IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No(s). 9768/2026
@ Diary No. 18254/2026

EMPLOYEES PROVIDENT FUND ORGANISATION Appellant(s)

VERSUS

RACHNA JHUNJHUNWALA & ANR. Respondent(s)

O R D E R

1. Refiling delay condoned.

2. Aggrieved by exclusion of unadjudicated claims of the appellant *qua* interest and damages payable under Section 7Q and Section 14B, respectively, of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (for short, the 1952 Act) in the approved resolution plan, the appellant filed an appeal before the National Company Law Appellate Tribunal (NCLAT) against the order of the Adjudicating Authority approving such plan. The

said appeal stood dismissed by the impugned order.

3. The Corporate Debtor (CD) was admitted into Corporate Insolvency Resolution Process (CIRP) *vide* order of the Adjudicating Authority dated 01.05.2023. Pursuant to public announcement inviting claims, the Appellant submitted a claim of Rs.22,49,956/- comprising provident fund (PF) dues including interest and damages payable under Sections 7Q and 14B of the 1952 Act. During CIRP, the Committee of Creditors (COC) with 100% voting share approved the resolution plan and submitted it for approval of the Adjudicating Authority. The Adjudicating Authority approved it *vide* order dated 17.05.2024.

4. Under the Resolution Plan, Rs.73,120/- was proposed to be paid towards PF dues of the CD as against the claim of Rs.22,49,956/-. Notably, the claim of Rs.22,49,956 included (a) Rs.73,120/- towards PF dues under Section 7A; (b) Rs.9,32,805/- towards interest leviable under Section 7Q; and (c) Rs.12,44,031/- towards damages under Section 14B.

5. The argument on behalf of the Appellant was that PF dues are excluded from liquidation estate under Section 36(4)(a)(iii) of the Insolvency and Bankruptcy Code, 2016 (for short, IBC) and, therefore, could not have been subjected to reduction, or haircut, under the resolution plan.

6. *Per contra,* in support of the resolution plan, the argument was that prior to commencement of CIRP, the appellant had not passed any order of determination under either Section 7A or Section 14B of the 1952 Act, and therefore, those dues had not crystallized. In so far as employer’s (CD’s) PF contribution is concerned, the same was provided for in the resolution plan. It was submitted that resolution plan was passed by COC with 100% voting share and has been approved by the Adjudicating Authority; therefore, in absence of any statutory violations, the plan so approved is not liable to be interfered with.

7. The NCLAT found that proceedings relating to interest and damages claimed under the 1952 Act were initiated on 10.05.2023

whereas CIRP had commenced on 01.05.2023; therefore, the claim under the heads of interest and damages was neither crystallized nor could be adjudicated upon in view of the moratorium. Thus, the protection of Section 36(4)(a)(iii) of IBC to those claims was not available. Based on that reasoning, the NCLAT declined to interfere with the approval of the resolution plan by the Adjudicating Authority.

8. We have heard learned counsel for the appellant. He pressed the same arguments as were urged on behalf of the appellant before the NCLAT.

9. In *Tata Steel Ltd. versus Varsha & Anr., 2026 SCC OnLine SC 1349*, this Court while directing quashing of arbitral proceedings *qua* claims not provided for in the resolution plan observed as under:

> **"55. This court is further of the view that no resolution plan can succeed if uncertain or unquantified claims are permitted to linger and resurface against the successful resolution applicant years after approval. Such a situation would be akin to a hydra headed recurrence and is antithetical to the 'clean slate' principle."**

10. The rationale behind the above view is spelt out in *Essar Steel (India) Ltd. Committee of Creditors v. Satish Kumar Gupta, (2020) 8 SCC 531,* where this Court held:

> **"107. … A successful resolution applicant cannot suddenly be faced with undecided claims after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor. All claims must be submitted to and decided by the resolution professional so that a prospective resolution applicant knows exactly what has to be paid in order that it may then take over and run the business of the corporate debtor."**

11. In our view, though PF dues are excluded from the liquidation estate under Section 36(4)(iii) of IBC, liability of CD towards interest and damages payable under Section 7Q and 14B of the 1952 Act, if not determined and finalized before CIRP commencement, would fall in the category of a contingent liability. To assuage the concern of all stakeholders, the COC, in its commercial wisdom, may provide for a lump sum amount to meet contingent liabilities arising from uncrystallized claims. However, if the COC, in its commercial wisdom, has not provided for such

contingent liabilities in the resolution plan, its decision cannot be faulted because the underlying object of CIRP is to adhere to fixed timelines. If the prospective resolution applicant is kept guessing as to what he would have to pay to take over and run the business of the CD, it may not enter the fray thereby defeating the underlying object of IBC. Besides, approval of a resolution plan duly approved by the COC can be declined by the Adjudicating Authority on limited grounds, inter alia, that it does not fulfill the mandate of sub-section (2) of Section 30 of IBC.

12. Here the resolution plan provides for payment of PF dues even though it does not provide for uncrystallized claims of interest and damages regarding which proceedings were not initiated by the CIRP commencement date. Therefore, in our view, there is no blatant violation of the statutory mandate of IBC.

13. For all the reasons above, we do not find any justification to interfere with the impugned order which affirms the order of the Adjudicating Authority approving the resolution plan. The

appeal is, accordingly, dismissed. Pending application(s), if any, shall stand disposed of.

……………………………………..J
[MANOJ MISRA]

………………………………………..J
[VIJAY BISHNOI]

New Delhi;
July 28, 2026

ITEM NO.21 COURT NO.11 SECTION XVII-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 9768/2026
@ Diary No. 18254/2026

EMPLOYEES PROVIDENT FUND ORGANISATION Appellant(s)

VERSUS

RACHNA JHUNJHUNWALA & ANR. Respondent(s)

FOR ADMISSION
IA No. 141110/2026 - CONDONATION OF DELAY IN REFILING / CURING THE DEFECTS
IA No. 141109/2026 - STAY APPLICATION

Date : 28-07-2026 This matter was called on for hearing today.

CORAM HON'BLE MR. JUSTICE MANOJ MISRA
HON'BLE MR. JUSTICE VIJAY BISHNOI

For Appellant(s) Mr. Dushyant Parashar, AOR
Mr. Manu Parashar, Adv.
Mr. Dinesh Pandey, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

1. Refiling delay condoned.

2. The appeal is dismissed in terms of the signed order placed on the file.

3. Pending application(s), if any, shall stand disposed of.

(CHETAN ARORA) (SAPNA BANSAL)
ASTT. REGISTRAR-cum-PS COURT MASTER (NSH)