IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.16068 OF 2024

Capegemini Technology Services India Ltd .. Petitioner

Versus

Deputy Commissioner of Income Tax,
Circle- 1(1), Pune & Ors. .. Respondents

Mr.Dharan V. Gandhi a/w Aanchal Vyas, Advocates for the Petitioner.

Mr.Arjun Gupta (through V.C.), Advocate for Respondent Nos.1 and 3.

CORAM : B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.

DATE : MARCH 24, 2026

ORAL JUDGMENT:- (PER B. P. COLABAWALLA, J.)

1. Rule. Respondents waive service. With the consent of parties, Rule made returnable forthwith and heard finally.

2. By this Petition under Article 226 of the Constitution of India, the Petitioner challenges the alleged outstanding demands of Rs.3,28,785/- for A.Y.2001-02, Rs.1,24,577/- for A.Y.2002-03 and Rs.28,87,714/- for A.Y.2003-04 and the recovery notice dated

05.02.2023 issued under Section 220 of the Income Tax Act, 1961 ("**the IT Act**").

3. Brief facts of the case are as follows:-

(a) Vide an order dated 16.05.2007, passed by the Delhi High Court in Company Petition No.49-51 of 2007, Flextronics Software Systems Limited (**"erstwhile entity"**) got amalgamated with Kappa Investment Limited. The name of the said company was subsequently changed to Aricent Technologies (Holdings) Limited. Thereafter, M/s.Aricent Technologies (Holdings) Limited got amalgamated with the Petitioner vide order dated 23.12.2022 of the National Company Law Tribunal, Mumbai Bench in CP (CAA)/183/MB/2022 and CA (CAA) /56/MB/2022.

(b) In February 2023, the Petitioner received a notice under Section 220 of the Act [dated 05.02.2023] from Respondent No.2. In the said notice, the Petitioner was asked to pay the outstanding demand, inter alia, of Rs.3,28,785/- for A.Y.2001-02, Rs.1,24,577/- for A.Y.2002-03 and Rs.28,87,714/- for A.Y.2003-04. The said notice was in the name of the erstwhile entity, namely, Flextronics Software Systems Limited.

(c) The Petitioner contends that it was not aware of any such outstanding demands. Upon receipt of the recovery notice, the Petitioner filed applications under the Right to Information Act, 2005 ("**the RTI Act**") seeking copies of the orders giving rise to such demands.

(d) The Petitioner received a reply from Respondent No.2 stating that for A.Y.2001-02 and 2002-03, the demands were on account of rectification/intimation orders, but no such orders were provided. Instead, illegible screenshots of the computation sheets from the system were furnished. For A.Y.2003-04, it was stated that records were not available.

(e) The Petitioner preferred appeals before the First Appellate Authority under the RTI Act, wherein directions were issued to Respondent No.2 to furnish full information. Despite such directions, no orders were supplied.

(f) In these circumstances, the Petitioner contends that these demands are non-existent and the recovery notice is bad in law.

4. This matter came for hearing first on 24.02.2025. On the said date, this Court passed an order noting the objection of the Respondents regarding territorial jurisdiction. It recorded that the Petitioner had produced an order of transfer of jurisdiction dated 13.12.2023 from Respondent No.2 to Respondent No.1 i.e., ACIT/DCIT Circle-1(1), Pune. Accordingly, this Court directed Respondent Nos.1 and 2 to file affidavits by 13.03.2025 not only on the aspect of merits, but also on the issue of jurisdiction, and also appraise the Court on the status of the transfer of records. On 24.02.2025, this Court also issued notice to Respondent Nos. 2 and 4.

5. The Petitioner has effected service on the Delhi officer (Respondent No.2) and an affidavit of service to that effect has been placed on record. Despite service and the specific directions of this Court, Respondent No.2 has chosen not to file any reply or enter an appearance.

6. At the outset, Mr. Arjun Gupta, the learned counsel appearing for Respondent Nos.1 to 3, raised a preliminary objection regarding the territorial jurisdiction of this Court to entertain the present Petition. He vehemently argued that the demands in question

pertain to the erstwhile entity which was assessed in Delhi. The impugned orders/intimations giving rise to the demand were passed by the Assessing Officer in Delhi. He submitted that the Pune Officer i.e. Respondent No.1, has not performed any act in relation to the creation of these demands. He relied upon the prayer clause 12(a) in the Petition which seeks quashing and setting aside of the demand recovery notice and the computation sheets all issued by Respondent No.2 who is in Delhi. Since, the prayer is to quash and set aside the actions performed and notices issued by Respondent No.2, therefore, it is argued that the Petitioner should be relegated to the Delhi High Court. Mr. Gupta relied upon a compilation of judgments to buttress his submission. He placed reliance on the decision of the Supreme Court in ***Principal Commissioner of Income Tax-I V/S ABC Papers Limited*** **[(2022) 9 SCC 1]** to contend that an appeal under the Act is to be filed before the Tribunal/ Court within whose jurisdiction the Assessing Officer, who passed the order appealed against, is located. He argued that in the said judgment, even where the case of an assessee was subsequently transferred under Section 127 of the IT Act, still the Hon'ble Apex Court held that an appeal has to be filed before the Tribunal/ Court within whose jurisdiction the Assessing Officer, who passed the original order appealed against, is located. He, accordingly,

submitted that in the present case, since the recovery and demand notices have been allegedly issued and raised by an Officer in Delhi, even the Writ Petition should be filed in Delhi High Court. He also heavily relied on the Constitution Bench decision in ***Lt. Col. Khajoor Singh V/S Union of India*** **[AIR 1961 SC 532]** to argue that a writ must be filed where the Respondent is located. He submitted that this was a Seven Judge Constitution Bench judgment which had categorically held that it is the place of the Authority/Respondent which will decide the territorial jurisdiction of a Court to entertain a Writ Petition under Article 226 of the Constitution of India. He, further, relied on a decision of this Court dated 15.04.2025, in ***Trustcap Private Limited V/S ITO (Writ Petition No. 742 of 2025)*** wherein this Court relegated the Petitioner to the Calcutta High Court, as the notice under challenge was issued by an Officer in Kolkata. He submitted that even if the effect of the reliefs prayed for is to be felt where the Petitioner is located, the same is not sufficient to confer jurisdiction on this Court. Reliance was also placed on the decision of the Delhi High Court in ***Jayaswals Neco Ltd. V/S Union of India [(2007) SCC OnLine Del 2094]***. He submitted that Article 226(2) of the Constitution of India, should be considered to be in addition to Article 226(1) and not as an alternative. Consequently, it is only the

Court exercising jurisdiction over the Delhi Officer which has the jurisdiction to entertain the present Petition. Since, the original authority issuing notices and raising demands is in Delhi, the Petitioner ought to be directed to approach the Delhi High Court and the present Petition should be dismissed.

7. Per contra, Mr. Dharan Gandhi, the learned counsel for the Petitioner, submitted that the objection to jurisdiction is untenable. He pointed out that the jurisdiction over the Petitioner's case was transferred from Delhi to Pune vide an order under Section 127 of the Act passed by the PCIT, Delhi-1 on 13.12.2023. This is not disputed by Respondent No.1 as well. Consequently, the Delhi Officer i.e., Respondent No.2 is now *functus officio*. He submitted that any relief, including the deletion of demand or stay on recovery proceeding, can now only be granted by Respondent No.1. He emphasized that the erstwhile company has amalgamated with the Petitioner, which has its registered office in Pune. It is the Petitioner in Pune who has to defend the proceedings, bear the consequences, and face the effects of the recovery notices. Since, the effect of the impugned action is felt within the territorial jurisdiction of this Court, a part of the cause of action has arisen here, thereby conferring jurisdiction on this Court to exercise its

power under Article 226 of the Constitution. Mr. Gandhi relied on a series of decisions including ***Kusum Ingots & Alloys Ltd. V/S Union of India [(2004) 6 SCC 254]***, ***Om Prakash Srivastava V/S Union of India [(2006) 6 SCC 207]***, ***Navinchandra N. Majithia V/S State of Maharashtra [(2000) 7 SCC 640]***, ***Nawal Kishore Sharma V/S Union of India [(2014) 9 SCC 329]***, ***Teleperformance Global Services Pvt. Ltd. V/S ACIT [(2021) 435 ITR 725 (Bom)]***, ***Uber India Systems Pvt. Ltd. V/S ACIT [(2024) 168 taxmann.com 200 (Bom)]***, ***Vincent Commercial Company Limited V/S ITO [Writ Petition (L) No. 10838 of 2025]***, ***Wills India Insurance Brokers (P.) Ltd. V/S IRDA [(2012) 22 taxmann.com 154 (Bom)]*** and ***Damomal Kauromal Raisingani V/S Union of India [AIR 1967 Bom 355]***, to support his contention.

8. Mr. Gandhi then argued that the decision in *Lt. Col. Khajoor Singh (supra)* is not applicable on the ground that it was rendered prior to the amendment of Article 226 in 1963. He submitted that *Lt. Col. Khajoor Singh (supra)* dealt with the issue whether cause of action can be considered as a valid criteria under Article 226 to entertain a Writ Petition. The said question was answered in negative by

the Hon'ble Supreme Court in absence of any such criteria in Article 226 at that point of time. He relied upon Article 226(2) which was introduced after the decision in case of *Lt. Col. Khajoor Singh (supra)* to contend that a High Court can entertain a Writ Petition, where a cause of action arises, whether in part or whole. He submitted that the legislature amended the Constitution of India, to introduce the concept of cause of action to be considered as one of the factors to confer territorial jurisdiction over a High Court to entertain a Writ Petition. He also distinguished the decision in *Trustcap Private Limited (supra)* on the ground that it relied on *Khajoor Singh (supra)* without appreciating the subsequent jurisprudence on Article 226(2). He, therefore, submitted that this Court had the jurisdiction to entertain the present Petition.

9. We have considered the rival submissions on the issue of territorial jurisdiction. The issue regarding the jurisdiction of the High Court to issue writs against authorities located outside its territories has evolved significantly. Since, a vociferous objection was raised by Mr. Gupta in this regard, it will be only apt to deal with the same in some detail.

10. Article 226(1) of the Constitution as it stood prior to its amendment by Constitution (Fifteenth Amendment) Act, 1963 read thus:-

> *"(1) Notwithstanding anything in article 32 every High Court shall have powers, throughout the territories in relation to which it exercise 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 warrantor and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose."*

11. Initially, in ***Election Commission, India V/S Saka Venkata Rao [AIR 1953 SC 210]*** and ***K.S. Rashid and Son V/S Income Tax Investigation Commission [AIR 1954 SC 207]*****,** the Hon'ble Supreme Court held that the High Court's jurisdiction was based on the location of the Authority/Respondent. This was on the basis of the interpretation of Article 226 as it then stood.

12. This view was affirmed by a Seven-Judge Constitution Bench in ***Lt. Col. Khajoor Singh V/S Union of India [AIR 1961 SC 532]*****,** wherein it was held that the concept of cause of action could not be introduced in Article 226 [as it then stood]. The Court held that jurisdiction depended on the person or authority passing the order

being within the territories of the High Court. It would be relevant to first refer to the issues raised and considered by the Constitution Bench as brought out in Paragraph 11 which is reproduced hereunder:-

> *"11. The two main questions which arise, therefore, are : (i) whether the Government of India as such can be said to have a location in a particular place viz. New Delhi, irrespective of the fact that its authority extends over all the States and its officers function throughout India, and (ii) whether there is any scope for introducing the concept of cause of action as the basis of exercise of jurisdiction under Article 226. Before, however, we deal with these two main questions, we would like to clear the ground with respect to two subsidiary matters which have been urged on behalf of the appellant."*
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> (emphasis supplied)

13. This was answered by the Court in Paragraph 16 which is reproduced hereunder:-

> *"16. Article 226 **as it stands** does not refer anywhere to the accrual of cause of action and to the jurisdiction of the High Court depending on the place where the cause of action accrues being within its territorial jurisdiction. Proceedings under Article 226 are not suits; they provide for extraordinary remedies by a special procedure and give powers of correction to the High Court over persons and authorities and these special powers have to be exercised within the limits set for them. These two limitations have already been indicated by us above and one of them is that the person or authority concerned must be within the territories over which the High Court exercises jurisdiction. Is it possible then to overlook this constitutional limitation and say that the High Court can issue a writ against a person or authority even though it may not be within its territories simply because the cause of action has arisen within those territories? It seems to us that it would be going in the face of the express provision in Article 226 and doing away with an express limitation contained therein if the concept of cause of action were to be introduced in it. Nor do*

we think that it is right to say that because Article 300 specifically provides for suits by and against the Government of India, the proceedings under Article 226 are also covered by Article 300. It seems to us that Article 300 which is on the same line as Section 176 of the Government of India Act, 1935, dealt with suits as such and proceedings analogous to or consequent upon suits and has no reference to the extraordinary remedies provided by Article 226 of the Constitution. The concept of cause of action cannot in our opinion be introduced in Article 226, for by doing so we shall be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to persons residing far away from New Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable constitutional amendment in Article 226. But the argument of inconvenience, in our opinion, cannot affect the plain language of Article 226, nor can the concept of the place of cause of action be introduced into it for that would do away with the two limitations on the powers of the High Court contained in it."

(emphasis supplied)

14. In fact, in paragraph 17, the Court went on to hold as under:-

"17. We have given our earnest consideration to the language of Article 226 and the two decisions of this Court referred to above. We are of opinion that unless there are clear and compelling reasons, which cannot be denied, we should not depart from the interpretation given in these two cases and indeed from any interpretation given in an earlier judgment of this Court, unless there is a fair amount of unanimity that the earlier decisions are manifestly wrong. This Court should not, except when it is demonstrated beyond all reasonable doubt that its previous ruling, given after due deliberation and full hearing, was erroneous, go back upon its previous ruling, particularly on a constitutional issue. In this case our reconsideration of the matter has confirmed the view that

> *there is no place for the introduction of the concept of the place where the impugned order has effect or of the concept of functioning of a Government, apart from the location of its office concerned with the case, or even of the concept of the place where the cause of action arises in Article 226 and that the language of that Article is plain enough to lead to the conclusion at which the two cases of this Court referred to above arrived.* ***If any inconvenience is felt on account of this interpretation of Article 226 the remedy seems to be a constitutional amendment.*** *There is no scope for avoiding the inconvenience by an interpretation which we cannot reasonably, on the language of the Article, adopt and which the language of the Article does not bear."*
>
> (emphasis supplied)

15. Thus, the Court had specifically ruled out the concept of the place where the impugned order has effect or of the concept of functioning of a Government or the concept of cause of action as being relevant to exercise jurisdiction under Article 226 of the Constitution of India. On the contrary, the Court held that if any inconvenience is felt on account of this interpretation of Article 226, the remedy seems to be a constitutional amendment.

16. In this context, it now, becomes imperative to refer to subsequent developments. The legal position underwent a sea change with the Constitution (Fifteenth Amendment) Act, 1963, which inserted Clause (1-A) [renumbered as Clause (2) by Constitution (Forty-second Amendment) Act, 1976] to Article 226. This amendment specifically conferred jurisdiction on High Courts within whose territories the cause

of action, wholly or in part, arises, notwithstanding that the seat of the Government or authority is not within those territories. The same reads thus:-

> *"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.*
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> *(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without -*
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> *(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and*
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> *(b) giving such party an opportunity of being heard,*
>
> *makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.*
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> *(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32."*

17. Thus, it is apparent that the concept of cause of action which was not accepted by the Supreme Court in case of *Lt. Col. Khajoor Singh (supra)* due to absence of any such specific provision, was specifically brought into the Constitution of India by the Constitution (Fifteenth Amendment) Act, 1963. Now, after the insertion of Article 226(2), every High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises, shall have powers to issue directions, orders or writs to any Government, authority or person notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. Thus, even if the authority concerned is not within the territorial jurisdiction of a High Court, still the High Court will have to power to issue writ to such authority, provided the cause of action, wholly or in part, arises within the jurisdiction of such High Court.

18. Article 226(2) of the Act, came up for consideration before the Hon'ble Supreme Court in number of cases. In ***Navinchandra N. Majithia V/S State of Maharashtra [(2000) 7 SCC 640]***, the Supreme Court held that the High Court before which the Writ Petition is filed must ascertain whether any part of the cause of action has arisen

within the territorial limits of its jurisdiction. The relevant paragraphs in the said decisions are as under:-

> *"17. From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of that Court.*
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> *...*
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> *27. Tested in the light of the principles laid down in the cases noted above the judgment of the High Court under challenge is unsustainable. The High Court failed to consider all the relevant facts necessary to arrive at a proper decision on the question of maintainability of the writ petition, on the ground of lack of territorial jurisdiction. The Court based its decision on the sole consideration that the complainant had filed the complaint at Shillong in the State of Meghalaya and the petitioner had prayed for quashing the said complaint. The High Court did not also consider the alternative prayer made in the writ petition that a writ of mandamus be issued to the State of Meghalaya to transfer the investigation to Mumbai Police. The High Court also did not take note of the averments in the writ petition that filing of the complaint at Shillong was a mala fide move on the part of the complainant to harass and pressurise the petitioners to reverse the transaction for transfer of shares. The relief sought in the writ petition may be one of the relevant criteria for consideration of the question but cannot be the sole consideration in the matter. On the averments made in the writ petition gist of which has been noted earlier it cannot be said that no part of the cause of action for filing the writ petition arose within the territorial jurisdiction of the Bombay High Court.*
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> *...*
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> *35. But a Constitution Bench of this Court has held in Election Commission, India v. Saka Venkata Subba Rao [(1953) 1 SCC 320 : AIR 1953 SC 210 : 1953 SCR 1144] thus:*
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> > *"[T]he power of the High Court to issue writs under Article 226 of the Constitution is subject to the two-fold limitation that such writs cannot run beyond the territories subject to its jurisdiction and the person or authority to whom the High Court is empowered to issue such writs must be amenable to the jurisdiction of the High Court either by residence or location within the territories subject to its jurisdiction."*

36. *It was the said decision of the Constitution Bench which necessitated Parliament to bring the Fifteenth Amendment to the Constitution by which clause (1-A) was added to Article 226. That clause was subsequently renumbered as clause (2) by the Constitution Forty-Second Amendment. Now clause (2) of Article 226 reads thus:*

> *"226. (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."*

37. *The object of the amendment by inserting clause (2) in the article was to supersede the decision of the Supreme Court in Election Commission v. Saka Venkata Subba Rao [(1953) 1 SCC 320 : AIR 1953 SC 210 : 1953 SCR 1144] and to restore the view held by the High Courts in the decisions cited above. Thus the power conferred on the High Courts under Article 226 could as well be exercised by any High Court exercising jurisdiction in relation to the territories within which "the cause of action, wholly or in part, arises" and it is no matter that the seat of the authority concerned is outside the territorial limits of the jurisdiction of that High Court. The amendment is thus aimed at widening the width of the area for reaching the writs issued by different High Courts."*

(emphasis supplied)

19. Thus, it can be deduced that the amendment was aimed at widening the scope of territorial jurisdiction for writs to be issued by different High Courts.

20. This issue of territorial jurisdiction was also the subject matter of consideration in ***Kusum Ingots & Alloys Ltd. V/S Union***

of India [(2004) 6 SCC 254], wherein the Supreme Court explicitly clarified the position post the amendment. The Court held that if even if a small fraction of the cause of action accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter. The relevant paragraphs of this decision are brought out hereunder:-

> *"7. Clause (2) of Article 226 of the Constitution of India reads thus:*
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> > *"226. (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."*
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> *8. Section 20(c) of the Code of Civil Procedure reads as under:*
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> > *"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)-(b)****
> > *(c) the cause of action, wholly or in part, arises."*
>
> *9. Although in view of Section 141 of the Code of Civil Procedure the provisions thereof would not apply to writ proceedings, the phraseology used in Section 20(c) of the Code of Civil Procedure and clause (2) of Article 226, being in pari materia, the decisions of this Court rendered on interpretation of Section 20(c) CPC shall apply to the writ proceedings also. Before proceeding to discuss the matter further it may be pointed out that the entire bundle of facts pleaded need not constitute a cause of action as what is necessary to be proved before the petitioner can obtain a decree is the material facts. The expression material facts is also known as integral facts.*
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> *10. Keeping in view the expressions used in clause (2) of Article 226 of the Constitution of India,* ***indisputably even if a small fraction of cause of action accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter.***

> ...
> *27. When an order, however, is passed by a court or tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words, as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate authority."*
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> (emphasis supplied)

21. Further, in *Kusum Ingots (supra)*, in the context of Article 226(2), the Court held that the decision in case of *Lt. Col. Khajoor Singh (supra)* has no application. The relevant paragraphs in this regard are as under:-

> *"28. Lt. Col. Khajoor Singh v. Union of India [AIR 1961 SC 532 : (1961) 2 SCR 828] whereupon the learned counsel appearing on behalf of the appellant placed strong reliance was rendered at a point of time when clause (2) of Article 226 had not been inserted. In that case the Court held that the jurisdiction of the High Court under Article 226 of the Constitution of India, properly construed, depends not on the residence or location of the person affected by the order but of the person or authority passing the order and the place where the order has effect. In the latter sense, namely, the office of the authority which is to implement the order would attract the territorial jurisdiction of the Court was considered having regard to Section 20(c) of the Code of Civil Procedure as Article 226 of the Constitution thence stood, stating: (AIR p. 540, para 16)*
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> > *"The concept of cause of action cannot in our opinion be introduced in Article 226, for by doing so we shall be doing away with the express provision contained therein which requires that the person or*

authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to persons residing far away from New Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable constitutional amendment in Article 226. But the argument of inconvenience, in our opinion, cannot affect the plain language of Article 226, nor can the concept of the place of cause of action be introduced into it for that would do away with the two limitations on the powers of the High Court contained in it."

29. In view of clause (2) of Article 226 of the Constitution of India, now if a part of cause of action arises outside the jurisdiction of the High Court, it would have jurisdiction to issue a writ. The decision in Khajoor Singh [AIR 1961 SC 532 : (1961) 2 SCR 828] has, thus, no application."

(emphasis supplied)

22. It may be relevant to also specify that a note of caution was sounded by the Supreme Court in paragraph 30 with respect of *Forum conveniens* as under:-

"Forum conveniens

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , Madanlal Jalan v. Madanlal [(1945) 49 CWN 357 : AIR 1949 Cal 495] , Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122] , S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of India [AIR 1994 Del 126] .]"

23. However, in the present case, there is no quarrel that this doctrine of *Forum conveniens* has no application.

24. The next decision of the Supreme Court is in case of ***Om Prakash Srivastava V/S Union of India [(2006) 6 SCC 207]***. The relevant paragraphs in this decision are quoted below:-

> *"7. The question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limits of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition, a writ petitioner has to establish that a legal right claimed by him has prima facie either been infringed* ***or is threatened to be infringed by the respondent within the territorial limits of the Court's jurisdiction*** *and such infringement may take place by causing him actual injury or threat thereof.*
>
> *8. Two clauses of Article 226 of the Constitution on plain reading give clear indication that the High Court can exercise power to issue direction, order or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action wholly or in part had arisen within the territories in relation to which it exercises jurisdiction notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. (See ONGC v. Utpal Kumar Basu [(1994) 4 SCC 711].)*
>
> *9. By "cause of action" it is meant every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit. (See Bloom Dekor Ltd. v. Subhash Himatlal Desai [(1994) 6 SCC 322] .)"*
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> (emphasis supplied)

25. The Supreme Court in *Om Prakash Srivastava (supra)* held that "cause of action" has to be construed as bundle of facts and that even a threat of infringement of a right by any person within the territorial jurisdiction of the Court would be a relevant justification to entertain a petition under Article 226. Mr. Gandhi, has rightly argued, that future recovery notices would be issued by Respondent No.1 and he is the Officer who would initiate recovery proceedings. Since, Respondent No.1 is an authority within the jurisdiction of this Court therefore, the cause of action, *atleast* in part, has arisen so as to confer this Court with the jurisdiction to entertain the present Petition.

26. In ***Nawal Kishore Sharma V/S Union of India [(2014) 9 SCC 329]***, the Supreme Court again dealt with the issue of territorial jurisdiction of a High Court. Firstly, it dealt with the provisions of Article 226(2) and the decisions of the Supreme Court prior to insertion of the said provision. The relevant paragraphs of the decisions are as under:-

> *"8. While interpreting the aforesaid provision, the Constitution Bench of this Court in Election Commission v. Saka Venkata Rao [(1953) 1 SCC 320 : AIR 1953 SC 210] , held that the writ court would not run beyond the territories subject to its jurisdiction and that the person or the authority affected by the writ must be amenable to court's jurisdiction either by residence or location within those territories. The rule that cause of action*

attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issued under Article 226 of the Constitution which makes no reference to any cause of action or where it arises but insist on the presence of the person or authority within the territories in relation to which the High Court exercises jurisdiction. In another Constitution Bench judgment of this Court in K.S. Rashid and Son v. Income Tax Investigation Commission [AIR 1954 SC 207] , this Court took the similar view and held that the writ court cannot exercise its power under Article 226 beyond its territorial jurisdiction. The Court was of the view that the exercise of power conferred by Article 226 was subject to a twofold limitation viz. firstly, the power is to be exercised in relation to which it exercises jurisdiction and secondly, the person or authority on whom the High Court is empowered to issue writ must be within those territories. These two Constitution Bench judgments came for consideration before a larger Bench of seven Judges of this Court in Lt. Col. Khajoor Singh v. Union of India [Lt. Col. Khajoor Singh v. Union of India, AIR 1961 SC 532]. The Bench approved the aforementioned two Constitution Bench judgments and opined that unless there are clear and compelling reasons, which cannot be denied, writ court cannot exercise jurisdiction under Article 226 of the Constitution beyond its territorial jurisdiction.

9. *The interpretation given by this Court in the aforesaid decisions resulted in undue hardship and inconvenience to the citizens to invoke writ jurisdiction. As a result, clause (1-A) was inserted in Article 226 by the Constitution (Fifteenth) Amendment Act, 1963 and subsequently renumbered as clause (2) by the Constitution (Forty-second) Amendment Act, 1976. The amended clause (2) now reads as under:*

> *"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)***"*

On a plain reading of the amended provisions in clause (2), ***it is clear that now the High Court can issue a writ when the person or the authority against whom the writ is issued is located outside its territorial jurisdiction, if the cause of action wholly or partially arises within the court's territorial jurisdiction.*** *Cause of action for the purpose of Article 226(2) of the Constitution, for all intent and purpose must be assigned the same meaning as envisaged under Section 20(c) of the Code of Civil Procedure. The expression cause of action has not been defined either in the Code of Civil Procedure or the Constitution. Cause of action is bundle of facts which is necessary for the plaintiff to prove in the suit before he can succeed. The term "cause of action" as appearing in clause (2) came up for consideration time and again before this Court."*

(emphasis supplied)

27. Further, in case of ***Nawal Kishore Sharma (supra)***, the Court also held that even if the order rejecting the claim was passed by an authority outside the state, if the same was communicated to the Petitioner in his home state, a part of the cause of action arose in that state, where he received the communication. The relevant paragraphs in this regard are as under:-

"16. Regard being had to the discussion made hereinabove, there cannot be any doubt that the question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limit of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition, the petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limit of the Court's jurisdiction.

> *17. We have perused the facts pleaded in the writ petition and the documents relied upon by the appellant. Indisputably, the appellant reported sickness on account of various ailments including difficulty in breathing. He was referred to hospital. Consequently, he was signed off for further medical treatment. Finally, the respondent permanently declared the appellant unfit for sea service due to dilated cardiomyopathy (heart muscle disease). As a result, the Shipping Department of the Government of India issued an Order on 12-4-2011 cancelling the registration of the appellant as a seaman. A copy of the letter was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. It further appears that the appellant sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The said representation was replied by the respondent, which was addressed to him on his home address in Gaya, Bihar rejecting his claim for disability compensation.* ***It is further evident that when the appellant was signed off and declared medically unfit, he returned back to his home in the district of Gaya, Bihar and, thereafter, he made all claims and filed representation from his home address at Gaya and those letters and representations were entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar.*** *Admittedly, the appellant was suffering from serious heart muscle disease (dilated cardiomyopathy) and breathing problem which forced him to stay in his native place, wherefrom he had been making all correspondence with regard to his disability compensation. Prima facie, therefore, considering all the facts together,* ***a part or fraction of cause of action arose within the jurisdiction of the Patna High Court where he received a letter of refusal disentitling him from disability compensation****."*
>
> (emphasis supplied)

28. It can be noticed from the above, that the Supreme Court has held that since all claims and representations were filed from his home address at Gaya and those letters and representations were

entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar, this would constitute a part or a fraction of the cause of action that arose within the jurisdiction of the Patna High Court.

29. A Division Bench of this Court in ***Damomal Kauromal Raisingani V/S Union of India [AIR 1967 Bom 355]*** has also held that the cause of action arises at the place where the order is made and also at the place where its consequences are felt. The relevant paragraph in this regard, is as under:-

> *"5. The question that arises is whether the cause of action for the exercise of the power invoked by the petitioner arose wholly or in part within the territories in relation to which this Court exercises jurisdiction. The petitioner, as it appears, was a resident of Ullasnagar, a place situated in the district of Thana of Maharashtra State. The impugned order itself shows that the case was heard in Bombay. It is indeed true that the order on the face of it does not show the place where it was made. Even assuming that this order was made by respondent No. 3 in New Delhi, there can hardly be any doubt that the effect of this order fell on the petitioners at Ullasnagar where he resides. It is also not in dispute that the proceedings that would be taken against the petitioner in consequence of the impugned order would be by officers located within the territories in relation to which this Court exercises jurisdiction. Though in different context, the question arose as to the place where the cause of action would arise, the question was considered by a Division Bench of which I was a member in W.W. Joshi v. State of B'bay [(1958) 61 Bom. L.R. 829.] . A civil servant was removed from service and the question arose as to where the cause of action to get quashed the order of removal from service arose, and it was held that the cause of action would arise at the place where the order of termination of service was made and also at the place where*

the consequences fell on the servant. In view of this decision, there can hardly be any doubt that the place where the consequences of the order fell on the petitioner would be a place where at least the cause of action in part would arise. No good ground is shown to us by Mr. Vaidya to differ from the view taken by the Division Bench in the aforesaid case. The second ground also should fail."

(emphasis supplied)

30. In ***Wills India Insurance Brokers (P.) Ltd. V/S IRDA [(2012) 22 taxmann.com 154 (Bom)]*****,** this Court held that simply because the head office of the authority was at Hyderabad, it could not be said that the Petitioner was not affected by the decision within the territorial jurisdiction of this Court where its registered office was located. The relevant paragraphs in this regard are brought out hereunder:-

"11. So far as the preliminary objection taken up by Mr. Andhyarujina regarding territorial jurisdiction of this Court is concerned, it is required to be noted that the registered office of the Company is located at Mumbai, the application for renewal is made at Mumbai, the decision was taken by the first respondent at Hyderabad as the office of first respondent is located at Hyderabad. At this stage, reference is required to be made to Article 226(2) of the Constitution of India which reads thus:

> *"(2) The power conferred by clause (q) 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."*

> *12.* ***In view of the above, it cannot be said that the first petitioner company is not affected by the impugned decision within the territorial jurisdiction of this Court.*** *Simply because the head office of respondent No.1 is located at Hyderabad and since the decision was taken at Hyderabad which is communicated to the first petitioner at Mumbai, it cannot be said that only Hyderabad High Court will have jurisdiction to decide the dispute. It can safely be said that part of the cause of action has arisen within the territorial jurisdiction of this Court. We are, therefore, of the opinion that substantial part of the cause of action can be said to have arisen within the jurisdiction of this Court and the petition before this Court is maintainable. At this stage Mr. Andhyarujina has relied upon the decision of the Supreme court in the case of State of Rajasthan v. Swaika Properties [1985] 3 SCC 217. In the aforesaid case, the proceedings regarding acquisition of the land were initiated by Rajasthan State Government. The land was located at Jaipur. The Company was located at Calcutta. The Company representative appeared before the authority at Jaipur. The acquisition of the land was recommended by the authority to the State Government. The notification acquiring the land was issued by the Rajasthan State Government. The petition challenging the acquisition proceedings and notification was filed in the Calcutta High Court and considering the facts of the case it was held that the petition before the Calcutta High Court was not maintainable. In the aforesaid case it was noted that the cause of action arose in Jaipur. As pointed out earlier, the land was situated at Jaipur. The notification was issued at Jaipur. Considering the aforesaid factual background, it was held that the Calcutta High Court had no jurisdiction to enter into the matter. In the instant case, as pointed out earlier, the first petitioner's registered office is located at Mumbai, it operates its business from Mumbai but since the office of first respondent is at Hyderabad that the renewal application was required to be preferred at Hyderabad. In our view, part of the cause of action can be said to have arisen within the territorial jurisdiction of this Court."*
>
> (emphasis supplied)

31. More recently, in ***Teleperformance Global Services Pvt. Ltd. V/S ACIT [(2021) 435 ITR 725 (Bom)]***, a Division Bench of this Court dealt with a case where the assessment order was passed in

Delhi against a non-existent entity which had amalgamated with the Petitioner in Mumbai. The Court held that since the successor company was in Mumbai and the impact of the order was felt in Mumbai, a part of the cause of action arose in Mumbai. Paragraph 19 of the judgment is brought out hereunder:-

> *"19. In the present case, it is seen there is acceptance in reply on behalf of respondents that petitioner is a successor company of erstwhile M/s. Tecnovate Esolutions Pvt. Ltd. and successor has its registered office at Mumbai and is stationed at Mumbai carrying in business. After impugned notice dated 30th March, 2019, correspondence from the petitioner's side ensued from September, 2019 onwards has not been disputed. It would not be said to be a case wherein no part of cause of action has arisen for the petitioner where petitioner would to be affected by impugned order, going by decisions referred to on behalf of petitioner. Having regard to facts and circumstances and the decisions, relied on, on behalf of the petitioner, it does not appear that resistance to the petition on the ground of jurisdiction would carry any efficacy."*
>
> (emphasis supplied)

32. Similar views were taken in ***Uber India Systems Pvt. Ltd. V/S ACIT [(2024) 168 taxmann.com 200 (Bom)].*** The Court held that the person who is required defend the notice is within the jurisdiction of this Court, atleast part of cause of action, arises here. In paragraph 10 of the judgment, the Court held thus:-

> *"10. At the outset, we may observe that Respondent no. 1 is based at Hyderabad in the State of Telangana. Thus, at the outset, we address the issue as to whether this Court can exercise jurisdiction under Article 226 of the Constitution, when Respondent No.1, against whom the relief is sought, is not situated within the*

territorial jurisdiction of this Court. In this context, we may observe that it is not in dispute that, in the facts of the present case, although the impugned notice is issued to the assessee which is a non existent company, the same is served on the Petitioner, whose registered office is within the territorial jurisdiction of this Court, and who has received the impugned notice at Mumbai. ***It is the Petitioner which is required to defend such notice as served on it at Mumbai****. The Petitioner is an Assessee within the jurisdiction of the Tax Authorities at Mumbai. In this situation, in our opinion, certainly a part of the cause of action, in terms of clause (2) of Article 226 of the Constitution of India, has arisen within the territorial jurisdiction of this Court, which, in our opinion, entitles the Petitioner to approach this Court invoking its jurisdiction under Article 226 of the Constitution, with a grievance of breach of its legal and constitutional rights. The position of law in this context is also considered and discussed in the decision of this Court in Teleperformance Global Services (P) Ltd. (supra), which is aptly applicable to the case in hand. We are thus inclined to entertain this Petition, considering that a part cause of action has arisen within the territorial jurisdiction of this Court."*

(emphasis supplied)

33. Lastly, a reference is made to the decision of this Court dated in ***Vincent Commercial Company Limited V/S ITO [(2025) 307 Taxman 320 (Bombay)]*** where one of us (B. P. Colabawalla, J.) is a party. This was a case, where a company registered in Mumbai was issued notice under Section 148 of the Act, by an Officer of Kolkata. In this context, the Revenue had raised an argument of *Forum conveniens*. The same was dealt in the judgment as under:-

"5. We have heard the learned advocates for the parties on the issue of the territorial jurisdiction of this Court. It is not in dispute that the Petitioner, originally, had its registered office in Kolkata. However, in 2017, the registered office of the Petitioner was shifted to Mumbai. A certificate to that effect has also been

issued by the Registrar of Companies [Ministry of Corporate Affairs] dated 17th May, 2017. In fact, this certificate, which can be found at page 108 of the paper book, specifically states that the Petitioner by a special resolution altered its Memorandum of Association with respect to the place of the registered office by changing it from the State of West Bengal to the State of Maharashtra, and such alteration has been confirmed by the order of the Regional Director dated 10th February, 2017. In other words, the registered office of the Petitioner was changed to Mumbai as far back as on 10th February, 2017.

6. *In the present case, the Assessment order in question is for AY 2019 2020. Even in the Income Tax Returns filed for the said assessment year, the address of the Petitioner is shown as B-11/12, Bhiwandiwala Terrace, Ground Floor, Princess Street, Marine Lines, Mumbai 400002. However, the details of the Assessing Officer are reflected as "Ward 12[1], KOLKATA". This has happened because the Petitioner has not informed the Assessing Officer that its registered office has been shifted from Kolkata to Mumbai.*

7. *The notice issued to the Petitioner under Section 148(A)(b) of the Income Tax Act, though reflected the address of the Petitioner's office at Kolkata (its previous address), seeks to open a transaction entered into by the Petitioner for AY 2019-2020 with an entity called M/s. Aneri Fincap Ltd., which is also a Company incorporated and registered in the State of Maharashtra. This is also clear from page 138 of the paper book. Further, the proceedings have been opened on the basis of the case related information details, which also reflects the address of the Petitioner as that of the Mumbai. This document is at page 120 of the paper book.*

8. *When one looks at all these factors, we find that atleast a substantial portion of the cause of action has arisen within the territorial jurisdiction of this Court. If any cause of action has arisen outside its territorial jurisdiction, it would be only that the notice under Section 148 was issued by the Assessing Officer based in Kolkata and at the previous address of the Petitioner at Kolkata. Further, the learned advocate appearing on behalf of the Petitioner, on instructions, has stated before the Court that on the date when the notice under Section 148(A)(d) was issued to the Petitioner, the Petitioner did not have any office at the address mentioned in the said notice namely in Kolkata. Once these are the facts, we are clearly of the view that a substantial*

part of the cause of action has arisen within the territorial jurisdiction of this Court.

9. *Once we have come to this conclusion, we find that Article 226(2) of the Constitution of India, clearly stipulates that the power to issue writs, orders, or directions to any Government, Authority, or person may be exercised by any High Court exercising jurisdiction in relation to the territory 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.*

10. *Once we are of the view that a substantial part of the cause of action has, in fact, arisen within the territorial jurisdiction of this Court, then, notwithstanding the fact that the Assessing officer is based in Kolkata, this Court would certainly have jurisdiction to entertain the above Writ Petition.*

11. *As far as the issue of Forum Conveniens is concerned, we find no merit in the aforesaid argument. Firstly, we find that this concept would not apply to the facts of the present case, merely because the Assessing Officer is based in Kolkata. The entire transaction which is sought to be opened in the notice issued under Section 148 has, in fact, taken place within the territorial jurisdiction of this Court. If at all, if we have to drive the Petitioner to go the Calcutta High Court it would be of a greater inconvenience to the Petitioner. Secondly, having held that the substantial cause of action has arisen within the territorial jurisdiction of this Court, we certainly would have the jurisdiction to entertain the above Writ Petition. Hence, the preliminary objection raised by Mr. Sharma, is accordingly, rejected."*

(emphasis supplied)

34. When the facts of the present case are kept in juxtaposition to the legal principles as brought out earlier, it can be clearly discerned that:-

(a) the erstwhile entity has amalgamated with the Petitioner, which has its registered office in Pune, within the jurisdiction of this Court;

(b) the recovery notice was received in Pune, within the jurisdiction of this Court;

(c) the recovery notice and the demands, even if originating from orders passed in Delhi, have a direct impact on the Petitioner in Pune which is within the jurisdiction of this Court;

(d) the Petitioner who is within the jurisdiction of this Court, would be affected by the recovery notice and the alleged demands;

(e) the consequences of the recovery notices and the alleged demand will be felt in Pune, within the jurisdiction of this Court;

(f) it is the Petitioner, who is within the jurisdiction of this Court, who has to defend the proceedings and face the coercive recovery actions.

35. Therefore, a part of the cause of action has clearly arisen within the territorial jurisdiction of this Court.

36. In fact, the case of the Petitioner is on a better footing as compared to the other cases. In the present case, the Principal Commissioner of Income-tax, Delhi-1, vide order dated 13.12.2023 under Section 127 of the Act, has transferred the jurisdiction over the

case to the DCIT/ACIT Circle-1(1), Pune. In this regard, reference can be made to the Explanation to Section 127 which clarifies the amplitude of “transfer of case" in relation to any person whose name is specified in the order of transfer. It reads thus:-

> *“Explanation.- In section 120 and this section, the word “case”, in relation to any person whose name is specified in any order or direction issued thereunder, means all proceedings under this Act in respect of any year which may be pending on the date of such order or direction or which may have been completed on or before such date, and includes also all proceedings under this Act which may be commenced after the date of such order or direction in respect of any year”*

37. Thus, a transfer [under Section 127] implies that all proceedings under the Act in respect of any year which may be pending or which may have been completed or which is yet to be initiated is transferred to the transferee officer. Thus, the jurisdiction over the completed assessments of A.Y.2001-02 to A.Y.2003-04 also stands transferred to the Pune Officer i.e., Respondent No.1. The Delhi Officer is now *functus officio*. Any relief regarding the impugned demands can only be granted by the Pune Officer (Respondent No.1). The Petitioner is, therefore, correct in contending that since the officer who is to defend the case, redress grievances, and deal with recovery of the alleged demand, is now in Pune. Therefore, he is the right officer to whom a writ can be issued. In fact, prayer clause 12(b) and 12(c) (reproduced in the

later part) also seek reliefs which can be granted only against Respondent No.1 who is the current officer. In fact, it has been brought on record by Mr. Gandhi, that Respondent No.1 has dealt with the other assessment years of the erstwhile entity i.e., A.Y.2006-07 and A.Y.2013-14 and naturally so, since he is the current jurisdictional assessing officer. If that be the case, he has to defend the present case as well, though he may not be the Officer who has initiated the actions. Therefore, we see no impediment to entertain the present Petition.

38. This now leaves us to deal with the contentions of Mr. Gupta. Firstly, the overwhelming reliance on the decision in case of *Lt. Col. Khajoor Singh (supra)* is completely misplaced. As already discussed earlier, much water has flown thereafter, in terms of Constitutional Amendments and the interpretation thereof as placed by the Hon'ble Apex Court and this Court. Therefore, reading the said decision in isolation would not be correct. *Lt. Col. Khajoor Singh (supra)* was a case where the concept of "cause of action" was argued to be one of the factors to be considered to entertain a Writ Petition at a point of time, when there was no such provision in Article 226. This was not accepted by the Court. In fact, the Court noticing the inconvenience caused, also suggested that it is only a Constitutional Amendment that

can give any relief in this regard. Once there is a constitutional Amendment in terms of Article 226(2), then while interpreting Article 226(2), the decision in *Lt. Col. Khajoor Singh (supra)* will have no application as held by the Supreme Court itself in many cases referred earlier.

39. Secondly, Mr. Gupta placed reliance on the decision of *ABC Papers Limited (supra)* to contend that an appeal under the Act is to be filed before the Tribunal/ Court within whose jurisdiction the Assessing Officer who passed the original order appealed against is located, and therefore, a similar analogy has to be drawn in context of a Writ Petition as well. This argument cannot be accepted as the provisions of section 260A of the Act are materially different from the provisions of Article 226(2) of the Constitution of India. Even the jurisdiction of the Court under Article 226(2) and under section 260A of the Act are quite different. The Court in *ABC Papers Limited (supra)* never had the occasion to interpret Article 226(2), the term *"cause of action, wholly or in part"* as appearing therein, and therefore, this decision would not have any bearing for interpreting Article 226 of the Constitution of India.

40. Thirdly, the reliance placed by the Revenue on the decision of this Court in case of *Trustcap Private Limited (supra)* is also misplaced. A perusal of that order shows that the Court relied on *Lt. Col. Khajoor Singh (supra)* without noticing that *Khajoor Singh* was rendered in the context of Article 226(1) prior to the amendment introducing the concept of cause of action. As clarified by the Supreme Court in *Kusum Ingots (supra), Om Prakash Srivastava (supra), Navinchandra N. Majithia (supra) and Naval Kishore Sharma (supra)*, the decision in *Khajoor Singh (supra)* has no application when jurisdiction is invoked under Article 226(2) based on the accrual of a part of the cause of action. Further, the Court in *Trustcap (supra)* had not considered the decisions of the Apex Court in case of *Om Prakash Srivastava (supra), Navinchandra N. Majithia (supra) and Naval Kishore Sharma (supra)* and that of this Court in case of *Damomal (supra), Teleperformance (supra)* and *Uber India (supra)*. Further, the decision in *Trustcap (supra)* is based on the peculiar facts involved therein, where the Court applied the principles of *Forum conveniens* to relegate the Petitioner to avail its remedy before the Calcutta High Court. The doctrine of *Forum convenies* and "cause of action" are very fact specific and a Court has to consider each matter on appreciation of the facts involved therein. Since, the Petitioner herein has established

that a part of the cause of action has arisen in Pune and the jurisdiction has been transferred to Pune, the decision in *Trustcap (supra)* in any event does not assist the Revenue.

41. Fourthly, the contention of Mr. Gupta that provisions of Article 226(2) should be construed as a requirement in addition to the provisions of Article 226(1) has to be noted only for rejection. Article 226(2) has used the phrase *"may also be exercised"* which clearly suggests that Article 226(2) is not an additional condition but an alternate condition. Moreover, Article 226(1), as interpreted by the Apex Court provides for a Court to issue a writ only to the authorities within the territories of that Court, whereas Article 226(2) provides that notwithstanding that the seat of Government or authority or the residence of such person is not within those territories, a writ can be issued by a Court where part or whole of cause of action arise. The two clauses are mutually exclusive and both cannot apply simultaneously by the very wordings of the clauses. Therefore, it is not correct to argue that for Article 226(2) to apply, Article 226(1) has to trigger. If the view of Mr. Gupta is accepted, then perhaps, Article 226(2) would become redundant. The whole purpose of introducing Article 226(2) was to alleviate the inconvenience caused to the Petitioners by dragging them

to the Court which exercises jurisdiction over the authority or the Respondent within the territorial jurisdiction of such Court. Reliance in this regard, on the decision of the Delhi High Court in case of *Jayaswals Neco Ltd. (supra)* is also, therefore, misplaced.

42. Accordingly, we reject the preliminary objection regarding territorial jurisdiction. We are of the considered view that at least part of the cause of action has arisen within the territorial jurisdiction of this Court, and therefore, we proceed to deal with the merits of the case.

43. The Petitioner's case on merits is that the demands of Rs.3,28,785/-, Rs.1,24,577/- and Rs.28,87,714/- are non-existent. The Petitioner has categorically stated that despite filing applications under the RTI Act and obtaining orders from the First Appellate Authority directing the Respondents to furnish the documents, no assessment orders or rectification orders giving rise to these demands have been provided. The Respondents have only furnished illegible screenshots of the computation sheets.

44. By the order dated 24.02.2025, this Court had specifically directed the Respondents to file affidavits on merits and appraise the Court regarding the status of records. The affidavit filed by Respondent

No.1 merely states that the records have not been physically transferred from Delhi. Respondent No.2, i.e., the Delhi Officer, despite service, has not filed any reply. This Petition was filed in September 2024, and this Court had directed the Respondents to file their reply vide order dated 24.02.2025. A reply was filed by Respondent No.1 in April 2025 and we are now in March 2026. More than a year has elapsed from the date of the first order of this Court, and yet the Respondents have failed to produce the basic orders creating the demand.

45. In ***Bharat Serums and Vaccines Limited V/S DCIT [Writ Petition (L) No. 3498 of 2024 decided on 02.04.2024]***, this Court, held that where the Department failed to produce the order giving rise to the demand despite RTI applications and court directions, the demand was liable to be quashed. The relevant portion of this decision reads thus:-

> *"5. On perusal of the portal sometime in April 2021, it was found that a demand of Rs.46,84,750/- was appearing in the portal as against the erstwhile entity. It appeared that the demand arose out of an order passed under Section 154 of the Act on 31st March 2021 for Assessment Year 2013-2014. As no communication had been received with regard to the said order, representations were made to respondent no.1 to provide copy of the rectification order dated 31st March 2021 passed under Section 154 of the Act. As no response was received, petitioner even filed an application under the RTI Act, 2005. In response to the application, petitioner was served with a copy of the computation sheet. Petitioner, therefore, preferred an appeal under Section 19(1) of the RTI Act, 2005 before the First Appellate Authority. Petitioner's application was disposed by the First Appellate Authority by an order dated 18th*

July 2023 and respondents were directed to re-examine the matter and furnish full and appropriate information sought within 15 days from the date of receipt of the order. Notwithstanding this direction by the First Appellate Authority, petitioner received from the Assessing Officer, by a letter dated 4th August 2023, the same documents which were provided earlier. Though the forwarding letter dated 4th August 2023 provides for copy of order passed under Section 154 of the Act, it is petitioner's case, and which has not been controverted, that only the same computation sheet was provided but not an order. Even the screenshot of the order sent through email is illegible.

6. *No affidavit in reply has been filed. Mr. Gupta appearing for respondents informed the Court that he has instructions from respondent no.1- Mr. Basant Kumar Arya that the demand has been uploaded by the erstwhile Deputy Commissioner of Income Tax on the portal but the Department does not have any file relating to that matter. Mr. Gupta states that his instructions are to inform the Court that respondent no.1 or the Department has no document to show that any notice was issued under Section 154 or even an order was passed under Section 154 of the Act. Mr. Gupta also states that if the Court directs respondents, they shall remove the pending demand from the Income Tax Portal pertaining to petitioner.*

7. *In view of the statement made by Mr. Gupta as recorded above, we have to quash and set aside the demand of Rs.46,84,750/- for Assessment Year 2013-2014 as appearing on petitioner's portal and the computation sheet under Section 154 of the Act dated 31st March 2021, which we hereby do. The demand appearing on the portal shall also be removed. This has to be completed within two weeks of this order being uploaded."*

46. Similarly, in ***Udayan Bhaskaran Nair V/S DCIT [(2026) 183 taxmann.com 47 (Bom)]*****,** this very Bench held that in the absence of any intimation or order raising the demand, recovery of such non-existent demand cannot be made. Relevant paragraphs of the said judgment are reproduced hereunder:-

"21. Admittedly it is now the case before us that even though it is claimed by the Respondents that the intimation under Section 143(1) was issued for the relevant Assessment year 2010-11,

however the Respondents have failed to bring on record any such intimation claimed to have been issued under Section 143(1) or the notice of demand claimed to have been served upon the Petitioner. Even the Petitioner had asked for the same from the Respondents vide his rectification application dated 07.11.2017 but the same was never furnished to the Petitioner. Even in the affidavit in reply dated 01.12.2025, Respondent No.1 has not produced the intimation under Section 143(1) which he claims is issued. It was not produced even before the Commissioner of Income Tax (Appeals) or the Tribunal.

22. Thus, we are of the view that in the absence of any intimation under Section 143(1) raising the demand or any independent notice of demand, recovery of such non-existent demand cannot be made against the Petitioner."

47. In the present case, there is absolutely no material on record to substantiate the existence of valid orders giving rise to the impugned demands. The Respondents have failed to produce the orders and service records, despite repeated opportunities. The failure of Respondent No.2 to respond and the inability of the Pune Officer to locate records leads to the inevitable conclusion that no such valid orders exist or were ever served upon the Petitioner. An adverse inference must necessarily be drawn against the Respondents. Old matters and demands cannot be allowed to suddenly surface on the portal without the underlying orders being available and served. Consequently, the impugned demands cannot be sustained.

48. In view of the foregoing discussion, we allow the Petition in terms of prayer clauses 12(a) and 12(b), which read as follows:-

> *"(a) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to quash and set aside the demand of Rs. 3,28,785/- for AY 2001-02, Rs. 1,24,577/- for AY 2002-03 and Rs. 28,87,714/- for AY 2003-04; the demand recovery notice dated 05.02.2023 (Exhibit C); the computation sheet under dated 27.08.2003 (forming part of "Exhibit E1") and the computation sheet under dated 28.02.2003 (forming part of "Exhibit E2").*
>
> *(b) that this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari or Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or direction, calling for the records of the Petitioner's case and after going into the legality and propriety thereof, to direct the Respondent No. 1 to withdraw the demand of Rs. 3,28,785/- for AY 2001-02, Rs. 1,24,577/- for AY 2002-03 and Rs. 28,87,714/- for AY 2003-04; the demand recovery notice dated 05.02.2023 (Exhibit C); the computation sheet under dated 27.08.2003 (forming part of "Exhibit E1") and the computation sheet under dated 28.02.2003 (forming part of "Exhibit E2")."*

49. Rule is made absolute in the aforesaid terms, and the Writ Petition is also disposed of in terms thereof. However, there shall be no order as to costs.

50. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**

Utkarsh