IN THE NATIONAL COMPANY LAW TRIBUNAL
AHMEDABAD
COURT – 2

ITEM No.306

IA/9(AHM)2026 in CP(IB)/142(AHM)2023

Proceedings under Section 60(5) of the IBC,2016 r/w Rule 11 of the NCLT Rules,2016

IN THE MATTER OF:

Central Board of Trustees ....**Applicant**

V/s

Mr.Rahul Shah RP of M/s.Rajeshwari Cotspin Limited ....**Respondent**

Order delivered on: 03/08/2026

Coram:

Mrs. Chitra Hankare, Hon'ble Member(J)
Dr. Velamur G Venkata Chalapathy, Hon'ble Member(T)

ORDER

This case is fixed for pronouncement of order

The order is pronounced in open court vide separate sheet.

Sd/-

DR. V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

-SD-

CHITRA HANKARE
MEMBER (JUDICIAL)

SJ/AP/AD

IN THE NATIONAL COMPANY LAW TRIBUNAL,
DIVISION BENCH, COURT-II,
AHMEDABAD

I.A. No. 9/AHM/2026

In

CP (IB) 142 OF 2023

[*Under Section 60 (5) of Insolvency & Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016*]

In the matter of :

The Central Board of Trustees,
Through The Regional Provident Fund Commissioner(Legal),
Employees Provident Fund Organisation,
(Ministry of Labour and Employment,
Government of India)
Regional Office , Naroda,
Having Office at Plot No. 431,
Nr. Shri Kadwa Patidar Samaj Wadi,
Naroda-Dehgam Road, Naroda,Ahmedabad-382330
Email I.D.: ro.naroda@epfindia.gov.in

... Applicant

Versus

Mr. Rahul Shah
Resolution Professional of
M/s Rajeshwari Cotspin Limited,
Reg. No. IBBI/IPA-001/IP-PO02170/2020-21/13367,
Having office at Shop No. 6, Samprati Residency,
Opposite AMC Garden, Naranpura,
Ahmedabad- 380013
Email I.D.: cirp.rajeshwaricotspin@gmail.com

... Respondent

Order pronounced on 03.08.2026

Sd/-

-SD-

Coram:

MRS. CHITRA HANKARE
HON'BLE MEMBER (JUDICIAL)

MR. VELAMUR G. VENKATA CHALAPATHY
HON'BLE MEMBER (TECHNICAL)

Appearance:

For the Applicant : Mr. A.V Nair, Adv.
For Respondent : Mr. Arjun .M. Padhiyar, Adv.

JUDGMENT

1. The present application is filed under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 (In Short "IBC") read with Rule 11 of the National Company Law Tribunal Rules, 2016(In Short NCLT Rules, 2016) by the Applicant, inter-alia, seeking following prayers:

   a) *To direct the respondent herein-Interim/Resolution Professional to re-verify the claim of the Applicant herein by scrutinizing the balance-sheet and other relevant records, including the documents submitted by the applicant herein, and thereafter, accept/admit the claim of the applicant for the total amount of Rs. 4,58,42,794/- or any such legitimate amount found to be outstanding towards the Provident Fund Dues of the workmen and employees of the Corporate-debtor, for the default period*

Sd/- Sd/-

January- 2019 to September- 2025, from the records of the Corporate Debtor, and further also be pleased to direct the Resolution Professional to acknowledge the priority of provident fund dues over the assets of the corporate-debtor in the present Insolvency proceedings;

b) *To direct the respondent to pay costs to the applicant as may be determined by this Hon'ble Tribunal;*

2. The Applicant is aggrieved by the action of the respondent in not considering the application dated 06.10.2025 for claiming the total amount of Rs. 4,58,42,794/- towards provident fund dues of the workmen and employees of the Corporate Debtor inclusive of the payable contributions under Section 7A, Statutory damages under Section 14B and the statutory interest under Section 7Q of the Employees and Provident Fund and Miscellaneous Provisions Act, 1952 (In short "EPF Act"). It is further stated that Corporate Debtor (Rajeshwari Cotspin Limited) is an establishment covered under the provisions of the EPF Act bearing PF Code no. GJ/AHD/1674372000.

3. The Applicant states that the Corporate Debtor had defaulted in remitting the contribution of all the workmen/

Sd/- -SD-

employees towards the Provident Fund under the provisions of EPF Act and the three schemes thereunder, for the default period from 2019 to March 2024, pursuant to which orders under Section 7Q and 14B dated 05.08.2025 were passed against the Corporate Debtor prior to the initiation of CIRP i.e. 17.09.2025. The Applicant had conducted the inspection of the available record of the Corporate Debtor on 06.10.2025 and reported that the Corporate Debtor had failed to remit PF dues of the tentative amount of Rs. 2,04,33,607/- for the period between 2019-2024.

4. The Applicant states that for the purpose of computation of the statutory claim in CIRP, it prepared a consolidated claim of Rs. 4.58,42,794/- on the basis of enforcement officer's inspection report and audited balance sheet and submitted it with the Respondent vide email dated 06.10.2025, which has been rejected without verification of the record of the Corporate Debtor by respondent vide two emails dated 07/10/2025 and 09/10/2025. The bifurcation of the claimed amount of provident fund dues are as under.

Sd/-

-SD-

Dues	Period	Amount	Documents
Dues of Provident Fund	2019-2020 to 2023-2024	2,04,33,607/-	Intimation letter of compliance section No. GJ/RO/NRD/ENF/C-8/1674372/849 dated 06.10.2025 along with Area Enforcement Officer report dated 06.10.2025.
Damages u/s 14 B & 7Q	2019-2020 to 2023-2024	(14 B) 1,63,49,065/- (7Q) 90,55,758/-	Calculation Sheet is attached.
Damages u/s 14B	01.07.2022 to 30.06.2024	411/-	GJ/AHD/DAMAGES/NRD/Cir/GJAHD1674372000/305 dated 05.08.2025.
	01.07.2024 to 17.09.2025.	2464/-	No. RO/AHD/PD/GJAHD/1674372000/2025/398 dated 06.10.2025
Interest u/s 7Q	01.07.2022 to 30.06.2024	984/-	GJ/AHD/DAMAGES/NRD/Cir/GJAHD1674372000/306 dated 05.08.2025.
	01.07.2024 to 17.09.2025	505/-	No. RO/AHD/PD/GJHAD/1674372000/2025/398 dated 06.10.2025
TOTAL		**4,58,42,794/-**	

5. The Applicant states that the aforesaid action of the Respondent is erroneous. The amount of Provident Fund provides social safety net to the workmen and employees of the establishment in their old age and in times of dire need. The provident fund dues being the assets of the

-SD- Sd/-

workmen/employees shall not be included in the liquidation estate to be distributed pursuant to the order of priority as set out in Section 53 of IBC. The Provident Fund dues, inclusive of damages and interest are to be classified as statutory dues of workmen/employees having priority over all other debts, and the claim of provident fund dues is not covered under the definition of "claim" as defined in Section 3(6) of the IBC, and in light of Section 18 as well as Section 36(4)(a)(iii) of the IBC, the Provident Fund dues are to be treated as the assets of the workmen/employees in the custody of the Corporate debtor,

6. The Applicant states that no adjudication of the dues have been made by the authorities herein under Section 7A or Section 7Q or Section 14B of the EPF Act, during the moratorium. The Applicant relies on the Judgment of the Hon'ble High Court of Bombay in the case of Dalmia Cement (Bharat) Ltd. and Ors. Vs Central Board of Trustees, Employees Provident Fund Organization reported in (2025) ibclaw.in 657 HC wherein it has been held that the RP herein is under obligation to verify the claim of outstanding provident fund dues from the balance sheet of the past

-SD- -SD-years and make it a part of the Information Memorandum for consideration during the CIRP by the probable Resolution Applicants.

7. The Applicant states that the outstanding dues of provident fund and allied dues of the workmen and employees can be assessed from the record of the Corporate Debtor by the RP, as mandated in the judgment of Dalmia Cement (supra) read with the regulation in this regard and the claim of provident fund cannot be rejected merely on ground of its non-adjudication by the Competent Authority under the EPF Act, moreso when the IB Code has fasten the duty of the same on the resolution professional during the CIRP.

8. The Respondent had filed its reply and states that the alleged claim of the applicant is based upon the inspection carried out by Enforcement Officer on 06.10.2025 which is after the declaration of moratorium imposed under Section 13 of the Code read with Section 14 of the IBC, 2016. The CIRP of the Corporate Debtor was initiated vide order dated 17.09.2025. The Respondent relies on the judgment passed by Hon'ble NCLAT in the matter of Mr. Harry Dhaul Vs Regional Provident Fund Commissioner-II, Company Appeal

Sd/- -SD-

(AT) (INS) No. 1691 of 2024. The Respondent further relies on the judgment passed by Hon'ble NCLAT in the matter of Employees Provident Fund Organization Vs Subhlaxmi Investment Advisory Private Limited & Ors., Company Appeal (AT) (INS) No. 794 of 2025.

9. The Respondent states that as, per the details provided by the suspended management, the operations of the Corporate Debtor were ceased permanently on 31.05.2025. It is further stated that legitimate claim was admitted by the IRP, however, the alleged claim is based on ex-parte internal calculations which is un-supported by employee-wise computation. The intention of the EPFO Act is for the welfare of the employees and hence in the absence of such employee-wise computation, the entire claim is baseless. The Respondent relies on the judgment passed by Hon'ble NCLT, Kolkata Bench in the matter of Jayanta Banerjee Vs Incab Industries Limited & Ors., IA (IB) 1171/KB/2025 in CP (IB) No. 1684/KB/2018. In the CIRP process of the Corporate Debtor, no claim of the workmen or employee has been received by the IRP or by the RP.

Sd/- Sd/-

10. The Applicant had filed the rejoinder and states that the reliance placed by the respondent on the precedents of Hon'ble NCLAT in the case of (i) Harry Dhaul Vs RPFC-II (supra) (ii) EPFO Vs Subhalaxmi Investment Advisory Private Limited (supra) and the precedent of the Hon'ble NCLT Kolkata in the case of EPFO Vs INCAB Industries Limited (supra), which have based their decision on the precedent of the Hon'ble NCLAT in the case of CA Pankaj Shah Vs EPFO reported in (2025) ibclaw.in 699 NCLAT and of Hon'ble NCLAT in the case of EPFO Vs Jaykumar Pesumal Arlani RP of M/s. Decent Laminates Pvt. Ltd. reported in (2025) ibclaw.in 10 NCLAT, are not available as precedents, on the issue of treatment of Provident Fund and allied dues assessed during the moratorium under Section 14 and/or 33(5) for admission/consideration in the CIRP, as the said issues are pending challenge before the Hon'ble Supreme Court of India, by way of Civil Appeal no. 1616 to 1618 of 2026, Civil Appeal Diary No(s) 12175/2025 and Civil Appeal no. 4683 of 2026.

11. The Applicant states that the said precedents of the Hon'ble NCLAT are rendered by relying on the judgment of Hon'ble

-SD- Sd/-

Supreme Court of India in the case of Rajendra K. Bhutta Vs Maharashtra Housing and Area Development and Anr. reported in (2020) 13 SCC 208, which have no applicability while dealing with the claims of provident fund and allied dues which are protected under Section 36(4)(a)(iii) of the IB Code, whereas issue involved in the case would have been governed by precedent of the Hon'ble Supreme Court of India in the case of S.V. Kondaskar Vs V.M Deshpande, (1972) 1 SCC 438, which have been followed by the Supreme Court in the case of Sundaresh Bhatt, Liquidator of ABG Shipyard Vs Central Board of Indirect Taxes & Customs, (2023) 1 SCC 472 and by Hon'ble High Court of Bombay in Dalmia Cement (supra) and by the High Court of Kerela in the case of Kerela State GST V/s. NCLT & Anr. reported in (2024) ibclaw.in 85 HC, while dealing with the provisions of the IB Code.

12. The Applicant states that RP is casted with the obligation of ascertaining the assets and liabilities of the Corporate Debtor as on the date of commencement of CIRP including the liability of payable provident fund and allied dues, which also includes payable interest and damages for the delayed

Sd/- Sd/-

payables, till 17.09.2025 on the basis of record. It is further stated that the current RP has attempted to justify the illegal and arbitrary action of the erstwhile RP, by raising the frivolous plea of violation of moratorium under Section 14 of the IB Code, even when there is no adjudication or determination done under the provision of the EPF Act. Qua, the issue that no claim was received from the workmen or employees by the RP, the Applicant states that it being the custodian of the fund which maintains the provident fund and pension fund of the workmen and employees of the Corporate Debtor. The Applicant is statutorily bound to pay the provident fund and monthly pension to the concerned workmen or employees upon their superannuation.

13. We have heard the learned Counsels for both the parties and perused the documents on record along with written submissions of the parties.

14. Observations:-

a) From the submissions and documents produced by the applicant on the summons issued on 6 October 2025, it is stated that there are belated remittances during the period

Sd/- -SD-

from July 2024 to Sept 2025 attracting penal damages. The employer was directed to be present on 14 October 2025 for deciding the matter. It also appears that the total damages payable is mentioned as Rs 2464. However, in the claim submitted on Oct 9 2025 before the RP.

b) The RP vide letter dated Oct 9 2025 has stated to have perused the Claim letter dated 6.10.2025 of the applicant wherein it is mentioned that the AEO has visited and inspected the record of establishment as provided by IRP and submitted its report dated 6.10.2025 and it is informed that a tentative amount of Rs.20,433,607 of PF dues has been calculated for the period from 2019-2020 to 2023-24 which is yet to be remitted of which only Rs.1395 has been admitted. The respondent RP has also stated that the letter is issued during the moratorium period which started on 17 September 2025 when the CIRP process was admitted (date of commencement) when no proceedings can be initiated during the period of moratorium. A copy of the relevant order of the adjudicating authority was enclosed.

c) It appears that the applicant and their authorities appears to have as submitted visited the premises during the

Sd/- Sd/-

moratorium period around 6.10.2025 and observed to have levied damages (unquantified by only mentioning the rate of damages as percentage of arrears for the periods prior to 25.09.2008, damages for the period up to 13.06.2024 and rate of damages up to 14.06.2024. These are clearly not PF dues, if any payable which can only be verified and paid by the respondent RP based on the outstanding dues as on date of CIRP commencement date as per IBC provisions and clearly this is an act of intrusion during the moratorium period and assessing certain damages for a period of over 17 years period by a stroke of pen after the CD was admitted to CIRP which is not in order. As already communicated by the RP, the stand is confirmed, he is only obliged to pay the amount due to PF as on date of CIRP as per books of CD and nothing else. The Applicant should also have not issued Summons or proceeded with any action to investigate and decide during the moratorium period as per Sec 14 of IBC, 2016.

15. In, view of the above we pass the following order :-

Sd/-

Sd/-

ORDER

I.A. No. 09 of 2026 in C.P.(IB) No. 142 of 2023 is rejected and disposed of.

-SD-

DR.V. G. VENKATA CHALAPATHY
MEMBER (TECHNICAL)

Sd/-

CHITRA HANKARE
MEMBER (JUDICIAL)

DD-LRA