

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

**Company Appeal (AT) (Ins.) No. 53 of 2021**

**IN THE MATTER OF:**

**The Central Board of Trustees  
Through Regional Provident Fund Commissioner-II  
(Legal), Ranchi  
Employees' Provident Fund Organization,  
Regional Office: Bhagirathi Complex,  
Karamtoli, Ranchi, Jharkhand- 834001  
Email: [ro.ranchi@epfindia.gov.in](mailto:ro.ranchi@epfindia.gov.in)  
[Roranchi.legal@epfindia.gov.in](mailto:Roranchi.legal@epfindia.gov.in)** **....Appellant**

**Vs.**

**1. Ms. Pooja Bahry & Ors.  
(Resolution Professional of M/s Swastik Fruits  
Products Ltd.)  
59/27, Prabhat Road, New Rohtak Road,  
New Delhi -110005  
Email: [rp.swastikfruits@gmail.com](mailto:rp.swastikfruits@gmail.com)  
[pujabahry@yahoo.com](mailto:pujabahry@yahoo.com)** **....Respondent No.1**

**2. Binay Sarawgi  
(Shareholder/ Director/  
Promoter of M/s Swastik Fruits Products Ltd.)  
(Resolution Applicant)  
Plot F-64/37, Ground Floor,  
L/P Village – Katwaria Sarai,  
New Delhi- 110016.** **....Respondent No.2**

**3. Sunita Sarawgi  
(Shareholder/Director/  
Promoter of M/s Swastik Fruits Products Ltd.)  
(Resolution Applicant)  
Plot F-64/37, Ground Floor,  
L/P Village – Katwaria Sarai,  
New Delhi- 110016.** **....Respondent No.3**

**Present:**

**For Appellant: Mr. Manish Dhir, Advocate.**

**For Respondents: Mr. Abhishek Anand and Mr. Viren Sharma,  
Advocates for R-1.**

**O R D E R**  
**(Virtual Mode)**

**01.04.2021:** Heard Learned Counsel for the parties. This Appeal has been filed by The Central Board of Trustees, Through Regional Provident Fund Commissioner-II (Legal), Ranchi against Impugned Order dated 04.12.2020 passed in I.A. No. 3758/2020 in IB-871 (ND)/2019.

2. The Learned Counsel for the Appellant submits that the Appellant is aggrieved by what was provided in the Resolution Plan relating to Corporate Debtor – M/s Swastik Fruits Products Ltd. In para 12 (at Page 50) of the Impugned Order, reference is to the Resolution Plan where it was mentioned that towards Provident Fund, amount is Rs. 4,555/-. That, in para 13 of the Impugned Order it is mentioned in this context that Resolution Plan mentions “The original claim amount is Rs. 4,555/- for which provision has been made and the balance seems to be interest and penalties which shall be waived.”

3. Learned Counsel for the Appellant is submitting that the Provident Fund Rules require payment of interest also and such dues are payable. Learned Counsel for the Appellant submits that the Appellant had sent letter dated 30.10.2019 to IRP (at page 59) and claim made in the form was of Rs. 77,550/- (at page 62). It is stated that yet another Form was submitted on 31.07.2020 (at page 71 read with 72) in which amount of Rs. 79,124/- was claimed. The Learned Counsel for the Appellant submits that this amount was required to be paid.

4. The Learned Counsel for Respondent No. 1 submits that the Appeal may be disposed as infructuous as, the Learned Counsel for the Respondent No.1 submits that the Successful Resolution Applicants- Respondent No. 2 & 3 have already informed the Resolution Professional/ Respondent No. 1 that they will pay the amount of Rs. 77,550 towards Provident Fund, as was earlier claimed.

5. The Learned Counsel for the Appellant is making submissions to state that Rs. 79,124 was required to be paid. Thus the dispute narrows down to just Rs. 1,574/-.

6. The Learned Counsel for both sides are trying to raise various legal issues, however, we are not going into those issues. The Learned Counsel for Respondent No.1 states that Respondent No. 2 & 3 have sent email through Aditya Sarawgi to the Respondent No. 1 in which they are ready to pay Rs. 77,550/-. The Learned Counsel for the Respondent No. 1 has forwarded copy of email to the Court Master and the same is taken on record and marked as 'X' for identification. Respondent No. 2 has earlier appeared in person but is not present to-day.

7. In view of the submissions made on instructions by the Learned Counsel for the Respondent No.1, we disposed of the Appeal without entering into issues of law being raised. As it is stated by Counsel for Resolution Professional that the Respondent Nos. 2,3 have agreed to pay

Rs. 77,550/- to the authorities under Provident Fund, we direct under Rule 11 of NCLAT Rules 2016 that Respondent Nos. 2 & 3 to pay Rs. 79,124/- as unpaid EPF Dues of Corporate Debtor, under the Resolution Plan, to the Provident Fund Authorities.

8. With such directions the present Appeal is disposed of. No Costs. This Appeal is disposed in view of submissions in the nature of concession and will not be treated as precedent.

**[Justice A.I.S. Cheema]**  
**Member (Judicial)**

**[Dr. Alok Srivastava]**  
**Member (Technical)**

*sa/md*