

ORDER SHEET
WPO NO. 14 OF 2021
IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

MINISTRY OF CORPORATE AFFAIRS, NEW DELHI
Versus
M/S. JAI JUTE AND INDUSTRIES LIMITED

BEFORE:
The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA
Date : 11th February, 2021

Appearance :
Mr. Nandlal Singhania, Sr. Adv.,
Mr. Amal Kumar Datta, Adv.,
for the petitioner.

Mr. Sidhartha Sharma,
Ms. Shalini Basu, Advs.,
for the respondent.

The Court : Learned Senior Counsel appearing for the petitioner challenges an order of the BIFR, New Delhi and submits that, on the basis of an order dated October 25, 2018 passed by the Supreme Court in Civil Appeal Nos.7291-7292 of 2018, the Supreme Court directed the concerned High Court to hear a challenge against an order of the Company Law Tribunal, since the Appellate Tribunal had held the appeals preferred before it to be not maintainable.

However, the factual backdrops of the two cases are different. In the cited case, upon being approached, the NCLAT specifically held that the appeals were not maintainable. Even after that, the Appellate Tribunal had adjudicated upon the aspect of limitation. In such perspective, the Supreme Court had relegated the matter to the High Court.

In the present case, however, no challenge has been preferred by the petitioner at all before the Appellate Tribunal, for the latter to have found anything regarding the maintainability of the appeals. The petitioner cannot skip a forum and approach this

Court, in view of availability of equally efficacious alternative remedy in the form of an appeal before the NCLAT.

Moreover, the contention that this Court has territorial jurisdiction to entertain the writ petition in view of the company in question being situated in Kolkata is also not acceptable since, irrespective of the location of the company, which might have had some bearing on the original jurisdiction of the first forum taking up a challenge, the forum for preferring an appeal/challenge against an appeal cannot be determined by situs of the company.

It is the Delhi High Court which would have jurisdiction to hear any challenge, if otherwise maintainable in law, against an order of the BIFR, New Delhi, and not this Court.

As such, the writ petition is not maintainable before this Court on the yardsticks as indicated above.

WPO 14 of 2021 is, thus, dismissed as not maintainable with liberty to the petitioner to approach the appropriate forum for ventilating the grievances taken in the present writ petition.

No order as to costs.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance of all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)

