



IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.304

Rest.Appli/5(AHM)2026 in IA/769(AHM)2022
in

CP(IB) 418 of 2018

Proceedings under Section 60(5) of IBC,2016 r/w Rule 48 of NCLT Rules,2016

IN THE MATTER OF:

Swan Defence and Heavy Industries Limited

.....Applicant

V/s

Regional Provident Fund Commissioner -II/ Assessing Officer
Employees Provident Fund Organisation & Another

.....Respondent

Order delivered on: 28/07/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)

Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)



**NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD BENCH (COURT-II)**

**Rest. Application/5(AHM) OF 2026
in IA 769(AHM)2022**

IN

Company Petition (IB) No. 418 of 2018

(Under Section 60 (5) of the Insolvency and Bankruptcy
Code, 2016 r/w Rule 48 of NCLT Rules, 2016)

Swan Defence and Heavy Industries Limited
having its registered office at
Pipavav Port, Post – Ucchaiya, Via – Rajula,
District – Amreti, Pincode – 365560,
CIN No. - L35110GJ1997PLC033193,
Email: aashritha.nair@swan.co.in

....Applicant

Versus

1. Regional Provident Fund Commissioner - II
/Assessing Officer

Employees Provident Fund Organisation
Ministry of Labour and Employment,
Government of India

Bhavishya Nidhi Bhavan, Nr. RBI, Income Tax Circle,
Ashram Road. Ahmedabad - 38
ro.ahmedabad@epfindia.gov.in

...Respondent. No. 1.

2. Enforcement Officer.

Employees Provident Fund Organisation,
Bhavnagar

Ministry of Labour and Employment,
Government of India

Bhavishya Nidhi Bhavan, Nr. RBI, Income Tax Circle,
Ashram Road, Ahmedabad - 38
ro.ahmedabad@epfindia.gov.n

...Respondent. No. 2.

Sd/-

Sd/-



Order pronounced on 28.07.2026

Coram:

**MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)**

**MR. VELAMUR G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)**

Appearance:-

For the Applicant : Mr Parth Contractor, Adv,
: Mr. Amir Arsiwala, Adv.
For Respondent : Mr. A.V. Nair, Adv.

JUDGEMENT

1. This application has been filed Under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 r/w Rule 48 of NCLT Rules, 2016, for restoration of IA 769 of 2022 in CP 418 of 2018. The applicant submitted that being SRA they are substituted in application in place of RP. According to the applicant, the arguments in application were concluded on 12.12.2025 and they were directed to file written submissions. The written submissions were filed on 26.12.2025. The matter was listed to 27.01.2026 but it was dismissed for default.

-SD-

-SD-



2. The dismissal was not on merits but solely on account of non-appearance of the counsel when the matter was called out. It is submitted that the counsel was logged into after the matter was taken up and concluded. The application raises substantial question of law concerning the legality and continuation of proceedings u/s 7 (a) of the EPF Act. The instance for non-appearance on 27.01.2026 was inadvertent and bonafide procedural lapse. No prejudice will be caused to the respondent if the application is allowed. Ordinarily the matter should be decided on merits, hence prayed for restoration of the application.
3. The respondent No.1 & 2 have filed reply contesting the application. They have denied the contents of the application. The application IA 769 of 2022 was dismissed, which had become infructuous upon passing of the order dated 21.09.2023 u/s 7A of the EPF Act. The final order is appealable u/s 7A of the EPF Act. The application itself is not maintainable. Hence prayed for dismissal of the application.

sd/-

-SD-



4. Heard the Ld. Counsel for both the parties and perused the written submissions filed by them.
5. On perusal of the record it appears that the matter was fixed on 12.12.2025. They were heard but the arguments were not completely heard and the matter was adjourned to next date with permission to file written submission by both the parties. The next fixed date was 23.01.2026. As per the order of Hon'ble President, NCLT, the Board was re-notified and the matter was fixed on 27.01.2026. On 27.01.2026, due to absence of the advocate for applicant, the matter was dismissed for default. The actual date fixed was 23.01.2026 but the applicant filed written submissions on 26.01.2026, which had not come on record on 27.01.2026.
6. On 12.12.2025, the parties were directed to file written submissions within one week i.e. one week from 12.12.2025, means before 19.12.2025. It appears that the applicant has not filed the written submissions within the time limit granted for the same. Therefore, it was not taken on record.

-SD-

SD/-



7. At this stage, it is not necessary to go into the merits of the case but only it is to be seen whether a satisfactory reason is given by the applicant for his non-appearance on the date when the matter was listed for hearing.
8. However, considering the fact that the Board was re-notified on 27.01.2026 when the applicant has not appeared, but he tried to login afterwards, in the interest of justice an opportunity can be given to the applicant by restoring the application. However, as he has not filed written submissions within time and not remained present when the matter was called out, some cost needs to be awarded.
9. Hence, we pass the following order.

ORDER

The application is allowed subject to payment of cost of Rs. 5000/- to be paid to each respondent. On filing proof of payment of cost, IA 769 of 2022 be restored to the file.

Sd/-

DR. V.G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-SD-

CHITRA HANKARE
MEMBER (JUDICIAL)