

NCDRC EXPANDS THE SCOPE OF TERRITORIAL JURISDICTION OF CONSUMER COURTS

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Recently in *Shyam Kumar v. Bharti Airtel Ltd. & Ors.*¹, the Hon'ble National Consumer Disputes Resolution Commission ("NCDRC") offered a completely new perspective on the law concerning the territorial jurisdiction of consumer courts under the Consumer Protection Act, 1986 ("**1986 Act**"). As highlighted hereinafter, the interpretation taken by the NCDRC has the effect of completely unsettling a well-settled position *qua* territorial jurisdiction assumed by consumer courts based on "branch office" of the opposite party.

FORMER ESTABLISHED PRINCIPLE

Restricting the scope of provisions concerning territorial jurisdiction under the 1986 Act, the Apex Court in *Sonic Surgical v. National Insurance Co. Ltd.*² and various other previous judgments had interpreted/restricted the term "branch office" to mean only **the branch office where at least a part of the cause of action has arisen**. It was clarified that it would be absurd to permit the filing of complaints anywhere in India, simply due to the presence of a branch office of the Opposite Party, especially when no cause of action arose at such place.

Resultantly, complaints were permitted to be filed before the competent consumer forum only where:

- (a) the opposite party actually and voluntarily resides or carries on business or has a branch office or personally works for gain;
- (b) the cause of action (wholly or in part) arises; or
- (c) the opposite party has a branch office and a part cause of action has arisen at such place.

NCDRC'S DIVERGENCE

- However, the NCDRC in *Shyam Kumar* (supra) expanded the scope of such interpretation by holding that the complainant's **practical preference** should be considered, even though no cause of action may have arisen at the place where the branch office of the opposite party is situated.

1. Order passed by NCDRC in RP/573/2019 on 05.06.2024

2. MANU/SC/1764/2019

- Further, keeping principles of substantial justice in mind, it specifically held that the complainant, being someone serving in the army, **should be allowed to file a case in the jurisdiction, which is practical and reasonable**, particularly considering that Bharti Airtel (Opposite Party) has its branch offices across India.

ANALYSIS

1. While deciding the said case, the authors believe that the NCDRC may have been guided by the territorial jurisdiction provisions contained in the 2019 Act (which permits a consumer to also file a case in the territory where the consumer resides or personally works for gain), even though the NCDRC was deciding the case under the 1986 Act.
2. In the authors' opinion, the view taken by the Hon'ble NCDRC in pursuing the objective of consumer laws to safeguard consumer rights, potentially creates a legal precedent for many pending cases where such issues of territorial jurisdiction based on the "branch office" of the opposite party are raised. This may delay proceedings and complicate the matters. Additionally, this ruling which contrasts with the judgment in the Sonic case among others, may also open doors to filing of reviews in disposed of cases as well.

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