NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH (COURT-II), CHANDIGARH

IA(I.B.C.)/1470(CH)2025
IN
CP(IB) No.315/Chd/Hry/2019
(Admitted Matter)

[*An Application under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016*]

IA(I.B.C.)/1470(CH)2025
Employees Provident Fund Organisation
Through Regional Provident Fund Commissioner,
Regional Office: 130, Paschim Pal Vistar Yojana,
Jodhpur, Rajasthan
Email id: ro.jodhpur@epfindia.gov.in

...Applicant

Versus

Sh. Darshan Singh Anand,
Interim Resolution Professional (IRP)/RP
having the project specific office at:
Stellar Insolvency Professional LLP, Suite 10,
3rd Floor, 310, New Delhi House, 27 Bara Khambha,
Connaught Place, New Delhi-110001;
Email id: cirp.vikaswsp@gmail.com

...Respondent No. 1

Vikas WSP Limited
having its office at: 129, New Mandi Yard,
Sri Ganganagar-335001, Rajasthan
(through Sh. Darshan Singh Anand, IRP/RP,
Stellar Insolvency Professional LLP, Suite 10,
3rd Floor, 310 New Delhi House, 27 Bara Khambha,
Connaught Place, New Delhi-110001

...Respondent No. 2

IN THE MATTER OF :

CP(IB) No.315/Chd/Hry/2019
(An application under Section 7 of the Insolvency and Bankruptcy Code, 2016)

Bank of India

...Financial Creditor

Versus

Vikas WSP Limited

...Corporate Debtor

Order delivered on: 10.07.2026

Coram: SHRI KAUSHALENDRA KUMAR SINGH, MEMBER (TECHNICAL)
SHRI KHETRABASI BISWAL, MEMBER (JUDICIAL)

Present:

For the Applicant	:	Mr. Ajay Kalra, Advocate
For the Respondent RP	:	Mr. I.P.S. Oberoi, Advocate, G.S. Sarin PCS

ORDER

1. The present Application bearing No. IA(I.B.C.)/1470(CH)2025 has been filed by **Employees Provident Fund Organisation** (hereinafter referred to as "Applicant/EPFO"), under Section 60 (5) of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as "**Code**") read with Rule 11 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 against the decision of the Resolution Professional, **Sh. Darshan Singh Anand** (hereinafter referred to as "Respondent No. 1") communicated vide Letter dated 28.04.2025 (received on 07.05.2025), whereby the revised claim of the Applicant of Rs.15,03,05,251/- communicated vide Letter dated 07.04.2025 and 07.08.2024 has been rejected being non-admissible. The Applicant further prays for issuance of direction to the Interim Resolution Professional (IRP)/ RP to act upon and admit the further revised claim of the Applicant of Rs.22,30,79,084/- submitted vide Letter dated 16:05.2025.

FACTS AND SUBMISSIONS OF THE APPLICANT

2. The averments made by the Applicant in its Application and as narrated by the Learned Counsel for the Applicant are summarized hereunder:

(i) The EPFO had initiated enquiry under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 in the year 2018 for non-payment of provident fund dues for the periods 09/2015–03/2018 and 04/2018–07/2018, resulting in assessments of Rs.1,29,49,496/- and Rs.31,33,265/- respectively. Separate proceedings under Sections 14B and 7Q were initiated for delayed remittances during May 2017–March 2019 and April 2019–September 2021, culminating in assessments towards damages of Rs.1,08,90,367/- and interest of Rs.52,37,583/- for May 2017–March 2019 and damages of Rs.77,25,551/- and interest of Rs.37,09,786/- for April 2019–September 2021. Additionally, short-remitted dues of Rs.11,20,937/- were assessed on 09.02.2022. During the pendency of these proceedings, a further notice under Section 7A was issued on 04.10.2021 for the period August 2018–August 2021.

(ii) On 03.02.2022, the Applicant was informed of the initiation of CIRP against the Corporate Debtor, and a public announcement under Regulation 6 of the CIRP Regulations was issued on 04.02.2022. The Applicant submitted its claim before the IRP on 11.02.2022 in the prescribed format along with the proof of the claim i.e. above mentioned statutory orders/notices and the latest calculation dated 11.02.2022 of the EPF dues, claiming a total amount of Rs.9,28,86,993/- towards EPF dues. By e-mail dated 01.04.2022, the IRP informed the Applicant that only Rs.1,60,82,761/- had been admitted, while the remaining amounts were either treated as contingent claims or kept under verification.

(iii) Aggrieved by the partial admission of its claim, the Applicant filed IA No.1431/2022 seeking recognition and implementation of the statutory dues determined under Sections 7A, 14B and 7Q of the EPF & MP Act. The said application was allowed vide order dated 23.01.2023, whereby this Tribunal held that liability towards EPF dues would be borne by the Successful Resolution Applicant and directed compliance with the provisions of the EPF & MP Act upon approval of the Resolution Plan.

(iv) Subsequently, vide office letters/orders dated 04.04.2024, 20.06.2024 and 04.07.2024, the Applicant determined a further sum of Rs.15,03,02,251/- as recoverable from the Corporate Debtor, comprising Rs.11,20,937/- towards short-remitted dues, Rs.6,19,49,386/- towards dues, Rs.5,70,26,393/- towards damages under Section 14B, and Rs.3,02,05,535/- towards interest under Section 7Q. By letter dated 07.08.2024, the Applicant informed the Resolution Professional of the aforesaid additional liability and sought confirmation of the statutory first charge of provident fund dues over the assets of the Corporate Debtor. Thereafter, certificates under Section 8 of the EPF & MP Act were issued on 07.04.2025 to the Recovery Officer, Sri Ganganagar, for recovery of the assessed dues, with copies also forwarded to the Corporate Debtor.

(v) However, by letter dated 28.04.2025, the Resolution Professional rejected the revised claim on the ground that it was not admissible under the IBC. The Applicant thereafter submitted a further communication dated 16.05.2025 asserting that a total amount of Rs.22,30,79,084/- was recoverable from the Corporate Debtor, including damages and interest pertaining to the period September 2015 to July 2018 which had not been included earlier. According to the Applicant, no decision has been communicated on the said revised claim.

(vi) The Applicant submits that provident fund dues constitute workmen's dues and enjoy statutory priority under Section 11(2) of the EPF & MP Act, 1952, Section 327 of the Companies Act, 2013 and Section 36(4)(a)(iii) of the IBC. All sums due towards provident fund, pension fund and gratuity fund are excluded from the liquidation estate and cannot be utilized for payment of other debts. The Hon'ble High Court of Bombay in Dalmia Cement (Bharat) Ltd. and Ors. v. Central Board of Trustees Employees Provident Fund Organization (EPFO) W.P. 693 of 2022 decided on 29.04.2025 clarified that Provident Fund dues, both employee and employer contributions, are not considered assets of the corporate debtor and are excluded from the liquidation estate, according to the IBC. This means employee Provident Fund dues cannot be wiped out during the IBC resolution process. It is contended that the IRP/RP has not taken into consideration the aspect that dues claimed by EPFO belongs to workmen and workmen dues bound to be determined first in priority to other dues at the time of considering the claims. From perusal of resolution plans this seems that all sums of provident fund payable to workmen has been included into the liquidation estate assets which is against the statutory provisions of EPF & MP Act, 1952 and Section 36(4)(a)(iii) of Insolvency and Bankruptcy Code 2016.

(vii) Further, IRP/RP gets the mandate from this Tribunal to take control of all the affairs of Establishment during CIRP period, hence, he starts performing his tasks as employer/Manager of the establishment. As per the EPF Act, Manager is deemed to be employer and liable to pay the dues as per Section 14AB of EPF Act. Further, Section 25(2)(b) of Insolvency & Bankruptcy Code 2016 mandates that Resolution Professional should "represent and act on behalf of the corporate debtor with third parties, exercise rights for the benefit of the corporate debtor in judicial, quasi-judicial or arbitration proceedings".

(viii) It is further submitted that proceedings under the EPF & MP Act had been pending since 2018 and the Corporate Debtor had participated therein, though it initially failed to cooperate and did not disclose the pendency of insolvency proceedings before the EPF authorities. It is contended that EPF dues, including interest and damages, ought to have been identified and excluded from the liquidation estate at the outset in view of the statutory mandate.

(ix) The Corporate Debtor is duty bound to disclose about the PF dues along with interest and penalty thereon, to NCLT being part of workmen dues, which should have been excluded from liquidation estate assets of respondent establishment. The IRP should exercise due diligence pertaining to the EPF dues to be deposited by the Establishment after taking the charge of entire record of the Corporate Debtor in view of the statutory mandate of supremacy of EPF dues over other debts. He should have segregated the amount of EPF dues well in advance from the other debts. As per section 17(2)(e) of the Code, the IRP shall be "responsible for Complying with the requirements under any law for the time being in force on behalf of the corporate debtor"

(x) The Hon'ble NCLAT in the matter titled as *Tourism Finance Corporation of India Ltd. Vs. Rainbow Papers Ltd. & Ors.* and in *Regional Provident Fund Commissioner-I, Ahmedabad Vs Ramchandra D. Chaudhary (Company Appeal (AT) (Insolvency) No. 1001 of 2019* vide order dated 19.12.2019, has allowed the appeal filed by EPFO and directed the resolution applicant to release full provident fund and interest. Finding of the Hon'ble NCLAT reproduced herein below:

"44. However, as no provisions of the 'Employees Provident Funds and Miscellaneous Provision Act, 1952' is in conflict with any of the provisions of the 'I&B Code' and, on the other hand, in terms of Section 36 (4) (tii), the 'provident fund' and the 'gratuity fund' are not the assets of the 'Corporate Debtor', there being specific provisions, the application of Section 238 of the 'I&B Code' does not arise."

The Applicant further states that the appeal preferred against the said judgment in Civil Appeal No.1920 of 2020 was dismissed by the Hon'ble Supreme Court on 20.05.2020.

(xi) Reliance is also placed upon the judgment of the Hon'ble Supreme Court in *Bhupinder Singh Versus Unitech Ltd., Civil Appeal No.10856 of 2016*, wherein it was observed:

"(x) The order of moratorium shall not foreclose the statutory entitlement of the EPFO to enforce the claims for the payment of EPF and other related statutory dues in accordance with law against the erstwhile management"

(xii) Further relied on *Asset Reconstruction Co. Ltd. CP -1339-2017 MA 576-208 MA 752-2018*, Hon'ble NCLT, Mumbai has held that duty conferred upon the Liquidator and the Tribunal to ensure that provident fund dues are excluded from the liquidation estate so as to enable the workmen realize their savings as well as the matching contribution comes from the employer giving priority, even above the costs of liquidator because the liquidator is also entitled to realize the costs from liquidation estate only, whereas the workmen for provident fund dues need not remain in line to realize their PF dues from the liquidation estate. This right in fact emanated from the fundamental right of right to life. It further referred to overriding effect of EPF Act as per section 8 and Section 11 thereof whereby dues of PF, Pension, Gratuity Fund has to be paid in priority to all other debts in the distribution

(xiii) The statutory scheme under the EPF & MP Act, 1952 authorizes the competent authority to determine provident fund dues, including interest and damages. Consequently, such dues cannot be disregarded on technical grounds. In view of the provisions of the EPF & MP Act, 1952, the Companies Act, 2013 and the IBC, as well as the judicial precedents referred to above, the rejection of dues assessed under Sections 7A, 14B and 7Q by the Resolution Professional is arbitrary and unsustainable. The EPF & MP Act is a beneficial social welfare legislation enacted to protect the financial interests of workmen, a principle reinforced by Section 327 of the Companies Act, 2013 and Section 36(4)(a)(iii) of the IBC, which mandate that provident fund, pension fund and gratuity fund dues remain outside the liquidation estate and cannot be utilized towards satisfaction of other debts.

SUBMISSIONS BY THE RESPONDENT

3. The Application has been opposed by the Respondent by filing a Reply dated 27.11.2025. The defense as taken in the reply and as narrated by the learned counsel for the Respondent are briefly summarised as under:-

(i) The chronology of events demonstrates that the CIRP of the Corporate Debtor commenced on 02.02.2022 and a public announcement inviting claims was issued on 04.02.2022, with 16.02.2022 being the last date for submission of claims. The Applicant–EPFO filed its claim for ₹9,28,86,993/- on 11.02.2022, which was partly admitted by the Resolution Professional. The statutory period of 90 days prescribed under Regulation 12(2) of the CIRP Regulations expired on 03.05.2022. Thereafter, the Resolution

Plan was approved by the Committee of Creditors on 25.08.2022 and an application seeking its approval was filed before this Tribunal on 29.10.2022.

(ii) Subsequently, by order dated 23.01.2023, this Hon'ble Tribunal allowed the Applicant's request for admission of its entire claim of ₹9,28,86,993/-. In compliance with the said order, the claim was admitted in full and taken into account in the revised distribution matrix approved by the CoC in its 20th meeting held on 13.07.2023. A revised Form H was filed before this Hon'ble Tribunal on 22.08.2023 and the Applicant was duly informed of the admission of its claim on 31.08.2023.

(iii) Despite the aforesaid position, the Applicant sought to introduce fresh claims amounting to ₹15,03,02,251/- on 07.08.2024 Thereafter, the Applicant endorsed a copy of its internal letter No. 309 dated 07.04.2025 addressed to the Recovery Officer, Sri Ganganagar, stating that a Recovery Certificate for ₹5,70,26,483/- had been forwarded to the Recovery Officer, Jodhpur. The Resolution Professional, vide communication dated 28.04.2025, conveyed that the letter dated 07.04.2025 as well as the claim raised through letter dated 07.08.2024 were non-admissible in terms of the Insolvency and Bankruptcy Code, 2016 and the judgment of the Hon'ble NCLAT dated 03.01.2025. Thereafter, vide letter dated 08.05.2025 issued by the Assistant Provident Fund Commissioner, Sri Ganganagar, the Applicant asserted that an amount of ₹19,39,48,389/- was recoverable from the Corporate Debtor and enclosed copies of ten office letters/orders in support thereof. The Resolution Professional replied on 21.05.2025, conveying that the request for remittance of ₹19,39,48,389/- could not be acted upon during the subsistence of the CIRP and further clarifying that a sum of ₹9,28,86,993/- out of the said demand already stood admitted as the Applicant's claim.

(iv) The Applicant has also relied upon a subsequent letter dated 16.05.2025 whereby an amount of ₹22,30,79,084/- has been stated to be recoverable from the Corporate Debtor. The contents of the said communication are substantially identical to the earlier letter dated 08.05.2025 and refer to eleven office letters/orders, the first ten of which are the same as those relied upon in the earlier communication.

(v) Significantly, four of the office letters/orders relied upon by the Applicant were issued during the period when the Corporate Debtor was undergoing CIRP and was protected by the moratorium imposed under Section 14 of the Code, namely:

(a) office letter dated 04.07.2024 claiming ₹11,20,937/-;

(b) office letter dated 04.04.2024 claiming ₹6,19,49,386/-;

(c) office letter dated 20.06.2024 claiming interest under Section 7Q amounting to ₹3,03,05,535/-; and

(d) office letter dated 27.08.2024 claiming damages amounting to ₹5,70,26,483/-.

In addition thereto, a sum of ₹2,91,30,695/- has been reflected as "tentative dues", although no assessment order in support thereof has been issued or enclosed. These amounts also pertain to the period during which the moratorium was in operation.

(vi) The legal position is well settled that upon commencement of CIRP and imposition of moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016, no recovery proceedings can be initiated or continued against the Corporate Debtor. Equally, claims under the CIRP framework are required to be determined as “on the Insolvency Commencement Date”, as reflected in the prescribed claim forms under the CIRP Regulations. It is further settled that once a Resolution Plan has been approved by the Committee of Creditors, fresh or revised claims cannot be entertained, as doing so would unsettle the resolution process and defeat the objective of achieving certainty and finality in insolvency proceedings.

(vii) In support of the aforesaid propositions, reliance has been placed upon a catena of decisions including the judgment of the Hon’ble Supreme Court in *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs* (Civil Appeal No. 7667 of 2021), wherein it was held that statutory authorities cannot pursue recovery proceedings in violation of the moratorium and that claims are required to be submitted in accordance with the timelines prescribed under the Code. Further, reliance has been placed upon judgement dated 11.10.2023 in CA (AT) (INS) No. 808 of 2022 titled as *RPFC, Vatwa, EPFO Vs. Manish Kumar Bhagat & Ors*, Hon'ble NCLAT had held as under:-

> *" 9 . ... The Copy of Order dated 14.10.2019 by which amount of Rs. 68,54,869/- has been imposed is clearly after initiation of CIRP against the Corporate Debtor vide Order dated 30.09.2019.*
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> *10. We thus are of the view that it is not necessary in this proceeding to issue any direction for payment of the damages as imposed by the Order dated 18.10.2019 which was subsequent to CIRP imposition of moratorium. We thus are of the view that no direction need to be issued for payment of damages under Section 14B of Rs. 68,54,869/-. "*
>
> *"18. i. (b) No direction is issued to the SRA to make payment of amount of damages under Section 14B for amount of Rs. 68,54,869/- which was imposed by Order dated 14.10.2019 after enforcement of the moratorium."*

(viii) In its judgement dated 27.05.2022 in Company Appeal No. 116 of 2022 titled as *EPFO Vs. Subodh Kumar Aggarwal*, Hon'ble NCLAT had held as under:-

> *"17. .... In the present case, the claim which is now crystalized under Section 7A was not there at the time of currency of the Corporate Insolvency Resolution Process, hence, it is not necessary for us to express any concluding opinion as to what steps to be taken by the Appellant for a claim which has been crystalized after close of CIRP process. "*

(ix) In these circumstances, the revised claims sought to be introduced by the Applicant are not liable to be entertained as:

(a) it was not in existence as on the insolvency commencement date,

(b) it is based on assessment proceedings carried out by the applicant during the period when moratorium had been imposed on initiation of CIRP,

(c) a resolution plan has been approved by the Committee of Creditors on 25.08.2022 and the application for its approval is pending adjudication before this Adjudicating Authority and

(d) the revised claim has been filed with a delay of 826 days.

The application, therefore, does not merit any relief and is liable to be dismissed.

ANALYSIS AND FINDINGS

4. We have considered the submissions made by the learned counsels of Applicant as well as the Respondent and have gone through the material available on record carefully, along with the extant provisions of the Code and the settled position of law on the subject issue.

5. At the outset, it is noted that dues towards provident fund constitute workmen's dues and enjoy a special statutory status under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, the Insolvency and Bankruptcy Code, 2016 and the Companies Act, 2013. Judicial pronouncements have consistently held that provident fund, pension fund and gratuity fund dues are not assets of the Corporate Debtor and are required to be accorded priority protection. This Adjudicating Authority is, therefore, conscious of the beneficial nature of the legislation and the necessity of safeguarding legitimate provident fund dues payable to workmen.

6. However, the issue arising in the present Application is not whether provident fund dues are entitled to priority, but whether a substantially

revised claim raised by the Applicant after completion of the claims verification process and after approval of the Resolution Plan by the Committee of Creditors can be entertained at this stage of the CIRP.

7. The record reflects that pursuant to initiation of CIRP on 02.02.2022, the Applicant submitted its claim on 11.02.2022 for an amount of ₹9,28,86,993/-. Although the claim was initially admitted only in part, the grievance raised by the Applicant was subsequently considered by this Tribunal in IA No.1431/2022 and, vide order dated 23.01.2023, the Applicant's claim of ₹9,28,86,993/- came to be admitted in full. The said claim was thereafter incorporated in the revised distribution matrix approved by the CoC in its 20th meeting held on 13.07.2023.

8. It is further evident from the record that the Resolution Plan had already been approved by the Committee of Creditors on 25.08.2022 and the application seeking approval of the Resolution Plan was pending consideration before this Adjudicating Authority when the Applicant sought to introduce additional claims aggregating to ₹15,03,02,251/- vide communication dated 07.08.2024 and thereafter sought to further enhance its claim to ₹19,39,48,389/- and subsequently to ₹22,30,79,084/- through communications issued in May, 2025.

9. The chronology of events demonstrates that the revised claims were raised nearly two years after approval of the Resolution Plan by the CoC and more than 826 days after expiry of the statutory period prescribed for submission of claims. Entertaining such claims at this advanced stage would necessarily alter the financial matrix on which the Resolution Applicant

formulated the Resolution Plan and upon which the Committee of Creditors exercised its commercial wisdom.

10. The Insolvency and Bankruptcy Code is founded upon the principles of certainty, finality and timely resolution. It is now well settled that claims are required to be crystallized and determined with reference to the Insolvency Commencement Date and that, after approval of a Resolution Plan by the Committee of Creditors, fresh or substantially revised claims cannot ordinarily be entertained as the same would unsettle the entire resolution process.

11. This Tribunal also finds merit in the contention of the Respondent that a substantial portion of the revised claim is founded upon assessment orders and determinations made during the subsistence of the moratorium imposed under Section 14 of the Code. The office letters/orders dated 04.04.2024, 20.06.2024, 04.07.2024 and 27.08.2024, which form the basis of the additional claim, were admittedly issued long after commencement of CIRP and after approval of the Resolution Plan by the CoC. The Applicant seeks to rely upon such subsequent assessments to enlarge its admitted claim manifold. Permitting such post-CIRP determinations to be incorporated into the resolution process would be contrary to the settled framework of the Code.

12. The judgments relied upon by the Applicant undoubtedly reiterate the protected status of provident fund dues and the obligation to exclude legitimate provident fund accumulations from the liquidation estate. However, those decisions cannot be read to mean that statutory authorities

may continue to revise or enhance claims indefinitely after the resolution process has substantially concluded and seek corresponding modifications to a Resolution Plan already approved by the Committee of Creditors.

13. The distinction between protection of provident fund dues and admissibility of belatedly revised claims under the CIRP framework must be maintained. While provident fund dues are entitled to statutory protection, the Applicant was required to lodge and establish its claim within the timelines contemplated under the Code and the CIRP Regulations. In the present case, the Applicant's original claim of ₹9,28,86,993/- was not only entertained but ultimately admitted in full pursuant to orders of this Tribunal. The attempt thereafter to introduce fresh liabilities based on subsequent assessments cannot be permitted once the Resolution Plan has already been approved by the CoC and would disrupt a resolution framework that has already been crystallized on the basis of the admitted claims and the commercial wisdom exercised by the Committee of Creditors.

CONCLUSION

14. Accordingly, this Adjudicating Authority is of the considered view that the revised claims sought to be introduced by the Applicant vide communications dated 07.08.2024, 08.05.2025 and 16.05.2025 are not liable to be admitted in the CIRP of the Corporate Debtor. Acceptance of such claims at this stage would defeat the objective of certainty and finality underlying the Insolvency and Bankruptcy Code and would materially prejudice the resolution process already concluded by the Committee of

Creditors. The Application is, therefore, devoid of merit and liable to be dismissed.

15. Accordingly, IA(I.B.C.)/1470(CH)2025 in CP(IB)No.315/CHD/Hry/2019 is **dismissed** and **disposed of**.

Khetrabasi Biswal **Member (Judicial)**	**Kaushalendra Kumar Singh** **Member (Technical)**

Inderjeet