



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision: 28.01.2026

+

W.P.(C) 14997/2023 & CM.APPL. 59887/2023

REGIONAL PROVIDENT FUND COMMISSIONER GURGAON

.....Petitioner

Through: Mr. Braja Bandhu, Advocate.

versus

ARTEMIS MEDICARE SERVICES LTD

.....Respondent

Through: Mr. Anirudh Bakhru, Mr. Ayush, Ms. Urvija, Ms. Aayomi, and Mr. Kanav, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present writ petition has been filed seeking setting aside of the order dated 15.02.2023 passed by the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court-II, Rouse Avenue District Courts Complex, *Delhi* in Appeal No. D-2/08/2021.

Vide the impugned order, the appeal preferred by the present respondent was allowed and the order dated 12.01.2021 passed by the RPFC (*Gurgaon* East) under Section 7A of The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter "the EPF & MP Act") directing the respondent to deposit PF dues amounting to Rs.3,92,16,005/- was set aside.



2. While the respondent has challenged the maintainability of the present writ petition by contending that both the parties are located outside the jurisdiction of this Court, learned counsel for the appellant has contested the same by submitting that the appellate authority by which the impugned order was passed is located in *Delhi*. In view of the preliminary objection raised, the issue arising for consideration is whether the *situs* of the authority which passed the impugned order being in *Delhi* would make this Court the *forum conveniens*.

3. Briefly, the facts necessary for consideration of the above issue are that an inquiry under Section 7A of the EPF & MP Act was recommended by the RPFC (*Gurgaon East*), *Haryana* against the respondent on the following grounds:-

“It has been also noticed that establishment has deposited less PF dues after the notification by Haryana Government on dated 15.11.2015 vide which necessary notification issued by Haryana Government not to split the minimum wages for the purpose of PF Wages. w.e.f. 01.11.2025. The establishment is liable to deposit the following EPF dues Rs. 25726831/- (Rupees Two Crore Fifty-Seven Lacs Twenty-Six Thousand Eight Hundred Thirty-One only) on difference of salary in respect of employees deployed in Haryana State.”

4. The Enforcement Officer (EO) carried out the inquiry and submitted its report to the assessing authority, i.e., the RPFC, against the respondent having PF Code No. HR/GGN/0027995000. On receipt of the inquiry report, the respondent was directed to submit the relevant records *vide* letter dated 18.06.2019. The respondent filed its reply, resulting in passing of the final order dated 12.01.2021, whereby the respondent was directed to deposit a sum of Rs.3,92,16,005/- as PF dues outstanding towards establishment and as



payable by the employer in respect of establishment for assessment of dues from November 2018 to January 2019.

5. The respondent challenged the aforesaid order before the appellate authority of Central Government Industrial Tribunal (CGIT), Rouse Avenue Courts Complex, *New Delhi*. A perusal of the circular dated 23.06.2017 (F.No. Z-13025/32/2016-SS.1) issued under the signatures of the Director, Ministry of Labour and Employment, Government of *India*, shows that after the merger of The Employees' Provident Fund Appellate Tribunal (EPFAT) with the CGIT by the Finance Act, 2017, the matters relating to the EPF & MP Act were brought under the jurisdiction of the CGIT. As per the list of CGIT benches and their jurisdictions, while CGIT *New Delhi-I* has provident fund-related jurisdiction over the Union Territory of *Delhi*, CGIT *New Delhi-II* pertains to the *Gurgaon* and *Faridabad* districts of *Haryana* as well as the *Ghaziabad* and *Gautam Budha Nagar* districts of *Uttar Pradesh*.

6. The issue of whether the *situs* of a Tribunal would be the determinative factor for jurisdiction came up before this Court in *Sterling Agro Industries Limited Vs. Union of India and Ors.*¹, wherein a 5-Judge Bench of this Court, while considering a reference, answered the same as under:-

"35. In view of the aforesaid analysis, we are inclined to modify the findings and conclusions of the Full Bench in New India Assurance Co. Ltd. v. Union of India, AIR 2010 Delhi 43; [2011] 166 C-C 87 (Delhi) and proceed to state our conclusions in seriatim as follows :

(a) The finding recorded by the Full Bench that the sole cause of action emerges at the place or location where the Tribunal/appellate authority/revisonal authority is situate and the said High Court (i.e., Delhi High Court) cannot decline to entertain the writ petition as that

¹ 2011 SCC OnLine Del 3162



would amount to failure of the duty of the court cannot be accepted inasmuch as such a finding is totally based on the situs of the Tribunal/appellate authority/revisonal authority totally ignoring the concept of forum conveniens.

(b) Even if a minuscule part of cause of action arises within the jurisdiction of this court, a writ petition would be maintainable before this court, however, the cause of action has to be understood as per the ratio laid down in the case of *Alchemist Ltd. v. State Bank of Sikkim* (2007) 136 C-C 665; (2007) 11 SCC 335.

(c) An order of the appellate authority constitutes a part of cause of action to make the writ petition maintainable in the High Court within whose jurisdiction the appellate authority is situated. Yet, the same may not be the singular factor to compel the High Court to decide the matter on merits. The High Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

(d) The conclusion that where the appellate or revisonal authority is located constitutes the place of forum conveniens as stated in absolute terms by the Full Bench is not correct as it will vary from case to case and depend upon the lis in question.

(e) The finding that the court may refuse to exercise jurisdiction under article 226 if only the jurisdiction is invoked in a mala fide manner is too restricted/constricted as the exercise of the power under article 226 being discretionary cannot be limited or restricted to the ground of mala fide alone.

(f) While entertaining a writ petition, the doctrine of forum conveniens and the nature of cause of action are required to be scrutinised by the High Court depending upon the factual matrix of each case in view of what has been stated in *Ambica Industries v. CCE* (2007) 213 ELT 323; [2009] 20 VST 1 (S.C.) and *Union of India v. Adani Exports Ltd.* (2002) 1 SCC 567.

(g) The conclusion of the earlier decision of the Full Bench in *New India Assurance Co. Ltd. v. Union of India*, AIR 2010 Delhi 43; (2011) 166 C-C 87 (Delhi) (page 115): "... that since the original order merges into the appellate order, the place where the appellate authority is located is also forum conveniens" is not correct.

(h) Any decision of this court contrary to the conclusions enumerated hereinabove stands overruled."

7. Learned counsel for the petitioner has referred to a decision by the Division Bench of this Court in *Vishnu Security Services Vs. Regional*



Provident Fund Commissioner and Anr.² In the said case, the Division Bench, while considering an appeal against an order of the learned Single Judge who had dismissed a writ petition on jurisdictional grounds, concluded that no case of *forum non conveniens* was made out in the specific facts of that case. The Division Bench, in particular, noted the brevity of the learned Single Judge's decision and overturned it for lack of sufficient reasoning. The petitioner's reliance on Vishnu Security (*supra*), in the present facts, is misplaced.

8. Rather, a Coordinate Bench of this Court, in M/s. Chinteshwar Steel Pvt. Ltd. Vs. Union of India & Ors.³, was seized of the same issue as in the present case and, after analysing the decisions in Sterling Agro (*supra*) and Vishnu Security (*supra*), came to the conclusion that the decision in Vishnu Security was more fact-specific and rendered primarily for the reason that the decision of the learned Single Judge lacked reasons to support its conclusion. The Court examined the issue in relation to the provisions under the Income Tax Act, 1961, the Customs Act, 1962, and the Companies Act, 1956, and came to the conclusion that the *situs* of the Tribunal would not necessarily be the marker for identifying the jurisdictional High Court. The Court, while declining to entertain the writ petition, held that the High Court of Delhi would not be the *forum conveniens*.

9. The decision in M/s. Chinteshwar Steel Pvt. Ltd. (*supra*) was assailed before the Division Bench of this Court by way of LPA 801/2012. The Division Bench, while upholding the decision of the learned Single Judge, held

² 2012 SCC OnLine Del 1024

³ 2012 SCC OnLine Del 5264



as under:

“10. In fact, the two decisions in Vishnu Security Services and Jan Chetna (supra) elucidate when and in what circumstances judicial discretion should not be exercised on the ground of forum conveniens. In Vishnu Security Services (supra), the Division Bench observed that though the writ petition may be maintainable in two High Courts, but when the High Court finds that it is inconvenient to entertain the writ petition as other High Court is better equipped to deal with the case, doctrine of forum conveniens would be attracted. Thereafter, reference was made to English authorities wherein it has been held that in judging the comparative convenience or non-convenience of the forum, the test to be applied is which Court out of the two is more suitable in the interest of the parties as well as ends of justice. Reference was also made to a U.S. decision wherein it has been observed that courts have open doors to those who seek justice, but when justice is blended with some harassment, it needs to be checked. Undoubtedly, the petitioner is dominus litis, but when the choice is motivated by temptation/strategy to force the petition at an inconvenient place, the Court has the power to step in. We are also in agreement with the view of learned Single Judge in the impugned order that the Division Bench in Vishnu Security Services (supra) overruled the judgment of learned Single Judge only on the ground that no reason had been given by the learned Single Judge in that case to come to the conclusion that this Court was not the convenient forum. Similarly, in Jan Chetna (supra), the Division Bench observed that though the issue raised was purely legal relating to an object in another State, yet as the issue raised had no local flavour at all, the said doctrine need not be invoked. Consequently, in our opinion the judgments of Vishnu Security Services (supra) and Jan Chetna (supra) have neither deviated nor could have deviated from the judgment of five Judges of this Court in Sterling Agro Industries Ltd. (supra).”

10. The present issue again cropped up in Satish Ahuja Vs. Union of India & Ors.⁴ wherein, while taking note of the decision in Jagdambay Auto Station & Anr. Vs. Union of India & Ors.⁵ and the decision of the Division Bench in Chinteshwar Steel Pvt. Ltd. (supra) wherein the decision in Sterling Agro

⁴ 2016 SCC OnLine Del 2503

⁵ 2012 SCC OnLine Del 5597



(*supra*) has been discussed, the Coordinate Bench of this Court reached the same conclusion and dismissed the writ petition on the ground of territorial jurisdiction.

11. Recently, in Regional Provident Fund Commissioner Vs. BSC-C and C JV⁶, the Coordinate Bench of this Court, in identical facts to the present case, refused to entertain the writ petition.

12. In the present case, both the parties are situated in *Gurgaon*. The only basis for invoking the jurisdiction of this Court is that since the impugned order has been passed by the appellate authority situated in *Delhi*, indeed as held in Sterling Agro (*supra*), a part of the cause of action has arisen in *Delhi*. However, that would not make this Court the *forum conveniens*. In Sterling Agro, the Court, while canvassing the law on the subject, took note of various decisions of the Supreme Court and explained the concept of *forum conveniens* as under:

“30. In *Musaraf Hossain Khan v. Bhagheeratha Engg. Ltd.* (2006) 130 Comp Cas 390; (2006) 3 SCC 658, the apex court referred to the decision in *Kusum Ingots and Alloys Ltd. v. Union of India* (2004) 120 C-C 672; (2004) 6 SCC 254 and observed as follows (page 401 of 130 C-C) :

‘... with a view to determine the jurisdiction of one High Court vis-a-vis the other the facts pleaded in the writ petition must have a nexus on the basis whereof a prayer can be made and the facts which have nothing to do therewith cannot give rise to a cause of action to invoke the jurisdiction of a court. In that case it was clearly held that only because the High Court within whose jurisdiction a legislation is passed, it would not have the sole territorial jurisdiction but all the High Courts where cause of action arises, will have jurisdiction...’

31. Thereafter, their Lordships reproduced paragraphs 27 and 28 of the said decision and a passage from *Union of India v. Adani Exports Ltd.* (2002) 1 SCC 567, and proceeded to state as follows (page 403 of 130 C-C)

⁶ 2023 SCC OnLine Del 6380



‘We have referred to the scope of jurisdiction under articles 226 and 227 of the Constitution only to highlight that the High Courts should not ordinarily interfere with an order taking cognizance passed by a competent court of law except in a proper case. Furthermore only such High Court within whose jurisdiction the order of the subordinate court has been passed, would have the jurisdiction to entertain an application under article 227 of the Constitution of India unless it is established that the earlier cause of action arose within the jurisdiction thereof.

The High Court, however, must remind themselves about the doctrine of *forum non conveniens* also (see *Mayar (H. K.) Ltd. v. Owners and Parties, Vessel M. V. Fortune Express* (2006) 3 SCC 100; (2006) 2 Scale 30).’
(underlining is by us)

32. From the aforesaid pronouncements, the concept of *forum conveniens* gains signification. In *Black's Law Dictionary*, *forum conveniens* has been defined as follows:

‘The court in which an action is most appropriately brought, considering the best interests and convenience of the parties and witnesses.’

33. The concept of *forum conveniens* fundamentally means that it is obligatory on the part of the court to see the convenience of all the parties before it. The convenience in its ambit and sweep would include the existence of more appropriate forum, expenses involved, the law relating to the *lis*, verification of certain facts which are necessitous for just adjudication of the controversy and such other ancillary aspects. The balance of convenience is also to be taken note of. Be it noted, the apex court has clearly stated in the cases of *Kusum Ingots and Alloys Ltd. v. Union of India* (2004) 120 C-C 672; (2004) 6 SCC 254, *Musaraf Hossain Khan v. Bhagheeratha Engg. Ltd.* (2006) 130 C-C 390; (2006) 3 SCC 658 and *Ambica Industries v. CCE* (2007) 213 ELT 323; [2009] 20 VST 1 (S.C.), about the applicability of the doctrine of *forum conveniens* while opining that arising of a part of cause of action would entitle the High Court to entertain the writ petition as maintainable.

34. The principle of *forum conveniens* in its ambit and sweep encapsulates the concept that a cause of action arising within the jurisdiction of the court would not itself constitute to be the determining factor compelling the court to entertain the matter. While exercising jurisdiction under articles 226 and 227 of the Constitution of India, the court cannot be totally oblivious of the concept of *forum conveniens*. The Full Bench in *New India Assurance Co. Ltd. v. Union of India*, AIR 2010 Delhi 43; (2011) 166 Comp Cas 87 (Delhi), has not kept in view the concept of *forum conveniens* and has



2026:DHC:1076



expressed the view that if the appellate authority who has passed the order is situated in Delhi, then the Delhi High Court should be treated as the forum conveniens. We are unable to subscribe to the said view.”

13. In the aforesaid backdrop of facts and the settled legal position, this Court is not inclined to entertain the present writ petition; the same is accordingly dismissed, along with all pending applications. However, the petitioner is given liberty to seek its remedy in accordance with law.

**MANOJ KUMAR OHRI
(JUDGE)**

JANUARY 28, 2026

sn

Signature Not Verified

Digitally Signed
By:NIJAMUDDIN ANSARI
Signing Date:09/02/2026
19:44:33

W.P.(C) 14997/2023

Page 9 of 9