Dilip Kumar Swain, Aman Saxena, R. Pradhan, Prafull N. Bharat, Jitendra Shrivastava, Mayank Chandrakar

Final Decision : Allowed/Dismissed

Judgement

Deepak Kumar Tiwari, J

1. The aforesaid Writ Appeals are being disposed of by this common judgment, as common law point is involved for adjudication. For the purpose of disposal, facts pleaded in Writ Appeal No.309/2021 are being dealt with.

2. The Appellant has preferred Writ Appeal No.309/2021 challenging the order dated 9.8.2021 passed by the learned Single Judge in WPS No.3735/2021, whereby the learned Single Judge has dismissed the writ petition and affirmed the impugned order (Annexure-A/1) dated 5.7.2021 passed by the Chhattisgarh State Cooperative Tribunal (henceforth 'the Tribunal') by observing that the Appellate Forum is expected to take an early decision in the appeal considering the fact that the order of the Joint Registrar in favour of the petitioner was passed as early as in December, 2009.

3. Vide impugned order, the Tribunal has returned the appeal to the Appellant for being placed before the Appellate Authority in view of recent amendment

brought into the Chhattisgarh State Cooperative Societies Act, 1960 (for short 'the Act').

4. Facts of the case are that respondent No.2 herein had preferred an appeal before the Tribunal challenging the order of the Joint Registrar dated 27.12.2019. Vide the said order dated 27.12.2019, the Joint Registrar had allowed the application of the petitioner granting the benefit of reinstatement. Though, the appeal was filed as early as on 22.01.2020, it could not be registered and it came up for registration only on 05.07.2021. Meanwhile, the Chhattisgarh State Co-operative Societies Act, 1960 was amended vide amendment dated 14.10.2020 and a new channel of appeal was provided arising out of an order from the Joint Registrar under Section 78 (1)(b). The next channel of appeal from the order of Joint Registrar was provided to the Registrar or the Additional Registrar duly authorized by the Registrar. By virtue of the amended provision brought to Section 78 of the aforesaid Act of 1960 when the appeal of the respondent No. 2 came up for registration on 05.07.2021, the Tribunal took a decision that in the light of the amendment to the Act, the appeal henceforth would lie before the Registrar or the Additional Registrar, as the case may be, and the Tribunal as such did not have the jurisdiction subsequent to the amendment and the appeal was returned to be presented before the appropriate Appellate Authority.

5. Submission of the appellant before the writ Court was that on the date when the respondent No. 2 had preferred an appeal i.e. on 22.01.2020, the Act was not amended and the Appeal as such was maintainable before the Tribunal alone. It is the further contention of the appellant that since the appeal was preferred before the amendment, the amendment and the channel of remedy provided by way of an amendment could not be given a retrospective effect and to that extent, the order of Tribunal Annexure A/1 is bad. Reliance was placed in the matter of Videocon International Limited Vs. Securities and Exchange Board of India {(2015) 4 SCC 33} dealing with the aspect of the jurisdiction in the light of an amendment to a provision of law.

6. At this stage, this Court deems it appropriate to reproduce the relevant paragraphs of the order passed by the learned Single Judge.

"10. Given the said factual backdrop, since on the date of registration or date of hearing i.e. on 05.07.2021, the Tribunal didn't have the jurisdiction to hear an appeal arising out of an order of the Joint Registrar. The Tribunal has rightly returned the appeal to be presented before the concerned Appellate Forum.

11. As the regards the judgment cited by the counsel for the petitioner, the same was passed under an entirely different contractual backdrop and where there was a set of appeals already heard and admitted filed by different petitioners, only because one of the appeals was filed subsequent to the amendment and it got dismissed on the ground of jurisdiction in the light of the amendment provision. The view of the Hon'ble Supreme Court was that it could not have been rejected

particularly when others have been entertained arising out of the same order.

12. As regards, the applicability or the retrospective effect of the amendment, the view of this Court is that since by virtue of the amendment, a new Forum of appeal has been prescribed, if the parties are not permitted to avail the said forum of appeal and the Tribunal continues to entertain appeal, even if it is in-respect-of orders which was passed prior to the amendment, it may lead to one of the parties being deprived of a right of further appeal which is otherwise provided under the statute created by virtue of the amendments.

13. As regards, the contention of the counsel for the petitioner that the Tribunal is still seized of all those appeals which were registered before the amendment came into force. All that this Court at this juncture can observe is that this Court in the present writ petition would be confined to the impugned order under challenge in the present writ petition. Right of the parties in all those matters stands reserved for raising it before the Tribunal, if at all if they intend to and get appropriate order or relief accordingly, those decisions which would still be assailable by the aggrieved person. This Court exercising the limited writ jurisdiction in the present writ petition would not be in a position to comment upon and decide the fate of those matters which are pending before the Tribunal particularly, when the parties to those disputes are not before this Court in the present petition.

14. Given the said observations, this Court does not find any jurisdictional, error or an illegality on the part of the Tribunal in the course of passing the impugned order (Annexure A/1) dated 05.07.2021. The writ petition fails and is accordingly dismissed.”

7. We have heard learned counsel for the parties at length and perused the record.

8. Shri Swain, learned counsel appearing on behalf of the appellant in WA No.309/2021 would submit that the order passed by the writ Court that on the date of hearing i.e. on 5.7.2021, the Tribunal had no jurisdiction to hear the case is not proper. He would further submit that the amendments are always prospective unless there is a specific mention about its retrospective application. Shri Aman Saxena, learned counsel appearing on behalf of the appellant in WA No.438/2022 would place reliance on the judgment of the Hon’ble Supreme Court in the matter of CIT Vs. Dhadi Sahu 1994 Supp (1) SCC 257.

9. Per contra, Shri Bharat, learned Senior Advocate appearing on behalf of respondent – Jila Sahkari Kendriya Bank Maryadit, Bilaspur, contended that the appellant may have a vested with a right of action, but not vested with right of Forum. He has placed reliance on the judgments of the Hon’ble Supreme Court in the matters of New India Assurance Co. Ltd. v. Shanti Misra (1975) 2 SCC 840, Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto (1979) 1 SCC 92, Videocon International Limited (Supra), and Abhyudaya Kumar Shahi v. Bharat Pradhan Filling Centre (2022) 6 SCC 522.

10. The moot question for consideration before this Court is whether the Chhattisgarh State Co-operative Tribunal has jurisdiction under Section 78 of the Act (No.17 of 1961) to hear the pending Appeals filed before the amendment which came into force from 14.10.2020, by Chhattisgarh Co-operative Societies (Amendment) Act, 2020 (No. 18 of 2020) ?

11. In order to adjudicate the issue involved in the present matter, it is necessary to reproduce the relevant provisions of Section 78 of the Act and newly amended Section 78 incorporated by Chhattisgarh Co-operative Societies (Amendment) Act, 2020 (No.18 of 2020) which are relevant and read as under:

"78. Appeals before the Registrar and Tribunal.-

(1) Save where it has been otherwise provided, an appeal shall lie from every original order under this Act or the rules made thereunder:—

(a) If such order is passed by any officer subordinate to Registrar other than Additional Registrar or Joint Registrar, whether or not the officer passing the order is invested with the powers of the Registrar, to the Registrar;

(b) If such order is passed by the Registrar, Additional Registrar or Joint Registrar, to the Tribunal.

(2) A second Appeal shall lie against any order passed in the first appeal by the registrar, to the Tribunal on any of the following grounds only, namely:-

XXXXX

(3) XXXXX

Amendment of S. 78 in the Principal Act (w.e.f. 14.10.2020)

In Section 78 of the Principal Act,-

(i) For sub-section (1), the following shall be substituted, namely :-

" (1) Save where it has been otherwise provided, an appeal shall lie from every original order under this Act or the rules made thereunder:—

(a) If such order is passed by any officer subordinate to Registrar other than Additional Registrar or Joint Registrar, whether or not the officer passing the order is invested with the powers of the Registrar, to the Joint Registrar;

(b) If such order is passed by the Joint Registrar, to the Registrar or Additional Registrar duly authorized by the Registrar on his behalf.

(C) If such order is passed by the Registrar or Additional Registrar, to the Tribunal."

(ii) In sub-section (2) for the words "first appeal by the Registrar", the words "first appeal by the Joint Registrar, Additional Registrar, or Registrar" shall be substituted."

12. Section 6 of the General Clauses Act, 1897, which deals with the effect of repeal reads as under :

"S.6 Effect of repeal.—Where this Act, or any [Central Act] or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not—

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or any thing duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

13. Normally, Section 6 of the General Clauses Act comes into play and enables continuation of the proceedings as if repealing Act had not been passed unless different intention appears in the repealing Act. If the specific provision and intention are clearly inconsistent with the provision of Section 6 of the said Act and the same are clearly manifested, then new Act would apply. Before delving upon the issue, it will be appropriate to take note of various judgments where effect of amendment in change of forum of appeal and its consequences over pending cases have been dealt with.

14. In *State of Maharashtra Vs Vijay Waman Patil and Others* 2009 SCC OnLine Bom 944, it has been observed thus:-

"19. For proper appreciation of this aspect, it would be necessary to refer to some relevant principles of Statutory interpretation, which too are equally well settled.

20. In "Principles of Statutory Interpretation" (11th Edn.) 2008 by Hon'ble Justice G.P. Singh, former Chief Justice of M.P. High Court, the following principles have been deduced:—

"A new law bringing about a change in forum does not affect pending actions, unless a provision is made in it for change over of proceedings or there is some other clear indication that pending actions are affected. Thus, if the new law which is enacted during the pendency of a suit in a civil court is worded in the

form that "no civil court shall have jurisdiction to settle, decide or deal with" certain questions which are committed to the jurisdiction of Revenue Courts and the pending suit relates to these questions, the jurisdiction of the Civil Court would be ousted."

"The principle, that pending proceedings are not affected, does not go beyond this that in every case language of the Statute has to be examined to determine whether the Legislature clearly intended to bring within reach of the statute even pending proceedings." (Page 542 Chap.VI)"

15. In *New India Assurance Co. Ltd. v. Shanti Misra* (1975) 2 SCC 840, 3 Judges Bench of the Hon'ble Supreme Court observed thus:-

"5. On the plain language of Sections 110-A and 110-F there should be no difficulty in taking the view that the change in law was merely a change of forum i.e. a change of adjectival or procedural law and not of substantive law. It is a well-established proposition that such a change of law operates retrospectively and the person has to go to the new forum even if his cause of action or right of action accrued prior to the change of forum. He will have a vested right of action but not a vested right of forum. If by express words the new forum is made available only to causes of action arising after the creation of the forum, then the retrospective operation of the law is taken away. Otherwise the general rule is to make it retrospective. The expressions "arising out of an accident" occurring in sub-section (1) and "over the area in which the accident occurred", mentioned in sub-section (2) clearly show that the change of forum was meant to be operative retrospectively irrespective of the fact as to when the accident occurred. To that extent there was no difficulty in giving the answer in a simple way....."

16. In *Maria Cristina De Souza Sodder* (Supra), it has been observed at para-5 as under:-

"5 It is no doubt well-settled that the right of appeal is a substantive right and it gets vested in a litigant no sooner the lis is commenced in the Court of the first instance, and such right or any remedy in respect thereof will not be affected by any repeal of the enactment conferring such right unless the repealing enactment either expressly or by necessary implication takes away such right or remedy in respect thereof. This position has been made clear by clauses (b) and (c) of the proviso to Section 4 of the Central Act 30 of 1965 which substantially correspond to clauses (c) and (e) of Section 6 of the General Clauses Act, 1897. This position, has also been settled by the decisions of the Privy Council and this Court (vide *Colonial Sugar Refining Company Ltd. v. Irving* [1905 AC 369] and *Garikapatti Veeraya v. N. Subbiah Choudhury* [1957 SCR 488] but the forum where such appeal can be lodged is indubitably a procedural matter and, therefore, the appeal, the right to which has arisen under a repealed Act, will have to be lodged in a forum provided for by the repealing Act. That the forum of appeal, and also the limitation for it, are matters pertaining to

procedural law will be clear from the following passage appearing at p. 462 of Salmond's Jurisprudence (12th Edn.):

"Whether I have a right to recover certain property is a question of substantive law, for the determination and the protection of such rights are among the ends of the administration of justice; but in what courts and within what time I must institute proceedings are questions of procedural law, for they relate merely to the modes in which the courts fulfil their functions."

It is true that in clause (c) of the proviso to Section 4 of Central Act 30 of 1965, which corresponds to Section 6(e) of the General Clauses Act, 1897, it is provided that a remedy or legal proceeding in respect of a vested right like a right to an appeal may be instituted, continued or enforced as if this Act (meaning the repealing Act) had not been passed. But this provision merely saves the remedy or legal proceeding in respect of such vested right which is open to the litigant to adopt notwithstanding the repeal, but this provision has nothing to do with the forum where the remedy or legal proceeding has to be pursued. If the repealing Act provides new forum where the remedy or the legal proceeding in respect of such vested right can be pursued after the repeal, the forum must be as provided in the repealing Act. We may point out that such a view of Section 6 (e) of the General Clauses Act, 1897 has been taken by the Rajasthan High Court in the case of Purshotam Singh v. Narain Singh and State of Rajasthan [AIR 1955 Raj 203] . It is thus clear that under the repealing enactment (Act 30 of 1965) read with Goa Enactment (Act 16 of 1965) the appeal lay to the Judicial Commissioner's Court and the same was accordingly filed in the proper Court."

17. In Videocon International Ltd. (Supra), it has been observed in paras 44 to 46 as under :

"44. It was also the contention of the learned counsel for the appellant, that in the absence of a saving clause, the pending proceedings (and the jurisdiction of the High Court), cannot be deemed to have been saved. It is not possible for us to accept the instant contention. In the judgment rendered by this Court in Ambalal Sarabhai Enterprises Ltd. case [Ambalal Sarabhai Enterprises Ltd. v. Amrit Lal and Co., (2001) 8 SCC 397] , it was held, that the general principle was, that a law which brought about a change in the forum, would not affect pending actions, unless the intention to the contrary was clearly shown. Since the amending provision herein does not so envisage, it has to be concluded, that the pending appeals (before the amendment of Section 15-Z) would not be affected in any manner. Accordingly, for the same reasons as have been expressed in the above judgment (relevant extracts whereof have been reproduced above), we are of the view, that the instant contention advanced at the hands of the learned counsel for the appellant is wholly misconceived. Furthermore, the instant contention is wholly unacceptable in view of the mandate contained in Sections 6(c) and (e) of the General Clauses Act, 1897. While interpreting the aforesaid provisions this Court has held, that the

amendment of a statute, which is not retrospective in operation, does not affect pending proceedings, except where the amending provision expressly or by necessary intendment provides otherwise. Pending proceedings are to continue as if the unamended provision is still in force. This Court has clearly concluded, that when a lis commences, all rights and obligations of the parties get crystallised on that date, and the mandate of Section 6 of the General Clauses Act, simply ensures, that pending proceedings under the unamended provision remain unaffected. Herein also, therefore, our conclusion is the same as has already been rendered by us, in the foregoing paragraphs.

45. Having concluded in the manner expressed in the foregoing paragraphs, it is not necessary for us to examine the main contention, advanced at the hands of the learned counsel for the appellant, namely, that the amendment to Section 15-Z of the SEBI Act, contemplates a mere change of forum of the second appellate remedy. Despite the aforesaid, we consider it just and appropriate, in the facts and circumstances of the present case, to delve on the above subject as well. In dealing with the submission advanced at the hands of the learned counsel for the appellant, on the subject of forum, we will fictionally presume, that the amendment to Section 15-Z by the Securities and Exchange Board of India (Amendment) Act, 2002 had no effect on the second appellate remedy made available to the parties, and further that, the above amendment merely alters the forum of the second appeal, from the High Court (under the unamended provision), to the Supreme Court (consequent upon the amendment). On the above assumption, the learned counsel for the appellant had placed reliance on the decisions rendered by this Court in *Maria Cristina De Souza Sodder* [*Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto*, (1979) 1 SCC 92] , *Hitendra Vishnu Thakur* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] and *Thirumalai Chemicals Ltd.* [*Thirumalai Chemicals Ltd. v. Union of India*, (2011) 6 SCC 739 : (2011) 3 SCC (Civ) 458] cases to contend, that the law relating to forum being procedural in nature, an amendment which altered the forum, would apply retrospectively. Whilst the correctness of the aforesaid contention cannot be doubted, it is essential to clarify, that the same is not an absolute rule. In this behalf, reference may be made to the judgments relied upon by the learned counsel for the respondent, and more importantly to the judgment rendered in *Dhadi Sahu* case [*CIT v. Dhadi Sahu*, 1994 Supp (1) SCC 257] , wherein it has been explained, that an amendment of forum would not necessarily be an issue of procedure. It was concluded in the above judgment, that where the question is of change of forum, it ceased to be a question of procedure, and becomes substantive and vested, if proceedings stand initiated before the earlier prescribed forum (prior to the amendment having taken effect). This Court clearly declared in the above judgment, that if the appellate remedy had been availed of (before the forum expressed in the unamended provision) before the amendment, the same would constitute a vested right. However, if the same has not been availed of, and the forum of the appellate remedy is altered by an amendment, the change in the

forum, would constitute a procedural amendment, as contended by the learned counsel for the appellant. Consequently even in the facts and circumstances of the present case, all such appeals as had been filed by the Board, prior to 29-10-2002, would have to be accepted as vested, and must be adjudicated accordingly.

46. The conclusion recorded by us in the foregoing paragraph emerges even from the mandate contained in Section 6 of the General Clauses Act, 1897. The legal contours emerging out of Section 6 aforementioned, have already been recorded by us and need not to be repeated."

18. In *SEBI v. Classic Credit Ltd* (2018) 13 SCC 1., it has been held thus:-

"54. From a perusal of the conclusions drawn in the above judgments, we are inclined to accept the contention that change of "forum" could be substantive or procedural. It may well be procedural when the remedy was yet to be availed of but where the remedy had already been availed of (under an existing statutory provision), the right may be treated as having crystallised into a vested substantive right."

19. In *Abhyudaya Kumar Shahi v. Bharat Pradhan Filling Centre* (2022) 6 SCC 522, during the pendency of appeal, the appellate forum had changed in view of the amendments in the guidelines; and the Dispute Resolution Forum, as provided earlier, was not in existence. The High Court also took note of the fact that there was no challenge to the amended guidelines, which provide that the Director, Indian Oil Corporation Ltd. shall be the appellate authority. So, in such factual backdrop, in para 9, it was held as under :

"9. In view of the subsequent events abovementioned, it is but clear that the present respondent has given up its insistence for decision of the appeal by way of erstwhile mechanism, and rightly so because, even if the respondent (writ petitioner) had the right of consideration of appeal, it had no corresponding right to insist for consideration of the appeal by a forum that was no longer in existence."

20. Recently the Hon'ble Supreme Court in the matter of *Neena Aneja v. Jai Prakash Associates Ltd* (2022) 2 SCC 161., has, after analysing various judgments, concluded as under :

"72. In considering the myriad precedents that have interpreted the impact of a change in forum on pending proceedings and retrospectivity—a clear position of law has emerged : a change in forum lies in the realm of procedure. Accordingly, in compliance with the tenets of statutory interpretation applicable to procedural law, amendments on matters of procedure are retrospective, unless a contrary intention emerges from the statute. This position emerges from the decisions in *New India Assurance* [*New India Assurance Co. Ltd. v. Shanti Misra*, (1975) 2 SCC 840] , *Maria Cristina* [*Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto*, (1979) 1 SCC 92] , *Hitendra Vishnu Thakur* [*Hitendra Vishnu Thakur v. State of Maharashtra*, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] ,

Ramesh Kumar Soni [Ramesh Kumar Soni v. State of M.P., (2013) 14 SCC 696 : (2014) 4 SCC (Cri) 340] and Sudhir G. Angur [Sudhir G. Angur v. M. Sanjeev, (2006) 1 SCC 141] . More recently, this position has been noted in a three-Judge Bench decision of this Court in Manish Kumar v. Union of India [Manish Kumar v. Union of India, (2021) 5 SCC 1 : (2021) 3 SCC (Civ) 50] . However, there was a deviation by a two-Judge Bench decision of this Court in Dhadi Sahu [CIT v. Dhadi Sahu, 1994 Supp (1) SCC 257] , which overlooked the decision of a larger three-Judge Bench in New India Assurance [New India Assurance Co. Ltd. v. Shanti Misra, (1975) 2 SCC 840] and of a coordinate two-Judge Bench in Maria Cristina [Maria Cristina De Souza Sodder v. Amria Zurana Pereira Pinto, (1979) 1 SCC 92] . The decision in Dhadi Sahu [CIT v. Dhadi Sahu, 1994 Supp (1) SCC 257] propounded a position that : (Dhadi Sahu case [CIT v. Dhadi Sahu, 1994 Supp (1) SCC 257] , SCC p. 262, para 21)

"21. ... no litigant has any vested right in the matter of procedural law but where the question is of change of forum it ceases to be a question of procedure only. The forum of appeal or proceedings is a vested right as opposed to pure procedure to be followed before a particular forum. The right becomes vested when the proceedings are initiated in the tribunal."

(emphasis supplied)

In taking this view, the two-Judge Bench did not consider binding decisions. Dhadi Sahu [CIT v. Dhadi Sahu, 1994 Supp (1) SCC 257] failed to consider that the saving of pending proceedings in Mohd. Idris [Mohd. Idris v. Sat Narain, (1966) 3 SCR 15 : AIR 1966 SC 1499] and Manujendra Dutt [Manujendra Dutt v. Purnedu Prosad Roy Chowdhury, (1967) 1 SCR 475 : AIR 1967 SC 1419] was a saving of vested rights of the litigants that were being impacted by the repealing Acts therein, and not because a right to forum is accrued once proceedings have been initiated. Thereafter, a line of decisions followed Dhadi Sahu [CIT v. Dhadi Sahu, 1994 Supp (1) SCC 257] , to hold that a litigant has a crystallised right to a forum once proceedings have been initiated. A litigant's vested rights (including the right to an appeal) prior to the amendment or repeal are undoubtedly saved, in addition to substantive rights envisaged under Section 6 of the General Clauses Act. This protection does not extend to pure matters of procedure. Repeals or amendments that effect changes in forum would ordinarily affect pending proceedings, unless a contrary intention appears from the repealing or amending statute."

21. In ECGC Ltd. v. Mokul Shriram EPC JV (2022) 6 SCC 704, the following was observed :

"29. It is to be noted that in Neena Aneja [Neena Aneja v. Jai Prakash Associates Ltd., (2022) 2 SCC 161 : (2022) 1 SCC (Civ) 768] , this Court held that right to forum is not an accrued right. Section 6(e) of the General Clauses Act protects the pending legal proceeding for enforcement of the accrued right from the effect of repeal; it does not mean the legal proceeding at a particular forum was saved

from the effect of repeal. This Court found that there was no express intention in the repealing enactment that all pending cases would stand transferred to the fora created under the 2019 Act.”

22. From the aforesaid legal dictum, the following propositions emerge:-

(i) merely a change of forum is a change of procedural law and such change of law operates retrospectively and the person has to go to the new forum even if his cause of action or right of action accrued prior to the change of forum.

(ii) a change in forum does not affect the pending cases unless the repealing Act either expressly or by necessary implication clearly intends to bring within reach of the statute even pending proceeding.

23. It is further noted that after the reorganization of the State of Chhattisgarh, the CG Cooperative (Amendment) Act, 2003 was enacted and for transfer of pending cases, the following provision was inserted:-

“80E. Transfer of Pending Cases – Every appeal or revision or any other proceeding pending before the Madhya Pradesh State Cooperative Tribunal under the Principal Act, shall stand transferred to the State Government on the date on which the Chhattisgarh Cooperative Societies (Amendment) Act, 2003 comes into force.”

24. Similarly, in the Chhattisgarh Cooperative Societies (Amendment) Act, 2012 (No.6 of 2013), the provision of constitution of Chhattisgarh State Cooperative Tribunal was inserted vide Chapter-X and in the said Chapter, Section 80-D regarding transfer of pending cases was inserted, which reads thus:-

“80-D. Transfer of pending cases – Every appeal or any other proceeding pending before the State Government, immediately before the date of constitution of Chhattisgarh State Cooperative Tribunal under this Act, shall stand transferred to the Tribunal from the date of notifications by Government of Chhattisgarh.”

25. In view of the above legal pronouncements, if we examine the facts of the present cases, in the Chhattisgarh Co-operative Societies (Amendment) Act, 2020, there is no such provision for mandating the transfer of pending appeal from Co-operative Tribunal to the new forum as established by the said Act for hearing the pending appeal cases which were already filed before such Tribunal. So, the pending appeals which had already been filed prior to the amendment dated 14.10.2020 shall be continued in the forum available in the unamended Act, and the appeals which will be filed after such amendment would be governed by the new law.

26. Appellant Amit Kumar Jaiswal has indisputably filed his appeal before the Tribunal under Section 78 of the Act prior to the amendment. So one of the reasons assigned by the Tribunal that the case was not registered for one or another reason and amendment in Section 78 (1) (b) was made in the principal Act are not acceptable. It is the date of filing which is significant for the purpose

and not the date of registration, as on the date of filing, the Tribunal has jurisdiction and amendment was not in existence.

27. In WA No.438/2022, appellant Anshuman Pandey had filed an appeal before the Tribunal challenging the order of Joint Registrar Co-operative Societies passed on 27.12.2019, admittedly prior to the subject amendment, and the Tribunal, in view of the amendment, returned the pending appeal to be filed before the new forum, and accordingly Appellant Anshuman Pandey has filed a new appeal before the Registrar Co-operative Societies, who after considering that in similar case i.e. in the case of Amit Kumar Jaiswal (WA 309/2021), this Court vide order dated 16-11-2021, has suspended the order passed by the learned Single Judge on 9.8.2021 in WP(S) No.3735 of 2021 and the proceedings before the Registrar at the instance of respondent No. 2, suspended the hearing of the appeal preferred by Appellant Anshuman Pandey till the outcome of WA No.309/2021 vide order dated 6.5.2022. The said order was challenged in WP(S) No. 4710/2022 in which the writ Court passed an order on 08.07.2022 to list the case after the disposal of WA 309/2021, against which he has preferred this Appeal.

28. We do not find any infirmity in the order dated 6.5.2022 passed by the Registrar in the case of appellant Anshuman Pandey and the order dated 8.7.2022 passed by the writ Court in WP(S) No.4710/2022.

29. For the foregoing reasons, the order dated 05/07/2021 passed by the Tribunal whereby the appeal was returned to be presented before the new forum and which was upheld by order dated 09/08/2021 in WP (S) No.3735 of 2021 is hereby quashed.

30. Resultantly, WA No.309/2021 is allowed and WA No.438/2022 is dismissed.

31. Registry will list WP(S) No.3735 of 2021 before the appropriate Single Bench having roster on 12.10.2022.