

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 662 of 2026 & I.A. No. 2583 of 2026
IN THE MATTER OF:

Employees Provident Fund Organisation, Kandivali East ...Appellant(s)

Versus

Ashok Mittal Resolution Professional of Dhruv Wellness Ltd. ...Respondent(s)

Present:

For Appellant : Mr. Kaushal Gautam, Adv.

For Respondents : Mr. Ayush J. Ragani, Khushboo Shah Rajani, Adv.

O R D E R
(Hybrid Mode)

27.04.2026: **I.A. No. 2583 of 2026:** This is an application praying for condonation of delay of 15 days in filing of the appeal. Sufficient cause has been shown in the application for condonation of delay. Delay condoned.

Comp. App. (AT) (Ins) No. 662 of 2026

Heard Ld. Counsel for the Appellant as well as the Respondent (RP).

2. This appeal has been filed against the order dated 12.01.2026 by which order the NCLT, Mumbai Bench has rejected I.A No. 120 of 2026 filed by the Appellant.

3. The Appellant by I.A has made following prayers which are quoted in para 1 of the impugned order:-

“(a.) To Direct the Respondent/ RP to accept and allow the entire claim of the Applicant of Rs. 61,36,243/ (Rupees Sixty-one Lakhs Thirty-Six Thousand Two Hundred Forty-Three Only) which includes PF dues Rs. 22,08,789/-, Provisional damages as Rs. 21,97,760/-, Damages U/S 14B as Rs. 15,891/-, Provisional interest as 70 Rs. 17,05,150/-, and 70 interest Rs. 8653/-

(b.) Direct the RP/Respondent to release a total sum of 61,36,243/- (Rupees Sixty-One Lakhs Thirty-Six Thousand Two Hundred Forty-Three Only) in favour of the applicant on first priority

(c.) Hon'ble Tribunal be pleased to quash and/or set aside the letter dated 27.05.2025 (Exhibit E) of the Resolution Professional rejecting the claim of EPFO;

(d.) Pending the hearing and final disposal of this Application the Resolution Professional be restrained from alienating and/or disposing and/or disbursing and/or distributing the assets/proceeds of the assets of the Corporate Debtor M/s. Dhruv Wellness Limited, to the extent of claim of the Applicant herein;

(e.) Interim and ad-interim reliefs in terms of prayer clause (a) to (d) above;

(f.) Such other and further reliefs as this Hon'ble Court deem fit and proper;”

4. The Adjudicating Authority has dismissed the application making observations in para 2 to the following effect:-

“2. Upon query it is informed that the Corporate Debtor was admitted into CIRP on 18.02.2025 and the order of assessment of PF dues under section 7A was passed on 02.05.2025. Perusal of the said order under section 7A reveals as follows:-

It is observed that the establishment is listed on Bombay Stock Exchange and Annual Reports of the establishment are available on BSE website 'www.bseindia.com'. The undersigned downloaded the Annual Reports which includes Balance Sheet, Profit & Loss Account, Cash flow statements, Directors report and Auditor's report for financial year 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 available on BSE website. On verification of the financials the following amounts are found booked under expenditure account head 'Salaries & Wages'.

Financial Year	Amount booked under 'Salaries & Wages' (in Rupees)
2017-18	38,06,369.00
2018-19	36,54,692.00
2019-20	17,44,771.00
2020-21	-
2021-22	36,540.00
2022-23	56,587.00

It is observed that, although there is a salary & wages expenditure booked in financial statements for FY 2019-20, 2021-22 and 2022-23, Provident Fund compliance is not reported from September 2018 onwards. Further, the PF compliance reported for FY 2017-18 and 2018-19 (up to August 2018) is too short as compared to the expenditure under head 'Salaries & Wages'.

The above figures clearly indicate default in compliance under the EPF & MP Act by the establishment Now, in absence of Salary and Wages register, Accounts ledger, the undersigned has no other alternative than to calculate the Provident Fund dues on the expenditure amount booked under Salaries & Wages as per the financial statements. The salary & wages expenditure booked for a financial year is equally divided to arrive at the monthly salary/Wages and accordingly month-Wise Dues and Payment statements is prepared and annexed herewith. The remittance details are taken as available on MIS Portal. Accordingly, tentative PF dues outstanding for the period April 2017 to March 2023 amounting to RS.22,08,789/- (Rupees Twenty-Two lakh Eight Thousand Seven Hundred Eighty-Nine only) are calculated for claiming the same before the IRP, the summary of tentative dues for the period April 2017 to March 2023, remittances and outstanding dues is as below.

Particulars	A/c-IEE	A/c-IER	A/c-II	A/c-X	A/c - XXI	Total
Tentative	1115880	341256	70658	774624	46500	2348918
Payment	64464	19703	8500	44761	2701	140129
Tentative Outstanding Dues	1051416	321553	62158	729863	43799	2208789

Delay in remittance of PF dues is observed, which attracts Penal Damages and 70 interest. Short remittance in Form 24, if any, may be confirmed from Accounts Section. Correspondence with IRP, printout of downloaded Balance Sheets is enclosed herewith.

The report is submitted for perusal and further necessary action/directions please.”

5. The Adjudicating Authority took the view that any assessment order cannot be passed after initiation of CIRP.

6. Ld. Counsel for the Appellant challenging the order submits that in fact no assessment order was passed on 02.05.2025 as observed by the Adjudicating Authority and on 02.05.2025 only a letter to the Assistant PF Commissioner by Enforcement Officer was issued which is at pg. 101 of the appeal and it is an internal communication between the Enforcement Officer and Assistant PF Commissioner.

7. Ld. Counsel for the RP submits that the application which was filed by the Appellant was rejected without even any notice or opportunity to file the reply. Hence, RP has not taken any decision with regard to the same.

8. We have heard Ld. Counsel for the parties and perused the records.

9. Ld. Counsel for the Appellant submits that no assessment was made on 02.05.2025 and it was only an internal letter. From the letter which is part of the appeal it is clear that it is some report by Enforcement Officer giving certain claim pertaining to certain calculation with regard to the salary and wages from 2017 to 2023. Facts on record clearly indicated that no assessment was taken place under 7A at the relevant time. We are of the view that even if submission of the Appellant is correct that no assessment was passed on 02.05.2025 and it was only an internal communication, that cannot be basis of for filing a claim in the CIRP. Assessment having not been made at the relevant time, the Appellant has to blame itself for not crystallising the amount with regard to any assessment.

10. We are thus of the view that no ground has been made out to interfere with the impugned order. the appeal is dismissed.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Barun Mitra]
Member (Technical)**

Sheetal/Manu