

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

111

CR-3532-2018

Date of decision: 29.07.2022

TOLL GLOBAL FORWARDING (INDIA) PVT. LTD.

..Petitioner

Versus

SPORTING SYNDICATE PVT. LTD.

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. V.K. Jindal, Sr. Advocate
with Ms. Ruchi Sekhri, Advocate
for the petitioner.

None for respondent.

ANIL KSHETARPAL, J(Oral)

The dispute is with regard to the territorial jurisdiction of the Court located at Jalandhar to entertain a suit filed by the respondent herein seeking decree of mandatory injunction directing the defendant (petitioner herein) to return the articles of consignment contained in container No.ECMU9612431/40, CORTONS: 573 BOX, entrusted to the defendant as a carrier.

An application filed by the petitioner for return of the plaint has been dismissed by the trial Court on the ground that according to clause 21 of the terms & conditions of bill of lading, the Hong Kong Court does not have the exclusive jurisdiction.

The learned counsel representing the petitioner contends that on reading of clause 21 of the bill of lading, it is evident that the Courts of Hong Kong and no other Court shall have the jurisdiction.

Clause 21 reads as under:-

“The contract evidenced by or contained in this Bill of lading is governed by the laws of the Hong Kong Special

Administrative Region and any claim or dispute arising hereunder or in connection herewith shall be determined by the Courts of Hong Kong and no other Courts, unless the port of lading or the port of discharge indicated on the front of this bill of lading is in Canada, then this bill of lading is governed by the laws of Canada and any claim or dispute arising hereunder or in connection herewith shall be determined by the Courts of Canada.”

It is evident that the trial Court has erred in interpreting the aforesaid clause which confers exclusive jurisdiction on the Courts located at Hong Kong. It is now well settled that the parties can, by way of an express agreement, confer exclusive jurisdiction on any Court if two or more Courts have jurisdiction to try the case.

Keeping in view aforesaid facts, the revision petition is allowed. The order under challenge is set aside while requesting the trial Court to return the plaint for presentation in the proper Court.

All the pending miscellaneous applications, if any, are also disposed of.

July 29th, 2022

Ay

**(ANIL KSHETARPAL)
JUDGE**

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>