

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1618 of 2024 & I.A. No. 5915 of 2024

IN THE MATTER OF:

The Regional Provident Fund Commissioner-II **...Appellant**
Versus

Vineeta Maheshwari
Resolution Professional of Bloom Dekor Ltd. **...Respondent**

Present:

For Appellant : Mr. Sanket Gupta, Advocate.

For Respondent : Mr. Himanshu Satija, Mr. Harsh Saxena & Mr. Anshul Rao, Advocates.

O R D E R
(Hybrid Mode)

[Per : Justice Rakesh Kumar Jain (Oral)]

08.09.2025 This appeal is filed by The Regional Provident Fund Commissioner- II to challenge the Impugned Order dated 03.07.2024 passed by National Company Law Tribunal, Ahmedabad Bench, Ahmedabad (**'Tribunal'**) by which an application bearing IA No. 516 of 2024 filed by Employees Provident Fund Organization for setting aside the communication dated 15.01.2024 issued by the Resolution Professional by which the claims submitted by the Appellant was rejected, has been dismissed.

2. In brief, the Corporate Debtor, namely, M/s Bloom Dekor Limited was admitted to CIRP by order of the Tribunal dated 11.10.2023 and Ms. Vineeta Maheshwari was appointed as the IRP and then RP.

3. The Respondent, after having been appointed as IRP, sent an intimation on 19.10.2023 of the initiation of CIRP which was received by the Appellant.

4. Thereafter, the appellant started proceedings under the provisions of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (in short '**Act**') and issued summons to the Corporate Debtor dated 20.10.2023.
5. The Competent Authority passed the order on 23.10.2023 under Section 7Q and 14B of an amount of Rs. 53,338/-. This assessment was made pertaining to the period from 01.07.2022 to 30.09.2023, prior to the initiation of the CIRP on 11.10.2023.
6. The Appellant submitted its claim to the RP on 25.10.2023 which was rejected on 15.01.2024 which led to the filing of an application by the Appellant bearing IA No. 516 of 2024 before the Tribunal.
7. This application was contested by the Respondent herein and ultimately it was dismissed by the Impugned Order dated 03.07.2024 and hence, the present appeal was filed.
8. Counsel for the Appellant has not disputed the fact that the assessment has been made post the date of CIRP but it is contended that it was pertaining to the period prior to CIRP, therefore, the claims submitted by the Appellant in his support has been rejected.
9. During the course of submissions, he has relied upon two decisions in the case of ***Tourism Finance Corporation of India Ltd. vs. Rainbow Papers Ltd. & Ors.*** Company Appeal (AT) (Insolvency) No. 354 of 2019 decided on 19.12.2019 and ***Truvisory Insolvency Professionals Pvt. Ltd. (IPE) vs. Employees' Provident Fund Organisation*** in Company Appeal (AT) (Ins.) No. 580 of 2023 decided on 11.09.2024.
10. On the other hand, Counsel for the Respondent has submitted that immediately on the admission of the application, filed either under Section

7, 9 or 10, leads to the appointment of the IRP and the court imposes the moratorium under Section 14 of the Code. He has further submitted that any assessment post moratorium quo the amount claimed by the Appellant under Section 7Q and 14B of the Act is not permissible. In this regard, he has relied upon a decision of this court in the matter of **CA Pankaj Shah vs. Employee Provident Fund Organisation & Anr.** in Company Appeal (AT) (Insolvency) No. 17 of 2025 decided on 03.09.2025.

11. We have heard both the Counsel for the Parties and perused the record with their able assistance.

12. In so far as, the facts of this case are concerned, the assessment order passed on 23.10.2023 was pertaining to the period from 01.07.2022 to 30.09.2023 but it is not in dispute that the proceedings for the assessment under Section 7Q and 14B of the Act were initiated on 20.10.2023 after admission of CD into CIRP on 11.10.2023

13. It is also not in dispute that after the admission of the application on 11.10.2023, the Respondent had duly intimated the initiation of CIRP to the Appellant on 19.10.2023.

14. It is perhaps thereafter, on receiving the intimation, the Appellant started initiating the proceedings under Section 7Q and 14B of the Act by issuing summons on 20.10.2023.

15. The main issue involved in this case is as to whether, the assessment of the interest and damages, under Section 7Q and 14B of the Act can take place after the admission of the application under Section 7, 9 and 10 after the CD is slipped into CIRP, because of imposition of moratorium under Section 14 of the Code ?

16. In so far as, the judgements relied upon by the Appellant are concerned, the said judgments are only on the issue that the amount assessed under Section 7Q and 14B of the Act are also covered under Section 11 of the Act but in the present case the issue is as to whether this amount can be assessed after the CIRP is initiated.

17. In this regard, the judgement relied upon by the Respondent fully covers the issue because in the said case the CIRP was initiated on 17.02.2023. The inspection was carried out by the EPFO on 10.05.2023 and report was submitted by Enforcement Officer by which it was communicated that amount of Rs. 33,99,135/- was worked out as due from the CD for the period from April, 2015 to March, 2021. The said period was before the date of CIRP i.e., 17.02.2023 but the inspection report of the assessment was post CIRP i.e., 10.05.2023.

18. In this background, this court has held that after the imposition of moratorium under Section 14 of the Code, the assessment cannot be carried out much less no claim can be raised. In this regard, the observations made by this court in the case of **CA Pankaj Shah (Supra)** are reproduced as under :-

“7. The demand made by the EPFO on the basis of inspection dated 10.05.2023 is clearly demand from the Corporate Debtor after commencement of the Moratorium. Similarly, revised claim submitted on 26.09.2023 on the basis of orders passed on 25.09.2023 where demand in pursuance of subsequent to Moratorium. This Tribunal has occasion to examine the consequences of Moratorium on assessment made by EPFO in Company Appeal (AT) (Insolvency) No.1062 of 2024-“Employees’ Provident Fund Organisation Regional Office vs. Jaykumar Persumal

Arlani, Resolution Professional of Ms/. Decent Laminates Pvt. Ltd.” with Company Appeal (AT) (Insolvency) No.1065 of 2024- -“Employees’ Provident Fund Organisation Regional Office vs. Sanjay Kumar Lalit, Resolution Professional of Apollo Soyuz Electricals P. Ltd. & Anr.” decided on 03.01.2025. In the above case also, after commencement of the CIRP, EPFO initiated proceeding under Section 7A and passed an order under Section 7A, 7Q & 14B. Application was filed by EPFO before the Adjudicating Authority seeking a direction to the Resolution Professional to admit the claim which claim to be rejected. This Tribunal in the above case, examined the consequence of Moratorium and held that the assessment proceeding cannot be continued after initiation of CIRP. This Tribunal in the above judgment had framed questions in paragraph 9 which are as follows:-

“9. From the submissions of learned Counsel for the parties, following issues arise for consideration: (1) Whether after imposition of moratorium under Section 14 of the IBC, assessment proceedings can be carried on by the EPFO under Section 7A, 14B and 7Q of the EPF & MP Act, 1952. (2) Whether any claim on the basis of assessment, subsequent to imposition of moratorium, can be admitted in the CIRP. (3) Whether claims, which were filed by the Appellant(s), subsequent to the approval of Resolution Plan by the CoC, could have been admitted in the CIRP.”

10. The above judgment clearly indicates 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 demand on the basis of an

alleged inspection report dated 10.05.2023 and assessment order dated 25.09.2023 which both were subsequent to initiation of CIRP on 17.02.2023. When no demand can be made on the basis of any inspection or assessment, we do not find any ground to allow the application IA No.409 of 2024 which was filed by EPFO where direction was sought to allow the entire claim of Rs.1,37,17,837/-.”

19. Thus, in view of the law laid down by this Court in case of **CA Pankaj Shah (Supra)**, we are of the considered opinion that there is no error committed by the Learned Tribunal in rejecting the application filed by the Appellant bearing IA No. 516 of 2024.

20. The present appeal is thus hereby dismissed. However, the parties shall bear their own cost. I.A, if any, pending are Closed.

**[Justice Rakesh Kumar Jain]
Member (Judicial)**

**[Mr. Naresh Salecha]
Member (Technical)**

Sim/RR