



2026:DHC:1036



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

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Reserved on: 12.01.2026
Date of decision: 09.02.2026
Uploaded on: 10.02.2026

+ W.P.(C) 11251/2015 & CM APP. 29330/2015

M/S CSAT SYSTEM (P) LTD

.....Petitioner

Through: Mr. Saurabh Shandilya , Adv.

versus

APPELLANT AUTHORITY UNDER THE PAYMENT OF
GRATUITY ACT, 1972 AND ORS.

.....Respondents

Through: Mr. Kailash Sharma and Ms.
Pushpanjali Tripathi, Advs.

CORAM:

HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

SHAIL JAIN, J.

1. The present Writ Petition has been filed under Article 226 /227 of the Constitution of India, *inter-alia*, seeking quashing and setting aside of the Order dated 10.12.2014 (hereinafter '*Impugned order I*') passed by the Controlling Authority (hereinafter '*CA*') appointed by the Government of NCT of Delhi, New Delhi, and the Order dated 21.10.2015 passed by the learned Appellate Authority (hereinafter '*Impugned order II*') under the Payment of Gratuity Act, 1972 (hereinafter '*the Act*') holding that the Respondent No. 3/Claimant is entitled and management is liable to pay Rs.1,55,769/- (One lakh fifty-five thousand seven hundred and sixty-nine



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only) being the amount of gratuity along with interest at 10% P.A. from the date of resignation i.e. 01.03.2013 till the date of actual payment of the said amount.

BRIEF FACTS:

2. The Petitioner company is a body corporate, incorporated under the provisions of the Companies Act, 1956, having its registered office at **B-61/3, Jagat Puri, Delhi-110051** and its Head Office at **C-116, SECTOR 10, NOIDA, Uttar Pradesh.** The Petitioner is, *inter-alia*, engaged in the manufacture of Automatic Data Processing machines and units, as well as in the development of Information Technology software.

3. Respondent No. 3/Claimant was employed with the Petitioner company since 1994 in the capacity of System Executive. The last drawn wages being Rs.15,000/-(Rupees Fifteen Thousand only) per month, along with other benefits paid from time to time by the Management.

4. After working for around 20 years, Respondent No. 3/Claimant resigned from the services of the Petitioner/Company with effect from 01.03.2013. Subsequent to his resignation, certain communications took place between the Petitioner and Respondent No. 3 /Claimant concerning the terms and conditions of service and completion of post-resignation formalities.

5. Respondent No. 3, by way of the aforesaid communications/letters, requested the Company to release the gratuity amount along with some dues to which he was entitled. However, the Company denied all such claims, including the claim for gratuity, in their entirety, contending that the



Respondent had neither served the requisite notice period nor complied with the other conditions of resignation and, therefore, was not entitled to gratuity or to any other payment whatsoever. In pursuance to which, Respondent No. 3 /Claimant filed an Application under Sec. 7(4) of the Act before the CA, Delhi, wherein he claimed a sum of Rs.1,64,423/- towards gratuity, along with other alleged dues such as salary and conveyance allowance. In the said application, it was averred that Respondent No. 3 had been employed with the Petitioner since 1994 and had resigned from service on 01.03.2013.

6. In response thereto, the Petitioner herein, filed a preliminary objection to the said application, specifically challenging the jurisdiction of the CA. Thereafter, evidence(s) were led by the Management as well as on behalf of the claimant. The CA on the basis of the pleadings and evidence(s) led by the parties framed the following issue for consideration:

“1. Whether the matter is under jurisdiction of this Court ?

2. Whether claimant Shri Shiv Narayan Pandey is entitled for payment of Gratuity under the payment of Gratuity Act. 1972 and if yes, to-what relief, is he entitled and what direction(s) are necessary in this respect?”

7. Consequently, the CA vide *‘Impugned order I’* held that it was the competent authority in the present case and therefore it would accordingly have jurisdiction. The order reads as under:

“First of all the question of the jurisdiction has to be decided. The management in this case denied the jurisdiction of this court. I have carefully examined the contents of the document Ext).P.W.1/2 which is the reply of the management duly admitted by the witness of the management in cross examination. The contents of this document reflects that the Registered office of the



management is located at: B-61/3, Jagat Puri, Delhi. his fact has not been denied by the management. The same Delhi address is also printed on the letter Heads which are placed on record. Therefore, this court is competent to decide the present dispute.”

3.The resignation of the claimant is not denied and the management has not shown any other reason provided by the law by which the claimant is not entitled to the Gratuity. In view of the above, I hold that applicant is entitled to the Gratuity for a period of 18 years for a sum of Rs.1,55,769/- (1500x15x18/26) being the amount of gratuity along with interest @10% P.A. from the date resignation i.e. 01.03.2013 till the date of actual payment. The remaining claims of the applicants are rejected as the same are not under jurisdiction of this authority “

8. Being aggrieved by the *Impugned Order I*, the Petitioner herein preferred an appeal before the Appellate Authority appointed by the Government of NCT of Delhi, New Delhi. However, the Appellate Authority, vide *Impugned Order II*, dismissed the said appeal and remanded the matter to the CA with a direction to release the gratuity amount deposited by the Petitioner herein in favour of Respondent No. 3/Claimant, in terms of *Impugned Order I*.

9. The present Writ Petition is filed by the Petitioner assailing the aforesaid *Impugned orders* passed by the Appellate Authority as also by the CA praying that the said orders be set aside. The Petitioner further prays for an *ad interim* order restraining the execution of the said orders and for a direction that the matter should be directed to be taken up and considered afresh by the appropriate Government, namely, the Central Government, which alone has the jurisdiction to adjudicate the same under the provisions



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of the Act.

ISSUES INVOLVED:

The sole question before this Court at present is:

- *Whether the Controlling Authority & the Appellate Authority appointed by the Government of NCT of Delhi, New Delhi were competent authority to adjudicate the dispute even when Petitioner is a company having branches in more than one state?*

SUBMISSIONS OF PARTIES:

10. As for the submissions of the parties, Id. Counsel for the Petitioner urged that the Petitioner/Company, being an establishment, has its branches/offices in different states including branches at Mumbai, Dehradun & Jamshedpur.

11. Id. Counsel for the Petitioner has raised the plea that the sole question involved in the present Writ is whether the 'CA' and the Appellate Authority who have passed the Impugned Order(s), were the competent authorities in the present case or not. In support of his arguments, the Petitioner has placed reliance on Sections 2 and 3 of the Act, stating that, from these provisions it is evident that the appropriate Government is the Central Government in present case; consequently, the 'CA' ought to be an authority appointed by the Central Government and not by the State Government. Whereas, in the present case the Impugned Order was passed by the 'CA' appointed by the State Government. Therefore, it is submitted that the Impugned Order(s) suffer from inherent lack of jurisdiction which can be rectified at the stage of Writ Petition only. Hence, it is prayed that the



Impugned Order(s) be set aside.

12. Ld. Counsel for the Petitioner further contends that since the issue raised in the present Writ goes to the root of the matter and relates to inherent lack of the jurisdiction of the State Government to decide the matter therefore, the said plea could be raised at any stage as it relates to inherent lack of jurisdiction. In support of the said contention counsel has relied upon the decisions of this Court in ***Balsara Hygiene Products .Ltd. Vs. Appellate Authority (under the Payment of Gratuity Act)***, 2001 SCC online Del 898 in which it was held that objections relating to inherent lack of jurisdiction go to the root of the matter and can be raised at any stage, even for the first time in writ proceedings, as such defects cannot be cured by consent or waiver.

13. Ld. Counsel for the Petitioner has also relied on various judgments rendered by different High Courts elucidating the scope and meaning of the term “Appropriate Government” with reference to the competent authority and the appellate authority, *inter alia*, as ***Indo American Electricals Ltd. and Others Vs. State of West Bengal and Others*** (2005 SCC OnLine Cal 341), ***Management of CMC Hospital, Vellore Vs. Joint Commissioner of Labour, Appellate Authority under Payment of Gratuity Act, Chennai and Others*** (2003 SCC OnLine Mad 628) and ***Jawala Stone Crusher Vs. Swaran Singh and Others*** (2007 SCC OnLine HP 155).

14. In contradistinction, ld. counsel appearing on behalf of the Respondents made an attempt to sustain the finding(s) which have been arrived at by the authorities below by urging that the Petitioner has not raised any issue regarding jurisdiction whatsoever, neither in the pleading(s)



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nor in evidence(s), but however one such issue of jurisdiction was framed by the 'CA' which was decided *vide* Order dated 10.12.2014 in favour of the workman i.e., the Respondent No. 3 herein.

15. Ld. counsel for the Respondent has further submitted that, in fact, an Appeal was filed by the Petitioner itself before the Appellate Authority seeking setting aside of *Impugned Order I* and, therefore, the Petitioner could not be allowed to raise such plea at the stage of arguments in the Writ, particularly where the principles of waiver and estoppel are also applicable to the facts and circumstances of the present case. He further goes on to submit that the Petitioner submitted to the jurisdiction of the State Government without raising any plea of want of jurisdiction at the earliest stage and, therefore, the said plea raised at the time of arguments of the appeal was rightly rejected by the Appellate Authority. In support of the said contention counsel relied upon dicta of the Supreme Court in ***Jeewanlal Ltd. and Others v. Appellate Authority Under The Payment Of Gratuity Act & Others***, (1984) 4 SCC 356, to contend that reference made to the Central Government or State Government is immaterial and has contended that, in view of the said judgment, the 'CA' has rightly adjudicated the issue/dispute. Ld. counsel for the Respondent has further submitted that the 'CA' possessed the requisite jurisdiction to decide the issue/dispute. Consequently, it is urged that nothing survives for consideration in the present Writ Petition, and the same is liable to be dismissed.

16. Learned counsel for the Respondent further submitted that the Respondent used to work at the Delhi office/branch, and that the NOIDA office/branch merely dealt with official communications, with no technical



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or substantial functions of the Company ever being performed there. Consequently, it was contended that the application for gratuity was rightly filed before the Controlling Authority at Delhi.

17. Learned counsel for the Respondent draws support from Sections 20 and 21 of the Code of Civil Procedure, 1908, to contend that the question of jurisdiction in the present case pertains only to territorial competence. It is submitted that in terms of Sec. 20 CPC, the proceedings could be instituted at a place where the defendant resides or carries on business, or where the cause of action, wholly or in part, arises. It is further contended, with reference to Sec. 21 CPC, that any objection as to territorial or pecuniary jurisdiction is required to be raised at the earliest opportunity and, having not been so raised by the Respondent, stands waived, there being no consequent failure of justice shown.

18. Learned counsel for the Petitioner opposed the said submission and contended that Respondent No. 3 used to work at both locations, namely Delhi and NOIDA, as per the requirements of the Company. It was further submitted that, had Respondent No. 3 been working exclusively at the Delhi office and not at NOIDA, he would not have addressed his resignation to the NOIDA office.

DISCUSSION:

19. Having considered the rival submissions, it is apparent that the dispute lies in a narrow compass. The principal grievance of the Petitioner is not with respect to the entitlement of the Respondent to gratuity per se, but with regard to the very competence of the authorities who entertained and decided the claim.



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20. The sole objection raised by the Petitioner throughout the proceedings has been that neither the Controlling Authority nor the Appellate Authority accorded even minimal consideration to the issue of competent jurisdiction. Additionally, the impugned orders reflect a complete feigned ignorance of this vital aspect. The absence of any discussion or finding on jurisdiction renders the orders unsustainable in law.

21. The Petitioner on the basis of the documents placed on record has contended that the Petitioner/Company has branches in more than one State *viz.* Delhi and Uttar Pradesh and therefore, so far as the Petitioner is concerned, in terms of definition of Sec. 2(a)(1)(b) of the Act, the appropriate Government would be the Central Government. Thus, it is amply proved on the basis of the documents placed on record that the Petitioner/Company has branches in more than one State and, therefore, the appropriate Government in the case of the Petitioner for the purpose of applicability of Payment of Gratuity Act would be the Central Government.

22. It is observed that the application under Sec. 7(4) of the Act filed by Respondent No. 3 was presented before the CA appointed by the State Government and not before the authority appointed by the Central Government. This position is undisputed on the facts of the present case and stands corroborated by the documents placed on record. Furthermore, the plea advanced on behalf of Respondent No. 3, is that even assuming, that the appropriate Government in the present case is the Central Government, as no objection to the jurisdiction of the said authority was raised at the earliest stage hence, it cannot be agitated by Petitioner now. It is further contended that the Petitioner, having submitted to the jurisdiction of the CA and the



Appellate Authority by participating in the proceedings and by preferring an appeal, has waived any objection to such jurisdiction. Consequently, it was urged that both the CA and the Appellate Authority rightly exercised jurisdiction in the matter.

23. Before advertng to the rival submissions urged on behalf of the parties, it is apposite to first notice the documentary evidence that came to be exhibited in the course of the evidence led by the Company. The company has placed on record the copy of '*Certificate of Incorporation*' and a copy of the '*VAT and Service Tax Registrations*'.

24. Upon perusal of the Certificate of Incorporation, it is evident that the Company is registered in Delhi, as reflected by the endorsement and signature of the Registrar of Companies, Delhi & Haryana, which also corroborates the submissions advanced on behalf of the Petitioner. Petitioner has also placed a copy of the VAT and Service Tax Registrations from NOIDA, U.P. which mentions the place of business as *B-61/3, Jagat Puri, Delhi-110051* and Proprietor/Director/Partner, Name/Address as:

1. Anil Shukla-C-116, SECTOR 10, NOIDA, U.P.

2. Sunil Shukla-B-61/3, Jagat Puri, Delhi-110051.

25. Now coming to *Impugned Order I* i.e. the order passed by the CA. One of the issues before the CA was whether it had the jurisdiction to adjudicate the dispute. What reflects from the *Impugned order I* is that apart from going into the merits of the dispute, the authority had considered the issues of jurisdiction and the only reasoning furnished by the CA for assuming its jurisdiction is that the company has its registered office in Delhi and, therefore, the CA at Delhi was competent to adjudicate the



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dispute. Such reasoning is *ex facie* flawed, as the location of the registered office by itself cannot confer jurisdiction in the absence of a finding regarding the appropriate Government and the place where the claimant was actually employed, taking into consideration the provision of the Act.

26. Consequently, the matter was carried in appeal before the Appellate Authority. In the said appeal, the Petitioner had specifically raised an objection with regard to the competent jurisdiction, contending that since the Petitioner-Company has branches in more than one State, namely Delhi and Uttar Pradesh, the appropriate Government, in terms of Section 2(a)(1)(b) of the Act, would be the Central Government. It was thus urged that the proceedings before the Controlling Authority appointed by the State Government were without jurisdiction. However, the Appellate Authority failed to consider the aforesaid jurisdictional objection and did not render any discussion or reasons thereon. The appeal came to be dismissed merely on the premise that the management witness had admitted the liability towards gratuity. The order passed by the Appellate Authority is, therefore, wholly cryptic and non-speaking, inasmuch as the foundational issue of jurisdiction, which goes to the root of the matter, remained completely unaddressed.

27. In view of the above, the contention of the Respondent No. 3 that the Petitioner has raised the issue of jurisdiction for the first time in the present Writ is misconceived and untenable, as the said issue was specifically raised and argued before the Appellate Authority itself.

28. It is further evident from perusal of the orders passed by the CA that the issue of the appropriate Government or the competence of the CA never



arose for consideration. Likewise, the question as to whether the claimant was working at Delhi or at NOIDA, Uttar Pradesh was neither properly raised nor adjudicated in the impugned orders.

29. Now coming to the question of jurisdiction. There are few types of jurisdiction including territorial jurisdiction and competence jurisdiction.

The dispute in the present case falls within a narrow compass. The question before the Court is whether, for the purposes of Sec. 2(a) of the Act, the appropriate Government in relation to the Petitioner/Company is the Central Government or the State Government.

30. Sec. 2(a) of the Act defines the expression "appropriate Government" as:

"2. In this Act, unless the context otherwise requires,—

(a) "appropriate government" means,—

(i) in relation to an establishment —

(a) belonging to, or under the control of, the Central Government,

(b) having branches in more than one State,

(c) of a factory belonging to, or under the control of, the Central Government,

(d) of a major port, mine, oilfield or railway company, the Central Government,

(ii) in any other case, the State Government;"

31. Sec. 2 (a) of the Act delineates the authority competent to act as the 'appropriate Government' for the purposes of the Act. It vests such authority in the Central Government in cases where the establishment or factory belongs to or is under its control, where an establishment has branches in more than one State, or where the undertaking relates to specified sectors



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such as major ports, mines, oilfields, or railway companies. In all remaining cases, where none of these conditions are attracted, the State Government is designated as the appropriate Government to exercise jurisdiction under the Act.

32. Since in the present case there are two offices one being in Delhi and the other in NOIDA, Uttar Pradesh which is also evident from the application for gratuity filed by the respondent/claimant before the CA which mentions both the addresses of the company, i.e., Delhi as well as NOIDA, Uttar Pradesh. Additionally, the minutes of the meeting of the Board of Directors of the company held on 8th January, 2014 also record both addresses viz C-116, SECTOR 10, NOIDA and B-61/3, Jagat Puri, Delhi-110051. Therefore, the CA in the present case would be authority appointed by Central government.

33. It is pertinent to note here that the resignation letter of the claimant was addressed to the NOIDA office of the company and not to the Delhi office. This fact assumes significance, particularly in light of the claimant's own contention that he worked exclusively in Delhi and not at NOIDA, and that Delhi was the appropriate Government competent to adjudicate his claim. If such a contention were true, the resignation letter ought to have been addressed to the Delhi office. Not only was the resignation letter sent to the NOIDA office, but even the subsequent Legal Notices issued by the claimant were addressed to the NOIDA office alone.

34. The CA as well as the Appellate Authority, in the present case *vide Impugned Orders*, have held that the application for payment of gratuity filed by the Respondent was maintainable before the CA appointed by the



State Government, on the ground that the State Government is the appropriate Government for the purposes of the Act.

35. The fundamental error permeating both the impugned orders is the assumption that merely because the claimant worked or claimed to have worked in Delhi, the Controlling Authority appointed by the State Government and the Appellate Authority derived jurisdiction to adjudicate the dispute

36. Thus, as is evident from the various documents placed on record such as resignation letter of the claimant, legal notices sent by Respondent/claimant and the minutes of the meeting of the Board of Directors of the company, that the company was having office at both places viz NOIDA, Uttar Pradesh and Delhi, therefore, Sec. 2(a) of the Act applies squarely hence, the competent government should be the Central government.

37. View of this court get supported from the Judgment of High Court of Bombay in ***Rhone Poulenc (India) Ltd.; Versus Anjali Devrukhar and others***, 2005 SCC OnLine Bom 355, wherein Chandrachud J., has rightly observed as under:

“8. Neither the expression ‘establishment’ nor for that matter ‘branch’ is defined by the Act. These expressions must, therefore, bear the meaning which is attributed to them in common parlance. A branch is essentially a limb of an organization or an arm of the organization through which the organization carries on business. The branch is as it were a tributary which is controlled by the trunk. The connotation of the word ‘branch’, is liable to vary depending upon the context and the nature of legislation in



which it is used. In Polestar Electronic (Pvt) Ltd. v. Additional Commissioner, Sales Tax, (1978) 1 SCC 636, the Supreme Court held that in relation to Sales Tax legislation branches are not distinct and independent from the assessee but are merely establishments of the assessee (Para 22 page 668). In Agencia Commercial International Limited v. Custodian of the Branches of Banco National Ultramarino, (1982) 2 SCC 482, the Supreme Court held that as a general proposition a body corporate and its branches are not distinct and separate entities from each other; branches constitute mere components through which a corporate entity expresses itself and that all transactions entered into ostensibly with the branches are in legal reality transactions with the corporate body. However the Court noted that in the case of a Bank which operates through its Branches, the Branches are regarded for many purposes as separate and distinct entities from the head Office and from each other.”

(emphasis applied)

38. The word establishment which is also disputed in the present matter was categorically dealt with in **Rhone Poulenc** (*supra*), the relevant paras reads as under:

“9. The provisions of section 2(a)(i) have fallen for consideration before a Learned Single Judge of the Karnataka High Court in Binny Limited v. Commissioner of Labour, 1981 (1) LLJ 178. The Learned Single Judge noted that in undertakings having branches in more than one State, transfer of an employee from one State may take place during the tenure of his service, if transfer is a condition of his service. A dispute may arise as regards the total number of completed years of service put in by the employee for the purpose of gratuity. The appropriate Controlling Authority appointed by the Central Government



would be in a better position to deal with these cases expeditiously than the authorities appointed by different State Governments in different States. The Learned Judge held that the expression “establishment” must be understood, in its general sense and the petitioner before the Court was held to be an establishment having its main place of business in Tamil Nadu and a Branch in Karnataka. Consequently, it was held that the Controlling Authority appointed by the State Government had no jurisdiction to entertain the application of the workmen in that case. I am in respectful agreement with the judgment of the Learned Single Judge of the Karnataka High Court.

.....

Essentially the question which has to be answered is whether the establishment has branches in more than one State. The establishment in relation to those Branches must necessarily mean the Company which controls and directs the activities of the branches. Since the Company controls and directs its branches which in turn are situated in more than one State, clearly the appropriate Government can in the present case only be the Central Government. The Controlling Authority then relied upon the circumstance that Charters of demand were submitted separately by workers of the factory and by workers of the Depots. The Controlling Authority noted that manufacturing activity was carried out within the State of Maharashtra; that the workmen had been appointed for the Mumbai Factory and that they reside in Mumbai. The Controlling Authority, has confused the issue of territorial jurisdiction with the issue of which government is the appropriate Government. Insofar as the decision of the Appellate Authority is concerned, the reason which weighed with that authority was that the petitioner had a factory in the State of Maharashtra which did not either belong to, or was under the control of the Central Government. Again for the reasons already indicated earlier, this basis was erroneous. The fact that the



factory is situated in the State of Maharashtra will not make the State Government the appropriate Government where the uncontroverted material on record showed the existence of branches in more than one State.”

(emphasis applied)

39. In this case as delineated above, it is established that the appropriate Government under the present case would be the Central Government as the Petitioner-company has branches in more than one State, and not the State Government, therefore the argument of the respondent that since he used to work at the Delhi office/branch, and that the NOIDA office/branch merely dealt with official communications, with no technical or substantial functions of the Company ever being performed, does not sustain in law. The CA of the State Government has exercised its jurisdiction in the present case on the basis of the application filed by the Respondent No. 3. On an appropriate interpretation of the provisions of Sec. 2 of the Act it is established that the said authority appointed by the State Government has no jurisdiction to entertain and decide the matter. Therefore, the said authority lacks inherent jurisdiction to entertain and try this case and it is not a case of either want of Pecuniary Jurisdiction or Territorial Jurisdiction, which could be waived.

40. Learned counsel for the Respondent had also raised a plea based on Sections 20 and 21 of the Code of Civil Procedure, 1908. However, the said contention cannot be sustained in view of the fact that The Payment of Gratuity Act, 1972 is a special statute, which has an overriding effect over the general law, namely the Code of Civil Procedure.

41. Sec. 14 of the Act accords an overriding effect to the provisions of the



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Act by stipulating that the Act and the rules made thereunder shall have effect notwithstanding anything inconsistent contained in any other enactment or instrument having effect by virtue of any law other than the said Act. The said provision thus gives primacy to The Payment of Gratuity Act over all conflicting laws, contracts, awards, settlements, or service rules, ensuring uniform and mandatory payment of gratuity in accordance with the Act.

42. Therefore, in the facts of the present case, it is the CA appointed by the Central Government, who would have jurisdiction to entertain and decide this matter and not the CA appointed by the State Government. Consequently, it is also held that the CA before which the aforesaid application under Sec.7(4) of the Act was filed and by whom it was entertained in pursuance to which a case was instituted on that basis thereof, was entirely lacking in jurisdiction and the CA was incompetent to try and decide the same. The same applies for Appellate Authority also which decided the appeal under Sec.7(7) of the act. Therefore, whatever Orders are passed in the said proceedings or in the subsequent proceeding arising out of it, namely in Claim Application and the Appeal were *null and void* as consent of parties could not operate to confer jurisdiction on the said authority, which was incompetent to try the aforesaid proceeding.

43. As regards to the argument of Respondent that since the Petitioner has not raised the plea of jurisdiction before the CA, therefore now he is estopped from raising so at the stage of Writ, counsel for the Petitioner vehemently opposed the same and in support of his contention he relied upon the decisions of this Court in *Balsara Hygiene Products. Ltd.(supra)*,



relevant paras read as under:

*“14. In Hira Lal case (vide supra), on which reliance was placed by counsel appearing for both the parties, it was held by the Supreme Court that it is well settled that the objection as to local jurisdiction of a Court does not stand on the same footing as an objection to the competence of a Court to try a case which goes to the very root of the jurisdiction and where it is lacking, it is a case of inherent lack of jurisdiction. It was further held that, on the other hand, an objection as to the local jurisdiction of a Court can be waived and this principle has been given a statutory recognition by enactments like S. 21 of the Code of Civil Procedure. In the said decision the Supreme Court also referred to the decision of the Privy Council in *Ledgard v. Bull*, [13 Ind. App. 134]. The decision of the Privy Council in the said case is an authority for the proposition that consent or waiver can cure defect of jurisdiction but cannot cure inherent lack of jurisdiction.”*

16. Therefore, the legal principle which is established is that if the plea raised goes to the root of the question and concerns inherent lack of jurisdiction of the Court deciding the matter, such plea could be allowed to be raised even at a later stage, for it goes to very root of the matter. Such a plea concerning inherent lack of jurisdiction of Court to decide the matter could be raised before the High Court in a writ jurisdiction, for the first time and such a plea is required to be entertained to do justice amongst the parties. On the other hand, if the plea raised concerns lack of territorial or pecuniary jurisdiction, the same could be waived by a party by submitting to its jurisdiction and by not raising at the earlier stage. Therefore, it is necessary to apply the aforesaid settled principles of law to the facts of the present case. In this case as delineated above, it is established that the appropriate Government under the present case is the Central Government as the petitioner-management has branches in more than one State, and not



the State Government. The controlling authority of the State Government has exercised its jurisdiction in the present case on the basis of the application filed by the respondent No. 2. On an appropriate interpretation of the provisions of S. 2 of the Act it is established that the said authority appointed by the State Government has no jurisdiction to entertain and decide the matter. Therefore, the said authority lacks inherent jurisdiction to entertain and try this case and it is not a case of either want of pecuniary jurisdiction or territorial jurisdiction, which could be waived. Therefore, in the facts of the present case, it is the controlling authority appointed by the Central Government, who would have jurisdiction to entertain and decide this matter and not the State Government. Consequently, it is also held that the controlling authority in which the aforesaid application under S. 4 of the Act was filed and by whom it was entertained and a case was instituted on the basis thereof, was entirely lacking in jurisdiction and it was incompetent to try and decide the same. Therefore, whatever orders are passed in the said proceedings or in the subsequent proceeding arising out of it, namely in the appeal were null and void as consent of parties could not operate to confer jurisdiction on the said authority, which was incompetent to try the aforesaid proceeding”.

(emphasis applied)

44. As is apparent from the judgment of Hon’ble the Supreme Court in ***Seth Hiralal Patni vs. Sri Kali Nath***, 1962 AIR 199, wherein it was held that it is well settled that the objection as to local jurisdiction of a Court does not stand on the same footing as an objection to the competence of a Court to try a case which goes to the very root of the jurisdiction and where it is lacking, it is a case of inherent lack of jurisdiction. It was further held that, on the other hand, an objection as to the local jurisdiction of a Court can be



waived and this principle has been given a statutory recognition by enactments like Sec. 21 of the Code of Civil Procedure.

45. In the said decision the Supreme Court also referred to the decision of the Privy Council in *Ledgard v. Bull*, 1886 SCC OnLine PC 16 the decision of the Privy Council in the said case is that, an authority, for the proposition that consent or waiver, can cure defects of jurisdiction but cannot cure inherent lack of jurisdiction. In the said case by consent of the parties, the case was transferred to the Court of the District Judge for convenience of trial and in that context it was laid down by the Privy Council that as the Court in which the suit had been originally instituted was entirely lacking in jurisdiction, in the sense that it was incompetent to try it, whatever happened subsequently was null and void because consent of parties could not operate to confer jurisdiction on a Court which was incompetent to try the suit. After referring to the aforesaid decision of the Privy Council, the Supreme Court, in the case of *Seth Hiralal Patni (supra)* went on to hold that the competence of a Court to try a case goes to the very root of the jurisdiction and where it is lacking, it is a case of inherent lack of jurisdiction.

46. In *Chandrika Misir & Anr. V. Bhैया Lal*, (1973) 2 SCC 474 and also in the case of *Rattan Lal Sharma V. Managing Committee, Dr. Hari Ram (Co-Education) Higher Secondary School*, (1993) 4 SCC 10, Hon'ble the Supreme Court has held that if the plea though not specifically raised before the subordinate Tribunals or the administrative and quasi-judicial bodies, is raised before the High Court in the Writ proceedings for the first time and the plea goes to the root of the question and is based on admitted and uncontroverted facts and does not require any further investigation into



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a question of fact, the High Court is not only justified in entertaining the plea but in the anxiety to do justice which is the paramount consideration of the Court, it is only desirable that a litigant should not be shut out from raising such plea which goes to the root of the *lis* involved.

47. Therefore, the legal principle which is established is that if the plea raised goes to the root of the question and concerns inherent lack of jurisdiction of the Court deciding the matter, such a plea could be allowed to be raised even at a later stage, for it goes to the very root of the matter. Such a plea concerning inherent lack of jurisdiction of Court to decide the matter could be raised before the High Court in a Writ jurisdiction, for the first time and such a plea is required to be entertained to do justice amongst the parties. Per contra, if the plea raised concerns lack of territorial or pecuniary jurisdiction, the same could be waived by a party by submitting to its jurisdiction and by not raising at the earlier stage. Therefore, it is necessary to apply the aforesaid settled principles of law to the facts of the present case.

48. Although, this is the established position of law, however in the present case, this issue does not arise. As admittedly, Petitioner herein raised the issue of lack of territorial jurisdiction, before the CA and the issue of competent jurisdiction before the Appellate Authority who have decided this issue against the Petitioner. So, the contention of the Respondent that the Petitioner has raised this issue of jurisdiction for the first time in the present Writ is neither correct nor admissible.

CONCLUSION:

49. In considered opinion of this court, the decisions rendered by the



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Supreme Court in the case of *Hira Lal case (supra)* and High Court of Bombay in the case of *Rhone Poulenc (supra)*, squarely apply to the facts and circumstances of the present case.

50. For all these reasons, the Controlling Authority as well as the Appellate Authority have manifestly erred in rejecting the preliminary objection in regard to their jurisdiction. It may be noted that under Sec. 2(d) of the Act, the Controlling Authority is defined as the authority appointed as such by the appropriate Government. Under Sec. 7(4)(d) a dispute in regard to gratuity lies within the jurisdiction of the Controlling Authority as defined in Sec. 2(d). The appropriate Government in the present case being the Central Government, the State authorities had no jurisdiction to entertain the dispute.

51. Having regard to the legal position crystallised by the precedents discussed and the findings recorded herein, this Court is of the considered view that the Petitioner has made out a fit case for interference. Accordingly, and in consequence of the foregoing reasons, the *Impugned Order I* and *Impugned order II* of the Controlling Authority, as also of the Appellate Authority respectively are set aside and are hereby quashed. It is further clarified that this Court has not examined or expressed any opinion on the merits of the case.

52. In terms of the aforesaid observations and directions, the Writ Petition along with pending application, if any, stands disposed of. No order as to costs.

SHAIL JAIN, J

FEBURARY 9, 2026/HP