



**IN THE NATIONAL COMPANY LAW TRIBUNAL**

**KOCHI BENCH**

**Company Appeal (IBC)/11/KOB/2025**

**In**

**IBA/51/KOB/2019**

*(Under Section 42 of the Insolvency  
and Bankruptcy Code, 2016)*

***Date of Institution: 03.12.2025***

***Order delivered on: 24.02.2026***

***In the matter of M/s Trivandrum  
International Health Services Limited***

**MEMO OF PARTIES:**

**The Regional Provident Fund  
Commissioner-II,  
Employees Provident Fund  
Organization, Regional Office, Pattom,  
Thiruvananthapuram - 695004**

**.... Appellant**

**-Vs-**

**Mr.Raju Palanilkunnathil Kesavan  
M/s Agasti & Associates, Chartered  
Accountants, First Floor, CNRWA-6,  
Cherupushpam Lane, Kadavanthra,  
Kochi - 682020, Kerala**

**...Respondent No.1**

**M/s. Trivandrum International  
Health Services Limited**

**T.C 7/1407, SUT Royal Hospital,  
Kochulloor, Trivandrum-695011**

**...Respondent No.2**



**Coram:**

**HON'BLE MEMBER (JUDICIAL) : SHRI. VINAY GOEL**

***Appearances:***

For the Applicant : Mr. Rajeev S, Adv;

For the Respondent No.1 : Mr. Raju Palanilkunnathil Kesavan, Liquidator

For the Respondent No.2 : Mr. Vinod P V, Adv.

**ORDER**

1. The present appeal has been filed by the Regional Provident Fund Commissioner-II, under Section 42 of the Insolvency and Bankruptcy Code, 2016, with the following prayer: -

*To condone the delay in submitting Annexure A2 claim before the 1<sup>st</sup> respondent and to consequently direct the 1<sup>st</sup> respondent to forthwith include the claims submitted by the petitioner in Form C under Regulation 17 of the Insolvency and Bankruptcy Board of India (Liquidation Process), 2016, in the list of stakeholders for adjudication.*

2. There is a typographical error in mentioning the name of the Appellant in the Appeal. In Form 1 of the Appeal, the name of the Appellant is shown as the *Regional Provident Fund Commissioner-II*. However, in the first four pages of the Appeal, namely the docket, index, memo of parties, list of dates, and events, the name of the Appellant is mentioned as *Assistant Provident Fund Commissioner*. This discrepancy in the name of the Appellant at different places is being ignored, referring to it as a typographical error.

**Brief facts of the case**

3. The Appellant stated that the Company Petition was filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, by Dhanalaxmi Bank Ltd., and was admitted by this Adjudicating Authority on 07.02.2020. As no resolution plan was



approved within the prescribed period, the Corporate Debtor was ordered to be liquidated vide order dated 02.06.2022.

4. It is stated that the present appeal has been filed challenging the liquidator's order dated 07.09.2025 rejecting the claim of the Appellant, being the statutory authority responsible for the administration and regulation of provident funds under the EPF & MP Act, 1952, which mandates employers to remit employees' contributions along with applicable interest and damages for any default.
5. The Appellant stated that Pursuant to the liquidation order, the Respondent No.1 issued a public announcement on 08.06.2022, inviting claims. However, the Appellant, being a statutory authority administering EPF matters for the Thiruvananthapuram Region, could not file its claim within the prescribed period due to administrative exigencies, voluminous verification of records, and limited functioning during the Covid-19 period. Upon completion of the quantification process, the Appellant submitted its claim dated 06.08.2025 under Regulation 17 for Rs. 2,81,71,007/- for inclusion in the list of stakeholders, which was rejected by the Respondent No.1 vide order dated 07.09.2025 solely on the ground of delay. The delay was neither wilful nor deliberate but occasioned by bona fide administrative difficulties in ascertaining and verifying the dues payable by the Respondent No.2.
6. It is stated that the claim of Rs. 2,81,71,007/- submitted under Regulation 17 vide letter dated 06.08.2025 represents damages under Section 14B and interest under Section 7Q arising from delayed remittances for the period March 2019 to May 2022, including remittance made on 10.07.2024. In proceedings under Section 7A conducted on 26.06.2024, the establishment was apprised of the tentative dues, and the order dated 18.11.2024 clarified that the amount determined therein excluded statutory interest and penal damages, which were



subsequently quantified and communicated on 06.08.2025. The rejection order dated 07.09.2025 is challenged with a marginal delay caused due to bona fide administrative reasons, including the need for sanction and change of counsel. As liquidation proceedings are still pending and no assets have been sold, no prejudice will be caused if the delay is condoned and the petitioner's statutory claim, founded on principles of priority and public policy, is included in the list of stakeholders.

7. The Respondents filed their reply on 23.01.2026 and stated that the appeal, seeking condonation of delay in filing the claim and inclusion of the same in the list of creditors, is not maintainable and liable to be dismissed in limine. It is contended that the Appellant has suppressed material facts, including particulars of claims filed, admitted, and amounts disbursed during liquidation, and that the impugned claim is highly belated, time-barred, and submitted at the fag end of the liquidation process. The Corporate Debtor was admitted into CIRP on 07.02.2020, and the Appellant had earlier intimated a claim of Rs. 75,30,864/- on 28.02.2022, which was taken on record by the Resolution Professional. Upon failure of resolution, liquidation was ordered on 02.06.2022, and the Respondent No.1 was appointed as Liquidator, who issued a public announcement on 08.06.2022 and separately intimated the Appellant by email dated 01.07.2022 inviting claims; hence, the delayed claim is liable to be rejected.
8. It is stated that the Appellant, pursuant to the public announcement, intimated its claim of Rs. 75,30,864/- vide letter dated 29.09.2022, and the Liquidator admitted the entire said claim during liquidation. It is further stated that during the CIRP period, certain employees were retained with the approval of the CoC in anticipation of a resolution plan, and the total provident fund contribution



payable in respect of such employees, as calculated and intimated to the Appellant up to the end of the CIRP period, amounted to Rs. 67,70,768/-.

9. The Respondents stated that the business of the Corporate Debtor was sold as a going concern in the third e-auction, and a Letter of Intent was issued on 15.12.2023, and the entire sale consideration, including interest, was received on 29.03.2024. The Liquidator distributed the amounts towards the claims admitted, including that of the Appellant, and remitted the voluntary employees' contributions for the CIRP period on 29.06.2024. Thereafter, upon intimation from the Appellant regarding non-reflection of contributions relating to two employees, Mrs. Seema Mol and Mrs. Deepthi P.R., and after hearing both sides, a shortfall of Rs. 2,50,326/- was assessed vide order dated 18.11.2024. The Liquidator admitted and remitted the said amount on 30.11.2024 and, by email dated 03.12.2024, sought confirmation of remittance while intimating that any further assessment during liquidation was impermissible as dissolution proceedings were being initiated
10. It is stated that the Liquidator has remitted a total sum of Rs. 1,45,51,958/- to the Appellant, comprising Rs. 75,30,864/- towards the total claim admitted in liquidation, Rs. 67,70,768/- towards voluntary employee and employer contributions during CIRP, and Rs. 2,50,326/- towards the shortfall assessed vide proceedings dated 18.11.2024. Accordingly, the Liquidator has paid the entire dues assessed by the Appellant prior to CIRP and has also remitted the actual contributions payable in respect of existing employees up to the date of liquidation, in priority to all other creditors.
11. It is stated that the Appellant, vide letter dated 06.08.2025, intimated alleged outstanding dues of Rs. 2,81,71,007/- under Sections 7Q and 14B towards interest and damages for the period March 2016 to May 2022, assessed at the fag



end of the liquidation period, which was rejected by the Liquidator vide letter dated 07.09.2025 as being time-barred and not maintainable in law. The said claim is based on an assessment carried out during the liquidation period, though CIRP commenced on 07.02.2020 and liquidation was ordered on 02.06.2022, and no such claim was filed either during CIRP or within the prescribed period in liquidation; moreover, the intimation was issued after a delay of 1124 days from the last date for submission of claims. In view of the law laid down by the Hon'ble NCLAT in Company Appeal (AT)(Ins) No.1856 of 2024, holding that claims based on assessments subsequent to the liquidation order cannot be entertained, the present appeal is liable to be dismissed with costs.

### **Analysis and Findings**

12. This Adjudicating Authority have heard both sides and also gone through the material available on record.
13. It is the case of the Appellant that, pursuant to the initiation of CIRP against the Corporate Debtor on 07.02.2020 and the consequential order of liquidation dated 02.06.2022 passed by this Adjudicating Authority, the Appellant, being the statutory authority under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, is entitled to recover statutory dues towards provident fund contributions, including interest under Section 7Q and damages under Section 14B. It is contended that on account of administrative exigencies and the time required for verification and quantification of dues, the Appellant could not submit its claim within the prescribed period in liquidation. Upon completion of proceedings under Section 7A and subsequent quantification of interest and damages, the Appellant filed its claim in Form C under Regulation 17 of the IBBI (Liquidation Process) Regulations, 2016 on 06.08.2025 for a sum of Rs.



2,81,71,007/-, which came to be rejected by the Liquidator vide order dated 07.09.2025 solely on the ground of delay.

14. Upon consideration of the pleadings and documents placed on record, it is evident that the Corporate Debtor was admitted into CIRP on 07.02.2020, and during the said period, the Appellant had intimated its claim of Rs. 75,30,864/- on 28.02.2022 before the Resolution Professional. Thereafter, upon commencement of liquidation on 02.06.2022, the Liquidator issued a public announcement on 08.06.2022 and also specifically intimated the Appellant by email dated 01.07.2022, inviting claims.
15. Pursuant thereto, the Appellant filed its claim during liquidation vide letter dated 29.09.2022 for Rs. 75,30,864/-, which was duly verified and admitted in full by the Liquidator. Further, provident fund contributions in respect of employees retained during the CIRP period amounting to Rs. 67,70,768/- were also remitted to the Appellant. Even the subsequent shortfall of Rs. 2,50,326/- assessed vide proceedings dated 18.11.2024 was also admitted and paid on 30.11.2024. In total, a sum of Rs. 1,45,51,958/- was remitted to the Appellant.
16. Further, the Appellant, vide letter dated 06.08.2025, sought to raise an additional claim of Rs. 2,81,71,007/- towards interest under Section 7Q and damages under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, for the period March 2016 to May 2022.
17. The CIRP commenced on 07.02.2020 and liquidation was ordered on 02.06.2022. The claim now sought to be introduced is founded on liabilities pertaining to a period substantially prior to the insolvency commencement date and up to the liquidation stage. However, no such component towards interest and damages was included in the claim earlier filed by the Appellant either during CIRP or within the time prescribed after the public announcement in liquidation.



18. Before proceeding further, this Adjudicating Authority would like to quote provisions of Section 40 of the Insolvency and Bankruptcy Code, 2016.

*Section 40: Admission or rejection of claims.*

*(1) The liquidator may, after verification of claims under Section 39, either admit or reject the claim, in whole or in part, as the case may be:*

*PROVIDED that where the liquidator rejects a claim, he shall record in writing the reasons for such rejection.*

*(2) The liquidator shall communicate his decision of admission or rejection of claims to the creditor and corporate debtor within seven days of such admission or rejection of claims.*

19. Section 40 empowers the Liquidator to either admit or reject a claim in whole or in part. Once admitted and distribution is effected, the process attains finality.

20. The scheme of the Insolvency and Bankruptcy Code, 2016, clearly contemplates that a creditor must file a comprehensive claim covering all dues as on the insolvency commencement date, and the process cannot be carried out in a fragmented manner by permitting successive claims at different stages. In the present case, the Appellant had already submitted its claim during liquidation, which was duly verified, admitted, and satisfied in full by the Liquidator. If any interest under Section 7Q or damages under Section 14B were legally payable for the very same period forming the basis of the earlier claim, it was incumbent upon the Appellant to quantify and include the same in its original claim. The subsequent claim dated 06.08.2025 for Rs. 2,81,71,007/- towards interest and damages, raised at the fag end of the liquidation process and well beyond the prescribed timelines, amounts to an attempt to reopen concluded issues. Permitting such a fresh claim after full satisfaction of the earlier admitted claim would unsettle the finality of the liquidation proceedings and defeat the time-bound framework envisaged under the Code.

21. At this stage, this Adjudicating Authority would also like to refer to Section 14 of IBC, 2016.

*"Section 14: Moratorium*



IN THE NATIONAL COMPANY LAW TRIBUNAL  
KOCHI BENCH

*Company Appeal (IBC)/11/KOB/2025 in IBA/51/KOB/2019  
In the matter of M/s. Trivandrum International Health Services Limited*

---

- (1) *Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:-*  
*(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority:*  
*(b).....*  
*(c)*

22. Further, under Section 33(5) of the IBC, moratorium continues to remain in effect even if the company enters liquidation.

*"33. (5) Subject to Section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:*

*Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the adjudicating authority."*

23. Under the scheme of the Code, once CIRP is initiated, moratorium under Section 14 comes into effect, and upon commencement of liquidation, Section 33(5) comes into operation, and the process is required to be conducted in a time-bound manner strictly in accordance with Chapter III of the Code and the applicable Regulations. It is well settled that all persons having claims against the Corporate Debtor are required to submit their claims to the Interim Resolution Professional/Resolution Professional or the Liquidator, as the case may be, within the period prescribed in the public announcement or within such time as permitted in accordance with law. The liquidation process cannot be kept open-ended by permitting fresh assessments or determinations at a belated stage, particularly after commencement of liquidation.

24. At this juncture, this Adjudicating Authority would like to refer to the following judgements.

25. Recently, the Hon'ble NCLAT Principal Bench, in a matter passed order dated 30.06.2025 in ***Employees Provident Fund Organization, Nashik vs. Girish Siriram Juneja & Anr., in Company Appeal (AT) (Insolvency) No. 693 of 2025 and I.A. No. 2676 of 2025***, made certain observations which are relevant and



applicable to the present case. The relevant portions of the said order passed by the Hon'ble NCLAT are reproduced hereinbelow:

"2. Liquidation of the Corporate Debtor commenced on 13.04.2023. Appellant on 28.04.2023 filed a claim of Rs.2,48,13,087/- which claim was admitted for an amount of Rs.2,41,20,619/-. The said claim pertains to claim under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Subsequently, the Appellant filed a revised claim on 28.10.2023 for an amount of Rs.7,33,82,101/- which was on account of orders passed under Section 70 and 14B of 1952 Act. The said claim was not entertained and not admitted by the Liquidator. Aggrieved by which, IA Cont'd.../ No.4943/2024 was filed by the Appellant, which has been rejected by the Adjudicating Authority. Appellant has come up in this appeal challenging the said order.....

6. Any claim which arises after liquidation commencement date cannot be entertained by the Liquidator as per the statutory scheme under Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Claim under 7Q and 14B arose only on 23.10.2023 i.e. subsequent to liquidation commencement date. The Adjudicating Authority did not commit any error in not accepting the said claim. We, thus, do not find any ground Company Appeal (AT) (Ins.) No.693 of 2025 to interfere in the order rejecting claim filed by the Appellant. There is no merit in the appeal. Appeal is dismissed."

26. Further, the Hon'ble NCLAT, Principal Bench in **Employees' Provident Fund Organization Vs. Jaykumar Pesumal Arlani, Resolution Professional of M/s. Decent Laminates Pvt. Limited, Employees' Provident Fund v. Jaykumar Pesumal Arlani (RP)**, [\(2025\) ibclaw.in 10 NCLAT](#) and **Employees' Provident Fund Organization vs. Sanjay Kumar Lalit, Resolution Professional of Apollo Soyuz Electricals P. Ltd. & Anr., Company Appeal (AT) (Insolvency) No.1065 of 2024** dealt with similar issues concerning assessments under Sections 7A, 14B, and 7Q of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, which have been completed after the initiation of moratorium period and whether claims made during such period can be admitted or not. The Hon'ble NCLAT considered the scope of Section 14 and 33(5) of IBC, 2016 in the light of various judgements of the Hon'ble Supreme Court in **Rajendra K. Bhutta v. Maharashtra Housing and Area Development Authority and Anr.**, [\(2020\) ibclaw.in 27 SC](#), **P. Mohanraj and Ors. v. Shah Brothers Ispat Pvt. Ltd.**, [\(2021\)](#)



**[ibclaw.in 24 SC](#) and **Sundaresh Bhatt Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs, (2022) [ibclaw.in 103 SC](#)** and made certain observations, which are relevant and applies squarely to the present case. Paragraphs 23, 24 & 26 of the said order passed by the Hon'ble NCLAT Principal Bench is reproduced below for ready reference: -**

*"23. In the present case, admittedly assessment has been completed after initiation of the moratorium. We, thus, are of the view that once order of liquidation is passed, moratorium under Section 14 comes to an end and moratorium under Section 33(5), which is differently worded, comes into play. Under Section 33(5), the expression used are "suit or other legal proceeding", which occurs in Section 446 of sub-section (1) noticed above. Thus, bar is only against suit or legal proceeding and there is no bar against assessment proceeding to be conducted by statutory Authorities, including the EPFO. Thus, after the liquidation, it is open for EPFO to carry on the assessment. Section 33(5), cannot be held to apply on assessment proceedings. However, while looking to the expression used in Section 14(1), assessment proceedings before the EPFO, cannot be continued after initiation of CIRP.*

*24. In view of the aforesaid, we answer Question Nos. (1) and (2) in following manner: (1) We hold that after initiation of moratorium under Section 14, sub-section (1), no assessment proceedings can be continued by the EPFO. If after an order of liquidation is passed, Section 33, sub-section(5), does not prohibit initiation or continuation of assessment proceedings. (2) No claim on the basis of assessment carried during the moratorium period, which is prohibited under Section 14(1) can be pressed in the CIRP.*

*Question No. (3)*

*25. It is an admitted fact that claims were filed by the Appellant subsequent to approval of Resolution Plan by the CoC. The Adjudicating Authority has relied on the judgment of the Hon'ble Supreme Court in RPS Infrastructure Ltd. Vs. Mukul Kumar & Anr. Civil Appeal No.5590 of 2021 decided on 11.09.2023, which judgment squarely applies to the facts of the present case. More so, when the claim on the basis of assessment, which has been made subsequent to initiation of moratorium is hit by Section 14, sub-section (1) of the IBC, we are of the view that no such claim can be admitted in the CIRP.*

*Question No. (3) is answered accordingly."*

27. Furthermore, the Hon'ble NCLAT Principal Bench in ***Assistance Provident Fund Commissioner (Legal) EPFO v. Chandra Prakash Jain (Liquidator), (2024) [ibclaw.in 658 NCLAT](#)*** was pleased to rule that any claim made subsequent to the liquidation commencement on the basis of assessments subsequent to the liquidation commencement date cannot be entertained and upheld the decision of the liquidator who rejected the claim.



28. The Present case has similar facts as far as assessment on the basis of which the alleged claim has been filed by the Appellant department, but the situation for the appellant is more grave, as in this case, the Appellant has already received its dues as per the earlier filed claim.
29. It is well-established law that only claims existing as on the liquidation commencement date are admissible, and such claims must be filed within the time period specified by the Liquidator in the public announcement or within any extended period granted thereafter; moreover, no fresh assessment or determination of liability can be undertaken during the moratorium or liquidation period, as the scheme of the IBC contemplates crystallization of existing claims and not creation of new liabilities after commencement of the insolvency process.
30. Since the proceedings under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, are quasi-judicial in nature and not mere assessment proceedings, once the moratorium under Section 14 and Section 33(5) of the Insolvency and Bankruptcy Code, 2016, is initiated, it would affect and apply to such proceedings conducted during the moratorium period. Therefore, any proceedings that may have severe repercussions are prohibited during this period.
31. In view of the foregoing discussion and the settled legal position, this Adjudicating Authority is of the considered opinion that the additional claim dated 06.08.2025, founded upon assessments made subsequent to the commencement of CIRP and raised at a highly belated stage after full satisfaction of the earlier admitted claim, is not maintainable under the scheme of the Insolvency and Bankruptcy Code, 2016. The Liquidator has acted in accordance with the statutory framework governing verification, admission and finalisation of claims during liquidation in rejecting the said claim.



32. Though the liquidation process is going on, the fact remains that the Corporate Debtor has already been sold as a going concern. So, at this belated stage, the alleged claim cannot be admitted.
33. The Appellant department has its own fleet of law officers, and despite the law laid down by the Hon'ble Higher Courts, the department has opted to file the present appeal. The Present appeal is nothing but a sheer misuse of the process of law. The Present appeal merits dismissal with heavy cost, which should not be less than Five Lakhs, but taking a lenient view, notional cost of **Rs. 5000/-** is being imposed to be deposited with the **National Defence Fund** within seven days from the date of this order. The Appellant is directed to file a compliance memo to this effect.
34. Accordingly, **Company Appeal (IBC)/11/KOB/2025 is dismissed.**
35. The Registry is directed to send e-mail copies of this order forthwith to all the parties and their Learned Counsels for information and for taking necessary steps.
36. Let the certified copy of this order be issued upon compliance with the requisite formalities.
37. File be consigned to records.

**Sd /-**

**VINAY GOEL**  
**(MEMBER JUDICIAL)**

Signed on this the 24<sup>th</sup> day of February, 2026.

At\*