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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1129/2011

KHAMBATTA FAMILY TRUST AND ANR ..... Petitioner

Through: Mr. K. K. Rai, Sr. Advocate with Mr.Suryakant Singla, Adv.

versus

EMPLOYEES PROVIDENT FUND ORGANISATION AND ANR ..... Respondent

Through: Counsel(appearance not given)

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% **05.12.2022**

1. The petitioner has approached this Court assailing the order dated 13.07.2010 passed by the Employees Provident Fund Appellate Tribunal, New Delhi, whereby it has upheld the order passed by the Employees Provident Fund Organisation, Ahmedabad on 17.06.2004.
2. At the outset, learned senior counsel for the petitioners by placing reliance on a recent decision of the Apex Court in ***Principal Commissioner of Income Tax-I v. ABC Papers Limited [(2022) 9 SCC 1]*** submits that, keeping in view that the original assessment order had been passed by the authority at Ahmedabad, the petitioner, in order to avoid to avoid any objection regarding lack of territorial jurisdiction by the respondent, is willing to withdraw the present petition and instead approach the Gujarat High Court. He, therefore, prays that the writ petition be permitted to be withdrawn with liberty to approach the Gujarat High Court.

3. On the other hand, learned counsel for the respondents by placing reliance on an another three Bench judgment of the Apex Court in ***Dina Nath Public School through Principal v. Assistant Provident Fund Commissioner & Ors.[Civil Appeal No.1053/2021]*** contends that this Court has territorial jurisdiction to entertain the present petition and, therefore, the petitioner cannot be permitted to withdraw the present petition at this belated stage.
4. In the light of the aforesaid stand taken by the respondents, learned senior counsel for the petitioners does not press his prayer for withdrawal of the present petition. He, however, prays that the respondents be bound to their aforesaid statement and they will not raise the objection regarding territorial jurisdiction at a later stage.
5. In view of the categoric stand taken by the learned counsel for the respondents that the writ petition would be maintainable before this Court, I do not deem it necessary to record anything further on the ground of territorial jurisdiction. The stand taken by the respondents regarding maintainability of the present petition before this Court is, in itself, crystal clear.
6. At request, list the petition for disposal on 25.05.2023.

REKHA PALLI, J

DECEMBER 5, 2022
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