IN THE NATIONAL COMPANY LAW TRIBUNAL
DIVISION BENCH–I, CHENNAI

ATTENDANCE CUM ORDER SHEET OF THE HEARING
HELD ON **04.08.2026** THROUGH VIDEO CONFERENCING

CORAM: **HON'BLE SHRI. SANJIV JAIN, MEMBER (JUDICIAL)**
HON'BLE SHRI. VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

IN THE MATTER OF **:** Deepa Timber Industries
Vs
Saraswati Udyog India Ltd.

MAIN PETITION NUMBER **:** CP(IBC)/185/CHE/2020

(IA/MA) APPLICATION NUMBERS

IA(IBC)/372(CHE)2026, IA(IBC)/416(CHE)2026

ORDER

IA(IBC)/372(CHE)2026
IA(IBC)/416(CHE)2026

Present: None for the Applicant/EPFO.
None for the Liquidator.

Vide common order pronounced in the Open Court, both the applications are disposed of.

IA/416/2026 is allowed and IA/372/2026 is dismissed.

Sd/-
[VENKATARAMAN SUBRAMANIAM]
MEMBER (TECHNICAL)

Sd/-
[SANJIV JAIN]
MEMBER (JUDICIAL)

VS

IN THE NATIONAL COMPANY LAW TRIBUNAL,

DIVISION BENCH – I, CHENNAI

I.A. (IBC) / 372 / (CHE) 2026

In

IBA / 185 / 2020

(Filed under Section 42 of Insolvency and Bankruptcy Code, 2016 Read with Rule 11 of the National Company Law Tribunal Rules, 2016)

REGIONAL PROVIDENT FUND COMMISSIONER - I,
Employees' Provident Fund Organization,
Regional Office,
Represented by M Vigneshwaran,
Steel Plant Road, Dalavaipatti
Salem – 636 302

…. *Applicant*

Vs.

SARASWATI UDYOG INDIA LIMITED,
Represented by Shri. Gopalasamy Ganesh Babu,
No. 986, H-Block,
No. 24th Street, Anna Nagar (West),
Chennai – 600 040

…. *Respondent / Liquidator*

I.A. (IBC) / 416 / (CHE) 2026

In

IBA / 185 / 2020

(Filed under Rule 11 of National Company Law Tribunal Rules, 2016 Read with Section 60(5) of Insolvency and Bankruptcy Code, 2016)

REGIONAL PROVIDENT FUND COMMISSIONBER – I (LEGAL),
Employees Provident Fund Organization,

Regional office,
Represented by M Vigneshwaran,
Steel Plant Road, Dalavaipatti,
Salem – 636 302.

…. *Applicant*

Vs.

SARASWATI UDYOG INDIA LIMITED,
Represented by Liquidator,
Gopalsamy Ganesh Babu,
No. 986-H Bock, 24th Street,
Anna Nagar,
Chennai – 600 040

…. *Respondent / Liquidator*

Order Pronounced on ***04th August, 2026***

CORAM:
SANJIV JAIN, MEMBER (JUDICIAL)
VENKATARAMAN SUBRAMANIAM, MEMBER (TECHNICAL)

Present:
For Applicant: *P. K. Paneer Selvam, P Murthy, V Haritha, Advocates*
For Respondent: *A. Karthikeyan, R. Devi, Advocates*

COMMON ORDER

(Hearing through hybrid mode)

The application, I.A. (IBC) / 372 / (CHE) 2026 has been filed by Regional Provident Fund Commissioner - I, under Section 42 of Insolvency and Bankruptcy Code 2016 r/w Rule 11 of NCLT Rules 2016 seeking the following reliefs:

"a. to set aside the order/ communication of the respondent dated 07.02.2026 and consequently,

b. To direct the Respondent to treat the left over claim of Rs.55,92,945/- as under Sec.36(4)(a)(ili) of IBC and consequently direct the Respondent to pay the entire revised claim amount of Rs.85,52,921/- of the Applicant on first priority from and out of the liquidation assets/estate of the Respondent, and

c. For such further and other reliefs as this Tribunal may deem fit in the facts and circumstances of the case. **"**

The application, I.A. (IBC) / 416 / (CHE) 2026 has been filed by Regional Provident Fund Commissioner - I, under Section 60(5) of Insolvency and Bankruptcy Code 2016 r/w Rule 11 of NCLT Rules 2016 following reliefs:

a. *"To Condone delay of 5 days in filing Application to set aside the order of the Liquidator dated 07.02.2026 and for other consequential reliefs.*
b. *For such further and other reliefs as this Tribunal may deem fit in the facts and circumstances of the case."*

3. SUBMISSIONS OF PETITIONER:

3.1 It is stated that Saraswati Udyog India Private Limited is an establishment covered under the provisions of the Employees' Provident Fund & Miscellaneous Provisions Act, 1952 and the Schemes framed thereunder, with effect from 01.01.2000.

3.2 It is stated that Saraswati Udyog India Private Limited was admitted to CIRP vide an order dated 04.10.2021 on a petition filed by the Operational Creditor Deepa

Timber Industries, and Mr. Elumalai Elango was appointed as the Interim Resolution Professional.

3.3 It is stated that the Committee of Creditors ("CoC") resolved that there was no viable prospect for the revival of the Corporate Debtor (*hereinafter referred to as CD*). It recommended for the liquidation. Consequently, this Tribunal, vide an order dated 09.05.2023 admitted the CD into Liquidation.

3.4 It is stated that the CD had committed default in remitting the provident fund contributions, awaiting damages, interest and administrative charges payable under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act"), amounting to Rs.2,30,22,534/- (Rupees Two Crore Thirty Lakhs Twenty-Two Thousand Five Hundred and Thirty-Four Only). The Applicant submitted its claim before the Respondent/Liquidator on 01.06.2023 for an amount of Rs. 2,30,22,524/- in the following manner :-

S.No	Nature of dues	Period of default	Amount in Rs.
1.	Dues assessed under Sec.7A	01/2019 to 10/2021	1,09,06,826
2.	Probable damages under Sec.14B	01/2019 to 10/2021	79,84,583
3.	Probable Interest under Sec.14B	01/2019 to 10/2021	38,32,603
4.	Short remittances	2019 to 2020	1,95,413
5.	Probable damages for short remittance	2019 to 2020	2,01,704
6.	Probable interest for short remittance	2019 to 2020	96,818
	Total		2,30,22,534

3.5 It is stated that the liquidator responded to the applicant vide letter dated 05.08.2023 that the assessment under Section 7A of the EPF & MP Act have been reworked from Rs. 1,09,06,826/- to Rs. 29,59,976/-.

3.6 It is stated that since the factory of the corporate debtor was in operation only up to September 2019 and salaries had been paid only up to the said period, the Liquidator did not take into account the claims towards damages and interest on the ground that the same were not supported by crystallized assessment orders.

3.7 It is stated that Liquidator vide letter dated 05.08.2023 requested the Applicant to take possession of certain vehicles belonging to the Corporate Debtor, which were under the Applicant's control, and to dispose of the same towards adjustment of the partially admitted claim of ₹29,59,976/-, and to remit any surplus sale proceeds to the liquidation estate. The Applicant, by its reply dated 15.09.2023, rejected the said proposal contending that it was the statutory obligation of the Liquidator under the Insolvency and Bankruptcy Code, 2016 ("IBC") to take custody and control of the assets of the Corporate Debtor and maximise the value of the liquidation estate, and such responsibility could not be delegated to the Applicant.

3.8 It is stated that revised claim was submitted before the Liquidator for a sum of Rs.85,52,921/-(Rupees Eighty-Five Lakhs Fifty-Two Thousand Nine Hundred and Twenty-One only) for the period from January 2019 to September 2019, vide letter dated 23.01.2026. Along with the revised claim, the Applicant furnished the copies of the Recovery Certificate (RRC), order passed under Section 7A of the EPF &MP Act

and the worksheets pertaining to damages and interest. The Revised Claim submitted is extracted as follows:

S.No	Nature of dues	Period of default	Amount in Rs.
1	Contributions under Section 7A (Corrigendum to Proceedings No. CB/RO-SLM/COMP/47281/ S4/7A-Corrigendum/2025 Dt: 07.01.2026)	01/2019 to 09/2019	29,59,976/-
2	Damages under Section 14 B (Corrigendum to Proceedings No. CB/RO-SLM/COMP/47281/ S4/14B-Corrigendum/2025 Dt: 07.01.2026)	01/2019 to 09/2019	34,00,001/-
3	Interest Under Section 7Q (Corrigendum to Proceedings No. CB/RO-SLM/COMP/47281/ S4/7Q-Corrigendum/2025 Dt: 07.01.2026)	01/2019 to 09/2019	21,92,944/-
	Total		Rs.85,52,921/-

3.9 However, the Respondent vide communication dated 07.02.2026 admitted only the provident fund contribution component amounting to Rs. 29,59,976/- and rejected the balance claim of Rs. 55,92,945/-, representing statutory interest under Section 7Q and damages under Section 14B of the EPF Act, on the ground that the said liabilities have not crystallised by way of assessment orders as on the relevant date.

3.10 It is stated that the applicant issued summons to the Liquidator requiring his appearance in the proceedings initiated under Sections 14B and 7Q of the EPF Act for determination of damages and interest arising out of delayed remittance of provident fund contributions. However, the Liquidator objected to the same stating that there is a statutory bar under Section 33(5) of IBC regarding conducting of the proceedings during moratorium.

3.11 It is stated that the Hon'ble Supreme Court in the case of ***Sundaresh Bhatt, Liquidator of ABG Shipyard Vs. Central Board of Indirect Taxes and Customs reported in 2023(1)SCC472*** has held as under :-

"54. On the basis of the above discussions, following are our conclusions:

i) Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the Respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The Respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.

ii) After such assessment, the Respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority.

ili) In any case, the IRP/RP/Respondent/Liquidator can immediately secure goods from the Respondent authority to be dealt with appropriately, in terms of the IBC "

3.12 It is stated that the aforesaid principle has been followed by the Hon'ble Madras High Court with respect to EPFO Assessment proceedings in W.P.No.12404 of 2021 in the matter of ***S. Muthuraju Vs Regional Provident Fund Commissioner*** ,where Hon'ble High Court has held that once Moratorium is imposed, the authority only has a limited jurisdiction to assess the quantum of customs duty and other levies by invoking the power under the relevant statutes, but, it is not entitled to recover the dues pending therefore the Respondent/Liquidator cannot now say that he will not co-operate with the enquiry proceedings of the Applicant.

3.13 It is stated that the Liquidator did not cooperate in the enquiry proceedings rejected the claim of the applicant stating that no assessment orders are enclosed with the claim.

3.14 Aggrieved by the communication dated 07.02.2026, this Application has been filed seeking, inter alia, setting aside the communication, and for a direction that the amount is liable to be treated as provident fund dues excluded from the liquidation estate under Section 36(4)(a)(iii) of the IBC, and a consequential direction to the Respondent to admit and pay the Applicant's entire revised claim of ₹85,52,921/- in priority out of the assets of the Corporate Debtor in liquidation.

3.15 In I.A. (IBC) / 416 / (CHE) 2026, it is stated that, as per Section 42 of IBC, an appeal against the decision of the Liquidator is required to be filed within 14 days from the date of receipt of such decision. In the present case, the date of communication by liquidator was 07.02.2026 and therefore, the application ought to have been filed on or before 21.02.2026. However, the present Application has been filed with a delay of five days.

3.16 The Applicant has sought condonation of delay on, inter alia, the following grounds:

a) That upon being informed of the rejection of its claim, the Applicant was required to obtain necessary administrative approvals for initiating legal proceedings, resulting in delay, which is neither deliberate nor intentional;

b) That the Applicant is a statutory organization constituted under an Act of Parliament, entrusted with the safeguarding the social security interests of lakhs of employees and administering numerous establishments. Owing to the

magnitude of its statutory responsibilities, certain administrative delays are inevitable despite the Applicant acting with due diligence;

c) That the claim pertains to statutory interest and damages recoverable under the EPF & MP Act for the benefit of employees. Rejection of the Application would result in serious prejudice not only to the Applicant but also to the employees whose statutory entitlements are sought to be protected and;

d) That the statutory protection extended to provident fund dues under the IBC and the settled principles governing such claims warrant a liberal approach in the matters concerning limitation. The Respondent failed to see that the claims of EPFO will have overriding effect over Section 238 of IBC. The time limit fixed for filing Application cannot be applied in a rigid or mechanical manner, particularly where the dispute concerns statutory provident fund dues which stand on a distinct footing under the Code.

3.17 In the case of ***State Tax Officer (1) Vs. Rainbow Papers Limited, AIR 2022 SC 4141***, Hon'ble Supreme court has held that mere delay in lodging a claim cannot, by itself, constitute a valid ground for rejection of such claim. The Hon'ble Court observed as follows:

"...58. We are constrained to hold that the Appellate Authority (NCLAT) and the Adjudicating Authority erred in law in rejecting the application/appeal of the Appellant. As observed above, delay in filing a claim cannot be the sole ground for rejecting the claim..."

4. SUBMISSIONS BY RESPONDENT/LIQUIDATOR:

4.1 It is stated that pursuant to the Liquidation Order dated 09.05.2023, a statutory moratorium came in force under Section 33(5) of the IBC, which expressly prohibits the institution or continuation of any suit or other legal proceeding against the Corporate Debtor except with the prior leave of the Tribunal. The legislative intent underlying the said provision is to ensure an orderly liquidation process by preventing parallel proceedings and multiplicity of litigation in respect of claims against the Corporate Debtor.

4.2 It is stated that the applicant had initiated independent quasi-judicial proceedings under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act") and subsequently issued assessment orders under Sections 7A, 7Q, and 14B of the EPF Act without the leave of this tribunal. It is stated that by operation of Section 238 of the IBC, the provisions of the Code have overriding effect over any other concurrent legislation, including the EPF Act, wherever inconsistencies arise.

4.3 It is stated that the Applicant issued a notice for hearing through electronic mail at 6:06 p.m. on 22.12.2025, directing the Liquidator to appear on the very next day. Upon receipt of the said communication, the Liquidator submitted a detailed written objection pointing out that the Corporate Debtor is undergoing liquidation and that the statutory moratorium under Section 33(5) of the IBC is in force.

4.4 It is stated that, despite the objection having been placed on record, the Applicant proceeded to treat the proceedings as **ex parte** and recorded "None Appeared" while passing the orders under Sections 7Q and 14B of the EPF Act. Omission to consider the written objections of the Liquidator constitutes a serious procedural irregularity and amounts to an abuse of the adjudicatory process.

4.5 It is stated that Applicant initially submitted a claim for Rs. 2,30,22,534/- on 01.06.2023. Upon verification, liquidator admitted the claim of Rs. 29,59,976/- and rejected the supplementary components pertaining to penal damages and interest, primarily because such amounts constituted unquantified estimates lacking crystallization via binding assessment orders.

4.6 It is stated that the liquidator's claim attained finality as on 17.07.2023, however, the applicant has filed an appeal under Section 42 on 27.02.2026 based on a revised claim dated 23.01.2026, seeking to rely upon the assessment orders passed long after the commencement of liquidation.

4.7 It is stated that section 42 of the IBC prescribes a limitation period of 14 days from the date of receipt of the liquidator's decision for filing an appeal, and the provisions of Section 5 of the Limitation Act, 1963, read with Section 238A of the IBC, cannot be invoked to condone delay beyond this period, as held in by the Hon'ble NCLAT, Chennai in *Sansar Investment and Finance Company Pvt. Ltd. Vs. Atlantic Spinning and Weaving Mills Ltd.*

4.8 It is stated that Regulation 16(2) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 mandates that claims admitted in liquidation must be based upon liabilities existing, quantified and crystallized as on the Liquidation Commencement Date. In the present case, the Liquidation Commencement Date is 09.05.2023. No formal assessment orders under Sections 7Q or 14B of the EPF Act had been promulgated. Hence, the retrospective assessments over two years subsequent to the date cannot create or crystallize liabilities so as to render them admissible.

4.9 It is stated that the provident fund contributions, being amounts protected under Section 36(4)(a)(iii) of the IBC, stand excluded from the liquidation estate and accordingly, the Liquidator has admitted such contribution dues in accordance with law but, the said exclusion does not extend to the supplementary penal damages and interest calculations that are assessed and crystallized only after the liquidation framework has been entirely implemented.

4.10 In the case of ***ABG Shipyard vs. Central Board of Indirect Taxes and Customs (2023),*** the Hon'ble Supreme Court has held that, upon imposition of a moratorium, external statutory entities retain only the restricted jurisdictional capacity; while they may assess the quantum of existing pre-moratorium dues, they are prohibited from initiating coercive recoveries or circumventing the rigorous timelines and distribution protocols codified within the IBC.

4.11 In the present case, the Applicant seeks to rely upon the assessment orders and corrigendum issued during the latter part of 2025, in respect of alleged defaults pertaining to the period January 2019 to September 2019, notwithstanding the fact that the liquidation process had commenced on 09.05.2023 and the Applicant's claim had already been adjudicated by the Liquidator. Such an attempt to retrospectively crystallize liabilities after the Liquidation Commencement Date, with a view to reopening a claim that had already attained finality, is contrary to the scheme of the IBC and is inconsistent with the principles laid down by the Hon'ble Supreme Court.

5. REJOINDER FILED BY THE APPLICANT:

5.1 It is stated in the rejoinder dated 18.04.2026 that the respondent had not appeared for the enquiry under Section 14B and Section 7Q of the EPF & MP Act, 1952, and instead sent an objection stating that there is a statutory bar under section 33(5)of IBC regarding conduct of proceedings during moratorium and that he is not obliged to appear before Applicant authorities.

5.2 It is stated that the respondent ignored the concept enunciated by the Hon'ble Supreme Court in ***"Sundaresh Bhatt, Liquidator of ABG Shipyard Vs. Central Board of Indirect Taxes and Customs reported in 2023(1)SCC472"***, where it was held as under:-

"54. On the basis of the above discussions, following are our conclusions:

i) Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC as the case may be, the Respondent authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies. The Respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation, as provided under the Customs Act.

ii) After such assessment, the Respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down, in strict compliance of the time periods prescribed under the IBC, before the adjudicating authority.

iii) In any case, the IRP/RP/Respondent/Liquidator can immediately secure goods from the Respondent authority to be dealt with appropriately, in terms of the IBC."

5.3 It is stated that the Hon'ble Madras High Court with respect to EPFO Assessment proceedings in W.P.No.12404 of 2021 in the matter of ***S.Muthuraju Vs Regional Provident Fund Commissioner*** has held that once Moratorium is imposed, the authority only has a limited jurisdiction to assess/determine the quantum of customs duty and other levies by invoking the power under the relevant statutes. The Respondent/Liquidator cannot say that he will not co-operate with the enquiry proceedings of the Authorities. It is submitted that on the one hand, the Respondent/Liquidator did not cooperate with the enquiry proceedings of the Authority, and on the other hand he rejected the claim of the Applicant authority stating that no assessment orders were enclosed with such claim.

5.4 It is stated that if the Respondent/Liquidator had any grievances with regards to the reassessment order, he should have filed an appeal before the Central

Government Industrial Tribunal, but, the Respondent/Liquidator did not prefer an appeal and therefore he cannot now question the veracity of the orders of the Applicant.

5.5 It is stated that Hon'ble Principal Bench of NCLAT in the matter of ***Employees' Provident Fund Organization Regional Office, Vashi, Navi Mumbai Through Regional PF Commissioner-II (Legal) Versus Jaykumar Pesumal Arlani, Resolution Professional of M/s. Decent Laminates Pvt. Ltd Company Appeal (AT) (Ins.) Nos. 1062 & 1065 of 2024*** has held that:

"If after an order of liquidation is passed, Section 33, sub-section (5), does not prohibit initiation or continuation of assessment proceedings"

FINDINGS OF THIS TRIBUNAL:

6. We have heard learned counsels for the parties and perused the submissions placed on record.

7. The present application has been filed by the Employees' Provident Fund Organisation (EPFO) under Section 42 of the Insolvency and Bankruptcy Code, 2016 (IBC), seeking to set aside the communication dated 07.02.2026 issued by the Liquidator whereby the Applicant's claim towards interest under Section 7Q and damages under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act), amounting to Rs.55,92,945/-, came to be rejected. The Applicant has also sought a direction to admit the entire claim of Rs.85,52,921/-

treating the same as excluded from the liquidation estate under Section 36(4)(a)(iii) of the IBC.

8. Since the application has been filed with a delay of five days beyond the period prescribed under Section 42 of the Code, the Applicant has sought for condonation of delay stating that the administrative approvals within the organisation and continuous correspondence with the Liquidator were the reasons for such delay.

9. Hon'ble Supreme Court in ***Collector, Land Acquisition v. Mst. Katiji, (1987) 2 SCC 107***, has held that courts should adopt a liberal approach while considering applications for condonation of short delays where substantial justice would be advanced.

10. In the present case, since the delay is only of five days, keeping in view the liberal principles governing condonation of short delays as laid down by the Hon'ble Supreme Court ***in "Collector, Land Acquisition v. Mst. Katiji", (1987) 2 SCC 107,*** this Tribunal condones the delay.

11. Accordingly, the application, **I.A. (IBC) / 416 / (CHE) 2026** stands allowed

I.A. (IBC) / 372 / (CHE) 2026

12. The present application has been filed under Section 42 of the Insolvency and Bankruptcy Code, 2016 ("IBC") challenging the communication dated 07.02.2026 issued by the Respondent/Liquidator whereby the balance claim of ₹55,92,945/- towards interest under Section 7Q and damages under Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act") was rejected. The Applicant seeks a direction to treat the said amount as provident fund dues excluded from the liquidation estate under Section 36(4)(a)(iii) of the IBC and to admit and pay the entire revised claim of ₹85,52,921/-.

13. In the present case, the Corporate Debtor was admitted into Corporate Insolvency Resolution Process on 04.10.2021 and was ordered to be liquidated on 09.05.2023.

14. The Applicant initially lodged its claim, which was partly admitted by the Liquidator to the extent of PF contribution of Rs. 29,59,976/-. Subsequently, after assessment proceedings under Sections 7Q and 14B of the EPF Act, the Applicant submitted a revised claim on 23.01.2026 seeking inclusion of statutory interest and damages, which was rejected by the respondent vide communication dated 07.02.2026.

15. The dispute in the present application is in regards to the Applicant's claim towards statutory interest under Section 7Q and damages under Section 14B of the EPF Act amounting to ₹55,92,945/-.

16. It is stated by the Applicant that the amounts payable under Sections 7Q and 14B of the EPF Act constitute provident fund dues and are excluded from the liquidation estate under Section 36(4)(a)(iii) of the IBC.

17. The Respondent/Liquidator has stated that moratorium under Section 33(5) of the IBC came into force from the date of liquidation. The Applicant proceeded to conduct the proceedings under Sections 7Q and 14B of the EPF Act and passed assessment orders without obtaining the leave of this Tribunal.

18. It is stated that the Applicant's original claim has already been adjudicated and the decision attained the finality in the year 2023. The present Application, filed in the year 2026 on the strength of subsequent assessment orders, is barred by limitation. It is contended that as on the liquidation commencement date, no quantified liability towards interest or damages had crystallised. Therefore, subsequent assessments cannot enlarge the liabilities in liquidation.

19. In the present case, the main issues that are to be considered as follows:

i. **Whether interest under Section 7Q and damages under Section 14B of the EPF Act constitute provident fund dues excluded from the liquidation estate under Section 36(4)(a)(iii) of the IBC.**

ii. Whether the Applicant could rely upon assessment orders passed after the liquidation commencement date for admission of a revised claim.

iii. Whether the appeal under Section 42 of the IBC is maintainable and whether the communication dated 07.02.2026 warrants interference.

ISSUE – 1:

20. It is relevant to refer Section 36(4) of IBC, 2016, reads as under:

Section 36-Liquidation estate.

(4) The following shall not be included in the liquidation estate assets and shall not be used for recovery in the liquidation:—

(a) assets owned by a third party which are in possession of the corporate debtor, including—

(i) assets held in trust for any third party;

(ii) bailment contracts;

(iii) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund;

(iv) other contractual arrangements which do not stipulate transfer of title but only use of the assets; and

(v) such other assets as may be notified by the Central Government in consultation with any financial sector regulator;

21. Section 36(4)(a)(iii) excludes from the liquidation estate 'all sums due to any workman or employee from the provident fund, pension fund and gratuity fund.' The

statutory exclusion is confined to the employees' provident fund accumulations and contributions payable to the fund.

22. Section 7Q creates statutory interest consequent upon delayed payment. Section 14B imposes penal damages after adjudication. Unlike provident fund contributions, damages under Section 14B require determination by the competent authority.

23. In the case of ***Anuj Bajpai vs EPFO 2024 SCC OnLine NCLAT 886,*** it was held as under:-

> *"56. This Appellate Tribunal in the case of State Bank of India v. Moser Baer Karamchari Union, [2019 SCC OnLine NCLAT 447] also examined the question of whether gratuity fund, provident fund and pension fund should be included as part of liquidation estate by including the same for payments under the waterfall mechanism under Section 53 of the Code. In this case, the Liquidator denied payment of the said funds in a preferential manner and had included the same for payment under the waterfall mechanism prescribed under Section 53 of the Code whereas the workers union claimed dues cannot be part of the waterfall mechanism under Section 53 of the Code. This Appellate Tribunal decided that Section 36(4)(a)(iii) of the Code cover all sums due to any workmen or employee from provident fund and the gratuity fund and the same should not be included in liquidation estate and further held that the liquidation estate/assets of the corporate debtor under Section 36(1) read with Section 36 (3) of the Code, do not include sums due to any workman and employees from the provident fund, the pension fund and the gratuity fund, for the purpose of distribution of assets under Section 53 of the Code. It was decided that the dues are to be paid to the workmen/employees on priority, without reference to or waiting for distribution of liquidation assets as per the waterfall mechanism under Section 53 of the Code."*

24. From the above judgment, it is clear that the claims of EPF under Section 7A, 7Q and 14B of EPF & MP Act, 1952 would not fall under the liquidation estate and such claims shall be governed under the Section 36(4)(a)(iii) of IBC, 2016.

25. Although, the exclusion provided under Section 36(4)(a)(iii) is intended to protect provident fund, pension fund and gratuity fund dues belonging to the employees and but the exclusion does not automatically extend to penal damages imposed under Section 14B or interest quantified under Section 7Q when such liabilities themselves had not been adjudicated as on the liquidation commencement date. In the present case, admittedly, no assessment orders existed on 09.05.2023. Therefore, no crystallised debt existed on the liquidation commencement date.

ISSUE – 2:

26. It is stated by the Applicant that the Respondent wrongly rejected the claim on the ground that assessment orders were not enclosed. It is stated that the Liquidator ought to have admitted the revised claim.

27. The records reveal that as on the liquidation commencement date, 09.05.2023, no adjudication under Sections 7Q and 14B had been completed. The claim before the Liquidator, therefore, did not represent a quantified and crystallized liability.

28. Regulation 12 and Regulation 16 of the IBBI (Liquidation Process) Regulations read as under:

Regulation 12. Public announcement by liquidator.

(1) The liquidator shall make a public announcement in Form B of Schedule II within five days from his appointment.

(2) The public announcement shall-

(a) call upon stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process, as on the liquidation commencement date; and

(b) provide the last date for submission or updation of claims, which shall be thirty days from the liquidation commencement date.

Regulation 16. Submission of claim.

(1) A person, who claims to be a stakeholder, shall submit its claim, or update its claim submitted during the corporate insolvency resolution process, including interest, if any, on or before the last date mentioned in the public announcement.

(2) A person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.

29. Regulation 16 contemplates determination of claims on the basis of liabilities existing on the liquidation commencement date. The Liquidator cannot be held liable for refusing to admit the liabilities which were not crystallized as on the relevant date.

30. The Applicant has placed reliance on the judgment of the Hon'ble Supreme Court in ***Sundaresh Bhatt (Supra).***

31. The Hon'ble Court has held that although statutory authorities are not divested of their jurisdiction to undertake statutory functions such as assessment, adjudication or determination of liabilities, but such jurisdiction is confined only to the determination or quantification of liability. The continuation of these statutory

functions does not, in any manner, confer upon such authorities the right to independently enforce or recover the assessed dues.

32. The Hon'ble Supreme Court in the case has drawn a distinction between the power to determine a liability and the power to recover the same. Any statutory liability determined after the commencement of liquidation does not automatically become recoverable from the assets of the Corporate Debtor, nor does such determination create an independent right to payment from the liquidation estate.

33. The Hon'ble Court expressly recognised that the mechanism contemplated under the IBC constitutes the mode for enforcement of all claims against the Corporate Debtor. Thus, assessment merely determines the quantum of liability, it does not dispense with the mandatory requirements governing submission, verification, admission and distribution of claims under the IBC.

34. Every creditor, irrespective of the nature of its claim, is required to submit its claim within the timelines prescribed under the Code and the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Thereafter, it is for the Liquidator to verify such claims and either admit or reject in accordance with law. Only the claims duly admitted under the statutory process are entitled to participate in the distribution of the liquidation estate.

35. The Applicant also relied upon the judgment of the Hon'ble Madras High Court in ***S. Muthuraju (Supra)***. In that case, the Hon'ble Madras High Court merely followed

the principles laid down in ***Sundaresh Bhatt (supra)*** and recognized the jurisdiction of the EPF authorities to undertake assessment proceedings notwithstanding the moratorium. The judgment does not lay down that liabilities determined after liquidation commencement must necessarily be admitted in liquidation or that the Liquidator loses his statutory authority to verify and admit claims under the IBC. Therefore, the said judgment is of no assistance to the Applicant.

36. The Applicant has further relied upon the decision of the Hon'ble NCLAT in ***Jaykumar Pesumal Arlani (Supra),*** wherein it has been held that Section 33(5) does not prohibit assessment proceedings after liquidation.

37. Section 33(5) of IBC, 2016 reads as follows:

> *Section 33. Initiation of liquidation*
>
> *(5) Subject to section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor:*
>
> *Provided that a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor, with the prior approval of the Adjudicating Authority.*

38. The issue before this Tribunal is not whether the EPFO could conduct assessment proceedings. The issue is whether an assessment completed long after the liquidation commencement date can reopen claims already determined by the Liquidator and compel admission of additional liabilities. The NCLAT decision does not hold that subsequent assessments automatically alter the rights and liabilities

crystallized under the liquidation process. Therefore, the said decision does not advance the Applicant's case.

39. The jurisdiction exercised by the Liquidator under Sections 38 to 40 of the IBC is entirely distinct from the Appellate remedies available under the EPF Act. Failure to challenge the assessment order under the EPF Act does not compel the Liquidator to admit every assessed liability into the liquidation estate contrary to the scheme of the IBC.

40. In the present case, the liquidation commenced on 09.05.2023. On that date, no determination under Sections 7Q and 14B of the EPF Act existed. The liability towards the interest and damages had not been crystallized through any adjudicatory order. The Liquidator has admitted the provident fund contribution, which is protected under Section 36(4)(a)(iii) of the IBC, but declined to admit the liabilities that were neither quantified nor adjudicated as on the liquidation commencement date.

41. The assessment orders relied upon by the Applicant were passed long after commencement of liquidation. Such subsequent adjudication cannot modify liabilities already considered in the liquidation process, nor can it reopen claims which had attained finality. Acceptance of such a proposition would defeat the certainty and finality contemplated under the liquidation framework and would expose the liquidation estate to indefinite reopening of claims based upon future assessments.

42. The Hon'ble Supreme Court ***in 'Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta', (2020) 8 SCC 531***, as well as in '***Ghanshyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.', (2021) 9 SCC 657***, has emphasised that finality of claims is one of the fundamental objectives of the insolvency framework. The liabilities which are not crystallised within the insolvency process cannot subsequently be enforced so as to disturb the distribution mechanism envisaged under the Code.

43. The Hon'ble Supreme Court has held that during the moratorium, statutory authorities retain limited jurisdiction to assess or determine statutory liabilities, but they cannot proceed to recover such dues outside the mechanism prescribed under the IBC. The judgment nowhere holds that liabilities quantified after the commencement of liquidation automatically become payable from the liquidation estate irrespective of the provisions governing admission of claims. On the contrary, the Hon'ble Supreme Court has held that after assessment, the statutory authority must submit its claim strictly in accordance with the procedure prescribed under the IBC.

44. In case of ***Central Board of Trust Employees Provident Fund v. Corporate Power Ltd. and Anr., (2026) ibclaw.in 1701 NCLT***, it was held as under:

"6.14 Any claim which arises after liquidation commencement date could be entertained by the liquidator as per the statutory scheme under IBBI Liquidation Process Regulations, 2016.

6.15 Since the claim was finalized in 2023 whereas the liquidation begun in 2021, permitting claims arising from post-liquidation assessment would reopen settled liabilities and hinder the completion of the liquidation process in a time bound and definitive manner. Therefore, any liability arising through assessment of damages and interest under Section 7Q and 14B of the EPF & MP Act after the liquidation commencement date cannot be accepted."

45. In the case of ***Employees Provident Fund Organisation Nashik v. Girish Siriram Juneja and Anr., (2025) ibclaw.in 441 NCLAT***, the New Delhi Bench has held that any claim which arises after the liquidation commencement date cannot be entertained by the Liquidator as per the statutory scheme under Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. It has been clarified that the decision of liquidator in not accepting the claim is not erred.

46. In view of the above, this Tribunal is of the considered opinion that the statutory scheme under the IBC and the IBBI (Liquidation Process) Regulations mandates determination and admission of claims with reference to the liquidation commencement date. Although the EPF authorities are competent to undertake assessment proceedings under Sections 7Q and 14B of the EPF Act, such

determination by itself does not confer an independent right to recover the assessed amount from the liquidation estate nor does it compel the Liquidator to reopen claims that have already attained finality. The judgments relied upon by the Applicant merely recognise the jurisdiction of the statutory authorities to assess liabilities and do not dilute the requirement that every claim must be proved, verified and admitted strictly in accordance with the provisions of the IBC. In the present case, the liability towards interest and damages had not been crystallised on the liquidation commencement date, and the subsequent assessment orders cannot enlarge the liabilities admissible in liquidation or disturb the certainty and finality underlying the insolvency framework.

47. Accordingly, this Tribunal finds no infirmity in the Liquidator's decision to reject the revised claim towards interest under Section 7Q and damages under Section 14B of the EPF Act.

ISSUE – 3:

48. The Applicant has challenged the communication of the Liquidator under Section 42 of the IBC. The material on record shows that the decision of the Liquidator regarding admission of the claim had already attained finality. Merely submitting a revised claim founded upon subsequent assessment orders cannot revive the timeline prescribed under Section 42 of the IBC. The statutory period for preferring an appeal cannot be enlarged by obtaining fresh assessment orders in respect of the same period

of default as the timeframe for the appeal is 14 days as depicted in the section which reads as under:

> *Section 42. Appeal against the decision of liquidator.*
>
> *A creditor may appeal to the Adjudicating Authority against the decision of the liquidator 1 [accepting or] rejecting the claims within fourteen days of the receipt of such decision.*

49. The submission that the Liquidator ought to have participated in the assessment proceedings or challenged the assessment orders before the competent appellate authority under the EPF Act does not alter the legal position governing admission of claims in liquidation. Even assuming the assessment orders are valid inter se under the EPF Act, their existence does not oblige the Liquidator to admit liabilities which had not been crystallized on the liquidation commencement date or which are sought to be introduced after the claim determination process had concluded.

50. From the foregoing discussions, this Tribunal finds no infirmity in the communication dated 07.02.2026 rejecting the balance claim of ₹55,92,945/- towards interest and damages.

51. The Hon'ble Supreme Court in ***'Innoventive Industries Ltd. v. ICICI Bank', (2018) 1 SCC 407***, and '***Principal Commissioner of Income Tax v. Monnet Ispat and Energy Ltd.', (2018) 18 SCC 786***, has held that in the event of any inconsistency, the provisions of the IBC prevail over all other statutes.

52. Though provident fund contributions themselves are statutorily protected under Section 36(4)(a)(iii), the process of proof, verification and admission of claims remains governed by the provisions of the IBC and cannot be overridden merely because the claim arises under the EPF Act.

53. The reliance placed by the Applicant on the judgment of the Hon'ble Supreme Court ***in State Tax Officer v. Rainbow Papers Ltd., (2022) 9 SCC 330***, is of no assistance. The said decision dealt with the treatment of statutory tax dues under the resolution process. It was held that delay alone may not be the sole ground to reject a claim. It did not lay down that liabilities determined long after the liquidation commencement date could be introduced into the liquidation process contrary to the statutory scheme of the IBC.

54. The Hon'ble Supreme Court in ***'Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd.', (2023) 10 SCC 60***, has clarified the limited scope of ***Rainbow Papers (Supra)*** while reaffirming the primacy of the insolvency framework.

55. This Tribunal is therefore satisfied that the Respondent has acted strictly within the framework of the IBC while admitting the provident fund contribution and rejecting the subsequently assessed liabilities towards damages and interest. The Applicant has failed to establish any illegality or perversity in the decision of the Liquidator warranting interference under Section 42 of the IBC. The communication

dated 07.02.2026 issued by the Respondent/Liquidator rejecting the claim towards interest under Section 7Q and damages under Section 14B of the EPF Act is upheld.

56. Accordingly, **I.A. (IBC) / 372 / (CHE) 2026** stands **dismissed**.

57. No order as to costs.

-Sd-
VENKATARAMAN SUBRAMANIAM
MEMBER (TECHNICAL)

-Sd-
SANJIV JAIN
MEMBER (JUDICIAL)