



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
12-03-2026 AT 01:00 P.M.**

**CP(IB) No. 203/7/HDB/2022
AND
IA (IBC) 286/2026 in CP(IB) No. 203/7/HDB/2022
u/s. 7 of IBC, 2016**

IN THE MATTER OF:

State Bank of India

...Financial Creditor

AND

Gati Infrastructure Bhasmeyer Power Private Ltd

...Corporate Debtor

C O R A M:-

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

ORDER

IA (IBC) 286/2026

Present: Mr. Mano Ranjani, Liquidator

Orders pronounced, recorded vide separate sheets.

In the result, this application is allowed and disposed of.

**Sd/-
MEMBER (T)**

**Sd/-
MEMBER (J)**



THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH - I

IA (IBC) No. 286 of 2026 in

C.P (B) No. 203/7/HDB/2022

In the matter of

**M/s Gati Infrastructure Bhasmey Power Private Limited
(Under Liquidation)**

BETWEEN:

Gati Infrastructure Bhasmey Power Private Limited

Represented by its Liquidator

MS Mano Ranjani Address at Unit 208,

Fairmount Fortune One Czech Colony,

Sanathnagar Hyderabad,

Telangana - 50001 8

... Liquidator/Applicant

Vs

1. **Employees Provident Fund Organisation**

Ministry of Labour and Employment, Govt of India,

Having its regional office at 3 -4-7 63,

Bhavishya Nidhi Bhavan,

Bharatpura, Hyderabad.

2. **Assistant PF Commissioner**

(C-1) Regional Office -1, Hyderabad.

3. **Central Provident Fund Commissioner**

Employees' Provident Fund Organisation

Ministry of Labor & Employment

Plate A, Ground Floor, Office Block II.

East Kidwai Nagar, New Delhi 110023.

...Respondents

Date of Order: 12.03.2026

CORAM:

Shri Rajeev Bhardwaj, Hon'ble Member (Judicial)

Shri Sanjay Puri, Hon'ble Member (Technical)



IN THE NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH, COURT-I

I.A (IBC) No. 286 of 2026

IN

C.P (IB) No. 203/07/HDB/2022

Date of Order: 12.03.2026

Counsel/Parties present:

For the Petitioner : Smt. Mano Ranjani Ld. Counsel

For the Respondent : Mr. Vinod Pasala Ld. Counsel for EPFO

ORDER

1. The Applicant is the Liquidator of the Corporate Debtor, M/s Gati Infrastructure Bhasmey Power Private Limited. This applicant seeks directions to declare that the orders dated 26.07.2023 passed under section 7A and 06.03.2024 passed under section 7B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("**EPF Act**"), having been passed during the subsistence of moratorium u/s 14 of the Insolvency and Bankruptcy Code, 2016 ("**Code**"), are non-est, unenforceable and incapable of being acted upon against the Corporate Debtor and the liquidation estate.

Application

2. The State Bank of India initiated proceedings under section 7 of the Insolvency and Bankruptcy Code, 2016 ("**Code**") against M/s Gati Infrastructure Bhasmey Power Private Limited ("**Corporate Debtor**"), which was admitted into CIRP vide order dated 24.04.2023 by this Adjudicating Authority ("**Authority**"). The moratorium u/s 14 of the Code came into force with effect from the said date. All statutory authorities, including the Respondents, were duly informed of the commencement of CIRP and the moratorium.
3. Mr Anshul Gupta was appointed as the Interim Resolution Professional, who was thereafter confirmed as the Resolution Professional. Subsequently, pursuant to IA No. 19/2024, this Authority, by order dated 06.12.2024, directed liquidation of the Corporate Debtor and appointed M.S. Mano Ranjani as the Liquidator.



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4. Despite the subsistence of the moratorium, the Assistant Provident Fund Commissioner, Hyderabad, proceeded to exercise jurisdiction and passed an order dated 26.07.2023 under section 7A of the EPF Act and thereafter rejected the review application by order dated 06.03.2024 under section 7B of the said Act, both of which were issued during the subsistence of the moratorium-imposed u/s 14 of the Code.
5. The alleged provident fund dues forming the subject matter of the aforesaid orders pertain to contract labour engaged through IWs Simplex Infrastructures Ltd., which is an independently covered establishment under the EPF & MP Act, 1952, having a separate Provident Fund Establishment Code WB/PRB/002960100A, and falling under the jurisdiction of EPFO, Kolkata. The said contractor independently discharged all statutory provident fund obligations in respect of its workforce engaged at the project site of the Corporate Debtor.
6. The EPFO, Kolkata, has formally confirmed that provident fund contributions for the relevant period were duly remitted by IWs Simplex Infrastructures Ltd., along with supporting challans and ECRs, and the said factual position has not been disputed by the Respondents.
7. During the CIRP and liquidation, the Respondents lodged claims aggregating to approximately 59.61 Crores, founded upon the aforesaid Section 7A and 7B orders. The said claims were rejected by the Resolution Professional Liquidator, inter alia, on the grounds that:
 - a. The impugned orders were passed during the moratorium in violation of Section 14 of the Code and the alleged dues related to employees of an independent contractor and not to employees of the Corporate Debtor.



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- b. The Respondents did not avail the statutory remedy u/s 42 of the Code against the said rejection.
8. In view of the continued subsistence and effect of the impugned orders, the Applicant-Liquidator submitted a detailed representation dated 08.05.2025 to the Central Provident Fund Commissioner, bringing to notice the moratorium violation, lack of jurisdiction, and confirmed contractor compliance, and seeking appropriate corrective action.
9. While the said representation remained pending, the Applicant approached this Tribunal by filing IA (IBC) No. 1096 of 2025. This Tribunal, by order dated 03.12.2025, directed the Central Provident Fund Commissioner to consider and decide the representation in accordance with law and expressly granted liberty to the Applicant to approach this Adjudicating Authority again in the event any grievance survived thereafter.
10. Pursuant to the aforesaid direction, the Applicant reiterated the representation before the Central Provident Fund Commissioner. The Central Provident Fund Commissioner, however, by communication dated 30.01.2026, declined to grant any relief on the ground that the issues raised could not be considered on merits for want of jurisdiction.
11. The Applicant submits that the said communication does not determine, confirm, or adjudicate the alleged provident fund dues on merits. The said communication merely records that the Central Provident Fund Commissioner does not possess jurisdiction to examine the issues raised in the representation and, accordingly, declines to grant relief.
12. It is contended that the said communication is expressly issued "*without prejudice to any action permissible in law*" and did not examine or adjudicate upon, the effect of the moratorium u/s 14 of the Code,



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the confirmation issued by EPFO, Kolkata, evidencing that the provident fund contributions for the relevant period had been duly remitted by the independent contractor, the fact that the alleged provident fund dues did not pertain to the Corporate Debtor, but related to the employees of an independent contractor and the fact that no appeal had been preferred by the Respondents u/s 42 of the Code against the rejection of their claim by the Liquidator.

13. The effect of the said communication is limited to stating that the EPFO Head Office is not the appropriate authority to decide the issues raised. Consequently, the issues relating to the effect of moratorium u/s 14 of the Code, the treatment of the alleged dues in liquidation, and their impact on the insolvency estate remain undecided, thereby necessitating adjudication by this Tribunal in exercise of its jurisdiction u/s 60(5) of the Code.
14. Accordingly, the said communication neither determines the alleged provident fund dues on merits nor dilutes the supremacy of the Code and does not preclude the Applicant from pursuing appropriate remedies before this Tribunal, the competent forum under the Code.

Decision

15. We have heard both the counsels and have perused the records. The issue arises as to whether any claim based on such an assessment and order carried out by EPFO during the moratorium could be admitted.
16. Here we refer to Section 5(12) read with Sections 7(5) and 7(6), which makes it clear that the insolvency commencement date is the date of admission of the application, and CIRP commences from that very date. The communication of the order under Section 7(7) is merely procedural and does not defer its legal effect. Section 14(1)(a) prohibits the institution or continuation of proceedings against the Corporate Debtor.



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17. The object and scope of Section 14 have been authoritatively explained by the Hon'ble Supreme Court in *ABG Shipyard Liquidator v. Central Board of Indirect Taxes & Customs*¹, wherein it was held that the moratorium is intended to preserve the assets of the Corporate Debtor, prevent dissipation, and ensure orderly conduct of the insolvency process. The moratorium operates as a statutory embargo against the continuation of coercive or adjudicatory proceedings that may affect the assets or liabilities of the Corporate Debtor.
18. In the present case, the proceedings under Section 7A of the EPF Act culminated in the determination of liability against the Corporate Debtor on 26.07.2023, i.e., after the insolvency commencement date of 24.04.2023. The rejection of the review application on 06.03.2024 also occurred during the subsistence of the moratorium. The order passed under section 7A and 7B directly impacts the financial position of the Corporate Debtor and, consequently, the insolvency estate. The Respondent-EPFO filed a claim before the RP, and the same was rejected on 08.11.2023. It is observed that the Respondents did not avail the statutory remedy under Section 42 of the Code against the rejection of the claim by RP.
19. It is a settled position of law that after initiation of the CIRP, no assessment can be initiated or continued against the Corporate Debtor so as to pass any pecuniary liability on the Corporate Debtor. In the present case, the EPFO has made a demand on the basis of an alleged inspection report and assessment order dated 26.07.2023, which were both subsequent to the initiation of CIRP on 24.04.2023. Considering the law, the demand made by the EPFO on the basis of an inspection report made after initiation of moratorium is not enforceable as Section

¹ (2023) 1 SCC 472



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14(1) of the Code prohibits the initiation or continuation of assessment during the moratorium period.

20. Here we place our reliance on **CA Pankaj Shah v. Employee Provident Fund Organisation (EPFO) and Anr**² where this issue of whether assessment proceedings can be continued by EPFO after initiation of moratorium under Section 14(1) of IBC has been considered at length and held that after initiation of CIRP and imposition of moratorium under Section 14 of IBC, EPFO cannot initiate or continue assessment proceedings under Sections 7A, 7Q, and 14B of EPF & MP Act, and no claim based on such assessment can be admitted in CIRP, demands made by EPFO on the basis of inspection and assessment orders passed during moratorium are unenforceable.
21. It is further submitted by the Liquidator that the Respondent-EPFO filed its claim before him on the basis of the assessment order dated 26.07.2023, passed during the subsistence of the moratorium. Since the said assessment was undertaken in violation of Section 14 of the Code, the order passed pursuant thereto is unenforceable and *non-est* in law. Consequently, the claim filed by the EPFO, being funded entirely on an assessment order passed during the moratorium period, is unenforceable against the Corporate Debtor even in liquidation. Here, we place reliance on the case of the Hon'ble Supreme Court in the matter of **Alchemist Asset Reconstruction Company Ltd. v. Hotel Gaudavan Pvt. Ltd.**³, which held that once a moratorium comes into effect, any proceedings initiated thereafter against the Corporate Debtor are *non est* in law.

² (2025) ibclaw.in 699 NCLAT

³ (2017) ibclaw.in 09 SC



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In view of the aforesaid, declare that the orders dated 26.07.2023 passed under section 7A and 06.03.2024 passed under section 7B of the EPF Act, having been passed during the subsistence of moratorium u/s 14 of the Code, are not enforceable against the Corporate Debtor and *non-est* in law. This IA is allowed and disposed of accordingly.

Sd/-

**SANJAY PURI
MEMBER (TECHNICAL)**

Sd/-

**RAJEEV BHARDWAJ
MEMBER (JUDICIAL)**