



NATIONAL COMPANY LAW TRIBUNAL

COURT ROOM NO. 1

MUMBAI BENCH

Item No. 17

Company Appeal/3/2025 IN C.P. (IB)/703(MB)2019

CORAM:

SH. PRABHAT KUMAR

SH. SUSHIL MAHADEORAO KOCHEY

HON'BLE MEMBER (TECHNICAL)

HON'BLE MEMBER (JUDICIAL)

ORDER SHEET OF THE HEARING ON **06.10.2025**

NAME OF THE PARTIES: **CORPORATION BANK V/s GENERAL
COMPOSITE PVT LTD**

Section 7 of the Insolvency and Bankruptcy Code, 2016

ORDER

Company Appeal/3/2025

1. Adv. Shavez Mukri i/b A&G Legal Associates LLP for the Respondent/Liquidator present through VC. Adv. Gunjan Chaubey a/w Adv. Kumar for the Applicant present.
2. This Company Appeal is filed by the Central Board of Trustees, Employees Provident Fund, Applicant 42 of the Insolvency and Bankruptcy Code 2016. The Appellant seeks following relief:
 - a. *That this Hon'ble Tribunal be pleased Condone the delay of 54 days in filing the present Appeal.*
 - b. *That this Hon'ble Tribunal be pleased to pass an order to admit the dues of the Appellant and direct the Liquidator to pay the statutory dues of Rs. 6,11,575 /- under section 7A, 7Q and 14B of the Employees' Provident Funds & Miscellaneous Provisions Act, in priority to all other claims.*



c. *Any other order that this Hon'ble Tribunal may deem fit in the facts and circumstances of this case.*

3. It is submitted by the Appellant that the corporate Debtor is covered under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 and had defaulted in remittance of statutory Provident Fund and allied dues under section 7 A, 7Q and 14 B and short remittance to the tune of Rs.6,11,575/-.
4. The Corporate Insolvency Resolution Processes ("CIRP") in respect of Corporate Debtor commenced on 02.09.2019 in terms of order passed by this Tribunal and the moratorium under Section 14 of the Code came into force. The Corporate Debtor was admitted into liquidation vide order dated 05.03.2024. The Liquidator invited the claims from the Creditors and the last date for submission of claim in liquidation was 24th April 2024. The applicant vide letter dated 26.08.2024 filed its claim before the Liquidator. There was no communication as to status of the claim till email dated 11.09.2024 whereby the Liquidator expressed his inability to process with the claim stating that "*The claim is much beyond the last date of receipt and you have already communicated one amount earlier which was admitted as unsecured creditor THIS WAS INFORMED ON May 1, 2024 by me to you.*"
5. Being aggrieved by the Liquidators decision, the Appellant has filed the present Appeal and it has been pleaded that the corporate debtor, covered under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred to as "Act" for the purpose of brevity and convenience) under EPF Code No. THTHA00206101 w.e.f. 01.04.2011, has failed to comply with various statutory and mandatory provisions of the Act. i.e., Provident Fund, Pension Fund, EDLI and administrative charges for the period from 04/2011 to 11/2022. It is also stated that, for delayed payment of Provident Fund dues inquiry under sections 14B



and section 7Q of the Act was initiated for the respective periods which was concluded vide orders dated 08.03.2024; the corporate debtor had defaulted in remittance of statutory Provident Fund and allied dues under section 7A hence an enquiry for assessment of provident fund dues was initiated for the periods 06/2016 to 09/2019 vide summons dated 26.06.2024; as the records were not made available by the Liquidator hence dues were assessed on the basis of last remittance up to moratorium initiation period and accordingly order under section 7A was passed on 24.07.2024. It is further stated that, thereafter, for delayed payment of provident fund dues inquiry under section 14 B and 7 Q of the Act were initiated and dues were assessed vide orders dated 14.08.2024 and 7Q of the Act. Short Remittance towards principle amount, 7Q towards interest and 14 B towards damages to the tune of Rs. 6,11,575 /-. Breakup of the same are as follows:

Dues	Amount (In INR)
7A	11,570 (admitted)+2,13,800
7Q	8,124 (admitted)+1,64,281
14B	2,13,800
Total	6,11,575/-

6. It is contended by the appellant that as per section 36(4)(a)(iii) of IBC, 2016, PF & Pension dues are third party assets i.e. assets of workers laying with the corporate Debtor and hence dues are out of the liquidation estate. Further, it is contended that the appellant vide letter dated 26.08.2024 further informed that in the above section a liquidation Estate cannot incorporate assets of third party and as liquidator cannot categorize PF and allied dues as Operational creditor or Government dues since these are social security dues of workers maintained and disbursed by a specialized



- institution under a special law enacted by the Parliament, therefore, appellant have filed claim for PF and allied dues and not Form B or any other format prescribed Form B is meant for operational creditors. The Appellant has cited various judgments indicating Treatment and distribution of Provident fund charge.
7. The respondent Liquidator has contended that the claim was received much beyond the last date of the claim and the Appellant was informed on 01.05.2024 itself that their claim for Rs 19694/- has been accepted as Unsecured Operational Creditor Government Claim -As Government Dues as defined under section 53(1)(e)(i) of the Code. It was further informed by the Liquidator that the Appellant have never been able to establish its trust money and not provided KYC – this interest and damages comes under Government dues as defined under Section 53(1)(e)(i) of IBC 2016.”
 8. Heard the Counsel and peruse the material available on record.
 9. Admittedly, the present Appeal has been filed on 30.11.2024 while the Appellant was informed on 01.05.2024 itself and thereafter again on 11.09.2024. Section 42 of the Code prescribes a period of 14 days for filing an appeal against the decision of Liquidator and the Appeal in present case has been filed much beyond the prescribed period. The Liquidation process is a timebound process accordingly, the present Appeal is not maintainable at the first instance.
 10. Nonetheless, on merits also, the amount claimed has arisen from an order(s) dated 08.03.2024, 24.07.2024 and 14.08.2024. In the present case the Liquidation commenced on 05.03.2024, accordingly these claims were not in existence on the date of liquidation commencement date.
 11. It was also held in case of *Regional P.F. Commissioner EPFO v. Alok Kailash Saksena (Liquidator) and Anr.*, [\(2025\) ibclaw.in 689 NCLAT](#) that “11. There can



*be no dispute to the proposition as laid down by the Hon'ble Supreme Court in the above case. The above case, however, considered the winding up proceeding and entitlement of payments of employees of Provident Funds, Gratuity Funds and Pension Funds. The present is a case where the claim filed by the Appellant in liquidation proceeding has not been admitted. We have noted Regulation 16(2) of the IBBI (Liquidation Process) Regulations, 2016 which clearly provides that claim can be filed as on the liquidation commencement date. According to the own case of the Appellant, the claim was filed on the basis of assessment order passed on 11.10.2021 and 20.10.2021. Thus, the said claim was not in existence on the liquidation commencement date. Counsel for the liquidator has rightly placed reliance on judgment of this Tribunal in **"Employees Provident Fund Organisation, Nashik vs. Girish Siriram Juneja & Anr.- Company Appeal (AT) (Insolvency) No.693 of 2025 & IA No.2676 of 2025"** which was also a case where application filed by the EPFO before the Adjudicating Authority for accepting the claim was rejected. In the above case, a revised claim was filed on the basis of an order passed under Section 7Q and Section 14B dated 23.10.2023 which claim was subsequent to the liquidation commencement date. This Tribunal in its judgment dated 30.06.2025 upheld the order of the Adjudicating Authority rejecting the application of the Appellant. This Tribunal in the above case has noted that the claim which was filed on the basis of Section 7A order was admitted in liquidation and subsequent claim which was filed on the basis of order dated 23.10.2023 was not admitted since liquidation has commenced by order dated 28.04.2023. It is useful to notice paragraphs 5 and 6 of the judgment which is as follows:-*

"5. There is no dispute to the proposition that claim under 7Q and 14B arises after 7A is determined. In the present case, claim under 7A was filed within the time on 28.04.2023, which was admitted. Subsequently, claim under 7Q and 14B arose out of two orders dated 23.10.2023, which claims



were subsequent to the liquidation commencement date. In paragraph 9 of the order the Adjudicating Authority has noticed the above fact, which is as follows:

“9. These communications clearly evidence that the revised claim of the Applicant EPFO was rejected on 02.01.2024 in clear terms as being inadmissible on account of it having been filed beyond the last date for filing of the claim; the original claim of the Applicant was admitted; and the revised claim is arising from two orders passed on 23.10.2023 which is after the liquidation commencement date. The Applicant had a remedy in the form of Appeal in terms of Section 42 of the Code specifically providing for an Appeal within 14 days of the receipt of the decision of the Liquidator rejecting or admitting the claim of the Creditor. Undisputedly, this remedy was not availed by the Liquidator herein. Since there is a specific provision providing for appeal, this Tribunal cannot have jurisdiction in terms of Section 60(5) of the Code. Nonetheless it is trite law that the claims of the Creditor in existence as on the liquidation commencement date are only admissible and such claims has to be filed within the time period allowed by the Liquidator in terms of public announcement made after commencement of the Liquidation or such period as is extended thereafter. In the present case even, the revised claim has not been filed within the time prescribed by the Liquidator for filing of claim.”

6. Any claim which arises after 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. Claim under 7Q and 14B arose only on 23.10.2023 i.e. subsequent to liquidation commencement date. The Adjudicating Authority did not commit any error in not accepting the said claim. We, thus, do not find any ground to interfere in the order rejecting claim filed by the Appellant. There is no merit in the appeal. Appeal is dismissed.”



12. Since the claims arising from order(s) dated 08.03.2024, 24.07.2024 and 14.08.2024 were not in existence as on date of liquidation commencement, these claims are also not admissible in view of decision of Hon'ble NCLAT in case of

13. In view of aforesaid, Company Appeal/3 of 2025 is **dismissed and disposed of**.

-Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Rehan Shaikh

-Sd/-

SUSHIL MAHADEORAO KOCHEY
MEMBER (JUDICIAL)