

Item No.1.

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

HEARD ON: 31.10.2022

DELIVERED ON:31.10.2022

CORAM:

**THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM
AND
THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**M.A.T No.1195 of 2017
[I.A. No.CAN 1 of 2017 (Old CAN 8128 of 2017)] (not in file)**

**Central Board of Trustees Employees' Provident Fund Organisation.
Vs.
M/s. Durgapur Chemicals Limited & anr.**

Appearance:-

Mr. Anil Kumar Gupta

..... for the appellant.

**Mr. Ranjay De,
Mr. B. Banerjee**

..... for the respondent no.1.

JUDGMENT

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

1. It is found that there is a delay of 3 days in preferring the instant appeal.

2. Having heard Mr. Anil Kumar Gupta, learned Advocate appearing for the appellant and Mr. Ranjay De, learned Advocate appearing for the respondent no.1, we are of the considered view that although there is no formal application for condoning the delay in filing the appeal but for the sake of justice, we condone the delay in filing the appeal.

3. This intra-Court appeal by the Central Board of Trustees Employees' Provident Fund Organisation is directed against the order dated 16th May, 2017 passed in a batch of writ petitions (W.P. No.25089(W) of 2016), the lead case of which is W.P. No.17597(W) of 2016. By the said order, the writ petitions filed by the appellant/writ petitioner was dismissed on the ground that writ petitions at the instance of the Central Board of Trustees Employees' Provident Fund Organisation are not maintainable.

4. 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

petitions 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."

5. Thus, by following the above decision, this appeal along with the application [I.A. No.CAN 1 of 2017 (Old CAN 8128 of 2017)] (not in file) are 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.

6. 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.

7. There shall be no order as to costs.

8. 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,

(HIRANMAY BHATTACHARYYA, J.)

NAREN/PALLAB (AR.C)