NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1630 of 2025
&
I.A. No. 6423 of 2025

IN THE MATTER OF:

Employees Provident Fund Organisation **...Appellant**

Versus

IPE-NPV Insolvency Professionals Pvt. Ltd. **...Respondent**

Present:

For Appellant : Mr. Kaushal Gautam, Advocate.

For Respondent : Mr. Narendra Singh, Advocate for RP.

O R D E R
(Hybrid Mode)

11.03.2026: I.A. No. 6423/2025

1. This is an application praying for condonation of 14 days delay in filing of the appeal.

2. We find sufficient cause shown in paragraph 2 of the application for condonation of delay filed by the appellant, Employees Provident Fund Organisation (EPFO), Vasi for condoning the delay.

Delay condoned.

Comp. App. (AT) (Ins.) No. 1630/2025

1. Heard learned counsel for the appellant as well as learned counsel appearing for the respondent.

2. This appeal has been filed against an order dated 13.08.2025 passed by the adjudicating authority in I.A. (IBC) 3126/MB/2025. The I.A. was filed by the appellant praying for reliefs which have been quoted in paragraph 2 of the order which is to the following effect:

> *"a. To issue appropriate direction to IRP to consider the claim filed before him in annexure B the claims amount of Rs.6,08,927/- (Six Lakhs Eight Thousand Nine Hundred and Twenty Seven Only) of EPFO Department under Section 36 (4) (a) (iii) and Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 to release the statutory PF dues on priority of the payment over the other debts is as per Section II of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (EPF and MP Act 1952).*
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> *b. This Hon'ble Tribunal be pleased to quash the email dated 28.03.2025 (Annexure C) of the IRP directing the Applicant to submit the claim in form B of IBC and consider the claim of the Applicant as per the Annexure B;*
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> *c. Pending the hearing and final disposal of this Application the Resolution Professional be restrained from alienating and/or disposing and/or disbursing and/or distributing the assets/proceeds of the assets of the Corporate Debtor to the extent of claim of the Applicant herein;*
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> *d. Interim and ad-interim reliefs in terms of prayer Clause (a) to (d) above;*
>
> *e. Such other and further reliefs as this Hon'ble Court deem fit and proper;"*

3. Adjudicating authority by the impugned order has dismissed and disposed of the I.A. with observations made in paragraphs 12 & 13. Paragraphs 12 & 13 of the impugned order are as follows:

> *"12.During the course of hearing, the Applicant was asked to submit proof of its claim in form of order(s) issued by the PF Department raising the demand against the Corporate Debtor. It is relevant to refer to Section 7A(1) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952, which provides that "The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional*

Provident Fund Commissioner, or any Assistant Provident Fund Commissioner may, by order,—(a)in a case where a dispute arises regarding the applicability of this Act to an establishment, decide such dispute; and(b)determine the amount due from any employer under any provision of this Act, the Scheme or the Pension. Scheme or the Insurance Scheme, as the case may be, and for any of the aforesaid purposes may conduct such inquiry as he may deem necessary". Though, the officer conducting an inquiry is vested powers u/s 7A(3) of the PF Act to determine the amount payable on the basis of the evidence adduced during such inquiry and other documents available on record, but such determination can be made only by The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner and not by the PF enforcement officer, who has only power to carry out inspection for and on behalf of The Central Provident Fund Commissioner, any Additional Central Provident Fund Commissioner, any Deputy Provident Fund Commissioner, any Regional Provident Fund Commissioner, or any Assistant Provident Fund Commissioner. Annexure A to the letter dated 27.3.2025 clearly refers to the document as basis of the demand as "Area Enforcement Officer report dated 10/03/2025". Since, no order has been produced before us or the Respondent IRP, no demand can be said to be due and payable by the Corporate Debtor u/s 7A of the PF Act in its absence. Section 7Q of the PF Act provides for levy of interest on the amounts determined due and payable and Section 14B provides for payment of damages upon commission of default in the payment of any contribution to the Fund, the Pension Fund or the Insurance Fund. Since, no order has been passed in terms of Section 7A, the question of consequential levy in terms of Section 7Q and 14B does not arise. Accordingly, even if it is considered that the letter dated 27.3.2025 provides the necessary information as is required for verification of their claim, we are of considered view that no amount can be said to be due and payable by the Corporate Debtor in the absence of an order passed in terms of Section 7A, 7Q and 14B of the PF Act by the competent authority.

13.In view of the foregoing, we do not find any error committed by IRP, hence the present application is *devoid of any merit. Nonetheless, we consider it appropriate to grant 15 days' time to applicant to file its claim in the prescribed form and furnish the relevant order(s) passed by its department creating the demand against the Corporate Debtor forming part of the claim made by it. It is clarified that, in case the Applicant does so, the Respondent IRP shall verify the claim on its merits dehors our observation in relation to order(s) u/s 7A, 7Q and 14B of PF Act. It is further clarified that we have not examined the issue whether the Applicant could have passed any order u/s 7A, 7Q and 14B of PF Act after commencement of CIRP, as there is no such order before us. Needless to say, the claim of the Applicant shall not be rejected on ground of said claim having been furnished under incorrect prescribed Form, so long as such claim is furnished on any of the prescribed form."*

4. Learned counsel for the appellant submitted that in paragraph 13 of the order, adjudicating authority has given liberty to the appellant to file its claim within 15 days in prescribed form and furnish relevant orders which appellant had done but Resolution Professional (RP) has not taken any decision.

5. Learned counsel for the RP submits that the resolution plan has already been approved on 30.01.2026, hence the I.A. filed by the appellant has become infructuous.

6. We have considered the submissions of the counsel for the parties and perused the records.

7. Adjudicating authority in paragraph 12 has rightly observed that when the claim which was filed by the appellant was not based on any assessment under Section 7A(1) of the Employee Provident Funds and Miscellaneous Provisions Act, 1952, the claim could not be admitted. The reasons given in paragraph 12 cannot be faulted, hence prayer made by the appellant to consider the claim has rightly not been accepted.

8. Insofar as 15 days' time granted to the appellant in paragraph 13 as mentioned, since no appeal has been filed challenging the said directions and appeal has been filed by only EPFO Department, we see no reason to take any different view in the present appeal. However, any subsequent event consequent to the order cannot be a subject matter of this appeal and submission of the appellant that certain directions be issued to the RP cannot be accepted. More so, as submitted by the RP, the plan having been approved on 30.01.2026, at this stage, we are not inclined to issue any direction as prayed by the appellant.

With these observations, the appeal is dismissed.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

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