

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12148 OF 2024

Jyoti Structures Limited

...Petitioner

V/S

Regional Provident Fund Commissioner-II

Nasik & ors.

...Respondents

Mr. Ashish Kamat, Senior Advocate a/w Mr. Ankit Lohia, Ms. Mohana Nijhawan and Ms. Samidha Mathur i/b M/s. Shardul Amarchand Mangaldas & Co. *for the Petitioners.*

Ms. Ranjana Todankar *for Respondent Nos.1 to 4-RPFC.*

CORAM: SANDEEP V. MARNE, J.

DATE : 29 AUGUST 2024.

P.C.:

1 Ms. Todankar, the learned counsel appearing for Respondent Nos.1 to 4 seeks time to file Affidavit-in-Reply. Additional-Affidavit tendered on behalf of the Petitioner is taken on record.

2 List the Petition on **24 September 2024.**

3 One of the issues raised in the present Petition is permissibility for the Regional Provident Fund Commissioner (RPFC) to pass orders under

provisions of sections 7A, 7Q and 14B of the Employees' Provident Fund Miscellaneous Provisions Act, 1952 (**Act**) in respect of period prior to the date of initiation of Corporate Insolvency Resolution Proceedings (CIRP) and particularly prior to the period of acceptance of Resolution Plan. It appears that in the present case the CIRP was initiated on 4 July 2017 and the Resolution Plan has been sanctioned on 27 March 2019. It appears that claim of Employees Provident Fund Organization has also been provided for. Mr. Kamat, the learned Senior Advocate for the Petitioner would submit that the approved Resolution Plan contains a provision for payment of Rs.147.43 crores towards outstanding amount payable to the employees which includes an amount of Rs.21.31 crores towards provident fund dues. He would submit that under the approved Resolution Plan, no further amount towards workmen's due is payable to any person or other entity over and above Rs.147.43 crores, which amounts to extinguishment of any claim even of Provident Fund Organization beyond the provision of Rs.21.31 crores made in the approved Resolution Plan.

4 It appears that in pursuance of orders impugned in the present Petition, the Employees Provident Fund Organization (**EPFO**) has directed Petitioner's Banker to put an hold in respect of various amounts payable under the impugned orders. Mr. Kamat would contend that such an action would actually result in delay in performance of obligation by the Petitioner to various persons and entities, including employees, under the approved Resolution Plan.

5 Accordingly by way of interim order, it is directed that Respondent No.1 to 4 shall not take any further coercive steps against the Petitioner. Similarly with a view to enable the Petitioner to undertake its day to day operations as well as to discharge his obligations under the approved Resolution Plan, the impugned orders passed by the EPFO shall stand suspended till the next date of hearing. Petitioners shall however not utilize any amount in its bank account for any purpose other than for day to day operation and for fulfilling obligations under the approved Resolution Plan.

(SANDEEP V. MARNE, J.)

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