

**THE NATIONAL COMPANY LAW TRIBUNAL  
MUMBAI BENCH-I**

**I.A. 4347 OF 2023**

Under Section 60(5) of Insolvency &  
Bankruptcy Code, 2016

Employees Provident Fund Organization  
Through Regional Provident Fund,  
Commissioner-II (Legal), Vashi

**...Applicant**

Vs.

Mr. Vijay Kumar V Iyer,  
Resolution Professional

**...Respondent**

In the matter of

C.P.(IB) No. 474/MB/2022

SES Energy Service India Private Limited

**. Corporate Applicant**

***Order delivered on: 07/12/2023***

***Coram:***

**Shri Prabhat Kumar**  
Hon'ble Member (Technical)

**Justice Shri V.G. Bisht**  
Hon'ble Member (Judicial)

***Appearances:***

For the Applicant : Mr. Vinay Kate, Advocate

For the Respondent 1, 2 & 7 : Mr. Ahsan Allana, Advocate

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For the Respondent 4 : Mr. Amey Hadwale, Advocate

For the Respondent 5 : Ms. Aashka, Advocate

**ORDER**

***Per: V.G. Bisht, Member (Judicial)***

1. This Application bearing IA No. 4347 OF 2023, is filed by through Regional Provident Fund Commissioner – II (Legal), Vashi, (Applicant), in the Corporate Insolvency Resolution Process (CIRP) of M/s SES Energy Service India Pvt. Ltd. (Corporate Debtor) seeking direction to Mr. Vijay Kumar V Iyer, the Resolution Professional (Respondent) to admit the claim of Rs. 13,66,592/-. The Applicant has further sought condonation of delay of 104 days in filing claim before the Respondent.
2. The CIR process commenced on 25.11.2022 in terms of order passed by this Tribunal in CP (IB) No. 474 of 2022, and the public announcement inviting claim was published on 28.11.2022. The last date of filing of the claim in terms of Regulation 12(2) of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 was 23.02.2023. The Applicant filed its claim on 05.06.2023 pursuant to Show Cause Notice dt. 19.05.2023 issued by the Applicant.
3. It is the case of the Applicant that the corporate Debtor is covered under the Employees' Provident Funds &

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Miscellaneous Provisions Act, 1952 under EPF Code No. TH/VSH/1401024 having its address at 1st Floor, Unit no. 101. A- Wing, Reliable Tech Park, Plot no.-31, Thane Belapur Road, Airoli, Mumbai - 400708. The corporate debtor had defaulted in remittance of statutory Provident Fund and allied dues under section 7A, 7Q and 14 B to the tune of Rs. 13,66,592/-.

3.1.The Applicant got notification regarding the Insolvency Resolution Processes on 23.02.2023 which was a last date for filling the claim. The Resolution professional vide its email dated 02.06.2023 informed the applicant that she did not receive any claim from applicant till date and a claim has to be submitted within ninetieth day of the Insolvency Commencement date (which was 23.02.2023). The applicant vide letter dated 05.06.2023 filed its claim in the form of "Annexure A", and the erstwhile resolution professional vide email dated 17.06.2023 rejected the claims stating that your claim will be considered after this Tribunal condones the delay.

3.2.The applicant being an organization under the Ministry of Labour and Employment has to go through various approvals and sanction from the higher authorities to file claim in respect of Corporate debtor and during this period the compliance wing of EPFO shifted from Vashi location to Belapur location and hence the regular work of compliance wing suffered a lot within this shifting period

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due to voluminous records of compliance wing shifting which caused delay of 104 days in filling a claim against Corporate debtor.

4. Heard Learned Counsel and perusal the materials on record.
  - 4.1. We find that no Resolution Plan in the case of Corporate Debtor has been approved by the CoC till date. Further, this claim has arisen pursuant to Show Cause Notice issued by the Applicant on 19.05.2023 after the Report dt. 10.04.2023, submitted by the Enforcement Officer of the Applicant department.
  - 4.2. Since, the Plan is still under the consideration and Provident Fund dues comprising of Employee and Employer Contribution towards such fund have been considered to be money not belonging to the Corporate Debtor and payable in full, we consider it appropriate to condone the delay and direct the Respondent to admit the claim of the Applicant, after verification.
  - 4.3. It is made clear that the amounts payable by the Applicant department to the Employees of the Corporate Debtor as their Provident Fund shall be considered for payment in full and the remaining demands created by the Applicant shall be considered as statutory dues falling under class of Category of Operational Creditor.

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4.4. With the aforesaid findings and directions, the delay is  
condoned.

5. IA 4347/2023, therefore is disposed of as allowed.

Sd/-

**Prabhat Kumar**  
Member (Technical)

Sd/-

**Justice V.G. Bisht**  
Member (Judicial)