

Item No.21.

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 22.09.2022

DELIVERED ON:22.09.2022

CORAM:

**THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE SUPRATIM BHATTACHARYA**

**F.M.A. No.1955 of 2018
[I.A. No.CAN 1 of 2017 (Old CAN 7240 of 2017)] (not in file)**

**Central Board of Trustees Employees' Provident Fund Organisation.
Vs.
M/s. Nimtjhora Tea Estate & Anr.**

Appearance:-

Mr. Anil Kumar Gupta **for the appellant.**

Mr. S.P. Tewary **for the respondent no.2**

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, J.)

1. This intra-Court appeal by the Central Board of Trustees Employees' Provident Fund Organisation is directed the against

the order dated 16th May, 2017 passed in W.P. No.30612 (W) of 2016 by which the writ petition by the appellant was dismissed on the ground that a writ petition at the instance of the Central Board of Trustees Employees' Provident Fund Organisation is not maintainable.

2. Identical issue was considered by us in a batch of cases, **Central Board of Trustees Vs. Registrar, E.P.F. Appellate Tribunal & Anr.** reported at **2022 SCC OnLine Cal 1219 : (2022) 2 LLJ 93** and the appeals were allowed and the writ petition at the instance of the Central Board of Trustees Employees' Provident Fund Organisation was held to be maintainable. The operative portion of the judgment reads as follows:-

"71. For all the above reasons, the appeals are allowed and the order passed in the writ petitions are set aside and the writ petitions at the instance of the Central Board of Trustees Employees' Provident Fund represented by the RPFC/APFC are maintainable and also writ petitions filed by the RPFC/APFC as a delegate of the Central Board are also maintainable. Consequently the writ petitions

stand restored to file of the Learned Single Bench to be heard and decided on merits and accordance with law. The respondent employers are directed to file their affidavit-in-opposition to the writ petitions raising their contentions on the merits of the matter except the ground of the maintainability which has been decided in favour of the appellant and such affidavit-in-opposition be filed within eight weeks from the date of receipt of the server copy of this order after serving copies thereof on the appellant and the appellants are granted four weeks time there from to file reply if any after which the Registry is directed to list the writ petitions for hearing before the appropriate Learned Single Bench. No Costs."

3. Thus, by following the above decision, this appeal is allowed and the order passed in the writ petition is set aside and it is held that the writ petition at the instance of the Central Board of Trustees Employees' Provident Fund Organisation is maintainable. Consequently, the writ petition stands restored to the file of the Learned Single Bench to be heard and decided on merits and in accordance with law.

4. The respondents are directed to file their affidavit-in-opposition to the writ petition within eight weeks from date of receipt of the server copy of this judgment and order after serving copies thereof on the appellant. The appellant is granted four weeks time therefrom to file reply, if any, after which the Registry is directed to list the writ petition for hearing before the appropriate Learned Single Bench.

5. There shall be no order as to costs.

6. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM, J)

I agree,

(SUPRATIM BHATTACHARYA, J.)