

Item no. 01

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice T.S. Sivagnanam

And

The Hon'ble Justice Hiranmay Bhattacharyya

MAT 1781 of 2022
with
IA No. CAN 2 of 2022

M/s. Southern Cooling Towers Private Limited
vs.
Regional Provident Fund Commissioner-1 & anr.

Appearance:

For the Appellants : Mr. Farooque Ali
Mr. Shahrukh Raja
Mr. Faizan Md. Zafar
Mr. S. Mohta

For the Respondents : Ms. Aparna Banerjee

Heard on : 13.03.2023

Judgment on : 13.03.2023.

T.S. Sivagnanam J.:

This intra-Court appeal filed by the writ petitioner is directed against the order dated 14th September, 2022 passed by the learned Single Judge in WPA 16855/2022. The appellant is aggrieved by the order not in entirety but only with regard to that portion of the order

which directs the appellant to deposit a sum of Rs. 30,00,000/- with the first respondent within a time frame to enable the appellant to approach the Tribunal challenging the order dated 25th August, 2021. It is not in dispute that the statute, mainly, the Employees Provident Fund and Miscellaneous Provisions Act, 1952 does not provide for a pre-condition for preferring an appeal before the Tribunal against an order passed under Section 14B of the Act.

We have heard learned counsel for the parties.

We are of the view that such a precondition cannot be imposed in a writ proceeding making it a condition precedent for filing an appeal before the Tribunal. Therefore, the appeal is allowed and that portion of the order passed by the learned Single Judge directing the appellant to pre-deposit a sum of Rs. 30,00,000/- is set aside and the liberty granted by the learned Single Judge is preserved and the appellant is at liberty to approach the Tribunal challenging the order dated 25.08.2021. If the appeal is preferred within a period of three weeks from the date of receipt of the server copy of this order, the learned Tribunal shall not reject the appeal on the ground of limitation but shall take up the appeal for consideration and decides the matter on merits and in accordance with law.

Mrs. Banerjee, learned standing counsel appearing for the respondent would submit that in the event the appellant does not prefer an appeal within the time frame prescribed by this Court, the interest of the respondent organization should be protected. It is needless to state

that if the appellant does not prefer an appeal within the time frame it will be well open to the respondent organization to proceed in accordance with law.

Thus, for the above reasons, the instant appeal is **allowed** and the connected application is **disposed of**.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)

RP/Amitava (AR. CT.)