

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 17 of 2025
& I.A. No. 77 of 2025**

IN THE MATTER OF:

CA Pankaj Shah **...Appellant**

Versus

Employee Provident Fund Organisation & Anr. **...Respondents**

Present:

For Appellant: Mr. Pratik Tripathi, Advocate.

For Respondents: Mr. Gaurav Varma, Advocate.

**Company Appeal (AT) (Insolvency) No. 102 of 2025
& I.A. No. 426 of 2025**

IN THE MATTER OF:

Employee Provident Fund Organisation **...Appellant**

Versus

CA Pankaj Shah **...Respondent**

Present:

For Appellant: Mr. Gaurav Varma, Advocate.

For Respondent: Mr. Pratik Tripathi, Advocate.

**Company Appeal (AT) (Insolvency) No. 103 of 2025
& I.A. No. 430 of 2025**

IN THE MATTER OF:

Employee Provident Fund Organisation **...Appellant**

Versus

CA Pankaj Shah

...Respondent

Present:

For Appellant: Mr. Gaurav Varma, Advocate.

For Respondent: Mr. Pratik Tripathi, Advocate.

J U D G M E N T

Ashok Bhushan, J.

All these three Appeals have been filed against the same order dated 13.11.2024 passed by the Adjudicating Authority (National Company Law Tribunal) Indore Bench in IA No.5 of 2024 and IA No.409 of 2024. IA No.5 of 2024 was filed by the Resolution Professional- CA Pankaj Shah and IA No.409 of 2024 was filed by Regional Provident Fund Commissioner Employee's provident Fund Organisation. Both the applications have been disposed of by the impugned order aggrieved by which order Resolution Professional as well as Employee's Provident Fund Organisation has come up in this Appeal.

2. Brief facts of the case necessary to be noticed for deciding these Appeals are:-

2.1. The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor- M/s. Premshree Prime Properties Private Limited commenced vide order dated 17.02.2023, CA Pankaj Shah was appointed as Interim Resolution Professional who has subsequently confirmed as Resolution Professional. On 11.05.2023, Employee's Provident Fund Organisation (EPFO) initiated inquiry

under Section 7A of the Employees' Provident Fund and Miscellaneous Provision Act 1952 (hereinafter referred to as "EPF & MP Act 1952"). On inspection report dated 10.05.2023 submitted by its Enforcement Officer, it was communicated that amount of Rs. 33,99,135/- was worked out as due amount from the Corporate Debtor for the period April, 2015 to March 2021. A claim Form was also submitted by Employees' Provident Fund Organisation to the Resolution Professional. A reply dated 25.05.2023 was sent by Resolution Professional to the EPFO requesting to submit proper claim Form as per Regulation 9 of the Insolvency and Bankruptcy (Insolvency Resolution for Corporate Persons) Regulations, 2016. EPFO did not submit claim Form and passed an order on 25.09.2023 under Section 7A of the EPF & MP Act 1952 determining amount of Rs.50,90,793/- and further an amount of Rs.50,66,686/- under Section 14B towards penal damages and Rs.35,60,358/- as interest for the belated remittances under Section 7 Q of the EPF & MP Act. A claim form was filed by EPFO to the Resolution Professional on 26.09.2023 praying for revising their dues as earlier submitted. IA No.346 of 2023 was filed by the Resolution Professional challenging the order dated 25.09.2023 passed by EPFO under Section 7A, 14B & 7Q which application was dismissed as not maintainable. By order dated 23.11.2023, Adjudicating Authority, however, also observed that the Resolution Professional can approach appropriate forum. IA No.5 of 2024 was filed by the Resolution Professional on 23.12.2023 praying for following reliefs:-

“(i) To pass an order to declare the demand made by the Respondent vide order dated 25.09.2023 u/s 7-A of the

EPF & MP's Act demanding a payment to the tune of Rs. 50,90,793/- as void and not enforceable against the Corporate Debtor, passed during the moratorium under section 14 of I&B Code, 2013.

(ii) To pass an order to declare the demand made by the Respondent vide order dated 25.09.2023 u/s 14-B of the EPF & MP's Act demanding a payment to the tune of Rs. 50,66,686/- as void and not enforceable against the Corporate Debtor, passed during the moratorium under section 14 of I&B Code.

(iii) To pass an order to declare the demand made by the Respondent vide order dated 25.09.2023 u/s 7-Q of the EPF & MP's Act demanding a payment to the of Rs. 35,60,358/- as void and not enforceable against the Corporate Debtor, passed during the moratorium under section 14 of I&B Code, 2013.

(iv) To pass an order to declare the notice dated 11.05.2023 sent by the Respondent as void and not enforceable.”

2.2. The reply was filed by the EPFO to the IA No. 5 of 2024 objecting to the prayers. EPFO also filed an IA No.409 of 2024 in which application the EPFO prayed for following reliefs:-

“(a) Allow the present Application.

(b) Allow the entire claim of the Applicant being an amount of Rs. 1,37,17,837/- (Rs. One Crore Thirty- Seven Lakh Seventeen Thousand Eight Hundred Thirty Seven Only) as per the revised claim dated 29.09.2023 filed by the Applicant to the RP along with further interest as may be awarded, and the claim be considered as First charge over all other dues of the Financial Creditor/Corporate Debtor.

(c) Direct the Respondent herein to consider the claim of the Applicant in priority as per the provision of IBC, 2016 and EPF & MP Act, 1952 and Resolution Plan if approved be modified to include the claim of EPF;

(d) Pending the hearing and final disposal of this Application the Respondents be directed to retain assets of the value of Rs. 1,37,17,837/- (Rs. One Crore Thirty-Seven Lakh Seventeen Thousand Eight Hundred Thirty Seven only)) and not to distribute the same to enable the payment of the claim of the Applicant;

(e) Interim and ad-interim reliefs in terms of prayer clause (a) to (d) above;

(f) Such other and further reliefs as this Hon'ble Court deem fit and proper;”

2.3. Adjudicating Authority heard both the applications IA No.05 of 2024 and IA No.409 of 2024 and by impugned order has disposed of both the applications. With respect to application filed by the Resolution Professional IA No.5 of 2024, Adjudicating Authority held that there was no bar in carrying out for assessment of the dues even during Moratorium period which would be payable by the Resolution Professional/ Successful Resolution Applicant and included accordingly in the Resolution Plan. With respect to IA No.409 of 2024, the Adjudicating Authority held that EPFO does not specifically mention details of the individual employees in whose respect the Provident Fund dues have been computed by the EPFO. EPFO was directed to provide the name and number of employees with year-wise details of the employees with respect to whom assessments have been made by them, together with the detailed computation which may be furnished by the EPFO to the Resolution Professional. Resolution Professional within period of one month

will be at liberty to raise their objection with regard to computation made by EPFO. EPFO shall have to consider the objection. It is useful to notice the observations and findings by the Adjudicating Authority in paragraphs 22, 23, 24 & 25 which have been given by the Adjudicating Authority while disposing of both the applications:

“22. Therefore, considering the facts as discussed herein above, as regards the contention raised by the RP that the said order is passed in violation of the moratorium period we find that there is a difference between assessment of the claim and recovery of the claim and in the instant case the EPFO has never initiated any recovery proceedings against the RP. But during the moratorium period the EPFO could not have issued summon to the RP and compelled him to attend their office. The RP’s main task during the period is to collect the claim and proceed for getting resolution plans following the procedure as laid down in the Code & Regulations thereof. We note the EPFO had enforced the presence of RP as many as in 14 hearings and that was not warranted in view of the very object of the code and the time line presented therein. We also note that the EPF dues are now computed for 2015 onwards. It is not understood why the office of the EPF had not initiated any action against the corporate debtor/ erstwhile management. They have initiated their inquiry/ assessment proceedings after almost 8 years, that too after the initiation of CIRP against the corporate debtors. Otherwise than that, there was no bar in carrying out for assessment of the dues even during moratorium period which would be payable by

RP and/or SRA in terms of the provisions of the EPF Act and included accordingly in the resolution plan.

23. We further note that the claim raised by the EPFO does not specifically mention the details of the individual employees in whose respect the PF dues have been computed by the EPFO. Their claim based upon the notional computation cannot be considered as payable to the EPFO.

24. In view of the above, we are of the considered view that the EPFO will have to provide the name & number of employees with year-wise details of the employees with respect to whom assessments have been made by them, together with the detailed computation based on which the claim has been raised. Such details will have to be furnished by the EPFO to the RP within a period of one month. Then RP and / or SRA, in case resolution plan gets approved, will be at liberty to raise their objection as regard computation made by the EPFO and in that case the EPFO will have to consider the objection and revise their computation. Meanwhile, the SRA is also at liberty to amend the resolution plan accordingly by way of an addendum providing for the payment on EPF dues. Needless to clarify, that, the addendum, if any, will have to be approved by the COC and the same will have to be brought on record by the RP through affidavit in the matter of approval of resolution plan (IA 29 of 2024).

25. With these directions the application IA 5 of 2024 & IA 409 of 2024 in CP(IB) 37 of 2022 stand disposed of.”

2.4. Aggrieved by the aforesaid order dated 13.11.2024, these Appeals have been filed. Company Appeal (AT) (Insolvency) No.17 of 2025 has been filed by

the Resolution Professional challenging the order passed by the Adjudicating Authority passed in IA No.5 of 2024. In the Appeal, following prayers have been made:-

“a) set aside the impugned order dated 13.11.2024 passed by Hon'ble National Company Law Tribunal, Indore Bench in IA/05/MP/2024 filed in CP (IB) 37/2022 filed by the Appellant;

b) To pass an order to declare the demand made by the Respondent vide order dated 25.09.2023 under Section 7-A of the EPF & MP Act demanding a payment to the of Rs. 50,90,793/- (Rupees Fifty Lakhs Ninety Thousand Seven Hundred & Ninety Three Only) as void and not enforceable against the M/s Premshree Prime Properties Private Limited, passed during the moratorium under section 14 of I&B Code, 2013.

c) To pass an order to declare the demand made by the Respondent vide order dated 25.09.2023 under Section 14 B of EPF & MP Act demanding a payment to tune of Rs. 50,66,686/- (Rupees Fifty Lakh Sixty Six Thousand and Six Hundred Eighty Six) as void and not enforceable against the M/s Premshree Prime Properties Private Limited, passed during the moratorium under section 14 of I&B Code, 2013.

d) To pass an order to declare the demand made by the Respondent vide order dated 25.09.2023 under Section 7 Q of the EPF & MP Act demanding a payment to the tune of Rs. 35,60,358/- (Thirty Five Lakh Sixty Thousand and Three Hundred Fifty Eight) as void and not enforceable against the M/s Premshree Prime Properties Private Limited, passed during the moratorium under section 14 of I&B Code, 2013.

e) Any such other relief as the Hon'ble Appellate Tribunal may consider fit and proper.”

2.5. Company Appeal (AT) (Insolvency) No.102 of 2025 has been filed by EPFO challenging the order dated 13.11.2024 passed by the Adjudicating Authority in IA No.5 of 2024. In the Appeal, following prayers have been made by the EPFO:-

“a) To set aside the impugned Order Dated 13.11.2024 Passed in I.A. No. 5(MP)/2024 In C.P.(I.B.) No. 37(MP)/2022, By National Company Law Tribunal, Indore Bench, Court No. I;

b) To award cost of the present appeal in favor of the Appellant;

c) pass any such other/ further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

2.6. Company Appeal (AT) (Insolvency) No.103 of 2025 has been filed by the EPFO challenging the order dated 13.11.2024 passed in IA No.409 of 2024. In the Appeal, following prayers have been made:-

“a) To set aside the impugned Order Dated 13.11.2024 Passed In I.A. b) No. 409(MP)/2024 In C.P.(I.B.) No. 37(MP)/2022, By National Company Law Tribunal, Indore Bench, Court No. I;

b) To award cost of the present appeal in favor of the Appellant;

c) pass any such other/ further order(s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

3. We have heard Learned Counsel for the Resolution Professional in support of his appeals and in opposition to the appeal filed by EPFO. Counsel for the EPFO has been heard in support of two appeals filed by EPFO as well as Respondents in appeal filed by the Resolution Professional.

4. Counsel for the Resolution Professional challenging the order passed by the Adjudicating Authority submits that the CIRP against the Corporate Debtor having commenced on 17.02.2023, the EPFO could not have initiated any proceeding under Section 7A for determination of the amount payable by the Corporate Debtor. The order under Section 7A, 7F and 14B has been passed on 25.09.2023. The EPFO has no jurisdiction to pass any order under Moratorium period to fasten any liability on the Corporate Debtor. On the basis of order passed during Moratorium period, no claim could have been admitted. First claim was submitted by EPFO on basis of an alleged inspection dated 10.05.2023 and thereafter a revised claim was filed on 26.09.2023 for Rs.1,37,17,837 which was impermissible. Counsel for the Resolution Professional relied on the judgment of this Tribunal in Company Appeal (AT) (Insolvency) No.1062 of 2024--***“Employees’ Provident Fund Organisation Regional Office vs. Jaykumar Persumal Arlani, Resolution Professional of Ms/. Decent Laminates Pvt. Ltd.”***. It is submitted that after declaration of the Moratorium, no assessment could have been passed nor on the basis of any assignment, any claim could have been filed. There is no occasion to admit any claim or mention the same in the Resolution Plan.

5. Counsel for the EPFO challenging the order passed by the Adjudicating Authority directing the EPFO to give the name of employees with details of

computation, it is submitted that the Adjudicating Authority has no jurisdiction to enter into adjudication of claim under Section 7A, 14B and 7Q. It is submitted that under the EP & MP Act, 1952, it is statutory authorities who are entitled to adjudicate and pass order under Section 7A, 7Q & 14B. Direction of the Adjudicating Authority to the EPFO to give the name of employees and detail computation is uncalled for and beyond the jurisdiction. It is further submitted that the EPFO had also jurisdiction to submit a claim on the basis of inspection report dated 10.05.2023. Inspection report dated 10.05.2023 can very well be basis for determining the employees' contribution which does not violate the Moratorium. It is submitted that the application filed by the Resolution Professional challenging the order dated 25.09.2023 has also been disposed of by the Adjudicating Authority directing the Resolution Professional to challenge the same in appropriate forum, hence, the order dated 25.09.2023 could not have been questioned in the proceedings.

6. We need to first examine the submissions of the Counsel for the Resolution Professional that after initiation of CIRP against the Corporate Debtor by order dated 17.02.2023 no determination could have been made by the EPFO nor any claim can be filed on the basis of any determination by the EPFO. As noted above, initially the EPFO filed its claim on the basis of inspection report dated 10.05.2023 demanding an amount of Rs.33,99,135/- as due from the Corporate Debtor for the period April 2015 to March 2021. Subsequently, an order under Section 7A was passed on 25.09.2023 determining amount of Rs.50,90,793/- and an order under Section 14B

demanding an amount of damages and interest of Rs.35,60,358/- under Section 7Q. On the basis of the aforesaid order, claim was filed on 26.09.2023 to accept the revised claim. It is useful to notice revised claim submitted on 26.09.2023 by the EPFO which is as follows:-

26.09.2023

“To,

*Sh. Pankaj Shah,
Interim Resolution Professional for M/s Premshree Prime
Properties Pvt Ltd 112, Manas Bhawan, RNT Marg Indore-452001*

*Subject:-Submission of Revised claim in respect of provident fund
dues of M/s Premshree Prime Properties Pvt Ltd.*

Madam/Sir,

*Please refer to order of Hon'ble National Company Law Tribunal
in petition number CP(IB)/37(MP)2022 Dated 17/02/2023,
directing your appointment as interim professional/liquidator in
respect of M/s Premshree Prime Properties Pvt Ltd.*

*In this regard, EPF dues in respect of workers or employees of the
establishment were informed vide letter dated
23/05/2023.However, during course of inquiry u/s 7A of EPF &
MP Act, 1952 conducted for assessment of dues, your good self
has raised objection regarding dues reported in the inspection
report dated 10/05/2023. Accordingly, the dues are modified in
order dated 25/09/2023 passed u/s 7A of the act.*

*Hence, EPF dues of claim, dated 23/05/2023 are revised and
details of same are as below-*

Dues	Period	Amount	Document
Dues of Provident Fund	05/08/2015- 31/03/2021	5090793/-	7A order dated 25/09/2023

Damages u/s 14B	05/08/2015- 25/09/2023	49742/-	Notice u/s 14B dated 25/09/2023
Interest u/s 7Q	05/08/2015- 25/09/2023	25378/-	Notice u/s 7Q dated 25/09/2023
Notional dues of Damages calculated in respect of 7A order dated 25/09/2023	05/08/2015- 25/09/2023	5016944/-	Notional Calculation Sheet dated 25/09/2023
Notional dues of Interest calculated in respect of dues of 7A order dated 25/09/2023	05/08/2015- 25/09/2023	3534980/-	Notional Calculation Sheet dated 25/09/2023
Total		13717837/-	

Your attention is drawn to section 36(4) of the Insolvency and Bankruptcy Code, 2016, which predicates that dues towards provident fund, pension and gratuity constitute third-party assets and, in the consequence, thereof, are excluded from the liquidation estate of the corporate debtor and cannot be utilized for making any recovery from him.

Your attention is also drawn to the judgement of Hon'ble NCLAT in Sikandar Singh Jamwal Vs Vinay Talwar (CA(AT)483/2019: judgement dated: 11/03/2022.

It would be pertinent to mention that EPF dues were already filed through letter dated 23/05/2023. However, due to further objection in reported dues, the claim is being revised and filed again. Further, it is to inform that inquiry proceedings are being initiated to assess the EPF dues only.

Hence, it is requested to admit the above mentioned EPF dues and inform the status of acceptance/rejection of the same at the earliest.

(Shobhit Shrivastava)

Regional Provident Fund Commissioner—I”

7. The demand made by the EPFO on the basis of inspection dated 10.05.2023 is clearly demand from the Corporate Debtor after commencement of the Moratorium. Similarly, revised claim submitted on 26.09.2023 on the basis of orders passed on 25.09.2023 where demand in pursuance of subsequent to Moratorium. This Tribunal has occasion to examine the consequences of Moratorium on assessment made by EPFO in Company Appeal (AT) (Insolvency) No.1062 of 2024- **“Employees’ Provident Fund Organisation Regional Office vs. Jaykumar Persumal Arlani, Resolution Professional of Ms/. Decent Laminates Pvt. Ltd.”** with Company Appeal (AT) (Insolvency) No.1065 of 2024- - **“Employees’ Provident Fund Organisation Regional Office vs. Sanjay Kumar Lalit, Resolution Professional of Apollo Soyuz Electricals P. Ltd. & Anr.”** decided on 03.01.2025. In the above case also, after commencement of the CIRP, EPFO initiated proceeding under Section 7A and passed an order under Section 7A, 7Q & 14B. Application was filed by EPFO before the Adjudicating Authority seeking a direction to the Resolution Professional to admit the claim which claim to be rejected. This Tribunal in the above case, examined the consequence of Moratorium and held that the assessment proceeding cannot be continued after initiation of CIRP. This Tribunal in the above judgment had framed questions in paragraph 9 which are as follows:-

“9. From the submissions of learned Counsel for the parties, following issues arise for consideration:

(1) Whether after imposition of moratorium under Section 14 of the IBC, assessment proceedings can be

carried on by the EPFO under Section 7A, 14B and 7Q of the EPF & MP Act, 1952.

(2) Whether any claim on the basis of assessment, subsequent to imposition of moratorium, can be admitted in the CIRP.

(3) Whether claims, which were filed by the Appellant(s), subsequent to the approval of Resolution Plan by the CoC, could have been admitted in the CIRP.”

8. While answering Question Nos.1 and 2, this Tribunal has relied on the judgment of the Hon’ble Supreme Court in **“(2020) 13 SCC 208 – Rejendra K. Bhutta vs. Maharashtra Housing and Area Development and Anr”**. In paragraphs 11, 12 & 13, following was laid down: -

“11. The Hon’ble Supreme Court had occasion to consider effect and consequence of imposition of moratorium. The Hon’ble Supreme Court in (2020) 13 SCC 208 – Rejendra K. Bhutta vs. Maharashtra Housing and Area Development and Anr. held that after the imposition of moratorium, a statutory freeze takes place. In paragraph 25 of the judgment, following was held:

“25. There is no doubt whatsoever that important functions relating to repairs and reconstruction of dilapidated buildings are given to MHADA. Equally, there is no doubt that in a given set of circumstances, the Board may, on such terms and conditions as may be agreed upon, and with the previous approval of the Authority, hand over execution of any housing scheme under its own supervision. However, when it comes to any clash

between MHADA Act and the Insolvency Code, on the plain terms of Section 238 of the Insolvency Code, the Code must prevail. This is for the very good reason that when a moratorium is spoken of by Section 14 of the Code, the idea is that, to alleviate corporate sickness, a statutory status quo is pronounced under Section 14 the moment a petition is admitted under Section 7 of the Code, so that the insolvency resolution process may proceed unhindered by any of the obstacles that would otherwise be caused and that are dealt with by Section 14. The statutory freeze that has thus been made is, unlike its predecessor in the SICA, 1985 only a limited one, which is expressly limited by Section 31(3) of the Code, to the date of admission of an insolvency petition up to the date that the adjudicating authority either allows a resolution plan to come into effect or states that the corporate debtor must go into the liquidation. For this temporary period, at least, all the things referred to under Section 14 must be strictly observed so that the corporate debtor may finally be put back on its feet albeit with a new management.”

12. *In (2021) 6 SCC 258 – P. Mohanraj and Ors. Vs. Shah Brothers ISPAT Pvt. Ltd., the Hon’ble Supreme Court had occasion to interpret the expression “proceeding” in Section 14. The object and purpose of moratorium has been captured in paragraph 30 of the judgment, which is as follows:*

“30. It can be seen that Para 8.11 refers to the very judgment under appeal before us, and cannot therefore be said to throw any light on the correct

*position in law which has only to be finally settled by this Court. However, Para 8.2 is important in that the object of a moratorium provision such as Section 14 is to see that there is no depletion of a corporate debtor's assets during the insolvency resolution process so that it can be kept running as a going concern during this time, thus maximising value for all stakeholders. The idea is that it facilitates the continued operation of the business of the corporate debtor to allow it breathing space to organise its affairs so that a new management may ultimately take over and bring the corporate debtor out of financial sickness, thus benefitting all stakeholders, which would include workmen of the corporate debtor. Also, the judgment of this Court in *Swiss Ribbons (P) Ltd. v. Union of India* [*Swiss Ribbons (P) Ltd. v. Union of India*, (2019) 4 SCC 17] states the *raison d'être* for Section 14 in para 28 as follows : (SCC p. 55)*

“28. It can thus be seen that the primary focus of the legislation is to ensure revival and continuation of the corporate debtor by protecting the corporate debtor from its own management and from a corporate death by liquidation. The Code is thus a beneficial legislation which puts the corporate debtor back on its feet, not being a mere recovery legislation for creditors. The interests of the corporate debtor have, therefore, been bifurcated and separated from that of its promoters/those who are in management. Thus, the resolution process is not adversarial to the corporate debtor but, in fact, protective of its interests. The moratorium imposed by Section 14 is in the interest

of the corporate debtor itself, thereby preserving the assets of the corporate debtor during the resolution process. The timelines within which the resolution process is to take place again protect the corporate debtor's assets from further dilution, and also protects all its creditors and workers by seeing that the resolution process goes through as fast as possible so that another management can, through its entrepreneurial skills, resuscitate the corporate debtor to achieve all these ends.”

13. The plain reading of Section 14, sub-section (1) indicates that expression ‘suits or proceedings against the corporate debtor’ has been used. The word ‘proceeding’ is not qualified, so as to confine it to proceedings before the Civil Court. The proceedings, which have the effect on the assets of the CD are all covered in the expression ‘proceeding’. The question to be answered is as to whether after moratorium has been imposed, it was open for EPFO to proceed with the assessment proceeding. Learned Counsel for the parties state that during moratorium proceeding, no recovery proceeding can be initiated against the CD. However, submissions of the learned Counsel for the Appellant is that assessment proceedings against the CD may continue. Hence, the orders of assessment passed during moratorium period, were fully permissible and the claim on the basis of the said proceedings had to be admitted in CIRP.”

9. After considering the submission of the parties, this Tribunal came to the conclusion that after initiation of the CIRP, assessment proceedings cannot be continued. In paragraphs 23 & 24, following was laid down:-

“23. 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.

24. In view of the aforesaid, we answer Question Nos.(1) and (2) in following manner:

(1) We hold that after initiation of moratorium under Section 14, sub-section (1), no assessment proceedings can be continued by the EPFO. If after an order of liquidation is passed, Section 33, sub-section(5), does not prohibit initiation or continuation of assessment proceedings.

(2) No claim on the basis of assessment carried during the moratorium period, which is prohibited under Section 14(1) can be pressed in the CIRP.”

10. The above judgment clearly indicates that after initiation of the CIRP, no assessment can be initiated or continued against the Corporate Debtor so

as to pass any pecuniary liability on the Corporate Debtor. In the present case, the EPFO has made demand on the basis of an alleged inspection report dated 10.05.2023 and assessment order dated 25.09.2023 which both were subsequent to initiation of CIRP on 17.02.2023. When no demand can be made on the basis of any inspection or assessment, we do not find any ground to allow the application IA No.409 of 2024 which was filed by EPFO where direction was sought to allow the entire claim of Rs.1,37,17,837/-.

11. Insofar as the application filed by the Resolution Professional being IA No.5 of 2024, the prayer was to seek a declaration that demand made under Section 7A, 7Q & 14B are not enforceable against the Corporate Debtor. In view of the law as laid down by this Tribunal, Resolution Professional has made out a case for issuing a direction that the said demand was unenforceable which arose on the basis of assessment made during the Moratorium. We having taken the view that the demand made by the EPFO on the basis of inspection report dated 10.05.2023 and assessment dated 25.05.2023 was not enforceable and the prayer made by the EPFO in IA No.409 of 2024 was not acceptable. It is not necessary to consider other submissions raised by EPFO challenging the direction issued by Adjudicating Authority directing the EPFO to give name of the employees with determination. We are satisfied that the order of the Adjudicating Authority passed in IA No.5 of 2024 as well as IA No.409 of 2024 is unsustainable. We do not see any necessity to consider any other submissions raised by the parties.

12. In result, we allow the Appeal filed by Resolution Professional being Company Appeal (AT) (Insolvency) No.17 of 2025, set aside the order passed by the Adjudicating Authority in IA No.5 of 2024. Order of the Adjudicating Authority passed in IA No.409 of 2024 is set aside. Company Appeal (AT) (Insolvency) Nos. 102 of 2025 and 103 of 2025 are disposed of. Parties shall bear their own costs.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

NEW DELHI

3rd September, 2025

Anjali