

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

Company Appeal (AT) (Insolvency) No. 1421 of 2024

[Arising out of the Impugned Order dated 04.06.2024 passed by the Adjudicating Authority, National Company Law Tribunal, New Delhi in I.A. No. 4226 of 2023 in C.P. (IB) No. 1689 (PB) of 2019]

In the matter of:

SECURITIES AND EXCHANGE BOARD OF INDIA

HAVING OFFICE AT:
PLATE-B, 8th FLOOR, OFFICE TOWER-1,
NBCC COMPLEX, EAST KIDWAI NAGAR,
NEW DELHI – 110023

...Appellant

Versus

**RAJIV BAJAJ
LIQUIDATOR,
M/S. ANNIES APPAREL PVT. LTD.**

HAVING OFFICE AT:
4/180, BACKSIDE, GROUND FLOOR,
SUBHASH NAGAR, NEW DELHI – 110027
Email: cirpannies@gmail.com

.... Respondent

Present:

For Appellant : Mr. Neeraj Malhotra Sr. Advocate with Mr. Abhishek Baid,
Mr. Mohit Kumar Bafna, Mr. Praneet Das and Mr. Nimish
Kumar, Advocates.

For Respondent : Mr. Ajay K. Jain and Mr. Rajiv Bajaj, Advocates for
Liquidator.

J U D G M E N T
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present appeal filed under Section 61 of Insolvency and Bankruptcy Code 2016 ('IBC' in short) by the Appellant arises out of the Order dated 04.06.2024 (hereinafter referred to as '**Impugned Order**') passed by the

Adjudicating Authority (National Company Law Tribunal, New Delhi Bench) in IA No. 4226 of 2023 in CP (IB) No. 1689/PB/2019. By the impugned order, the Adjudicating Authority has dismissed the application filed by the Securities and Exchange Board of India-Appellant seeking admission of their Form-C claim which had been rejected by the Liquidator. Aggrieved by the impugned order, the present appeal has been preferred by the Appellant.

2. Coming to the brief facts of the case, Securities and Exchange Board of India ("**SEBI**" in short) had received certain complaints regarding financial mismanagement and diversion of funds in Religare Finvest Ltd. (**RFL**) which was a subsidiary of Religare Enterprises Ltd. (**REL**) and in the investigations which followed, Annies Apparel Pvt. Ltd.-Corporate Debtor was served a Show Cause Notice on 15.02.2021 purportedly for diversion/misutilization of funds of REL through RFL. While the SEBI had proceeded with their inquiry against the Corporate Debtor, the latter came under liquidation on 15.03.2021. The Liquidator appointed for this purpose under Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 (hereinafter referred to as "**LPR**") published a public announcement seeking claims from various stakeholders fixing 14.04.2021 as the last date for submission of claims. The Adjudicating Officer of the SEBI passed an Adjudication Order ("**AO**" in short) under the SEBI Act on 31.10.2022 imposing a monetary penalty on the Corporate Debtor. Claiming that SEBI was unaware of the liquidation proceedings of the Corporate Debtor, they filed their claim with the Liquidator on 20.06.2023 in terms of Regulation 17 of LPR in Form-C for an amount of Rs 21.80 lakhs only. The claim was therefore filed 235 days after the date of passing of the AO and calculated

from the last date of filing of claims as per the public announcement, there was a delay of 797 days in filing the claim. The Liquidator rejected the claim filed by SEBI-Appellant on 22.06.2023 on the ground that the amount claimed vide the AO was not a debt which had arisen prior to the liquidation commencement date. Aggrieved by the rejection of their claim by the Liquidator, the SEBI preferred an IA No. 4226 of 2023 before the Adjudicating Authority for setting aside the decision of the Liquidator rejecting their claim and for issue of directions to the Liquidator to consider and admit the claim after condoning the delay. The Adjudicating Authority however dismissed the IA No. 4226 of 2023 on 04.06.2024. Assailing the impugned order dated 04.06.2024, the Appellant has come up in appeal.

3. Making his submissions on behalf of the Appellant, Shri Neeraj Malhotra, Ld. Senior Advocate submitted that SEBI is a statutory body created with a mandate to protect the interest of investors in securities and to regulate the securities market, hence, the Liquidator was duty bound to respond to the notice issued by the Appellant on the Corporate Debtor as it was under liquidation. Further, as the Liquidator was aware of the ongoing SEBI proceedings, he was duty bound to comply with the provisions of the SEBI Act including payment of penalties on behalf of the Corporate Debtor. Even though the claim of SEBI arose consequent to the passing of the AO which AO admittedly had been passed after commencement of the liquidation of the Corporate Debtor, the delay should have been condoned and the claim admitted. The delay in the filing of the claim form before the Liquidator was neither deliberate nor an attempt to stagger and delay the liquidation proceedings. The proof of claim submitted by the Appellant could

not have been rejected merely on the ground that the AO was not a debt prior to the date of commencement of liquidation. It was also added that even if the claim of SEBI was made after the commencement of liquidation, the same should have been considered by the Liquidator for the purpose of distribution of assets under Section 53 of IBC and that such course of action has been affirmed by judicial precedent as laid down by the Hon'ble Supreme Court in ***Sundaresh Bhatt, Liquidator of ABG Shipyard Vs Central Board of Indirect Taxes and Customs in Civil Appeal No. 7667 of 2021.***

4. Refuting the contentions made by the Appellant, Shri Shri Ajay K. Jain, Ld. Counsel for the Respondent submitted that in terms of the Regulation 16 of LPR, only such claims which exist on the liquidation commencement date can be admitted by the Liquidator and that this Regulation does not confer any discretion on the Liquidator to entertain claims which are filed beyond the statutory timelines. In the present case, the liquidation commencement date being 15.03.2021, the Liquidator could not have admitted the claims of SEBI which was filed on 20.06.2023 which date is 235 days after passing of the order by the AO and 797 days after liquidation commencement date. Further contention was made that since the AO of SEBI was passed on 31.10.2022, the claim clearly did not exist on the liquidation commencement date. In terms of Regulation 17 of LPR, claims are required to be submitted within the 30 day window with complete supporting documents. Contention was also pressed that the IBC is a special code with well-defined time-lines and all entities whether statutory or not are required to adhere to the time-lines. Hence, the SEBI cannot claim any special exemption on this ground and are equally bound by the time-

lines provided under the IBC. The protracted delay on the part of the SEBI in filing their claim cannot be overlooked or any special dispensation granted for accepting their claims beyond the prescribed timeline. It was also stated that SEBI had actual and constructive notice of the liquidation proceedings and hence the contention of SEBI that they had acquired knowledge about the liquidation proceedings only later is factually incorrect and needs to be disregarded.

5. We have duly considered the arguments advanced by the Learned Counsel for both the parties and perused the records carefully.

6. The moot point for consideration in the present case is whether the statutory construct of IBC gives scope to the Liquidator for admission of the claim of SEBI as an Operational Creditor at a time when their claim was not in existence on the liquidation commencement date.

7. To appreciate the issue at hand, we need to first peruse the LPR which apply to the liquidation process under Chapter III of Part-II of IBC and find out how these Regulations provides for the procedure, manner and modalities by which liquidation process claims are received and accepted basis which distribution of liquidation proceeds to various stakeholders is governed.

8. We first come to Regulation 12 of LPR which deals with 'Public announcement by the Liquidator', which reads under:

*"12. **Public announcement by liquidator.** (1) The liquidator shall make a public announcement in Form B of Schedule II within five days from his appointment.*

(2) The public announcement shall-

(a) call upon stakeholders to submit their claims or update their claims submitted during the corporate insolvency resolution process, as on the liquidation commencement date; and

(b) provide the last date for submission or updation of claims, which shall be thirty days from the liquidation commencement date.

(3) The announcement shall be published-

(a) in one English and one regional language newspaper with wide circulation at the location of the registered office and principal office, if any, of the corporate debtor and any other location where in the opinion of the liquidator, the corporate debtor conducts material business operations;

(b) on the website, if any, of the corporate debtor; and

(c) on the website, if any, designated by the Board for this purpose.”

It is pertinent to note that Regulation 12(2)(a) clearly enjoins upon stakeholders to submit their claims or update their claims submitted during the CIRP “as on the liquidation commencement date”. The significance of liquidation commencement date is also highlighted by the fact that even the last date for submission and updation of claims has been fixed as 30 days from liquidation commencement date.

9. We next come to Regulation 13 of LPR which deals with submission of ‘Preliminary report’ by the Liquidator. This Regulation provides that the Liquidator shall submit a preliminary report to the Adjudicating Authority within seventy-five days from the liquidation commencement date which should contain the estimates of the assets and liabilities as on the liquidation commencement date of the Corporate Debtor. Regulation 13 clearly indicates that all liabilities in the books of the Corporate Debtor have to be estimated and captured as on the liquidation commencement date and does not contemplate estimation of any of their assets and liabilities subsequent to liquidation commencement date. Thus, both under Regulations 12 and 13 of LPR, the

determination of claims of the creditors as well as estimation of liabilities of the Corporate Debtor is pegged to the liquidation commencement date.

10. Regulations 16 of LPR deals with the ‘Submission of claim’ which is reproduced below:

“16. Submission of claim.

(1) A person, who claims to be a stakeholder, shall submit its claim, or update its claim submitted during the corporate insolvency resolution process, including interest, if any, on or before the last date mentioned in the public announcement.

(2) A person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.”

A plain reading of Regulation 16(2) of LPR suggests that a claimant has to prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date. In other words, Regulation 16(2) of LPR makes it clear that the claims to be filed by the claimants have to be claims as on the liquidation commencement date. Similar to Regulation 12 of LPR, the statutory scheme outlined in Regulation 16 of LPR clearly contemplates that a claim has to be submitted as in existence on the liquidation commencement date. If a claim has not arisen on the liquidation commencement date, Regulation 16 of LPR does not contemplate admission of such claim.

11. This now brings us to Regulation 17 of LPR which deals with submission of proof of claim to the Liquidator which is as reproduced below:

Regulation 17: Claims by operational creditors.

17. (1) A person claiming to be an operational creditor of the corporate debtor, other than a workman or employee, shall submit proof of claim to the

liquidator in person, by post or by electronic means in Form C of Schedule II.

(2) The existence of debt due to an operational creditor under this Regulation may be proved on the basis of-

(a) the records available with an information utility, if any; or

(b) other relevant documents which adequately establish the debt, including any or all of the following –

(i) a contract for the supply of goods and services with corporate debtor;

(ii) an invoice demanding payment for the goods and services supplied to the corporate debtor;

(iii) an order of a court or tribunal that has adjudicated upon the non-payment of a debt, if any; and

(iv) financial accounts.

The above Regulation 17 of LPR provides that claims of Operational Creditors are required to be submitted in Form-C.

12. We may now engage our attention to Form-C under Regulation 17 of the LPR which is as reproduced below:

IBBI (Liquidation Process) Regulations, 2016

FORM C

**PROOF OF CLAIM BY OPERATIONAL CREDITORS EXCEPT
WORKMEN AND EMPLOYEES**

*(Under Regulation 17 of the Insolvency and Bankruptcy Board of
India (Liquidation Process) Regulations, 2016)*

[Date]

To

The Liquidator

[Name of the Liquidator]

[Address as set out in the public announcement]

From

[Name and address of the operational creditor]

*Subject: Submission of proof of claim in respect of the liquidation of
[name of corporate debtor] under the Insolvency and Bankruptcy
Code, 2016.*

Madam/ Sir,

*[Name of the operational creditor] hereby submits this proof of
claim in respect of the liquidation of [name of corporate debtor]. The
details for the same are set out below:*

1.	NAME OF OPERATIONAL CREDITOR (IF AN INCORPORATED BODY PROVIDE IDENTIFICATION NUMBER AND PROOF OF INCORPORATION, IF A PARTNERSHIP OR INDIVIDUAL PROVIDE IDENTIFICATION RECORDS* OF ALL THE PARTNERS OR THE INDIVIDUAL)	
2.	ADDRESS OF OPERATIONAL CREDITOR FOR CORRESPONDENCE	
3.	TOTAL AMOUNT OF CLAIM, INCLUDING ANY INTEREST, AS AT LIQUIDATION COMMENCEMENT DATE AND DETAILS OF NATURE OF CLAIM	PRINCIPAL : INTEREST : TOTAL CLAIM:
4.	DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED	
5.	DETAILS OF ANY DISPUTE AS WELL AS THE RECORD OF PENDENCY OF SUIT OR ARBITRATION PROCEEDINGS	
6.	DETAILS OF HOW AND WHEN DEBT INCURRED	
7.	DETAILS OF ANY MUTUAL CREDIT, MUTUAL DEBTS, OR OTHER MUTUAL DEALINGS BETWEEN THE CORPORATE DEBTOR AND THE OPERATIONAL CREDITOR WHICH MAY BE SET-OFF AGAINST THE CLAIM	
8.	DETAILS OF ANY RETENTION OF TITLE IN RESPECT OF GOODS OR PROPERTIES TO WHICH THE DEBT REFERS OR ANY OTHER SECURITY	
[8A.	WHETHER SECURITY INTEREST RELINQUISHED	YES / NO]
9.	DETAILS OF ANY ASSIGNMENT OR TRANSFER OF DEBT IN HIS FAVOUR	
10.	DETAILS OF THE BANK ACCOUNT TO WHICH THE OPERATIONAL CREDITOR'S SHARE OF THE PROCEEDS OF LIQUIDATION CAN BE TRANSFERRED	
11.	LIST OUT AND ATTACH THE DOCUMENTS RELIED ON IN SUPPORT OF THE CLAIM.	(i) (ii)

		(iii)
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When we see Form-C, it clearly mentions at item 3 above that the Operational Creditor is required to submit the total amount of claim including principal and interest “as at liquidation commencement date”. It therefore becomes clear that the claim has to be made with reference to the liquidation commencement date.

13. Thus, from a reading of the relevant Regulations relating to the conduct of liquidation proceedings under IBC framework, we have no doubts in our mind that the expression “Liquidation Commencement Date” enjoys special significance in the context of submission and admission of claims. The expression “liquidation commencement date” has been defined in Section 5(17) of the IBC, which reads as follows:

“5(17) “liquidation commencement date” means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be;”

The liquidation commencement date having been specifically defined, there is clear purpose and object for considering the claim as on liquidation commencement date.

14. The criticality of liquidation commencement date in the admissibility of claims by the Liquidator has also been propounded in the judgement of this Tribunal in ***The Regional P.F. Commissioner, Employees' Provident Fund Organization Vs. Alok Kailash Saksena Liquidator of Gujarat Foils Ltd. & Anr. in CA (AT) (Ins) No.807 of 2025.*** Though this judgment is in the context of claims arising under EPF Act, the principles laid down in this judgment are

squarely applicable in this case as it has laid down that only such claims can be accepted by the Liquidator which arise on the liquidation commencement date and factorising of any claim arising thereafter is inadmissible. The relevant paragraphs of the said judgment is reproduced below:

“7. There is no dispute between the parties that liquidation process of the Corporate Debtor commenced by order dated 30.11.2017 and last date for submitting claims to the liquidator was 23.10.2019. The claim which was filed by the Appellant was on 25.10.2021 i.e. after more than two years. By detailed letter dated 20.11.2021, liquidator communicated to the EPFO Regional Office that claim is inadmissible. Regulation 16 of the IBBI (Liquidation Process) Regulations, 2016 provides for submission of claim. Sub-regulation (2) of Regulation 16 provides that a person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date. Sub-regulation (2) of Regulation 16 is as follows:-

“16. Submission of claim. (2) A person shall prove its claim for debt or dues to him, including interest, if any, as on the liquidation commencement date.”

8. Thus, the claim which is required to be filed before the Liquidator is as on the liquidation commencement date. In the present case, there was no claim. The claim filed by the Appellant before the Liquidator was on the basis of assessment made under Section 7A of the EPF Act on 11.10.2021 and orders under Section 7Q and Section 14B thereafter. Thus, the claim which was filed by the Appellant was a claim subsequent to liquidation commencement date along with the Form G filed by the Appellant dated 25.10.2021. Order passed under Section 7A dated 11.10.2021 and the order passed under Section 7Q and Section 14B thereafter have been relied.

9. We have already noted above that the Corporate Debtor had filed an Appeal against the order passed under Section 7A and Section 14B and Section 7Q dated 11.10.2021 and 20.10.2021 respectively being appeal bearing EPF Appeal (CGIT) No.36 of 2021. After the Liquidator did not admit the claim of the Appellant, Appellant filed IA No.114 of 2023 in which IA following prayers were made:-

(A) This Hon'ble Adjudicating Authority may be pleased to admit and allow the present application;

(B) This Hon'ble Adjudicating Authority may be pleased to set-aside the communication/decision dated 20/11/2021 issued by the Liquidator Respondent no. 2 herein, rejecting the claim of Provident Fund dues amounting to Rs. 4,57, 13,010/-, as submitted by the applicant (at Annexure A), and direct the Respondents no. 1- Liquidator and no. 2- Successful Auction Bidder to make the payment of the entire claim of Provident Fund dues to the extent of Rs. 4,57,13,010;

(C) This Hon'ble Adjudicating Authority may be pleased to direct the Respondent no. 1- Liquidator of M/s. Gujarat Foils Limited to supply the details of distribution made to the creditors of the proceeds received from the sale of the Corporate-debtor as a going concern, and direct the re-distribution of assets of the Corporate-debtor, in accordance with law;

(D) This Hon'ble Adjudicating Authority may be pleased to direct the respondent to pay costs to the applicant as may be determined by this Hon'ble Tribunal;

(E) This Hon'ble Adjudicating Authority may be pleased to pass any further order as may be deemed fit and proper in the interest of justice.”

10. *The said IA was opposed both by the Resolution Professional as well as the Successful Bidder. Counsel for the Appellant submits that the proceedings were initiated for assessment under Section 7A with due information to the Liquidator and order passed under Section 7A was required to be admitted in liquidation proceeding. Counsel for the Appellant has relied on the judgment of the Hon'ble Supreme Court in “Employees Provident Fund Commissioner vs. Official Liquidator of Esskay Pharmaceuticals Limited- (2011) 10 SCC 727” where Hon'ble Supreme court in paragraphs 48, 49, 50, 51 and 52 has held that all sums due to any employee from a provident fund, a pension fund, a gratuity fund or any other fund established for the welfare of the employees were payable in priority to all other debts in a winding-up proceedings. In paragraphs 48, 49, 50, 51 & 52, following was laid down:-*

“48. *It is also important to bear in mind that even before the insertion of Section 529(1) proviso, Sections 529(3) and 529-A [Vide Act 35 of 1985, proviso to Section 529(1), sub-section (3) of Section 529 and Section 529-A were inserted and amendment of Section 530(1) was carried out.] and amendment of Section 530(1), all sums due to any employee from a provident fund, a pension fund, a gratuity fund or any other fund established for the welfare of the employees were payable in priority to all other debts in a winding-up proceedings [Section 530(1)(f)]. Even the wages, salary and other dues payable to the workers and employees were payable in priority to all other debts. What Parliament has done by*

these amendments is to define the term “workmen's dues” and to place them on a par with debts due to secured creditors to the extent such debts rank under clause (c) of the proviso to Section 529(1). However, these amendments, though subsequent in point of time, cannot be interpreted in a manner which would result in diluting the mandate of Section 11 of the EPF Act, sub-section (2) whereof declares that the amount due from an employer shall be the first charge on the assets of the establishment and shall be paid in priority to all other debts. The words “all other debts” used in Section 11(2) would necessarily include the debts due to secured creditors like banks, financial institutions, etc. The mere ranking of the dues of workers on a par with debts due to secured creditors cannot lead to an inference that Parliament intended to create first charge in favour of the secured creditors and give priority to the debts due to secured creditors over the amount due from the employer under the EPF Act.

49. *At the cost of repetition, we would emphasise that in terms of Section 530(1), all revenues, taxes, cesses and rates due from the company to the Central or State Government or to a local authority, all wages or salary of any employee, in respect of the services rendered to the company and due for a period not exceeding 4 months, all accrued holiday remuneration, etc. and all sums due to any employee from a provident fund, a pension fund, a gratuity fund or any other fund for the welfare of the employees maintained by the company are payable in priority to all other debts. This provision existed when Section 11(2) was inserted in the EPF Act by Act 40 of 1973 and any amount due from an employer in respect of the employees' contribution was declared first charge on the assets of the establishment and became payable in priority to all other debts. However, while inserting Section 529-A in the Companies Act by Act 35 of 1985 Parliament, in its wisdom, did not declare the workmen's dues (this expression includes various dues including provident fund) as first charge.*

50. *The effect of the amendment made in the Companies Act in 1985 is only to expand the scope of the dues of workmen and place them on a par with the debts due to secured creditors and there is no reason to interpret this amendment as giving priority to the debts due to secured creditor over the dues of provident fund payable by an employer. Of course, after the amount due from an employer under the EPF Act is paid, the other dues of the workers will be treated on a par with the debts due to secured creditors and payment thereof will be regulated by the provisions contained in Section 529(1) read with Sections 529(3), 529-A and 530 of the Companies Act.*

51. *In view of what we have observed above on the interpretation of Section 11 of the EPF Act and Sections 529, 529-A and 530 of the Companies Act, the judgment of the Division Bench of the Gujarat High Court, which turned on the interpretation of Section 94 of the Employees' State Insurance Act and Sections 529-A and 530 of the Companies Act and on which reliance has been placed by the learned Company Judge and the Division Bench of the High Court while dismissing the applications filed by the appellant, cannot be treated as laying down the correct law.*

52. *In the result, the appeals are allowed. The impugned judgment as also the order of the learned Company Judge are set aside and the applications filed by the appellant are allowed in terms of the prayer made. The Official Liquidator appointed by the High Court shall deposit the dues of provident fund payable by the employer within a period of 3 months. The parties are left to bear their own costs."*

11. *There can be no dispute to the proposition as laid down by the Hon'ble Supreme Court in the above case. The above case, however, considered the winding up proceeding and entitlement of payments of employees of Provident Funds, Gratuity Funds and Pension Funds. The present is a case where the claim filed by the Appellant in liquidation proceeding has not been admitted. We have noted Regulation 16(2) of the IBBI (Liquidation Process) Regulations, 2016 which clearly provides that claim can be filed as on the liquidation commencement date. According to the own case of the Appellant, the claim was filed on the basis of assessment order passed on 11.10.2021 and 20.10.2021. Thus, the said claim was not in existence on the liquidation commencement date. Counsel for the liquidator has rightly placed reliance on judgment of this Tribunal in **"Employees Provident Fund Organisation, Nashik vs. Girish Siriram Juneja & Anr.- Company Appeal (AT) (Insolvency) No.693 of 2025 & IA No.2676 of 2025"** which was also a case where application filed by the EPFO before the Adjudicating Authority for accepting the claim was rejected. In the above case, a revised claim was filed on the basis of an order passed under Section 7Q and Section 14B dated 23.10.2023 which claim was subsequent to the liquidation commencement date. This Tribunal in its judgment dated 30.06.2025 upheld the order of the Adjudicating Authority rejecting the application of the Appellant. This Tribunal in the above case has noted that the claim which was filed on the basis of Section 7A order was admitted in liquidation and subsequent claim which was filed on the basis of order dated 23.10.2023 was not admitted since liquidation has commenced by order dated 28.04.2023. It is useful to notice paragraphs 5 and 6 of the judgment which is as follows:-*

“5. There is no dispute to the proposition that claim under 7Q and 14B arises after 7A is determined. In the present case, claim under 7A was filed within the time on 28.04.2023, which was admitted. Subsequently, claim under 7Q and 14B arose out of two orders dated 23.10.2023, which claims were subsequent to the liquidation commencement date. In paragraph 9 of the order the Adjudicating Authority has noticed the above fact, which is as follows:

“9. These communications clearly evidence that the revised claim of the Applicant EPFO was rejected on 02.01.2024 in clear terms as being inadmissible on account of it having been filed beyond the last date for filing of the claim; the original claim of the Applicant was admitted; and the revised claim is arising from two orders passed on 23.10.2023 which is after the liquidation commencement date. The Applicant had a remedy in the form of Appeal in terms of Section 42 of the Code specifically providing for an Appeal within 14 days of the receipt of the decision of the Liquidator rejecting or admitting the claim of the Creditor. Undisputedly, this remedy was not availed by the Liquidator herein. Since there is a specific provision providing for appeal, this Tribunal cannot have jurisdiction in terms of Section 60(5) of the Code. Nonetheless it is trite law that the claims of the Creditor in existence as on the liquidation commencement date are only admissible and such claims has to be filed within the time period allowed by the Liquidator in terms of public announcement made after commencement of the Liquidation or such period as is extended thereafter. In the present case even, the revised claim has not been filed within the time prescribed by the Liquidator for filing of claim.”

6. Any claim which arises after liquidation commencement date cannot be entertained by the Liquidator as per the statutory scheme under Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016. Claim under 7Q and 14B arose only on 23.10.2023 i.e. subsequent to liquidation commencement date. The Adjudicating Authority did not commit any error in not accepting the said claim. We, thus, do not find any ground to interfere in the order rejecting claim filed by the Appellant. There is no merit in the appeal. Appeal is dismissed.”

12. Counsel for the Appellant has also placed reliance on the judgment of the Hon’ble High Court of Judicature at Bombay in Writ Petition No.693 of 2022-**“Dalmia Cement (Bharat) Limited & Anr. Vs. The Central Board of Trustees, Employees Provident Fund Organization”**. The above was a case where question was as to whether by approval of the Resolution Plan

the claim of Appellant shall stand wiped out. The question which has arisen in the present case i.e. regarding admission of claim in liquidation process was not subject matter of consideration in the above case. Hence, above case does not help the Appellant in the present matter. The Adjudicating Authority however, in the impugned order has observed that the Resolution Professional has to keep track of the Appeal filed by the Corporate Debtor and make necessary arrangements contingent upon the decision of the Appeal. In the application which was filed by the Appellant being IA No. 114 of 2023 was an application praying for admission of the claim of the Appellant which was not accepted by the liquidator. We, however, make it clear that non-admission of the claim of the Appellant in liquidation proceeding shall not preclude it from taking such steps as available in law for realisation of its claim which arose after liquidation commencement date.

13. *In view of the foregoing discussions and conclusions, subject to what has been said above, the Appeal is dismissed.”*

15. We now take a look at the Form-C which has been submitted by the SEBI on 20.06.2023 to the Liquidator in respect of their claim in the liquidation of the Corporate Debtor. The same is placed at page 466 of Appeal Paper Book (“**APB**” in short), relevant excerpts of which are as reproduced below:

FORM C
PROOF OF CLAIM BY OPERATIONAL CREDITORS EXCEPT
WORKMEN AND EMPLOYEES

3.	TOTAL AMOUNT OF CLAIM, INCLUDING ANY INTEREST, AS AT LIQUIDATION COMMENCEMENT DATE AND DETAILS OF NATURE OF CLAIM	INR:20,00,000/- (Rupees Twenty lakh only) PLUS, INTEREST @ 1 % PER MONTH SHALL BE ADDED FROM THE DATE OF THE ORDER (OCTOBER 31, 2022) TILL THE DATE OF FILING CLAIM (I.E. JUNE, 2023)- RS. 1,80,000 TOTAL CLAIM: Rs. 21,80,000/- Total Claim: INR-21,80,000/-
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4.	<i>DETAILS OF DOCUMENTS BY REFERENCE TO WHICH THE DEBT CAN BE SUBSTANTIATED</i>	<i>Adjudication Order No. Order/DS/DK/2022- 23/20903- 20964 dated Oct 31, 2022 and November 30, 2022 January 5, 2023</i>
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16. It is clear that the claim has been premised on the AO dated 31.10.2022 which order was clearly passed after the liquidation commencement date of 15.03.2021. We further notice that this claim was rejected by the Liquidator and a communication in this regard was sent to SEBI on 22.06.2023 with detailed reasoning as placed at page 472 of APB. The Liquidator had clarified in his letter to SEBI that the order of penalty which was passed by SEBI on 31.10.2022 basis which claim was staked in Form-C by SEBI was claim which did not arise prior to the date of commencement of liquidation. It was also pointed out that there was a delay of 797 days in the filing of the claim when clocked from the last date of submission of claim which was 14.04.2021 in terms of the public announcement. The same communication also highlighted the fact that the Liquidator is required to liquidate the Corporate Debtor within one year from the date of commencement of liquidation proceeding in terms of Regulation 44(1) of LPR and that in the present case the delay in filing the claim having been found to be inordinately long and hence rejected.

17. When we look at the Liquidator's communication dated 22.06.2023, it is amply borne out that since the claim filed by the SEBI had not arisen on the date of liquidation commencement, the Liquidator had submitted that he was not in a position to entertain the claim filed in Form-C as it was beyond the liquidation commencement date. When the claim had not arisen or crystallised

on the liquidation commencement date, the LPR clearly did not envisage admission of any such claim. Hence, there was no infirmity in the decision of the Liquidator in not admitting the claim of the SEBI arising out of the AO which had been passed after liquidation commencement date. When the statutory provisions of IBC and the LPR stipulates that only such claims can be filed in a liquidation proceeding by an Operational Creditor as it exists on liquidation commencement date, this accords inviolable sanctity to the liquidation commencement date and does not give any flexibility or latitude to the Liquidator to entertain claims beyond this particular date. The Liquidator has acted squarely within the four corners of IBC and LPR framed thereunder and the Adjudicating Authority has not committed any error in affirming the decision of the Liquidator to reject the claims of SEBI basis the AO.

18. Argument was canvassed by the Ld. Counsel for the Appellant that in terms of the judgment of the Hon'ble Supreme Court in ***Sundaresh Bhatt, judgment supra*** that the Liquidator had an obligation to ensure that the assessment of statutory dues gets legally completed and a logical outcome of completion of such assessment would be filing of the claim arising out of such assessment subject to the treatment of the claim arising out of the said assessment in a manner which does not disturb the distribution already made under the waterfall mechanism as provided under Section 53 of the IBC. Present is not a case where the impugned order has been assailed on how the AO which was passed after the liquidation commencement date is to be enforced but on the ground that the claim arising after liquidation commencement date cannot be entertained by the Liquidator after liquidation commencement date. We

therefore do not see any reason for us to enter into this academic discussion as to what happens to any assessment proceeding which has been conducted after the liquidation commencement date. Having noted the statutory provisions of IBC read with attendant Liquidation Process Regulations, we are clear that the statutory intent of the IBC clearly freezes all claims as on the liquidation commencement date.

19. Basis the aforesaid discussion, we are of the considered view that there is no infirmity in the impugned order rejecting IA No. 4226 of 2023. The Appeal is devoid of substance and is dismissed. No costs.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**Place: New Delhi
Date: 12.12.2025**

Abdul