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

+ W.P.(C) 6772/2014

DEEP SINGH

..... Petitioner

Through: Mr. Aslam Ahmed for Mr. PUNEET SINGH
Bindra, Advocate

versus

THE INSTITUTE OF COST ACCOUNTANTS
OF INDIA

..... Respondent

Through: Mr. Sanjib Sen, Sr. Advocate with Mr.
G.S. Chaturvedi, Mr. Pijush Kanti Roy and Mr.
P.K. Roy, Advocates

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% **30.10.2015**

1. For the first time, the respondent has raised orally at the bar, a preliminary objection qua the territorial jurisdiction of this court. Mr. Sen, who appears alongwith Mr. G.S. Chaturvedi says that in terms of clause 8 of the instructions issued by the respondent, the jurisdiction qua any dispute arising out of matters pertaining to examination shall lie only with the Calcutta courts.
2. Mr. Sen concedes though, that this objection is not taken either in the counter affidavit or even in the additional affidavit filed on behalf of the respondent, as recently, as on 27.10.2015.
3. The learned counsel for the petitioner also concedes that there is no averment with regard to the manner in which territorial jurisdiction of this court is attracted to the instant matter.
4. Notice in this petition was issued as far back as on 30.09.2014,

therefore, more than an year has passed since notice was issued. It is not as if, no cause of action has arisen within the territorial jurisdiction of this court.

5. In these circumstances, if the principles analogous to Section 21 of the CPC are applied then, this objection, ought to have been taken, in the first instance, at the earliest possible occasion. This is because Mr Sen's objection is with respect to the place where the action is instituted i.e. the place of suing.

5.1 Mr. Sen though emphasises that the objection as to the jurisdiction can be raised at any stage. While this submission is right; in so far as the objection to territorial jurisdiction is concerned, as indicated above, it should be raised at the first instance unless non-consideration of this aspect results in consequent failure of justice.

5.2 In this context, the observations of the Supreme Court in ***Harshad Chiman Lal Modi vs DLF Universal Ltd. & Anr. (2005) 7 SCC 791***, in paragraph 30 at page 803-804 being apposite, are extracted hereafter:

“.....We are unable to uphold the contention. The jurisdiction of a court may be classified into several categories. The important categories are (i) Territorial or local jurisdiction; (ii) Pecuniary jurisdiction; and (iii) Jurisdiction over the subject matter. So far as territorial and pecuniary jurisdictions are concerned, objection to such jurisdiction has to be taken at the earliest possible opportunity and in any case at or before settlement of issues. The law is well settled on the point that if such objection is not taken at the earliest, it cannot be allowed to be taken at a subsequent stage. Jurisdiction as to subject matter, however, is totally distinct and stands on a different footing. Where a court has no jurisdiction

over the subject matter of the suit by reason of any limitation imposed by statute, charter or commission, it cannot take up the cause or matter. An order passed by a court having no jurisdiction is nullity.....”

6. Mr. Sen’s other concern is that the respondent could be dragged to various examinations centres if, a ruling on territorial jurisdiction is not given as prayed.

6.1. To my mind, this difficulty may not arise in other cases if, the respondent display alacrity in the matter as it ought to have in this case, as well. Therefore, the objection with regard to the territorial jurisdiction is rejected.

7. List the petition on 14.01.2016.

RAJIV SHAKDHER, J

OCTOBER 30, 2015

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