



\$~18

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **FAO (COMM) 337/2025 CM APPL. 76769/2025 CM APPL.**
76770/2025 CM APPL. 76771/2025 CM APPL. 76772/2025
PSA NITROGEN LTD

.....Appellant

Through: Mr. Sandeep Kumar, Adv.

versus

KAMINENI HOSPITALS PVT. LTD. & ANR.

.....Respondent

Through: Ms. Alabhya Dhamija, Mr. Amrit
Rathi, Mr. Arjun Aggarwal, Mr.
Allanki Ramesh, Ms Aruna Gupta,
Ms Mr Mamatha Rall, Ms Nandita
Biswas and Mr. Yash Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

%

05.12.2025

1. The challenge in this appeal filed under Section 13 of the Commercial Courts Act, 2015 and Section 104 read with Order 43 Rule 1(a) of the Code of Civil Procedure, 1908 (CPC) is to an order dated 18.01.2025 passed by learned District Judge (Commercial Court-02), South-East District, Saket Courts, New Delhi, whereby the learned District Judge has allowed the application filed by the respondent herein under Order VII Rule 10 CPC and thereby directing the return of the plaint to the appellant herein for filing before the court of appropriate jurisdiction.
2. The dispute between the parties primarily relates to the purchase order issued by the respondent herein for the purchase of **PSA Medical Oxygen**



Gas Generator for its hospital at Hyderabad. The stipulation in respect of jurisdiction, in the eventuality of disputes arising between the parties was made of courts of judicature at Hyderabad. It is conceded position that the appellant herein did supply the aforesaid Generator to the respondent herein and accordingly has raised an invoice from its works at Faridabad on 03.06.2021. The invoice states that all transactions and dealings are subject to Delhi jurisdiction. It is the variance in the jurisdiction clause in the purchase order and the invoice, which became the bone of contentions between the parties before the court below.

3. The submission of the appellant was that as the registered office of the appellant is in Delhi and the amounts as per invoice were received by the appellant in its bank account in Delhi. Hence, the courts in Delhi shall have jurisdiction.

4. The contention of the respondent was primarily by relying upon the purchase order, which stipulates that it is the courts in Hyderabad, which shall have the jurisdiction.

5. The findings of the learned District Judge can be seen from page 45 of the paper book in the following manner:

*“Upon perusal of the arguments and documents on record, the question of jurisdiction hinges on the validity and enforceability of competing jurisdiction clauses-one in the purchase orders and the other in the invoices. The law on this subject emphasizes the paramountcy of the parties’ intention in contractual matters, as jurisdictional clauses derive their enforceability from mutual consent. In **Swastik Gases P. Ltd. Vs. Indian Oil Corporation Ltd., (Supra)**, the Hon'ble Supreme Court underscored the binding nature of exclusive jurisdiction clauses when parties have expressly agreed to them. However, in cases of conflicting jurisdiction clauses,*



courts often determine which document constitutes the main agreement between the parties.

Although Ld. Counsel for the plaintiff has argued that the office of the plaintiff is situated at Greater Kailash which is well within the territorial jurisdiction of this Court, however, upon perusal of the documents filed on behalf of plaintiff, the Court notes that the address mentioned in the documents filed on behalf of plaintiff is of Faridabad, Haryana and accordingly, as per Section 20 CPC, no cause of action has arose within the territorial jurisdiction of this Court. Section 20 CPC is reproduced below:

"20. Other suits to be instituted where defendants reside or cause of, action arises .-

Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction-

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, 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 the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises."

*The Hon'ble Bombay High Court's decision in **Parekh Plastichem Distributors LLP vs. Simplex Infrastructure Limited** Manu/MH/3701/2023 is instructive. There, it was observed that purchase orders typically represent the main agreement as they contain comprehensive terms governing the transaction, including jurisdiction clauses. The court held that*



invoices raised unilaterally by one party, containing conflicting terms, cannot override the jurisdiction clause in purchase orders unless expressly agreed upon.

Applying the above principles to the present case, it is evident that the purchase orders (filed by the plaintiff alongwith the plaint at page no. 36 to 38, 41 to 43 and 46 to 48), signed by both parties, form the primary agreement governing the transaction. The jurisdiction clause in these purchase orders expressly confers exclusive jurisdiction on the courts in Hyderabad. In contrast, the invoices (at page no. 56, 57 and 58 of the documents of the plaintiff) raised by the plaintiff, though containing a conflicting jurisdiction clause favoring Delhi courts, cannot unilaterally alter or supersede the terms agreed upon in the purchase orders. The judgments relied upon by the defendants, particularly **Swastik Gases P. Ltd. (Supra)**, further strengthen this conclusion by affirming that exclusive jurisdiction clauses in main agreements are binding unless expressly superseded by a subsequent agreement. Similarly, the Hon'ble Apex Court in **Balasore Alloys Ltd. vs. Medima LLC (2020) 9 SCC 136**, emphasized that the jurisdiction clause in the principal agreement governs disputes unless there is clear evidence of the parties' intention to deviate from it.

In light of the foregoing, the defendants' application under Order VII Rule 10 CPC is allowed. The plaint is directed to be returned to the plaintiff for presentation before the appropriate court having appropriate jurisdiction as stipulated in the purchase orders.

In view of the above, it is directed that the plaint alongwith documents be returned as per Order VII Rule 10 CPC for filing before the Court of appropriate jurisdiction.

Original documents alongwith plaint be returned after taking certified copies of the same on record.”

6. Having noted the findings of the District Judge and the submissions advanced by the counsel for the appellant, we are of the view as the purchase order was addressed to the appellant at its Faridabad works, and



even the invoice, which was raised by the appellant was from its Faridabad works and also that the **PSA Medical Oxygen Gas Generator** was supplied by the appellant from its Faridabad works to the hospital of the respondent in Hyderabad, no cause of action has arisen in Delhi and in that sense, the courts in Delhi shall have no jurisdiction nor the parties can limit the jurisdiction to Delhi Courts.

7. The findings of the learned District Judge was by referring to the judgments of the Supreme Court in the case of **Swastik Gases P. Ltd. Vs. Indian Oil Corporation Ltd., 2013 9 SCC 32** and also **Bharat Sanchar Nigam Ltd. v. Telephone Cables ltd. 2010 5 SCC 213**. While rejecting the application, the learned District Judge has also relied upon the judgment of the Bombay High Court in **Parekh Plastichem Distributors LLP vs. Simplex Infrastructure Limited, Manu/MH/3701/2023** to observe that the purchase orders typically represents the main agreement as they contain comprehensive terms governing the transaction including jurisdiction clauses. In that case also the court held that the invoices raised unilaterally by one party containing conflicting terms cannot override the jurisdiction clause in purchase orders unless expressly agreed upon. The learned Judge was also of the view that the above principles as laid down by the Bombay High Court shall also govern the purchase order, which was signed by both the parties and forms a primary agreement governing the transaction and the said purchase order expressly confers exclusive jurisdiction to the courts in Hyderabad and the clause conferring jurisdiction to the Delhi Courts being in conflict/variance with the clause in the purchase order cannot unilaterally be altered or supersede the terms and conditions of the purchase order. If that be the basis for the learned District Judge to return the plaint to the



appellant, we do not see any illegality in the conclusion drawn by the learned District Judge. We for the reasons stated by the learned District Judge and for our own additional reasons, are of the view that the appeal is bereft of merit and the same is liable to be dismissed. We order accordingly.

8. At this stage, learned counsel for the appellant states that the appellant be granted 30 days time to approach the court of appropriate jurisdiction. We grant 30 days time to the appellant to approach the court of competent jurisdiction in terms of the observations made by the learned District Judge in its order dated 10.01.2025. He also makes a request for refund of the court fee. Appropriate shall be that the appellant shall file an appropriate application to the court of learned District Judge Judge (Commercial Court-02), Sourt-East District, Saket Courts, New Delhi seeing the refund of court fee. It goes without saying, if such an application is made, the learned District Judge shall consider the same in accordance with law.

V. KAMESWAR RAO, J

MINI PUSHKARNA, J

DECEMBER 5, 2025
dd