

**IN THE NATIONAL COMPANY LAW TRIBUNAL  
DIVISION BENCH, COURT NO. I  
KOLKATA**

I.A. (IB) No. 1262/KB/2024

In

Company Petition (IB) No. 23/KB/2019

**IN THE MATTER OF:**

An Application under section 60(5) of the Insolvency and Bankruptcy Code, 2016, read with Rule 11 of the NCLT Rules, 2016.

**IN THE MATTER OF:**

**Asset Reconstruction Company (India) Ltd.**

**... Financial Creditor**

**Versus**

**M/s Corporate Power Limited**

**... Corporate Debtor**

**IN THE MATTER OF:**

**Central Board of Trust, Employees Provident Fund through Regional P.F. Commissioner-II (Legal),** Employees' Provident Fund Organisation, Regional Office Ranchi, Ministry of Labour and Employment, Government of India, Bhavishya Nidhi Bhawan, Hinoo PO + PS- Doranda, Ranchi, Jharkhand-834002.

**... Applicant**

**Versus**

**M/s Corporate Power Limited** being Corporate Debtor having registered office at FE-83, Sector-III Salt Lake City, Ground Floor, Kolkata, West Bengal-700106.

**...Corporate Debtor**

**And**

**Mr. Pankaj Dhanuka, Liquidator of the Corporate Debtor namely M/s Corporate Power Limited (in liquidation)** having his office at Deloitte India Insolvency Professionals LLP, 13<sup>th</sup> Floor, Building-Omega, Bengal Intelligent Park, Block-EP & GP, Sector-V, Salt Lake City, West Bengal-700091.

**... Respondents**

**Date of Pronouncement: 18.05.2026.**

**CORAM:**

SMT. BIDISHA BANERJEE, HON'BLE MEMBER (JUDICIAL)  
CMDE SIDDHARTH MISHRA, HON'BLE MEMBER (TECHNICAL)

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**APPEARANCE:**

**For the Applicant (Provident Fund Authority):**

Mr. S. C. Prasad, Adv.

Mr. Arijit Tewary, Adv.

Ms. Suparna Mallick, Adv.

**For the Respondent (Liquidator):**

Ms. Manju Bhuteria, Sr. Adv.

Ms. Kriti Talreja, Adv.

Mr. Abhishek Swaroop, Adv.

Mr. Anupam Prakash, Adv.

**ORDER**

***Per: Smt. Bidisha Banerjee, Member (Judicial):***

1. This Court congregated through a hybrid mode.
2. Heard the Learned Counsels for both parties.
3. The instant application being **I.A. (IB) No. 1262/KB/2024**, has been preferred by a **Central Board of Trust, Employees Provident Fund through Regional P.F. commissioner-II (Legal), Employees Provident Fund Organisation, Regional Office Ranchi** under Section 60(5) of the Insolvency and Bankruptcy Code, 2016, for brevity "I&B Code" against the **Respondent Mr. Pankaj Dhanuka, Liquidator** seeking the following reliefs:

*(A) to condone the delay, if any, in submitting the application before the Hon'ble Tribunal,*

*(B) to condone the delay if any in submitting the additional claim to the Liquidator,*

*(C) to set aside the decision of the Liquidator being respondent no.2 vide letter dated 10.01.2024,*

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*(D) to admit and allow the present application;*

*(E) a sum of to direct the respondent no.2 herein being the Liquidator to accept the additional claim of the applicant towards Provident Fund damages of Rs.3,92,77,824/- along with interest of Rs.4,30,31,828/- totaling Rs.8,23,09,652/- for belated payment of provident fund contributions/dues for the period from 06/2009, February, 2013 to January, 2018 in respect of the respondent no.1 corporate debtor without insisting on filing it in any particular form and further also be pleased to direct the Liquidator to acknowledge the priority of the said provident fund dues of Rs.8,23,09,652/- over the assets of the corporate-debtor in the present liquidation proceedings;*

**4. SUBMISSIONS OF THE APPLICANT:**

**4.1** It is submitted that the Applicant deserves condonation of delay as the Applicant is a statutory authority and procedural approvals within departmental hierarchy caused unintentional delay of 148 days.

**4.2** It is contended that there is no limitation period prescribed for assessment of provident fund dues and reliance is placed on Hindustan Times Ltd. v. Union of India (1998) 2 SCC 242.

**4.3** It is claimed that levy of damages under Section 14B and interest under Section 7Q is automatic and mandatory once delay in remittance occurs, as held in Horticulture Experiment Station v. RPFC (2022) 4 SCC 516.

**4.4** It is further submitted that damages and interest constitute “any amount due from the employer” under Section 11(2) of the EPF & MP ACT, 1952

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Act and therefore enjoy statutory first charge over assets. Reliance is placed on Maharashtra State Cooperative Bank Ltd. v. APFC (2009) 10 SCC 123 and Anuj Bajpai v. EPFO (2024 SCC OnLine NCLAT 886).

**4.5** It is contended that provident fund dues, including damages and interest, are excluded from liquidation estate under Section 36(4)(a)(iii) of the Code and cannot be subjected to the waterfall mechanism under Section 53.

**4.6** It is further submitted that assessment proceedings are not barred under Section 33(5) of the Code and that post-liquidation assessments are permissible though recovery must follow the Code mechanism. Reliance is placed on Sundaresh Bhatt v. CBIC (2023) 1 SCC 472 and EPFO v. Jaykumar Pesumal Arlani (2025 SCC OnLine NCLAT 9).

**5. SUBMISSIONS OF THE LIQUIDATOR**

**5.1** It is submitted that the Application is barred by limitation under Section 42 of the Code, as it ought to have been filed within 14 days of rejection dated 10.01.2024, whereas it was filed on 20.06.2024.

**5.2** It is contended that the additional claim was submitted nearly 700 days after the last date of submission of claims under public announcement, and the Liquidator has no power to verify belated claims beyond statutory timeline.

**5.3** It is claimed that damages and interest were assessed after liquidation commencement and therefore cannot be entertained in liquidation

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proceedings, as claims must crystallize as on liquidation commencement date.

- 5.4** It is further submitted that proceedings under Section 14B and 7Q are quasi-judicial and institution thereof during liquidation is barred under Section 33(5) of the Code.
- 5.5** Reliance is placed on various NCLAT judgments holding that claims arising subsequent to liquidation commencement date cannot be admitted by the Liquidator.

**6. ANALYSIS AND FINDINGS**

- 6.1** Having heard the Learned Counsel for the Applicant and the Learned Counsel for the Liquidator, and upon perusal of the pleadings and documents placed on record, the following issues arise for determination:
- a.** Whether the present application under Section 42 read with Section 60(5) of the Code is barred by limitation?
  - b.** Whether assessment and quantification dues arising out of the EPF & MP Act, 1952 after the liquidation commencement date renders the claim non-maintainable?
  - c.** Whether proceedings under the EPF & MP Act, 1952 are barred by Section 33(5) of the Code during liquidation?
- 6.2** Section 42 of the Code prescribes that a creditor may appeal to the Adjudicating Authority within 14 days of receipt of the decision of the Liquidator rejecting a claim.

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- 6.3** In the present case, the rejection letter is dated 10.01.2024, whereas the application has been filed on 20.06.2024. There is thus an evident delay. The explanation offered is that the Applicant is a statutory authority and that the delay occurred due to administrative approvals and internal processing.
- 6.4** Ordinarily, statutory timelines under the Code are to be strictly construed, as the IBC is a time-bound legislation. However, it is equally settled that the Adjudicating Authority retains jurisdiction under Section 60(5) read with Rule 11 of the NCLT Rules to exercise inherent powers in exceptional circumstances, particularly where the issue involves statutory trust monies and social welfare legislation.
- 6.5** Provident fund dues are not in the nature of ordinary commercial claims, they represent deferred wages and social security contributions belonging to employees. The Supreme Court has consistently treated such dues with a higher degree of protection. Therefore, the delay, though substantial, deserves to be condoned in the peculiar facts of the present case to prevent miscarriage of justice. Accordingly, the delay stands condoned.
- 6.6** Coming to the next issue, whether delay in submitting the additional claim to the Liquidator should be condoned and whether the the Liquidator was justified in rejecting the additional claim, it is evident from the records annexed to this Application that liquidation of the Corporate Debtor commenced on 08.09.2021 and the date for submission of claims, as per the public announcement dated 18.10.2021, was fixed on 10.11.2021. Whereas the Applicant assessed and raised demand under Section 7Q and 14B of the EPF Act on

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19.10.2023. Later, the order for demanding payment under Section 7Q and 14B of the EPF & MP Act was passed by the Ld. P.F. Commissioner on 30.09.2024.

**6.7** The Respondent Liquidator contends that conducting assessment proceedings as per Section 7Q and 14B is barred under Section 33(5) of the IBC, 2016. However, in **Employees Provident Fund v. Jaykumar Pesumal Arlani (RP), (2025) ibclaw.in 10 NCLAT**, a case where assessment completed after commencement of liquidation, the Hon'ble NCLAT held as follows:

*“In the present case, admittedly assessment has been completed after initiation of the moratorium. We, thus, are of the view that once order of liquidation is passed, moratorium under Section 14 comes to an end and moratorium under Section 33(5), which is differently worded, comes into play. Under Section 33(5), the expression used are “suit or other legal proceeding”, which occurs in Section 446 of sub-section (1) noticed above. Thus, bar is only against suit or legal proceeding and there is no bar against assessment proceeding to be conducted by statutory Authorities, including the EPFO. Thus, after the liquidation, it is open for EPFO to carry on the assessment. Section 33(5), cannot be held to apply on assessment proceedings. However, while looking to the expression used in Section 14(1), assessment proceedings before the EPFO, cannot be continued after initiation of CIRP.”*

**(emphasis added)**

**xxx**

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**6.8** In view of the above, it is evident that assessment proceedings can be held even when moratorium under Section 33(5) is in place. Thus, the assessment proceedings are not barred under Section 33(5) of the IBC, 2016. However, the assessment order does not in itself entitle the EPFO to recover the interest and damages levied under Section 7Q and 14B of the EPF & MP Act. The claim has to be submitted to the liquidator within the stipulated time and in accordance with the IBBI (Liquidation Process) Regulations, 2016. Once the claim is filed, it is the liquidator's prerogative to admit or reject the claim for cogent reasons.

**6.9** In the present case, the liquidator has rejected the claim, inter alia, on the ground that the claim was not quantified as on the liquidation commencement date and therefore, any claims arising out of assessment orders post liquidation commencement date can not be accepted.

**6.10** At this juncture, this Tribunal deems it apposite to reply upon **EPFO v. Chandra Prakash Jain, Liquidator of Mekastar Engineering Ltd., (2024) ibclaw.in 657 NCLAT**, wherein it has been observed that:

*“8. Admittedly, the date of Liquidation Order is 30.09.2018, any claims filed on the basis of Assessment subsequent to the date of Liquidation could not have been entertained in the Liquidation Proceeding of the Corporate Debtor Which is the law laid down by this Tribunal in ‘The Assistant Provident Fund Commissioner’ (Supra).”*

**6.11** In the present case it is noted that the Liquidator has already paid principal dues under Section 7A towards the provident fund liability of the Corporate Debtor for the period of February 2013 to January 2018.

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However, the additional damages and interest sought to be claimed by the Applicant under Section 7Q and 14B were not quantified before the commencement of liquidation.

**6.12** It is a statutory mandate under Regulation 12 and Regulation 16 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, that the claims are required to be filed as they exist on the liquidation commencement date. The said Regulations are reproduced hereinbelow below for clarity:

***“Regulation 12. Public announcement by liquidator.***

*(1) The liquidator shall make a public announcement in Form B of Schedule II within five days from his appointment.*

*(2) The public announcement shall-*

*(a) call upon stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process, as on the liquidation commencement date; and*

*(b) provide the last date for submission or updation of claims, which shall be thirty days from the liquidation commencement date.”*

***“Regulation 16. Submission of claim.***

*(1) A person, who claims to be a stakeholder, shall submit its claim, or update its claim submitted during the corporate insolvency resolution process, including interest, if any, on or before the last date mentioned in the public announcement. (2) A person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.”*

**6.13** In **Employees Provident Fund Organization, Nashik v. Girish Siriram Juneja and Anr., (2025) ibclaw.in 441 NCLAT**, the Hon’ble NCLAT on 30.06.2025 affirmed the view of the NCLT Mumbai Bench, where claims under Section 7A of the EPF & MP Act, 1952 was admitted but revised claim under Section 7Q and 14B was not entertained and not admitted, and NCLT held that: it is trite law that claims of the creditor in existence as on the liquidation commencement date are only admissible and such

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claims have to be filed within the period allowed by the liquidator in terms of the public announcement made after commencement of liquidation or such extended period thereafter.

**6.14**The Hon'ble NCLAT has categorically held that any claim which arises after liquidation commencement date could be entertained by the liquidator as per the statutory scheme under IBBI Liquidation Process Regulations, 2016.

**6.15**Since the claim was finalized in 2023 whereas the liquidation begun in 2021, permitting claims arising from post-liquidation assessment would reopen settled liabilities and hinder the completion of the liquidation process in a time bound and definitive manner. Therefore, any liability arising through assessment of damages and interest under Section 7Q and 14B of the EPF & MP Act after the liquidation commencement date can not be accepted.

**7.** In view of the foregoing discussions, the present Application being **I.A. (IB) No. 1262/KB/2024** is **dismissed**.

**8.** The Registry is directed to send e-mail copies of the order forthwith to all the parties and their Ld. Counsel for information and for taking necessary steps.

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9. Certified Copy of this order may be issued, if applied for, upon compliance of all requisite formalities.

**Cmdr Siddharth Mishra**  
**Member (Technical)**

**Smt. Bidisha Banerjee**  
**Member (Judicial)**

The Order is signed on the **18<sup>th</sup>** day of **May** 2026.

V. Tiwari (LRA)/Anubhuti S (LRA)