BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

C.A. NO. _____/2024

IN

C.P. NO.IB-1082(PB)/2018

IN THE MATTER OF:

KIRAN MALHOTRA -FINANCIAL CREDITOR

VERSUS

M/S. ALCHEMIST TOWNSHIP INDIA LIMITED -CORPORATE DEBTOR

AND IN THE MATTER OF:

EMPLOYEES PROVIDENT FUND ORGANIZATION,
THROUGH THE REGIONAL PROVIDENT FUND
COMMISSIONER-II,
SCO 4-7, BRIDGE MARKET, SECTOR 17D,
CHANDIGARH -160017. ...APPELLANT

VERSUS

SHRI DEVENDER SINGH,
RESOLUTION PROFESSIONAL,
M/S. ALCHEMIST TOWNSHIP INDIA LTD.
HAVING ITS OFFICE AT
ASSOTECH BUSINESS CRESTERRA,
OFFICE NO.216, SECOND FLOOR,
TOWER-1, SECTOR-135, NOIDA (U.P.) -201305
E-MAIL: atil.cirp@gmail.com …RESPONDENT

मनीष कुमार नैय्यर
Manish Kumar Naiyyer
क्षेत्रीय भविष्य निधि आयुक्त-II
Regional P.F. Commissioner-II

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APPELLANT

Through

New Delhi

Date: 29.07.2024



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SYNOPSYS AND LIST OF DATES

The applicant has filed the instant appeal under section 42 read with section 36(4)(a)(iii) of the Insolvency and Bankruptcy Code 2016 seeking to challenge the decision taken by the respondent rejecting the claim of payment of provident fund dues under sections 7A, 7Q & 14B of the Employee's Provident Fund and (Miscellaneous Provisions) Act, 1952 vide his email dated 11.01.2024.

It is pertinent to mention here that the Appellant herein is a statutory authority which has been constituted and authorized under the Provisions of the EPF Act, 1952 to collect the provident fund dues of the employees from the entities registered with it. The Corporate Debtor, M/s. Alchemist Township India Ltd. (hereinafter referred to as "the Company") was a registered entity and was allotted EPF Code No. PB/CHD/45388. However, the corporate debtor herein was consistently defaulting in depositing the PF dues of its employees. The EPFO asked for their claim of Rs. 36,54,821/- on 03.11.2023 but the Resolution professional rejected the claim of the appellant by sending an e-mail dated 11.01.2024 on the ground that the Resolution Plan has been approved with the 100% majority by the committee of creditors.

LIST OF DATES

04.07.2006	That the corporate debtor, Alchemist Township India Limited (CIN U70100DL2006PLC263246)

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	was incorporated on 04.07.2006
2018	The Financial creditor invoked section 7 of the Insolvency and Bankruptcy Code, 2016 against the Corporate Debtor.
25.01.2019	Hon'ble National Company Law Tribunal, New Delhi Principal Bench in C.P. No. IB 1082(PB)/2018 initiated CIR proceedings against the Corporate Debtor and appointed Mr. Pramod Goel as Interim Resolution Professional. The moratorium was also declared against the Corporate Debtor in terms of Section 14 of the Insolvency and Bankruptcy Code, 2016.
24.11.2020	Mr Devendra Singh was appointed as the Resolution Professional of the corporate debtor.
18.10.2023	An inspection report was filed by Sh. Harish Chand Beniwal, Enforcement Officer, Regional Office, Chandigarh, in respect of corporate debtor, in the regional office of EPFO at Chandigarh. It is stated in the report that the payable dues have been calculated for Rs. 14,08,388/- on the basis of the balance sheets for the period of 04/2018 to 03/2022.
19.10.2023	The Assistant P.F. Commissioner Compliance -I, after receiving the report from the Enforcement

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	Officer, issued an office note dated 19/10/2023 to the prosecution cell for information and necessary action
25.10.2023	The Assistant P.F. Commissioner (Damages) after coming to know that the CIRP is pending before the I.R.P. in respect of the CD, therefore, issued a letter to the Prosecution Cell and mentioned therein that Rs. 1591 is dues under section 14B and 7Q and as per the EO report, notional damages of Rs. 19,12,552/- has been calculated. Hence, the APFC (damages) intimated the prosecution cell to claim a sum of Rs. 19,14,143/- against the penal damages and interest through I.R.P.
03.11.2023	EPFO submitted their claim to the Resolution Professional of Dues of payable Fund of Rs. 17,40,678 + damages U/s 14B & 7Q of Rs. 19,14,143/- in total Rs. 36,54,821/-.
11.01.2024	Resolution Professional rejected the claim of the EPFO without considering the provisions contained in the Insolvency and Bankruptcy Code and also the well-settled principles of law regarding the subject in issue by sending an e-mail on 11.01.2024.
19.01.2024	The appellant decided to file an appeal. The case was assigned to the panel counsel. The appeal was prepared after receiving the required instructions and was sent for vetting purposes.

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May, 2024	Hence, this company Appeal

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APPEAL UNDER SECTION 42 READ WITH SECTION 36(4)(a)(iii) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016. AGAINST THE DECISION TAKEN BY THE RESPONDENT REJECTING THE CLAIM OF PAYMENT OF PROVIDENT FUND DUES UNDER SECTION 7A, 7Q AND 14B OF THE EMPLOYEES PROVIDENT FUND AND MISC. PROVISIONS ACT, 1952.

MOST RESPECTFULLY SHOWETH: -

1. That the appellant has preferred the instant appeal U/s. 42 of the Insolvency & Bankruptcy Code, 2016 against the impugned decision of the resolution professional (respondent herein) whereby the claim of the applicant to the tune of Rs.36,54,821/- submitted by writing a letter dated 03.11.2023 was rejected without considering the provisions contained in the Insolvency and Bankruptcy Code and also the well-settled principles of law regarding the subject in issue by sending an e-mail on 11.01.2024. The printout of the mail dated 11.01.2024 so sent to the applicant by the respondent is filed herewith as **Annexure-1.**

2. That the brief facts of the case are as under: -

2.1 That the corporate debtor herein is a registered entity under the provisions of the Employees Provident Fund and Misc. Provisions Act, 1952 (EPF Act). vide EPF Code No. PB/CHD/45388. However, the corporate debtor herein was consistently defaulting in depositing the PF dues of its employees.

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2.2. That the financial creditor herein filed an insolvency petition U/s 7 of the code against the corporate debtor before this Hon'ble Tribunal and, on 25.01.2019, this Hon'ble Tribunal was pleased to admit the petition so filed by the financial creditor and initiate the Corporate Insolvency Resolution Process against the corporate debtor herein w.e.f. 25.01.2019.

2.3. That the interim resolution professional gave an advertisement in the newspaper and all the persons who had the right to recover some amount from the corporate debtor were requested to submit their claims with the interim resolution professional till the specified period.

2.4. That all the creditors submitted their respective claims with the interim resolution professional and thereafter, a committee of creditors was constituted. In the meeting of committee of creditors, the name of Resolution Professional was finalized.

2.5. That the resolution plan was approved by the committee of creditors in its meeting held on 09.10.2023 and e-voting held on 15.10.2023. It is submitted that the resolution plan was approved by the committee of creditors with a 100% majority.

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2.7. That meanwhile, an inspection report was filed by Sh. Harish Chand Beniwal, Enforcement Officer, Regional Office, Chandigarh, in respect of corporate debtor, in the regional office of EPFO at Chandigarh on 18.10.2023. It is stated in the report that the payable dues have been calculated for Rs. 14,08,388/- on the basis of the balance sheets for the period of 04/2018 to 03/2022. True Copy of the inspection report dated 18.10.2023 is filed herewith as **Annexure – 2**.

2.8. That the Assistant P.F. Commissioner Compliance -I, after receiving the report from the Enforcement Officer, issued an office note dated 19.10.2023 to the prosecution cell for information and necessary action. True Copy of the office note dated 19.10.2023 is filed herewith as **Annexure -3**.

2.9. That in pursuance to the judgment dated 25.02.2019, several persons submitted their plans to run the corporate debtors and ultimately the resolution plan was approved by the committee of creditors in its meeting held on 09.10.2023 and e-voting held on 15.10.2023. It is submitted that the resolution plan was approved by the committee of creditors with a 100% majority.

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2.10. That the Assistant P.F. Commissioner (Damages) after coming to know that the CIRP is pending before the Interim Resolution Professional in respect of the Corporate Debtor, therefore, issued a letter dated 25.02.2023 to the Prosecution Cell and mentioned therein that Rs. 1591/- is dues under section 14B and 7Q and as per the EO report, notional damages of Rs. 19,12,552/- has been calculated. Hence, the APFC damages intimated the prosecution cell to claim a sum of Rs. 19,14,143/- against the penal damages and interest through I.R.P. True Copy of the letter dated 25.10.2023 is filed herewith as **Annexure-4**.

2.11. That the appellant submitted a claim of Rs.36,54,821/- in the office of the resolution professional on 03.11.2023 and requested him to accept the claim of Rs. 36,54,821/- and make payment thereof at the earliest. It is submitted that the corporate debtor i.e. M/s. Alchemist Township India Ltd. is in default of remittance of the following dues:-

Dues	Amount (Rs.)	Document
Dues of Provident Fund	17,40,678/-	Compliance Section letter dated 19.10.2023 & Account section letter dated 26.10.2023,
Damages u/s 148 & 7Q	19,14,143/-	Damages Cell letter dated 17.10.2023 & 25.10.2023

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Total	36,54,821/-	

2.12. That the appellant in its letter dated 03.11.2023 drew the attention of the respondent resolution professional on the judgment of Hon'ble NCLAT rendered in Sikandar Singh Jamwal Versus Vinay Talwar CA (AT) 483/2019 on 11.03.2022 which was also approved by the Hon'ble Supreme Court as the SLP filed against that judgment was dismissed and the position attained finality after the Supreme Court judgement in Sunil Kumar Jain Versus Sundresh Bhatt (CA-5910/2019) decided on 29.04.2022 whereby it was held that PF dues are not debts and thus do not fall under waterfall mechanism U/S 53 of IBC & excluded as per Section 36 (4) (a) (iii) and must be remitted in priority over financial creditor or operational creditor dues.

It is submitted that the appellant mentioned the details of other cases in its letter dated 03.11.2023 in support of the PF dues and requested payment thereof. For the sake of convenience and ready reference, True copy of the letter dated 03.11.2023 of the appellant is filed herewith as **Annexure-5.**

2.13. That the respondent/resolution professional did not consider the fact mentioned in the appellant letter dated 03.11.2023 and the

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judgments which were relied on. The respondent, in a very casual manner and without applying the judicial mind, rejected the claim of the appellant by saying that the claim of the appellant could not be submitted as the resolution plan had already been approved by the committee of the creditors in the meeting held on 09.10.2023 and e-voting held on 15.10.2023. Not only this but the respondent reproduced the provisions of section 14 of IBC in his mail dated 11.01.2024 and requested the appellant to discontinue the proceeding U/S 7-A of EPF and MP Act, 1952 in view of the moratorium which came into effect from 25.01.2019. It was also mentioned in the mail that the claim was submitted by the appellant on 03.11.2023 after the last date of receipt of the claim and also after the post-approval of the resolution plan by the committee of the creditors.

3. That the appellant, being aggrieved with the rejection of its claim by the resolution professional has approached this Hon'ble Tribunal for the redressal of its grievances on the following amongst other grounds: -

GROUNDS OF APPEAL:

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A. BECAUSE the respondent has failed to appreciate that the PF dues relate to the poor workers who have been deprived of their statutory PF benefit by the defaulting establishment and the PF dues are not covered by the provisions contained in Section 36 (4) (a) (iii) of IBC.

B. BECASUSE the resolution professional failed to consider that the Hon'ble NCLAT in case titled *Tourism Finance Corporation of India Pvt. Ltd. v. Rainbow Papers Ltd & Ors, Company Appeal (AT) (Insolvency) No. 354 of 2019*, allowed an appeal filed by the Regional Provident Fund Commissioner for non-payment of entire EPF dues along with interest calculated as per the provisions of the EPF Act, by concluding that there was no inconsistency between the EPF Act and the Code since EPF dues have been categorically treated as assets not forming part of the liquidation estate under Section 36(4)(a)(iii) of the Code. The NCLAT partially modified the approved Resolution Plan while making the following observation:

> "45. Therefore, we direct the 'Successful Resolution Applicant'- 2nd Respondent ('Kushal Limited') to release full provident fund and interest thereof in terms of the provisions of the 'Employees Provident Funds and Miscellaneous Provision Act, 1952' immediately, as it does

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not include as an asset of the 'Corporate Debtor'. The impugned order dated 27th February, 2019 approving the 'Resolution Plan' stands modified to the extent above."

C. BECAUSE the PF dues are not considered as a debt, therefore, the appellant cannot be considered as a creditor of the corporate debtor. If the advertisement given by the resolution professional is perused, it is clear that the PF Department had not been called upon to submit the claim against the corporate debtor with the resolution professional.

D. BECAUSE Section 53 IBC does not include the PF dues to show as to before or after whom the PF dues will be paid. In fact, the PF dues are to be cleared by giving preference to all the other dues of all the creditors.

E. BECAUSE the respondent resolution professional failed to appreciate that the Hon'ble Supreme Court has held in a case Sunil Kumar Jain Vs. Sundresh Bhatt that PF dues are debt and thus do not fall under the waterfall mechanism under section 53 of IBC and excluded as per section 36 (4) (a) (iii) and must be remitted in priority over financial creditor or operational creditors dues.

F. BECAUSE the resolution professional failed to consider that the NCLT Kotchi Bench has held in a case that "it is clear that the

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continuation, interest and penal damages payable are statutory dues and not claimed which can be submitted to the liquidator in Form G. Hence, EPFO need not file Form-G before the liquidator. It is also seen that EPFO has got first charge over the assets of the defaulter and its priority of payment over other debts is as per Section 11 of the EPF & MP Act, 1952. In view of the above the liquidator is directed to consider the claim of EPFO made by them.

Moreover, Section 30 (2) (e) of the IBC itself states that the resolution professional shall examine each resolution plan submitted by him to confirm that each resolution plan does not contravene any of the provisions of the law for the time being informed.

G. BECAUSE the respondent resolution professional also failed to appreciate the decision rendered by Hon'ble NCLAT on 19.12.2019 in a case titled "Kushal Limited Vs. Regional Provident Fund Commissioner, Ahmedabad" the appellant not only referred to and relied upon the aforesaid judgment but also reproduced the relevant portion of the judgment. It was submitted by the appellant in its letter dated 03.11.2023 that the NCLAT rejected the contentions described above of the Resolution applicant and observed that " as no provisions of the Employees' Provident Fund and

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Miscellaneous Provisions 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) (iii), 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 Hon'ble NCLAT further directed the successful resolution applicant to release the entire provident fund and interest/penal damages following the EPF & MP Act's 1952 immediately.

H. BECAUSE the resolution professional failed to appreciate the order passed by this Hon'ble Tribunal in CP No. (IB) 2728/ND/2019, order pronounced on 08.12.2023 in case titled Regional Provident Fund Commisioner, Jaipur vs M/s Servel India Pvt. Ltd. in which it is clearly held by the Hon'ble Tribunal that the EPF and gratuity dues held by the Corporate Debtor are assets and rights belonging to employees and workmen and not to be taken control by the IRP; instead, they must be used for provident fund and gratuity obligations. Relevant para no. 20 and 21 of the order is produced here for ready reference:-

"20. In light of the above judgements, we are of the view that the EPF, gratuity dues kept by the Corporate Debtor are

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assets on which employees and workmen have right although the assets are in possession and control of the Corporate Debtor, thus these assets are not to be taken control by IRP and these assets have to be utilized for provident fund, gratuity fund etc. of the workmen and employees.

21. The delay in claiming the EPF dues was on account of delay in adjudication of Section 7A proceedings under The Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Since the EPF dues are not a part of the assets of the Corporate Debtor and are merely in possession of Corporate Debtor, we are of the view that the Resolution Professional was duty bound to release the dues of the Applicant. We hereby direct the Respondent No. 2/Resolution Professional to consider the claim of the Applicant and take decision in terms of the observations and judgements mentioned above. Further, since the Resolution Plan has already been approved by the CoC, the Resolution Professional should take steps to apprise the Successful Resolution Applicant ("SRA") about the claim of the Applicant to enable the SRA to make amends in the Resolution Plan to provide for the claim of the Applicant. In

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the alternative, the SRA may file an additional affidavit undertaking to settle the claim of the Applicant.

22. In view of the above discussion the present IA/3118/2022 in IB-2728/ND/2019 stands allowed and disposed off"

I. BECAUSE the decision of respondent regarding the PF dues not submitted in time is illegal and unreasonable.

J. BECAUSE the appellant is entitled to the release of the PF dues at the earliest.

4. That the appellant had not filed any other proceedings/application before any other Forum or before this Hon'ble adjudicating authority against the order dated 11.01.2024 passed by the respondent-resolution professional.

5. That this appeal is made bonafide and in the interest of justice.

PRAYER:

In view of the fact mentioned hereinabove, this Hon'ble adjudicating authority may graciously be pleased to :-

(i) Allow the instant appeal;

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(ii) Set aside the order dated 11.01.2024 passed by the respondent-resolution professional whereby the claim of the appellant was rejected;

(iii) Direct the respondent-resolution professional to release the PF dues of Rs.36,54,821/- to the appellant along with interest @ 24% per annum from the date of commission of the claim i.e. 03.11.2023 till the actual payment thereon;

(iv) Pass such other or further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case.

APPELLANT

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Regional P.F. Commissioner-II

Through

New Delhi
Date: 29.07.2024

(Kamal Kant Jha)
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AND IN THE MATTER OF:

Employees Provident Fund Organization,
Chandigarh
Through The Regional Provident Fund
Commissioner-II,
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NOTARY PUBLIC GOVT. OF INDIA
VINOD KR. TIWARI
Regn. No. 2416/2020
Delhi High Court
Expiry Date 15/03/2025

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AFFIDAVIT

I, Manish Kumar Naiyyer, S/o Sh Ramdev Naiyyer aged about 42 years, working as Regional P.F. Commissioner-II at EPFO, Regional Office (Delhi Central), New Delhi, do hereby solemnly affirm, state and declare as under:

That the deponent herein is working as Assistant Provident Fund _ Commissioner of the Appellant herein and duly authorized and competent to file and swear the present affidavit on its behalf am aware of the facts of the case based on the records of the Appellant.

That I have read and understood the contents of the accompanying appeal and I state that contents of the abovementioned paragraphs to the extent that they pertain to legal submissions are based on legal advice received by me and believed by me to be correct and in so far as the same pertains to facts are true to my knowledge based on records of the Appellant.

NOTARY PUBLIC
VINOD KR. TIWARI
Delhi High Court
Regn. No. 21416/2020
Expiry Date
15/03/2025
GOVT. OF INDIA

DEPONENT
मनोष कुमार नैय्यर
Manish Kumar Naiyyer
क्षेत्रीय भविष्य निधि आयुक्त-II
Regional P.F. Commissioner-II

VERIFICATION:

I, Manish Kumar Naiyyer, the deponent above named, do hereby verify and state that the contents of the above affidavit are true to the best of my knowledge and nothing material has been concealed from this Hon'ble Tribunal.

Verified at New Delhi, on this the 10 JUL 2024 day of

Identified the Deponent who has signed/thumb impression before me

DEPONENT
मनीष कुमार नैय्यर
Manish Kumar Naiyyer
क्षेत्रीय भविष्य निधि आयुक्त-II
Regional P.F. Commissioner-II

NOTARY PUBLIC
GOVT. OF INDIA
VINOD KR. TIWARI
Delhi High Court
Regn. No. 21410/2020
Expiry Date
15/03/2025

CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUTANT WHO IS SEEMED PERFECTLY TO UNDERSTAND AFPIRMED & DEPOSED BEFORE ME AT NEW DELHI

IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE
VINOD KUMAR TIWARI, Advocate, Reg. No. 21410/2020
NOTARY PUBLIC (NEW DELHI)

10 JUL 2024

Annexure – 1 24

RE: 7A Proceedings-M/S Alchemist Township India Ltd....regarding

From : Karan grover <karan.grover@dhirassociates.com> Thu, Jan 11, 2024 12:39 PM

Subject : RE: 7A Proceedings-M/S Alchemist Township India Ltd....regarding 5 attachments

To : Compliance SectionRO Chandigarh <comp.rochd@epfindia.gov.in>, HARISH CHAND BENJWAL <harish.benjwal@epfindia.gov.in>

Dear Sir,

This is in regard to the captioned matter, wherein your good office held three proceedings on 07.12.2023, 14.12.2023 and 11.01.2024 against Alchemist Township India Limited. The undersigned is the Resolution Professional of Alchemist Township India Limited (Corporate Debtor) in the captioned matter.

In regard to the said proceedings, we state that the Corporate Debtor is undergoing Corporate Insolvency Resolution Process (CIRP) w.e.f. 25.01.2019 in terms of an Order passed by the Hon'ble National Company Law Tribunal, New Delhi (copy of Order, dated 25.01.2019, is attached alongwith this mail) and as such a Moratorium u/s 14 of Insolvency & Bankruptcy Code 2016 ('IBC') has come into effect relevant portion whereof is reproduced herein below:

> *'Section 14: Moratorium.*
> *14. (1) Subject to provisions of sub-sections (2) and (3), on the insolvency commencement date, the Adjudicating Authority shall by order declare moratorium for prohibiting all of the following, namely:—*
> *(a) the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or other authority;*
> *(b) transferring, encumbering, alienating or disposing of by the corporate debtor any of its assets or any legal right or beneficial interest therein;*
> *(c) any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;*
> *(d) the recovery of any property by an owner or lessor where such property is occupied by or in the possession of the corporate debtor.'*

It is further stated that in terms of the said provision, no suit or proceedings can continue against the Corporate Debtor till such time the moratorium u/s Section 14 of IBC is in operation. The Hon'ble NCLT in its Order in *KSS Petron Vineet K Chaudhary Vs. The Regional PF Commissioner bearing I.A. No. 1694/2020, I.A. No. 1086/2020 and I.A. No. 1089 of 2020 in CP (IB) No. 1202/MB/C-II/2017, decided on 29.07.2022* and *Vijay P. Lulla, Liquidator of Bhuvana Infra Projects Pvt. Ltd. Vs. Axis Bank Limited and Ors. being I.A. No. 130 of 2022 in CP (IB) No. 122/BB/2017, decided on 05.01.2023* (copies of the orders attached), have clearly held that no such proceedings under Section 7A of Employees' Provident Funds and Miscellaneous Provisions Act, 1952, as has been initiated by your good office, cannot continue against the Corporate Debtor in terms of moratorium being in effect.

In view of the above, your good office is requested to discontinue that the captioned proceedings. Further, the office of undersigned is also in receipt of the claim filed by you on 03.11.2023. In regard to the same, please note that the claim has not only been

submitted after the last date of receipt claims, but has also been submitted post approval of Resolution Plan by the Committee of Creditors. The Committee of Creditors in the meeting held on 09.10.2023 and e-voting held on 15.10.2023, has approved the Resolution Plan with 100% majority. Thus, the claim submitted by you cannot be entertained by the undersigned at this juncture of the Corporate Insolvency Resolution Process (CIRP)."

#StaySafe #StayHealthy
Regards,
Karan Grover
Senior Associate
: +91-9953021511
: +91-11-42410000
F: +91-11-42410091
karan.grover@dhirassociates.com

Dhir & Dhir Advocates & Solicitors 25 YEARS

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Advocates & Solicitors
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New Delhi-110 024
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108 KB

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238 KB

Shram Suvidha Portal
Ministry of Labour and Employment
Establishment Profile

C-I 26

Date:19-10-2023

Particulars

Annexure-2

Name & address of establishment/employer	
Name	ALCHEMIST TOWNSHIP INDIA LIMITED
E-mail(s)	sunilarvindkumar@gmail.com
	sunilarvindkumar@gmail.com
Present Address Line1:	SCO 232-233-234, THIRD FLOOR
Present Address Line2:	SECTOR 34 A
City:	
Pin Code:	160035
State:	Chandigarh
District:	Chandigarh
Name & location of work:	
Period of work :	
Nature of Activity	
Industry	Construction
Inspection Date	
Date of Inspection :	18-10-2023
Name & address of principal employer	
Name	
Present Address Line1:	
Present Address Line2:	
City:	
Pin Code:	
State:	
District:	
Registration code under PF/ESI/Registration No./License No	
ESIC :	17000604560001009
EPFO :	PBCHD0045388000
Mine Code :	
CLRA Registration No	
BOCW Registration No	
ISMW Registration No	
CLRA License No	
ISMW License No	
Working Hours :	

Employee's Provident Fund Organisation

FORM OF INSPATION REPORT TO BE SUBMITTED BY THE ENFORCEMENT OFFICERFOR EACH UNEXEMPTED FACTORY/ESTABLISHMENT VISITED

1. LIN: 1675113249

Inspection Id : 851526

2.Number of employees engaged by the establishment:
Engaged directly :
Engaged on contract:
Excluded employees:

3.Number of employees in respect of whom remittance is made in the month of report:
Engaged directly :
Engaged on contract:
Total:

4. **Drop in Remittance:**

a.Average drop in amount remitted in:

b.Percent drop in remittance:

c.Reasons for drop in remittance:

5. **Drop in Membership:**

a.Average reduction in membership:

b.Percent drop in membership:

c.Reasons for drop in membership:

6.Declaration from in accordance with Para 34 of the EPF scheme 1952) not fumished in respect of following members:

First Name	Middle Name	Last Name	Date of Birth	Date of joining

7.Worker whose statement are record during inspection:

Whether agreed to reasons mentioned in para 4 & 5 above:

First Name	Middle Name	Last Namer	EPF Account Number	Whether agreed to reasons mentioned

i. Incase of disagreement submissions / documentary evidence submitted :

S.No	List Description

ii. Incase of disagreement, list of record(s) seized by the Inspector ::

S.No	List Description

8. Any other point which the Inspector desires to bring to the NOTICE of RPFC: *

With reference to CAIU inspection, I visited the establishment at its given address but no such establishment was found there. It has been learnt that the company is undergoing Corporate Insolvency Resolution Process (CIRP) since 25.01.2019 and working under the supervision and control of Resolution Professional (RP). Honâ™ble NCLT vide order dated 25.01.2019 appointed Mr. Pramod Goel as Interim Resolution Professional (IRP) and further vide order dated 24.11.2020 appointed Mr. Devendra Singh as RP. Accordingly, the establishment vide e-mail dated 11.10.2023 (Mr. Pramod Goel, IRP) and 17.10.2023 (Mr. Devendra Singh, RP) was called upon to produce relevant records for inspection/verification. Mr. Devendra Singh, RP, vide e-mail dated 17.10.2023, forwarded copies of various orders of Honâ™ble

NCLT/NCLAT, seizure memo dated 19.09.2019 and B/S for 2018-19, 2019-20, 2020-21 and 2021-22, being the only documents available with him as all the documents before 19.09.2019 were seized by the ED.

PART B MANDATORY INSPECTIONS(para 4 a) of the Inspection scheme

9.Whether the establishment to be inspected is:

a.New Coverage
b. Establishment registered on ECR portal, not marked as closed as closed and not complying
c. Establishment report for closure

10.Number of employees eligible but not enrolled as member of the Fund:

First Name	Middle Name	Last Name	Date of Birth	Date of joining

11. List of pending Recovery Certificates against the establishment:

Serial No	List of Description

12. List of pending assessment case(Section 7A/14B of the Act;)

Serial No	List of Description

13. List of pending court cases-court wise and periodicity-wise:

Serial No	List of Description

14. List of pending prosecution cases:

Serial No	List of Description

15. Whether there is any short/ excessremittance in establishment ledger::

Serial No	List of Description

16. Whether any member/representative of the workers Union of the Factory/Establishment were contacted ? If so:

a. Brief description of the point discussed:

b.Name of the Union(s):

c. Name of the Officer bearer(s):

17.Declaration from in accordance with para 34 of the EPF scheme 1952 not furnished in respect of following members:

First Name	Middle Name	Last Name	Date of Birth	Date of joining

18. Any other point which the Inspector desires to bring to the notice of RPFC:*
As per compliance file, it has been observed that the establishment has been covered under the Act w.e.f. 01.06.2013 but no inspection was conducted since its coverage. As per challan/ECR receipt available in the application software of EPFO, it has been noticed that the establishment has made compliance up to 11/2019. Since, the establishment could not provide salary sheets for the previous yrs, I am left with no other option but to calculate the dues on the basis of balance sheets for the period 04/2018 to 03/2022 (calculation sheet attached as Annexure-I). The payable dues have been calculated for Rs. 14,08,388/-. This is for your kind information and further action in the matter please.

Name of the Enforcement Officer: HARISH CHAND BENJWAL

HARISH BENJWAL
Enforcement Officer
Regional Office, Chandigarh

M/S ALCHEMIST TOWNSHIP INDIA LTD.
PBCHD/45388

With reference to CAIU inspection, I visited the establishment at its given address but no such establishment was found there. It has been learnt that the company is undergoing Corporate Insolvency Resolution Process (CIRP) since 25.01.2019 and working under the supervision and control of Resolution Professional (RP). Hon'ble NCLT vide order dated 25.01.2019 appointed Mr. Pramod Goel as Interim Resolution Professional (IRP) and further vide order dated 24.11.2020 appointed Mr. Devendra Singh as RP. Accordingly, the establishment vide e-mail dated 11.10.2023 (Mr. Pramod Goel, IRP) and 17.10.2023 (Mr. Devendra Singh, RP) was called upon to produce relevant records for inspection/verification. Mr. Devendra Singh, RP, vide e-mail dated 17.10.2023, forwarded copies of various orders of Hon'ble NCLT/NCLAT, seizure memo dated 19.09.2019 and B/S for 2018-19, 2019-20, 2020-21 and 2021-22, being the only documents available with him as all the documents before 19.09.2019 were seized by the ED.

As per compliance file, it has been observed that the establishment has been covered under the Act w.e.f. 01.06.2013 but no inspection was conducted since its coverage. As per challan/ECR receipt available in the application software of EPFO, it has been noticed that the establishment has made compliance up to 11/2019. Since, the establishment could not provide salary sheets for the previous years, I am left with no other option but to calculate the dues on the basis of balance sheets for the period 04/2018 to 03/2022 (calculation sheet attached as Annexure-I). The payable dues have been calculated for Rs. 14,08,388/-. This is for your kind information and further action in the matter please.

(HARISH BENJWAL)
Enforcement Officer
HARISH BENJWAL
Enforcement Officer
Regional Office, Chandigarh

M/s Alchemist Township India Ltd. (PN/45388)

Summary of total dues and deposits

Period	Wages	A/c 1	A/c 2	A/c 10	A/c 21	A/c 22	Total
April, 2018 to March 2019	4685340	734193	23,427	390289	23427	0	1,171,336
April, 2019 to March 2020	2835043	444251	14,175	236159	14,175	0	708,760
April, 2020 to March 2021	1077456	168838	5387	89752	5387	0	269364
April, 2021 to March 2022	578333	90624	2892	48175	2892	0	144583
Total	**9176172**	**1437906**	**45,881**	**764375**	**45881**	**0**	**2,294,043**
Deposits	3542620	555129	17,713	295100	17,713	0	885,655
Balance Payable	-	**882777**	**28168**	**469275**	**28168**	**-0**	**1408388**

Summary of total deposits

Period	Wages	A/c 1	A/c 2	A/c 10	A/c 21	A/c 22	Total
April, 2018 to March 2019	2270464	355782	11,352	189130	11,352	0	567,616
April, 2019 to March 2020	1272156	199347	6,361	105970	6,361	0	318,039
April, 2020 to March 2021	0	0	0	0	0	0	0
Total	**3542620**	**555129**	**17,713**	**295100**	**17,713**	**0**	**885,655**

HARISH BENJWAL
Enforcement Officer
Regional Office, Chandigarh

Annexure-3 31

सत्यमेव जयते
Government Of India

कर्मचारी भविष्य निधि संगठन
EMPLOYEES'PROVIDENT FUND ORGANISATION
(श्रम एवं रोजगार मंत्रालय भारत सरकार)
(MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA)
क्षेत्रीयकार्यालय, एस.सी.ओ. 4-7, सैक्टर-17डी, चण्डीगढ़-160017
REGIONAL OFFICE, S.C.O. 4-7, SECTOR-17-D, CHANDIGARH-160017
www.epfindia.gov.in, www.epfindia.nic.in
फैक्स/Fax : 2710453 दूरभाष/Telephone : 2701190, 2701158, 2701135

File No. ROCHD/C-I/45388/ 88

Date: 19/10/23

OFFICE NOTE

Sub: Details of PF dues in respect of M/s Alchemist Township India, ltd. bearing PN/45388-Regarding.

On above cited subject, it is intimated that inspection report in respect of M/s Alchemist Township India, ltd bearing PN/45388 has been received from Sh. Harish Chand Benjwal, EO. As per IR amount of Rs. 14,08,388/- calculated as PF dues in respect of M/s Alchemist Township India, ltd bearing PN/45388. This is for your information and necessation action please.

(Mohan Singh)
Asstt. P.F.Commissioner
Compliance-I

To

1. Prosecution Cell
2. Damages Cell

Annexure-4 32

कर्मचारी भविष्य निधि संगठन
EMPLOYEES' PROVIDENT FUND ORGANISATION
(श्रम एवं रोजगार मंत्रालय, भारतसरकार)
(MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA)
क्षेत्रीयकार्यालय, एस.सी.ओ.4-7, सैक्टर17-डी,चण्डीगढ़-160017
REGIONAL OFFICE, S.C.O. 4-7, SECTOR-17-D, CHANDIGARH-160017
www.epfindia.gov.in , www.epfindia.nic.in
दूरभाष/Telephone 2701300,2701 335,2701 355 फैक्स/Fax 2710453

RO/CHD/Damages Cell/ 19

Date: 25/10/23

Sub : Filling of claim before IRP in r/o M/s Alchemist Township India having PF code no. PB/CHD/45388 – regarding.

A.P.F.C Prosecution Cell may refer to letter no. Prosecution Cell/PN/45388/60 dated 17/10/2023 on the subject cited above.

In this regard, it is intimated that as per record & system generated Show cause notice, **Rs. 1591/-** is dues u/s 14B & 7Q (Copy of system generated SCN is attached)

As per Area EO report, notional damages of **Rs. 1912552/-** has been calculated. (Calculation sheet attached).

Hence, total amount of **Rs. 1914143/-(Rs. Nineteen Lakh fourteen thousand one hundred forty three only)** may be claimed against Panel Damages and Interest through I.R.P.

This is for information please.

(MOHAN SINGH)
ASSISTANT P.F. COMMISSIONER (DAMAGES)

To

Prosecution Cell

		Dues								148						70					
MONTH	Due Date	A/C 1	A/C 2	A/C 10	A/C 21	A/C 22	TOTAL	Date of deposit	DELAYED DAYS	A/C 1	A/C 2	A/C 10	A/C 21	A/C 22	TOTAL	A/C 1	A/C 2	A/C 10	A/C 21	A/C 22	TOTAL
Apr-18	15-05-2018	33939	844	18880	1135	0	54,798	20-10-2023	01984	33939	844	18880	1135	0	54798	22138	551	12315	740	0	35743
May-18	15-06-2018	33446	824	18621	1120	0	54,011	20-10-2023	01953	33446	824	18621	1120	0	54011	21475	529	11956	719	0	34680
Jun-18	15-07-2018	30954	1012	17613	1059	0	50,638	20-10-2023	01923	30954	1012	17613	1059	0	50638	19570	640	11135	670	0	32014
Jul-18	15-08-2018	27904	922	16363	984	0	46,173	20-10-2023	01892	27904	922	16363	984	0	46173	17357	574	10178	612	0	28721
Aug-18	15-09-2018	31665	1034	17992	1082	0	51,773	20-10-2023	01861	31665	1034	17992	1082	0	51773	19374	633	11008	662	0	31677
Sep-18	15-10-2018	28672	952	17051	1026	0	47,701	20-10-2023	01831	28672	952	17051	1026	0	47701	17260	573	10264	618	0	28715
Oct-18	15-11-2018	30096	993	17733	1068	0	49,890	20-10-2023	01800	30096	993	17733	1068	0	49890	17810	588	10494	632	0	29524
Nov-18	15-12-2018	24026	843	15937	959	0	41,765	20-10-2023	01770	24026	843	15937	959	0	41765	13981	491	9274	558	0	24304
Dec-18	15-01-2019	29294	972	17379	1046	0	48,691	20-10-2023	01739	29294	972	17379	1046	0	48691	16748	556	9936	598	0	27838
Jan-19	15-02-2019	32052	1062	18931	1138	0	53,183	20-10-2023	01708	32052	1062	18931	1138	0	53183	17998	596	10630	639	0	29864
Feb-19	15-03-2019	33862	1118	19805	1189	0	55,974	20-10-2023	01680	33862	1118	19805	1189	0	55974	18703	618	10939	657	0	30916
Mar-19	15-04-2019	29560	984	17523	1056	0	49,123	20-10-2023	01649	29560	984	17523	1056	0	49123	16026	533	9500	572	0	26631
Apr-19	15-05-2019	1653	109	3576	216	0	5,554	20-10-2023	01619	1653	109	3576	216	0	5554	880	58	1903	115	0	2956
May-19	15-06-2019	3300	161	4425	267	0	8,153	20-10-2023	01588	3300	161	4425	267	0	8153	1723	84	2310	139	0	4257
Jun-19	15-07-2019	4842	192	4379	265	0	9,678	20-10-2023	01558	4842	192	4379	265	0	9678	2480	98	2243	136	0	4957
Jul-19	15-08-2019	14357	491	9206	554	0	24,608	20-10-2023	01527	14357	491	9206	554	0	24608	7208	246	4622	278	0	12354
Aug-19	15-09-2019	15681	533	9910	596	0	26,720	20-10-2023	01496	15681	533	9910	596	0	26720	7712	262	4874	293	0	13142
Sep-19	15-10-2019	15681	533	9910	596	0	26,720	20-10-2023	01466	15681	533	9910	596	0	26720	7558	257	4776	287	0	12878
Oct-19	15-11-2019	15681	533	9910	596	0	26,720	20-10-2023	01435	15412	524	9740	586	0	26262	7398	251	4675	281	0	12606
Nov-19	15-12-2019	15426	525	9775	586	0	26,312	20-10-2023	01405	14845	505	9407	564	0	25321	7126	243	4515	271	0	12154
Dec-19	15-01-2020	37021	1181	19680	1181	0	59,063	20-10-2023	01374	34840	1111	18521	1111	0	55584	16723	533	8890	533	0	26680
Jan-20	15-02-2020	37021	1181	19680	1181	0	59,063	20-10-2023	01343	34054	1086	18103	1086	0	54330	16346	521	8689	521	0	26078
Feb-20	15-03-2020	37021	1181	19680	1181	0	59,063	20-10-2023	01314	33319	1063	17712	1063	0	53157	15993	510	8502	510	0	25515
Mar-20	15-04-2020	37020	1184	19679	1184	0	59,067	20-10-2023	01283	32532	1040	17293	1040	0	51906	15615	499	8301	499	0	24915
Apr-20	15-05-2020	14070	449	7479	449	0	22,447	20-10-2023	01253	12075	385	6419	385	0	19264	5796	185	3081	185	0	9247
May-20	15-06-2020	14070	449	7479	449	0	22,447	20-10-2023	01222	11776	376	6260	376	0	18788	5653	180	3005	180	0	9018
Jun-20	15-07-2020	14070	449	7479	449	0	22,447	20-10-2023	01192	11487	367	6106	367	0	18327	5514	176	2931	176	0	8797
Jul-20	15-08-2020	14070	449	7479	449	0	22,447	20-10-2023	01161	11189	357	5947	357	0	17850	5370	171	2855	171	0	8568
Aug-20	15-09-2020	14070	449	7479	449	0	22,447	20-10-2023	01130	10890	348	5789	348	0	17373	5227	167	2778	167	0	8339
Sep-20	15-10-2020	14070	449	7479	449	0	22,447	20-10-2023	01100	10601	338	5635	338	0	16912	5088	162	2705	162	0	8118
Oct-20	15-11-2020	14070	449	7479	449	0	22,447	20-10-2023	01069	10302	329	5476	329	0	16436	4945	158	2629	158	0	7889
Nov-20	15-12-2020	14070	449	7479	449	0	22,447	20-10-2023	01039	10013	320	5322	320	0	15974	4806	153	2555	153	0	7668
Dec-20	15-01-2021	14070	449	7479	449	0	22,447	20-10-2023	01008	9714	310	5164	310	0	15498	4663	149	2479	149	0	7439
Jan-21	15-02-2021	14070	449	7479	449	0	22,447	20-10-2023	00977	9415	300	5005	300	0	15021	4519	144	2402	144	0	7210
Feb-21	15-03-2021	14070	449	7479	449	0	22,447	20-10-2023	00949	9146	292	4861	292	0	14591	4390	140	2333	140	0	7003
Mar-21	15-04-2021	14068	448	7483	448	0	22,447	20-10-2023	00918	8845	282	4705	282	0	14114	4246	135	2258	135	0	6775
Apr-21	15-05-2021	7552	241	4015	241	0	12,049	20-10-2023	00888	4593	147	2442	147	0	7328	2205	70	1172	70	0	3518
May-21	15-06-2021	7552	241	4015	241	0	12,049	20-10-2023	00857	4433	141	2357	141	0	7073	2128	68	1131	68	0	3395
Jun-21	15-07-2021	7552	241	4015	241	0	12,049	20-10-2023	00827	4278	137	2274	137	0	6,825	2053	66	1092	66	0	3276
Jul-21	15-08-2021	7552	241	4015	241	0	12,049	20-10-2023	00796	4117	131	2189	131	0	6569	1976	63	1051	63	0	3153
Aug-21	15-09-2021	7552	241	4015	241	0	12,049	20-10-2023	00765	3957	126	2104	126	0	6313	1899	61	1010	61	0	3030
Sep-21	15-10-2021	7552	241	4015	241	0	12,049	20-10-2023	00735	3802	121	2021	121	0	6066	1825	58	970	58	0	2912
Oct-21	15-11-2021	7552	241	4015	241	0	12,049	20-10-2023	00704	3642	116	1936	116	0	5810	1748	56	929	56	0	2789
Nov-21	15-12-2021	7551	241	4015	241	0	12,048	20-10-2023	00674	3486	111	1854	111	0	5562	1673	53	890	53	0	2670
Dec-21	15-01-2022	7551	241	4015	241	0	12,048	20-10-2023	00643	3326	106	1768	106	0	5306	1596	51	849	51	0	2547
Jan-22	15-02-2022	7551	241	4015	241	0	12,048	20-10-2023	00612	3165	101	1683	101	0	5050	1519	48	808	48	0	2424
Feb-22	15-03-2022	7551	241	4015	241	0	12,048	20-10-2023	00584	3020	96	1606	96	0	4819	1450	46	771	46	0	2313
Mar-22	15-04-2022	7556	241	4010	241	0	12,048	20-10-2023	00553	2862	91	1519	91	0	4563	1374	44	729	44	0	2190
		859636	27643	491565	29544	0	1408388	Annexure A		756121	24338	436451	26236	0	1243145	406866	13050	235343	14148	0	669407
								Annexure B (SCN)		308	9	142	9	0	468	740	22	340	21	0	1123
								Total		756429	24347	436593	26245	0	1243613	407606	13072	235683	14169	0	670530

1162986	37388	671794	40383	0	1912552
1048	31	482	30	0	1591
1164034	37419	672276	40413	0	1914143

Annexure-5 34

सत्यमेव जयते
Goverment Of India

कर्मचारीभविष्यनिधिसंगठन
EMPLOYEES'PROVIDENT FUND ORGANISATION
(श्रमएवंरोजगारमंत्रालयभारतसरकार)
(MINISTRY OF LABOUR AND EMPLOYMENT, GOVERNMENT OF INDIA)
क्षेत्रीयकार्यालय, एस.सी.ओ. 4-7, सैक्टर-17डी, चण्डीगढ़-160017
REGIONAL OFFICE, S.C.O. 4-7, SECTOR-17-D, CHANDIGARH-160017
www.epfindia.gov.in, www.epfindia.nic.in
दूरभाष/Telephone : 2701300, 2701355, 2701335
E-Mail: ro.chandigarh@epfindia.gov.in

No. RO/Chd/Prosecution Cell/PN/45388/ 81 **Date:** 03/11/2023

To

Sh. Devendra Singh, Resolution Professional,
{Registration No. IBBI/IPA-002/IP-N00001/2016-2017/10001}
Assotech Business Cresterra, Office No. 216, 2nd Floor,
Tower-1, Sector-135 ,Noida, Uttar Pradesh - 201305
E-mail: atil.cirp@gmail.com

Sub:- Submission of claim in respect of Provident Fund dues of M/s. Alchemist Township India, SCO 232-34, Sector 34-A, Chandigarh bearing PF Code PB/CHD/45388 - regarding.

Sir,

Please refer to order of Hon'ble National Company Law Tribunal, New Delhi Principal Bench in petition number C.P. No. IB-108(PB)/2018 dated 24.11.2020 whereby Sh. **Devendra Singh**, has been appointed Resolution Professional in the matter of **M/s. Alchemist Township India.**

2. In this connection, your attention is drawn to section 36(4) of the Insolvency and Bankruptcy Code, 2016, which predicated 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.

3. From the records held by this office, it is seen that above said establishment is in default of remittance of the following dues:-

Dues	Amount (Rs.)	Document
Dues of Provident Fund	17,40,678/-	Compliance Section letter dated 19.10.2023 & Account Section letter dated 26.10.2023.
Damages u/s 14B & 7Q	19,14,143/-	Damages Cell letter dated 17.10.2023 & 25.10.2023
Total	36,54,821/-	

4. Your attention is also drawn to the judgment of Hon'ble NCLAT In **Sikandar Singh Jamwal Vs Vinay Talwar [CA (AT) 483/2019;** judgment dt 11.03.2022] and the same as also been approved

by the Hon'ble Supreme Court by way of dismissal of SLP against the said judgment. The position has attained finality after Supreme Court judgment in Sunil Kumar Jain Vs Sundresh Bhatt [CA 5910 of 2019; decided on 19.04.2022] that PF dues are not debts and thus do not fall under waterfall mechanism under section 53 of IBC and excluded as per 36 (4) (a) (iii) and must be remitted in priority over financial creditors or operational creditors dues.
Some of the judgments attached hereby, applicable case laws in this regard are as under:-

(i) **V Con Integrated Solutions Ltd vs Acharya Techno Solutions & The Commissioners, EPFO Regional Office Trivandrum by NCLT Kochi** Bench wherein it was held that " *it is clear that the contributions ,interest and penal damages payable are statutory dues and not claims which can be submitted to the liquidator in Form G.Hence EPFO need not file Form G before the liquidator . It is also seen that EPFO has got first charge over the Assets of the defaulter and its priority of payment over other debts is as per Section 11 of the EPF & MP Act 1952 . In view of the above the Liquidator is directed to consider the claims of EPFO made by them vide Anexxure AIII.....*

Moreover **Section 30(2) (e) of The IBC itself states that the resolution** *resolution professional shall examine each resolution plan received by him to confirm that each resolution plan does not contravene any of the provisions of the law for the time being in force;*

(ii) **Sikandar Singh Jamwal Vs Vinay Talwar [CA (AT) 483/2019; judgment dt 11.03.2022]** and the same as also been approved by the Hon'ble Supreme Court by way of dismissal of SLP against the said judgment.

(iii) Supreme Court judgment in **Sunil Kumar Jain Vs Sundresh Bhatt [CA 5910 of 2019; decided on 19.04.2022]** that PF dues are not debts and thus do not fall under waterfall mechanism under section 53 of IBC and excluded as per 36 (4) (a) (iii) and must be remitted in priority over financial creditors or operational creditors dues.

(iv) **Kushal Ltd vs Regional Provident Fund Commissioner-I, Ahmedabad.** The appellate authority (NCLAT), in its order dated 19th December 2019, *rejected the contentions described above of the Resolution applicant and observed that "as no provisions of the Employees' Provident Fund 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)(iii), 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 NCLAT further directed to successful resolution application release the entire provident fund and interest/ penal damages following the EPF & MP Act's 1952 immediately.*

(v) **Precision Fasteners Limited v Employees' Provident Fund Organisation (M.A.No.576 & 752/2018) in C.P.(IB)1339 (MB/2017) NCLT Mumbai Bench**

(vi) **Alchemist Asset Reconstruction Company Ltd. v Moser Baer India, (IB-378(PB)/2017), order dated 19-3-2019 by Principal Bench, New Delhi.**

(vii) **State Bank of India v Moser Baer Karamchari Union and Ors (AT) (Insolvency) No.396 of 2019 decided on 19-08-2019 by the National Company Law Appellate Tribunal, New Delhi.**

In view of above, you are requested to accept claim of this office for Rs. 36,54,821/- and make the payment thereof at the earliest.

Encl.: As Above.

Yours faithfully,

(MOHAN SINGH)
Assistant Provident Fund Commissioner (Prosecution)

o/c
30/10/2023

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,

PRINCIPAL BENCH, NEW DELHI

C.A. NO. _____/2024

IN

C.P. NO.IB-1082(PB)/2018

IN THE MATTER OF:

KIRAN MALHOTRA -FINANCIAL CREDITOR

VERSUS

MIS. ALCHEMIST TOWNSHIP INDIA LIMITED -CORPORATE DEBTOR

AND IN THE MATTER OF:

EMPLOYEES PROVIDENT FUND ORGANISATION ...APPELLANT

VERSUS

SHRI DEVENDER SINGH ...RESPONDENT

Know all to whom these Presents shall come that I, Manish Kumar Singh, the above named Appellant, do hereby appoint:

K.K.JHA & ASSOCIATES,
Advocates
Ch,. No. 1C/2, Lawyers' Chambers,
Delhi High Court, New Delhi-110003
Mobile Nos. 9811403833, 9971480714
Email id: kkjassociates35@gmail.com
kkjassociates@rediffmail.com

(herein after called the advocate/s) to be my / our Advocate in the abovenoted case authorize him:-

To act, appear and plead in the above-noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High Court subject to payment of fees separately for each court by me/us.

To sign file, verify and present pleadings, appeals cross-objection or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages subjects to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences of disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings on paying separate fee.

To deposit, draw and receive money, cheques, cash and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution on the said case.

To appoint and instruct any other Legal Practitioner authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/we undersigned to hereby agree to ratify and confirm all acts done by the Advocate orhis substitute in the matter as my/our own acts, as if done by me/us to all intents and purpose.

And I/we undertake that I/We or my/our duly authorized agent would appear in court on all hearings and will inform the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the court shall be of the Advocate which he shall receive and retain for himself.

And I/we undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said caseuntil the same is paid up. The fee settle is only for the above case and above Court. I/We hereby agree that once the fee is paid, I /We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us.

IN WITNESS WHERE OF I/We do hereunto set my/our hand to these presents the contents of which havebeen understood by me/us on this **on 29.07.2024**

Accepted subject to the terms of the fees.

(Kamal Kant Jha), Advocate
Enrolment No. D-121/1996

Client

मनीष कुमार सिंह / MANISH KUMAR SINGH
क्षेत्रीय भनि आयुक्त-I / Regional P.F. Commissioner-I

I identify the Signature of my client who have signed before me.