

2) The present Interlocutory Application has been filed by the Applicant/Central Board of Trustees, EPFO, Employees Provident Fund Organisation, prayer for the following reliefs:

- a) It is therefore, prayed that the Hon'ble Tribunal may kindly be pleased to allow the instant application and further may kindly be pleased to decide the question of Law and question of fact thereby directing respondents to release full provident fund amount claimed by applicant being an amount of Rs 1,24,05,644 (Rupees One crore twenty-four lacs five thousand six hundred and forty-four only) together with damages, interest amounting to Rs. 2,18,66,328/- (Rs. Two Crore eighteen Lacs Sixty Six Thousand Three Hundred And Twenty Eight only) and Rs. 2,17,554/ - (Rs. Two lacs seventeen thousand five hundred fifty four only) towards short remittance, in the interest of justice.*
- b) Pending the hearing and final disposal of this Application the Respondents be directed to retain assets of the value of Rs 3,44,89,526/- (Rupees Three crore forty four lakhs eighty nine thousand five hundred twenty six only) and not to distribute the same to enable the payment of the claim of the Applicant;*
- c) Interim and ad-interim reliefs in terms of prayer clause (a) to (b) above.*

3) It is submitted that the Applicant before approval of Resolution Plan by this Tribunal, forwarded said claim of Rs 1,24,05,644 (Rupees One crore twenty-four lacs five thousand six hundred and forty four only) to the Resolution Professional on 02.01.2019 after gaining knowledge about the Insolvency

Resolution Process, and the same was rejected by the Resolution Professional after about six months of the approval of Resolution Plan by the Tribunal and therefore there was no occasion for the Applicant to approach the Tribunal before approval of Resolution Plan.

- 4) It is submitted that the contents of the letter dated 30.09.2019, by which Resolution Professional communicated rejection of claim to the applicant, does not contain anything to infer in favour of Resolution Professional to have discharged all the statutory duties casted under Section 25 and have parted provident fund, the pension fund and the gratuity fund away from the estate. It is further submitted that the claim of applicant essentially being provident fund, pension fund it was the duty of Resolution Professional to bring the fact before the Tribunal.
- 5) Heard the Ld. Counsel for the Respondent and perused the material available on record. In this case, the Resolution Plan was approved on 27.03.2019 by this Tribunal and has since been implemented.
- 6) The last date of submission of claim was 26.07.2017 and the Applicant submitted the claim on 02.01.2019. The Resolution Professional rejected the claim *vide* its letter dt. 30.09.2019 stating that “*the Human Resources Dept. of the Company have filed consolidated claims of on behalf of tile employees and workers for dues of salaries/ wages/ PF / ESIC/ TDS till June 2017. i.e. , just prior to the commencement of CIRP against the Company. Some of the employees have also filed their dues claims individually. The*

'RP have accepted their claims, which formed the part of the Approved Resolution Plan'. The Applicant has filed the claim for the period 12/2015 to 12/2017 and period 07/2006 to 03/2016 for a sum of Rs. 124,05,644/- together with the damages/interest amounting to Rs. 218,66,328/- and Rs. 2,17,554/- towards short remittance.

- 7) It is trite law that no liability can be fastened upon the Successful Resolution Applicant after the approval of the plan by the Committee of Creditors provides such liability is not ascertainable from the financial records of the Corporate Debtor. In the present case, the erstwhile Resolution Professional had categorically communicated to the Applicant depart to the letter dt. 30.09.2019 that the claims of the Employees in relation to the Provident Fund was taken into consideration on the basis of HR Department input and has been made part of the Plan. Accordingly, we find that the claim on account of the Provident Fund and other dues of the Employee has already been considered into the plan to the extent discernible from the financial records of the Corporate Debtor. Accordingly, after implementation of the Resolution Plan, no further obligation can be fastened on any person and the claims of the Creditors have to be settled in accordance with the approved Resolution Plan. We also note that the Resolution Professional had rejected the claim of the Applicant as back in September 2019, however, the Department has filed an Application before us after the lapse of more than 4

and half years. For this reasons also we are not inclined to interfere in the Approved Resolution Plan.

- 8) With the aforesaid observation, the Interlocutory Application bearing IA No. 1835 of 2024, is disposed of as dismissed.

Sd/-

PRABHAT KUMAR
MEMBER (TECHNICAL)

Vedant Kedare

Sd/-

JUSTICE VIRENDRASINGH BISHT
MEMBER (JUDICIAL)