

Labour & Employment Update

October 2025; Issue No. 27

The 'Labour & Employment Update – 'October 2025' comprises latest judicial decisions of the Supreme Court of India and various High Courts and circulars/notification issued under Indian Labour Law.

S. No	Index
Legal Update	
Supreme Court ("SC")	
1.	<i>M/s Edelweiss Asset Reconstruction Limited V. Regional PF Commissioner II and Recovery Officer, RO Bengaluru (Koramangala)</i>
Kerala High Court ("Kerala HC")	
2.	<i>The Regional Director, ESI Corporation and Anr. V. M/S L & T Tech Park Ltd and Anr.</i>
Madras High Court (Madras HC)	
3.	<i>Hindustan Motor Finance Corporation Ltd. V. the Regional Provident Fund Commissioner & Ors.</i>
4.	<i>The Assistant Provident Fund Commissioner, EPFO, Thiruchurappalli V. the Presiding Officer, Employees' Provident Fund Appellate Tribunal & Anr.</i>
National Company Law Appellate Tribunal (NCLAT), Delhi	
5.	<i>Regional Provident Fund Commissioner V. Harry Dhaul.</i>
Circulars/Notifications	
1.	<i>Employees' Provident Fund Organisation ("EPFO") has launched revamped version of Electronic challan cum return ("ECR")</i>

Labour & Employment Update

October 2025; Issue No. 27

1. Legal Updates

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (in short "*EPF Act*")

1. Matter remanded to KA HC to determine who has first charge on the assets of the establishment in case of insolvency.

M/s Edelweiss Asset Reconstruction Limited V. Regional PF Commissioner II and Recovery Officer, RO Bengaluru (Koramangala) [SLP(Civil) No. 11069 of 2024; dt. August 26, 2025]

Brief facts of this case are M/s Acropetal Technologies Pvt. Ltd. (in short "*Establishment*") was covered under the provisions of the EPF Act and defaulted in payment of provident fund dues since July, 2013. An inquiry was initiated u/s 7A of the Act. Respondent determined a liability of Rs.1,28,90,486 against the Establishment and directed it to deposit the same within 15 days. Establishment had informed that banks had initiated a recovery process by auctioning their properties for defaulting in repayment of loans. Axis bank has auctioned one property and appropriated the sale proceeds against its outstanding dues and informed the EPFO that it had no amount left in the account of the Establishment as it still had outstanding dues payable. Meanwhile the appellant was auctioning the two more properties of the Establishment to appropriate defaulted loan amounts. Respondent issued a notice to the appellant to pay the contribution defaulted by the Establishment contending that EPFO has priority over the debt by virtue of sec 11(2) of the EPF Act. Appellant invoked the writ jurisdiction of KA HC, wherein it directed to deposit an amount of Rs. 75 lakhs as an interim measure and by its impugned order dismissed the petition filed by the appellant and transmitted the amount deposited to EPFO. Aggrieved by the KA HC order appellant approached the SC. The contention of the appellant before the SC was that total outstanding dues payable by the Establishment to EPFO shall be payable by the Axis bank and others on a pro-rata basis to the EPFO. Axis bank which was impleaded before the SC contended that it has priority over the debt by virtue of sec 35 of the SARFAESI Act.

SC remanded the matter to KA HC to decide whether the banks have priority over the debt by virtue of sec 35 of the SARFAESI Act or EPFO by virtue of sec 11(2) of the EPF Act.

2. Apprentice engaged under Standing Orders are not covered under the EPF Act held Madras HC.

Labour & Employment Update

October 2025; Issue No. 27

The Assistant Provident Fund Commissioner, EPFO, Thiruchurappalli V. the Presiding Officer, Employees' Provident Fund Appellate Tribunal & Anr. [WP(MD) No. 1271 of 2016; dt. September 26, 2025]

The question for consideration before the Madras HC is *whether the establishment is liable to contribute provident fund in respect of apprentice engaged under the Standing Orders Act.*

The second respondent is an establishment engaged in retail sale of textiles and ready-made garments covered under the provisions of the EPF Act. Enforcement officer conducted an inspection and found 11 employees and 49 others are not enrolled under the EPF Act. Basis his report an inquiry was initiated u/s 7A of the Act, pending inquiry, second respondent establishment has enrolled 11 employees under the EPF Scheme and contented that other 49 are apprentices as per the certified standing orders, hence they would not fall under the ambit of the EPF Act. Writ petitioner found that these employees are shown as apprentice to avoid provident fund contributions and passed an order u/s 7A. On appeal, the tribunal held that petitioner failed to consider the certified standing orders that enables the second respondent to engage the apprentice. Aggrieved petitioner invoked writ jurisdiction.

Madras HC relying on its own decision in *M.R.F. Ltd vs. The Presiding Officer, EPF Appellate Tribunal New Delhi and others*¹ and Supreme Court's decision in *the Regional Provident Fund Commissioner, Mangalore V. M/s Central Aerca nut and Coca Marketing and Processing Co-op Ltd.*² held that apprentices appointed under the Apprentices Act, 1961 or under standing orders cannot be considered to be employees under the EPF Act.

3. Statutory settlement u/s 12(3) of the ID Act exclude trainees from the purview of EPF Act held Madras HC.

Hindustan Motor Finance Corporation Ltd. V. the Regional Provident Fund Commissioner & Ors. [W.P No. 15146 of 2022; dt. September 11, 2025]

The subject matter of the present writ petition is the order passed by the Central Government Industrial Tribunal (in short “CGIT”) confirming the order passed by the first respondent u/s 7A of the EPF Act.

¹ (WP NO.26590 of 2003

² 2006 (2) SCC 381

Labour & Employment Update

October 2025; Issue No. 27

Petitioner contended that 152 persons engaged by the establishment are not employees, they are trainees in respect of which establishment is not liable to remit provident fund contributions. The second respondent, recovery officer, contended that 152 persons are workmen not trainees thereby attract the provisions of the EPF Act. Aggrieved petitioner preferred an appeal before the CGIT which got dismissed.

On appeal the Madras HC held. petitioner entered into a settlement agreement u/s 12(3) of the Industrial Disputes Act, 1947. As per the statutory settlement they are trainees engaged on monthly stipend during the relevant period and expressly forgone the benefit of provident fund hence the liability to pay provident fund does not arise.

The Insolvency and Bankruptcy Code, 2016 (in short “IBC”)

4. Section 14(1) of IBC prohibits initiation or continuation of claims during moratorium period held NCLAT, Delhi

Regional Provident Fund Commissioner V. Harry Dhaul [Company Appeal (AT) (Insolvency No. 1691 of 2024); dt. September 18, 2025]

The issue for consideration before NCLAT, Delhi is whether any claim of EPFO, based on inquiry u/s 7A of the EPF Act, is admissible by the adjudicating authority under IBC by virtue of sec 14(1) of the IBC.

Factual matrix of this case is a resolution plan for a corporate debtor was approved by the adjudicating authority. During the insolvency resolution process EPFO has made an inquiry and assessed the dues u/s 7A of the EPF Act and submitted its claims. The adjudicating authority approved the resolution plan inclusive of claim of EPFO. Aggrieved parties approached the NCLAT.

NCLAT relying on its own decision in *CA Pankaj Shah Vs Employee Provident Fund Organisation & Anr*³. and decision of SC in *Rajendra K. Bhutta Vs Maharashtra Housing and Area Development Authority*⁴, **held**, even though the claim of EPFO was submitted before the approval of the Committee of Creditors, was not entertainable since the claim arose out of proceedings which were prohibited u/s 14(1) of IBC.

³ CA (AT) (Ins) No. 17 of 2025

⁴ (2020) 13 SCC 208

Labour & Employment Update

October 2025; Issue No. 27

The Employees' State Insurance Act, 1948 (in short "*ESI Act*")

5. Workers engaged for preoperative fit-out works by the employer not fall under the ambit of 'employee' definition given u/s 2(9) of the ESI Act held Kerala High Court.

The Regional Director, ESI Corporation and Anr. V. M/S L & T Tech Park Ltd and Anr. [Ins app. No. 3 of 2014; dt. August 20, 2025]

The issue before the Kerala HC is *whether section 2(9) of the ESI Act covers the workers engaged for pre-operative fit-out works by the employer.*

The corporate office of the second respondent, Tata Consultancy Services, situated at Mumbai is an establishment covered under the ESI Act during the relevant period. First respondent, L&T Tech Park Ltd., is not an establishment covered under the ESI Act which owned a building constructed for establishments providing IT and IT enabled services. Second respondent took lease of the certain floors of the said building from the first respondent to start a new unit. Even before the execution of deed, the second respondent awarded a contract in favour of the first respondent to do the interior fit-out works in the premises. Since the burden to meet the ESI contribution was on the first respondent, second respondent deducted an amount from the value of the contract and remitted the same to the ESI Corporation.

First respondent sought a refund, arguing that the workers engaged in construction sites are exempted under the ESI Act. The ESI Court held that the workers employed for executing pre-operative fit-out works are not employees under Section 2(9) of the ESI Act and hence, no contribution is payable on their behalf.

On appeal the **Kerala HC held**, while doing the fit-out works in the premises, the establishment was not existing and hence the fit-out construction works cannot be termed as a preliminary or an incidental one. In relation to the corporate office of the second respondent at Mumbai, the works are outside its premises. If there is functional unity and integrity between the corporate office and the new unit at Kochi, the appellant can rope in the fit-out construction works in the new unit under ESI coverage. The functional unity and integrity between two units can be assessed only if both the units are existing.

Labour & Employment Update

October 2025; Issue No. 27

2. Circulars/Notifications

EPFO has launched revamped version of ECR

EPFO vide circular dt. September 26, 2025 introduced revamped version of electronic challan cum return (ECR) and is enforceable w.e.f. from wage month September 2025 and given a transition period of four months to employers.

Salient features:

1. New version of ECR segregates the filing process from the payment generation process.
2. System based validation of data provided in the ECR.
3. Provides for calculation of interest u/s 7Q and damages u/s 14B of the EPF Act.
4. In case of delay, interest shall be payable.
5. No change in the ECR format.
6. Provision for revision of ECR and chronological filing of ECR.
7. Facility to add new employees who are not included in the regular return by the way of supplementary return.
8. Revamped facility provides for different payment options such as full payment, part payment, payment of admin/inspection charges, interest and damages etc.

Disclaimer:

Current update has been intended for informational purposes only. The information provided in the current issue of the 'Labour & Employment Update' neither constitute a legal advice/opinion nor it intend to solicit any work. In case of any queries in relation to any of the issues reported herein please feel free to contact at narahari@nharico.com.