

IN THE HIGH COURT OF BOMBAY AT GOA**TAX APPEAL NO.14 OF 2016**

The Commissioner of Income Tax,
Having office at Aaykar Bhavan,
Sedam Road, Jayanagar,
Kalaburagi 0 Karnataka -St.

....Appellant

V/s

M/s. MD Waddar and Co.,
C/o. Sri. Nagappa D. Waddar,
Class-1 Contract, Friends Colony,
Lingsugur – 584122, Dist: Raichur,
Karnataka State.

.... Respondent

Ms. Susan Linhares, Standing Counsel for the Appellant.
Shri D. Pangam with Shri Parikshit Sawant, Advocate for the
Respondent No.1.

**Coram :- M.S. SONAK &
DAMA SESHADRI NAIDU, JJ.**
Date : 27 October 2020

ORAL JUDGMENT : (*Per Dama Seshadri Naidu, J.*)**Introduction:**

An Income Tax Appellate Tribunal exercises its jurisdiction over more than one state, though it is located in one of those states. Its order is sought to be challenged. Which High Court should have the jurisdiction to rule on the Tribunal's order? Is it the High Court in whose territorial jurisdiction that Tribunal is located? Or is it the High Court in whose territorial jurisdiction the authority that passed the preliminary order operates?

Facts:

2. The respondent is a company located in Raichur District, Karnataka. Its registered office, too, is in Karnataka. For the income tax purposes, the respondent company falls within the jurisdiction of

Assistant Commissioner of Income Tax, Central Circle-1, Belgaum, Karnataka.

3. As seen from the record, for the assessment year 2008-09, the A.O., Belgaum, reopened the assessment under section 147 of the Income Tax Act, issued a notice under section 148, and completed the reassessment in March 2013. Assailing that Assessment Order, the respondent-assessee appealed to CIT (A), Bangalore. Eventually, both the Assessee and the Revenue further appealed to the Income Tax Appellate Tribunal, Panaji Bench. Through the Order, dated 30/09/2014, the Tribunal held in the Assessee's favour. So the Revenue filed this appeal before us.

Submissions:

Preliminary Objection:

4. When the learned Standing Counsel for the Revenue began her submissions on the merits, Shri Devidas Pangam, the learned counsel for the respondent, raised a preliminary objection: this Court has no territorial jurisdiction to entertain the appeal. So we required both the learned counsel to advance their arguments on this preliminary objection.

The Respondent:

5. To begin with, Shri Pangam has submitted that the High Court's jurisdiction in matters emanating from Tribunals depends on whether the Tribunal is multi-state or uni-state. To elaborate, he has pointed out that unlike the arrangement under CPC or under Article 226 of the Constitution, the High Court's jurisdiction under the tax regime will have different parameters applied. To support his contentions, Shri Pangam has relied on *M/S. Ambica Industries v. Commissioner Of Central Excise*¹.

Appellant:

6. Ms Linares, the learned Standing Counsel for the Revenue, has submitted that *Ambica Industries* has come to be rendered under a different

¹(2007)6 SCC 769

factual scenario. According to her, a Division Bench of this Court in *Principal Commissioner of Income Tax-3 v. Sungard Solutions (I) Pvt. Ltd*² has already addressed that issue. So, as a co-equal Bench, we should be guided by that.

Discussion:

7. As we have already noted, to decide whether this Court has jurisdiction to entertain this appeal, the following factors may matter: (a) The Assessee is located in Raichur District, Karnataka; (b) its registered office, too, is in Karnataka; (c) for income tax purposes, the Assessee falls within the jurisdiction of Assistant Commissioner of Income Tax, Central Circle-1, Belgaum, Karnataka; (d) the A.O., Belgaum, passed the preliminary order; (e) the Assessee appealed to CIT (A), Bangalore; (f) against the appellate ruling, both the Assessee and the Revenue appealed to the Income Tax Appellate Tribunal, Panaji Bench, Goa.

8. If we reckon the jurisdiction based on the physical location of the Tribunal, we will have jurisdiction. Instead, if we reckon the jurisdiction based on the *situs* of the parties, we will not—for both the Assessee and the Income Tax authority that passed the primary order are in Karnataka. Incidentally, the Tribunal has jurisdiction over the whole of Goa and few parts of Karnataka: Karwar, Belgaum, Mangalore, North Kanara. And Raichur District falls within the jurisdiction of Central Circle-1, Belgaum.

9. So let us see how the jurisdictional tangle ought to be resolved: should it be based on the place of the parties or that of the Tribunal?

(a) *Ambica Industries*:

10. In *Ambica Industries*, the appellant carried on business at Lucknow; it was assessed there. The tax dispute, however, ultimately came up before the Central Excise and Service Tax Appellate Tribunal (“the Tribunal”), New Delhi, in an appeal. But the Tribunal exercised jurisdiction not only over Uttar Pradesh but also National Capital

Territory of Delhi and Maharashtra. Aggrieved by the Tribunal's decision, the appellant carried the matter under Section 35G of the Central Excise Act, 1944, to the Delhi High Court. A Division Bench of that Court relied on its earlier co-equal Bench judgment in *Bombay Snuff Pvt. Ltd. v. Union of India*³, and ruled that it had no territorial jurisdiction over the matter.

11. Further aggrieved, the appellant took the matter to the Supreme Court. Sub-section (9) of Section 35G of the Act applies CPC to the proceedings under that Act if the proceedings concern "appeals to the High Court". So the appellant contended that the Tribunal is subordinate to the High Court of Delhi, with its physical location in its territorial limits. Then, the Delhi High Court alone must have the jurisdiction. But the Supreme Court, in an elaborate judgment, repelled that contention and ruled that the High Court of Delhi has no jurisdiction. To its credit, *Ambica Industries* has surveyed the entire case law available on the issue until then.

12. *Ambica Industries* reminded itself that similar problems had arisen in respect of the decisions rendered by Tribunals constituted under different Acts, such as the Income Tax Act. It was also mindful of a catena of High Court decisions holding that the Tribunal's *situs* would determine which High Court the aggrieved should go to. Then, *Ambica Industries* went on to observe, on the facts, that the Tribunal exercised jurisdiction over three States. In all the three States, there are High Courts. Suppose the aggrieved person is treated to be the *dominus litus*, and he elected to file the appeal before one or another High Court. In that case, that High Court's decision shall be binding only on the authorities who are within its jurisdiction. It will only be of persuasive value on the authorities functioning under a different jurisdiction.

³(2006) 194 ELT 264

13. In other words, if the binding authority of a High Court does not extend beyond its territorial jurisdiction, and the decision of one High Court would not bind as a precedent another High Court or Tribunals outside its territorial jurisdiction, some sort of judicial anarchy shall come to prevail. An assessee, affected by order of assessment made at Bombay, may invoke the jurisdiction of the Allahabad High Court, the decided cases of which might suit him. Thus, he could successfully evade the law laid down by the High Court at Bombay. As to the legislative intent, *Ambica Industries* has held that when an appeal remedy is provided for under a statute, Parliament must have thought of a particular High Court. It is a different matter that, by way of necessity, a Tribunal may have to exercise jurisdiction over several States. Still, 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 a party's sweet will.

14. Then, *Ambica Industries* has turned to the provisions of the Act and acknowledged the appellant's argument that in terms of sub-section (1) of section 100 of the CPC, the First Appellate Court's order being a decree, a Second Appeal shall lie before the High Court to which it is subordinate.

15. In answer to the above contention, *Ambica Industries* has held that in terms of Article 227 as also Clause (2) of Article 226 of the Constitution of India, the High Court will exercise its discretionary jurisdiction and also issue writs of *certiorari* over orders passed by the subordinate courts within its territorial jurisdiction. Besides, if any cause of action arises within its territorial limits, it will exercise its jurisdiction. According to *Ambica Industries*

"[T]he same tests cannot be applied when the appellate court exercises jurisdiction over a Tribunal situated in more than one State. In such a situation, in our opinion, the High Court located in the State where the first court is located should be considered

to be the appropriate appellate authority. The Code of Civil Procedure did not contemplate such a situation. It provides for the jurisdiction of each court. Even a District Judge must exercise its jurisdiction only within the territorial limits of a State. It is inconceivable under the Code of Civil Procedure that the jurisdiction of the District Court would be exercisable beyond the territorial jurisdiction of the District, save and except in such matters where the law specifically provides therefor.

16. Then, *Ambica Industries* went on to cite the examples of incongruity that might result if the jurisdictional theory under CPC was applied to the Tribunals. According to it, in a case of emergency, while the Tribunal sitting at Allahabad or Bombay may entertain a matter though the cause of action had arisen at Delhi. But that would not mean that when the Tribunal decided at Allahabad or Bombay, although the cause of action had initially arisen at Delhi, that High Court would have no jurisdiction on the dispute.

17. In this context, *Ambica Industries* reasons that the *situs* of a Tribunal may vary from time to time. It could be Delhi or some other place. Whether its jurisdiction would be extending to three or more or fewer States would depend upon the executive order which may be issued. The determination of the High Court's jurisdiction on the touchstone of sections 35G and 35H of the Act, in *Ambica Industries* opinion, should be considered only based on the statutory provisions and nothing else. "While defining the High Court in terms of Section 36B of the Act, the Parliament never, in our opinion, contemplated [having] a situation of this nature".

18. In fact, the Supreme Court in *Ambica Industries* has quoted with approval Madras High Court decision in *Commissioner of Income Tax, Madras v. S. Sivaramakrishna Iyer*⁴. The issue, in that case, arose under the Income Tax Act, as is the case now. According to *S. Sivaramakrishna Iyer*, if a Tribunal has jurisdiction over more states than one, and it has got to

make a choice, in the absence of a statutory provision, relating to the matter it must be guided by the principles of Section 64—that is, the place where the Assessee carries on his business, profession or vocation or resides. There is also another approach to the question: the subject-matter test. Then, *S. Sivaramakrishna Iyer*, on the facts, observed that the penalty proceedings were originally initiated by the Income-tax Officer at Trichur. But the penalty proceedings are but a continuation of the original assessment orders. And the original assessment was in Kerala. On that basis too, *S. Sivaramakrishna Iyer* has held that the *situs* of the Tribunal cannot be determinative of the jurisdictional issue.

19. Finally, *Ambica Industries* has, on the facts, held that the case has arisen from the State of Maharashtra. The appellant may have its factory in the State of Haryana. But that is irrelevant. The adjudicating authority is in Bombay. Obviously, that authority is bound by the law laid down under the Customs Act or any other law—as interpreted by the High Court of Bombay. “For the purpose of the case at hand, the petitioner must be held bound by the law as applicable and as prevailing in the State of Maharashtra whereat the goods were to be imported and whereat the proceedings under the Act were concluded”.

Kusum Ingots stands explained by Ambica Industries:

20. We may as well note the dictum of *Kusum Ingots & Alloys Ltd. v. Union of India*⁵. In that case, the Supreme Court has interpreted clause (2) of Article 226 of the Constitution. It has held that the place where an appellate order or a revisional order is passed may give rise to a part of the cause of action, although the original order was at a place outside that area. When a part of the cause of action arises within one or the other High Court, it will be for the petitioner to choose his forum.

21. As to resolve the territorial tangle and the *situs* conflict, *Ambica Industries* notes the legislative changes wrought on Article 226. According

5JT 2004 (Suppl.1) SC 475

to it, experiencing difficulties, Parliament introduced clause (1A) to Article 226. Later, again, it inserted clause (2). And, then, *Ambica Industries* holds that in *Kusum Ingots & Alloys Ltd.*, the Court “was not dealing with a question of this nature”. Therefore, it is not an authority for the proposition that the High Court which is situated at the same place as the *situs* of the Tribunal alone will have jurisdiction. “If the cause of action doctrine, as analysed hereinbefore is given effect to, invariably more than one High Court may have jurisdiction, which is not contemplated”.

(b) The Fallout of Ambica Industries:

22. We may examine what comes out precedentially from *Ambica Industries*. In the context of inter-state Tribunals, it has disfavoured the jurisdictional justifications as provided under CPC. For the procedural Code is vertical in its application and is, essentially, intra-state in its territorial application. Of course, sections 23 (3) and 25 of CPC do concern inter-state jurisdictional disputes. But under the CPC no court, in the conventional sense, subordinate to a High Court can have inter-state jurisdiction. Nor has *Ambica Industries* accepted as applicable to inter-state Tribunals the theory of territorial jurisdiction under Article 226 of the Constitution—that is, “the part of the cause of action” proposition. For “the determination of the appellate forum based upon the *situs* of the Tribunal would lead to an anomalous result”. To exemplify, it says “an assessee affected by an assessment order in Bombay may invoke the jurisdiction of the Delhi High Court to take advantage of the law laid down by it, which may be contrary to judgments of the High Court of Bombay. This cannot be allowed”.

(c) Sungard Solutions (I) Pvt. Ltd.:

23. In the face of *Ambica Industries* rendered by the Apex Court, we must now examine the decision of our High Court in *Sungard Solutions*. It is a co-equal Bench decision. In an appeal filed by the Revenue, the respondent objected to this Court’s territorial jurisdiction over the matter.

The respondent has contended that the impugned order was passed by the Bangalore Bench of the Tribunal. So, the appeal from the order of the Tribunal's Bangalore Bench should lie before the Karnataka High Court and not this Court. To contend thus, he relied on Chapter XX of the Act and, in particular, sections 260A and 269 of the Act. In fact, the Tribunal at Bangalore passed an order under Section 127 of the Act, transferring the respondent's case from an Assessing Officer at Bangalore to an Assessing Officer at Pune. Assailing that order, the Revenue appealed to this Court. According to the Revenue, this Court alone will have jurisdiction to deal with the respondent's case because, now, the assessment proceedings are in Mumbai consequent to the Tribunal's order under section 127 of the Act.

24. In the above factual backdrop, *Sungard Solutions* has analysed the relevant provisions of the Income Tax Act and the Rules. Then, in paragraph 17 of the judgment, it has held that Chapter XX of the Act decides which High Court will hear appeals from the orders passed by the Tribunal. It has a specific provision dealing with appeals, amongst others, to the High Court. According to it,

[S]ection 260A and 269 of the Act, when read together, would mean that the High Court referred to in Section 260A of the Act will be the High Court as provided/defined in Section 269 of the Act i.e. in relation to any State, the High Court of that State. Therefore, the seat of the Tribunal (in which State) would decide the jurisdiction of the Court to which the appeal would lie under the Act. Thus, in the present facts, the High Court which would have jurisdiction over the place where the Tribunal (*when not exercising jurisdiction over more than one State*) is situated and passed the order. Therefore, in the facts of this case, on the bare examination of the provisions, it would be clear that in case of orders passed by the Bangalore Bench of the Tribunal, appeal from such orders would lie only to the Karnataka High Court at Bangalore.

(italics supplied)

25. *Sungard Solutions* went onto answer other contentions raised by either the appellant or the respondent. The appellant contended that the

seat of the Assessing Officer alone would decide the jurisdiction of the High Court under section 127 of the Act. But *Sungard Solutions* has felt the argument is misplaced. According to it, a “bare reading of the provisions shows that the Court to which appeal would lie is not governed by the seat of the Assessing Officer”. In this context, *Sungard Solutions* refers to Rule 4(i) of the Income Tax Appellate Tribunal (ITAT) Rules. That Rule mandates that the President of the Tribunal shall hear the appeals filed before the Tribunal, in terms of Section 253 of the Act. It stresses that the Tribunal is not an income tax authority under the Act.

26. *Sungard Solutions* also refers to the Standing Order No.63/97, dated 2.7.2013, issued by the President of the Tribunal under Rule 4(1) of the ITAT Rules. That standing order holds that the “jurisdiction of the bench depends upon the areas from where the impugned orders have originated”. In the above standing order, Note 4 specifically states that “the jurisdiction of a bench will not be determined by the place of business or residence of the assessee but by the location of the office of the Assessing Officer”. Eventually, *Sungard Solutions* has held that if an assessment proceeding has been transferred from one place to another under Section 127 of the Act, “then the bench of the Tribunal before which appeals would lie may shift with the seat of the Assessing Officer before the filing/hearing of the appeal”.

27. Finally comes into play the Bombay High Court Rules. *Sungard Solutions* concludes, with reference to these Rules, that “the Appellate Court to which an appeal would lie from the order of the Tribunal would necessarily be the High Court exercising jurisdiction over the places where the Tribunal which passed the order is situated”.

28. Summing up the statutory and precedential position, *Sungard Solutions* has held that “the Tribunal which passes orders is bound by the orders passed by the jurisdictional High Court where the Tribunal is situated”. Then, on the facts, it has noted that the Tribunal which passed

the impugned order is situated in Bangalore. Therefore, the Tribunal would be bound by the orders passed by the Karnataka High Court at Bangalore.

29. After holding as above, *Sungard Solutions* considers a few hypothetical propositions. According to it, it is likely that there could be a divergence of opinion between two High Courts on a particular issue: one view by the Court where the Tribunal is situated, say Bangalore; and the other view by the Court where the Assessing Officer is now situated, say Pune. It will, then, lead to an incongruous situation.

30. To resolve this incongruity, *Sungard Solutions* gathers legislative intent from section 260A read with 269 of the Act. And it concludes that “the orders passed by the Tribunal are subject to an appeal before the High Court under which it exercises jurisdiction”. According to *Sungard Solutions*, if we accept the Revenue’s contention, then

“[W]e would have a peculiar situation where the powers under Articles 226 and 227 of the Constitution, would be exercised by the Court which exercises jurisdiction over the seat of the Tribunal which is passing the order while for the purposes of appeal under the Act, the Court which would entertain the appeal would be a Court different from the Court which would exercise jurisdiction under Articles 226 and 227 of the Constitution. It is to be noted that, for relief under Article 226 of the Constitution, no part of the case of action would have arisen in Mumbai giving rise to the jurisdiction of this Court. Thus, harmonious reading of the various provisions of law would require that the appeal from the order of the Tribunal is to be filed to the Court which exercises jurisdiction over the seat of the Tribunal.

31. Besides noting what it felt to be an incongruity, *Sungard Solutions* has also referred to the Explanation to Section 127 of the Act. That explanation clarifies that once there is a direction under Section 127 of the Act, all the pending assessment proceedings under the Act would stand transferred to the transferee assessing officer. But the words “all proceedings under this Act” would not cover appeals under the Act before the High Court. Any contrary assertion would run counter to sections

260A and 269 of the Act, which provide specifically for the High Court that should have jurisdiction over the orders of a Tribunal in its territorial limit.

Co-equal Benches and Precedential Propriety:

32. Indeed, we have a thorny task of considering whether a co-equal Bench is correct in its dictum. That is the task best performed by its avoidance. But compelled to answer, for us the prudent course is to put it to the scrutiny of better wisdom—a Bench of superior strength. That said, if there is a decision from the Supreme Court, then Article 142 of the Constitution comes into play: all decisions at all other levels yield to the Supreme Court's. Yet let us begin from the desired point of avoidance, later proceed to resolution by harmonisation or distinction, and finally—if the two methods remain unavailable—to the reference.

Dicta v. Holding:

33. Under the caption “Dicta v. Holding”, Bryan A Garner *et al.* in *The Law of Judicial Precedent*⁶ say that the holding of an appellate court constitutes the precedent, as a point necessarily decided. *Dicta* do not: they are merely remarks made in the course of a decision but not essential to the reasoning behind the decision. To elaborate on this point, the learned authors hold that “not all text within a judicial decision serves as a precedent. That’s a role generally reserved only for holdings: the parts of a decision that focus on the legal questions actually presented to and decided by the court.” A holding consists of the “court’s determination of a matter of law pivotal to its decision”. Everything else amounts to dicta—what Francis Bacon in 1617 called the “vapours and fumes of law”.

34. One of the age-old maxims of organic law is that “what is not judicially presented cannot be judicially considered, decided, or adjudged”. Garner *et al.* point out that the distinction between a holding

⁶Bryan A. Garner et al., *The Law of Judicial Precedent* (Thomson Reuters, USA, 2016) 44

⁷*Ibid*, 47

under dictum does not depend on whether the point was argued by counsel and deliberately considered by the court, but instead on whether the solution of the particular point was more or less necessary to determining the issues involved in the case⁸. According to them, no judge can write opinions with mathematical precision. The meaning of the opinion, even the holding, must be read in context, with due regard for the difficulty—the impossibility, really—of the court’s anticipating every circumstance in which the language could be applied.

35. Chief Justice Marshall has stated a pivotal point of precedent when he held in *Corbins v. Virginia*⁹: If the dicta “go beyond the case, they may be respected, but ought not to control the judgement and a subsequent suit when the very point is presented for decision”. Marshall further explained the “obvious” reasoning behind the maxim: “The question actually before the court is investigated with care, and considered in its full context. Other principles which may serve to illustrate it, or considered in their relation to the case decided, but their possible bearing on all other cases is seldom completely investigated”.

36. Earlier, a Division Bench of this Court in *Gaur Pratibha v. State of Maharashtra*¹⁰, drawing from the same commentary of Garner *et al.*, has held that holding emerges when the ratio—the pure principle of law—is applied to the facts of a case. That is, a holding is what the court decides after combining the facts of a case with the legal principles those facts attract. While holding might be thought to equate more nearly with the court’s determination of the concrete problem before it, *ratio decidendi* is normally seen “as a genus-proposition of which the concrete holding is one species or instance.” Garner *et al.* admit that the distinction is a fine one, but it available for those who observe it. In the end, they declare that ratio requires adherence to the extent possible, but the holding compels

⁸Ibid, 51

⁹19 U.S. (6 Wheat.) 264, 399 (1821), as quoted in (n6)

¹⁰(2019) 4 Bom CR 100

compliance fully. Thus, *stare decisis* admits of no exception to a ‘case-holding’ in the adjudicatory hierarchy, but not to digressing dicta.

What is the Holding of *Sungard Solutions*?

37. *Sungard Solutions* is a converse case. In that case, the Bangalore Bench of the Tribunal passed the impugned order. In fact, the Tribunal at Bangalore passed the order under Section 127 of the Act, transferring the respondent’s case from an Assessing Officer at Bangalore to one at Pune. Assailing that order, the Revenue filed the appeal before this Court. According to the Revenue, this Court alone will have jurisdiction to deal with the respondent’s case because, now, the assessment proceedings are in Mumbai consequent to the Tribunal’s order under section 127 of the Act. Pertinently, the Revenue wanted this Court to determine the territorial jurisdiction based on the very order that had been under challenge as if it were final. That was not.

38. From the judgment we may discern that *Sungard Solutions*’s case-holding is this: An appeal should lie to that High Court which has the jurisdiction over the place where the Tribunal that passed the impugned order is “situated”. *Sungard Solutions* has been cautious enough to hedge its declaration with “in the present facts”. Besides, another limiting factor in the pronouncement is that the jurisdictional assertion in *Sungard Solutions* comes into play when the Tribunal was “not exercising [jurisdiction] over more than one State”. To contextualise this proposition, *Sungard Solutions* has considered the problem in its myriad shades and discussed the issue in the alternative. Those alternatives and the judicial assertions on those alternatives are polemical presentations with no precedential force.

39. What should happen when the Tribunal exercises jurisdiction over more than one State? That is not the question that fell for consideration in *Sungard Solutions*. In fact, precisely, that was the question in *Ambica Industries*. Then, what is the case-holding of *Ambica Industries*? S.

B. Sinha J, who authored *Ambica Industries* had an occasion to cull out its case-holding in another case: *Mantoo Sarkar v. Oriental Insurance Co. Ltd*⁴¹. There, his Lordship has held, with reference to *Ambica Industries*, that “in determining as to whether a part of the cause of action has arisen within the territorial jurisdiction of the court vis-a-vis an appellate court a large number of factors may have to be taken into consideration.” In other words, whichever High Court can exercise its supervisory jurisdiction over a Tribunal, that High Court will have the corrective—say, appellate—jurisdiction over the Tribunal. That said, a Tribunal, as to its territorial jurisdiction, may cover more than one State, its physical location in one particular State notwithstanding. Then, it goes without saying that the High Courts in all those States will have jurisdiction over the Tribunal. But precedentially, each of these High Courts binds the parties located in its own territory.

40. In essence, though *Ambica Industries* has not been brought to its notice, *Sungard Solutions* has mirrored its assertion. It has consciously excluded the Tribunals “exercising jurisdiction over more than one State”. And “situated” in *Sungard Solutions* has a figurative, rather than literal, meaning. An inter-state Tribunal, we may add, is deemed to have been situated in all the States it covers.

41. So, we respectfully hold that *Sungard Solutions* does not fall foul of *Ambica Industries*. Even if it were, we stand, as we must be, guided by *Ambica Industries*.

Conclusion:

42. To sum up, the mere physical location of an inter-state Tribunal cannot be determinative of the High Court's jurisdiction for an aggrieved party to challenge that Tribunal's order.

43. Here, the Assessee is located in Karnataka, so are the Income Tax authorities. The primary order, too, emanated from Karnataka; so

was the first appellate order. All challenges, including the appeal before the Tribunal, were in continuation of that primary adjudication or consideration before the Assessment Officer at Belgaum, Karnataka. Therefore, *Ambica Industries* applies on all fours.

Result:

44. We hold that this Court has no jurisdiction to entertain this Appeal. As a result, we return the Tax Appeal, to be presented to the jurisdictional High Court if the appellant desires.

No order on costs.

DAMA SESHADRI NAIDU, J.

M.S. SONAK, J.

NH