

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-2, MUMBAI**

APPEAL NO. CGIT-2 / EPFA / 113 of 2025

M/s. Autocop (India) Pvt. Ltd.

-Appellant

V/S.

The Assistant Provident Fund Commissioner,

EPFO, Nashik.

-Respondent

ORDER

(Delivered on 11-02-2026)

The learned counsel for the appellant has moved an application dated 10.02.2026 which is for taking the matter on today's board. It is also stated by him that, the Hon'ble High Court of Bombay on 09.02.2026 passed an order thereby stating that, list the petition on 12.02.2026 in the meantime the Incharge of Appellate Authority under the provision of the EPF Act, 1952 shall consider the application for Interim Relief filed by the petitioner tomorrow. This application has been moved by the appellant on 10.02.2026 but, due to lack of papers and law materials he sought time. The Learned counsel for the respondent Miss Smita Thakur has also put in appearance today in court and filed her Vakalatnama which is taken on record. This matter has come to this court by the order of the Hon'ble High Court, therefore matter is taken on today's board. Hence, application for taking the matter on today's board is hereby allowed.

Heard, the learned counsel for the appellant and learned counsel for the respondent on Application under Rule 21 of the Tribunal Procedure Rules 1997, seeking ad Interim Relief in

which the learned counsel for the appellant has mentioned so many grounds for getting relief as prayed for. The learned counsel for the appellant has argued that, the impugned order is based on assumptions and presumptions. It is also contended by learned counsel for the appellant, that respondent has mentioned in its impugned order which is as under:

“These tentative figures were arrived at in good faith with severe time constraints only to enable timely filing of EPFO’s claim before the insolvency professional and to prevent prejudice to rights of the beneficiaries of the funds.

The learned counsel for the appellant has placed reliance which is observed by the Hon’ble Delhi High Court in the matter of Shri Krishna V/s. Union of India 1998 (104) ELT 325 (Del) which is as under,

“Suffice it to observe, the Tribunal is obliged to adhere to the question of undue hardship. The order of the Tribunal show if the pleas raised before it have any merit *prima-facie* or not. If the appellant has such a *prima-facie* strong case as it most likely to exonerate him from payment and still the Tribunal insists on the deposit of the amount, it would amount to undue hardship.

It is also contended by the learned counsel for the appellant that, there has been no observation regarding *actus reus* or *mens rea* in the order passed by the respondent, therefore no damages u/s. 14-B can be levied against the appellant in the terms of the law declared by the Hon’ble Supreme Court. The order passed by the respondent is an unreasoned order. It is borne by the record that,

the moratorium is in the operation in terms of the order dated 19.05.2023 passed by the Hon'ble NCLAT Mumbai. Therefore, no condition may kindly be imposed for granting a stay of operation of the impugned order. The impugned order has been passed without application of mind. The learned counsel for the appellant has also placed reliance on 2024 SCC online NCLAT 2718 Assistant Provident Fund Commissioner (legal EPFO) v/s. Chandra Prakash Jain liquidator of Khushi Foods limited and 2025 SCC online NCLAT 1088 Employees' Provident Fund Organization Nashik v/s. Girish Shriram Juneja and anr. Case in hand, impugned order is passed by respondent u/s. 14-B & 7-Q on 10.11.2025, whereas moratorium period was started since 19.05.2023. The learned counsel for the appellant has argued that, at the time of passing the impugned order, moratorium period was in operation.

According to Section 33 (5) no suit or other legal proceedings have been instituted by or against the corporate debtor during the course of liquidation/moratorium Section 33 (5) Insolvency Act is reproduced is as under,

“Section 33 (5) – Subject to Section 52, when a liquidation order has been passed, no suit or other legal proceeding shall be instituted by or against the corporate debtor.

Provided that, a suit or other legal proceeding may be instituted by the liquidator, on behalf of the corporate debtor with the prior approval of the adjudicating authority.”

It is also contended by the learned counsel for the appellant that, the NCLAT principal bench in company appeal at Insolvency No. 1743 of 2024. The Assistant Provident Fund Commissioner (legal EPFO) v/s. Chandra Prakash Jain liquidator of Khushi Foods limited was pleased to rule that, any claims made subsequent liquidation commencement on the basis of assessments subsequent to the liquidation commencement date cannot be entertained and upheld the decision of the liquidator who rejected the claim.

Therefore, placing the reliance on above legal position, the learned counsel for the appellant has prayed for ad Interim Relief but on the other hand, the learned counsel for the respondent has stated before the court that, she has put in appearance today in court only. She has to file reply against the Interim Relief application therefore prayed for time to reply.

Considering the above contentions raised by the learned counsel for the appellant as well as oral contentions of the learned counsel for the respondent, it is necessary to give opportunity for filing the reply against the Interim Relief application presented by the appellant but it is also necessary to direct the respondent not to take any coercive action against appellant with regard to recovery of the impugned award amount till the filing of reply by the respondent against the Interim Relief application. Therefore, it is ordered as under:

ORDER

The respondent is directed not to take any coercive action with regard to recovery of the impugned awarded amount till filing of his reply.

List this case on already fixed date 02.03.2026 for filing the reply on behalf of the respondent.

Sd/-

Date: 11-02-2026

(Justice Shiv Shanker Prasad)
Presiding Officer/Link Officer
CGIT -2, Mumbai