BEFORE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT No. 2/EPFAT, DELHI

D-2/22/2022

M/s Jaypee HealthCare Ltd. .... Appellant
Through:- Sh. Jitesh Pandey & Sh. Aniket Singh, ld. counsel for the appellant.

Vs.

APFC/RPFC, Noida .... Respondent

Through:- Sh. Kaushik Kr. Dey, ld. counsel & Sh. Shailendra Arya, A/R for the respondent.

Order dated-21.07.2026

This order shall dispose of three applications, one filed by the respondent department and the other two filed by the appellant pursuant to the order of this Tribunal.

The first application has been filed by the respondent seeking dismissal of the appeal. The second application has been filed by the appellant seeking permission to place additional documents on record. The third application has also been filed by the appellant for bringing on record the factual matrix arising from the change in the management of the appellant company and for taking on record the amended memo of parties.

I shall first take up the application filed by the respondent. It is stated therein that the appellant company, M/s Jaypee Health Care, was admitted to the Corporate Insolvency Resolution Process (CIRP) in the year 2019. During the proceedings under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (hereinafter referred to as "the Act"), it had also come to the notice of the respondent that the company was undergoing CIRP under the Insolvency and Bankruptcy Code, 2016 (IBC). The competent authority determined the dues and passed an order under Section 7A of the Act on 24.12.2021. Thereafter, the present appeal came to be filed.

It is the respondent's case that, during the subsistence of the moratorium, a Resolution Professional (RP) had been appointed under the IBC and was in charge of the affairs of the company. It is further contended that the RP neither instructed nor authorized Shri Amit Kumar, who filed the present appeal in the capacity of the Authorised Signatory of M/s Jaypee

Health Care. According to the respondent, the appeal does not contain any document evidencing such authorization. It is, therefore, prayed that the appeal be dismissed as not maintainable, having been filed by a person who was not duly authorized. In support of this contention, learned counsel for the respondent has relied upon the judgment of the Hon'ble Delhi High Court in ***Nibro Ltd. v. National Insurance Co. Ltd.*, 1990 SCC OnLine Del 65.**

The appellant has filed a reply to the said application. It is submitted that the respondent is resorting to delaying tactics and is attempting to prevent this Tribunal from adjudicating the appeal on its merits. It is pointed out that the present appeal challenges the orders dated 24.12.2021 and 06.05.2022 passed under Sections 7A and 7B of the Act, whereas the respondent filed its counter-reply after more than two years, despite being required to do so within thirty days. It is further submitted that, throughout the proceedings under Section 7A of the Act, Shri Amit Kumar had represented the appellant along with another representative, and this fact is duly reflected in several daily order sheets maintained by the respondent authority. It is also submitted that, during the pendency of the appeal, the appellant company has been taken over by the new management, namely Max Super Speciality Hospital, Sector-128, Noida-201304. Therefore, even assuming that there was any defect in the authorization, the same cannot now be cured, as no authorization can be obtained from the Resolution Professional after the completion of the CIRP.

I have heard the learned counsel for the parties and have carefully considered their submissions.

It is an admitted fact that several developments have taken place during the pendency of the proceedings. The appellant establishment has since been taken over by Max Super Speciality Hospital, Noida, a unit of M/s Crosslay Remedies Ltd., pursuant to the approval of the resolution plan by the National Company Law Tribunal (NCLT). It is also an undisputed fact that Shri Amit Kumar had represented the appellant establishment during the proceedings conducted under Section 7A of the Act, and at no stage during those proceedings did the Regional Provident Fund Commissioner (RPFC) raise any objection regarding his authority to represent the establishment. If Shri Amit Kumar was permitted to represent the appellant during the proceedings before the competent authority while the company was under CIRP, the respondent cannot now be permitted to question his authority for the first time at the appellate stage.

Further, the judgment relied upon by the respondent in *Nibro Ltd.* is distinguishable on facts and does not strictly apply to the present case. This Tribunal, being a quasi-judicial authority, has the power to regulate its own procedure, subject to the provisions of the governing statute and the principles of natural justice.

In view of the foregoing discussion, I find no merit in the application filed by the respondent. The same is, accordingly, dismissed.

I now take up the second application filed by the appellant seeking permission to place additional documents on record. Learned counsel for the respondent has stated that he has no objection to the said application. Accordingly, the application is allowed, and the additional documents are taken on record.

The third application has been filed by the appellant seeking to place on record the factual developments arising out of the change in the management of the appellant company and for bringing on record the amended memo of parties. The proposed amendments are formal in nature and do not affect the merits of the case. Learned counsel for the respondent has also not opposed the said application.

Accordingly, the third application is also allowed. The office is directed to carry out the necessary amendments in the record in terms of the amended memo of parties filed by the appellant.

Atul Kumar Garg
(Presiding Officer)