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.

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

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

IA(I.B.C.)/1870 (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.)/1870(CH)2025
Dy. Commissioner of Income Tax,
Hisar Circle, Hisar, Aayakar Bhawan,
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Email ID: hissar.dcit@incometax.gov.in

...Applicant/ Resolution Professional

Versus

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27 Barakhamba Road, Connaught place,
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Email: cirp.vikaswsp@gmail.com,
dsanand57@gmail.com

...Respondent

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. Varun Issar, Senior Standing Counsel

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

ORDER

The present Application bearing No. IA(I.B.C.)/1870(CH)2025 has been filed by **Dy. Commissioner of Income Tax, Hisar** (hereinafter referred to as "Applicant") 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 for seeking directions against **Darshan Singh Anand,** Resolution Professional of M/s Vikas WSP Ltd (hereinafter referred to as "Respondent") to accept, admit, and consider the updated Income Tax claim of Rs. 268,73,44,328/- (Rupees Two Hundred Sixty-Eight Crore Seventy-Three Lakh Forty-Four Thousand Three Hundred Twenty-Eight Only) in the prescribed Form B under the Insolvency and Bankruptcy Code, 2016, in accordance with applicable law.

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 Corporate Insolvency Resolution Process ("CIRP") of the Corporate Debtor commenced vide order dated 02.02.2022 passed by this Tribunal. Pursuant thereto, the Income Tax Department lodged claims aggregating to ₹192.55 crores on 15.02.2022 and 22.03.2022, which were duly admitted by the Resolution Professional.

(ii) Subsequent to admission of the original claim, additional tax demands came to be crystallized pursuant to assessment/reassessment orders passed under the provisions of the Income Tax Act, 1961. Consequently, an updated claim of ₹268.73 crores was submitted on 16.09.2025, reflecting an increase of ₹76.17 crores arising from such assessment orders. The claim was based on statutory orders passed under Section 148A and other relevant provisions of the Income Tax Act, 1961. Such updation of claims is a standard consequence of modification of assessment orders or completion of fresh assessments.

(iii) Upon receipt of the updated claim, the Resolution Professional, vide communication dated 23.09.2025, rejected the same on the ground that claims founded upon assessment orders passed during the moratorium period could not be considered in the CIRP. In doing so, reliance was placed upon *Employees' Provident Fund Organisation Regional Office, Vashi, Navi Mumbai through Regional PF Commissioner-II (Legal) v. Jaykumar Pesumal Arlani, Resolution Professional of M/s Decent Laminates Pvt. Ltd.* decided on 03.01.2025, and *Pr. Commissioner of Income Tax v. Monnet Ispat and Energy Ltd.*, SLP (C) No. 6487 of 2018.

(iv) The rejection of the updated claim proceeds on an erroneous understanding of the scope and effect of the moratorium under Section

14 of the Insolvency and Bankruptcy Code, 2016 ("IBC"). A clear distinction exists between assessment proceedings, which determine and quantify statutory dues, and recovery proceedings, which seek enforcement and realization of such dues. While recovery proceedings are prohibited during the moratorium period, assessment and determination of the quantum of dues are not barred.

(v) Assessment proceedings under the Income Tax Act, including proceedings under Sections 143, 144, 148 and 148A, are quasi-judicial proceedings undertaken for determining tax liability. Such proceedings involve determination of factual issues, application of tax law to the facts, and quantification of tax liability based on evidence. They do not constitute recovery or enforcement actions and merely crystallize existing statutory liabilities. Consequently, they do not fall within the restrictive ambit of proceedings prohibited under Section 14 of the IBC.

(vi) Reliance is placed upon the judgment of the Hon'ble Supreme Court in *Sundaresh Bhatt, Liquidator of ABG Shipyard Ltd. v. Central Board of Indirect Taxes and Customs*, wherein it was held:

> *"The authorities can only take steps to determine the tax, interest, fines or any penalty which is due. However, the authority cannot enforce a claim for recovery or levy of interest on the tax due during the period of moratorium."*

The Hon'ble Supreme Court further held:

> *"Once moratorium is imposed in terms of Sections 14 or 33(5) of the IBC, the Respondent authority only has a limited jurisdiction to*

assess/determine the quantum of customs duty and other levies. The Respondent authority does not have the power to initiate recovery of dues by means of sale/confiscation."

(vii) The aforesaid judgment clearly recognizes the distinction between assessment and recovery proceedings. The Income Tax Department, like the Customs Authorities, retains jurisdiction to assess and determine tax liability during the moratorium period but is restrained from initiating recovery proceedings. In the present case, no recovery action was initiated. No attempt was made to seize assets, enforce security interests, or recover dues. The Department merely sought admission of an updated claim based on assessment orders already passed, which is legally permissible.

(viii) The assessment orders forming the basis of the updated claim pertain to pre-CIRP assessment years. The reassessment and quantification undertaken during the moratorium period merely crystallized pre-existing statutory liabilities and did not create any fresh liability after commencement of CIRP.

(ix) The assessments relate to:

(a) Assessment Year 2013-14 – Demand of ₹11,75,52,978/-;

(b) Assessment Year 2018-19 – Demand of ₹75,77,69,490/-, less ₹13,82,79,349/- already claimed, resulting in an additional liability of ₹61,94,90,141/-; and

(c) Assessment Year 2020-21 – Demand of ₹2,47,50,790/-.

(x) All the aforesaid liabilities relate to periods preceding commencement of CIRP. The reassessment proceedings under

Sections 148 and 148A merely quantified pre-existing liabilities and did not create any new liability during the moratorium period.

(xi) The reliance placed upon *Pr. Commissioner of Income Tax v. Monnet Ispat and Energy Ltd.* by RP is misconceived. The principle laid down therein is that, in the event of a conflict, the provisions of the IBC prevail over other enactments by virtue of Section 238 of the Code. However, the said principle cannot be stretched to imply that statutory liabilities validly determined in accordance with law are liable to be disregarded or excluded from consideration in the insolvency process.

(xii) The reliance placed upon by RP on *Employees' Provident Fund Organisation Regional Office, Vashi v. Jaykumar Pesumal Arlani* is equally misplaced. The said decision concerned proceedings initiated and completed during the moratorium period where no prior determination existed before commencement of CIRP. The present case stands on a materially different footing, as the assessment and reassessment proceedings relate to pre-CIRP assessment years and merely quantify liabilities already existing under the statute.

(xiii) The updated claim was submitted in the prescribed Form B along with supporting documents, computation sheets and assessment orders. There was complete compliance with the requirements prescribed under the IBC and the CIRP Regulations.

(xiv) Under Sections 18 and 25 of the IBC, the role of the Interim Resolution Professional/Resolution Professional is confined to collection, collation and verification of claims. The functions discharged in relation to claims are administrative in nature and do not extend to adjudication of disputed questions of law concerning the validity or enforceability of statutory claims.

(xv) Reliance is placed upon the judgments of the Hon'ble Supreme Court in *Swiss Ribbons Pvt. Ltd. v. Union of India* and *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, as well as various decisions of the Hon'ble NCLAT and NCLT, wherein it has been consistently held that the Resolution Professional performs administrative functions and is not vested with adjudicatory powers.

(xvi) By rejecting the updated claim on legal grounds and refusing to consider liabilities duly determined by the competent statutory authority, the Resolution Professional has exceeded the scope of his jurisdiction and travelled beyond the limited administrative role assigned under the IBC.

(xvii) In these circumstances, the rejection of the updated claim is arbitrary, contrary to the provisions of the IBC and settled judicial precedents, and is therefore liable to be set aside. Accordingly, directions are sought for admission and consideration of the updated claim of ₹268.73 crores in the insolvency resolution process of the Corporate Debtor.

<u>SUBMISSIONS BY THE RESPONDENT</u>

3. The Application has been opposed by the Respondent by filing a Reply dated 03.03.2026. The defense as taken in the reply and as narrated by the learned counsel for the Respondent are briefly summarised as under:-

(i) The enhanced claim of ₹268.73 crores filed on 16.09.2025 seeks to increase the originally admitted claim of ₹192.55 crores by ₹76.17 crores and has been filed after an extraordinary delay of 1308 days from the insolvency commencement date and long after expiry of the statutory period prescribed for submission of claims under the Insolvency and Bankruptcy Code, 2016 ("IBC") and the CIRP Regulations.

(ii) The Corporate Insolvency Resolution Process commenced on 02.02.2022 and the public announcement was issued on 04.02.2022. In terms of the public announcement, the last date for submission of claims was 16.02.2022. The Income Tax Department had submitted its claim, which was subsequently revised to ₹192.55 crores on 21.03.2022, and the said claim was admitted in full in the category of Operational Creditors (Government Dues).

(iii) The Committee of Creditors approved the Resolution Plan on 25.08.2022 and an application under Section 30 of the Code seeking approval of the Resolution Plan was filed on 29.10.2022, which remains pending consideration before this Adjudicating Authority. The updated claim was filed only on 16.09.2025, i.e., nearly three years after approval of the Resolution Plan by the Committee of Creditors.

(iv) It is now well settled through a catena of judgments of the Hon'ble Supreme Court and Hon'ble NCLAT that claims during CIRP period are to be filed within the window available in terms of proviso to Regulation 12 of the CIRP Regulations and no fresh claim or enhanced claim can be entertained after approval of the Resolution Plan by the Committee of Creditors, even if the Resolution Plan is pending approval before the Adjudicating Authority. Acceptance of such claims would defeat the time-bound framework envisaged under the IBC and would reopen the entire resolution process.

(v) Reliance is placed upon the judgment dated 30.07.2021 passed by the Hon'ble NCLAT in *Mukul Kumar v. RPS Infrastructure Pvt. Ltd.*, Company Appeal (AT) (Ins.) No. 1050 of 2020, wherein it was held that once the Resolution Plan has been approved by the Committee of Creditors and is pending approval before the Adjudicating Authority, entertaining fresh claims at such stage would jeopardize the CIRP and defeat the objective of the IBC of ensuring resolution in a time-bound manner. The Hon'ble NCLAT observed as under:

> *"34. With the aforesaid, we are of the view that when the Resolution Plan has already been approved by the CoC and it is pending before the Adjudicating Authority for approval, at this stage, if new claims are entertained the CIRP would be jeopardized and the Resolution Process may become more difficult. Keeping in view the object of the IBC which is resolution of Corporate Debtor in time bound manner to maximize the value, if such request of claimant is accepted the purpose of IBC would be defeated. The Hon'ble Supreme Court in the case of CoC of* ***Essar Steel India Ltd. v. Satish Kumar Gupta****, wherein it was held:*
>
>> *88. For the same reason the impugned NCLAT judgment in holding that claims that may exist apart from those decided on merits by the resolution professional and by the Adjudicating Authority/Appellate Tribunal can now be decided by an appropriate forum in terms of Section 60(6)of the Code/also*

militates against the rationale of Section 31 of the Code. 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 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. This the successful resolution applicant does on a fresh slate, as has been pointed out by us hereinabove. For these reasons, the NCLAT Judgment must also be set aside on this count."

(vi) Further reliance is placed upon the judgment of the Hon'ble Supreme Court in *RPS Infrastructure Ltd. v. Mukul Kumar & Anr.*, Civil Appeal No. 5590 of 2021, wherein the Hon'ble Supreme Court affirmed the aforesaid principle and held as under:

"21. ***The mere fact that the Adjudicating Authority has yet not approved the plan does not imply that the plan can go back and forth, thereby making the CIRP an endless process****. This would result in the reopening of the whole issue, particularly as there may be other similar persons who may jump onto the bandwagon. As described above, in Essar Steel, the Court cautioned against allowing claims after the resolution plan has been accepted by the CoC.*

22. We have thus come to the conclusion that the NCLAT's impugned judgment cannot be faulted to reopen the chapter at the behest of the appellant. ***We find it difficult to unleash the***

> ***hydra-headed monster of undecided claims on the resolution applicant.***"

(vii) The rejection of the enhanced claim is therefore fully supported by binding judicial precedents, which consistently hold that claims filed beyond the prescribed timeline and after approval of the Resolution Plan by the Committee of Creditors cannot be admitted.

(viii) The reliance placed by the Income Tax Department upon the judgment of the Hon'ble Supreme Court in *Sundaresh Bhatt, Liquidator of ABG Shipyard Ltd. v. Central Board of Indirect Taxes and Customs* is misconceived. While the said judgment recognizes the jurisdiction of statutory authorities to determine and assess dues during the moratorium period, the Hon'ble Supreme Court simultaneously held that after such determination, the concerned authority is required to submit its claim strictly in accordance with the procedure and timelines prescribed under the IBC. The applicant has selectively relied upon paragraph 54(i) of the judgment while overlooking paragraph 54(ii), wherein the Hon'ble Supreme Court expressly held:

> *"After such assessment, the respondent authority has to submit its claims (concerning customs dues/operational debt) in terms of the procedure laid down in strict compliance of the time periods prescribed under IBC, before the adjudicating authority."*

(ix) Even assuming that the assessments relate to pre-CIRP periods, any enhanced liability determined pursuant to assessment proceedings conducted during the moratorium period cannot be admitted once the statutory timelines have expired and the Resolution Plan has already been approved by the Committee of Creditors.

(x) The original claim of ₹192.55 crores was duly admitted in full. The present dispute concerns only the subsequent enhancement of ₹76.17 crores, which was neither in existence on the insolvency commencement date nor submitted within the timelines prescribed under the Code.

(xi) The non obstante clause contained in Section 238 of the IBC ensures that the provisions of the Code prevail over any inconsistent procedure under other enactments. Accordingly, any contention permitting admission of claims beyond the statutory framework of the IBC would be contrary to the scheme and objectives of the Code.

(xii) The Resolution Professional acted strictly in accordance with the provisions of the Code and binding judicial precedents while rejecting the enhanced claim. The decision was neither arbitrary nor without application of mind but was based upon the settled legal position governing belated and revised claims.

(xiii) Acceptance of the enhanced claim at this stage would unsettle the commercial decisions already taken by the Committee of Creditors, prejudice the successful resolution applicant, and undermine the finality attached to the resolution process under the IBC.

(xiv) In these circumstances, the enhanced claim dated 16.09.2025 is liable to be rejected as being hopelessly delayed, contrary to the statutory framework governing CIRP, and impermissible in view of the binding decisions of the Hon'ble Supreme Court and Hon'ble NCLAT. Consequently, the application seeking admission of the enhanced claim deserves dismissal.

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. The issue that arises for consideration is whether the revised claim of ₹268.73 crores filed by the Income Tax Department on 16.09.2025, seeking enhancement of its admitted claim by ₹76.17 crores on the basis of assessment/reassessment orders passed during the moratorium period, can be directed to be admitted at a stage when the Resolution Plan already stands approved by the Committee of Creditors and is pending approval under Section 31 of the Insolvency and Bankruptcy Code, 2016 ("IBC").

6. There is no dispute that the Corporate Insolvency Resolution Process commenced on 02.02.2022 and that the Income Tax Department had duly lodged its claims aggregating to ₹192.55 crores, which were admitted in full by the Resolution Professional. There is also no dispute that the Committee of Creditors approved the Resolution Plan on 25.08.2022 and that the revised claim came to be filed only on 16.09.2025, nearly three years after approval of the Resolution Plan by the Committee of Creditors.

7. The principal contention of the Income Tax Department/Applicant is that the additional liability arose pursuant to assessment/reassessment

proceedings undertaken under the Income Tax Act, 1961 and that such proceedings merely crystallized pre-existing liabilities relating to pre-CIRP assessment years. Reliance has been placed upon the judgment of the Hon'ble Supreme Court in *Sundaresh Bhatt, Liquidator of ABG Shipyard Ltd. v. Central Board of Indirect Taxes and Customs* to contend that assessment proceedings are not barred by the moratorium and that statutory authorities retain jurisdiction to determine the quantum of dues during the CIRP period.

8. However, the issue in the present proceedings is not the validity of the assessment orders or the authority of the Income Tax Department to undertake assessment proceedings during the moratorium period. The issue is whether an enhanced claim can be admitted after approval of the Resolution Plan by the Committee of Creditors.

9. Significantly, the Hon'ble Supreme Court in ABG Shipyard itself clarified that after assessment, the concerned statutory authority is required to submit its claim in accordance with the procedure prescribed under the IBC and in strict compliance with the timelines contemplated therein. Thus, while the power of assessment survives the moratorium, admission of the resulting claim remains subject to the framework and timelines prescribed under the Code.

10. The Insolvency and Bankruptcy Code is founded upon the principle of certainty and finality in the resolution process. The Hon'ble Supreme Court in Committee of Creditors of ***Essar Steel India Ltd. v. Satish Kumar Gupta*** has categorically held that all claims must be submitted to and decided by the Resolution Professional so that a prospective resolution

applicant knows with certainty the liabilities that it is assuming under the Resolution Plan. The Court cautioned against permitting undecided claims to emerge after approval of the Resolution Plan, describing such claims as a "hydra-headed monster" that would create uncertainty for the successful resolution applicant.

11. The aforesaid principle has been reiterated by the Hon'ble NCLAT in *Mukul Kumar v. RPS Infrastructure Pvt. Ltd.* and subsequently affirmed by the Hon'ble Supreme Court in ***RPS Infrastructure Ltd. v. Mukul Kumar & Anr.***, wherein it has been held that once the Resolution Plan has been approved by the Committee of Creditors, the claims process cannot be reopened merely because the Resolution Plan is awaiting approval by the Adjudicating Authority. The Hon'ble Supreme Court specifically observed that permitting such claims would render the CIRP an endless process and would defeat the time-bound mechanism envisaged under the IBC.

12. In the present case, the revised claim was filed approximately 1308 days after commencement of CIRP and nearly three years after approval of the Resolution Plan by the Committee of Creditors. Acceptance of such enhanced claim at this stage would necessarily require revisiting the financial matrix underlying the Resolution Plan and would have the effect of unsettling the commercial wisdom already exercised by the Committee of Creditors. Such a course would be directly contrary to the principles laid down by the Hon'ble Supreme Court in *Essar Steel* and *RPS Infrastructure*.

13. While it is true that the Resolution Professional performs primarily administrative functions in relation to collation and verification of claims, the Resolution Professional is equally bound to act in conformity with the provisions of the Code and the law declared by the Hon'ble Supreme Court. A claim which is ex-facie barred by the settled principles governing CIRP timelines and finality of the resolution process cannot be admitted merely because it arises from a statutory assessment.

CONCLUSION

14. For the aforesaid reasons, this Tribunal is of the considered view that while statutory authorities may possess jurisdiction to assess and determine tax liabilities during the moratorium period, the admission of any claim arising therefrom remains subject to the timelines, procedural framework and principles of finality embodied in the IBC. The revised claim having been filed after an inordinate delay of approximately 1308 days from the insolvency commencement date and nearly three years after approval of the Resolution Plan by the Committee of Creditors, permitting such claim at this stage would be contrary to the settled law laid down by the Hon'ble Supreme Court and Hon'ble NCLAT. Further, admission of the enhanced claim would alter the financial matrix on the basis of which the Resolution Plan was considered and approved by the Committee of Creditors, thereby unsettling the commercial wisdom already exercised by the Committee of Creditors. Consequently, this Tribunal finds no infirmity in the decision of the Resolution Professional rejecting the revised claim of the Applicant.

15. Accordingly, IA(I.B.C.)/1870(CH)2025 in CP(IB)No. 315/Chd/Hry/2019 is **dismissed** and **disposed of**.

Sd/-	**Sd/-**
Khetrabasi Biswal	**Kaushalendra Kumar Singh**
Member (Judicial)	**Member (Technical)**

Inderjeet