

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 804 of 2024

&

I.A. No. 2898 of 2024

IN THE MATTER OF:

Employees Provident Fund Organization

...Appellants

Versus

**Rajat Mukherjee,
Liquidator of Enviiro Bulkk Handling
Systems Pvt Ltd.**

...Respondents

Present:

For Appellant : Mr. Gaurav Varma, Advocate.

For Respondents : None.

ORDER
(Hybrid Mode)

10.05.2024: Heard counsel for the Appellant. This application is filed against the order dated 23.2.2024 passed by the Adjudicating Authority in IA No. 2428 of 2021 filed by Employees Provident Fund Organisation. In the CIRP Process the claim was filed by the Appellant with regard to assessments under Section 7A and 7Q. Adjudicating Authority in the impugned order has noticed that the entire payment as claimed under 7A and 7Q has been paid to the Appellant and findings have been recorded in the paragraph- 29 which is as follows:-

“It is noted that the dues claimed by the Applicant under Section 7A and 7Q of the Employees’ Provident Fund and Miscellaneous Provisions Act, 1952 amounting to Rs. 49,59,277/- have already been released in full i.e; Rs. 37,15,123/- on 10.05.2021 and Rs.12,44,154/- on 09.9.2021. The controversy in the present case is limited to unpaid dues claimed by the applicant for damages under section 14B of the EPF Act.”

Learned counsel for the Appellant submits that although claim under 7A and 7Q of The Employees Provident Fund and Miscellaneous Provisions Act, 1952 has been paid but the amount due under Section 14B has not been paid. The Adjudicating Authority in paragraph- 31 has noticed the contention of Respondents that the order with regard to 14B was passed on 16.6.2021 much after initiation of CIRP Resolution as well as Liquidation Order. In paragraph-31 of the judgment, the following has been noted:-

“Per Contra, the submission of the Respondent is that the damages claimed under Section 14B of EPF Act was imposed by Order dated 16.6.2021 which was much after initiation of CIRP as well as Liquidation order of the Corporate Debtor, hence are to be paid in accordance with section 53 of IBC.”

When the entire claim which was filed under 7A and 7Q was paid to the appellant, we fail to see any error in the order of the Adjudicating Authority in rejecting the application. It has been noticed by the Adjudicating Authority that claim under Section 14B was assessed by an order dated 16.6.2021 passed after initiation of CIRP proceedings. Adjudicating Authority has noted the judgment of this Tribunal in *Regional Provident Fund Commissioner, Vatwa, Employees Provident Fund Organisation vs. Manish Kumar Bhagat* in Company Appeal (AT) (Ins) No. 808 of 2022 which has rightly been relied upon for not accepting the claim which was subsequent to the initiation of CIRP.

Cont'd

Hence, we do not find any error in the decision of Adjudicating Authority.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

[Arun Baroka]
Member (Technical)

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