S.No.2

IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH – 1
VC AND PHYSICAL (HYBRID) MODE

ATTENDANCE CUM ORDER SHEET OF THE HEARING HELD ON
06-11-2026 After Court-II

IA (IBC) No. 1228/2025 in CP (IB) No. 21/123/HDB/2023
u/s. 123 of IBC

IN THE MATTER OF:
State Bank of India **…Petitioner/s**

VS

Mr. Kolli Venkata Raja Sekhar (GKC Projects Limited) **…Respondent/s**

C O R A M:-
SHRI. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SHRI. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

O R D E R

IA (IBC) No.1228/2025
Orders pronounced, recorded vide separate sheets.
In the result, this IA (IBC) No.1228/2025 is dismissed as infructuous.

Sd/- **Sd/-**
MEMBER (T) **MEMBER (J)**

Apoorva/Vinod

BEFORE THE HON'BLE NATIONAL COMPANY LAW TRIBUNAL;
HYDERABAD BENCH-I

I.A. No. 1288 OF 2025
IN
C.P. (I.B.) No. 21/123/HDB/2023

Between:

Central Board of Trustees, Employees' Provident Fund Organization,
Rep. by Regional Provident Fund Commissioner-II
Regional Office – Kukatpally, Prashanthi Nagar,
TSRTC Bus Complex, 1st & 2nd floor, Near 'Y' Junction,
Kukatpally, Hyderabad-500018

...Applicant

AND

1. **Mr. Dommeti Surya Rama Krishna Sai Baba,**
   Resolution Professional,
   IBBI No. IBBI/IPA-003/IP-N000165/2018-19/12106
   Flat No. 104, Kavuri Supreme Enclave, Kavuri Hills,
   Madhapur, Hyderabad – 500 033.
   ...Resolution Professional/Respondent No. 1

2. **Kolli Venkata Raja Shekar,**
   Villa No. 178, Indu Fortune Fields,
   KPHB Phase 13, Kukatpally,
   Rangareddy, Hyderabad-500085
   ...Personal Guarantor/Respondent No. 2

3. **M/s GKC Projects Ltd.,**
   Sy No. 9(p), CII Green Building Lane,
   Hitech City, Kondapur,
   Hyderabad-500084
   ...Corporate Debtor/Respondent No. 3

4. **SMC Infrastructures Pvt. Limited,**
   101, SMC Square, Khopat,
   Lal Bahadur Shastri Marg,
   Thane (West), Mumbai-400601
   ...Respondent No. 4

Date of order: 06.11.2026

CORAM:
SH. RAJEEV BHARDWAJ, HON'BLE MEMBER (JUDICIAL)
SH. SANJAY PURI, HON'BLE MEMBER (TECHNICAL)

COUNSELS:

For the Applicant: Mr. Vinod Pasala, V. Venu Madhava Swamy, Standing Counsel for EPFO

For the Respondent: Mr. M. Maharshi Viswaraj, Ld Counsel, Ld.
Mr. DSRK Sai Baba, Bankruptcy Trustee

ORDER

1. The Applicant has filed the present Application under Sections 38, and 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the National Company Law Tribunal Rules, 2016 and the IBBI (Liquidation Process) Regulations, 2016, seeking a direction to Respondent Nos. 1 to 4 to consider and admit its total claim of Rs. 1,12,28,496/- against the Corporate Debtor, along with such other orders as this Adjudicating Authority may deem fit and proper in the interest of justice.

Averments Made by the Applicant

2. The Applicant, Employees' Provident Fund Organisation (EPFO), is a statutory authority responsible for administering the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

3. The present Application is filed under Sections 38, and 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the NCLT Rules, 2016, seeking consideration and admission of its provident fund dues against the Corporate Debtor.

4. The Applicant submits that, pursuant to the order dated 11.12.2023[1] passed by this Tribunal in C.P. (IB) No. 21/123/HDB/2023, the Corporate Insolvency Resolution Process was initiated against M/s GKC Projects Limited.

[1] Annexure A

5. The Applicant claims an amount of Rs.1,12,28,496/- towards provident fund contributions, damages under Section 14B, interest under Section 7Q and other statutory dues, as detailed below:

Dues	**Period**	**Amount (in Rs.)**
Recovery Section (RRC No. 05/2021)	12/2008 to 11/2018	Rs. 90,51,176/- (14B: Rs. 57,22,982/- + 7Q: Rs. 33,28,194/-)
Damages U/s 14B	03/2019 to 12/2023	Rs. 1,48,162/-
Interest U/s 7Q	03/2019 to 12/2023	Rs. 1,50,140/-
P.F. Dues	Up to the month of February 2023	Rs. 18,79,018/-
Total Amount Due		Rs. 1,12,28,496/-

6. The Applicant submits that an inquiry under Section 7A of the EPF & MP Act, 1952, was initiated against Respondent No. 3 vide summons dated 27.03.2012[2]. Subsequently, an inquiry under Section 7C was concluded on 15.04.2014, determining escaped dues of Rs. 82,40,034/- for the relevant periods[3]. The appeal filed by Respondent No. 3 before the EPFAT, New Delhi, was quashed by order dated 28.10.2014[4]. Aggrieved thereby, the Applicant filed Writ Petition No. 3212/2021 before the Hon'ble High Court for the State of Telangana, which is still pending.

7. The Applicant submits that an inquiry under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, was initiated against Respondent No. 3 vide summons dated 27.03.2012. Subsequently, proceedings under Section 7C of the said Act were initiated for determination of escaped dues, culminating in an order dated 10.04.2014, determining an amount of Rs. 82,40,034/-

[2] Annexure B
[3] Annexure C
[4] Annexure D

towards provident fund contributions and other statutory dues for the relevant period. Aggrieved by the said determination, Respondent No. 3 preferred an appeal before the Employees' Provident Fund Appellate Tribunal, New Delhi, which was allowed vide order dated 28.10.2014. Thereafter, the Applicant challenged the said order before the Hon'ble High Court for the State of Telangana by filing Writ Petition No. 3212 of 2021, which is stated to be pending adjudication.The Applicant submits that the establishment had pending provident fund dues for the period from March 2019 to December 2023, amounting to Rs.2,98,302/-, along with interest of Rs.1,50,140/- and provident fund contributions of Rs.18,79,018/-.

8. It is further submitted that the EPFO authorities determined damages under Section 14B and interest under Section 7Q for the period from December 2008 to February 2019, vide order dated 04.12.2020, quantifying the dues at Rs. 91,42,602/-[5] . The Applicant states that the Resolution Plan submitted by M/s SMC Infrastructures Private Limited was approved by this Hon'ble Tribunal vide order dated 30.03.2021 in C.P. (IB) No. 461/7/HDB/20196. Subsequently, Respondent No. 3 remitted an amount of Rs. 91,426/- vide Cheque No. 033113 dated 06.05.2021, leaving a balance outstanding of Rs. 90,51,176/- under RRC No. 05/2021.

9. The Applicant further submits that, upon being informed that the claim had already been submitted to the Resolution Professional, it requested the Resolution Professional to consider the claim. However, the Resolution Professional stated that the claim related to the personal guarantor and not the Corporate Debtor.

10. The Applicant contends that provident fund dues are statutory dues and are entitled to priority under Sections 8B to 8G and 11 of the EPF

[5] Annexure E
[6] Annexure F

and MP Act, 1952, and cannot be treated as ordinary debts of the Corporate Debtor.

11. The Applicant further submits that provident fund dues are statutory liabilities payable to employees and constitute an integral part of their social security entitlements. It relies upon Section 36(4)(a)(iii) of the Insolvency and Bankruptcy Code, 2016, which excludes sums due to workmen or employees from the provident fund, pension fund and gratuity fund from the liquidation estate. The Applicant also refers to Section 155(2) of the Code and contends that provident fund, pension fund and gratuity fund dues are excluded from the assets forming part of the bankruptcy estate.

12. In support of its contentions, the Applicant relies upon the following judicial pronouncements:

a. Embassy Property Developments Pvt. Ltd. v. State of Karnataka, Civil Appeal No. 9170 of 2019, decided on 03.12.2019 by the Hon'ble Supreme Court, concerning the exercise of statutory and adjudicatory powers in the context of insolvency proceedings.
b. Tourism Finance Corporation of India Ltd. v. Rainbow Papers Ltd. & Ors., wherein the Applicant relies upon the observations concerning provident fund dues and their treatment under the Insolvency and Bankruptcy Code, 2016.
c. Bhupinder Singh v. Unitech Ltd., Civil Appeal No. 10856 of 2016, decided on 20.01.2020 by the Hon'ble Supreme Court, concerning the statutory entitlements of the EPFO during insolvency proceedings.
d. UCO Bank, Asset Management Recovery Branch v. Recovery Officer, EPFO & Ors., concerning the priority of provident fund dues and the powers of the EPFO to recover statutory dues.
e. RPFC v. RP for Jet Airways (India) Ltd. & Ors., Company Appeal (AT) (Insolvency) No. 752 of 2021, wherein the Applicant relies upon the

observations regarding the priority of unpaid labour dues and the payment of provident fund and gratuity dues to former employees.

13. The Applicant therefore seeks a direction to Respondent Nos. 1 to 4 to consider and admit its total claim of Rs.1,12,28,496/- against the Corporate Debtor.

Averments Made by Respondent No. 1 (Bankruptcy Trustee)

14. Respondent No. 1 submits that he is the Bankruptcy Trustee appointed in respect of Mr. Kolli Venkata Raja Sekhar, the Personal Guarantor to M/s GKC Projects Limited duly appointed by this Hon'ble Tribunal vide orders dated 11.12.2023.

15. It is submitted that the Bankruptcy Trustee conducted nine meetings of the creditors and several e-auctions for the properties situated at Ameerpet and Guttala Begumpet.

16. The Respondent states that the Ameerpet property was auctioned on 12.07.2024 for Rs.5.72 Crores and the Guttala Begumpet property was auctioned on 08.10.2024 for Rs 2.05 Crores. The sale proceeds were realised and distributed among the creditors.

17. It is submitted that no amount remains in the Bankruptcy Trust account of the Personal Guarantor, as the sale proceeds have already been distributed to the creditors in accordance with their respective voting shares.

18. The Respondent submits that, in the 9th meeting of the creditors held on 06.12.2024, the creditors approved filing an application for discharge of the Personal Guarantor. Accordingly, an application was filed before this Tribunal on 09.12.2024.

19. It is further submitted that, pursuant to the order dated 26.02.2025, a meeting of creditors was conducted on 04.03.2025, wherein SBI, Bank of Baroda, ICICI Bank, Kotak Mahindra Bank and Canara Bank,

collectively holding 72% voting share, consented to the discharge of the Personal Guarantor.

20. The Respondent submits that the averments in paragraphs 1 to 7, 9 and 12 to 14 of the Application require no specific reply, as they contain the Applicant's own statements. The averments in paragraphs 10 and 11 pertain to Respondent No. 2 and therefore require no reply from him.

21. The Respondent contends that entertaining such applications would adversely affect the objectives of the IBC and the interests of other creditors.

22. The Respondent therefore prays that IA No. 1228 of 2025 be dismissed as having become infructuous upon completion of the administration of the bankruptcy process and that the Personal Guarantor be discharged and the Bankruptcy Trustee be released from his duties.

OBSERVATIONS AND ANALYSIS

23. We have heard the learned counsel appearing for the respective parties, perused the pleadings and examined the documents placed on record. The principal question that arises for our consideration is whether the Applicant (EPFO) can enforce its statutory claim of Rs 1,12,28,496/-, arising out of the defaults of the Corporate Debtor (Respondent No. 3), against the individual bankruptcy estate administered by Respondent No. 1 (Bankruptcy Trustee) in respect of the Personal Guarantor (Respondent No. 2).

24. The Applicant has placed strong reliance on Section 36(4)(a)(iii) of the Insolvency and Bankruptcy Code, 2016 ("the Code"), read with Section 11 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("the EPF Act"), to contend that provident fund and gratuity dues do not form part of the liquidation estate and are entitled to be paid in priority over all other debts.

25. However, a material distinction arises on the facts of the present case. The statutory dues claimed by the Applicant were assessed and levied upon M/s GKC Projects Limited (Corporate Debtor / Respondent No. 3). The Corporate Insolvency Resolution Process of the Corporate Debtor culminated in the approval of the Resolution Plan submitted by M/s SMC Infrastructures Pvt. Limited (Respondent No. 4) by order dated 30.03.2021 passed by this Adjudicating Authority in I.A. No. 78 of 2021. If the Applicant was aggrieved by the allocation of 1% towards its claim under the corporate resolution framework, the appropriate remedy lay in a timely statutory appeal against the approval of the said Resolution Plan.

26. Instead, the Applicant has preferred the present Interlocutory Application in the independent personal insolvency proceedings of Mr. Kolli Venkata Raja Sekhar (Personal Guarantor / Respondent No. 2). Under the scheme of the Code, a Corporate Debtor and its Personal Guarantor are distinct legal entities. Although the liability of a guarantor is co-extensive with that of the principal debtor under the general law of contract, the enforcement and recovery of claims in a personal bankruptcy process under Part III of the Code are confined to, and circumscribed by, the individual estate of the Bankrupt.

27. The documents placed on record by Respondent No. 1 show that the administration of the estate of the Bankrupt has attained finality. The Bankruptcy Trustee conducted nine meetings of creditors and realised the immovable properties of the Bankrupt, namely the Ameerpet and Guttala Begumpet properties, through public e-auctions. The sale proceeds have been distributed in full to the creditors, leaving no balance in the Bankruptcy Trust account.

28. Consequently, the Bankruptcy Trustee has already filed an application seeking discharge of the Bankrupt under Section 138(1)(a) of the Code, supported by a memo of consent from institutional financial creditors representing 72% of the voting share.

29. In the absence of any surviving assets or funds in the Bankruptcy Trust account of the Personal Guarantor, this Tribunal cannot issue a mechanical direction to Respondent No. 1 for payment or satisfaction of any dues. A statutory claim, however high its priority in law, cannot be satisfied out of an estate that holds no realisable value. Entertaining such a claim at this belated, post-distribution stage would unsettle the finality of the bankruptcy administration and run contrary to the object of commercial certainty underlying the Code.

30. In view of the complete exhaustion and distribution of the estate of the Bankrupt, we hold that the reliefs sought by the Applicant against the Bankruptcy Trustee (Respondent No. 1) cannot be given effect to.

IA No. 1228 of 2025 is accordingly dismissed as infructuous.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER(JUDICIAL)