

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3755 OF 2022

Asianet Star Communications Pvt Ltd.
a company incorporated under the
Companies Act, 1956 having its registered
office at Star House, Urmi Estate 95,
Ganpatrao Kadam Marg, Lower Parel (W),
Mumbai-400013

..... Petitioner

VERSUS

- 1 Competition Commission of India
Represented by its Secretary, 9th Floor,
Office Block-1, Kidwai Nagar (East),
New Delhi - 110023, India
- 2 Asianet Digital Network Pvt. Ltd.
a company incorporated under the
Companies Act, 1956 having its registered
office at 2A, II floor, Carnival Technopark,
Leela Infopark, Technopark,
Kazhakkootam, Karyavattom,
Trivendrum 695 581, Kerala
- 3 Star India Pvt. Ltd.
a company incorporated under the
Companies Act, 1956 having its registered
office at Star House, Urmi Estate, 95,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai - 400013
- 4 Disney Broadcasting (I) Pvt. Ltd.
(Formerly Disney Broadcasting (India)
Ltd.) a company incorporated under the
Companies Act, 1956 having registered
office at Star House, Urmi Estate, 95,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai - 400013

.... Respondents

WRIT PETITION NO. 3860 OF 2022

Star India Pvt. Ltd.

a company incorporated under the Companies Act, 1956 having its registered office at Star House, Urmi Estate, 95, Ganpatrao Kadam Marg, Lower Parel, Mumbai - 400013

..... Petitioner

VERSUS

- 1 Competition Commission of India
Represented by its Secretary, 9th Floor,
Office Block-1, Kidwai Nagar (East),
New Delhi - 110023, India

- 2 Asianet Star Communications Pvt Ltd.
a company incorporated under the Companies Act, 1956 having its registered 2A, II floor, Carnival Technopark, Leela Infopark, Technopark, Kazhakkootam, Karyavattom,
Trivendrum 695 581, Kerala

- 3 Disney Broadcasting (I) Pvt. Ltd.
(Formerly Disney Broadcasting (India) Ltd.) a company incorporated under the Companies Act, 1956 having registered office at Star House, Urmi Estate, 95, Ganpatrao Kadam Marg, Lower Parel, Mumbai - 400013

- 4 Asianet Star Communications Pvt Ltd.
a company incorporated under the Companies Act, 1956 having its registered office at Star House, Urmi Estate 95, Ganpatrao Kadam Marg, Lower Parel (W), Mumbai-400013

.... Respondents

WRIT PETITION NO. 3845 OF 2022

Disney Broadcasting (I) Pvt. Ltd.
(Formerly Disney Broadcasting (India)
Ltd.) a company incorporated under the
Companies Act, 1956 having registered
office at Star House, Urmi Estate, 95,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai - 400013

..... Petitioner

VERSUS

- 1 Competition Commission of India
Represented by its Secretary, 9th Floor,
Office Block-1, Kidwai Nagar (East),
New Delhi - 110023, India
- 2 Asianet Digital Network Pvt Ltd.
a company incorporated under the
Companies Act, 1956 having its registered
2A, II floor, Carnival Technopark, Leela
Infopark, Technopark, Kazhakkootam,
Karyavattom,
Trivendrum 695 581, Kerala
- 3 Star India Pvt. Ltd.
a company incorporated under the
Companies Act, 1956 having its registered
office at Star House, Urmi Estate, 95,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai - 400013
- 4 Asianet Star Communications Pvt Ltd.
a company incorporated under the
Companies Act, 1956 having its registered
office at Star House, Urmi Estate 95,
Ganpatrao Kadam Marg, Lower Parel (W),
Mumbai-400013

.... Respondents

APPEARANCE IN WRIT PETITION NO. 3845/2022

Mr. Sharan Jagtiani, Senior Advocate with Ms. Sneha Jain, Mr. Thomas George, Mr. Kuber Mahajan, Ms. Swikriti Singhania, Mr. I/b. Saikrishna & Associates for the Petitioner

Dr. Birendra Saraf, Senior Advocate, Mr. Pradeep Bakhru, Mr. Avinash Amarnath, Mr. Vishnu Suresh, Mr. Nikhil Gupta, I/b. Wadia Ghandy & Co. for Respondent No.2

APPEARANCE IN WRIT PETITION NO. 3860/2022

Mr. Mustafa Doctor, Senior Advocate with Mr. Kunal Dwarkadas, Ms. Nafisa Khandeparkar, Ms. Ambareen Mujawar, Mr. Varun Thakur, Mr. Akshay Agarwal, Mr. Ranjeet Singh, Mr. Thomas George I/b. AZB & Partners for the Petitioner

Mr. Navroz Seervai, Senior Advocate, Mr. Pradeep Bakhru, Mr. Avinash Amarnath, Mr. Nikhil Gupta, Mr. Vishnu Suresh I/b. Wadia Ghandy & Co. for Respondent No.2.

APPEARANCE IN WRIT PETITION NO. 3755/2022

Mr. Mustafa Doctor, Senior Advocate with Mr. Kunal Dwarkadas, Ms. Nafisa Khandeparkar, Ms. Ambareen Mujawar, Mr. Varun Thakur, Mr. Ankit Agarwal, Ms. Sneha Jain, Ms. Swikriti Singhania, Mr. Ranjeet Singh Sidhu I/b. AZB & Partners for the Petitioner

Dr. Birendra Saraf, Senior Advocate, Mr. Pradeep Bakhru, Mr. Avinash Amarnath, Mr. Vishnu Suresh, Mr. Nikhil Gupta, I/b. Wadia Ghandy & Co. for Respondent No.2

Mr. Somasekhar Sundaresan a/w. Mr. Shubhabrata Chakraborti a/w. Mr. Manu Chaturvedi, Mr. Abhishek Banerjee and Mr. Vishwajit Deb a/w. Mr. Hafeez Patanwala I/b. Juris Corp for Respondent No.1 in all the Writ Petitions.

**CORAM: S.V.GANGAPURWALA &
MADHAV J. JAMDAR, JJ.**

RESERVED ON : AUGUST 10, 2022

PRONOUNCED ON : SEPTEMBER 16, 2022

JUDGMENT : (PER : S.V.GANGAPURWALA,J.)

1 These Writ Petitions are filed against the same order passed by the Competition Commission of India (**CCI**). The Writ Petitions are based on similar set of facts and involve common question of law and to avoid rigmarole, are decided by the common judgment.

2 Asianet Digital Network (P) Ltd. (ADNPL) filed an information under Section 19(1)(a) of the Competition Act 2002 (Act 2002) against Star India (P) Ltd. (SIPL), Disney Broadcasting (India) Ltd. (Disney) and Asianet Star Communications Pvt. Ltd. (Asianet Star) alleging contravention of the provisions of Section 4 of the Act 2002. The informant (Respondent No.2) claims to be a Multi System Operator (MSO) engaged in business of providing digital TV services, predominantly in Kerala. It also operates in Karnataka, Andhra Pradesh, Telangana and Odisha.

3 The case of ADNPL is that it received broadcasting signals from SIPL for monetary consideration for the purpose of supplying the channels of SIPL to customers and for the said purpose ADNPL entered into an agreement with SIPL from time to time. It is averred by the ADNPL that SIPL was providing a bouquet of channels to the competitors of the ADNPL at lesser prices resulting into denial of market access and also amounting to unfair / discriminatory pricing.

KCCL was getting the channels at about 30% of the MRP i.e. about 70% discount (special discounts upto 50% added with distribution fee of 20%) whereas the maximum permissible discounts under the New Regulatory Framework is capped at 35% i.e. minimum of 20% distribution fees and other marketing discounts of maximum 15% (combined, both capped at 35%). As per the allegations in the information, SIPL chose an indirect way to provide these discounts to circumvent the New Regulatory Framework by way of promotion and advertisement payments to KCCL through high valued advertising deals. The resultant impact was that the ADNPL was constrained to price its channels at a higher price than that of KCCL and ultimately pay the price by losing consumers consistently whereas the KCCL gained new consumers. The ADNPL's subscriber base fell from 14.5 lakh in April 2019 to 11.76 lakh in September 2021 while the subscriber base of KCCL went up from 21.3 lakh in April 2019 to 29.35 lakh in September 2021. The alleged discriminatory conduct of price discrimination between different MSOs of SIPL resulted into significant loss in the consumer base of ADNPL and as such, is the violation of the provision of Section 4(2)(a)(ii) of the Act, 2002 as also in contravention of the provision of Section 4(2)(c) of the Act 2002 due to discriminatory pricing and denial of market access respectively.

4 On the basis of the same, the Commission directed the Director General (DG) to cause an investigation to be made into the matter and submit an investigation report within a period of 60 days from the date of receipt of the order. The Commission, purportedly exercised its powers under Section 26(1) of the Act 2002.

5 The aforesaid order passed by the Commission resorting to Section 26(1) the Act 2002 is assailed by the Petitioners in the present Writ Petitions.

6 The Respondents raised preliminary objection of territorial jurisdiction. We have heard the learned Senior Advocates and the learned Advocates for the respective parties on the issue of territorial jurisdiction of this Court to entertain the Writ Petitions.

7 Mr. Somshekharan, the learned Advocate for Respondent No.1 submits that the abusive conduct pertains to the entire State of Kerala and no part of cause of action arises in the State of Maharashtra. The Petitioners pleadings on jurisdiction significantly omits any reference to the State of Kerala being the relevant geographical market under Section 19 of the Act 2002. The *lis* pertains to a *prima facie* determination of abuse of dominance in the State of Kerala on the part of the Petitioners along with its related

parties. The *prima facie* case relates to the alleged discriminatory treatment of MSOs in the State of Kerala. The impugned order explicitly delineates the relevant market as the market for provision of broadcasting service in the State of Kerala. The Informant is based in the State of Kerala. The consumer base is entirely in the State of Kerala. The advertisement agreement has also been executed in Kerala. No part of cause of action has arisen in the State of Maharashtra entitling the Petitioners to file the Writ Petitions in this Court.

8 The learned Counsel further submits that the Petitioners' reference to CCI being a National Regulator is irrelevant. The Application of the Competition Act in this case is to the geographical market in the State of Kerala. Section 19 of the 2002 Act provides that the relevant geographical market has to be identified in such proceedings. The alleged anti competitive conduct is conduct in the State of Kerala and not outside the State of Kerala. The identification of the relevant geographical market or territoriality is a statutory embedded feature in the Competition Act and is foundational to any inquiry by the CCI under Section 4 of the Act 2002. Any investigation for abuse of dominant position by the CCI requires the determination of "the relevant market" which in turn requires the CCI to have due regard to "relevant geographical

market” and the “relevant product market”. The effect of the impugned order would not be felt beyond the State of Kerala. The learned Advocate submits that the claim of the Petitioners that the “substantial operations” as well as the registered office being in Maharashtra would confer jurisdiction, is without legal basis. The existence of operations outside the State of Kerala and the location of the registered office without nexus to the cause of action, are of no avail. Reliance is placed on the judgment of the Apex Court in the case of *National Textile Corporation Ltd. & Ors. Vs. Haribox Swalram & Ors.*¹ to submit that the Apex Court has held that the location of the Petitioners’ office or place of business or the fact that it received notice at its office do not confer jurisdiction upon the High Court. The learned Counsel further submits that the situs of the Petitioners’ office in Mumbai can never be the basis to invoke the territorial jurisdiction of this Court over the matter relating to abuse in the territory of the State of Kerala. Even a challenge to the constitutional validity of a Central Act would not be maintainable in New Delhi, merely because the seat of Union of India is in New Delhi or because of the legislation being Central Act. To substantiate the said contention, the learned Advocate relied on the judgment of the Apex Court in the case of *Kusum Ingots & Alloys Vs. Union of*

1 (2004) 9 SCC 786

India². The contention of the Petitioners that because payments were received by the Petitioners in the bank account situated in Maharashtra is also not relevant, as the present proceedings are not about monetary claim for breach of the advertising agreement. Even if the Petitioners received notice at its registered address, the same would not confer territorial jurisdiction. Reliance is placed on the judgment of the Apex Court in the case of **State of Rajasthan & Ors. Vs. Swaika Properties & Anr.**³ The learned Counsel submits that no part of cause of action has arisen within the State of Maharashtra. The proceedings under Section 19(1) of the Act 2002 was initiated by the ADNPL in New Delhi. The CCI passed the impugned order in New Delhi. The office of the Director General is at New Delhi from where it would conduct the investigation. The averments in the petition do not disclose that even part of jurisdiction arises within the territorial jurisdiction of State of Maharashtra and that only because the Petitioner has registered office at Mumbai, would not be sufficient to invoke the jurisdiction of this Court under Article 226 of the Constitution. Reliance is placed by the learned Advocate on the judgment of the Apex in the Case of **Oil and Natural Gas Commission Vs. Utpal Kumar Basu & Ors.**⁴ The learned Counsel also relied on the judgment of the **Union of**

2 (2004) 6 SCC 254

3 (1985) 3 SCC 217

4 (1994) 4 SCC 711

*India & Ors. s. Adani Exports Ltd. & Anr.*⁵ to contend that in order to confer jurisdiction on High Court under Article 226 (2) of the Constitution, the facts which have bearing in the *lis* or dispute involved in the case do not give any rise to the cause of action so as to confer territorial jurisdiction on the Court concerned.

9 The learned Counsel for Respondent No.1, as such, submits that this Court may not entertain the Writ Petition on the ground of territorial jurisdiction.

10 We have heard the learned Senior Advocates and learned Advocate for the Petitioners.

11 According to the learned Senior Advocates for the Petitioners, the part of cause of action has arisen in Maharashtra and therefore, these Petitions are maintainable under Article 226(2) of the Constitution. The effective consequences of the impugned order are felt by the Petitioners in Maharashtra and therefore the Petitions challenging the impugned order can be filed before this Court. The CCI is a National Regulatory having jurisdiction across India. The present Petitions are filed under Article 226 of the Constitution seeking quashing of quasi judicial order and for other appropriate writs. The agreements executed between the Petitioners and the Informant ADNPL which form the subject matter of the complaint

5 (2002) 1 SCC 567

were in fact negotiated and sanctioned by the Petitioners' office located within the State of Maharashtra. The payments under the said agreements were received by the Petitioners in bank accounts located in the State of Maharashtra. The Petitioner SIPL is owner of television network with an extensive portfolio of 70 channels in about 8 languages including substantial operations in Maharashtra. Therefore, the effect of the impugned order will be felt by the Petitioners all over India including entire State of Maharashtra. The Petitioners also have their registered office located in Mumbai. A part of cause of action has arisen within the State of Maharashtra. The tenor of facts which constitute the Petitioners' cause of action has arisen in State of Maharashtra within the territorial jurisdiction of this Court. As such, the present Writ Petitions are maintainable under Article 226 (2) of the Constitution.

12 It is submitted that even if seat of the Authority is outside Maharashtra, the effect and consequences of the decision is felt within the territorial limits of this Court, this Court would possess the jurisdiction. Reliance is placed on the judgment of this Court in the case of *Damomal Kauromal Raisingani Vs. Union of India*⁶ and in the case of *Vodafone India Ltd. Vs. Competition Commission of India & Ors. in Writ Petition No.8594 of 2017*.

⁶ AIR 1967 Bom 355

13 The learned Counsel for the Petitioner relying upon the judgment of this Court in the case of *R.K.Singh Vs. Union of India & Ors.*⁷ submits that the fact that a major portion of the investigation of the case to be conducted at Mumbai was sufficient to show that the Petition was maintainable. Further reliance is placed on the judgment of this Court in the case of *Willis India Insurance Brokers Pvt. Ltd. Vs. Insurance Regulatory and Development Authority*⁸. It is submitted that in the said case the Petitioner's registered office was located in Mumbai and running business operations from Mumbai was sufficient to show that the Petitioner was affected by the impugned order in Mumbai and Petition was thus maintainable in this Court.

14 The learned Senior Advocate submits that the Apex Court in the case of *Shanti Devi Vs. Union of India*⁹ held that under Article 226 (2) of the Constitution, a Petition is maintainable if part of the cause of action has arisen within the territorial jurisdiction of this Court. According to the learned Senior Advocate for the Petitioner, this Court certainly can exercise jurisdiction.

15 It is also contended by the learned Senior Advocate for the

7 *2002 (3) MhLJ 561*

8 *2011 Vol.113 (3) Bom.L.R. 1115*

9 *(2020) 10 SCC 766*

Petitioner that the reference is also made in the complaint to the marketing arrangements with a few other MSOs operating in the State of Andhra Pradesh, Telangana, Karnataka. The scope of inquiry, as such, is not limited to the State of Kerala but two other States also.

16 We have considered the submissions.

17 Jurisdiction connotes authority to decide.

18 The power conferred upon the High Court to issue directions, orders or writs can be exercised by the 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. The Court exercising power under Article 226 of the Constitution can issue writs detailed under clause 1 to the person or authority situated beyond its territorial jurisdiction provided cause of action wholly or partly arises within the territorial jurisdiction of the court entertaining the Writ Petition.

19 The apex court, in the case of ***Kunjan Nair Sivaraman Nair Vs. Narayanan Nair***¹⁰ observed as under:

“16. The expression “cause of action” has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the

10 (2004) 3 SCC 277

immediate occasion for the action. In the wider senses, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in "cause of action".

17. In Halsbury's Laws of England (4th Edn.) it has been stated as follows :

"Cause of action" has been defined as meaning simply a factual situation the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. "Cause of action" has also been taken to mean that particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject matter of grievance founding the action, not merely the technical cause of action".

In the case of ***Kusum Ingots & Alloys (Supra)*** the Court observed 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 1941 SCC OnLine Cal.247, Madanlal Jalan Vs. Madanlal 1945 SCC OnLine Cal.145, Bharat Coking Coal Ltd. Vs. Jharia Talkies & Cold Storage (P) Ltd. 1997 CWN 122, S.S. Jain & Co. Vs. Union of India 1993 SCC OnLine Cal 306 and New Horizon Ltd. Vs. Union of India 1993 SCC OnLine Del 564.]"*

20 The Division Bench of this Court in the case of ***Sachin Chhotu Pawar Vs. Collector, Raigad & Ors.***¹¹ to which one of us (S.V. Gangapurwala,J) was a party, observed as under:

18. The extraordinary jurisdiction of this Court under Article 226 of the Constitution is sky high, but also has a regulation coming along under Article 226(2). The powers of this Court under Article 226 is sacrosanct. No statute or legislature can limit the powers of this Court under Article 226 of the Constitution. The constitution does not place fetter on exercise of extraordinary jurisdiction. This Court would exercise its authority, power or jurisdiction within its territorial realm. This Court normally would not travel beyond its limits.

“19. Reading Article 226(1) and (2) of the Constitution, a petition under Article 226 can be entertained before any of the High Court :

i) Within whose territorial jurisdiction the person or authority against whom relief is sought resides or is situated.

ii) The cause of action in respect of which relief is sought under Article 226 is wholly or in part arisen.

20. A distinction shall have to be drawn between cause of action and right of action. The petitioners may possess a right of action to institute the proceedings. To file a proceeding before a particular Court at least fraction of cause of action ought to have arisen within the precincts of that Court.

21 The issue of territorial jurisdiction in entertaining the Writ Petition revolves around Article 226(2) of the Constitution. It would be appropriate to refer to 226(2) of the Constitution. The same reads thus:

11 *2020(6) Mh.L.J. 285*

“226. Power of High Courts to issue certain writs:

(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.”

22 The phraseology “cause of action” is broadly construed as bundle of facts necessary for the party to prove before he can succeed. The apex court in the case of ***Kusum Ingots (supra)*** observed thus:

“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 proceedings 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.

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.”

23 The Competent Commission of India is a National Regulatory having jurisdiction all over India. However, only because it has jurisdiction all over India, would not be sufficient for invoking the jurisdiction by any High Court throughout the country. Perusal of

the complaint, the alleged commission of the anti competitive acts pertain to the State of Kerala. “The geographical market” is described under the CCI Act.

24 Place of work of the Petitioner and /or Respondent may not be much relevant in deciding the jurisdictional aspect. The place of residence of the Petitioner would not be relevant. However, what is relevant is that the cause of action, wholly or in part arises within the territorial jurisdiction of the Court. The determinative factor is the place of accrual of cause of action or part of cause of action.

25 The identification of the relevant geographical market or territoriality is the statutory embodied feature in the Competition Act and is a foundational to any inquiry by the CCI. The relevant geographical market in the present case is within the State of Kerala and not beyond the State of Kerala.

26 The facts which are not relevant or do not have bearing with the litigation would not give rise to cause of action so as to confer territorial jurisdiction. Reliance can be had to the judgment of the apex court in the case of *Union of India Vs. Adani Exports (supra)*.

27 The agreements between the Petitioner and the Respondent

complainant pertain to the marketing and advertisement services provided in the State of Kerala. As such, even if it is assumed, as contended by the learned Senior Advocate for the Petitioner, that the agreements were sanctioned and negotiated in the State of Maharashtra, it will not be sufficient to give rise to the cause of action, in view of the facts of the present case. The present dispute between the parties is about the acts of commission and omission in the State of Kerala. The complaint filed by the Respondent / complainant before the CCI is that SIPL was providing a bouquet of channels to the competitors of the complainant at a lesser price resulting into denial of market access and also amounting to unfair discriminating pricing within the State of Kerala. The geographic territory was limited to the State of Kerala. The complainant's business was affected in the State of Kerala. The agreement between the complainant and the present Petitioners was for the geographical area of the State of Kerala. Perusal of the entire complaint filed before the CCI, it is abundantly clear that the infringement alleged is in respect of business activity within the geographical area of State of Kerala. Even if any orders are passed, no part of business activity in State of Maharashtra would be affected. In case of **Union of India Vs. Adani Exports (Supra)** the Petitioners had filed Writ Petition before the Gujarat High Court

claiming benefit of passbook scheme under the Import Export Policy in relation to the certain credits inputs on export of shrimps. However, the Petitioners therein were stationed at Ahmedabad. The passbook in question, the benefit of which the Respondents sought in the petition was issued by the Authority stationed at Chennai. The entries in the passbook under the scheme were to be made by the Authorities at Chennai. The export of shrimps made by the Petitioner therein and the import of the inputs, the benefits of which the Respondents had sought in the Applications also were to be made through Chennai. The Petitioners therein contended that they are carrying on the business of export and import or that they are receiving the export and import at Ahmedabad. Their documents for payment of import and exports made / sent at Ahmedabad. The apex court observed that these facts have no connection whatsoever with the dispute that is involved in the petition. The fact that the credit on duty claimed in respect of the exports that was made in Chennai were handled by the Respondents at Ahmedabad have also no connection whatsoever with the impugned action of the Respondent therein. The non-grant and denial of credit in the passbook having ultimate effect, if any, on the business of the Petitioner at Ahmedabad would not also give rise to any cause of action to a court at Ahmedabad to adjudicate the actions complained

against the Petitioners.

28 Only because the Petitioners carry on business in the State of Maharashtra would not give rise to the cause of action for the court to exercise its jurisdiction unless the part of cause of action has arisen within that territory. The mere fact that the business is carried on in a particular place, will not confer jurisdiction unless it is shown that the place of business is the integral part of the business.

29 Heavy reliance is placed on the judgment of this court in the case of *Damomal Kauromal Raisingani (supra)* and *Vodafone India Ltd.* by the learned Senior Advocate for the Petitioners to suggest that even if a seat of the authority concerned is outside Maharashtra, this court would possess the territorial jurisdiction.

30 In the present case, the impugned investigation has been ordered in respect of the agreements entered into by the present Petitioner with others having its area of operation in the State of Kerala. Hence, if at all, the further orders would have effect, it would be for the area of operation in the State of Kerala. The entire investigation to be conducted is with regard to the agreements entered into by the parties for its operation in the geographical area of Kerala. The complainant in its complaint before the CCI has never

alleged that the Petitioners herein have committed anti competitive act with the parties in the State of Maharashtra. The allegations are restricted to the State of Kerala. The scope of complaint of the Respondent / Complainant before the CCI does not include the contracts or the anti competitive acts with any party within the State of Maharashtra. In view of that it cannot be said that the effect and consequences of the impugned order would be felt in the State of Maharashtra. The apex court, in the case of Adani Exports Ltd. (Supra) has observed as under:

“17. It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower the court to decide a dispute which has, at least in part, arisen within its jurisdiction. It is clear from the above judgement that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court’s territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned. If we apply this principle then we see that none of the facts pleaded in para 16 of the petition, in our opinion, falls into the category of bundle of facts which would constitute a cause of action giving rise to a dispute which could confer territorial jurisdiction on the courts at Ahmedabad.”

31 The apex court, in the case of **Kusum Ingots (supra)** has observed that even the operation of the Statute applicable to the whole of India cannot be challenged in any High Court within the

territory of India but only in the territory where the provisions of the Statute give rise to the civil consequences to the Petitioner.

32 Taking the stock of the factual matrix involved in the present case and the judgments delivered by the apex court cited by the learned Advocates, it is abundantly clear that no part of cause of action has arisen within the territorial jurisdiction of this Court.

33 It is no gain saying on the part of the Petitioners that the CCI is a National Regulatory having jurisdiction all over India and as such the petition can be filed here in Mumbai. In view of that we are not inclined to entertain the Writ Petition on the ground of territorial jurisdiction.

34 The petition stands disposed of. No costs.

35 The Petitioners are at liberty to file appropriate proceedings against the impugned order before the appropriate Forum possessing territorial jurisdiction.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)

36 At this stage, the learned Senior Advocates for the Petitioners request that the interim order passed on 6th April 2022 be continued further for a period of two weeks.

37 Mr. Somasekhar, the learned Advocate for the Respondents opposes the said request.

38 Considering that the order dated 6th April 2022 was in force for almost five months, the same is continued for a period of 10 days from today. Needless to state, on lapse of 10 days, said protection shall come to an end.

(MADHAV J. JAMDAR, J.)

(S.V. GANGAPURWALA, J.)