

(2007) 10 AHC CK 0154
In the Allahabad High Court

Vikram Singh Kathat and Others

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-10-2007

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2008) 116 FLR 809

Hon'ble Judges : Sudhir Agarwal, J;S. Rafat Alam, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

S. Rafat Alam and Sudhir Agarwal, JJ.—Heard Sri H.R. Mishra, learned Counsel for the petitioners and Sri N.P. Singh, learned Counsel appearing for respondents No. 3 to 6.

The petitioner is aggrieved by the order of Central Administrative Tribunal, Allahabad (hereinafter referred to as the "Tribunal") dated 12.10.2007 whereby the Original Application has been rejected.

2. Sri N.P. Singh, learned Counsel appearing for respondents No. 3 to 6 has raised a preliminary objection about the maintainability of the writ petition stating that the entire cause of action has initiated in the State of Uttarakhand and, therefore, this Court lacks territorial jurisdiction, and placed reliance on the Apex Court's judgment in *Ambica Industries Vs. Commissioner of Central Excise*,

3. Sri Mishra, on the contrary, submitted that since the Tribunal at Allahabad has passed the judgment impugned in this writ petition. therefore, part of cause of action has arisen in the State of Uttar Pradesh and the writ petition in this Court is maintainable and placed reliance on the Apex Court's judgment in *Jamshed N. Guzdar v. State of Maharashtra* and Ors. 2005 SCC 591.

4. Having considered the rival submissions, in our view, the preliminary objection raised by the learned Counsel for the respondents deserve to be sustained. It is

true that the Tribunal exercise jurisdiction over two states i.e. State of Uttar Pradesh and State of Uttarakhand. All the petitioners are appointed in Kendriya Vidyalaya, New Tehri Town, Uttarakhand i.e. within the State of Uttarakhand. Since the Tribunal at Allahabad exercise jurisdiction in respect of both the States, therefore, the Original Application u/s 19 of Administrative Tribunal Act, 1985 was filed at Allahabad. In the circumstances, mere judgment of Tribunal at Allahabad, in our view, would not give rise to a cause of action, partly or wholly, to file a writ petition in Allahabad High Court. This issue has been considered by the Apex Court in Anibica Industries (Supra) and para 13 and 14 of the judgment may be reproduced as under:

13. The Tribunal, as noticed hereinbefore, exercises jurisdiction over all the three States. In all the three States there are High Courts. In the event, the aggrieved person is treated to be the *domus litis*, as a result whereof, he elects to file the appeal before one or the other High Court, the decision of the High Court shall be binding only on the authorities which are within its jurisdiction. It will only be of persuasive value, on the authorities functioning under a different jurisdiction. If the binding authority of a High Court does not extend beyond its territorial jurisdiction and the decision of one High Court would not be binding precedent for other High Courts or courts or tribunals outside its territorial jurisdiction, some sort of judicial anarchy shall come into play. An assessee, affected by an order of assessment made at Bombay, may invoke the jurisdiction of the Allahabad High Court to take advantage of the law laid down by it and which might suit him and thus he would be able to successfully evade the law laid down by the High Court at Bombay.

14. Furthermore, when an appeal is provided under a statute, Parliament must have thought of one High Court. It is a different matter that by way of necessity, a tribunal may have to exercise jurisdiction over several States but it does not appeal to any reason that Parliament intended, despite providing for an appeal before the High Court, that appeals may be filed before different High Courts at the sweet will of the party aggrieved by the decision of the tribunal.

5. The Hon''ble Apex Court has also approved the judgments of Delhi High Court in *Suraj Woolen Mills v. Collector of Customs* 2000 (123) ELT 471 wherein Hon''ble Lahoti, J., as His Lordship then was. had also taken the same view and the said decision of Hon''ble Delhi High Court was followed by Division Bench of Hon''ble Bombay High Court in *Bombay Snuff P. Ltd. Vs. Union of India (UOI) and Others*, . Both the judgements of Hon''ble Delhi High Court and Hon''ble Bombay High Court have been affirmed by Hon''ble Apex Court in *Ambica Industries (Supra)*. Moreover, concept of part of cause of action as laid down in *Sri Nasiruddin Vs. State Transport Appellate Tribunal*, and *Kusum Ingots and Alloys Ltd. Vs. Union of India (UOI) and Another*, which was relied upon in order to contend that the jurisdiction would lie in the High Court within whose territorial jurisdiction Tribunal has decided the matter, has also been considered and distinguished in para 30 in *Ambica Industries (Supra)*.

6. What has been observed by the Apex Court in para 30 of the judgment in *Ambica Industries (Supra)* squarely apply to the present case also. Here also if it is held that the petitioners can elect to file writ petition either before Allahabad High Court or Uttarakhand High Court, that may likely to result in conflicting judgements besides the fact that the judgment of Allahabad High Court may not be binding on the authorities who are outside the territorial jurisdiction of this Court.

7. In our view, the preliminary objection with respect to territorial jurisdiction is squarely covered by the Apex Court decision in *Ambica Industries (Supra)* and has to be sustained. The law laid down in *Jamshed N. Guzdar (Supra)* was wholly on different facts and circumstances and has no relevance to the issue involved in the present writ petition. Accordingly, we uphold the preliminary objection and dismiss the writ petition for lack of territorial jurisdiction since, in our view, the petitioner can file writ petition before the Hon"ble Uttarakhand High Court and not in Allahabad High Court. The writ petition is accordingly dismissed for want of territorial jurisdiction. No order as to costs.