

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No. 2319 of 2024

(Arising against the Impugned order dated 09.10.2024 passed by the Learned Adjudicating Authority, Mumbai Bench, in I.A No. 1745 of 2022 in Company Petition (IB) No.281/2019)

IN THE MATTER OF:

Consortium led by Syonira Invecast Pvt. Ltd

Having its office at:

D 302, Rosewood Heights.

Sector 10, Kharghar, Navi

Murnbai-410210.

. . . Appellant

Versus

1. Employees' Provident Fund Organisation

Bhavishya Nidhi Uhavan, 24, Patto Plaza

Panaji, Goa--403001.

Email:- ro.gao@epfindia.gov.in

2. Mr. Anil Seetaram Vaidya

Erstwhile Resolution Professional and Chairman of

Monitoring Committee of Goa Invescast Ltd. Having his

registered office at Plot No. 107, Survey No. 62/65

Mahatma Society, Bhusari Colony, Kothrud. Pune-411

308,

Email:- anilvaidya38@gmail.com

....Respondents

Present:

**For Appellant: Ms. Anjali Sharma, Ms. Thanglunkim,
Mr. Gaikhunalung, Advocates.**

**For Respondents: Mr. Kaushal Gautam, Ms. Snehpreet Kaur,
Ms. Vanshika Singh, Mr. Hemant Dalal, Advocates.**

Cont'd..../

With

Company Appeal (AT) (Insolvency) No. 141 of 2025

(Arising against the Impugned order dated 09.10.2024 passed by the Learned Adjudicating Authority, Mumbai Bench, in I.A No. 1745 of 2022 in Company Petition (IB) No.281/2019)

IN THE MATTER OF:

Employees' Provident Fund Organisation

Bhavishya Nidhi Uhavan, 24, Patto Plaza
Panaji, Goa--403001.

Email:- ro.gao@epfindia.gov.in

...Appellant

Versus

1. Consortium led by Syonira Invecast Pvt. Ltd

Having its office at:

D 302, Rosewood Heights.
Sector 10, Kharghar, Navi
Murnbai-410210

...Respondent/SRA

2. Mr. Anil Seetaram Vaidya

Erstwhile Resolution Professional and Chairman of
Monitoring Committee of Goa Invescast Ltd. Having his
registered office at Plot No. 107, Survey No. 62/65
Mahatma Society, Bhusari Colony, Kothrud. Pune-411
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Present:

**For Appellant: Mr. Kaushal Gautam, Ms. Snehpreet Kaur,
Ms. Vanshika Singh, Mr. Hemant Dalal, Advocates.**

**For Respondents: Ms. Anjali Sharma, Ms. Thanglunkim,
Mr. Gaikhunalung, Advocates.**

J U D G M E N T
(9th January, 2026)

INDEVAR PANDEY, MEMBER (T)

These two Appeals arise out of the same order dated 09.10.2024 passed by the Adjudicating Authority (National Company Law Tribunal, Mumbai Bench-III), in IA No. 1745 of 2022 in **C.P. No. 281/MB/C-III/2019**. The First appeal, Comp. App. (AT) (Ins.) No. 2319 of 2024 has been preferred by the Consortium led by Syonira Invecast Pvt. Ltd., the **Successful Resolution Applicant**, and the Second appeal, Comp. App. (AT) (Ins.) No. 141 of 2025 has been filed by the **Employees' Provident Fund Organisation (EPFO)**. Both the parties are aggrieved by the impugned order passed by Adjudicating Authority in I.A. No. 1745 of 2022 and have assailed the same before this Appellate Tribunal.

2. The issue in I.A. No. 1745 of 2022 related to the portion of the claim of EPFO, which was submitted subsequent to the approval of the Resolution Plan on 09.11.2021 by the Adjudicating Authority. The appeals herein are cross appeals; the first filed by SRA against the enhanced claim made by the EPFO after the approval of resolution plan, and the second by the EPFO against the non-payment of additional amount of interest under Section 7 (Q) of EPF Act and damages chargeable under Section 14B of EPF Act. As both appeals arise from the same impugned order, hence, both the appeals are being taken for disposal together. We would treat the first appeal as the main appeal for disposal of both the cases and the references to the parties henceforth would be as per the first appeal.

3. Brief facts of the case necessary to decide these Appeals are as under:
- i. The Corporate Insolvency Resolution Process (CIRP) of the M/S Goa Invescast Ltd./Corporate Debtor was initiated by Steel and Scrap Pvt. Ltd. pursuant to which the C.P. No. **281/MB/C-III/2019**, was admitted by the Adjudicating Authority and Vinit Gangawal was appointed as the Interim Resolution Professional. Later on, Mr. Anil Seetaram Vaidya was appointed as Resolution Professional (RP) on 09.10.2019 and he has been arrayed as **Respondent No. 2** in both the appeals.
 - ii. During the CIRP, the **Employees' Provident Fund Organisation (EPFO)/Respondent No.1** submitted its claim in Form B dated 24.09.2019, claiming Rs. 17.90 lakhs, which was also reflected in the Information Memorandum prepared by the Resolution Professional/Respondent No. 2. In the 5th CoC Meeting held on 02.03.2020, the Respondent No. 2 orally informed the Appellant/SRA that the PF liability was Rs. 63.15 lakhs and advised revision of the Resolution Plan. Consequently, the Resolution Plan was revised to provide Rs. 63.15 lakhs towards PF liabilities as full and final settlement.
 - iii. In the 8th CoC meeting held on 20.11.2020, the Resolution Plan of a consortium led by **Syonira Invescast Pvt. Ltd.** (Appellant herein) was approved unanimously by the CoC with 100% voting share. The Resolution Plan submitted by the Successful Resolution Applicant (SRA)/ Appellant was subsequently approved by the Adjudicating Authority vide order dated 09.11.2021.

- iv. In compliance with the approved Plan, the said amount of Rs. 63.15 lakhs were remitted to the PF authorities in the following manner:
(a) Rs. 44,67,551/- through ECR (online mode) and (b) Rs. 18,47,449/- through Cheque No. 000511 dated 25.03.2022. The Appellant informed Respondent No. 1/EPFO (vide a letter dated 25.03.2022) that the said payment was made towards full and final settlement, and that no new or additional claim could be imposed upon the Appellant in future.
- v. Respondent No. 1, vide its letter dated 06.04.2022, stated that the amount paid by the Appellant had been adjusted towards damages, interest, short remittance, and contributions, pursuant to an order dated 06.04.2021 passed under Section 7A of the EPF & MP Act. It was further stated that an amount of Rs. 1,13,482/- still remained unpaid in compliance with the said quasi-judicial order.
- vi. Respondent No. 1 thereafter issued a notice dated 29.04.2022 demanding payment of Rs. 1,13,482/- and further directed the Appellant to file an application for waiver of damages before the Central Board of Trustees, EPFO, failing which action under the provisions of the EPF & MP Act was threatened.
- vii. The Appellant issued a letter dated 17.05.2022 refuting its liability to pay any additional amounts claimed by Respondent No. 1 after approval of the Resolution Plan.
- viii. Respondent No. 1 issued summons dated 18.05.2022, claiming fresh dues amounting to Rs. 62,09,154/- for the period 01.04.2015 to 30.06.2019. This fresh claim of Rs. 62,09,154/- was not made at any

occasion prior to approval of the resolution plan and accordingly was not reflected in the approved Resolution Plan.

- ix. The Appellant thereafter filed an application under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, on 22.06.2022, being I.A. No. 1745 of 2022 before the Adjudicating Authority, praying for following reliefs:

“a. Squash and set aside the notice bearing Reference Number 2021-22/ENF/50204/10880/676 dated 29.04.2022 issued by Respondent No. 1 which is issued after approving of Resolution Plan.

b. Squash and set aside the Summons vide Ref No. GA/GOA/0010880/000/Enf 502/Damages/703 issued by Respondent No. 1 dated 18.05.2022 issued approving of Resolution Plan.

c. Prohibit Respondent No 1 from undertaking any recovery action against the Applicant for the PF dues, interest and damages for the period prior to the approval of the Resolution Plan.

d. Direct the Respondent no 1 to refund the amount of Re. 45.25 lakhs paid in excess of the amount claimed by the Respondent no 1 in form B dated 24.09.2019.

e. Grant any other relief as the Hon'ble Tribunal may deem fit and proper under the circumstances.”

- x. The Respondent No. 1/EPFO filed a reply to I.A. No. 1745 of 2022 with the following prayers:

“(a) Dismiss the Application of the Applicant and direct the Applicant to remit the provident Fund dues as Provident Fund is a welfare measure for the class of workers;

(b) The Hon'ble Tribunal is request to set aside the plea of the Applicant because of the Establishment has an alternative

remedy under the EPF & MP Act, 1952 to challenge the orders passed by this Respondent.

(c) pass such order and other orders as this Hon'ble Tribunal may deem fit and proper.”

4. The Ld. Adjudicating Authority passed the impugned order dated 09.10.2024, which noted that the EPFO had raised multiple and successive claims under Sections 7A, 7Q and 14B of EPF and MP Act by issuing different orders and summons at various stages, the details whereof are summarised in the table below.

S.No.	Order date	Section	Period	Amount Claimed
1.	06.04.2021	7A (1) (b)	03/2013, 02/2016 to 03/2016, 06/2016 to 06/2019	34,23,474/-
2.	13.09.2019	7Q	12/2012 to 01/2018	5,53,733/-
3.	13.09.2019	14B	12/2012 to 01/2018	11,19,628/-

S.No.	Date of Summon issued by EPF	Period	Total amount Claimed Amount
1.	18.05.2022	01/04/2015 to 30/06/2019	Total Rs. 62,09,154/- i.e. Damages of Rs.39,99,546/- and Interest of Rs.22,09,608/-

5. The Adjudicating Authority heard I.A. No. 1745 of 2022 filed by the Successful Resolution Applicant and, vide the impugned order dated

09.10.2024, partly allowed the said application. The relevant paras 46 to 54 of the impugned order are extracted below:

“46. It is noteworthy here that the claim filed by the EPFO Authorities before the interim Resolution Professional was only to the tune of Rs. 17.90 lakhs as against which an amount of Rs. 63.15/ - lakhs has been paid to them. This amount of Rs. 63.15 lakhs which has been undisputedly received by the EPFO Authorities covers the entire amount of the PF dues u/s 7A as also the interest there on levied u/s 7Q and as are evident from all the documents and correspondence enclosed with the petition as also with the affidavit in reply are satisfied. Thus, only amount which is remains outstanding is towards the damages.

47. It is the submission of the EPFO Authorities that after the amount under 7-A as also the amount of the interest is paid then the SRA could be advised to make a petition/application before the Central Board of Trustees EPFO for waiver of damages.

48. It is to note that the Respondent No. 1 has made various legal submission legal submissions vide various case laws, however, in respect of the same it is stated that no differential opinion or position is being taken here in this case.

49. As the entire amount u/s 7A and interest levied under 7Q has been determined to have been paid, the SRA is directed to make appropriate application / petition before the Central Board of Trustees EPFO for waiver of the damages levied on the erstwhile CD.

50. We rely on the judgement of the Hon'ble NCLAT in Regional provident Fund Commissioner, Vatwa, Employees provident Fund Organization Vs. Shri Manish Kumar Bhagat Company Appeal (AT) (Insolvency) No. 808 of 2022, decided on 11.10.2023, wherein the issue with the Hon'ble NCLAT was Whether or not to direct the Successful Resolution Applicant for payment of inter alia damages under Section 14B of EPF Act. Damages u/s 14B arose on account of

assessment on 14.10.2019 for an amount of Rs. 68,54,869/- and 25.07.2017 for an amount of Rs. 31,16,446/-. The Hon'ble NCLAT held that the damages imposed by order dated 18.10.2019 was subsequent to CIRP imposition of moratorium and held that no direction need to be issued for payment of damages under Section 14B. As far as damages amounting to Rs.31,16,446/- which was imposed by order dated 25.07.2017, prior to the commencement of the CIRP moratorium, the Hon'ble NCLAT directed the Successful Resolution Applicant (SRA) to pray to the Central Board to waive 100% damages of Rs. 31,16,446/- imposed by order dated 25.07.2017 under Section 14B within a period of one month

51. In view of the facts and circumstances of the case and discussion hereinabove the EPFO Authorities are directed not to take any coercive action for any recovery of the EPFO dues from the SRA. Accordingly prayer (c) is allowed, subject to applicant filing an application praying to Central Board of Trustee Employee Provident Fund within 30 days of this order.

52. In regard to Prayer a and b it is stated that this Tribunal does not have power to Quash or set aside notices and summons issued by the Applicant. Hence these prayers are rejected.

53. As regards Prayer d which seeks to get a refund of Rs. 42.25 lacs on account of damages paid to the EPFO, it is stated that the facts of the case as have been captured hereinabove do not suggest so, hence rejected.

54. Further, thereto any amount which is paid consequent to the Resolution Plan approved by the Adjudicating Authority is binding on the stakeholders including the SRA and therefore, the SRA cannot have any liberty to seek any amount as a refund which has been paid in consonance and in accordance with the plan approved by the Adjudicating Authority.”

6. The Adjudicating Authority held that the amount payable under Section 7A stood crystallised at Rs.34,23,474/- and that the remaining amounts

claimed by the EPFO pertained only to interest under Section 7Q and damages under Section 14B. It was held that the total PF dues under Section 7A together with interest under Section 7Q amounted to Rs. 61,86,815/-, against which an undisputed payment of Rs. 63.15 lakhs had already been made by the Successful Resolution Applicant, thereby fully satisfying the PF dues and interest. The Adjudicating Authority further observed that the demand of Rs. 1,13,482/- arose only due to adjustment made by the EPFO and that even the differential amount could be treated as adjusted towards damages, leaving only damages under Section 14B as outstanding. With respect to the issue of damages, the Adjudicating Authority held that once the amounts under Sections 7A and 7Q stood fully paid, the Successful Resolution Applicant could be advised to approach the Central Board of Trustees, EPFO for waiver of damages under Section 14B. Relying upon the judgment of this Hon'ble Appellate Tribunal in *Regional Provident Fund Commissioner v. Shri Manish Kumar Bhagat* and the judgment of the Hon'ble Supreme Court in *Ghanshyam Mishra and Sons Pvt. Ltd. v. Edelweiss ARC*, the Adjudicating Authority directed the EPFO not to take any coercive recovery action, however, it rejected the prayers of SRA seeking quashing of notices and summons on the ground of lack of jurisdiction; and seeking refund of additional amounts paid. The Adjudicating Authority further held that payments made under an approved Resolution Plan are binding on all stakeholders. Accordingly, the application was partly allowed and disposed of.

7. Aggrieved by the impugned order dated 09.10.2024, these Appeals have been filed. The first appeal Company Appeal (AT) (Ins) No. 2319 of 2024 has been filed by the Consortium led by Syonira Invecast Pvt. Ltd, the Successful

Resolution Applicant, challenging the order passed in I.A. No. 1745 of 2022.

In the Appeal, following prayers have been made:-

“a) Set aside the impugned order dated 09.10.2024 passed by the Hon'ble National Company Law Tribunal Mumbai Bench -III in I. A. No. 1745 of 2022 in C.P. No. 281 of 2019, in so far as it fails to hold that the damages levied by the Respondent No. 1 pursuant to assessment post the approval of resolution plan need not be paid by the Appellant; and fails to recommend waiver of damages levied during the CIRP period for period/s prior to commencement of CIRP; and

(b) Direct that the amount paid by the Appellant to the Respondent No. 1 that was in excess of its claim (whether original/ revised) be refunded to the Appellant.

(c) Such other order or orders as may be deemed fit in the circumstances may also be passed.”

8. The second Company Appeal (AT) (Ins.) No. 141 of 2024 has been filed by the EPFO challenging the impugned order dated 09.10.2024 passed in I.A. No. 1745 of 2022, where the following prayers have been made: -

“(a) Appeal be allowed;

(b) Impugned Order dated 09/10/2024. in IA No. 1745 of 2022 in CP. (IB) NO. 281/MB/C-III/2019 by the Hon'ble NCLT, Mumbai Bench, be set aside and/or modified to include the claim of the Appellant at priority;

(c) Pending the final hearing and disposal of the Appeal the Impugned Order dated 09/10/2024, in IA No. 1745 of 2022 in CP. (IB) NO. 281/MB/C-III/2019 by the Hon'ble NCLT, Mumbai Bench, be stayed;

(d) Direct the Respondents herein to consider the claim of the Appellant in priority as per the provision of the IBC and EPF & MP Act, 1952;

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

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

9. We would take up the first appeal and decision of the same would apply automatically to the second appeal as these are cross appeals filed against the same impugned order and relate to the same issue.

Submission of the appellant

10. The Ld. Counsel for the Appellant submits that the present appeal has been preferred against the Impugned Order dated 09.10.2024 passed by the Adjudicating Authority. The Appellant, being the Successful Resolution Applicant, had inter alia sought quashing and setting aside of the notice dated 29.04.2022 and summons dated 18.05.2022 issued by Respondent No. 1 (EPFO Goa), on the ground that the said demands pertained to alleged dues raised after approval of the Resolution Plan and pursuant to proceedings initiated and orders passed during the CIRP period, despite no claim having ever been filed for such amounts. Consequently, the amounts now sought to be recovered do not find any place in the approved Resolution Plan.

11. Ld. Counsel submits that notwithstanding the Plan Approval Order dated 09.11.2021, Respondent No. 1 issued the Notice dated 29.04.2022 and Summons dated 18.05.2022, demanding payment of dues for the period 01.04.2015 to 30.06.2019 i.e., for a period prior to commencement of CIRP, on the basis of proceedings initiated and an order dated 06.04.2021 passed

during the subsistence of moratorium. The moratorium under Section 14 came into effect on 04.07.2019 and continued until 09.11.2021; hence, such proceedings and orders were non est in law. It was in these circumstances that the Appellant filed I.A. No. 1745 of 2022, in which the Impugned Order came to be passed.

12. Referring to the Impugned Order, Ld. Counsel draws attention to the portion titled “*Analysis & Findings*”, wherein, at Para 44, the Adjudicating Authority noted that PF dues under Sections 7-A and interest under Section 7-Q aggregated to Rs. 61,86,815/-, against which payment of Rs.63,15,000/- had already been made. Further, at Para 46, it was observed that the only outstanding component pertained to damages. Thereafter, relying on the judgment of this Hon’ble Tribunal in ‘*Regional Provident Fund Commissioner, Vatwa, EPFO v. Shri Manish Kumar Bhagal*, [2023 SCC OnLine NCLAT 2176], the Adjudicating Authority, held that damages imposed under Section 14-B during the moratorium period were not payable; however, for damages imposed prior to the moratorium, the SRA was required to approach the Central Board of Trustees for waiver. Accordingly, the Appellant was directed to file an application before the Central Board within 30 days.

13. Ld. Counsel further submitted that the Adjudicating Authority failed to appreciate that the damages sought to be recovered through the Notice dated 29.04.2022 and Summons dated 18.05.2022, were based on proceedings and an order dated 06.04.2021, both undertaken during the subsistence of

moratorium 'and in respect of which no claim had ever been submitted. The CIRP of the Corporate Debtor commenced on 04.07.2019 and continued until approval of the Resolution Plan on 09.11.2021. Since Respondent No. 1 never filed any claim for the amounts now demanded, the same do not form part of the approved Resolution Plan.

14. Ld. Counsel submitted that the Impugned Order is contrary to the judgment of this Hon'ble Tribunal in '*Employees Provident Fund Organization v. Jaykumar Pesumal Arlani*, [2025 SCC OnLine NCLAT 9]', wherein it was categorically held that no claim can be enforced on the basis of an assessment carried out during the moratorium under Section 14(1) of the IBC. Ld. Counsel for the Appellant further submitted that, in view of the judgment of the Hon'ble Supreme Court in '*Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, [(2021) 9 SCC 657]', any claim which does not form part of the approved Resolution Plan stands irrevocably extinguished. Accordingly, the amounts demanded by Respondent No. 1 vide notice dated 29.04.2022 and summons dated 18.05.2022 being absent from the approved Resolution Plan, cannot be revived or pressed against the Appellant.

15. Ld. Counsel for the Appellant submitted that, even the reply filed by Respondent No. 1 before the Ld. Adjudicating Authority does not disclose that Respondent No. 1 ever filed any claim before Respondent No. 2, the Resolution Professional, in respect of the amounts allegedly payable under the order dated 06.04.2021 passed under Section 7A of the EPF Act. It was

pointed out that at Paragraph 16 of the said reply, Respondent No. 1 merely stated that the establishment had been informed that dues were not paid as per the said order, without asserting that any such claim was lodged during the CIRP.

16. The Ld. Counsel further submitted that since the alleged dues forming the subject matter of the notice dated 29.04.2022 and summons dated 18.05.2022 do not form part of the approved Resolution Plan, and no claim in respect thereof was submitted during the CIRP, the said demands stand extinguished in law, in accordance with the judgment of the Hon'ble Supreme Court in *Ghanashyam Mishra (supra)* wherein it has been categorically held that all claims not included in the Resolution Plan stand extinguished upon its approval. The said legal position has been reiterated by the Hon'ble Supreme Court in '*Electrosteel Steel Limited v. Ispat Carrier Private Limited* [(2025) 7 SCC 773]'.

17. Ld. Counsel for the Appellant submits that, in any event, the order dated 06.04.2021 was passed by Respondent No. 1 pursuant to assessment proceedings conducted after the moratorium had already commenced upon the admission of the insolvency petition on 04.07.2019. It is submitted that the amount so assessed as payable by the Appellant was thereafter sought to be recovered through notice dated 29.04.2022 and summons dated 18.05.2022 issued by Respondent No. 1. He places further reliance on the judgment of this Appellate Tribunal in '*CA Pankaj Shah v. Employees' Provident Fund Organisation and Another*, [2025 SCC OnLine NCLAT 1403]',

wherein it has been categorically held that no claim can be pressed or enforced on the basis of an assessment carried out during the period when the moratorium under Section 14(1) of the IBC was in force, and that such claims are legally unenforceable.

18. Ld. Counsel further submits that, as regards the direction of the Ld. Adjudicating Authority requiring the Appellant to approach the Central Board of Trustees, Employees' Provident Fund, for waiver of damages imposed by Respondent No. 1, the Appellant relied upon the judgment of this Hon'ble Tribunal in *Manish Kumar Bhagat* (supra). In the said case, this Hon'ble Appellate Tribunal held that damages imposed under Section 14 B vide order passed when moratorium was in effect, were not to be paid. Its only for damages imposed vide order passed prior to imposition of moratorium' the SRA had been directed to pray to the Central Board of Trustees, Employees Provident Fund' for waiver of the same. It is his submission that in this case order imposing damages was passed during the moratorium period and in accordance with the *Manish Kumar Bhagat* Judgment (supra) such damages need not to be paid by the SRA.

19. Summing up his arguments, Ld. Counsel submitted that the Impugned Order suffers from legal infirmities as detailed above, thereby necessitating interference by this Hon'ble Tribunal.

Submissions of the Respondent No. 1

20. Ld. Counsel for EPFO submitted that the Appellant had filed I.A. No. 1745/2022 seeking four specific reliefs. The Hon'ble NCLT, however, rejected

three of the prayers in their entirety and partially allowed only one, namely the direction restraining the EPFO from taking coercive steps for recovery of dues from the Successful Resolution Applicant (SRA), subject to the Appellant filing an application before the Central Board of Trustees, Employees Provident Fund, within 30 days of the Impugned Order. Despite the said liberty and recommendation of the Hon'ble NCLT, the Appellant failed to file an application seeking waiver of damages.

21. Ld. Counsel for Respondent No. 1 further submitted that, as regards the remaining prayers pertaining to quashing of the notice dated 29.04.2022 and summons dated 18.05.2022, the Hon'ble Adjudicating Authority rightly rejected the same on the ground that it has no jurisdiction to quash or set aside notices or summons issued under the EPF & MP Act, 1952. It is submitted that the EPF Act is a beneficial social security legislation enacted to safeguard the interests of workmen, and any interpretation contrary to the settled legal position regarding the priority of provident fund dues would frustrate the statutory mandate of securing employees' entitlements, including interest accrued thereon.

22. Ld. Counsel for the Respondent submitted that the Hon'ble NCLT has correctly held that the only remedy available to the Appellant, if aggrieved by an order passed under Section 7-A of the EPF & MP Act, 1952, was to approach the Hon'ble CGIT, which is the competent statutory forum. The NCLT cannot act as an appellate authority over orders passed under Section 7-A of the EPF & MP Act.

23. Ld. Counsel further submitted that the Hon'ble NCLT lacked jurisdiction to adjudicate upon EPFO dues, as the EPF Act is a special legislation and the CGIT is specifically constituted for adjudication of disputes arising thereunder. Proceedings under Section 14-B are quasi-judicial in nature, and any aggrieved party has a statutory appeal under Section 71 of the Act.

24. It was further submitted that the Respondent, being the Appellant in Cross Appeal No. 141/2025, has challenged the recommendation of the Hon'ble NCLT whereby the Appellant was permitted to seek waiver of damages, interest, and PF dues by filing an application before the Central Board of Trustees within one month. However, it is pointed out that no such application has been filed by the Appellant till date.

25. The Respondent submitted that the Appellant cannot seek waiver of statutory liabilities, as Section 11(2) of the EPF & MP Act contains a non-obstante clause giving provident fund dues first charge over the assets of the establishment, notwithstanding anything inconsistent contained in any other law. PF dues represent contributions of the employees and contributions due from the employer, both of which must be paid in priority over all other debts. Damages levied under Section 14-B operate as a statutory penalty to compensate for loss of interest caused by delayed payment of PF contributions.

26. Ld. Counsel submitted that the Supreme Court and several High Courts have consistently held that employees' dues are to be treated with highest priority. Reliance was placed on the following judgments:

- a. *EPF Commissioner v. O.L. of Esskay Pharmaceuticals Ltd.*
(CA No. 9630/2011)
- b. *Special Civil Application No. 19075 of 2007, Hon'ble Gujarat High Court*
- c. *SM Holding Finance Pvt. Ltd. v. Mysore Machinery Manufacturers Ltd., Karnataka High Court*
- d. *SBI v. Moser Baer Karmachari Union, NCLT, New Delhi*
- e. *Alchemist ARC v. Moser Baer India Ltd., NCLT, Delhi Principal Bench*
- f. *Precision Fasteners Ltd. v. EPFO, Thane [MA 576 & 752/2018]*
- g. *Hindustan Times v. Union of India (1998)*
- h. *Organo Chemical Industries v. Union of India, AIR 1979 SC 1803*

27. The Respondent further relied on the decision of the NCLAT in '*Regional Provident Fund Commissioner-I, Ahmedabad v. Ramchandra D. Choudhary [Comp. App. (AT) (Ins.) No. 1001 of 2019]*', wherein it was held that provident fund dues do not form part of the assets of the Corporate Debtor under Section 36(4)(a)(iii) of the IBC. Consequently, Section 238 of the IBC has no

application, and PF dues—including interest—must be released in full. The said judgment has been affirmed by the Hon'ble Supreme Court.

28. Ld. counsel further submitted that damages and penalties under Section 14-B are assessed only after the principal amount dues are paid. Hence, the Appellant's contention that such damages were conveyed post-approval of the Resolution Plan is misconceived.

29. Learned Counsel submitted that Section 11(2) of the EPF Act expressly provides that all amounts due from an employer, whether towards employees' contributions or the employer's contributions, shall constitute a first charge on the assets of the establishment, notwithstanding anything contained in any other law. It was contended that, accordingly, provident fund dues, together with interest under Section 7Q and damages under Section 14B of the EPF Act, enjoy statutory priority and cannot be diluted, waived, or extinguished through a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 ("IBC").

30. He stated that Sections 18 and 36(4)(a)(iii) of the IBC expressly exclude provident fund and gratuity fund dues from the assets of the Corporate Debtor. It was contended that such amounts do not form part of the insolvency estate and, therefore, Section 238 of the IBC has no application to provident fund and gratuity fund dues.

31. It was submitted by Ld. Counsel that the mere act of quantifying or assessing provident fund dues during the period of moratorium does not violate or contravene Section 14 of the Insolvency and Bankruptcy Code, 2016. It was submitted that such quantification does not amount to a proceeding “against” the Corporate Debtor, but is only an exercise to determine the exact amounts held by the Corporate Debtor in trust for its employees.

32. Ld. Counsel submitted that Sections 18 and 36 of the IBC require exclusion of provident fund dues from the insolvency estate, and therefore the moratorium under Section 14 cannot prevent the EPF authorities from performing their statutory functions under the EPF Act; any interpretation to the contrary would create an impermissible conflict within the IBC itself.

33. The Ld. Counsel further submitted that the liability arising under Sections 7Q and 14B of the EPF Act is statutory and compensatory in nature, and not penal. It was contended that neither the Resolution Professional nor the NCLT/NCLAT has the jurisdiction to grant or presume any waiver of such statutory dues. The direction permitting the Appellant to approach the Central Board of Trustees for waiver does not itself amount to a waiver, and the failure to file such an application cannot result in extinguishment of the EPFO’s statutory rights.

34. It was submitted that the EPF Act is a self-contained code. Section 7A thereof empowers the Provident Fund Commissioner to determine provident

fund dues, and Section 71 provides a specific statutory appellate remedy before the Central Government Industrial Tribunal (CGIT). It was contended that neither the Hon'ble NCLT nor the Hon'ble NCLAT exercises any appellate or supervisory jurisdiction over statutory orders passed under the EPF Act. Consequently, any challenge to notices, summons, or assessment orders issued under the EPF Act lies exclusively before the competent authority under the said statute and cannot be adjudicated within the insolvency framework.

35. He submitted that although the Appellant has placed reliance on the judgment of the Hon'ble NCLAT in *EPFO v. Jaykumar Pesumal Arlani*, reported as 2025 SCC OnLine NCLAT 9, the said judgment has been challenged by the EPFO before the Hon'ble Supreme Court and the matter is presently pending for hearing on 25.11.2025.

36. Summing up his arguments, Ld. Counsel submitted that, having regard to the facts and the settled legal position, the present appeal filed by the Appellant is liable to be dismissed, while the Cross Appeal of the Respondent merits allowance to the extent of directing that EPFO dues, including interest and damages, be accorded statutory priority and be paid by the SRA.

Analysis and Findings

37. We have heard the Ld. Counsels for both sides in great detail and gone through the records of the case including the written submissions filed by the parties.

38. The key question to be answered in this appeal is whether any proceeding under EPFO Act could be undertaken by the EPF Authorities during the period of moratorium in CIRP proceedings under Section 14 of the Code? and if so, what would be the impact of such orders passed during the moratorium.

39. It is the submission of the Appellant that after the initiation of the CIRP against the Corporate Debtor by order dated 04.07.2019, no determination could have been made by the EPFO, nor could any claim be raised on the basis of such post-CIRP determination. After the initiation of CIRP on 04.07.2019 the EPFO initially filed its claim in Form B dated 24.09.2019, claiming an amount of Rs. 17.90 lakhs, which was duly reflected in the Information Memorandum prepared by the Resolution Professional. Resolution Professional in his submission before 5th CoC stated that EPFO has filed a revised claim (including Interest upto CIRP commencement date) of Rs. 63.15 lakhs, the same had been admitted in full by the RP and the Resolution Applicant has agreed to pay the entire amount. The said claim was considered during the CIRP, and the Resolution Plan ultimately approved by the Adjudicating Authority on 09.11.2021 provided for Rs. 63.15 lakhs

towards PF liabilities as full and final settlement, which amount was paid by the SRA on 25.03.2022. Subsequent thereto, the EPFO issued notices, summons and passed orders under Sections 7A, 7Q and 14B, raising additional demands beyond the claim admitted during CIRP and beyond the amounts provided under the approved Resolution Plan, which form the subject matter of challenge in the present proceedings.

40. It is further submitted that upon receipt of the additional demands raised by Respondent No. 1, the Appellant approached Respondent No. 2 seeking clarification with regard to the additional liability sought to be fastened upon it. Respondent No. 2, vide his letter dated 13.05.2022, gave the full chronology of the claim and stated that no further amount was payable to EPFO, which had not been mentioned earlier at any stage of the CIRP, in accordance with provisions of the Code and judicial precedents. The Appellant, thereafter, vide its letter dated 17.05.2022, denied its liability to pay the additional amounts claimed by Respondent No. 1. Thereafter, Respondent No. 1 issued summons dated 18.05.2022, claiming fresh dues amounting to Rs. 62,09,154/- for the period from 01.04.2015 to 30.06.2019, the demand for which was raised subsequent to the order dated 09.11.2021 passed by the Adjudicating Authority approving the Resolution Plan.

41. The RP's reply dated 13.05.2022 to the appellant captures the substance of the entire issue in detail, the same is extracted below:

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Annexure A-9
13-5-2022
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To
Director,
Goa Invescast Ltd.

**SUB: CLAIM FOR PROVIDENT FUND DUES OF THE WORKMEN AND EMPLOYEES OF
GOA INVECASTS LTD.**

Dear Sir

Please refer to your email dated 11.5.2022 on the above mentioned subject.

In this connection, it may please be noted that the undersigned as the Resolution Professional of Goa Invescast Ltd, have duly completed Corporate Insolvency Resolution Process (CIRP) of Goa Invescast Ltd, in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016 (Code) and the CIRP Regulations and the Resolution Plan for Goa Invescasts Ltd has been approved by the Adjudicating Authority viz., NCLT Mumbai Bench vide its order dated 8.11.2021. As per the said order, the monitoring agency for implementation of the Resolution Plan for Goa Invescast Ltd, approved by the NCLT, has been constituted and the undersigned has been appointed as the Chairman of the Monitoring Agency. As such, the role of the undersigned as the Chairman of the Monitoring Agency is limited to monitoring the implementation of the Resolution Plan and submitting the report in this regard to the NCLT.

However, as requested by you, following are the steps taken in respect of the claim of the provident fund dues of the workmen and employees of Goa Invescast Ltd, during the CIRP:

1. The CIRP of Goa Invescast Ltd, was initiated by the NCLT's order dated 4th July, 2019 and Shri Vinit Gangwal was appointed as the Interim Resolution Professional (IRP).
2. Shri Gangwal, the IRP, made a public announcement in the newspapers on 10.7.2019 inviting the claims from the Creditors and the last date for submission of claim was 22.7.2019.
3. In response, Assistant Provident Fund Commissioner, EPFO, Regional Office, Goa submitted the claim of Rs 17,90,268/- to the IRP on 24.9.2019.
4. On 9th October 2019, the undersigned was appointed as the Resolution Professional by the NCLT who took over the CIRP from Shri Gangwal, the IRP.
5. The list of creditors was prepared and updated from time to time, based on the claims submitted by the Creditors which were duly verified based on the accounts of Goa Invescast Ltd, with the help of Chartered Accountant and Statutory Auditors of Goa Invescast Ltd. Accordingly, the claim of Rs 17,90,268/- submitted by EPFO, Goa, was admitted and included in the list of creditors which was also posted on the websites of Goa Invescast Ltd, and IBBI.
6. The workmen and employees of Goa Invescast Ltd, through their union/association submitted their claims for their various dues from Goa Invescast Ltd, which inter alia included their provident fund dues. Accordingly, their provident fund dues were as follows:



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Workmen –	Rs.47.58 lakhs.
Employees –	Rs.15.58 lakhs.
Total –	Rs.63.15 lakhs

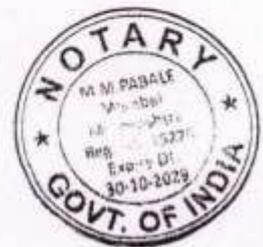
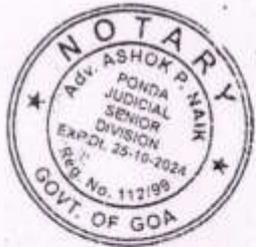
7. The above claims of provident fund dues made by the workmen were admitted in full and included in the list of creditors. The Resolution Applicant was also communicated about this provident fund dues by the Resolution Professional.
8. Subsequently, EPFO, Goa filed a revised claim of Rs.52,14,739/-, in Form B dated 16.1.2020.
9. Thus, the total amount claimed by EPFO towards the dues from Goa Invecast Ltd. was Rs.52,14,739 while the claim made by workmen and employees towards provident dues was Rs.63.15 lakhs which was admitted. Thus, the entire amount of claim towards the provident fund dues has been admitted and is reflected in the list of creditors.
10. The successful Resolution Applicant, viz., the consortium led by Syonira Invecast Private Ltd. in its Resolution Plan offered to settle the entire amount of Rs.63.15 lakhs towards the provident fund dues of the workmen and employees in totality and the resolution plan specifically mentions that the said payment, is towards the final settlement and any thing over and above the said amount, should be waived off (Page 75 Clause 15 (a) of the Resolution Plan).
11. The NCLT's order dated 9.11.2021 at Page 15 and Page 23 also mentions that the Resolution Applicant will be paying Rs.63.15 lakhs as 100% payment of Statutory Liabilities of PF within 60 days.
12. Thus, in view of the above, it is clear that after the payment of Rs.63.15 lakhs towards the provident fund dues, the entire liability towards the provident fund gets settled and no further claim from the EPFO survives in view of the approval of the Resolution Plan by the NCLT vide its order dated 9.11.2021.
13. The relevant provisions of the Code and the judgements of the Honourable Supreme Court of India in this regard are as follows:

a) Section 31(1) of the Code provides as follows:

31. Approval of resolution plan. –
 (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, [including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,] guarantors and other stakeholders involved in the resolution plan.

b) Section 238 of the Code provides as follows:

238. Provisions of this Code to override other laws. –



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The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

c) In the matter of Ghanashyam Mishra and Sons Private Limited through the Authorized Signatory Vs. Edelweiss Asset Reconstruction Company Limited through the Director & Ors. [Civil Appeal No. 8128 of 2019 with WP (Civil) No. 1177 of 2020 and Civil Appeals No. 1550-1554 of 2021] the Honourable Supreme Court of India has held as under:

"(i) That once a resolution plan is duly approved by the Adjudicating Authority under subsection (1) of Section 31, the claims as provided in the resolution plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors and other stakeholders. On the date of approval of resolution plan by the Adjudicating Authority, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan;" (Para 95; Page No.103 of the order). Copy of the order is attached herewith.

d) In the matter of Regional Provident Fund Commissioner Vs. Vandana Garg, NCLAT in its order dated 12-5-2021 has held as follows:

"34. Based on the above the law laid down by Hon'ble Supreme Court, it is clear that after approval of the Resolution Plan under Section 31, the claims as provided in the Resolution Plan shall stand frozen and will be binding on the Corporate Debtor and its employees, members, creditors including the Central Government, any State Government or any Local Authority, Guarantors and other Stakeholders. On the approval of the Resolution Plan by the Adjudicating Authority, all such claims that are not a part of the Resolution Plan shall stand extinguished. No person will be entitled to initiate continuing any proceedings regarding a claim that is not part of the Resolution Plan. The Appellants claim about Provident Fund dues amounting to ₹1,95,01,301/-, which was earlier raised at the time of initiation of CIRP and was later admitted, stood frozen and will be binding on all the Stakeholders, including the Central Government. After approval of the Resolution Plan by the Adjudicating Authority, all such claims that are not part of the Resolution Plan shall stand extinguished. No person is entitled to initiate or continue any proceeding regarding a claim that is not part of the Resolution Plan."



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I hope the above would clarify the position.

Thanking you.

Yours faithfully

(Anil S. Vaidya)

Resolution Professional
Goa Invescast Ltd.
Registration No.: BBI/PA-002/IP-N00087/2016-2017/10146
Address: Plot no. 107, Survey no. 62/65,
Mahatma Society, Bhuvan Colony,
Kothrud,
Pune-411 308.
Email: anilvaidya32@gmail.com

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42. The RP's reply brings out the following:

- i. The CIRP of the Goa Invest Cast Ltd. was initiated on 04.07.2019. The IRP invited claims from the Creditors on 10.07.2019 with last date for submission of claims as 22.07.2019.
- ii. Assistant PF Commissioner EPFO Regional office Goa submitted his claim of Rs. 17,90,268/- to the IRP on 24.09.2019, nearly 2 month after the last date of submission of such claims. The claim was admitted in full by the RP.
- iii. Subsequently, the workmen and employees of Goa Invest Cast Ltd. submitted their claims of PF dues through their union/ association which was as follows:

S. N.	Category	Amount
1.	Workmen	Rs. 47.45 lakhs
2.	Employees	Rs. 15.58 lakhs
Total		Rs. 63.15 lakhs

The above claim filed by workmen and employees was admitted in full by the RP and the claim was also included in the list of creditors.

- iv. Subsequent to filing of claim by workmen and employees, EPFO Goa filed a revised claim of Rs. 52,14,739/- in Form-B dated 16.01.2020.
- v. As the claim submitted by the workmen and employees was higher than the claim of EPFO, the RP processed the higher claim of Rs. 63.15 lakhs, which was approved by the CoC as well as the Adjudicating Authority.

vi. RP further quoted the provisions of Section 31 (1) of the Code which provides that the resolution plan as approved by the Adjudicating Authority is binding on all including the Central Government. RP also cited the Judgments of Hon'ble Supreme Court in '*Ghanshyam Mishra and Sons Private Limited vs. Edelweiss Asset Reconstruction Company Limited through the Director and Others*', [(2021) 9 SCC 657], and the Judgment of this Appellate Tribunal in the matter of '*Regional Provident Fund Commissioner Vs. Vandana Garg [Company Appeal (AT) (CH) (Ins.) No. 50 of 2021]*'.

43. The Section 14 of the Code provides for moratorium during the CIRP proceedings and its impact on CD and other stakeholders. The sub section relevant to new or ongoing proceedings is Section 14 (1) (a) which is extracted below:

"Section 14: Moratorium.

**14. (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;"

44. It can be seen from the above that the moratorium encompasses a very sweeping definition and bars both initiation and continuation of any pending suit or proceedings against the CD. The proceeding may be before any court of law, Tribunal, Arbitration Panel or other authority. The proceedings before

EPFO would fall in the category of “proceedings before other authority”. The language of the Section 14 (1) (a) therefore clearly indicates a bar against initiation of proceeding by the EPFO Authorities during the moratorium period.

45. This Appellate Tribunal had examined the effect of Moratorium on EPFO proceedings in ‘*Employees Provident Fund vs. Jaykumar Pesumal Arlani [Comp. App. (AT) (Ins.) No. 1062 of 2024]*’. The relevant paras 9 to 13 are extracted below:

“9. From the submissions of learned Counsel for the parties, following issues arise for consideration:

(1) Whether after imposition of moratorium under Section 14 of the IBC, assessment proceedings can be carried on by the EPFO under Section 7A, 14B and 7Q of the EPF & MP Act, 1952.

(2) Whether any claim on the basis of assessment, subsequent to imposition of moratorium, can be admitted in the CIRP.

(3) Whether claims, which were filed by the Appellant(s), subsequent to the approval of Resolution Plan by the CoC, could have been admitted in the CIRP.

Question Nos. (1) & (2)

Question Nos.(1) & (2) being interrelated, are being taken together.

10. *In Company Appeal (AT) (Ins.) No.1062 of 2024, CIRP was initiated vide order dated 03.05.2021 and the assessment order under Section 7A was passed on 11.08.2023 and order under Section 14B and 7Q was issued on 16.08.2023. In Company Appeal*

(AT) (Ins.) No.1065 of 2024, the CIRP against the CD commenced on 12.07.2021 and assessment order under Section 7A was passed on 29.08.2022. It is an admitted position that in both the cases, assessment orders under Section 7A, 14B and 7Q were passed subsequent to initiation of CIRP against the CD. Moratorium under Section 14 was imposed by the Adjudicating Authority, initiation CIRP. Section 14(1) of the IBC provides as follows:

“14. Moratorium. –

(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 judgement, decree or order in any court of law, tribunal, arbitration panel or other authority;

(b) transferring, encumbering, alienating or disposing off by the corporate debtor any of its assets or any legal right or beneficial interest therein;

(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002);

(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.

Explanation.-For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a licence, permit, registration, quota, concession, clearance or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license or a similar grant or right during moratorium period.”

11. *The Hon’ble Supreme Court had occasion to consider effect and consequence of imposition of moratorium. The Hon’ble Supreme Court in (2020) 13 SCC 208 – Rejendra K. Bhutta vs. Maharashtra Housing and Area Development and Anr. held that after the imposition of moratorium, a statutory freeze takes place. In paragraph 25 of the judgment, following was held:*

“25. There is no doubt whatsoever that important functions relating to repairs and reconstruction of dilapidated buildings are given to MHADA. Equally, there is no doubt that in a given set of circumstances, the Board may, on such terms and conditions as may be agreed upon, and with the previous approval of the Authority, hand over execution of any housing scheme under its own supervision. However, when it comes to any clash between MHADA Act and the Insolvency Code, on the plain terms of Section 238 of the Insolvency Code, the Code must prevail. This is for the very good reason that when a moratorium

is spoken of by Section 14 of the Code, the idea is that, to alleviate corporate sickness, a statutory status quo is pronounced under Section 14 the moment a petition is admitted under Section 7 of the Code, so that the insolvency resolution process may proceed unhindered by any of the obstacles that would otherwise be caused and that are dealt with by Section 14. The statutory freeze that has thus been made is, unlike its predecessor in the SICA, 1985 only a limited one, which is expressly limited by Section 31(3) of the Code, to the date of admission of an insolvency petition up to the date that the adjudicating authority either allows a resolution plan to come into effect or states that the corporate debtor must go into the liquidation. For this temporary period, at least, all the things referred to under Section 14 must be strictly observed so that the corporate debtor may finally be put back on its feet albeit with a new management.”

12. *In (2021) 6 SCC 258 – P. Mohanraj and Ors. Vs. Shah Brothers ISPAT Pvt. Ltd., the Hon’ble Supreme Court had occasion to interpret the expression “proceeding” in Section 14. The object and purpose of moratorium has been captured in paragraph 30 of the judgment, which is as follows:*

“30. It can be seen that Para 8.11 refers to the very judgment under appeal before us, and cannot therefore be said to throw any light on the correct position in law which has only to be finally settled by this Court. However, Para 8.2 is important in that the object of a moratorium provision such as Section 14 is to see that there is no depletion of a corporate debtor's assets during the insolvency resolution process so that it can be kept

running as a going concern during this time, thus maximising value for all stakeholders. The idea is that it facilitates the continued operation of the business of the corporate debtor to allow it breathing space to organise its affairs so that a new management may ultimately take over and bring the corporate debtor out of financial sickness, thus benefitting all stakeholders, which would include workmen of the corporate debtor. Also, the judgment of this Court in Swiss Ribbons (P) Ltd. v. Union of India [Swiss Ribbons (P) Ltd. v. Union of India, (2019) 4 SCC 17] states the raison d'être for Section 14 in para 28 as follows : (SCC p. 55)

“28. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters/those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protect the corporate debtor's assets from further dilution, and also protects all its creditors and workers by seeing that the resolution process goes through as fast as possible so that another management can, through its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends.”

13. *The plain reading of Section 14, sub-section (1) indicates that expression ‘suits or proceedings against the corporate debtor’ has been used. The word ‘proceeding’ is not qualified, so as to confine it to proceedings before the Civil Court. The proceedings, which have the effect on the assets of the CD are all covered in the expression ‘proceeding’. The question to be answered is as to whether after moratorium has been imposed, it was open for EPFO to proceed with the assessment proceeding. Learned Counsel for the parties state that during moratorium proceeding, no recovery proceeding can be initiated against the CD. However, submissions of the learned Counsel for the Appellant is that assessment proceedings against the CD may continue. Hence, the orders of assessment passed during moratorium period, were fully permissible and the claim on the basis of the said proceedings had to be admitted in CIRP.”*

46. The operative portion of the Judgment in *Pesumal Arlani* (supra) is given in para 24 of the Judgment which is extracted below:

“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.”

47. The Judgment in *Pesumal Arlani* (supra) has also discussed the Judgment of Hon’ble Supreme Court relied upon by the Respondent in ‘*Sundresh Bhatt, Liquidator of ABG Shipyard vs. Central Board of Indirect Taxes and Customs [(2023) 1 SCC 472]*’. The findings of the Appellate Tribunal in para 18 of the Judgment are extracted below:

“18. The Hon’ble Supreme Court in paragraph 42 held that demand notice to seek enforcement of the customs dues during the moratorium period, clearly violate the provisions of Section 14 or 33(5) of the IBC. In paragraph 42, following was held:

“42. We are of the clear opinion that the demand notices to seek enforcement of custom dues during the moratorium period would clearly violate the provisions of Sections 14 or 33(5) of the IBC, as the case may be. This is because the demand notices are an initiation of legal proceedings against the Corporate Debtor. However, the above analysis would not be complete unless this Court examines the extent of powers which the Respondent authority can exercise during the moratorium period under the IBC.”

48. This Appellate Tribunal in “*CA Pankaj Shah Vs Employee Provident Fund Organisation and Another [Comp. App. (AT) (Ins.) No. 17 of 2025]*”, reiterated the decision of the *Pesumal Arlani* (supra) holding that after initiation of CIRP, and when the moratorium under Section 14(1) of the IBC

was in force, no assessment can be initiated or continued against the Corporate Debtor or enforced on the basis of an assessment carried out during the period so as to pass any pecuniary liability on the Corporate Debtor.

49. It is undisputed that the CIRP of the Corporate Debtor commenced on 04.07.2019, and the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 continued till the approval of the Resolution Plan on 09.11.2021. The demand made by the EPFO on the basis of the inspection and assessment culminating in the order dated 06.04.2021, as well as the summons dated 18.05.2022, is clearly a demand sought to be enforced after commencement of the CIRP and during the subsistence of moratorium. The assessment proceedings under Sections 7A, 7Q and 14B, which formed the basis of the subsequent demands, were initiated and culminated during the moratorium period, and the consequential demands were sought to be raised after approval of the Resolution Plan. The revised claim raised vide summons dated 18.05.2022, claiming an amount of Rs. 62,09,154/-, was thus founded entirely on proceedings and determinations undertaken post commencement of CIRP, and in respect of which no claim was ever filed during the CIRP. Such determinations of EPFO claims and subsequent demand of Rs. 62,09,154/- on 06.04.2021, during the subsistence of moratorium period, which is sought to be enforced against the Successful Resolution Applicant after approval of the Resolution Plan, are clearly hit by the moratorium and cannot form the basis of any enforceable claim against the SRA.

50. The Appellant placed reliance on the judgment of the Hon'ble Supreme Court in *Ghanshyam Mishra* (supra) and *Electrosteel Steel Limited Vs Ispat Carrier Private Limited*, cited as (2025) 7 SCC 773. In the above cases the Hon'ble Supreme Court reiterated that once a resolution plan is duly approved by the Adjudicating Authority under Section 31(1) of the IBC, it becomes binding on the corporate debtor and all its stakeholders, including creditors, central and state governments, guarantors, and other stakeholders. All claims that are not a part of the approved resolution plan stand extinguished, and no person can initiate or continue any proceeding in respect of such claims.

51. The Respondent on the other hand has cited several Judgment of Hon'ble Supreme Court and Hon'ble High Court, but none of these cases relate to inter play between EPF and MP Act, 1952 and the IBC. The main Judgment relied by the respondents is the decision of this Appellate Tribunal in *Regional Provident Fund Commissioner -1 Ahmedabad vs. Ramchandra D. Choudhary* (supra). However, we note that the aforesaid Judgment refers to the claims of the EPFO finalized during the liquidation of the company. Respondent has submitted that under Section 36 (4) (iii) of the Code the 'Provident Fund' and the 'Gratuity Fund' are not the assets of Corporate Debtor and therefore this Appellate Tribunal held that there is no conflict between Section 238 of I&B Code and the provisions of the EPF and MP Act, 1952. The Judgment was further upheld by the Hon'ble Supreme Court.

52. The ratio of the above Judgment in liquidation proceedings holds true as the moratorium under the liquidation proceedings does not bar initiation of proceedings. However, as we have seen in the Judgments of Hon'ble Supreme Court in P.Mohanraj (Supra) that the proceedings under Section 14 (1)(a) of the Code have a very wide and expansive scope and covers every type of proceedings including those by statutory authorities.

53. We note that the judgment of this Appellate Tribunal in "*CA Pankaj Shah (supra)*" reiterated the decision of this Tribunal in *Pesumal Arlani (supra)* holding clearly that after initiation of the CIRP, no assessment proceedings can be initiated or continued against the Corporate Debtor so as to fasten any pecuniary liability upon it. In the present case, it is undisputed that the CIRP of the Corporate Debtor commenced on 04.07.2019, and the moratorium under Section 14 of the Code remained in force till 09.11.2021, when the Resolution Plan came to be approved. Notwithstanding the subsistence of the moratorium and the subsequent approval of the Resolution Plan, the EPFO raised demands on the basis of assessment proceeding which culminated in the order dated 06.04.2021. Thereafter EPFO issued a notice dated 29.04.2022 and summons dated 18.05.2022, to the Corporate Debtor, claiming fresh dues amounting to Rs. 62,09,154/- were to be paid by the CD. The said demands were founded upon proceedings and determinations undertaken during the moratorium period, and no claim in respect thereof was ever filed during the CIRP. When no demand could be made on the basis of any inspection or assessment carried out during the moratorium, we find no ground to sustain the claim sought to be enforced by

the EPFO through its post-CIRP notices and summons, nor do we find any merit in the cross appeal filed by the EPFO seeking priority treatment of such claims.

54. In view of the findings, that no assessment proceedings can be continued by the EPFO after the initiation of moratorium under section 14(1) of the Code and further no claim on the basis of assessment carried out during the moratorium period can be pressed by the EPFO, the Appeal filed by the Successful Resolution Applicant, being Company Appeal (AT) (Insolvency) No. 2319 of 2024, to the extent of prayer (a) of the appeal is allowed. The linked appeal filed by the Employees' Provident Fund Organisation, being Company Appeal (AT) (Insolvency) No. 141 of 2024, is dismissed. All pending Interlocutory Applications, if any, stand disposed of. The parties shall bear their own costs.

[Justice Mohd. Faiz Alam Khan]
Member (Judicial)

[Mr. Indevar Pandey]
Member (Technical)

SA/Prince (LRA)