

**Form No. J(2).
Item No.5**

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 01.12.2022

DELIVERED ON: 01.12.2022

**CORAM:
THE HON'BLE MR. JUSTICE T.S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**M.A.T 1778 of 2022
With
I.A. No. CAN 1 of 2022**

**M/s. Narula Infrastructure Pvt. Limited & Anr.
VERSUS
Assistant Commissioner of State Tax, Patna-North**

Appearance:-

**Mr. Vinay Kumar Shraff
Miss. Priya Sarah Paul
Miss. Priyanka Sharma**

.....for the appellants

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, J.)

1. This intra-Court appeal is directed against the order dated 27th September, 2022 passed in WPA 20914 of 2022 by which the learned single Bench had dismissed the writ petition on the ground of lack of territorial jurisdiction. The challenge

in the writ petition was to an order passed by the Assistant Commissioner of state Tax, Patna-North, who was the sole respondent in the writ petition.

2. Mr. Shraff, learned counsel for the appellants submitted that part of the cause of action arose within the territorial jurisdiction of this Court in the state of West Bengal since the amount was recovered from the cash credit account of the appellants in a bank situated in the State of West Bengal.

3. Under normal circumstances, this can be construed as one of the factors to consider whether part of the cause of action arose within the territorial jurisdiction of a particular Court. However, in the instant case the appellants are registered dealers in the State of Bihar and the project was executed by the appellants in Bihar and the proceedings had been initiated by the jurisdictional officer in Patna. Therefore, it is appropriate for the appellants to canvass all issues before the appropriate forum in the State of Bihar and a writ petition in the given facts and circumstances is not maintainable before this Court.

4. For the above reasons, the appeal is **dismissed** with liberty to the appellants to approach the appropriate forum in the State of Bihar and if the appellants does so, the period during which the writ petition was pending till receipt of the server copy of this order shall stand excluded for the purpose

of computing limitation. Consequently, the connected application is also **dismissed**.

5. No costs.

6. Urgent Photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J.)

I agree,

(HIRANMAY BHATTACHARYYA, J.)

RAJA/Pallab, AR(Ct.)