IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.07.2025**

CORAM

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.No.33635 of 2023
and WMP.No.33475 of 2023

M/s.Vasan Health Care Private Limited,
Having registered office at No.120A, Bazaar Road,
Saidapet, Chennai.
Represented by Mr.Vimal Chandrasekaran, Head HR. .... Petitioner

Vs

1.Union of India,
represented by its Secretary,
Shram Shakti Bhawan Rafi Marg.
New Delhi.

2.The Regional Provident Fund Commissioner-II, Chennai,
37, Royapettah High Road,
Chennai. .... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, to call for the records relating to the impugned order dated 21.08.2023 bearing in file No.CHN-south/36534/Enf/Regl/Div-15/2023 on the file of 2nd respondent and quash the same.

For Petitioner : Mr.G.Gautham Ram Vittal

For R1 : Mr.A.Veeramani
CGC

For R2 : Mr.M.S.Viswanathan

ORDER

This writ petition has been preferred as against the order passed by the 2nd respondent in No.CHN-south/36534/Enf/Regl/Div-15/2023 dated 21.08.2023, wherein the 2nd respondent herein passed order under section 7A of the Employees Provident Fund and Miscellaneous Provisions Act (EPF and MP Act) in respect of the petitioner's establishment and determined dues for the period of June 2018 to May 2019. Aggrieved by the said order, the present writ petition has been filed.

2. The learned counsel for the petitioner would submit that the petitioner's company was taken over by the ASG Hospital Private Limited, Jodhpur, Rajasthan as successful resolution applicant in IA(IBC)/288(CHE)/2022 in CA/1/IB/2017 passed by the National Company Law Tribunal, Division Bench-I, Chennai under section 30(6) & 31 of the Insolvency of Bankruptcy Code, 2016 (in short "IBC 2016")

read with Regulation 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

2.1. In fact, Alcon Laboratories has filed application under section 9 of the Insolvency and Bankruptcy code 2016, as against the petitioner and the same was admitted into the Corporate Insolvency Resolution Process (CIRP) by order dated 21.04.2017 and one Mr.V.Mahesh was appointed as interim Resolution Professional (RP). The Assistant Provident Fund Commissioner & Recovery Officer of Employees Provident Fund Organisation, Regional Office, Chennai, had submitted their claim before the Interim Resolution Professional to the tune of Rs.7,66,47,643/- in respect of the Provident Fund dues. However, the Resolution Professional assessee admitted the claim to the tune of Rs.4,50,68,362/- and disallowed the claim to the tune of Rs.3,15,79,281/-. As against the aforesaid order, they filed an application before the NCLT, Chennai, and the same is pending in I.A.No.1027 (CHE)/2022.

2.2.Thereafter the Resolution Professional filed an application under section 30 of IBC on 03.03.2022 for approval and the same was approved. It appears that the Assistant Provident Fund Commissioner & Recovery Officer of EPFO had omitted to submit claims in respect of few employees before the Resolution Professional. Therefore, instead of approaching the Resolution Professional, the EPFO issued summons dated 08.07.2019 to the petitioner company and gave a personal hearing and thereafter passed the impugned order.

2.3. As per section 60(3) of IBC, 2016, once the proceedings initiated under the IBC, the proceedings pending in other forums have to be transferred and to be continued only before NCLT.

2.4. As per section 31 of the Insolvency and Bankruptcy code, once the resolution plan is approved by NCLT, all further claims not made come to an end that is, no belated claim can be included therein that was not made earlier.

2.5. As per the application filed by the 2nd respondent before the NCLT the period from 6/2018 to 5/2019 was already covered. Even if any omission, they cannot claim later. However, the authorities have passed impugned order after approval of the resolution plan on

21.08.2023. Therefore, for the period covered under the sick period under the resolution plan, the 2nd respondent cannot claim any amount. Therefore, the order passed by the 2nd respondent is liable to be quashed.

3. The learned counsel for the 2nd respondent would submit that the 2nd respondent initiated proceedings as against the petitioner under section 7A of the EPF and MP Act for determining the dues for the period 06/2018 to 05/2019. After affording opportunity to the petitioner, the authority passed order by determining the contributions. At the time of admission in the CIRP proceedings stay was granted on 21.4.2017 by this court. Thereafter stay was vacated on 3.10.2019. The resolution plan was approved as per the proviso to clause 4 of section 14 IBC. The defaulted amount Rs.7, 66, 47, 643/- out of which Resolution of Professional has admitted Rs.4,50,68, 362/- and for the remaining amount Rs.3, 15, 79, 281/- they filed application before the NCLT and the same is pending in IA.No.1027 (CHE)/2022.

3.1. Meanwhile, Resolution plan was approved with condition to keep the rejected claim amount in a no lien account till the disposal of the application and the petitioner also deposited amount. In the meantime pending section 7A enquiry for the default period from 06/2018 to 05/2019 continued and order was passed on 21.08.2023 and directed the successful resolution applicant (SRA) to remit Rs.8,55,382/-.

3.2. As per sub clause (e) of sub section (2) of section 17 Insolvency and Bankruptcy Code, the resolution professional is supposed to be responsible for complying with requirement under any law for the time being on behalf of the corporate debtor. Since there is default during Corporate Insolvency Resolution Process period, the successful resolution applicant has to pay the dues. Therefore, the learned counsel for the respondent prayed to dismiss the writ petition.

4. This court heard both sides and perused the records.

5. In this case, it is admitted fact that the petitioner establishment was under liquidation proceedings and the same was taken over by the ASG Hospital Private Limited, Jodhpur, Rajasthan as the Successful Resolution Applicant through order of National Company Law Tribunal Chennai. The second respondent also filed an application for the tune of

Rs.7,66,47,643/- and the Resolution Professional has admitted Rs.4,50,68,362/- and for the remaining amount of Rs.3, 15, 79, 281/- the second respondent has filed petition before NCLT in IA.No.1027(CHE)/ 2022 and the same is pending. While so, the NCLT has passed order by accepting the resolution plan by approving the resolution plan on 03.02.2023. Thereafter the second respondent passed the impound order as if there is a due of Rs.8,52,382/- for the period 6/2018 to 5/2019.

6. Already in the application filed by the second respondent before the Resolution Professional they claimed Rs.7, 66, 47, 643/- for the different periods including the period from 6/2018 to 5/2019. Particularly in the application, the second respondent mentioned in annexure A in serial No.1 in column No.2- From 3/2017 to 11/2018 quantum of dues is Rs.2,33,21,126/- under provisional dues. For the period 12/2018 to 09/2019, Rs.72,35,018/- under provisional dues.

7. Now after the resolution plan was approved by the NCLT, once again the second respondent authority passed an order for the period 6/ 2018 to 05/2019 which is covered under the petition filed by them before

the IRP.

8. As per Section 31 of the Insolvency and Bankruptcy Code extracted as under:

“31. (1) If the Adjudicating Authority is satisfied that the resolution plan as approved by the committee of creditors under sub-section (4) of section 30 meets the requirements as referred to in sub-section (2) of section 30, it shall by order approve the resolution plan which shall be binding on the corporate debtor and its employees, members, creditors, 3[including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force, such as authorities to whom statutory dues are owed,] guarantors and other stakeholders involved in the resolution plan."

9. Therefore the resolution plan is binding on the second respondent as per section 31(1) of IBC. Since already for the aforesaid period, the second respondent has filed petition before the NCLT, they cannot claim further amount.

10. At this juncture, the learned counsel appearing for the second respondent would summit that though the period is covered in the resolution plan, the impugned order is in respect of the dues towards provident fund, pension fund, deposit linked insurance Fund and the earlier orders covered in the application is contributions and administrative charges. The period covered in the petition before the NCLT is not under section 7A and it is 7 Q. Therefore the authorities have passed order separately. Even assuming that it did not cover under the resolution plan, as per Section 33 of the Insolvency and Bankruptcy Code the 2nd respondent is not entitled to claim any payment from the petitioner.

11. Section 33 is extracted as under:-

"33. All the civil and criminal litigations, investigations, enquiries, proceedings. causes of action, claims, disputes or other judicial, regulatory proceedings against the Corporate Debtor or the affairs of the Corporate Debtor, pending or threatened, present or future, in relation to any period on or before the Closing Date or on account of the Resolution Applicant being in control of the Corporate Debtor pursuant to this Resolution Plan shall stand extinguished."

Therefore as far as the claims raised in the impugned order is concerned as per Section 33 of the Act. The 2nd respondent authority cannot claim the said dues after approval of resolution plan.

12. At this juncture, the learner counsel appearing for the petitioner relied on the following judgments:

1.M/s.Seenlac Private Limited Vs.Tata Steel BSL Limited, made in A.Nos.8557 of 2017 and 6563 of 2019 dated 28.11.2019.

2.Ghanashyam Mishra and sons Private Limited through the authorized signatory Vs. Edelwe

iss Asset Reconstruction Company Limited reported in (2021) 9 SCC 657.

3. Ruchi Soya Industries Limited Vs.Union of India reported in Manu/SC/0464/2022.

On a careful perusal of the aforesaid judgments, it is clear that when the claim has not been filed earlier and the resolution plan is approved, continuation of the proceedings is meaningless under section 31(1) of IBC. The claims as provided in the resolution plan shall stand frozen and will be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State

Government or any local authority, guarantors and other stakeholders.

13. On the date of approval of resolution plan by the adjudicating authority all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim which is not part of the resolution plan.

14. In the case on hand also, the 2nd respondent already filed claim before the Resolution Professional and the same was partly admitted and for the remaining portion, a petition is pending before the NCLT. Therefore the period mentioned in the impugned order is also covered in the petition filed by the petitioner before the Resolution Professional. Even if it is omitted, it cannot be claimed after approval of the resolution plan. Therefore the order passed by the 2nd respondent authority, after approval of resolution plan is against law.

15. As far as judgments relied on by the learned counsel for the respondent is concerned, the said judgments will not be applicable to the

present facts of the case because those claims are pertaining to for a period earlier than the insolvency commencement date; whereas in this case, after approval of the resolution plan by the appropriate authorities, the present order has been passed.

16. In the light of the above reasonings, the impugned order passed by the second respondent is unsustainable and the same as liable to be quashed. Accordingly, the impugned order dated 21.08.2023 is quashed and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.07.2025

Index : Yes/No
Neutral citation : Yes/No
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To

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P.DHANABAL,J.

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