

**IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

Before:

The Hon'ble Justice Hiranmay Bhattacharyya

**C.O. 1741 of 2025
NCDEX e Markets Limited**

Vs.

Authorised Officer, Canara Bank & Ors.

For the Petitioner	: Mr. Mainak Bose, Sr. Adv. Mr. Shoorjyo Mukherjee Mr. Dhiraj Mehere Mr. Satyasrikant Uutha Mr. Aditya Nair Mr. Vishwarup Acharyya advocates
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For the Opposite Parties	: Ms. Aparajita Rao Ms. Nabanita Duttaadvocates
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Heard on	: 13.08.2025
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Judgment on	: 02.09.2025
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Hiranmay Bhattacharyya, J.:-

1. The opposite party no. 1/Bank raised a preliminary objection against maintainability of this application under Article 227 of the Constitution of India before this Court. The preliminary objection raised by the Bank is that the petitioners are required to file instant application before the High Court within whose jurisdiction the Debts Recovery Tribunal is situated. In view thereof, the parties were invited to advance their argument on the issue of jurisdiction only.

2. Before this Court proceeds to deal with the question of jurisdiction, only the facts that are relevant for the purpose of deciding the issue of jurisdiction is set out hereinafter.
3. The opposite party no. 1/Bank filed an application under Section 19 of the Recovery of the Debts and Bankruptcy Act, 1993 (for short “the 1993 Act”) for recovery of sum of Rs. 22,96,128/- jointly and severally from the opposite party nos. 2,3 and 4 and the petitioner with future interest at 10% per annum with half yearly rests from October 1, 2019 till the date of realization along with costs. The said application which was registered as Original Application no. 120 of 2020 was filed before the learned Debts Recovery Tribunal-II at Hyderabad (for short “DRT”).
4. The case made out by the opposite party no. 1/Bank in the said Original Application (for short “O.A.”) is that the opposite party no. 2 availed a loan against the warehouse receipt of the opposite party no. 3. Under the scheme, the opposite party nos. 3, 4 and the petitioner are liable to indemnify the bank by virtue of a tripartite agreement and warehouse management agreement. During the course of routine inspection the bank noticed that the opposite party nos. 2 and 3 disposed of the pledged stocks without any notice. The bank issued legal notice to the opposite party nos. 2 to 4 and the petitioner for breach of respective agreements dealing with the loan transaction. Since the opposite parties and the petitioner failed to clear the loan amount, Bank filed the O.A.
5. Petitioner contested the said O.A. by filing a written statement contending that the petitioner is not liable for any due/ claims in respect of the quality or quantity of the debts deposited, accepted and/or dematerialized and pledged or realized at / through any of the designated warehouses.
6. The learned DRT, by a judgment and order dated January 25, 2024, allowed the O.A. upon holding that the opposite party nos. 2 to 4 and the petitioner are jointly and severally liable to pay the opposite party no. 1/ Bank a sum of Rs. 22,96,128 with future simple interest at 10.50% per annum from the

date of application till the date of realization and it was further held that the Bank was entitled to proceed against the person and properties of the opposite party nos. 2 to 4 and the petitioner for realization of its dues.

7. Being aggrieved by the judgment and order dated January 25, 2024 passed by the learned DRT, Hyderabad in the said O.A., petitioner preferred an appeal before the learned Debts Recovery Appellate Tribunal (for short "DRAT") at Kolkata which was registered as Appeal Diary No. 1131 of 2024. Since the said appeal was filed beyond the statutory period of limitation, an application under Section 5 of the Limitation Act was filed praying for condonation of delay of 85 days in filing the said appeal. The said application under Section 5 of the Limitation Act was registered as I.A. No. 38 of 2024.
8. The learned DRAT, Kolkata, by a judgment and order dated April 25, 2025, dismissed the application under Section 5 of the Limitation Act. Consequently, the appeal also stood dismissed as time barred.
9. Petitioner filed the instant application under Article 227 of the Constitution of India challenging the aforesaid order dated April 25, 2025 passed by the learned DRAT at Kolkata in Interim Application no. 38 of 2024 arising out of Appeal Diary no. 1131 of 2024.
10. The learned advocate appearing for the opposite party no. 1/ Bank contended that under Article 227 of the Constitution of India the High Court shall have the superintendence over the Tribunal situated throughout the territories in relation to which it exercises jurisdiction. She further contended that in a case where the original authority i.e., DRT is situated in one State and the DRAT is situated in a different State, exercising its appellate jurisdiction over DRTs located at more than one States, it is the High Court under whose jurisdiction the DRT is situated would have the power of superintendence under Article 227 of the Constitution of India over the DRAT even if it is located beyond its territorial limits. In support of such contention she placed reliance upon a decision of the co-ordinate bench in

the case of **Navin Jain vs. State Bank of India** reported at **(2002) 2 CHN 294**. She submitted that since the DRT is situated within the State of Telengana, the High Court at Telengana and not this Court would have the jurisdiction to entertain and decide an application under Article 227 of the Constitution of India challenging the order passed by the DRAT, Kolkata. She also placed reliance upon a decision of the Hon'ble Supreme Court in the case of **Ambica Industries vs. Commissioner of Central Excise** reported at **(2007) 6 SCC 769** in support of her contention that the High Court under whose jurisdiction the adjudicating authority is situated would have jurisdiction under Article 227 of the Constitution of India. She contended that under the scheme of 1993 Act, the DRT is the adjudicating authority and, therefore, the situs of the Tribunal and not the Appellate Tribunal would decide the jurisdiction of the High Court under Article 227 of the Constitution of India. For the same proposition she placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Calcutta Gujarati Education Society and Another vs. Regional Provident Fund Commissioner and Others** reported at **(2020) 19 SCC 380**. She also placed reliance upon the decision of the Hon'ble Supreme Court in the case of **Siddhartha S. Mookerjee v. Madhab Chand Mitter** reported at **(2024) SCC Online SC 4285** wherein it was held that merely because the National Consumer Dispute Redressal Commission at Delhi allowed the revision petition, that would not be a ground to vest the supervisory jurisdiction under Article 227 of the Constitution of India in the High Court of Delhi.

11. Per contra the learned Senior Advocate appearing for the petitioner contended that this Court has the power of superintendence under Article 227 of the Constitution of India over the DRAT, Kolkata as the same is located in the State of West Bengal. He contended that the order of the DRT shall merge with the order of DRAT by applying the doctrine of merger and the order of the original authority no longer remains and it is the order of the appellate authority which prevails and is amenable to challenge. He further contended that in view of the doctrine of merger the situs of the Appellate Tribunal and not the Original Tribunal would decide the

jurisdiction of the High Court under Article 227 of the Constitution of India. In support of such contention he placed reliance upon a decision of the Hon'ble Supreme Court in the case of ***Union of India vs. Alapan Bandyopadhyay*** reported at **(2022) 3 SCC 133**. He submitted that in the said decision the Hon'ble Supreme Court had set aside the decision of the Hon'ble Division Bench of the Calcutta High Court in the case of ***Alapan Bandyopadhyay vs. Union of India and Another*** reported at **(2021) SCC Online Cal 2793** and held that the Calcutta High Court has usurped jurisdiction by entertaining a writ petition challenging the order passed by the Central Administrative Tribunal, New Delhi as the principal bench of the Tribunal does not fall within its territorial jurisdiction. He, thus, contended that by applying the aforesaid proposition of law to the case on hand the instant application under Article 227 is maintainable before this Court as the DRAT is situated within the territorial jurisdiction of this Court. The learned Senior Advocate for the petitioner further placed reliance upon an order passed by a co-ordinate bench on September 13, 2018 in **C.O. 2328 of 2018** in the case of ***Sabbam Hari vs. The Authorised Officer and ors.*** wherein it was held that merely because the DRAT at Kolkata was exercising power of superintendence over a DRT in Hyderabad, it does not render the said Appellate Tribunal amenable to the jurisdiction of the High Court which exercises jurisdiction over Hyderabad Tribunals. He also placed reliance upon a judgment of the Hon'ble Division Bench of the High Court of Bombay passed in a batch of writ petitions, the lead case being Writ Petition no. 2837 of 2021 in the case of ***Volvo Group India Pvt. Ltd. vs. Union of India*** reported at **(2024) SCC Online Bom 2897** in support of his contention that the situs of the authority whose order is challenged would decide the jurisdiction of the High Court as the orders of the adjudicating authority merged with the order of the ultimate authority whose order was challenged before the High Court.

12. The learned Senior Advocate appearing for the petitioner submitted that the order rejecting an application under Section 5 of the Limitation Act by the DRAT is under challenge in the application under Article 227 of the

Constitution of India. He contended that in **Navin Jain** (supra) it has been clarified that before entertaining an application under Article 227 of the Constitution of India, the Court must ascertain what is the effect of interference prayed for in such application and if the result of such intervention is that an order of a Tribunal over which a High Court has no power of superintendence will be scrutinized, in such a case, such High Court should not entertain the application. He contended that the petitioner has only challenged the order rejecting an application under Article 5 of the Limitation Act in the Civil Revision Application. Whatever may be the result in a challenge thrown to such an order, it would not amount to interfering with the order passed by DRT. If the decision on merits is in favour of the petitioner, it would only amount to interfering with the order of DRAT. He, therefore, contended that the decision in the case of **Navin Jain** (supra) cannot be applied to the facts of the case on hand.

13. Heard the learned advocates for the parties and perused the materials placed.
14. The Recovery of Debts due to Banks and Financial Institutions Act, 1993 stood repealed and in its place Recovery of Debts and Bankruptcy Act, 1993 came into force. Section 3(1) of the Recovery of Debts and Bankruptcy Act 1993 (for short the “RDB Act”) vests power upon the Central Government to establish one or more tribunals to be known as the Debts Recovery Tribunal, to exercise the jurisdiction, powers and authority conferred on such tribunal by or under the said Act by issuing notification. Section 8(1) vests power upon the Central Government to establish one or more appellate tribunals to be known as the Debts Recovery Appellate Tribunal, to exercise the jurisdiction, powers and authority conferred on such tribunal by or under the said Act by issuing notification. Section 19 of the RDB Act states that where a bank or a financial institution has to recover any debt from any person, it may make an application to the Tribunal within the local limits of whose jurisdiction- (a) the branch or any other office of the bank or financial institution is maintaining an account in which debt claimed is outstanding,

for the time being; or (aa) the defendant or each of the defendants where there are more than one, at the time of making an application, actually and voluntarily resides or carries on business, or personally works for gain; or (b) any of the defendants, where there are more than one, at the time of making the application, actually and voluntarily resides, or carries on business or personally works for gain or (c) the cause of action wholly or in part arises.

15. In the case on hand, the opposite party no. 1/Bank filed the O.A. before the D.R.T., Hyderabad. The O.A. stood allowed by the D.R.T. at Hyderabad. The entire cause of action leading to the passing of the final judgment by the DRT, Hyderabad had arisen beyond the territorial jurisdiction of this Court. However, the final judgment passed by the DRT, Hyderabad has been challenged before the DRAT, situated within the territorial limits of this Court. The order passed by the DRAT, Kolkata, rejecting the application under Section 5 of the Limitation Act and dismissal of the appeal as time barred is under challenge before this Court. The Appellate Tribunal is, however, located within the territorial limits of this Court.
16. The sheet anchor of the argument of the petitioner in support of the maintainability of the application under Article 227 of the Constitution of India before this Court is that the order under challenge is sourced from a forum located within the territorial limits of this Court by relying upon the doctrine of merger and that the order passed by the Appellate Tribunal forms part of the cause of action.
17. It is well settled that once an appeal is decided by an appellate authority, the order of the original authority gets merged with the order of the appellate authority in view of the doctrine of merger and the order of the original authority no longer remains and it is the order of the appellate authority which prevails and is amenable to challenge.
18. The Hon'ble Supreme Court in the case of **Collector of Customs, Calcutta vs. East India Commercial Co. Ltd. Calcutta** reported at **AIR 1963 SC**

1124 held that the order of the original authority must be held to have merged in the order of the appellate authority and it is only the order of the appellate authority which is operative after the appeal is disposed of. The Hon'ble Supreme Court proceeded further to observe that if the Appellate Authorities are located beyond the territorial jurisdiction of the High Court, it would not be open to it to issue a writ to the original authority which is within its jurisdiction so long as it cannot issue a writ to the Appellate Authority.

19. The aforesaid decision was delivered prior to the amendment of Article 226 of the Constitution of India thereby inserting Article 226(2).
20. However, in view of the insertion of Article 226(2) of the Constitution of India the High Courts have been vested with the jurisdiction to issue writs to authorities located outside their territorial jurisdiction so long as the cause of action arose within their territorial jurisdiction. At this stage it would be beneficial to take note of the provisions contained in Article 226 of the Constitution of India for which the same is extracted hereinafter.

"Article 226. Power of High Courts to issue certain writs.-(1) Notwithstanding anything in article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) &(4)"

21. Thus, in view of the provisions contained under Article 226 (2) of the Constitution of India the High Court can issue writs to any government

authority or person even if the seat of such government or authority or residence of such persons is not within its territorial jurisdiction. In other words, under Article 226(2) of the Constitution of India the High Court has been vested with the jurisdiction to issue writs to authorities located outside its territorial jurisdiction so long as the cause of action, wholly or in part, arose within its jurisdiction.

22. In ***Volvo Group India Pvt. Ltd.*** (supra) writ petitions were filed before the Hon'ble High Court of Bombay challenging the orders passed by the revisionary authority. In the said writ petitions the seat of the adjudicating authority was beyond the territorial jurisdiction of the principal bench of the High Court of Bombay. However, the revisionary authority, whose order was under challenge in the writ petition was located within the territorial jurisdiction of the principal bench of the Bombay High Court. An objection against the territorial jurisdiction of the principal bench of the Bombay High Court was raised by contending that writ petitions challenging the orders of the revisionary authority should have been filed before the Madras High Court, Karnataka High Court, Goa bench of the Bombay High Court or Nagpur bench of the High Court. The Hon'ble Division Bench of the Bombay High Court after taking note of the provisions laid down under Article 226(2) of the Constitution of India and various decisions of the Hon'ble Supreme Court including the decision of the Hon'ble Supreme Court in the case of ***Kusum Ingots & Alloys Ltd. vs. Union of India*** reported at **AIR 2004 SC 2321** held that since the revisionary authority is located within the territorial jurisdiction of the principal seat of the Bombay High Court the petitioner has the option to file writ petitions either before the principal seat of the Bombay High Court or before the High Court within whose jurisdiction the original adjudication occurred by applying the proposition of law laid down by the Hon'ble Supreme Court in ***East India Commercial*** (supra). It was held that the order of the appellate authority forms a significant part of the cause of action for the petitioner. It was further held therein that the petitioners have the right to choose to file the petitions before the principal seat of the Bombay High Court and also before the High

Court or the bench of the Bombay High Court within whose jurisdiction the original lis arose.

23. After going through the decision in the case of **Volvo Group India Pvt. Ltd.** (supra) this Court finds that the jurisdiction of the High Court under Article 226 of the Constitution of India to issue writs to authorities located outside the jurisdiction of the High Court has been recognized. It also recognizes the right of the petitioner to choose the forum based on the cause of action and the order of the appellate authority was also held to constitute a part of cause of action for filing a writ petition before the High Court within whose jurisdiction the appellate or revisionary authority is situated.
24. The aforesaid decision is, however, not an authority for the proposition of law that the High Court can entertain and decide an application under Article 227 of the Constitution of India challenging an order passed by the Appellate Tribunal exercising appellate powers over the original tribunal situated outside the territorial jurisdiction of the High Court.
25. It is now well settled that in view of insertion of Article 226(2), even the High Courts within whose jurisdiction the original lis arose is vested with the jurisdiction to issue writs to the Appellate Authority located outside its territorial limits. The High Court within whose territorial jurisdiction, the Appellate Authority is situated also has the jurisdiction to issue writs as the appellate order forms part of the cause of action.
26. Under various statutes namely the Customs Act and the Income Tax Act, questions arose as to which High Court has to be approached to challenge an order passed by the Tribunal exercising jurisdiction over more than one State.
27. In **Ambica Industries** (supra), the issue that fell for consideration was relating to determination of situs of High Court in which appeals would lie under Section 35-G(1) of the Central Excise Act. The Hon'ble Supreme Court noticed the decision of Five Judge Bench of the Hon'ble Supreme Court in the case of **Sri Nasiruddin vs. State Transport Appellate**

Tribunal reported at **(1975) 2 SCC 671** and observed that the said decision proceeded on the basis that part of the cause of action may arise at the forum where the appellate order or the revisional order is sourced and if a cause of action arises within one or the other High Court, the petitioner shall be the *dominus litis*. The Hon'ble Supreme Court proceeded further to observe that if the situs of the Appellate Tribunal should be considered to be the determinative factor, a decision rendered by the tribunal shall be binding on all the authorities exercising its jurisdiction under the said tribunal. The Hon'ble Supreme Court in the facts of the said reported case noticed that the tribunal exercises jurisdiction over three States and in each of the three States, there are High Courts and in the event, the aggrieved person is treated to be *dominus litis* as a result whereof, he elects to file the appeal before one or the other of the High Courts, the decision of the High Court shall be binding only on the authorities which are within its jurisdiction. It was further observed that it will only be of persuasive value on the authorities functioning under a different jurisdiction. It was held that if a binding authority of a High Court decision does not extend beyond its territorial jurisdiction and the decision of one High Court would not be a binding precedent for other High Courts or Courts or Tribunals outside its territorial jurisdiction, some sort of judicial anarchy shall come into play. In the light of the aforesaid observations, the Hon'ble Supreme Court after noticing the provisions laid down under Article 227 of the Constitution of India as also clause (2) of Article 226 of the Constitution of India held that when the appellate Court exercises a jurisdiction over a tribunal situated in more than one State, the High Court situated in the State where the First Court is located should be considered to be the appropriate appellate authority. The Hon'ble Supreme Court further clarified that **Sri Nasiruddin** case and **Kusum Ingots** case are not authorities for the proposition that the High Court which is situated at the same place as the situs of the tribunal, alone will have jurisdiction.

28. A more or less identical issue fell for consideration before the Hon'ble Supreme Court in **Principal Commissioner of Income Tax-I Chandigarh**

vs. M/s. ABC Papers Ltd. reported at **(2022) 9 SCC 1**. In **ABC Papers Ltd.** (supra) wherein a question arose concerning the appellate jurisdiction of the High Court under Article 260(A) of the Income Tax Act, 1961 against judgments of the Income Tax Appellate Tribunals (for short "ITAT") as Benches of ITAT are situated to exercise jurisdiction over more than one State, each State having a separate High Court. Question arose as to which of the High Courts is the appropriate Court for filing appeals under Section 260(A). The Hon'ble Supreme Court held that the appeals against the decision of ITAT shall lie only before the High Court within whose jurisdiction the Assessing Officer who passed the assessment order is situated.

29. This Court finds that **Ambica Industries** (supra) and **ABC Papers Limited** (supra) deals with cases where the appellate authority exercises its jurisdiction over more than one states. In such cases, the Hon'ble Supreme Court held that the High Court within whose jurisdiction the adjudicating authority is located would have the jurisdiction to entertain a challenge to the orders passed by the appellate authority though the appellate authority may not be located within its territorial jurisdiction.
30. In the case on hand this Court is concerned with the jurisdiction of the High Court under Article 227 of the Constitution of India but not under Article 226 of the Constitution of India. There is a distinction between the power of the High Court to issue a writ to any government authority or persons located not within its territorial jurisdiction and the power of superintendence of the High Court under Article 227 of the Constitution of India over courts and tribunals. In order to appreciate the aforesaid distinction it would be beneficial to take note of the provisions of Article 227 of the Constitution of India and for which the said provision is extracted hereinafter-

*Article 227. Power of superintendence over all courts by the High Court.
- (1) Every High Court shall have superintendence over all courts and Tribunals throughout the territories in relation to which it jurisdiction.*

(2) Without prejudice to the generality of the foregoing provision, the High Court may-

(a) call for returns from such courts ;

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts ; and

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts.

(3) The High Court may also settle tables of fees to be allowed to the sheriff and all clerks and officers of such courts and to attorneys, advocates and pleaders practising therein :

Provided that any rules made, forms prescribed or tables settled under clause (2) or clause (3) shall not be inconsistent with the provision of any law for the time being in force, and shall require the previous approval of the Governor.

(4) Nothing in this article shall be deemed to confer on a High Court powers of superintendence over any court of Tribunal constituted by or under any law relating to the armed forces."

31. In **Navin Jain** (supra) the order passed by the DRAT, Kolkata affirming the order passed by the DRT, Patna was challenged in an application under Article 227 of the Constitution of India before the Calcutta High Court. The co-ordinate bench after highlighting the distinction between the powers of the High Court under Article 226 and 227 held that if a Tribunal is constituted as Appellate Tribunal for hearing appeals against decisions of more than one original tribunals situated in different states, in such a case, for the purpose of challenging orders of such appellate tribunals by way of an application under Article 227 of the Constitution, an aggrieved party is to approach the High Court of that State within the territorial limit of which the original Tribunal exercises jurisdiction in a particular case. The co-ordinate bench further held that merely because the Appellate Tribunal is situated within the territorial limit of the High Court at Calcutta, such fact cannot confer jurisdiction to scrutinize an order passed by such Tribunal in any appeal preferred against a decision of the original tribunal over which the High Court at Calcutta has no power of superintendence. However, the co-ordinate bench put a caveat to the aforesaid general proposition of law by observing that before entertaining an application under Article 227 of the

Constitution of India, the Court must ascertain what is the effect of interference prayed for in such application.

32. At this stage, it would not be out of place to take note of the decision of the Hon'ble Supreme Court in the case of **Alapan Bandyopadhyay** (supra). In the said case Alapan Bandyopadhyay filed an original application before the Kolkata bench of the Central Administrative Tribunal challenging the disciplinary proceedings initiated against him. Pending consideration of the said O.A., Union of India moved a transfer petition under Section 25 of the Administrative Tribunals Act, 1985 before the principal bench of the Tribunal at New Delhi seeking transfer of the O.A. from the Kolkata bench to the principal bench at New Delhi. The transfer petition was allowed by the Chairman of the Tribunal sitting at principal bench at New Delhi. Such order of the principal bench of the Tribunal was under challenge at the instance of Alapan Bandyopadhyay before the Hon'ble Division Bench of Calcutta High Court in WPCT No. 78 of 2021 and the Hon'ble Division Bench by a judgment and order dated October 28, 2021 allowed the writ petition thereby setting aside the transfer order passed by the principal bench of the Central Administrative Tribunal. The said order was assailed before the Hon'ble Supreme Court and in **Alapan Bandyopadhyay** (supra) it was held that the judgment and final order passed by the Hon'ble Division Bench which was reported at **(2021) SCC Online Cal 2793** was passed without jurisdiction and hence it is ab initio void. The Hon'ble Supreme Court noted that if the challenge in the writ petition was against an order passed by the Kolkata bench of the Tribunal in the original application there can be no doubt with respect to the jurisdiction of the High Court at Calcutta. The Hon'ble Supreme Court after noting the provisions of Section 25 of the Administrative Tribunals Act, 1985 and upon observing that an application for transfer of an original application filed and pending before any bench of the Tribunal could be filed and the power to transfer lies with the Tribunal held that the power of judicial review of an order transferring an original application pending before a bench of the Tribunal to another bench under Section 25 of the Act can be reviewed only by a Division Bench

of the High Court within whose territorial jurisdiction the bench passing the same falls. In the light of the aforesaid observations the Hon'ble Supreme Court held that the High Court of Calcutta usurped jurisdiction to entertain the writ petition challenging the order passed by the Central Administrative Tribunal, New Delhi.

33. After going through the facts of the case in **Alapan Bandyopadhyay** (supra) it is evident that the subject matter of challenge in the writ petition was not against an order passed in an appeal against the order of the Kolkata bench of the Tribunal but against an order of transfer passed on an independent application being filed directly before the Central Administrative Tribunal, New Delhi. Thus, the said decision is distinguishable on facts and is not an authority for the proposition that the jurisdiction of the High Court under Article 227 of the Constitution of India would depend upon the situs of the Appellate Tribunal exercising the appellate jurisdiction over original tribunals located in more than one State. To the mind of this Court the decision in the case of **Alapan Bandyopadhyay** (supra) cannot come to the aid of the petitioner in the case on hand.
34. In **Calcutta Gujarati Education Society** (supra) an issue fell for consideration whether an application under Article 227 of the Constitution of India was maintainable before the Calcutta High Court challenging the order passed by the Employees Provident Fund Appellate Tribunal situated at New Delhi. In that case in an original proceeding with regard to the remittance of provident fund contribution relating to component of "Government Dearness Allowance" in respect of the employees, an order was passed by the competent authority namely the Assistant Provident Fund Commissioner at Kolkata. Challenging such order an appeal was filed before the Appellate Tribunal situated at New Delhi under Section 7-I of the Employees Provident Fund and the Miscellaneous Provisions Act, 1952. Challenging the order passed by the Appellate Tribunal an application under Article 227 of the Constitution of India was filed before the Calcutta High Court and the same stood dismissed upon holding that it has no jurisdiction

as the situs of the Tribunal is at New Delhi which is outside the territorial jurisdiction. The Hon'ble Supreme Court after noticing that the original authority is situated within the jurisdiction of the Calcutta High Court applied the proposition of law laid down in **Ambica Industries** case and held that in a case where the original order is passed by the authority situated at Calcutta, West Bengal the Calcutta High Court can exercise territorial jurisdiction and was, therefore, not justified to decline to entertain the application under Article 227 of the Constitution of India.

35. This Court finds that the proposition of law laid down in **Ambica Industries** case has been applied by the Hon'ble Supreme Court while deciding the territorial jurisdiction of the High Court under Article 227 of the Constitution of India against order(s) passed by an Appellate Tribunal exercising appellate jurisdiction over more than one Tribunals located in different states.
36. A similar issue fell for consideration before the Hon'ble Supreme Court in **Siddhartha S. Mookerjee** (supra). In the said case a complaint was filed before the District Consumer Dispute Redressal Forum (Unit 1) at Kolkata which was rejected by an order dated October 13, 2017 and against such order an appeal was filed before the West Bengal State Consumer Dispute Redressal Commission which was allowed vide order dated February 13, 2020. Being dissatisfied with the said order, revision applications were filed before the National Consumer Dispute Redressal Commission at Delhi which stood allowed. Against such order a Special Leave Petition was moved before the Hon'ble Supreme Court and the Hon'ble Supreme Court after taking note of its decision in the case of **Universal Sompo General Insurance Co. Ltd. v. Suresh Chand Jain**, reported at **(2024) 9 SCC 148** gave liberty to the appellant therein to approach the jurisdictional High Court. Treating the High Court of Delhi as the jurisdictional High Court, an application under Article 227 of the Constitution of India was filed and on such petition a notice was issued on the adjudication of the jurisdictional aspect and challenging such notice the Special Leave Petition was moved

before the Hon'ble Supreme Court. The Hon'ble Supreme Court held that merely because of the fact that the impugned judgment before the Delhi High Court was passed by the NCDRC at Delhi that can hardly be treated as a ground to invoke the jurisdiction of the High Court of Delhi. The Hon'ble Supreme Court observed that since the entire cause of action has arisen in Kolkata and the complaint case was also filed at Kolkata based on the aforesaid cause of action, the aggrieved party ought to have approached the High Court of Kolkata being aggrieved by the order passed by the NCDRC at Delhi.

37. The decision in the case of **Siddhartha S. Mookerjee** (supra) also recognizes the proposition that it is the High Court under whose jurisdiction the original adjudicating authority is located would have the power of superintendence under Article 227 of the Constitution of India over the Appellate Tribunal even if the Appellate Tribunal is located outside the territorial limits of that High Court.
38. Article 227 of the Constitution of India vests every High Court with the power of superintendence over all Courts and Tribunals throughout the territories in relation to which it exercises its jurisdiction. The Hon'ble Supreme Court in **Union of India and Others vs. Debts Recovery Tribunal Bar Association** reported at **(2013) 2 SCC 574** after taking note of the provision of Section 18 of the 1993 Act held that the High Courts are empowered to exercise their jurisdiction of superintendence under Article 227 of the Constitution of India over DRTs and DRATs.
39. Though it cannot be disputed that this High Court has the power of superintendence over the DRAT, Kolkata, the question that arises for consideration is whether in a situation of this nature, an application under Article 227 is maintainable before this Court against an order passed by DRAT, Kolkata.
40. As per the available information, there are in all 39 DRTs established in the entire country located in different States but only 5 DRATs have been

established and each of them covering multiple DRTs of a particular geographical Zone. Each one of the DRATs have been vested with the appellate jurisdiction over more than one DRTs.

41. The line of authorities relied upon by the learned Senior Advocate for the petitioner proceeds on the basis that a part of the cause of action may arise at the forum where the appellate or revisional order is sourced and in such a case, the petitioner being the *dominus litis* has a right to choose a forum for filing an application under Article 226.
42. The Hon'ble Supreme Court in **ABC Papers Limited** (supra) observed that a judicial remedy must be effective, independent and at the same time certain. Certainty of forum would involve unequivocal vesting of jurisdiction to adjudicate and determine the dispute in a named forum. It was further held that while interpreting a judicial remedy, a Constitutional Court should not adopt an approach where identity of the appellate forum would be contingent upon or vacillate subject to the exercise of some other power. Such an interpretation was held to be clearly against the interest of justice.
43. In the light of the aforesaid observation, the Hon'ble Supreme Court held that appeals against every decision of ITAT shall lie only before the High Court within whose jurisdiction, the assessing officer, who passed the assessment order is situated.
44. If the proposition of law that an appellate order forms part of the cause of action is to be applied while deciding the jurisdiction of the High Court under Article 227, the doctrine of *dominus litis* comes into play. However, the issue that arises for consideration in the case on hand is whether the situs of the Appellate Tribunal would decide the jurisdiction of the High Court under Article 227 of the Constitution of India. It has been held in **Ambica Industries** (supra) that the doctrine of *dominus litis* and the doctrine of situs of the Appellate Tribunal do not go together.
45. Keeping in mind that there has to be a certainty of forum for an aggrieved party as well as the doctrine of precedents and the rule of binding efficacy of

the law laid down by a High Court within its territorial jurisdiction, this Court holds that an application under Article 227 of the Constitution of India assailing the order(s) passed by the DRATs (interim or final) shall lie only before the High Court within whose jurisdiction the DRT is situated as the substantial cause of action arose within its jurisdiction and the adjudication of the dispute was made by the DRT. Any contrary interpretation would allow an aggrieved party to approach a particular High Court to take advantage of the law laid down by it and would successfully evade the law down by a Court which is against him.

46. This Court holds that for the purpose of challenging orders of appellate tribunals passed in appeals arising out of decision(s) of an original tribunal situated in a different State under Article 227 of the Constitution of India, an aggrieved party is to approach the High Court of that State within whose territorial limit the original tribunal is located.
47. In the case on hand the appellate tribunal i.e., DRAT is located within the territorial limits of the High Court at Calcutta but is exercising the appellate jurisdiction over the Debts Recovery Tribunal, Hyderabad. This Court lacks the jurisdiction to entertain such a challenge and the petitioner has to approach the High Court of the State within the territorial limit of which the DRT Hyderabad is located.
48. The decision in **Navin Jain** (supra) was not brought to the notice of the co-ordinate bench in **Sabbam Hari vs. Authorized Officer (C.O. 2328 of 2018)**. After going through the decision in the case of **Sabbam Hari** (supra), it appears to this Court that the said decision proceeded on the basis that part of the cause of action arises out of the forum where the order of the Appellate Tribunal is sourced. In view of the decisions of the Hon'ble Supreme Court in the case of **Ambica Industries** (supra), **Calcutta Gujarati Education Society** (supra), **Siddhartha S. Mookerjee** (supra) and **Navin Jain** (supra), the decision in the case of **Sabbam Hari** (supra) cannot be said to be a binding precedent upon this Court.

49. The learned Senior Advocate for the petitioner would contend that a challenge thrown to an order rejecting an application under Section 5 of the Limitation Act would not result in interfering with the order passed by the DRT. This Court is not inclined to accept such submission as in the event the order impugned is set aside under Article 227 of the Constitution of India and the delay is condoned the appeal would revive and the same would have the effect of destroying the finality attached to the order passed by the DRT as the issue which otherwise would become *res judicata* would be *res subjudice*.
50. Though the DRAT is located at Calcutta, i.e., within the territorial limits of this Court, the fact remains that the DRAT is exercising its appellate jurisdiction over DRT, Hyderabad. The entire cause of action till the passing of the final judgment by the DRT arose within the territorial jurisdiction of the High Court at Telengana. The object behind filing the appeal before the DRAT is to interfere with the final judgment of DRT. The doctrine of merger would apply only after the appeal is finally decided.
51. Moreover, there has to be a certainty of a forum before which an order or a decision of a Tribunal can be assailed. Such forum should be certain and cannot be said to be variable depending upon the nature of the order sought to be challenged, i.e., interim or final.
52. In the light of the observations made hereinbefore, this Court holds that power of superintendence by a High Court under Article 227 of the Constitution of India may be exercised over DRAT physically located beyond its territorial limits if the proceeding before such Appellate Tribunal is sourced from the DRT situated within its territorial limits.
53. Therefore, when the DRAT, Kolkata passes an order in exercise of appellate jurisdiction over DRT located outside the State of West Bengal, the High Court of the State within whose jurisdiction the DRT is physically located would have the power of superintendence under Article 227 of the Constitution of India over DRAT, Kolkata.

54. In view of the aforesaid discussion this Court holds that the petitioner is to approach the High Court of the State within the territorial limit of which the DRT Hyderabad is located.
55. For all the reasons as aforesaid, this Court holds that this application under Article 227 of the Constitution of India challenging the order of the Debts Recovery Appellate Tribunal, Kolkata in an appeal arising out of an order passed by the DRT, Hyderabad is not maintainable before this Court. The application under Article 227 of the Constitution of India stands dismissed for want of territorial jurisdiction alone. It is, however, made clear that this Court has not entered into the merits of the application. Petitioner is left free to approach the appropriate forum in accordance with law. There shall be, however, no order as to costs.
56. Urgent photostat certified copies, if applied for, be supplied to the parties upon compliance of all formalities.

(HIRANMAY BHATTACHARYYA, J.)