



ANNUAL REPORT 2022-2023

National Company Law Tribunal

Block No. 3, Ground, 6th, 7th & 8th floor, C.G.O. Complex,
Lodhi Road, New Delhi-110003

National Company Law Tribunal
Block No. 3, Ground, 6th, 7th & 8th floor, C.G.O. Complex,
Lodhi Road, New Delhi-110003



**Annual Report
2022-2023**

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Insolvency and Bankruptcy Code, 2016

Preamble



An Act to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India and for matters connected therewith or incidental thereto.

FROM THE DESK OF HON'BLE PRESIDENT, NCLT



On 1st November, 2021, I embarked on yet another journey into a new facet of the judicial process, to regulate and empower the corporates of modern India, post-glasnost and Perestroika, free trade and limitless trans-border business enterprises. I accepted the mantle to helm the National Company Law Tribunal (NCLT) formed for redefining the Adjudication and oversight process for Corporates. It came with an added responsibility to deal with cases under a new law, the Insolvency & Bankruptcy Code, 2016. The beginning was not all "bright and sunny". With no head of the institution in place for a considerable period, NCLT was engulfed in a mist of uncertainty, vague and misconceived public criticism.

The National Company Law Tribunal was formed for the adjudication of company law cases transferred from all Hon'ble High Courts and the Company Law Tribunal with a sanctioned strength at 62 Members and One President. The narrative and working pace of NCLT changed with the advent of IBC notifying NCLT as the Adjudicating Authority.

Insolvency cases came with timelines. The scope and ambit of IBC were very expansive. It enabled a spate of litigation before the NCLT. The Act, the process, the regulations became a subject of hot debate and multiple judicial challenges. The Appellate forum, the Hon'ble High Courts and the Hon'ble Supreme Court of India were able to guide the judicial process by a number of landmark decisions. It kept the adjudication process moving.

The setback came with Covid-19 and derailed the process. The post Covid-19 aggregation of cases and the short supply of Members, Infrastructure insufficiency, inter alia, caused delays in CIRP owing to this turn of events. The criticism of NCLT's functioning and its ability to deliver became loud and frequent.

It is at this juncture that I took charge as President of NCLT on the request of the then Hon'ble Chief Justice of India Sh. N. V. Ramana to steer the institution which was badly in need of direction and proper administration.

The object of IBC and the role of NCLT have been captured in the preamble:-
An Act to consolidate and amend the laws relating to reorganization and insolvency resolution of

corporate persons, partnership firms and individuals in a time-bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters connected therewith or incidental thereto.

The object of the Companies Act and the role of NCLT is to better administer and regulate the Corporates of India and to safeguard the wealth and make India a favoured destination for trade & commerce.

We began with a motto,

"Empower the corporates and resolve the conflicts; decode the code and simplify the mode."

My objective will be to elevate NCLT as a performing tribunal with the support of my Members, the legal fraternity, the Regulator, the Ministry and other stakeholders.

The Annual Report reflects our critical course correction and focus on better and efficient adjudication. The objective is to gain institutional confidence for all stakeholders and keep our thoughts and focus on the timelines in adjudication of company cases as well as IBC cases. The Government's endeavour "Viksit Bharat" will be the guiding star.

"The only way to learn is to do it." - Archimedes

"We are learning to do it" - NCLT

Jai Hind

Chief Justice (R.) Ramalingam Sudhakar

President, NCLT

CONSTITUTION OF NCLT



The National Company Law Tribunal (NCLT) constituted under the provisions of the Companies Act, 2013 was formally established on 1st June 2016 by the Government of India. Its establishment was based on the recommendations of the Justice Eradi Committee, which advocated for a unified forum to adjudicate matters relating to company law and insolvency, thereby eliminating the need for multiple adjudicating bodies. The creation of NCLT aimed to streamline the corporate dispute resolution process by consolidating the functions of the Company Law Board (CLB), the Board for Industrial and Financial Reconstruction (BIFR), and the Appellate Authority for Industrial and Financial Reconstruction (AAIFR). Certain company law matters previously dealt with by the High Courts are to be dealt with by the NCLT, bringing all company-related disputes under a single, specialized quasi-judicial body. After enactment of Insolvency and Bankruptcy Code (IBC) in 2016, NCLT has been designated as Adjudicating Authority. The NCLT was envisioned as a key institutional reform to ensure efficiency, consistency, and faster resolution of corporate and insolvency matters in India. Its formation marked a significant step towards modernizing the corporate legal framework and improving the ease of doing business in the country.

VISION



The vision of the National Company Law Tribunal (NCLT) is to emerge as an efficient judicial institution that ensures timely and effective adjudication of disputes related to company law, corporate insolvency and individual insolvency of personal guarantors.

MISSION



- a. To act as an efficient judicial body for the fair and timely adjudication of matters under Companies Act and Insolvency and Bankruptcy Code.
- b. To provide a speedy and efficient resolution mechanism for corporate disputes, thereby fostering a legally secure environment that supports good corporate governance and instills stakeholders' confidence.

MANDATE



- a. Providing an efficient, and unified forum for the resolution of disputes and matters arising under the Companies Act and the Insolvency and Bankruptcy Code.
- b. Promote corporate governance and legal compliance, while safeguarding the interests of shareholders, creditors, employees, and other stakeholders involved in the corporate ecosystem.
- c. Facilitate the revival and rehabilitation of financially distressed companies through timely insolvency resolution process, thereby ensuring maximization of value of assets, promote entrepreneurship, availability of credit, and balancing the interest of stakeholders.
- d. Contribute to the broader goal of strengthening India's corporate regulatory framework and fostering trust and discipline in the corporate ecosystem, thereby advancing the ease of doing business in the Indian economy.
- e. Resolving the insolvency of individual debtors (personal guarantors) and putting them back on their feet to utilize their enterprising thought process and caliber, free from mental stress.
- f. Reduction of NPAs substantially, as ancillary ramification of discharge of function under IBC.

FUNCTIONS



The National Company Law Tribunal (NCLT) performs a wide range of functions as a specialized judicial body under the Companies Act, 2013 and designated as the Adjudicating Authority under the Insolvency and Bankruptcy Code (IBC), 2016. Its functions *inter alia* are as follows:

- a. To adjudicate disputes related to oppression and mismanagement, class action suits, reduction of share capital, rectification of the register of members, amalgamations and mergers, restoration of the name of Company, winding up and other functions under the Companies Act.
- b. Has the exclusive jurisdiction to commence and adjudicate Corporate Insolvency Resolution Process (CIRP) cases and pass necessary orders.
- c. Has the jurisdiction to commence and adjudicate Insolvency Resolution Process for Personal Guarantors to Corporate Debtors, which include orders on repayment plan and bankruptcy.
- d. Plays an important role in ensuring compliance with the timeline prescribed under the provisions of the IBC.

ORGANISATIONAL SET UP



The Central Government has constituted National Company Law Tribunal (NCLT) under section 408 of the Companies Act, 2013 (18 of 2013) w.e.f. 1st June 2016.

The National Company Law Tribunal is headed by Hon'ble President, Mr. Justice Ramalingam Sudhakar, retired Chief Justice, Manipur High Court. The Hon'ble President sits at the Principal Bench New Delhi. The sanctioned strength of NCLT Members is 62. The Hon'ble Members are posted at various Benches of the Tribunal. Out of the 62 Hon'ble Members, 31 are Judicial Members and 31 are Technical Members. Subject to other provisions of the Act, a Bench consists of one Judicial Member and one Technical Member.

In the first phase eleven Benches viz. Principal Bench at New Delhi and 10 other Regional Benches, were set up. Subsequently more Benches were created and set up. Presently the Benches are located at New Delhi, Ahmedabad, Allahabad, Bengaluru, Chandigarh, Chennai, Guwahati, Hyderabad, Kolkata and Mumbai; Jaipur (w.e.f. 1st July 2018), Cuttack (w.e.f. 15th July 2018), Kochi (w.e.f. 1st August 2018), Amravati (w.e.f. 8th March 2019), and Indore (w.e.f. 8th March 2019).

JURISDICTION OF NCLT BENCHES

S.No.	Bench	Location	Area Covered
1	(a) NCLT, Principal Bench.	Block No. 3, Ground 6th,7th & 8th Floor, CGO Complex, Lodhi Road, New Delhi-110003	(1) Union Territory of Delhi
	(b)NCLT, New Delhi Bench.	Block No. 3, Ground 6th,7th & 8th Floor, CGO Complex, Lodhi Road, New Delhi-110003	
2	NCLT Ahmedabad Bench.	1st & 2nd Floor, Corporate Bhawan, Beside Zydus Hospital, Thaltej, Ahmedabad- 380059	(1) State of Gujarat (2) Union Territory of Dadra and Nagar Haveli (3) Union Territory of Daman and Diu
3	NCLT Allahabad Bench.	6/7B Pannanlal Road, Ganganath Jha Sanskrit Vidyalaya, Post - Kacheri Prayagraj, Allahabad - 211002	(1) State of Uttar Pradesh (2) State of Uttarakhand
4	NCLT Amravati Bench.	First Floor, APIIC Building IT Park, Mangalagiri, Andhra Pradesh-522503	(1) State of Andhra Pradesh

S.No.	Bench	Location	Area Covered
5	NCLT Bengaluru Bench.	Corporate Bhawan, 12th Floor, Raheja Towers,(1) State of Karnataka M.G., Road, Bengaluru 560001	
6	NCLT Chandigarh Bench.	Ground Floor, Corporate Bhawan, Sector-27 B, Madhya Marg, Chandigarh-160019	(1) State of Himachal Pradesh (2) State of Jammu and Kashmir (3) State of Punjab (4) Union Territory of Chandigarh (5) State of Haryana
7	NCLT Chennai Bench.	Corporate Bhawan (UTI Building),3rd Floor, No. 29 Rajaji Salai,Chennai- 600001	(1) State of Tamil Nadu (2) Union Territory of Puducherry
8	NCLT Cuttack Bench.	Corporate Bhawan, CDA, Sector-1,Cuttack- 753014	(1) State of Chhattisgarh. (2) State of Odisha.

S.No.	Bench	Location	Area Covered
9	NCLT Guwahati Bench.	1 st Floor, BSNL Bhawan Building, Ananda Ram Baruah Road, Panbazar, Guwahati-781001	(1) State of Arunachal Pradesh (2) State of Assam (3) State of Manipur (4) State of Mizoram (5) State of Meghalaya (6) State of Nagaland (7) State of Sikkim (8) State of Tripura
10	NCLT Hyderabad Bench.	Corporate Bhawan, Bandlaguda Tattiannaram Village, Hayatnagar Mandal, Rangareddy District, Hyderabad-500068	(1) State of Telangana
11	NCLT Indore Bench.	Office No. 1 & 7, RCM-11, Anandvan, Scheme No. 140, Indore, PIN-452016 (Madhya Pradesh)	(1) State of Madhya Pradesh
12	NCLT Jaipur Bench.	Corporate Bhawan, Residency Area,Civil Lines,Jaipur-302001	(1) State of Rajasthan.
13	NCLT Kochi Bench.	Company Law Bhawan, BMC Road, Thrikkakara - (PO) Kakkanand, Kochi- 682021(Kerala)	(1) State of Kerala (2) Union Territory of Lakshadweep

S.No.	Bench	Location	Area Covered
14	NCLT Kolkata Bench.	5, Esplanade Row (West), Town Hall Ground and 1 st Floor, Kolkata- 700001	(1) State of Bihar (2) State of Jharkhand (3) State of West Bengal (4) Union Territory of Andaman and Nicobar Island
15	NCLT Mumbai Bench.	4 th , 5 th , 6 th Floor, MTNL Exchange Building, Near G.D. Somani Memorial School, G.D.Somani Marg, Cuffe Parade, Mumbai-400005	(1) State of Maharashtra (2) State of Goa

HON'BLE MEMBERS JUDICIAL

(AS ON 31.03.2023)



Hon'ble Chief Justice (R) Ramalingam Sudhakar

DOB: 14-02-1959

Appointed as President, NCLT
on 01-11-2021



Hon'ble Dr.
PSN Prasad
DOB: 07-12-1959
Appointed on 04-07-2019
Chandigarh Bench



Hon'ble Shri
H.V. Subbarao
DOB: 02-08-1965
Appointed on 04-07-2019
Guwahati Bench



Hon'ble Justice
T Rajani
DOB: 06-11-1958
Appointed on 20-09-2021
Amravati Bench



Hon'ble Shri
P. Mohanraj
DOB: 10-05-1959
Appointed on 15-09-2021
Cuttack Bench



Hon'ble Shri
Harnam Singh Thakur
DOB: 19-08-1960
Appointed on 16-09-2021
Chandigarh Bench



Hon'ble Shri
Deep Chandra Joshi
DOB: 17-03-1961
Appointed on 13-09-2021
Jaipur Bench



Hon'ble Shri
Rohit Kapoor
DOB: 19-02-1964
Appointed on 14-09-2021
Kolkata Bench



Hon'ble Dr.
Badri Nath Nandula
DOB: 12-03-1960
Appointed on 04-10-2021
Hyderabad Bench



Hon'ble Shri
Bachu Venkat Balaram Das
DOB: 20-05-1962
Appointed on 18-10-2021
Delhi Bench



Hon'ble Shri
Vemulapalli Kishore
DOB: 14-07-1963
Appointed on 06-12-2021
Mumbai Bench



Hon'ble Ms.
T. Krishna Valli
DOB: 28-09-1959
Appointed on 22-11-2022
Kochi Bench



Hon'ble Shri
Kuldeep Kumar Kaireer
DOB: 25-12-1959
Appointed on 18-11-2022
Mumbai Bench



Hon'ble Shri
A. K. Bhardwaj
DOB: 06-08-1967
Appointed on 18-11-2022
Delhi Bench



Hon'ble Shri
Praveen Kumar Gupta
DOB: 31-10-1962
Appointed on 18-11-2022
Allahabad Bench



Hon'ble Shri
Mahendra Khandelwal
DOB: 08-03-1963
Appointed on 18-01-2023
Delhi Bench



Hon'ble Ms.
Bidisha Banerjee
DOB: 28-01-1970
Appointed on 18-11-2022
Kolkata Bench



Hon'ble Shri
Sanjiv Jain
DOB: 01-01-1963
Appointed on 04-01-2023
Chennai Bench



Hon'ble Shri
Shammi Khan
DOB: 08-04-1968
Appointed on 20-02-2023
Ahmedabad Bench

HON'BLE MEMBERS TECHNICAL

(AS ON 31.03.2023)



Hon'ble Shri
S.B. Gautam
DOB: 04-08-1959
Appointed on 03-07-2019
Kochi Bench



Hon'ble Shri
L.N. Gupta
DOB: 17-08-1959
Appointed on 04-07-2019
Chandigarh Bench



Hon'ble Shri
S. R. Prasad
DOB: 10-06-1963
Appointed on 24-07-2019
Guwahati Bench



Hon'ble Shri
Prasanta Kumar Mohanty
DOB: 21-04-1958
Appointed on 04-07-2019
Guwahati Bench



Hon'ble Dr.
Binod Kumar Sinha
DOB: 01-11-1958
Appointed on 28-06-2019
Delhi Bench



Hon'ble Shri
Rahul Prasad Bhatnagar
DOB: 24-09-1959
Appointed on 13-09-2021
Delhi Bench



Hon'ble Shri
Balraj Joshi
DOB: 21-12-1959
Appointed on 16-09-2021
Kolkata Bench



Hon'ble Shri
M.K. Dubey
DOB: 20-08-1961
Appointed on 18-11-2022
Bengaluru Bench



Hon'ble Shri
Avinash Srivastava
DOB: 23-01-1960
Appointed on 13-09-2021
Principal Bench



Hon'ble Shri
Subrata Kumar Dash
DOB: 20-06-1960
Appointed on 19-07-2023
Delhi Bench



Hon'ble Shri
K. K. Singh
DOB: 15-11-1961
Appointed on 01-10-2021
Chandigarh Bench



Hon'ble Shri
Sameer Kakar
DOB: 16-09-1963
Appointed on 09-10-2021
Mumbai Bench



Hon'ble Shri
Prabhat Kumar
DOB: 30-06-1967
Appointed on 18-11-2022
Mumbai Bench



Hon'ble Shri
Charan Singh
DOB: 01-07-1960
Appointed on 18-11-2022
Hyderabad Bench



Hon'ble Shri
Anu J. Singh
DOB: 20-08-1961
Appointed on 18-11-2022
Delhi Bench



Hon'ble Shri
A. K. Verma
DOB: 01-01-1962
Appointed on 18-11-2022
Allahabad Bench



Hon'ble Shri
Atul Chaturvedi
DOB: 17-07-1962
Appointed on 18-11-2022
Delhi Bench



Hon'ble Ms.
Madhu Sinha
DOB: 26-11-1960
Appointed on 09-12-2022
Mumbai Bench

HON'BLE MEMBERS DEMITTED OFFICE

(DURING THE PERIOD 01.04.2022 TO 31.03.2023)



Hon'ble Shri
Bhaskara Pantula Mohan
DOB: 15-04-1960
Demitted on 26-07-2022
Hyderabad Bench



Hon'ble Shri
Mohammed Ajmal
DOB: 02-11-1959
Demitted on 03-07-2022
Mumbai Bench



Hon'ble Shri
A K Vatsavayi
DOB: 09-07-1962
Demitted on 26-06-2022
Bengaluru Bench



Hon'ble Shri
V K Rajsekhar
DOB: 19-07-1968
Demitted on 03-07-2022
Kolkata Bench



Hon'ble Ms.
Suchitra Kanuparthi
DOB: 22-06-1968
Demitted on 03-07-2022
Delhi Bench



Hon'ble Ms.
Sucharita R
DOB: 03-04-1967
Demitted on 03-07-2022
Chennai Bench



Hon'ble Shri
Abni Ranjan Kumar Sinha
DOB: 14-01-1958
Demitted on 20-06-2022
Delhi Bench



Hon'ble Justice
Ramathilagam
DOB: 25-09-1957
Demitted on 24-09-2022
Chennai Bench



Hon'ble Shri
Dharminder Singh
DOB: 07-03-1969
Demitted on 18-10-2022
Delhi Bench



Hon'ble Dr.
Deepti Mukesh
DOB: 23-11-1963
Demitted on 14-02-2023
Ahmedabad Bench



Hon'ble Shri
M B Gosavi
DOB: 14-07-1958
Demitted on 18-03-2023
Ahmedabad Bench



Hon'ble Shri
H.C. Suri
DOB: 20-07-1957
Demitted on 19-07-2022
Kolkata Bench



Hon'ble Shri
Kapal Kumar Vohra
DOB: 20-05-1958
Demitted on 27-06-2022
Mumbai Bench



Hon'ble Shri
Anil Kumar B
DOB: 20-05-1960
Demitted on 03-07-2022
Chennai Bench



Hon'ble Ms.
Sumita Purkayashtha
DOB: 20-06-1958
Demitted on 20-06-2022
Delhi Bench



Hon'ble Shri
Rajesh Sharma
DOB: 20-07-1965
Demitted on 25-06-2022
Mumbai Bench



Hon'ble Shri
C B Singh
DOB: 03-01-1960
Demitted on 02-07-2022
Mumbai Bench



Hon'ble Shri
Raghu Nayar
DOB: 05-06-1958
Demitted on 27-06-2022
Jaipur Bench



Hon'ble Dr.
Veera Brahma Rao Arekapudi
DOB: 20-10-1957
Demitted on 02-07-2022
Hyderabad Bench



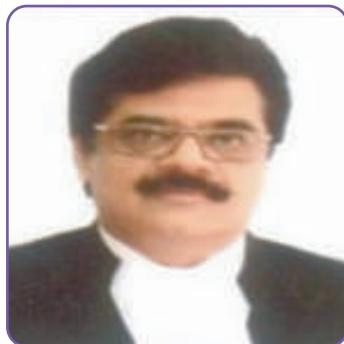
Hon'ble Shri
Hemant Kumar Sarangi
DOB: 18-10-1958
Demitted on 23-06-2022
New Delhi Bench



Hon'ble Shri
N K Bhola
DOB: 08-09-1958
Demitted on 27-06-2022
New Delhi Bench



Hon'ble Shri
V K Gupta
DOB: 27-05-1961
Demitted on 02-07-2022
Allahabad Bench



Hon'ble Justice
P N Deshmukh
DOB: 11-02-1958
Demitted on 10-02-2023
Mumbai Bench

OFFICERS & STAFF

(AS ON 31.03.2024)

Year 2022-23

S.N o.	Designation (JR/DR/AR)	Name	Bench
1	Secretary	Sh. Anupram Lahiri (17.12.2020 - Present)	NCLT, New Delhi
2	Registrar	Sh. Shwaymbhu (06.10.2022 - Present)	NCLT, New Delhi
3	Financial Advisor	Sh. Tsewang Tharchin (07.07.2021 - Present)	NCLT, New Delhi
4	Joint Registrar	Sh. Shaju T J (06.08.2021 - Present)	NCLT, New Delhi
5	Joint Registrar	Sh. Kamal Sultanpuri (02.05.2022 - Present)	NCLT, New Delhi
6	Joint Registrar	Dr. Sachiv Kumar (24.05.2022 - Present)	NCLT, New Delhi
7	Joint Registrar	Shri. Ramakant Kar (22.10.2020 - Present)	NCLT, Mumbai
8	Deputy Registrar	Shri. Sachin Kumar Basant Bayas (25.05.2021 - Present)	NCLT, Mumbai
9	Deputy Registrar	Shri. Ravindra Sonawane (25.05.2021 - Present)	NCLT, Mumbai
10	Assistant Registrar	Sh. Boby Narayan (01.04.2022 - Present)	NCLT, New Delhi
11	Assistant Registrar	Sh. Rajesh Sharma (03.10.2022 - Present)	NCLT, New Delhi
12	Assistant Registrar	Sh. Raj Vaibhav (31.05.2021 - Present)	NCLT, Ahmedabad
13	Assistant Registrar	Mr. P.K. Tiwari (07.06.2022 - Present)	NCLT, Chandigarh
14	Assistant Registrar	J. Merlin Metilda Marthi (26.05.2022 - Present)	NCLT, Chennai
15	Assistant Registrar	Sh. Lalit Kumar Pathak (13.10.2022 - Present)	NCLT, Guwahati
16	Assistant Registrar	Shri. Kalanidhi Sanjiv (08.06.2021- Present)	NCLT, Hyderabad
17	Assistant Registrar	Sh. Virendra Singh Shekhawat (30.09.2022 - Present)	NCLT, Jaipur

OFFICERS AND STAFF DEMITTED OFFICE

(DURING THE PERIOD 01.04.2022 TO 31.03.2023)

Year 2022-23

S.No	Designation (JR/DR/AR)	Name	Bench
1	Deputy Registrar	Mr. Kartikeya Verma (25.03.2021 to 23.03.2023)	NCLT, Chandigarh
2	Assistant Registrar	Ms. Nasreen Bano Siddiqui (02.04.2018 to 01.04.2022)	NCLT, New Delhi

**SANCTIONED STRENGTH
AND HON'BLE MEMBERS
IN POSITION**



Sanctioned Strength of Members in NCLT

Hon'ble President - 01

Hon'ble Members (Judicial) - 31

Hon'ble Members (Technical) - 31



**Present Strength of NCLT
(As on 31.03.2023)**

Hon'ble President - 01

Hon'ble Members (Judicial) - 18

Hon'ble Members (Technical) - 18

HIGHLIGHTS OF THE YEAR



NATIONAL COMPANY LAW TRIBUNAL (NCLT) – PERFORMANCE OVERVIEW FOR FY 2022 – 23

During the Financial Year 2022–23, the National Company Law Tribunal continued to play a central role in India's corporate adjudication and insolvency resolution framework, handling a substantial and diverse caseload across matters arising under the Companies Act, the Insolvency and Bankruptcy Code, 2016, and schemes of Merger and Amalgamation. The overall performance during the year reflects the Tribunal's sustained efforts to balance legacy pendency with a steady inflow of fresh matters, while maintaining focus on timely and effective disposal.

The Insolvency and Bankruptcy Board of India, in its Annual Report for 2022–23, highlighted that the Code has largely succeeded in rescuing viable corporate debtors, preserving economic value, and promoting early resolution of financial stress, with a significant proportion of distressed assets being addressed through resolution rather than liquidation. The report underscored improvements in recovery outcomes, behavioural changes among debtors towards early stress resolution, and the creation of a credible, time-bound insolvency ecosystem.

These findings were reinforced by the Economic Survey 2022–23, which noted that reforms such as the IBC have simplified regulatory frameworks, improved ease of doing business, strengthened debtor-creditor discipline, and enabled the release of capital locked in stressed assets through a transparent, market-driven process. Complementing these policy assessments, an empirical study by Indian Institute of Management Ahmedabad observed that firms resolved under the IBC framework have shown marked improvement in profitability, liquidity, operational efficiency, and access to credit in the post-resolution phase, reflecting growing maturity and effectiveness of the resolution process. Against this backdrop, the performance data for 2022–23 demonstrates NCLT's continuing contribution as the adjudicatory backbone of the insolvency and corporate governance regime, supporting financial stability, institutional credibility, and orderly resolution of corporate distress.

Details of Cases Filed, Disposed & Pending

Financial Year 2022-2023								
S. No.	Category	Opening Balance (as on 01.04. 2022)	Transferred from High Courts	Freshly Filed	Total	Disposed	Closing Balance (as on 31.03.2023)	Percentage of Disposal (Old and New Cases)
1	Companies Act	7,067	1	2,430	9,498	2,251	7,247	23.70%
2	M&A	1,151	1	1,746	2,897	1,721	1,176	59.41%
3	IBC	13,094	193	4,730	18,017	5,016	13,001	27.84%

NCLT's performance under Insolvency and Bankruptcy Code (IBC), Companies Act and matters pertaining to Merger & Amalgamation (M&A).

During the Financial Year 2022-2023, the National Company Law Tribunal continued to handle a substantial volume of cases across its core jurisdictions, namely matters under the Companies Act, Merger and Amalgamation (M&A), and the Insolvency and Bankruptcy Code (IBC). The data reflects both the workload carried forward at the beginning of the year and the Tribunal's capacity to manage fresh inflows while ensuring steady disposals.

Companies Act matters

As on 01.04.2022, there were 7,067 cases pending under the Companies Act. During the year, 1 case was transferred from the High Courts and 2,430 new cases were filed, taking the total caseload to 9,498 matters. Out of these, 2,251 cases were disposed of during the year, resulting in a closing balance of 7,247 cases as on 31.03.2023.

Merger and Amalgamation (M&A) matters

In M&A cases, the opening balance was 1,151 matters as on 01.04.2022. During the year, 1,746 fresh cases were filed, bringing the total number of cases handled to 2,897. The Tribunal disposed of 1,721 M&A matters during the year, leading to a closing balance of 1,176 cases as on 31.03.2023. The disposal rate stood at 59.41 percent.

Insolvency and Bankruptcy Code (IBC) matters

IBC continued to constitute the largest segment of the Tribunal's workload during the year. The opening balance under IBC stood at 13,094 cases. During the year, 193 cases were transferred from the High Courts and 4,730 fresh cases were filed, resulting in a total of 18,017 cases handled during the period. The Tribunal disposed of 5,016 IBC cases, and the closing balance as on 31.03.2023 stood at 13,001 cases.

**CASES FILED, PENDING AND DISPOSED UNDER
SECTION 7, 9 AND 10 OF IBC**

FROM 01.04.2022 TO 31.03.2023

Section of IBC, 2016	Opening Balance	No. of Cases Freshly Filed	Total (2+3)	No. of Cases Disposed	Closing Balance (as on 31.03.2023)	Percentage of Disposal (Old and New Cases)
1	2	3	4	5	6	7
Sec 7	3,935	1,166	5,101	3,158	1,943	61.9%
Sec 9	6,810	1,343	8,153	4,741	3,412	58.2%
Sec 10	345	110	455	363	92	79.8%
Total	11,090	2,619	13,709	8,262	5,447	60.3%

The number of disposed of cases during the period 01.04.2022 to 31.03.2023 is higher than freshly filed cases.

During the period from 01 April 2022 to 31 March 2023, the National Company Law Tribunal handled a significant number of insolvency cases filed under Sections 7, 9 and 10 of the Insolvency and Bankruptcy Code, 2016, reflecting both the continued inflow of cases and the Tribunal's disposal capacity.

Section 7 matters

At the beginning of the period, 3,935 cases under Section 7 were pending before the Tribunal. During the year, 1,166 fresh cases were filed, taking the total number of cases handled to 5,101. Out of these, 3,158 cases were disposed of during the period. Consequently, the closing balance as on 31.03.2023 stood at 1,943 cases. The disposal rate for Section 7 cases was 61.9 percent, indicating a steady disposal performance in financial creditor-initiated insolvency proceedings.

Section 9 matters

Under Section 9, the opening balance was 6,810 cases. During the year, 1,343 new cases were instituted, bringing the total caseload to 8,153 cases. The Tribunal disposed of 4,741 cases under this category during the period. As a result, the closing balance as on 31.03.2023 stood at 3,412 cases. The disposal percentage for Section 9 cases was 58.2 percent, reflecting continued efforts to address operational creditor-driven insolvency applications amid a high volume of filings.

Section 10 matters

Cases filed under Section 10 constituted a relatively smaller volume. The opening balance stood at 345 cases, with 110 fresh filings recorded during the year, taking the total number of cases handled to 455. During the period, 363 cases were disposed of, and the closing balance as on 31.03.2023 stood at 92 cases. The disposal rate for Section 10 cases was 79.8 percent.

**CASES FILED PENDING AND DISPOSED UNDER
SECTION 94 & 95 OF IBC**

(From 01.04.2022 to 31.03.2023)

Section of IBC, 2016	Opening Balance	No. of Cases Freshly Filed	Total (2+3)	No. of Cases Disposed	Closing Balance (as on 31.03.2023)	Percentage of Disposal (Old and New Cases)
1	2	3	4	5	6	7
Sec 94 & 95	1,449	1,681	3,130	319	2,811	10.19%

At the beginning of the period, 1,449 cases were pending. During the year, 1,681 fresh cases were filed, bringing the total caseload to 3,130 cases for disposal. Out of these, 319 cases were disposed of, resulting in a closing balance of 2,811 cases as on 31.03.2023.

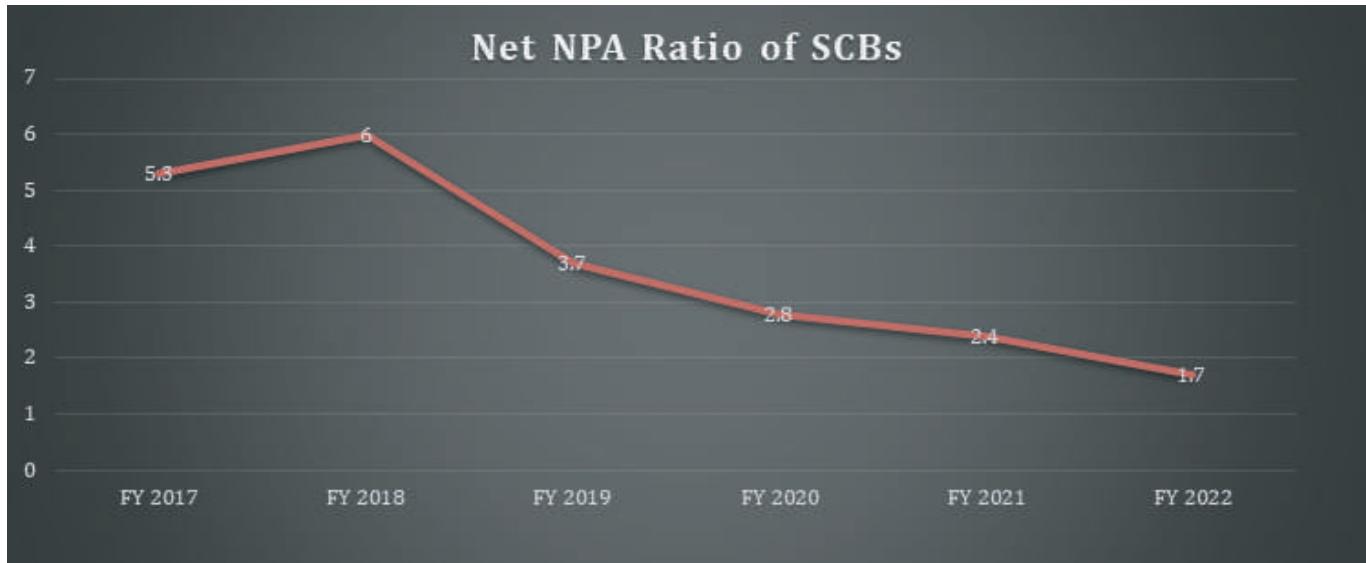
Impact of the Insolvency and Bankruptcy Code (IBC) Framework on the Profitability of Scheduled Commercial Banks

Scheduled Commercial Banks- Gross and Net NPA

<i>Fiscal Year</i>	<i>Net NPA</i>	<i>Net NPA Ratio</i>	<i>Profit of SCBs (In Cr.)</i>
FY 2017	4,33,121	5.3	43,899.50
FY 2018	5,20,838	6.0	-32,437.68
FY 2019	3,55,068	3.7	-23,397.44
FY 2020	2,89,370	2.8	10,910.70
FY 2021	2,58,050	2.4	1,21,997.57
FY 2022	2,04,231	1.7	1,82,032.09

From FY 2017 to FY 2022, Scheduled Commercial Banks (SCBs) demonstrated a clear turnaround in asset quality and profitability. Net NPAs, which peaked at ₹5.21 lakh crore with a ratio of 6.0% in FY 2018 amid significant losses, declined steadily to ₹2.04 lakh crore with a Net NPA ratio of 1.7% by FY 2022.

This sharp reduction in stressed assets was accompanied by a strong recovery in profits. SCBs moved from heavy losses of ₹32,438 crore in FY 2018 and ₹23,397 crore in FY 2019 to sustained profitability from FY 2020 onwards, reaching ₹1.82 lakh crore in FY 2022.



The sustained improvement in asset quality and profitability of Scheduled Commercial Banks (SCBs) from FY 2017 to FY 2022 reflects the effective functioning of the Insolvency and Bankruptcy Code (IBC) framework and the adjudicatory role of the National Company Law Tribunal (NCLT). Net NPAs, which peaked at ₹5.21 lakh crore with a ratio of 6.0% in FY 2018, declined steadily to ₹2.04 lakh crore with a ratio of 1.7% by FY 2022, while bank profits recovered from losses of ₹32,438 crore in FY 2018 and ₹23,397 crore in FY 2019 to ₹1.82 lakh crore in FY 2022.

This turnaround highlights the role of timely admission, resolution, and closure of stressed cases through IBC proceedings, which instilled greater credit discipline and improved recovery outcomes. By providing a structured and time-bound mechanism for insolvency resolution and liquidation, NCLT-enabled IBC processes helped banks clean up legacy stressed assets, strengthen balance sheets, and restore lending capacity. These measures contributed materially to the financial resilience and improved performance of the banking sector.

APPROVAL OF RESOLUTION PLANS

NATIONAL COMPANY LAW TRIBUNAL - (ALL BENCHES INCLUDING PRINCIPAL BENCH)

IBC Performance- Approval of Resolutions Plans

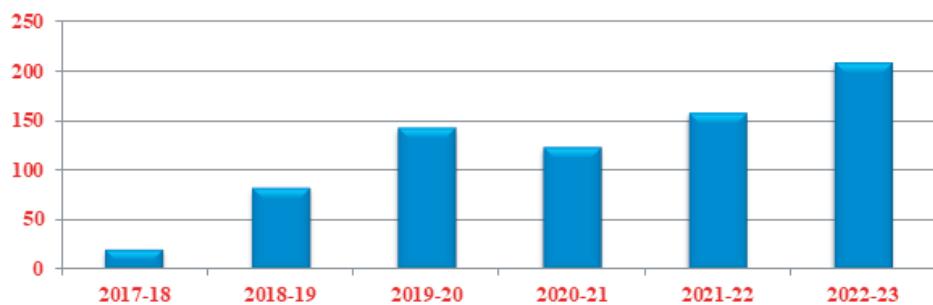
S. No.	Year	No. of Plans Approved (All NCLT Benches)	Approved Amount in Plans (in Cr.)
1	2017-18	19	₹ 3,225
2	2018-19	81	₹ 1,19,993
3	2019-20	142	₹ 59,993
4	2020-21	122	₹ 32,533
5	2021-22	157	₹ 51,041
6	2022-23	208	₹ 60,842
Total		729	₹ 3,27,627

The Insolvency and Bankruptcy Code (IBC) is designed to revive financially stressed companies through a structured, and time-bound resolution mechanism, with the approval of resolution plans by the National Company Law Tribunal forming its core. Data on approvals across NCLT Benches demonstrates a consistent and strengthening implementation of the IBC. Starting from just 19 approved plans in 2017-18, the number increased markedly to 81 in 2018-19 and 142 in 2019-20. Although the COVID-19 pandemic disrupted economic activity, approvals remained significant at 122 in 2020-21. Thereafter, momentum accelerated again, with 157 plans approved in 2021-22 and a further rise to 208 in 2022-23, reflecting the growing stability and maturity of the insolvency resolution framework.

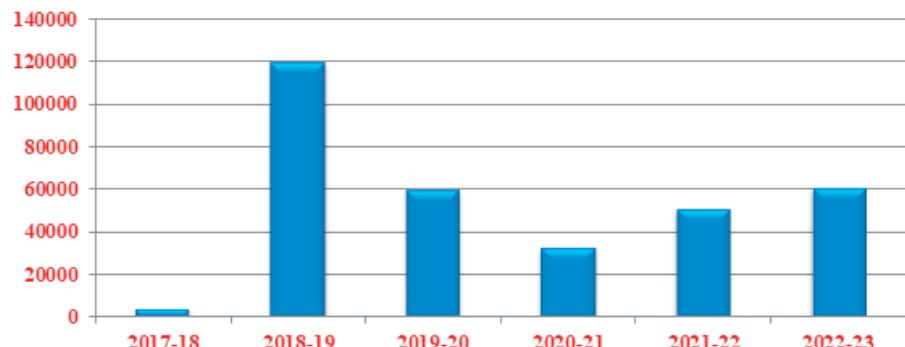
An important aspect of this trend is the concentration of approvals in recent years, highlighting improvements in institutional capacity, procedural efficiency, and case management within the NCLT system.

From a financial perspective, the 729 resolution plans approved between 2017-18 and 2022-23 involve a cumulative approved value of around ₹3.27 lakh crore, signifying a substantial flow of value back into the economy. Although annual approved amounts have differed depending on sectoral patterns and firm-specific circumstances, the overall economic contribution is considerable. Taken together, the functioning of the NCLT under the IBC regime up to 2022-23 has played a crucial role in reviving distressed assets, lowering non-performing assets in the banking sector, strengthening the financial position of banks and financial institutions, and maximising economic value, thereby reaffirming the NCLT's central role in India's corporate resolution framework.

No. of Plans Approved (All NCLT Benches)



Approved Amount in Plans (in Cr.)



INITIATIVES DURING THE YEAR



NCLT'S CONTRIBUTION IN CAPACITY BUILDING AND EMPOWERING THE IBC ECO-SYSTEM

The IBC ecosystem involves diverse stakeholders with differing interests in the Corporate Insolvency Resolution Process (CIRP). Their active involvement significantly influences the success of IBC resolutions. Essential collaboration from lawyers, Insolvency Resolution Professionals (IRPs), bankers, financial institutions, chartered accountants, company secretaries, and officials from central and state government ministries and departments is vital to streamline major litigation into a consistent adjudication framework, enabling the resolutions accomplished to date.

The NCLT President regularly engages with various forums, while NCLT Members participate in programs hosted by IBC-related institutions. These include capacity-building initiatives and conferences involving the Department of Financial Services (Government of India), EPFO, chambers of commerce, the Institute of Company Secretaries of India, bankers, and others. The Insolvency and Bankruptcy Board of India (IBBI) organizes many such events, fostering stakeholder contributions to the IBC ecosystem.



REPORT ON LONDON ROUND TABLE ON INSOLVENCY

London

Held on 26.06.2022 to 28.06.2022

National Company Law Tribunal (NCLT) as an Adjudicating body is in its nascent stage dealing with Insolvency & Bankruptcy proceedings as well as proceedings under Companies Act. From its inception in the year 2016, the number of cases being handled by NCLT is growing steadily. The impact of the Commercial Litigation is more in Insolvency & Bankruptcy cases.

I took charge as President of NCLT on 01.11.2021 and have been handling the affairs of the Tribunal proceedings since then. The first Colloquium after my entry was held on 26.03.2022 & 27.03.2022, where the Ministry of Corporate Affairs (MCA) and Insolvency & Bankruptcy Board of India (IBBI) and other stakeholders were active participants.

The importance of Insolvency & Bankruptcy proceedings within the Country and in relation to international trade and commerce has become a matter of great concern. It is even more focused after the passing of the Insolvency & Bankruptcy Code, 2016 (IBC) and the inception of NCLT.

INSOL International is a Worldwide Federation of Accountants and Lawyers who are key participants in the Insolvency & Bankruptcy proceedings. They have been actively promoting the cause of Insolvency & Bankruptcy proceedings to rehabilitate corporate which are greatly affected by indebtedness for various reasons. INSOL International works in conjunction with World Bank Group and the United Nations Commission on International Trade Law (UNCITRAL) to promote the better understanding of Insolvency & Bankruptcy proceedings across the world.

INSOL International, UNCITRAL and World Bank group had proposed International Conference on 26.06.2022 to 28.06.2022 at London. The focus of the International Conference was to assemble all the stakeholders of Insolvency proceedings across the world to discuss and deliberate upon the important issues relating to Insolvency & Bankruptcy, discuss various issues that affect the Insolvency & Bankruptcy proceedings and also to encourage discussions at different levels so that the new methods of resolution of Insolvency & Bankruptcy cases can be evolved. In addition to the biennial Colloquia, INSOL International, UNCITRAL and the World Bank had suggested The London Judicial Round Table on Insolvency, by participation of senior judges of different countries with experience in insolvency laws. Several issues which the participating judges would discuss among

themselves based on their experience in the field of Insolvency & Bankruptcy were proposed. An invitation was extended to me to attend the entire conference and The London Judicial Round Table. With the approval of the Government, I participated in the same.

The conference registration commenced on 26.06.2022 with a meeting of delegates from all over the world. In the initial meeting, member of IBBI and member representing MCA were present.

On 27.06.2022, the London Judicial Round Table on Insolvency commenced with a registration at Lincoln's Inn London. In this program, Hon'ble Justices of Insolvency Court of United Kingdom took active part in conducting the program. After registration, the program started at 09:00 A.M., Sir Alastair Norris, High Court of England & Wales, initiated the discussion and all participant judges were called upon to give a brief statement of their experiences in Insolvency proceedings, including restructuring and adapting procedures in the changing world. We also discussed "UNCITRAL Model Law on Cross-Border Insolvency: The Judicial Perspective". This was followed by discussion lead by Judge Elsbeth de Vos, District Court of Amsterdam, Netherlands along with CJ Geoffrey Morawetz, Superior Court of Ontario, Canada and Sir Richard Snowden, Court of Appeal of England & Wales. The subject was the fairness test to be applied in insolvency proceedings. One of the subjects of the discussion was whether judges are being pressured to approve restructuring because of the apparent consequences of refusing sanction. This was a very interesting subject on views expressed by various judges across the world.

After a brief lunch, at the Great Hall, Lincoln's Inn, the session started at 01:45 P.M., with a discussion led by Sir David Richards, Court of Appeal of England & Wales. The subject of discussion is as follows:-

"Have we developed techniques for domestic groups? How do we deal with multinational groups? Are parallel schemes or synthetic proceedings the answer? Would enacting the UNCITRAL Model Law on Enterprise Group Insolvency (2019) assist?"

This was new subject with great insights.

At 03:00 P.M. Hon'ble Mr. Justice Nick Segal, Grand Court of the Cayman Islands, Judge Femke Damsteegt, District Court of Rotterdam, Netherlands, dealt with Cross-Border Insolvency, where the UNCITRAL Model Law on Cross-Border Insolvency have not been enacted. The discussion went on the issue as to how common law provides for remedy in such a situation. This again is a new issue that has a far reaching implication in the times to come.

Post tea at 04:30 P.M. Hon'ble Mr. Justice Antony Zacaroli, High Court of England & Wales made a presentation on crypto assets and insolvency proceedings. The meeting went upto 05:30 P.M. and all the judges participated with a great eagerness in the discussions.

The World Bank group, UNCITRAL and INSOL International appreciated the discussion that happened during the course of the day and also appreciated the role of judges of different countries

including judge of Hon'ble Supreme Court of India who participated in proceedings in furthering the Insolvency & Bankruptcy law in the respective countries.

On 28.06.2022 various closed door conferences were held on different subjects and post lunch session a key subject was discussed namely "Practical tips from the Bench", the participant judges were :-

Hon'ble Mr. Justice Anthony Zacaroli,
Hon'ble Mr. Justice Nick Segal,
Hon'ble Judge Elizabeth Stong,
Hon'ble Judge Elsbeth de Vos &
Hon'ble Justice Sanjay Kishan Kaul

They shared their experiences in dealing with the Insolvency & Bankruptcy proceedings. They also pointed out how due to judicial intervention, the implementation of the law was effective. It was a great eye opener to all the stake holders across the world dealing with Insolvency and Bankruptcy proceedings.

India is a developing country and with great improvement in banking, commerce, finance, agriculture technology and space etc. the number of new start-ups is also increasing. Post the COVID Pandemic, many corporates and individuals are facing difficulties and their problem needs to be addressed within the framework of IBC. In this regard, the various developments that have happened on this field of law becomes relevant as a practical tip to improve speedy adjudication of cases and resolution. I wish to point out that many participating countries like United Kingdom, Singapore have given valuable inputs as to how they are speeding up the process in Insolvency & Bankruptcy proceedings. It will be worth mentioning that the members of the World Bank group, UNCITRAL are taking keen interest in development of Insolvency & Bankruptcy Law in India, so that International Trade and Commerce is also taken care of in the Indian version of the Insolvency & Bankruptcy law. In particular, they focussed on Cross-Border Insolvency.

In the various mini conferences conducted in the course of the London Conference, active participation by Shri Sudhakar Shukla, Member IBBI and Shri Garg of MCA, was of great help to me in looking into various proposals of World Bank and UNCITRAL.

Under the new IBC Code, a great number of Insolvency & Bankruptcy cases can be taken up if adequate infrastructure and man power is provided along with the technology and tools to improve the working of NCLT is devised. In this regard, I would like to mention that very useful inputs were presented in the Singapore Model on Insolvency Resolution as well as UK Model on Insolvency Resolution. In fact, I wish to mention that during the course of Judicial Round Table on 27.06.2022, the Hon'ble Justices of UK, dealing with Insolvency law took us around the Insolvency Courts as well as the High Court dealing in Insolvency jurisdiction. It is interesting to note that technology has been used more particularly artificial intelligence for effective and timely resolution of the cases. Besides, I found the infrastructure and the support system in the Insolvency Courts, in its original

adjudication jurisdiction was technologically advanced. It had the capacity to take cases of greater magnitude where the stakes were very high and complex international law was involved. Similar developments including artificial intelligence, if adopted in India will pave a way for a better and effective resolution of IBC cases.

NCLT expresses its goodwill to Government of India for enabling the President to participate in the International conference of this nature and enabled India to show case the effectiveness of new IBC Code, 2016. It also facilitated the sharing of knowledge with other Asian countries like Singapore and also European countries like UK etc. in insolvency resolution.

Such international conferences in the future will enhance the capacity building of various IBC stakeholders like MCA, NCLT & IBBI. A program of this kind is of great importance and learning, providing practical solutions and tips for effective resolution of cases by the NCLT. The effective adjudication and resolution of cases by NCLT will enhance the statute of Ministry of Corporate Affairs in its endeavour to improve the ease of doing business in India an object of the Government of India. Keeping in line with the vision of Government of India, NCLT will endeavour to show its results in the proceedings under Insolvency & Bankruptcy Code, 2016 in the years to come as and when full strength of Members is restored.

JAI HIND

Chief Justice (R.) Ramalingam Sudhakar

President, NCLT

05.08.2022

E - Court Initiatives

During 2022-23, the National Company Law Tribunal continued to strengthen its digital and procedural framework with a clear focus on efficiency, transparency, and ease of access for stakeholders. The consolidation of the Online Court System across all benches enabled end-to-end electronic case management, from filing and scrutiny to transfer and reporting. Enhanced features such as automated defect handling, customizable scrutiny checklists, controlled re-filing mechanisms, and archiving of inactive matters streamlined registry operations and reduced procedural delays. The introduction of an online inter-bench transfer module, along with comprehensive standard reporting tools, improved institutional coordination and data-driven monitoring. Simultaneously, public access to case search and tracking ensured greater transparency, reinforcing NCLT's commitment to a modern, accessible, and technology-enabled adjudicatory process.

Key Contributions for 2022-23

- All 16 benches of NCLT were onboarded to the Online Court System by March 2021.
- Ability to issue online notifications for defects at the form and document level.
- Customizable online checklist for entering remarks on defects.
- Automatically move defective cases to the Registrar's login if not re-filed in time and revoke the re-filing option for users until Registrar approves.
- Option to archive cases if not refiled by the party within the specified time.
- An online module for transferring cases between benches was introduced in the system. This module allows online transfer of cases, including all metadata, documents, and previous orders, to a new bench with NCLT's online approval.
- Generate standard reports by bench, act, and section, including case registration, pending cases, and disposal reports.
- Public access to search, track, and view any case, including connected applications, by filing number, case number, or party name.



CAPACITY BUILDING FOR COURT OFFICIALS AND STAFF

The National Company Law Tribunal conducts regular capacity-building programmes for its Court Officers and staff with the objective of improving the effectiveness and uniformity of judicial and administrative functioning across benches. The training framework equips participants with a sound understanding of the Tribunal's powers and responsibilities under the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016, while simultaneously strengthening skills related to bench management, drafting of orders, and systematic record keeping. Emphasis is also placed on the use of digital platforms such as e-filing systems, case management tools, and virtual hearing infrastructure, alongside sensitisation to professional conduct, confidentiality, and effective courtroom communication. Through practical, hands-on modules covering tasks like updating proceedings, uploading orders, handling RTI matters, and managing archived files, delivered through a combination of in-person sessions, online learning, these initiatives help ensure procedural consistency and contribute to the overall efficiency and quality of adjudication within the Tribunal.

COLLOQUIUMS



CAPACITY BUILDING THROUGH COLLOQUIUMS

As part of its ongoing effort to build institutional capacity and promote consistency in adjudication, the National Company Law Tribunal regularly organizes structured, periodic colloquiums. These forums were conceived under the leadership of the Hon'ble President, Justice Ramalingam Sudhakar, in response to the dynamic and increasingly complex legal landscape shaped by the Insolvency and Bankruptcy Code and the Companies Act, both of which are subject to frequent amendments and evolving judicial interpretation. The initiative seeks to address emerging legal ambiguities and practical challenges through focused dialogue, collective reflection, and a shared understanding among key stakeholders.

The colloquiums are designed as practice-oriented platforms rather than conventional academic discussions, with a clear emphasis on capacity building and performance improvement. Subjects are selected based on issues encountered in the day-to-day functioning of NCLT benches, and participation includes Hon'ble Members, officials from the Ministry of Corporate Affairs, IBBI, Information Utilities, banks, and other insolvency ecosystem participants. Through structured deliberations, interactive sessions, and the exchange of best practices, these engagements foster uniformity in decision-making, clarity in legal interpretation, and improved institutional coordination, thereby contributing to greater adjudicatory efficiency and disciplined use of judicial time.



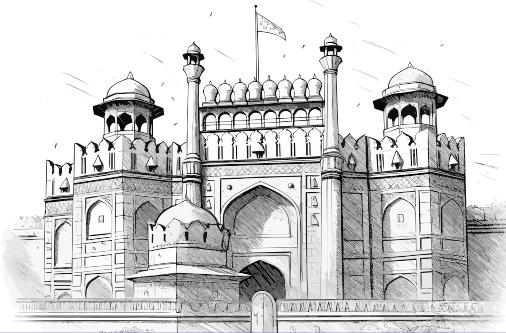
COLLOQUIUMS ORGANISED DURING THE FINANCIAL YEAR 2022-23

During the financial year 2022-23, the National Company Law Tribunal organized two colloquiums under the guidance and leadership of Hon'ble Chief Justice (Retd.) Ramalingam Sudhakar. These colloquiums were conducted in collaboration with the Insolvency and Bankruptcy Board of India and National e-Governance Services Ltd., reflecting a coordinated approach towards addressing issues within the insolvency and corporate law framework. Senior officials from the Ministry of Corporate Affairs, IBBI, NeSL, along with Hon'ble Members of NCLT, actively participated in these engagements, underscoring the value of institutional collaboration.

The colloquiums served as important forums for knowledge sharing, dialogue, and capacity building, contributing to a culture of continuous learning within the Tribunal. Through focused discussions and collective deliberations, these initiatives supported institutional strengthening and reinforced NCLT's commitment to effective, informed, and consistent adjudication in matters relating to corporate insolvency and governance.

Delhi Induction Colloquium 2022

26th November 2022 - 02nd December 2022



The Induction Colloquium was held from 26 November 2022 to 02 December 2022 with the objective of familiarizing and initiating fifteen newly appointed Hon'ble Members into the adjudicatory framework of the Companies Act, 2013 and the Insolvency and Bankruptcy Code, 2016. The programme was conceived as an in-house capacity-building initiative and was successfully organized and accomplished to provide structured institutional orientation to the newly appointed members. Despite being organized within a short span of time, the colloquium was meticulously planned and executed as an in-house initiative ably conceived under the leadership of the Hon'ble President, NCLT.

The inaugural session featured addresses by eminent speakers, including Hon'ble Justice (Retd.) Rajiv Sahai Endlaw, Former Judge, High Court of Delhi; Shri Manoj Govil, Secretary, Ministry of Corporate Affairs; Shri Ravi Mittal, Chairman, Insolvency and Bankruptcy Board of India; and Shri Praveen Kumar, Director General, Indian Institute of Corporate Affairs.

The event was executed with exceptional clarity and coordination, embodying the vision, guidance, and institutional leadership of the Hon'ble President, NCLT, Chief Justice (Retd.) Ramalingam Sudhakar. At his request, twenty-one distinguished legal luminaries delivered thematic sessions during the colloquium. Drawing upon their vast professional experience, the speakers encapsulated decades of judicial, regulatory, and practical knowledge into concise and focused sessions for the benefit of the newly inducted Members. Legal Research Assistants also participated in the programme and benefitted significantly from the deliberations.

The induction colloquium facilitated meaningful exchange of ideas. Several speakers were experienced members of the NCLT fraternity, having served as Judicial and Technical Members, which added practical depth and institutional insight to the discussions.

Despite its cost-effective nature, the programme delivered substantial value in terms of knowledge dissemination, institutional orientation, and capacity building for the newly appointed Members. The successful conduct of the programme was made possible through the active support and coordinated efforts of NCLT Officers, Registry and Administrative Staff, and Legal Research Assistants, whose dedication ensured its smooth execution.

The Induction Colloquium not only served as a meaningful orientation programme for the newly appointed Members but also established a replicable and sustainable template for future induction and capacity-building initiatives of the Tribunal.

The event commenced with a welcome address by Shri L. N. Gupta, Hon'ble Member (Technical), NCLT, New Delhi. In his remarks, he acknowledged and appreciated the contributions of both erstwhile and serving Members of the Tribunal towards the growth and success of the NCLT. He noted that, despite being a relatively young institution of just seven years, the NCLT has earned recognition for its commendable performance across both corporate and non-corporate sectors. He observed that the Tribunal has built considerable institutional goodwill and has made a meaningful contribution towards improving the ease of doing business in the country.

In his address, the Secretary, Ministry of Corporate Affairs, elaborated on the Government's ongoing efforts to strengthen judicial infrastructure and modernize court processes through upgradation of existing facilities and comprehensive reforms to the e-filing portals. He emphasized that the scale and complexity of commercial disputes have a direct bearing on the national economy. Referring to the average resolution timeline of 600–700 days, he underscored the need to address delays so that the statutory timelines prescribed under the Insolvency and Bankruptcy Code are adhered to. He observed that while the current recovery rate of around 30 percent is noteworthy, an incremental improvement of even 10 percent could result in substantial additional recoveries for the economy. He encouraged the Tribunal to adopt proactive measures to expedite proceedings and improve recovery outcomes.

Addressing the Colloquium, Hon'ble President, NCLT, Chief Justice (Retd.) Ramalingam Sudhakar, began his speech with a quote by the eminent scientist Charles Darwin:

"It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is the most adaptable to change."

Hon'ble President congratulated the newly appointed Members and reflected on the effective functioning of the NCLT despite challenges relating to limited infrastructure, shortage of Members, and lack of permanent manpower. He noted that the newly inducted Members come from distinguished and responsible services of the Government of India, each with established institutional practices and working styles. Emphasizing the relevance of adaptability, he observed that Members would need to realign their approaches to meet the unique adjudicatory mandate entrusted to the NCLT. He highlighted that this transition would require a shift in mindset to respond effectively to the expectations placed upon the Tribunal.

Towards the conclusion of the inaugural session, Shri Binod Kumar Sinha, Hon'ble Member (Technical), NCLT, New Delhi, proposed the vote of thanks. He expressed gratitude to the Hon'ble President, Members, dignitaries, speakers, participants, and the officers, staff, and Legal Research Assistants of the NCLT for their collective efforts in ensuring the successful conduct of the Colloquium.

The Colloquium brought together some of the brightest minds in the field, who shared their insights and expertise across a wide range of themes, enriching the deliberations and setting a strong tone for the sessions that followed.

The technical sessions of the Induction Colloquium were conducted over a period of five days, from 28.11.2022 to 02.12.2022. A wide range of issues were deliberated during these sessions, wherein domain experts shared their insights and practical experiences with the newly inducted Hon'ble Members. The technical sessions proved to be highly beneficial, equipping the Hon'ble Members with a deeper understanding of procedural and substantive aspects, and laying a strong foundation for their effective and successful functioning at the National Company Law Tribunal.



Hon'ble Member Shri L.N Gupta, Shri Ravi Mital, Hon'ble Chairperson IBBI; Shri Manoj Govil, Secretary MCA; Hon'ble Chief Justice (Retd) Shri Sudhakar Ramalingam, President NCLT; Justice (Retd) Rajiv Sahai Endlaw; Shri Praveen Kumar, DG IICA; Hon'ble Member Dr. Binod Sinha, NCLT



BENGALURU COLLOQUIUM

The NCLT Colloquium – New Concepts, Evolving with Technology and Resolving the Insolvency and Bankruptcy Code was held from 25 March 2023 to 26 March 2023 at Bengaluru. The programme brought together Hon'ble Members of the National Company Law Tribunal from various Benches across the country, senior officials from the Insolvency and Bankruptcy Board of India, National e-Governance Services Limited, National Informatics Centre, and officers of the NCLT Registry, along with learned representatives from the Bar.

The Colloquium provided a structured platform for deliberation on procedural, technological, and jurisprudential challenges under the Insolvency and Bankruptcy Code, with a focus on improving admission timelines, enhancing uniformity in adjudication, leveraging technology, and strengthening value maximisation outcomes.

OVERVIEW OF THE COLLOQUIUM

The two-day Colloquium was designed as an intensive and interactive forum for exchanging institutional experiences and best practices across NCLT Benches. The deliberations focused on addressing systemic delays, improving procedural efficiencies, integrating technology into adjudicatory processes, and reinforcing the core objectives of the IBC.

The key objectives of the Colloquium included:

- Identifying challenges affecting timely admission of applications under Sections 7, 9, and 10 of the IBC.
- Examining causes of delay in approval of resolution plans and related interlocutory applications.
- Discussing the role of Information Utilities and effectiveness of Records of Default.
- Exploring simplification and streamlining of procedures under Sections 230-232 of the Companies Act, 2013.
- Promoting uniformity in adjudication and exchange of best practices across NCLT Benches.
- Assessing the role of technology, data analytics, artificial intelligence, and digital platforms in improving insolvency outcomes.

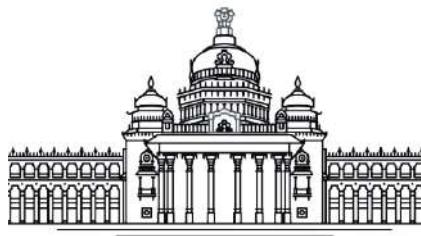
The inaugural ceremony began with the lighting of the ceremonial lamp by Hon'ble Chief Justice (Retd.) Shri Ramalingam Sudhakar, President, NCLT; Shri Debajyoti Ray Chaudhuri, MD & CEO, NeSL; Shri Ritesh Kavadia, ED, IBBI; and Hon'ble Members of the Tribunal.

Shri Debajyoti Ray Chaudhuri delivered the welcome address and opening remarks, highlighting the technological capabilities of Information Utilities, particularly NeSL, in fulfilling statutory responsibilities under the Code. He emphasised the growing importance of pre-admission information submission and the evidentiary value and effectiveness of the Record of Default.

Shri Ritesh Kavadia, ED, IBBI, shared the regulator's perspective and stated that IBBI continuously draws guidance from orders of the NCLT and NCLAT while formulating amendments to regulations. He informed the participants that multiple reforms to the Code were underway to assist stakeholders in achieving value maximisation within statutory timelines.

Hon'ble Chief Justice (Retd.) Shri Ramalingam Sudhakar, President, NCLT, delivered the special address, setting the thematic direction for the Colloquium. He urged participants to focus discussions on critical operational challenges, best practices in court functioning, and actionable recommendations to be deliberated over the two days.

KEY TAKEAWAYS OF THE BENGALURU COLLOQUIUM



SESSION 1 | ADMISSION UNDER SECTIONS 7, 9 AND 10 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016: CHALLENGES

The session focused on identifying impediments affecting timely admission of applications under the Insolvency and Bankruptcy Code, 2016, through a bench-wise analysis and perspectives shared by Hon'ble Members from various NCLT Benches.

Hon'ble Members from the Principal Bench, New Delhi, initiated the discussion by outlining key factors contributing to delays at the admission stage. These included adherence to principles of natural justice requiring hearing of all concerned parties; time consumed in removal of registry objections prior to listing; submission of voluminous documents in support of claims; stays on admission proceedings granted by the Hon'ble High Courts, NCLAT, and the Hon'ble Supreme Court; and filing of interlocutory applications at the admission stage relating to maintainability and additional documents. Other contributory factors highlighted were frequent adjournments sought by corporate debtors to gain time, by financial creditors for settlement purposes, and delays arising from change of counsel. Issues relating to lack of preparedness of advocates, complexity of multilateral contractual arrangements, reopening of admission proceedings following settlements in connected matters (such as in Raheja Developers), and allocation of multiple Benches to a single Member were also noted as causes of delay.

Hon'ble Members suggested that NeSL may explore mechanisms to assist in reducing pre-admission delays through early evaluation of debt and default status.

To address these challenges and ensure disposal of cases within statutory timelines, Hon'ble Members from the Principal Bench suggested several procedural and administrative measures, including granting shorter adjournment dates, requiring advocates to submit brief written arguments or notes to facilitate focused hearings, introducing a distinct case-numbering system for restored, revived, and stayed matters, strengthening the role of the Registry to ensure procedural completeness, and integrating verification of debt and default status along with issuance of notices to debtors through NeSL with the NCLT e-filing system.

Hon'ble Members from the Mumbai Bench shared insights on delays in high-value matters, supported by examples of cases at various stages of CIRP. Suggestions were made to enhance the digital accessibility of filings, particularly in cases involving large volumes of documents. It was recommended that applications be systematically bookmarked and exhibits made easily navigable. Shri Tuli, DDG, NIC, was requested to examine these technical requirements.

Hon'ble Members from the Hyderabad Bench emphasised the need for compartmentalisation of applications to improve readability and ease of reference. Members from the Kolkata Bench highlighted difficulties in accessing case documents, to which NIC assured corrective action. The Bengaluru Bench noted that delays often arise when financial creditors assign debts to third parties, leading to requests for rehearing by assignees. Members from the Allahabad Bench shared their practice of strictly limiting time for filing replies and rejoinders and curtailing adjournments to ensure timely disposal. Hon'ble Members from the Chennai Bench flagged challenges arising from non-appearance of parties at the admission stage and lack of cooperation even after admission.

Issues relating to treatment of One-Time Settlements at the admission stage were also deliberated. Hon'ble Chief Justice (Retd.) Shri Ramalingam Sudhakar, President, NCLT, suggested that once an OTS is accepted, the application should be dismissed, and in case of default in payment, a fresh application with a new number should be filed. Revival of earlier applications should be avoided to prevent prolonged pendency.

Hon'ble Dr. B. K. Sinha further suggested that separate numbering be introduced for corporate insolvency applications at different stages, such as admission, approval of resolution plans, and liquidation. The Hon'ble President took note of the suggestion and advised the Registry to explore its feasibility within the existing digital platform.

SESSION 2 | RESOLUTION PLANS: INTERLOCUTORY APPLICATIONS AND CAUSES OF DELAY

PRESENTERS

Shri Sameer Kakar, Hon'ble Member (Technical), NCLT Chennai

Shri Prabhat Kumar, Hon'ble Member (Technical), NCLT Mumbai

Shri Balraj Joshi, Hon'ble Member (Technical), NCLT Kolkata

MODERATOR

Shri P. S. N. Prasad, Hon'ble Member (Judicial), NCLT New Delhi

This session focused on examining the factors contributing to delays in the approval of resolution plans, particularly in relation to interlocutory applications, from the perspective of Members across different NCLT Benches. The presenters emphasised that the Information Memorandum (IM) forms the foundation of the resolution process and plays a decisive role in ensuring timely approval of resolution plans. It was observed that where the IM comprehensively addresses the interests of all stakeholders and aligns with statutory and regulatory guidelines, delays at the plan approval stage can be substantially minimised.

Hon'ble Members noted that a significant number of objections and applications are filed by unsuccessful resolution applicants, often related to promoters, whose plans have been rejected. In real estate and housing project matters, challenges typically arise from stakeholders with interests in specific properties whose concerns may not have been adequately addressed. It was emphasised

that careful drafting of the Information Memorandum at the initial stage, with due consideration to stakeholder interests, can significantly reduce litigation and delays during plan approval. The session also addressed the role of the suspended Board of Directors, which was explained through the “spilt milk” concept, underscoring that once insolvency proceedings commence, management control shifts in accordance with the statutory framework. Reference was made to the judgment of the Hon’ble Supreme Court in *Vijay Kumar Jain v. Standard Chartered Bank*, which affirms the right of suspended directors of the corporate debtor to receive copies of valuation reports and the resolution plan, reinforcing principles of transparency and procedural fairness within the insolvency process.

SESSION 3 | APPROVAL OF RESOLUTION PLANS IN REAL ESTATE CASES: KEY AREAS OF FOCUS

PRESENTERS

Shri L. N. Gupta, Hon’ble Member (Technical), NCLT New Delhi

Shri P. Mohan Raj, Hon’ble Member (Judicial), NCLT Cuttack

MODERATOR

Shri Rahul Prasad Bhatnagar, Hon’ble Member (Technical), NCLT New Delhi

The session examined the unique challenges involved in the approval of resolution plans in real estate insolvency cases, with a focus on sector-specific complexities and judicial expectations. The Hon’ble Members observed that the success of a resolution plan in real estate matters depends significantly on coordinated action by multiple statutory and regulatory authorities, whose timely clearances and approvals are critical for effective implementation.

The discussion highlighted the key components that must be addressed in resolution plans relating to real estate projects, including treatment of homebuyers, status of statutory approvals, project-wise viability, and mechanisms for completion of stalled projects. Particular emphasis was placed on ensuring that resolution plans adequately safeguard the interests of all stakeholders, especially allottees, while remaining commercially viable.

Reference was made to landmark judicial precedents, including *Jaypee Associates Limited v. Jaypee Infratech Limited*, which have shaped the jurisprudence governing real estate insolvency and underscored the need for tailored resolution frameworks in this sector. The session reinforced the importance of judicial consistency and regulatory coordination in facilitating timely and effective resolution of real estate insolvency cases.

SESSION 4 | ROLE OF INFORMATION UTILITIES AND EFFECTIVENESS OF RECORD OF DEFAULT

PRESENTER

Shri Araventhan S. E.

National e-Governance Services Limited (NeSL)

This session focused on the role of Information Utilities in strengthening the insolvency resolution framework, with particular emphasis on the effectiveness of the Record of Default (RoD). Shri Araventhan explained that systematic aggregation of financial information at the pre-insolvency stage is a cornerstone of India's insolvency architecture, enabling prompt, efficient, and evidence-based resolution processes under the Insolvency and Bankruptcy Code.

He highlighted that statutory timelines prescribed under the IBC are effectively supported by Information Utilities, which function as a critical pillar of the insolvency information infrastructure. Information Utilities maintain authenticated repositories of financial information with evidentiary value, governed and regulated by the Insolvency and Bankruptcy Board of India, thereby enhancing objectivity and reducing disputes at the admission stage.

During the discussion, Hon'ble President, NCLT, suggested that Regulation 20(1A) of the IBBI (Information Utilities) Regulations may be amended to strengthen pre-admission compliance. It was proposed that, prior to filing an application to initiate the Corporate Insolvency Resolution Process under Section 7 or Section 9, the creditor should be required to submit information of default to the Information Utility. The Information Utility would then process the information and issue the Record of Default in accordance with Regulation 21, which should mandatorily be attached with the application for initiation of CIRP.

The session underscored the importance of integrating Information Utilities more closely with the insolvency admission process to promote transparency, procedural certainty, and timely adjudication.

SESSION 5 | FRAMEWORK FOR COMPROMISES, ARRANGEMENTS AND AMALGAMATIONS UNDER THE COMPANIES ACT, 2013

PRESENTER

Shri Shyam Babu Gautam, Hon'ble Member (Technical), NCLT Mumbai

MODERATOR

Shri Venkata Subba Rao Hari, Hon'ble Member (Judicial), NCLT Mumbai

This session focused on the statutory framework governing compromises, arrangements, mergers, and amalgamations under Sections 230 to 232 of the Companies Act, 2013, with emphasis on timelines and process simplification. The Hon'ble Member traced the evolution of the merger and amalgamation regime in India and highlighted the pragmatic reforms introduced under the Companies Act, 2013.

It was noted that key reforms include the introduction of fast-track mergers, facilitation of cross-border mergers, and the establishment of the National Company Law Tribunal as the specialised adjudicatory authority for considering and approving merger and amalgamation schemes. These reforms have streamlined the approval process and enhanced shareholder participation through mechanisms such as postal ballot and e-voting.

The discussion further elaborated on Chapter XV of the Companies Act, 2013, read with the Companies (Compromises, Arrangements and Amalgamations) Rules, 2016, which comprehensively governs corporate restructuring schemes and consolidates the applicable legal provisions. The shift from the court-centric approval process under the Companies Act, 1956 to the specialised jurisdiction of the NCLT was highlighted as a significant institutional reform.

The session also covered the various types of mergers, the procedural steps involved in merger and amalgamation schemes, and the documentation requirements to be complied with at different stages of the process. The discussion provided clarity on procedural expectations and reinforced the importance of adherence to statutory timelines for expeditious disposal of corporate restructuring matters.

SESSION 6 | UNIFORMITY IN ADJUDICATION AND EXCHANGE OF BEST PRACTICES

PRESENTER

Shri Avinash Kumar Srivastava, Hon'ble Member (Technical), NCLT New Delhi

MODERATOR

Shri Bachu Venkat Balarama Das, Hon'ble Member (Judicial), NCLT New Delhi

This session focused on promoting uniformity in adjudication and sharing best practices across NCLT Benches, covering key stages of insolvency proceedings, including admission, resolution, liquidation, and adjudication of Preferential, Undervalued, Fraudulent, and Extortionate (PUFE) transactions.

Hon'ble Shri Avinash Kumar Srivastava highlighted the importance of consistency in decision-making to strengthen institutional credibility and predictability. The discussion commenced with a detailed examination of admission under Section 7 of the Insolvency and Bankruptcy Code, emphasising procedural discipline and effective case management.

The following best practices for adjudication were highlighted:

- Granting shorter adjournment dates where adjournments are unavoidable.
- Requiring brief argument notes or written submissions to facilitate focused and time-efficient hearings.
- Utilising data available in the public domain, such as information on common directors, for preliminary scrutiny.

- Simplifying registry processes through standardised applications and systematic bookmarking to enable faster navigation during scrutiny.
- Ensuring pleadings and supporting documents are filed in editable formats.
- Monitoring and, where appropriate, tracking the time taken by advocates during oral arguments.

With respect to applications under Section 9, the Hon'ble Member outlined specific best practices to be verified at the threshold stage, including confirmation of territorial jurisdiction, existence of a pre-existing dispute prior to issuance of the demand notice, effective service of the demand notice and consideration of the reply, determination of limitation with reference to the date of invoice and acknowledgements, and verification that the claim qualifies as an operational debt.

The session also addressed the adjudication of interlocutory applications relating to claims, noting that such issues may be decided by the Adjudicating Authority or, where appropriate, re-verified by the Resolution Professional based on documents placed on record. Reference was made to the judgment of the Hon'ble NCLAT in *Ram Krishan Saraf & Ors. v. Narendra Kumar Sharma, Resolution Professional of Indirapuram Habitat Centre*.

Hon'ble Shri Srivastava observed that, at present, valuation standards for real estate projects largely rely on international benchmarks and emphasised the need for the Insolvency and Bankruptcy Board of India to develop domestic valuation standards tailored to the Indian real estate sector.

Reiterating the foundational principle of the IBC, the session underscored that value maximisation of assets remains the central objective of insolvency proceedings. The "creditors-in-control" approach was highlighted, with resolution being the primary objective and liquidation treated as a measure of last resort. The sequencing followed by the Adjudicating Authority was explained as prioritising resolution first, followed by maximisation of asset value, and thereafter promotion of entrepreneurship, availability of credit, and balancing of stakeholder interests.

It was further noted that once liquidation is ordered, the objective shifts towards achieving maximum possible recovery, as illustrated through judicial precedents, including *Bank of Baroda v. Rathi Super Steels*.

In relation to PUFE transactions, reference was made to the judgment of the Hon'ble Delhi High Court in *Tata Steel Ltd. v. Venus Recruiters* dated 13 January 2023, which clarified that applications relating to avoidance transactions may be adjudicated even after approval of the resolution plan.

SESSION 7 | DATA-DRIVEN RESEARCH FOR IMPROVING OUTCOMES UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016

PRESENTER

Professor M. Jaydev

Indian Institute of Management, Bengaluru

This session focused on the role of empirical research, data analytics, and emerging technologies in enhancing the effectiveness of the Insolvency and Bankruptcy Code, 2016. Professor Jaydev presented a comprehensive overview of how data-driven approaches can inform policy design, improve functional efficiency, and strengthen insolvency outcomes. The discussion covered the economic benefits of bankruptcy laws, assessment of functional efficiency, analysis of bankruptcy data, and the potential application of artificial intelligence in insolvency processes.

He informed the participants that in 2020, IIM Bengaluru was assigned a research project by the Ministry of Corporate Affairs to predict bankruptcies using statistical and machine learning models. The study was conducted on an extensive dataset comprising 10,959 listed firm-years and approximately six million unlisted firm-years, providing a robust empirical basis for analysis.

The presentation explained the methodology used to estimate aggregate default probabilities in the post-IBC period. Default probabilities were calculated annually for individual firms and aggregated into a time series of cross-sectional averages using logistic regression models for the period from 2012 to 2020, focusing exclusively on private firms. The analysis highlighted significant policy milestones, including the rollout of the Goods and Services Tax and the introduction of the Insolvency and Bankruptcy Code in December 2016, as key reference points influencing default behaviour.

Professor Jaydev also outlined several potential areas for future research in the insolvency domain, including market efficiency as reflected in stock and bond prices, disclosure of defaults and covenant violations, out-of-court settlements, credit supply and cost of credit, contagion effects across related industries, creditor rights and financial creditor behaviour, investor behaviour and minority shareholder activism, managerial risk-taking, pre- and post-filing performance of firms, CEO retention and compensation, and cross-country comparative studies.

Towards the conclusion of the session, he discussed the prospective use of block-chain technology, explaining how distributed ledger systems could be harnessed to enhance transparency, data integrity, and trust within insolvency and financial ecosystems.

SESSION 8 | NCLT VERSION 2.0 AND INTEGRATION WITH NESL ADMISSION MODULE

PRESENTER

Mr. Manoj Tuli
National Informatics Centre (NIC)

MODERATOR

Shri S. K. Dash, Hon'ble Member (Technical), NCLT Chandigarh

This session focused on the proposed upgrade of the NCLT's digital ecosystem through the development of NCLT Version 2.0 and its integration with the NeSL admission module. Mr. Manoj Tuli outlined the vision of a "Next Generation Integrated Digital Platform" for matters under the Insolvency and Bankruptcy Code and the Companies Act, aimed at enhancing efficiency, accuracy, and transparency in tribunal processes.

The presentation highlighted the potential use of artificial intelligence in NCLT proceedings to automate routine checks, streamline workflows, and assist in early-stage scrutiny of applications. The proposed platform is envisaged as an end-to-end digital solution supporting filing, scrutiny, admission, and case management across Benches.

To operationalise the proposed digital transformation, the following institutional and infrastructural requirements were identified:

- Provision of initial funding for a pilot project.
- Creation of a dedicated Registrar (Systems) unit at New Delhi, supported by a permanent technical team, to oversee system development and maintenance.
- Deployment of permanent, dedicated staff within the Registry and computer cell to ensure continuity and institutional memory.
- Identification of functional segments for automation, including digitisation of existing processes, development of standardised upload protocols, workflow charts, and introduction of AI-assisted modules.
- Identification of design requirements in collaboration with academic and technical institutions.
- Provision of critical inputs for development and training of algorithms.
- Development of advanced query and search functionalities.
- Ensuring robust data security and protection mechanisms.

The session further outlined key functionalities that could be performed by the system at the preliminary stage through AI-assisted checks. These include verification of territorial jurisdiction based on the Corporate Identification Number of the applicant company; validation of filings by authorised representatives; confirmation that lists of shareholders and creditors are duly certified by competent professionals or company management; identification of relevant sectoral regulators for issuance of statutory notices based on the nature of business; verification of filing of latest

provisional or audited financial statements and disclosure of material pending litigations; automated validation and analysis of documents; and generation of analytical insights from submitted records.

The session underscored the importance of technology-driven reforms in strengthening institutional capacity, reducing procedural delays, and supporting time-bound adjudication under the IBC and the Companies Act.

VALEDICTORY SESSION

The Colloquium concluded with the Valedictory Session chaired by Hon'ble Chief Justice (Retd.) Shri Ramalingam Sudhakar, President, NCLT, who appreciated the depth of deliberations and emphasised the importance of technology-driven reforms, uniform adjudication standards, and continuous stakeholder engagement in strengthening the insolvency framework.



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LANDMARK JUDGMENTS

NEW DELHI PRINCIPAL BENCH

Section 10 Of the Insolvency and Bankruptcy Code, 2016 read with Rule 7 Of the Insolvency And Bankruptcy (Application To Adjudicating Authority) Rules, 2016

The Court held as under:

- We find that plea of CGST department that the present petition has been filed only to defeat the statutory dues of CGST and Central Tax Department cannot be accepted as the corporate applicant has incurred liability not only from the CGST but also towards other creditors. Also, the corporate applicant in Volume IV at Pg 456 of the present petition has attached notes forming part of its balance sheet as on 31st March 2020 wherein we find that the corporate applicant is also having other current liabilities including ESI payable of Rs. 3,55,222, EPF payable of Rs. 20,50,982, director remuneration payable Rs. 12,62,276, etc. Hence, the decision of coordinate bench will not apply to this case in facts.
- The Corporate Applicant has furnished the books of accounts for the relevant period under section 10(3)(a); the Corporate Applicant has also filed the Special Resolution passed by shareholders in general meeting dated 28th April 2020 under section 10(3)(c) as Annexure-VIII/C on page 509.

The application is free from defects and complete in all aspects as required under the law. The application shows that the Corporate Debtor is in default of a debt that is due and payable, and the default is more than the threshold amount as stipulated under section 4(1) of the Code at the relevant time. The default stands established and there is no reason to deny the admission of the present application.

-Chief Justice (Retd.) Ramalingam Sudhakar and Hon'ble President, Shri Avinash K. Srivastava, Hon'ble Member (T)

[FDS Management Service Private Limited, CP (IB) No.1085/(PB)/2020]

Order Dated: 09.01.2023

Section 7 Of the Insolvency and Bankruptcy Code, 2016 R/W Rule 4 Of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

The Court held as under:

- We have heard the Ld. Counsel for the petitioner and respondents and perused and perused the documents submitted by them. Considering the submissions made and documents placed on record, we find that default has occurred in repayment of the financial debt by the Corporate Debtor and the same has been duly acknowledged in the balance sheets of the corporate debtor for the year ending 31st March 2017

and subsequently in 2018, 2019 and 2020. Moreover, loan account bearing A/c no 0586060023019 of the corporate debtor continuously reflects payments being made by corporate debtor during the period from 10.12.2018 to 03.03.2020 and the last payment being made of Rs. 1,00,000 on 03.03.2020 to the ban to discharge their liability which shows that the present petition falls well within limitation.

- In terms of Regulation 2A of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, a certificate under Section 2 of the Bankers Book Evidence Act, 1891 dated 22.08.2022 has also been filed by the Financial Creditor stating the outstanding dues/claim amount of Rs. 126,26,79,319.14 (Rupees One Hundred Twenty-Six Crores Twenty-Six Lacs Seventy-Nine Thousand Thress Hundred Nineteen and Paise Fourteen Only)

-Chief Justice (Retd.) Ramalingam Sudhakar, Hon'ble President and Shri Avinash K. Srivastava, Hon'ble Member (T)
[Bank of Baroda vs. Great Indian Nautanki Company Private Limited, CP (IB) No. 24(PB)/2022]
Order Dated: 21.10.2022

NEW DELHI BENCH COURT II

Section 7 of the Insolvency and Bankruptcy Code, 2016

The issue in the petition was whether CIRP can be initiated solely on the basis of the unpaid interest amount when the entire principal amount of debt has been discharged during the pendency of the CIRP application.

The Bench held that from the perusal of the definitions under section 5(8)-Financial Debt, 3(11)-debt and 3(6)-claim, it is observed that the interest is not included in the term "debt" per se. Rather, the "interest" can be claimed as "financial debt" only if such debt exists. The Bench referred Hon'ble NCLAT in the matter of S. S. Polymers v. Kanodia Technoplast Ltd. [2019] ibclaw.in 193 NCLAT and held that it can be inferred that the "interest" component alone cannot be claimed or pursued, in absence of the debt, to trigger a CIR process against the corporate Debtor. Further, the application pursued for realization of the interest amount alone is against the intent of the IBC, 2016.

The Bench concluded that the CIRP against a Corporate Debtor cannot be initiated/triggered solely on the basis of the un-paid amount of interest where the entire principal amount has already been discharged by the Corporate Debtor.

-Shri Abni Ranjan Kumar Sinha and Hon'ble Member (J) and Shri L. N. Gupta, Hon'ble Member (T)
[Saraf Chits Private Limited vs. VKSS International Private Limited (Company Petition No. (IB)-255(ND)/2021)]
Order Dated: 23.05.2022

Regulation 32 of Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016

The issue in the captioned application was whether there is any bar in selling the Corporate Debtor as a going concern after the first auction and whether the Liquidator is required to seek any permission of this Adjudicating Authority for such a sale.

The Bench held that from the conjoint reading of the provisions under Regulation 32A(4) and Regulation 32(e), it can be inferred that the Corporate Debtor can be sold as going concern in the first auction. However, as regards to the word "exclusively" mentioned in the Regulation 32A(4), the Bench was of view that whereas the liquidator may sell the assets of the corporate debtor under clause (e) of regulation 32 exclusively only at the first auction, it could find no such bar in selling the assets of the Corporate Debtor in the subsequent auctions, where the Liquidator has all other options of sale as stipulated under Regulation 32A, available including selling of the Corporate Debtor as going concern.

Moreover, since the sale of assets through more than one auction had already taken place, therefore, the Liquidator has the entire basket of options available for the sale of assets as stipulated under Regulation 32 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 and the Bench found no legal disability for the Liquidator in exercising any of the methods of sale stipulated under Regulation 32 including the sale of the Corporate Debtor as going concern.

-Shri Ashok Kumar Bhardwaj, Hon'ble Member (J) and Shri L. N. Gupta, Hon'ble Member (T) [Mr. Surinder Manchanda, Sole Proprietor Sonu Trading Company Vs. Nolsar International Ltd., (la. No. 6280/ND/2022 In Company Petition No. (IB)-1031(ND)/2018)]

NEW DELHI BENCH COURT III

Regulation 32A of IBBI (Liquidation Process) Regulations, 2016 read with Rule 11 of NCLT Rules, 2016.

The Members examined whether it had the power under Regulation 32A of the IBBI (Liquidation Process) Regulations, 2016 and Rule 11 of the NCLT Rules, 2016 to grant relief sought by the applicant in relation to the sale of a corporate debtor as a going concern. The relevant provisions under Schedule 1, Clause 1, Sub-clause 12 of the Regulations mandate that the highest bidder must pay the balance sale consideration within 90 days of demand, with interest at 12% applicable after 30 days and cancellation of sale if payment is not made within 90 days.

In this case, the applicant, SMPL, was declared the successful bidder for a bid of ₹121 crores and executed a Letter of Intent (LOI) on 14.10.2021. Consequently, SMPL was required to make full payment by 13.11.2021, failing which interest would be levied. The LOI and Process Memorandum also reiterated the requirement to pay within 30 days or attract 12% interest.

Upon analyzing the IBC framework, the NCLT held that there is no provision in the Code or its Regulations empowering it to waive the payment of interest for delayed payment of consideration. Rule 11 of the NCLT Rules, which grants inherent powers, can be exercised

only to meet the ends of justice or prevent abuse of process—not to override express legal provisions. Since the Regulations, LOI, and Process Memorandum clearly provided for interest on delayed payment, the Tribunal found no basis to use its inherent powers to waive such interest.

Emphasizing that the IBC's objective is to ensure timely resolution and maximization of asset value, the NCLT concluded that interest serves as a deterrent against delay in liquidation. Accordingly, the application was dismissed in respect of prayers A and B.

*-Shri Bachu Venkat Balaram Das, Hon'ble Member (J) and Shri Narender Kumar Bholia, Hon'ble Member (T)
[Sarda Mines Pvt. Ltd. vs. Shailendra Ajmera, Liquidator- Kwality Limited, IA-5208/2021 in Company Petition (IB)-1440 (ND)/2018]*

Order Dated: 20.05.2022

Section 12A read with Section 238 of the Insolvency and Bankruptcy Code, 2016

The applicant, a promoter and suspended director of the Corporate Debtor, sought a direction compelling HDFC Bank—one of the financial creditors and a member of the Committee of Creditors (CoC)—to approve Form FA for withdrawal of the Corporate Insolvency Resolution Process (CIRP) under Section 12A of the Insolvency and Bankruptcy Code, 2016 (IBC). Although a settlement was reached between the Corporate Debtor and the Operational Creditor after commencement of CIRP, HDFC Bank refused to consent, citing that the mandatory requirement of 90% CoC approval was not met. The applicant argued that as per the RBI's Master Circular on Income Recognition, Asset Classification and Provisioning Pertaining to Advances (2015), decisions supported by 75% of lenders by value

and 60% by number in a consortium are binding on all members, and therefore HDFC Bank was obligated to follow the majority view of SBI and ICICI Bank.

The NCLT examined whether it could direct HDFC Bank to approve the withdrawal and whether the lead bank could consent on behalf of dissenting members. Referring to Sections 21(3) and 21(6) of the IBC, the Tribunal held that each CoC member independently exercises its voting rights based on its share, and the "commercial wisdom" of a CoC member cannot be interfered with by judicial direction. The Tribunal emphasized that the RBI's circulars or consortium banking norms cannot supersede or dilute statutory provisions under the IBC, as Section 12A explicitly mandates 90% voting approval for withdrawal of CIRP, and Section 238 gives the Code overriding effect over any inconsistent law or regulation.

Accordingly, the NCLT dismissed the application, holding that the absence of the required 90% CoC approval barred the withdrawal of CIRP. The Tribunal reiterated that compliance with the statutory threshold under Section 12A is mandatory, and dissenting creditors cannot be compelled to vote in a particular manner, regardless of majority lender decisions under RBI norms. This interpretation was subsequently upheld by the Hon'ble NCLAT in Comp. App. (AT)(Ins) No. 594 of 2022 on 25 January 2024, affirming that the IBC prevails over all other laws and that the commercial discretion of CoC members remains sacrosanct in insolvency proceedings.

*-Shri Bachu Venkat Balaram Das, Hon'ble Member (J) and Shri Atul Chaturvedi, Hon'ble Member (T)
[Narendra Jindal vs. HDFC Bank Ltd., IA-4704/2022 in Company Petition No. IB-3370(ND)/2019]*

Order Dated: 15.03.2023

Section 7 of the Insolvency and Bankruptcy Code, 2016

In the year 2012, Som Resorts Private Limited ("Corporate Debtor") had launched a commercial cum residential project under the name 'Casa Italia' ("Project") on a land allotted by the Uttar Pradesh Housing Development Board. During the period 2012 – 2015, Yadubir Singh Sajwan along with 25 (twenty five) other home buyers (collectively referred to as the "Petitioners") booked certain units in the Project and entered into separate builder-buyer agreements ("BBAs"). As per the BBAs, the Corporate Debtor was required to deliver the possession of the units to the Petitioners within 36 (thirty six) months from the date of commencement of the construction of the Project. However, on the due date, the Corporate Debtor failed to deliver the possession of the units and failed to refund the money deposited by the Petitioners with the marketing agency of the Project, i.e., Cosmic Structures Limited ("CSL"). Therefore, the Petitioners filed a criminal complaint with the Delhi Police, Economic Offence Wing inter-alia against the Corporate Debtor, its directors and its promoters. The Delhi Police registered a FIR dated June 14, 2017, bearing FIR No. 108/2017 and filed a charge sheet in relation to the matter. In the interim, a winding up petition was filed before the High Court of Delhi ("Delhi HC") against CSL. The official liquidator of CSL appointed by the Delhi HC vide Order Dated January 11, 2017 sealed the Project, considering it to be the property of Cosmic Infrastructure Private Limited.

Thereafter, pursuant to certain discussions between the Corporate Debtor and the allottees/home buyers of the Project (including the Petitioners), a memorandum of settlement dated September 14, 2018 was executed

amongst CSL, the Corporate Debtor and the association of the allottees/home buyers of the Project ("MOS"), whereby the Corporate Debtor undertook to complete the construction of the Project within 18 (eighteen) months from the date of its de-sealing by the Delhi HC. Further, as per the MOS, the Corporate Debtor undertook to refund the entire amount received by CSL from the allottees/ home buyers of the Project along with an interest at the rate of 18% (eighteen percent) per annum if it fails to deliver the possession of the units within the stipulated time period.

The Delhi HC de-sealed the Project. However, the Corporate Debtor failed to deliver the possession of the units within the time period stipulated under the MOS. Despite repeated requests and correspondences, the Corporate Debtor also failed to make payments of the outstanding amounts due and payable by the Corporate Debtor as per the MOS to the allottees/home buyers of the Project. Therefore, the Petitioners filed a petition inter-alia under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") to initiate corporate insolvency resolution process ("CIRP") against the Corporate Debtor.

Issue: Whether the CIRP application could be maintained against Som Resorts when payments were received by the marketing agent (CSL) and not directly by the corporate debtor, and whether the corporate veil could be pierced to treat the underlying transactions as debt owed by the corporate debtor to the homebuyers.

The Adjudicating Authority held that the Marketing Agency Agreement was executed in relation to the internal affairs of the Corporate Debtor and the Petitioners, being outsiders, were not privy to the internal affairs of the Corporate Debtor. Further, the NCLT held that the Corporate Debtor had failed to produce/

submit any publication wherein the Corporate Debtor had renounced its association with CSL. Therefore, as per the doctrine of indoor management, the Petitioners cannot be penalized even if CSL was not authorized to execute the BBAs or to receive the payments for the units allotted in the Project.

The NCLT also held that the 'doctrine of lifting the corporate veil' is an exception to the distinct corporate personality of a company or its members and is well recognized not only to unravel tax evasion but also where protection of public interest is of paramount importance and the corporate entity makes an attempt to evade legal obligations. In such circumstances, lifting of veil is necessary to prevent the corporate entities from misusing the principle of distinct corporate personality. It further held that the 'doctrine of lifting the corporate veil' can be invoked, if the public interest so requires or if there is allegation of violation of any law due to the usage of a corporate entity. In the present case, the promoter of the Corporate Debtor was also appointed as a director on the board of CSL. On lifting the 'corporate veil' of the Corporate Debtor, the NCLT held that the Corporate Debtor and CSL were being managed either directly or indirectly by the same person. The Corporate Debtor had merely used another corporate entity, i.e., CSL to enter into BBAs and collect the money from the Petitioners with an ulterior motive to conceal the real transaction. Accordingly, it would not be fair to the Petitioners, if the Corporate Debtor indirectly achieves its agenda, i.e., to defraud the allottees/ homebuyers in the guise of a separate legal entity by concealing the true nature of the transaction.

In light of the above, the NCLT admitted the petition filed by the Petitioners and ordered initiation of CIRP against the Corporate Debtor. The order is in the right direction considering the fact that the money was collected from

the allottees/ home buyers of the Project by an 'affiliate' company of the Corporate Debtor, who was supposedly the developer of the Project. The interest of such allottees/ home buyers should be protected. Presently, with the Real Estate (Regulation and Development) Act, 2016 ("RERA") being in force, such arrangements may also make the agent a 'promoter' of the project and accordingly liable under RERA to the allottees/ home buyers along with the landowner/ developer.

-Shri. Dharminder Singh, Hon'ble Member (J) and Dr. Binod Kumar Sinha, Hon'ble Member (T) [Yadubir Singh Sajwan & Ors. vs Som Resorts Private Limited, Company Petition No. IB- 67 (ND)/2022]
Order Dated- 02.08.2022

Section 7 of the Insolvency and Bankruptcy Code, 2016

The present application has been filed by M/s Genesis Comtrade Private Limited (Financial Creditor) under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking CIRP against M/s Opulent Infradevelopers Private Limited for the default of Rs. 1,07,54,100/. The Tribunal held that the materials on record clearly indicated the existence of a pre-existing dispute between the parties prior to issuance of the demand notice under Section 8 of the Code, particularly in relation to the quality/ quantum of goods supplied and corresponding liability. Relying on the settled principle that the Adjudicating Authority is not required to examine the merits of the dispute but only to see whether a plausible dispute existed before the demand notice, the NCLT concluded that the petition was not maintainable. Consequently, the Section 9 application was dismissed, reiterating that the IBC cannot be used as a recovery mechanism in cases involving genuine contractual disputes.

-Shri. Dharminder Singh, Hon'ble Member (J) and Dr. Binod Kumar Sinha, Hon'ble Member (T) [Genesis Comtrade Pvt Ltd vs Opulent Infradevelopers Pvt Ltd, Company Petition (IB) No. 304 (ND)/2022] Order Dated: 12.07.2022

NEW DELHI BENCH COURT V

Section 9 of Insolvency and Bankruptcy Code, 2016

In this case, the Tribunal examined whether the application filed under Section 9 of the Insolvency and Bankruptcy Code (IBC) by the Operational Creditor, Suresh Yadav, was within the limitation period. The petition was filed on 05.07.2019, while the last invoices raised by the Operational Creditor dated back to 2015, thereby exceeding the three-year limitation period prescribed under the Limitation Act, 1963.

The Tribunal found that no valid or unequivocal acknowledgment of debt had been made by the Corporate Debtor within three years from the date of default to extend the limitation period under Section 18 of the Limitation Act. Consequently, the application was held to be time-barred in line with the Supreme Court's ruling in B.K. Educational Services Pvt. Ltd. v. Parag Gupta and Associates.

On the issue of whether the settlement agreement between the parties could constitute an "operational debt" under Section 5(21) of the IBC, the Tribunal observed that although the agreement was signed by the Corporate Debtor's director, the unpaid amount arising from the settlement could not be treated as an operational debt. Referring to Delhi Control Device Pvt. Ltd. v. Fedders Electric and Engineering Ltd., it reiterated that unpaid instalments or breaches of a

settlement agreement do not fall within the scope of operational debt and cannot trigger CIRP proceedings.

The Tribunal thus held that the remedy for breach of a settlement agreement lies elsewhere, not under the IBC. Accordingly, the petition was dismissed as being both barred by limitation and not maintainable under the Code.

-Shri P.S.N. Prasad, Hon'ble Member (J) and Shri Rahul Bhatnagar, Hon'ble Member (T) [Suresh Yadav, Proprietor, Govind Shuttering Store vs. S.P Contracts Pvt. Ltd., CP (IB) No. 2004/(ND)/2019] Order Dated: 28.03.2023

Section 7 of Insolvency and Bankruptcy Code, 2016

The applicant, Mr. Rohit Prasad, filed an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against M/s S and N Lifestyle Infraventures Pvt. Ltd. The core issue before the Tribunal was whether the parties had entered into a contingent or forward sale agreement.

Upon examining the agreement dated 18.10.2014, it was found that the applicant had invested ₹99,99,999 in the respondent's housing project in Dehradun for acquiring a 5% equity share, with a promise of repayment after four years along with profits. The terms indicated that the investment was tied to the project's equity and profits, with the applicant entitled to land transfer in case of default.

Therefore, the Tribunal concluded that the transaction was not a loan or financial assistance but an equity-based investment with contingent returns, governed by a sale agreement and not a financing arrangement.

On the second issue, whether the amount claimed constituted a "financial debt" under Section 5(8)(f) of the IBC and whether the applicant was a "financial creditor" under Section 5(7), the Tribunal held that the applicant's claim did not qualify as a financial debt.

The investment was speculative in nature, with the applicant seeking high returns and security through land transfer, reflecting a commercial investment rather than a borrowing with time value of money. Referring to precedents such as *Ankit Goyal v. Sunita Agarwal*, *Anuj Jain v. Axis Bank*, and *Sudha Sharma v. Mansi Brar*, the Tribunal observed that such speculative or profit-sharing arrangements cannot be treated as financial debts.

Consequently, the applicant could not be categorized as a financial creditor, and the application under Section 7 was held to be non-maintainable and dismissed.

-Shri P.S.N. Prasad, Hon'ble Member (J) and Shri Rahul Bhatnagar, Hon'ble Member (T)
[Mr. Rohit Prasad vs. M/s. S and N Lifestyle Infraventures Pvt. Ltd., CP(1B) No. 1026/PB/2020]

Order Dated: 28.03.2023

NEW DELHI BENCH COURT VI

Section 7 of the Insolvency and Bankruptcy Code, 2016

The present order deals with an application filed by Bank of Baroda under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of CIRP against M/s MB Malls Private Limited for default of financial debt amounting to ₹43.41 crore, with the account classified as NPA on 29.10.2012.

The principal issue for consideration before the Tribunal was whether the application was barred by limitation, as contended by the Corporate Debtor, given that the date of default was prior to three years from the date of filing. The Tribunal observed that while the debt and default were not disputed, the Corporate Debtor had continuously acknowledged the outstanding debt in its balance sheets for FY 2016-17, 2017-18, and 2018-19. Relying on the judgment of the Hon'ble Supreme Court in *Dena Bank (now Bank of Baroda) v. C. Shivakumar Reddy*, the Tribunal held that such entries constitute a valid acknowledgment under Section 18 of the Limitation Act, 1963, thereby extending the limitation period. Since the latest acknowledgment was on 31.03.2019 and the application was filed on 14.02.2020, the petition was held to be within limitation. The Tribunal further held that the requirements of Section 7(5)(a) of the Code were satisfied, as the existence of financial debt, default, completeness of the application, and eligibility of the proposed IRP were duly established.

Accordingly, the application was admitted, CIRP was initiated, moratorium under Section 14 was declared, and IRP was appointed as the Interim Resolution Professional, with directions to make public announcement and carry out duties as prescribed under the Code.

- *Shri. P.S.N. Prasad, Hon'ble Member (J) and
Shri Rahul Bhatnagar, Hon'ble Member (T)*
[*Bank of Baroda vs. M/ s MB Malls Pvt. Ltd. in CP
IB No.-607/PB/2020*]
Order Dated: 03.08.2022.

Section 9 of Insolvency and Bankruptcy Code, 2016

The Adjudicating Authority examined the statutory framework, particularly Sections 4, 5(20) and 5(21) of the IBC, and noted the distinction between "financial debt" and "operational debt". The Tribunal observed that while interest may form part of a financial debt under Section 5(8) of the Code, the definition of "operational debt" under Section 5(21) does not expressly include interest. Relying upon earlier decisions, including the judgment of the NCLT Chandigarh Bench in *Wanbury Ltd. v. Panacea Biotech Ltd.* and the NCLAT decision in *Krishna Enterprises v. Gammon India Ltd.*, the Tribunal held that interest can be included in operational debt only if there is a specific contractual agreement providing for the same. In the facts of the present case, the Adjudicating Authority found that neither the invoices nor any separate agreement between the parties provided for payment of interest on delayed payments. Consequently, the interest component claimed by the Operational Creditor could not be clubbed with the principal amount to reach the minimum threshold of ₹1 crore under Section 4 of the IBC. Accordingly, the Adjudicating Authority dismissed the application filed under Section 9 of the IBC, 2016, holding that the requirement of minimum default amount under Section 4 of the Code was not satisfied

- *Shri P.S.N Prasad, Hon'ble Member (J) and Shri
Rahul Bhatnagar, Hon'ble Member (T)*
[*M/s Ingram Micro India Private Limited Vs.
M/s Fbonline Trading Private Limited, C.P(IB)-
517/2019*]
Order Dated: 27.07.2022

NEW DELHI SPECIAL BENCH

Section 31 of the Insolvency and Bankruptcy Code, 2016 (IBC)

In March 2023, the Hon'ble National Company Law Tribunal, New Delhi Bench, approved the Resolution Plan submitted by the Suraksha Group in respect of Jaypee Infratech Limited, in strict compliance with the framework and directions laid down by the Hon'ble Supreme Court in a series of proceedings concerning the Corporate Insolvency Resolution Process of the Corporate Debtor. The case represented one of the most significant and complex insolvency proceedings under the Insolvency and Bankruptcy Code, 2016, particularly in the real estate sector.

The Resolution Plan was examined and approved by the Tribunal under Section 31 of the Code, with due emphasis on the protection of homebuyers' interests, who constituted a substantial class of financial creditors, in line with the jurisprudence evolved by the Hon'ble Supreme Court. The approved Plan envisaged infusion of funds for completion of long-stalled housing projects in the Noida and Greater Noida regions and provided homebuyers with the option to either take possession of completed residential units or opt for refund, thereby addressing varied stakeholder interests.

The approval of the Resolution Plan was subsequently upheld by the Hon'ble National Company Law Appellate Tribunal. Thereafter, the Hon'ble Supreme Court, while monitoring compliance and implementation aspects, closed the related proceedings in late 2024, marking a significant step towards fulfilment of commitments made to over 20,000 homebuyers who had faced prolonged delays.

The case reflects the Tribunal's role in translating the objectives of the Insolvency and Bankruptcy Code into tangible outcomes, including revival of stalled projects, protection of vulnerable creditor classes, and restoration of confidence in the insolvency resolution framework. It further underscores the effectiveness of the NCLT in facilitating resolution-oriented outcomes in complex matters under continuous judicial scrutiny, thereby reinforcing the credibility and robustness of India's corporate insolvency regime.

*-Chief Justice (Retd.) Ramalingam Sudhakar,
Hon'ble President, Shri L.N. Gupta, Hon'ble
Member (T)*

*[Mr. Anuj Jain Interim RP Jaypee Infratech Ltd.
Vs. Suraksha Realty Ltd. IA. 2836/PB/2021, IA.
3457/PB/2021, IA. 3306/PB/2021, and IA. 2521/
PB/2022 in Company Petition (IB)-77(ALD)/2017]
Order Dated 07.03.2023*

AHMEDABAD BENCH, COURT-I

Section 60(5)(c) IBC read with Regulation 32A of Liquidation Regulations & Rule 11 NCLT Rules.

The Successful Bidder (Jindal Power Ltd.) applied for directions to treat the slump sale of the Corporate Debtor as a sale as a going concern. The Stakeholders' Committee filed a connected IA seeking to be impleaded to oppose this request. It was undisputed that multiple attempts were made to sell the Corporate Debtor as a going concern at reserve prices ranging from Rs. 566 Cr to Rs. 433 Cr. No bidders participated. Only after the sale was converted to slump sale, and the price reduced to Rs. 314.38 Cr, did the Applicant place its bid and purchase the Corporate Debtor. The Tribunal held that once the Applicant voluntarily accepted the slump sale, it cannot later seek conversion into a going-concern sale, especially when going-concern bids were previously available at much higher reserve prices. Such conversion would prejudice the rights of stakeholders due to the huge price differential. Case laws cited by the Applicant were distinguished on facts. The Tribunal emphasized that the Applicant had not put any conditions at bid acceptance and the sale had already concluded. Accordingly, IA 594/2022 (impleadment) disposed as infructuous. IA 561/2022 rejected. Request to convert slump sale into going-concern sale not permissible.

*-Shri. Madan B. Gosavi, Hon'ble Member (J)
and Shri Kaushalendra Kumar Singh, Hon'ble
Member (T)*

*[Jindal Power Ltd. v. Dushyant C. Dave
Liquidator, Shirpur Power Pvt. Ltd., IA/561(AHM)
2022 And IA/594(AHM)2022 in IA/561(AHM)2022
in CP(IB) 487 of 2018]*

Order Dated: 02.08.2022

Section 60(5) and 14 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 11 of NCLT Rules, 2016.

This application is filed by the Applicant under section 60(5) and 14 of the Insolvency and Bankruptcy Code, 2016 (IBC) read with Rule 11 of NCLT Rules, 2016 (NCLT Rules) seeking release of attachment of property by the Enforcement Directorate, Ahmedabad. M/s. Mayfair Leisure Limited is the Corporate Debtor and was admitted in CIRP by this Adjudicating Authority. The property was already attached by the ED vide its provisional attachment order. The said order was confirmed by the PMLA Appellate Tribunal. The PMLA Appellate Tribunal had directed that the status of the property of the Corporate Debtor has to be maintained during the course of investigation of the money laundering under PMLA, 2002. It is further submitted by the Applicant (IRP) that in view of order passed by PMLA Appellate Tribunal, he is not able to take the possession of the property nor he is able to dispose it off. Further, the ED has not even filed its claim with the Applicant. Further, the Applicant submitted that he had intimated ED about initiation of CIRP of the Corporate Debtor. In response to the letter, ED confirmed that the immovable assets of the Corporate Debtor are attached by their office. The Adjudicating Authority held that the Hon'ble High Court of Madras in the matter of Deputy Director, office of the Joint Directorate of Enforcement vs. Asset Reconstruction Company of India Ltd. and others, (2020) ibclaw.in 98 HC observed that NCLT has no jurisdiction to go into the matters governed under the PMLA, 2002 and, therefore, Section 14, having consequent upon an order passed by the Adjudicating Authority declaring moratorium, would not apply to the PMLA which is a distinct and special statute having its own objective and as such section 14 would not bar a proceeding under the Act.

-Shri. Madan B. Gosavi, Hon'ble Member (J) and Shri Kaushalendra Kumar Singh, Hon'ble Member (T)
[Chandra Prakash Jain IRP of M/s. Mayfair Leisures Ltd. vs. Deputy Director, Director of Enforcement, IA 608 of 2020 in CP (IB) 213/2018]
Order Dated: 02.03.2023

AHMEDABAD BENCH, COURT-II

Rule 11 of NCLT Rules, 2016

The applicant, Vrundavan Residency Pvt. Ltd., sought restoration of its Section 7 petition and admission of the corporate debtor, Mars Remedies Pvt. Ltd., into CIRP, invoking the liberty earlier granted by the Tribunal. The petition had earlier been rejected on limitation but was restored by NCLAT and the Supreme Court dismissed the debtor's appeal; however, before fresh hearing, CIRP had already been initiated in another matter—CP 804/2019—and therefore CP 300/2020 was disposed of as infructuous with liberty to restore only if CP 804/2019 was settled or its admission order was set aside. The applicant moved the present IA after the Supreme Court merely stayed further proceedings in CP 804/2019, but the Tribunal held that stay is not equivalent to settlement or setting aside of the order, and two simultaneous CIRPs cannot run. Since neither prerequisite condition for restoration exists, the Tribunal held the application premature and rejected it, while permitting the applicant to seek restoration depending on the final outcome of the pending Supreme Court appeal.

- Dr. Deepti Mukesh, Hon'ble Member (J) and Mr. Ajai Das Mehrotra, Hon'ble Member (T)
[Vrundavan Residency Pvt Ltd. versus Mars Remedies Pvt Ltd. IA No. 891/NCLT/AHM/2022 in CP (IB) No. 300/AHM/2020]
Order Dated: 12.01.2023

Section 14 and 60(5) of Insolvency and Bankruptcy Code, 2016

In this case, application was moved by the IRP for seeking direction against Enforcement Directorate to release the attachment of Property of the Corporate Debtor Company and hand over the charge to himself. This Tribunal noted that the Hon'ble High Court of Madras in the matter of Deputy Director, office of the Joint Directorate of Enforcement vs. Asset Reconstruction Company of India Ltd. and others observed that NCLT has no jurisdiction to go into the matters governed under the PMLA, 2002 and, therefore, Section 14, having consequent upon an order passed by the Adjudicating Authority declaring moratorium, would not apply to the PMLA which is a distinct and special statute having its own objective and as such section 14 would not bar a proceeding under the Act. It is clear that the proper recourse to be resorted by the 'Corporate Debtor' is to approach the 'Competent Forum' under the PMLA, 2002 to its logical end or any other 'Jurisdictional Forum' (other than the purview of IBC, 2016,) in the manner known to Law and in accordance with Law. In view thereof, this application stands rejected.

- Dr. Deepti Mukesh, Hon'ble Member(J) and Mr. Ajai Das Mehrotra, Hon'ble Member(T)
[Chandra Prakash Jain (IRP) v. Deputy Director Director of Enforcement IA No. 608 (AHM) 2020 in C.P.(IB) 213/AHM/2018]
Order Dated: 06.03.2023

ALLAHABAD BENCH

Section 7 of the Insolvency and Bankruptcy Code, 2016

Ambica Enclave Pvt. Ltd. and others filed a Section 7 IBC application against Shreesaibaba Infra Projects Pvt. Ltd. for an alleged default of ₹4.06 crore arising out of a sale deed executed by Proplarity Home Pvt. Ltd. (now Sparkspell Homes Pvt. Ltd.), claiming that the Corporate Debtor failed to provide post-dated cheques or pay the agreed sum. The NCLT dismissed the application, holding that no financial debt or debtor-creditor relationship under Section 5(8) of the Code was established, as the Corporate Debtor was not a party to any loan agreement and any payment involved appeared to be assurance money, not a loan. On appeal, the NCLAT in Comp. App. (AT)(Ins) No. 1034 of 2022 on 16.5.2024 upheld the dismissal, reiterating that the Code is for resolution, not recovery, and finding no case for triggering CIRP. The appellants were granted liberty to pursue other legal remedies but were saddled with ₹1 lakh costs, payable jointly to the respondent within one month, for unnecessarily dragging the Corporate Debtor into litigation.

- Shri Praveen Gupta, Hon'ble Member(J) and Shri Ashish Verma, Hon'ble Member(T)
[M/s Ambika Enclave Pvt. Ltd., M/s Siddhant Diagnostic Pvt. Ltd. and M/s Divya Tie-Up Pvt. Ltd. (Financial Creditors) versus Shreesai Baba Infra Projects Pvt. Ltd CP(IB) No. 32/ALD/2021]
Order Dated: 13.06.2022

Section 7 of the Insolvency and Bankruptcy Code, 2016

The present application was filed under Section 7 of the IBC by KV Foundations India Ltd., a financial creditor, against Holy Heights Infrastructures Pvt. Ltd., seeking initiation of

CIRP for default in repayment of a loan of Rs. 6.92 crores disbursed in January 2019. The loan was agreed to carry 12% annual compound interest, and the total outstanding as on 31.03.2022 was over Rs. 9.12 crores. The corporate debtor acknowledged its liability in its balance sheets and a reply to a legal notice, but claimed that the funds were voluntary financial assistance from one Mr. Ashok Kumar Gupta through group companies. It denied the validity of the loan agreement, citing a lack of board resolution and signatures on the stamp paper. Despite such contentions, the Tribunal found that the debt was duly reflected in audited balance sheets and ledger accounts, and supported by the bank statements and loan agreement. The NCLT held that the objections were technical in nature and did not invalidate the financial creditor's claim. Finding the application complete and the debt above the Rs. 1 crore threshold, the Tribunal admitted the petition and declared moratorium under Section 14 of the Code. The said admission order was subsequently challenged before the Hon'ble NCLAT, which upheld the NCLT's findings vide Order Dated 10.04.2023. Thereafter, the matter was amicably settled with the approval of the CoC having 100% voting share, making a payment of Rs. 13,09,86,672 including principal interest, compensation and CIRP Cost in favour of Lender No.1(KV Foundation India Ltd.) and an amount of Rs. 71,13,328 as on 31.8.2023 in favour of lender No. 2 (Hindustan Glass Works Limited) and the application was accordingly withdrawn under Section 12A of the Code.

- Shri Praveen Gupta, Hon'ble Member(J) and
Shri Ashish Verma, Hon'ble Member(T)
[KV Foundations India Limited versus Holy
Heights Infrastructures Pvt Ltd. CP IB No. 43/
ALD/2022]

Order Dated: 22.02.2023

AMRAVATI BENCH

Section 58 and 59 read with Section 213 of the Companies Act, 2013

The petition under Sections 58 and 59 read with Section 213 of the Companies Act, 2013 was filed by the Petitioners alleging fraudulent transfer of their shares in M/s. Verdant Life Sciences Private Limited and seeking rectification of the Register of Members along with entitlement to bonus shares. The principal issue before the NCLT, Amaravati Bench was whether the alleged transfer of 31,586 equity shares on 28.08.2015 in favour of the 3rd Respondent was valid and lawful, or whether it was vitiated by fraud and procedural non-compliance. The Tribunal examined whether a valid transfer could be said to have taken place in the absence of a duly filled, dated and executed SH-4 form and prior to payment of consideration. It was found that the Petitioners had signed undated share transfer forms in October 2016 and that the consideration for the alleged transfer was paid only in May 2017. The Tribunal held that a share transfer cannot take effect unless consideration is paid and statutory requirements under Section 56 of the Companies Act are complied with. Consequently, the purported transfer shown as having taken place on 28.08.2015 was held to be unsustainable. On limitation, the Tribunal ruled that the petition was within time as the right to sue accrued from the date of knowledge of the fraudulent transfer. However, despite recording serious irregularities surrounding the transfer, the Tribunal ultimately dismissed the Company Petition, holding that the reliefs sought could not be granted in the facts and circumstances of the case and that the disputes raised were not fit for adjudication under Sections 58, 59 and 213 of the Companies Act, 2013.

- Smt. Telaprolu Rajani, Hon'ble Member (J)
[Mr. V. Sambasiva Rao & Anr. Vs. M/s. Verdant
Life Sciences Private Limited & 7 Others.
(CP/186/59/AMR/2019)]

Order Dated: 02.11.2022

BENGALURU BENCH

Section 12A of IBC, 2016.

In this case, the Bench held that an application for withdrawal of a Corporate Insolvency Resolution Process under Section 12A of the IBC is maintainable even when the corporate debtor has entered into liquidation, provided the statutory requirements are satisfied. The Adjudicating Authority relied on the Hon'ble NCLAT's decisions in Shweta Vishwanath Shirke and V. Navaneetha Krishnan (2019), to affirm that promoters or eligible persons may settle dues and seek withdrawal of CIRP during liquidation. Relying on the Hon'ble Supreme Court's ruling in Vallal RCK v. Siva Industries, (2022) the Bench reiterated that once the Committee of Creditors approves a settlement with the requisite voting share, any judicial interference is impermissible unless the decision is arbitrary or contrary to law. Accordingly, the application for withdrawal of CIRP was allowed. The liquidation process was set aside, and control of the Corporate Debtor was restored to the suspended Board of Directors.

-Shri Ajay Kumar Vatsavayi, Hon'ble Member (J)
and Shri Manoj Kumar Dubey, Hon'ble Member (T)

[Shri. V S Varun, Liquidator, M/s. Aradhya Wire and Ropes Pvt. Ltd. vs. M/s. South Indian Bank I.A. No. 63 of 2022 in CP (IB) No. 366/BB/2019]
Order Dated: 06.06.2022

Section 60(5) of the IBC, 2016, read with Rule 11 of the NCLT Rules, 2016

In this case, the Bench examined the legality of bank charges levied by Axis Bank and the levy of penal damages and interest by the Employees' Provident Fund Organisation (EPFO) during the liquidation process of the Corporate Debtor. The Adjudicating Authority held that Axis Bank had acted in violation of Section 53 of the IBC by directly debiting bank charges from the Corporate Debtor's account without filing its claim before the Liquidator, despite having knowledge of the ongoing liquidation proceedings of the Corporate Debtor. Accordingly, such bank charges were set aside and directed to be refunded. On the issue of EPF dues, the Bench reaffirmed that while provident fund contributions and statutory interest enjoy priority and are payable, the initiation of proceedings for levy of penal damages, penalties, and penal interest under Sections 7A, 70 and 14B of the Employees' Provident Fund and Miscellaneous Provision Act, 1952 during the moratorium period is impermissible under Section 14 of the IBC. Relying on the NCLT Mumbai Bench's decision in KSS Petron Vineet K Chaudhary v. Regional PF Commissioner, bearing I.A No. 1694/2020, I.A No. 1086/2020 and I.A No. 1089 of 2020 in CP (IB) No. 1202/MB/C-II/2017, the Adjudicating Authority held that such proceedings impose a pecuniary liability on the Corporate Debtor and are barred during the moratorium. Consequently, the demand towards liquidated damages and penalties raised during the moratorium was set aside. The Application was allowed, directing the bank to remit the wrongly deducted bank charges, while quashing the levy of penal damages and penalties raised during the moratorium period.

- Hon'ble Shri Kishore Vemulapalli, Member (J)
and Hon'ble Shri Manoj Kumar Dubey, Member (T)

[Shri Vijay P. Lulla, Liquidator of M/s. Bhuvana Infra Projects Pvt. Ltd. v. Axis Bank Ltd. & Anr. in I.A No. 130 of 2022 in CP (IB) No. 122/BB/2017]
Order Dated: 05.01.2023

Section 53 of the Insolvency and Bankruptcy Code, 2016

The applicant, the suspended Managing Director, challenged the Liquidator's acceptance of claims filed by financial creditors and sought a direction that the Liquidator await adjudication of related proceedings pending before the DRT or High Court. It was alleged that the Liquidator's actions were contrary to the Code and amounted to improper adjudication. The Tribunal held that the Liquidator must verify claims strictly in accordance with Sections 38 and 39 of the Code and the Liquidation Process Regulations. Verification is required to be done with reference to the liquidation commencement date and does not depend on decrees or outcomes of parallel litigation. The record showed that the Liquidator had examined the claims, admitted only substantiated portions, sought legal opinion where necessary and filed a proper stakeholder list. No procedural deficiency was demonstrated.

The Tribunal further held that liquidation timelines are mandatory and Section 53, containing a non obstante clause, would prevail over other enactments including the RDDBFI Act. Pending DRT proceedings cannot stall distribution under the Code. Established precedents of the NCLAT also support this position. Accordingly, the request to defer distribution until conclusion of other proceedings was rejected.

-Shri Harnam Singh Thakur, Hon'ble Member (J) and Shri Subrata Kumar Dash, Hon'ble Member (T)

*[Ashok Oswal v. Hemanshu Jetley (Liquidator), IA No. 368/2020 in CP(1B)No.136/Chd/Pb/2017]
Order Dated: 03.06.2022*

Section 9 of the Insolvency and Bankruptcy Code, 2016

The matter arose from a petition filed under Section 9 of the Insolvency and Bankruptcy Code for initiation of CIRP against the corporate debtor. During the pendency of proceedings, the operational creditor Mr Vijender Kumar Jain expired intestate leaving behind five legal heirs. Four of the legal heirs executed a relinquishment deed in favour of the applicant. The application seeking substitution was filed within the prescribed period of ninety days from the date of death. The respondent objected to the substitution on the ground that legal heirs do not fall within the definition of an operational creditor under Section 5(20) of the Code. Reliance was placed on the judgment in Double Seven Enterprises v Vijay Fine Art Press delivered by the District Court Delhi. The applicant in rejoinder contended that being a Class I legal heir he had stepped into the shoes of the deceased creditor by operation of law and therefore became the operational creditor. It was further submitted that Section 5(20) includes within its scope a person to whom the debt is assigned or transferred and therefore legal succession amounts to transfer of debt. Reliance was placed on the judgment of the NCLAT in Fipola Retail India Pvt Ltd v M2N Interiors.

The Tribunal observed that the deceased creditor was running a proprietorship concern and in such cases the legal heirs inherit all rights and liabilities of the deceased proprietor. The Supreme Court judgment in Ashok Transport Agency v Awadhesh Kumar was held to be applicable. Consequently, the decision relied upon by the respondent was held to be inapplicable. The Tribunal held that the applicant had stepped into the shoes of the deceased creditor and was entitled to continue the proceedings. The amended memo of parties was accordingly taken on record and the application was allowed.

-Shri Harnam Singh Thakur, Hon'ble Member (J),
Shri Subrata Kumar Dash, Hon'ble Member (T)
[Vijender Kumar Jain v. Atlas Cycles Haryana
Ltd., IA No. 395/2021 In CP (IB) No. 217/Chd/
Hry/2020]

Order Dated: 10.10.2022

CHENNAI BENCH, COURT- I

Section 12A & 60(5) of the Insolvency & Bankruptcy Code, 2016

The Adjudicating Authority held that the provisions of the IBC, 2016 treat CIRP and Liquidation Process as two separate stages and the procedures to be followed in each stage have been delineated by way of framing a separate regulation by the regulator. There is no provision under IBC 2016 to come out of the liquidation process once a liquidation is ordered, except by way of a Scheme under Section 230 of the Companies Act, 2013 or by Sale as a going concern and the provisions of IBC never envisaged for termination of liquidation process and as such the prayer sought by the Applicant transcends beyond the scope of IBC.

-Justice R. Sudhakar, Hon'ble Member (J), Shri Sameer Kakar, Hon'ble Member (T)
[Jayashree Mohan vs. Pathukasahasram
Raghunathan Raman, IA(IBC)/320(CHE)/2021 in
CP/1156/IB/2018]

Order Dated: 14.10.2022

Sec. 30(6) & 31 of the Insolvency & Bankruptcy Code, 2016

IBC-NCLT Chennai Approves Resolution Plan For Hindustan Photo Films Mfg. Co. Ltd. Brief Facts: Hindustan Photo Films Mfg. Co. Ltd. (Corporate Debtor), a public sector manufacturer of photographic films, was admitted into Corporate Insolvency Resolution Process (CIRP) on 07.01.2022. The Resolution

Professional had initially admitted claims amounting to Rs. 39,274 crores from Secured Financial Creditors, Rs. 2,597 crores from Unsecured Financial Creditors, and Rs. 42.92 lakhs from Operational Creditors. A resolution plan submitted by Mr. M.K. Rajagopalan was approved by the Committee of Creditors (CoC) with a voting share of 77.94% in the 10th CoC meeting held on 11.11.2022. The plan involved the sale of the corporate debtor's assets, with the "Leasehold Assets" treated as excluded and slated for liquidation. Issues Raised: The main issue was whether the resolution plan submitted by Mr. M.K. Rajagopalan complied with the Insolvency and Bankruptcy Code (IBC), 2016, and provided fair recovery to creditors, especially since the plan offered only a 0.0023% recovery to Secured Financial Creditors and no recovery to Unsecured Financial Creditors or Operational Creditors. Additionally, the exclusion of Leasehold Assets from the resolution plan and their potential liquidation raised concerns regarding fairness and the adequacy of the plan. Verdict: The NCLT Chennai bench approved the resolution plan of Mr. M.K. Rajagopalan, finding it in compliance with the provisions of IBC, 2016 and its regulations. The resolution plan was deemed satisfactory despite offering minimal recovery to Secured Financial Creditors and no recovery to other creditors. The CoC's decision to treat Leasehold Assets as "Excluded Assets" and liquidate them was also upheld. The plan was accepted due to its overall compliance with legal standards and the CoC's approval, marking the resolution of Hindustan Photo Films Mfg. Co. Ltd. under the insolvency process.

-Justice R. Sudhakar, Hon'ble Member (J), Shri Sameer Kakar, Hon'ble Member (T)
[CA M. Suresh Kumar (RP of Hindustan Photo
Films Mfg. Co. Ltd., IA(IBC)/99(CHE)/2023 in
TPC/1/2021]

Order Dated: 31.03.2023

CHENNAI BENCH, COURT- II

Section 60(5) of the Insolvency & Bankruptcy Code, 2016

The Adjudicating Authority held that it is significant to refer to the Judgment of the Hon'ble NCLAT in the matter of Shwetha Vishwanath Shrike & Ors. vs. The Committee of Creditors & Anr. (2019) ibclaw.in 470 NCLAT has held that the Promoters / Shareholders are entitled to settle the matters in terms of Section 12A and in such case, it is always open to the Applicant to withdraw the Application. Further, the Hon'ble NCLAT in the matter of V. Navaneetha Krishnan -Vs- Central Bank of India, Coimbatore & Anr. (2018) ibclaw.in 298 NCLAT has held that even during the Liquidation period, if any persons, nor barred under Section 12A of IBC, 2016 satisfy the demand of the Committee of Creditors, such person may move before the Adjudicating Authority for withdrawal of proceedings. Thus, it could be seen even during the liquidation process, the parties have arrived at a settlement, then the Application filed under Section 7, 9 and 10 can be withdrawn.

- Chief Justice (Retd.) S. Ramathilagam, Hon'ble Member (J), Shri B Anil Kumar, Hon'ble Member (T)
[S. Rajendran (Liquidator) vs. Tata Capital Financial Services Pvt. Ltd., IA(IBC)/514(CHE)/2022 in CP/672/IB/2017]
Order Dated: 20.06.2022

Section 60(5) of the Insolvency & Bankruptcy Code, 2016 read with Regulation 32A(e) of IBBI (Liquidation Process) Regulations, 2016

Liquidator's actions upheld when in conformity with IBC and liquidation waterfall; individual dissatisfaction not a ground for interference

- In this case, objections were raised against actions taken by the Liquidator during liquidation, alleging unfairness and improper exercise of discretion in asset realisation and stakeholder treatment. The Chennai Bench held that the Liquidator, acting under Sections 35 and 53 of the IBC, is bound by the statutory waterfall and regulatory framework, and individual dissatisfaction cannot override a legally compliant liquidation process. It was held that unless malafides, material irregularity, or violation of the Code is established, the Tribunal will not interfere with liquidation decisions taken in accordance with law. The application was dismissed, reaffirming finality and certainty in liquidation proceedings.

-Dr. Deepthi Mukesh, Hon'ble Member (J) & Shri Sameer Kakar, Hon'ble Member (T)
[St John Freight Systems Limited IA(IBC)/1018(CHE)/2022, IA(IBC)/1095(CHE)/2022, IA(IBC)/1094(CHE)/2022 in CP/759/IB/CB/2018 and IA(IBC)/1167(CHE)/2022 in IA(IBC)/1094(CHE)/2022 in CP/759/IB/CB/2018]
Order Dated: 19.01.2023

CHENNAI SPECIAL BENCH

Section 60(5) of the IBC, 2016 and Regulation 32(e) and 33(2)(d) of the IBBI (Liquidation Process) Regulations, 2016

The Hon'ble National Company Law Tribunal, Chennai Bench, while exercising jurisdiction in liquidation proceedings, upheld the forfeiture of amounts paid by a successful bidder who failed to comply with the payment timelines stipulated in its order approving a private sale of assets as a going concern. The Tribunal had granted extension of time subject to strict conditions, including forfeiture in the event of default, which were duly accepted by the

bidder. Upon non-compliance, the Liquidator enforced forfeiture in accordance with the Tribunal's directions. The said orders were affirmed by the Hon'ble National Company Law Appellate Tribunal and subsequently upheld by the Hon'ble Supreme Court, which held that such forfeiture, imposed under the supervisory jurisdiction of the Adjudicating Authority to ensure expeditious completion of the liquidation process, was lawful and could not be equated with a contractual penalty under the Indian Contract Act.

The judgment underscores the importance of strict adherence to timelines under the Insolvency and Bankruptcy Code, 2016, and reinforces that extensions granted by the Adjudicating Authority cannot be treated as open-ended. The imposition of stringent conditions serves to discourage undue delays by successful auction purchasers, ensure timely completion of liquidation proceedings, and facilitate prompt distribution of proceeds to stakeholders, in furtherance of the objectives of the Code.

*-Chief Justice(Retd.) Ramalingam Sudhakar,
Hon'ble President and Mr. Sameer Kakar,
Hon'ble Member (T)
[Shri Karshini Alloys -Vs- Liquidator of M/s.
Surana Industries Limited,
TCP/95/IB/2017]
Order Dated: 10.08.2022*

Section 60(5) read with Section 30(2) of IBC, 2016 read with Regulation 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

In February 2023, the Hon'ble National Company Law Tribunal, Chennai Bench, approved the Resolution Plan submitted by ASG Hospital Private Limited in respect of Vasan Health Care Private Limited, following its approval by the

Committee of Creditors with a voting share of 97.90%. While exercising jurisdiction under Section 31 of the Insolvency and Bankruptcy Code, 2016, the Tribunal was satisfied that the Resolution Plan was in compliance with the requirements of Section 30(2) of the Code and the applicable IBBI Regulations, and that it was feasible and viable.

The approved Resolution Plan provided for infusion of funds for the revival of the Corporate Debtor, continuation of healthcare services, and distribution of payments to stakeholders in accordance with the statutory framework. The Tribunal further directed that the disputed dues pertaining to the Employees' Provident Fund Organisation be set aside for separate adjudication, while permitting the Resolution Plan to proceed independently, so as to ensure that implementation of the Plan is not delayed on account of pending statutory disputes. Upon approval of the Plan, the management and affairs of the Corporate Debtor were ordered to vest in the Successful Resolution Applicant, subject to oversight by the Monitoring Committee.

*-Chief Justice(Retd.) Ramalingam Sudhakar,
Hon'ble President and Mr. Sameer Kakar,
Hon'ble Member (T)
[S. Rajendran Resolution Professional of Vasan
Health Care Private Limited,
IA(IBC)/288(CHE)/2022 in CA/1/IB/2017]
Order Dated: 03.02.2023*

Section 30(6) read with Section 31 of IBC, 2016 IBC, 2016 read with Regulation 39 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016

In a notable and innovative exercise of jurisdiction, the Hon'ble National Company Law Tribunal, Chennai Bench, approved a Resolution Plan in the Corporate Insolvency Resolution

Process of a government-owned company, adopting a hybrid resolution model under the Insolvency and Bankruptcy Code, 2016. The Tribunal permitted resolution of a specific, identifiable, and economically viable part of the Corporate Debtor, while simultaneously directing liquidation of the remaining non-viable assets and undertakings, where revival was found to be impracticable.

This approach was implemented through a Scheme of Arrangement involving segregation and demerger of assets, framed in accordance with the provisions of the IBC read with Sections 230-232 of the Companies Act, 2013. The Tribunal carefully evaluated the unique challenges associated with a public sector enterprise, including prolonged non-operational status, legacy liabilities from the BIFR/AAIFR regime, extensive pending litigations, leasehold land constraints involving government authorities, and regulatory approvals required for revival. The approved framework enabled revival of viable assets while ensuring that the remaining estate was liquidated in an orderly manner and distributed in accordance with the statutory waterfall.

The order reflects a pragmatic and value-maximising approach, demonstrating that the insolvency framework is sufficiently flexible to accommodate partial resolution coupled with liquidation, particularly in complex cases involving government-owned companies. It stands as moderately a one-of-its-kind order, underscoring the Tribunal's role in crafting innovative, solution-oriented outcomes that balance revival prospects, statutory compliance, and stakeholder interests, while furthering the overarching objectives of the Insolvency and Bankruptcy Code, 2016.

-Chief Justice(Retd.) Ramalingam Sudhakar and Hon'ble President, Mr. Sameer Kakar, Hon'ble Member (T)

*[CA M. Suresh Kumar, RP of M/s. Hindustan Photo Films Mfg. Co. Ltd.
IA(IBC)/99(CHE)/2023 in TCP/1/2021]
Order Dated: 31.03.2023*

CUTTACK BENCH

Section 9 and 238A of Insolvency and Bankruptcy Code, 2016

The Adjudicating Authority rejected the petition filed for default of operational debt as it ascertained the existence of dispute between the parties. It was observed that the respondent in its reply dated 27.06.2016 to the legal notice dated 05.06.2016 has denied any liability towards the petitioner. The respondent had also filed a civil suit on 08.09.2016 against the petitioner for recovery of damages. The Adjudicating Authority observed that the demand notice under Section 8 of the Code was sent by the petitioner on 05.06.2016 i.e. after the civil suit was instituted, and hence there is a clear pre-existing dispute.

The Adjudicating Authority also observed that the petition is barred by limitation as the petition was filed on 26.11.2019, which was after 3 three years from when the cause of action arose i.e. 31.05.2016.

*-Shri P. Mohan Raj, Hon'ble Member (J) and Shri Satya Ranjan Prasad, Hon'ble Member (T).
[Sri Avantika Contractors (1) Ltd V BSR Gopalpur Ports Ltd. Company Petition (IB) No. 159/CTB/2019]
Order Dated 21.06.2022*

Section 5(8)(i) of the Insolvency and Bankruptcy Code, 2016

In this case, the Petitioner i.e., UVARCL, an asset reconstruction company ("ARC") and assignee of the original lender SREI Infrastructure

Finance Limited ("SREI"), contended that the Respondent, ECL, is a Corporate Guarantor of the debts owed by the principal borrower Electrosteel Steels Limited ("ESL"). The claim arises out of the 'left over amount' remaining from the partially paid off debt. The debt was partially paid off to SREI through a resolution plan submitted by Vedanta Private Limited.

The issues before the Adjudicating Authority for consideration were:

- Whether ESL was the corporate Guarantor of ECL? and if yes;
- Whether the assignee for the debt can proceed against the Corporate Guarantor for such a debt after resolution plan for the corporate debtor has been approved and the original lender's debt has been resolved?

The Adjudicating Authority rejected the section 7 application and held that:

- i. The respondent is not a Guarantor of the original lender in terms of Section 126 of the Indian Contract Act, 1872 as the documents executed by the respondent do not contain any such terms which will establish that the respondent has extended any guarantee and has stepped into the shoes of the original lender and has assumed a liability towards the financial creditor, "coextensive with that of the original lender upon default.
- ii. The Adjudicating Authority observed that as per the documents executed by the applicant the liabilities of the respondent was in the event of breach to "arrange for the infusion of such amount of fund into the borrower" which is qualitatively different from a guarantee and also observed the mortgage on the property of the respondent is a third-party mortgage which do not make the applicant a financial creditor in terms

of IBC, 2016. The Adjudicating Authority's observation also stemmed from the fact that, in the loan assignment agreement, the original lender and applicant had concurrently agreed that there were no guarantors of the original lender, and even the RP, in its information memorandum, had stated that there existed no guarantors for the creditor.

- iii. The Adjudication Authority answered the second point for consideration in negative too, by observing that the original lender's debt stands resolved upon receiving payment in terms of the approved plan and hence in absence of any debt, none can be assigned by the original lender to the applicant; giving rise to any right in favour of the applicant.

*-Shri P. Mohan Raj, Hon'ble Member (J) and Shri Satya Ranjan Prasad, Hon'ble Member (J)
[UV Asset Reconstruction Company Limited v
Electrosteel Castings Limited Company Petition
(IB) No. 16/CB/2021]
Order Dated: 24.06.2022*

GUWAHATI BENCH

Section 60(5) of the Insolvency and Bankruptcy Code, 2016

The NCLT, Guwahati Bench allowed this Interlocutory Application filed by Mr. Piyush Periwal, the suspended CMD of National Plywood Industries Limited, under Section 60(5) of the IBC, seeking the removal of the Resolution Professional (RP), Mr. Sandeep Khaitan, due to alleged bias and lack of transparency. The Applicant contended that the RP had compromised his independence by arbitrarily classifying a debt of Rs. 4 Crore owed to a creditor (M/s Purbanchal Laminates Pvt. Ltd.) as an "unsecured loan" rather than a "Financial Debt," thereby artificially granting the primary Financial Creditor, Stressed Assets Stabilization Fund (SASF), 100% voting share and absolute control over the Committee of Creditors (CoC). Furthermore, the Applicant argued that the RP failed to ensure value maximization by restricting the publication of the Expression of Interest (EOI) to local newspapers in Assam, despite the Corporate Debtor possessing significant industrial assets in West Bengal and Tamil Nadu. The Tribunal found merit in these allegations, observing that the RP's opaque conduct and the inadequate publicity of the 'Form G' stifled market participation and violated the Code's objective of value maximization. Asserting its inherent power to intervene when the process contravenes the Code, the Tribunal ordered the termination of the CIRP from the stage of the Second EOI and removed Mr. Sandeep Khaitan from his position. The Bench appointed Mr. Amit Pareek as the new RP with specific directions to issue a fresh 'Form G' and publish advertisements in widely circulated newspapers across Assam, West Bengal, and Tamil Nadu to ensure transparency.

-Shri Rohit Kapoor, Hon'ble Member (J) and Shri Prasanta Kumar Mohanty, Hon'ble Member (T)
[Piyush Periwal vs. Stressed Assets Stabilization Fund (SASF) & Ors., (IA (IBC)/43/2021 in CP (IB)/09/GB/2019)]
Order Dated: 08.04.2022

Section 33(5) of the Insolvency and Bankruptcy Code, 2016

The NCLT, Guwahati Bench disposed of this application filed by the Corporate Debtor, Assam Company India Limited, under Section 60(5) of the IBC, which sought "prior approval" to initiate legal proceedings against the Commissioner of Transport, Assam, and various District Transport Officers. The Applicant intended to file a writ petition or civil suit to challenge demand notices for motor vehicle taxes and penalties levied for the period prior to the Resolution Plan's effective date (20.09.2018), arguing that such liabilities were extinguished under the "Clean Slate" principle. Addressing the legal interpretation of Section 33(5), the Tribunal held that the requirement for "prior approval" from the Adjudicating Authority before a Corporate Debtor can sue a third party is mandatory, not merely procedural. The Bench established that the Tribunal acts as a gatekeeper to ensure the estate's resources are not dissipated in frivolous litigation. However, the factual matrix shifted when the Applicant produced a Government of Assam Notification dated 30.05.2022, which explicitly exempted the outstanding Road Tax and Motor Vehicle Tax liabilities for the period prior to 20.09.2018. The Tribunal observed that this government action neutralized the dispute, rendering the prayer for permission to sue infructuous as the relief sought had been administratively granted. Consequently, the Tribunal disposed of the application with strict directions for the post-resolution period: the Respondents were directed to issue fresh demand notices strictly for dues accruing from the "effective

date" (21.09.2018) onwards within 15 days, and the Applicant was ordered to settle these legitimate post-resolution dues within 15 days thereafter.

-Shri Rohit Kapoor, Hon'ble Member (J) and Shri Prasanta Kumar Mohanty, Hon'ble Member (T) [Assam Company India Limited vs. The Commissioner of Transport, Guwahati, Assam & Ors. (IA (IBC) No. 29/GB/2022 in CP (IB) No. 20/GB/2017)]

Order Dated: 21.06.2022

HYDERABAD BENCH, COURT - I

Section 59 of the Companies Act, 2013

In this matter, the Adjudicating Authority held that the transfer of 3600 equity shares of the deceased Petitioner, Dr Fakhruddin Mohammed, in favour of the 2nd Respondent was illegal, fraudulent, and void under law. The Adjudicating Authority found that the transfer was fraudulent and illegal because the respondents failed to establish compliance with the mandatory requirements of the Companies Act and the company's Articles of Association. Furthermore, the deceased Petitioner's counsel contended that the Petitioner had never intended to sell his shares, had not executed the Share Transfer Form, and had not received any sale consideration. The respondents, on the other hand, failed to prove the payment of the Rs. 3,60,000/- sale consideration, demonstrating a lack of nexus between their pleading and supporting documents. The Adjudicating Authority emphasized that the payment of sale consideration is an essential ingredient of a valid sale, and non payment can render the sale void.

Regarding the issue of limitation, the

Adjudicating Authority held that the petition was not barred by limitation. Relying on Section 17 of the Limitation Act, 1963, the period of limitation begins from the date of the discovery of the fraud. The deceased Petitioner only became aware of the fraudulent transfer in September 2019 after verifying the Annual Returns of the 1st Respondent Company for the year 2017-18, which showed his shareholding as nil since 2009. Since the petition was filed on November 27, 2019, it was filed within the three-year period from the date of knowledge. The Tribunal noted that the wrongful deprivation of shares, being a continuous wrong, further supports that the question of limitation should not hold ground against the petitioners.

The Tribunal ultimately allowed the Company Petition (CP No. 761/59/HDB/2019). The Tribunal declared the transfer of 3600 equity shares null and void. The Tribunal directed the rectification of the register of members to allow the Petitioners 2 to 7 (the legal heirs of the deceased Dr. Fakhruddin Mohammed) to have the shares transmitted in their names as per law. The Petitioners had sought relief for the transfer of the 3600 shares, plus an additional 500 shares, totaling 4100 shares in their favor.

-Dr. N. Venkata Ramakrishna Badarinath, Hon'ble Member (J), and Shri Veera Brahma Rao Arekapudi, Hon'ble Member (T) [M/s. Hira Multi Construction Ventures Private Limited CP No. 761/59/HDB/2019]

Order Dated: 19.10.2022.

Section 241 of the Companies Act, 2013

In this case, it was held by the Adjudicating Authority that the Company Petitioners (Respondents 1 to 4 in IA No. 207/2022) lacked the necessary standing to maintain a petition under Section 241 of the Companies Act, 2013. The Petitioners claimed to be beneficial

HYDERABAD BENCH, COURT - II

shareholders of Ambience Resorts and Motels Private Limited (Respondent No. 5) based on a Share Purchase Agreement dated June 25, 2010, and a term sheet dated May 18, 2010. However, the Adjudicating Authority noted that the mandatory compliances for share transfer, including executing share transfer forms, entering names in the register of members, and registering the transferees' names with the company, were neither completed nor documented.

The Adjudicating Authority emphasized that only registered members of a company, as defined under Section 2(55) of the Companies Act, have the right to file a petition under Section 241. Since the petitioners could not establish their status as members in the company records, they had no locus standi. Consequently, the Adjudicating Authority allowed IA No. 207/2022, declaring that the Company Petitioners could not maintain the petition under Section 241 of the Companies Act. No costs were imposed.

-Dr. N. Venkata Ramakrishna Badarinath,
Hon'ble Member (J), and Veera Brahma Rao
Arekapudi, Hon'ble Member (T)

[Nipha Trade and Commerce Private Ltd & Ors
vs. Girish Malpani & Ors, (IA No. 207/2022 in CP
No. 421/241/HDB/2019)]

Order Dated: 10.10.2022

Section 9 of the Insolvency and Bankruptcy Code, 2016

In this case, the Adjudicating Authority dismissed the Section 9 application filed by the Operational Creditor seeking initiation of CIRP against the Corporate Debtor, holding that the existence of an operational debt and default was not proved. The claim was founded on a Memorandum of Understanding (MOU) dated 18.04.2018 for the supply of Extra Neutral Alcohol (ENA) against an alleged payment of an advance of ₹3 crores. However, the Operational Creditor failed to produce primary evidence, particularly bank statements, to substantiate the alleged RTGS transfer of the advance amount.

The Adjudicating Authority noted serious inconsistencies in the documents relied upon, especially the cheque purportedly issued under the MoU, which bore a date different from that mentioned in the agreement, thereby casting doubt on the genuineness of the transaction. A mere dishonour of cheque and non-reply to demand notices were held insufficient to establish debt or acknowledgement.

It was further observed that the burden is on the Operational Creditor to initially prove that the advance, as mentioned in the MoU, is given to the Corporate Debtor, which the Operational Creditor, in this case, has absolutely failed to do. In the absence of any cogent evidence of payment and default, the petition was found to be unsustainable and was accordingly dismissed.

- Justice Telaprolu Rajani, Hon'ble Member (J)
and Shri Charan Singh, Hon'ble Member (T)
(M/s. G.S.B & Co. LLP v. M/s S.P.Y. Agro
Industries Limited,
CP(IB) No. 102/09/HDB/2020)]
Order Dated: 12.12.2022

Section 7 of the Insolvency and Bankruptcy Code, 2016

INDORE BENCH

The Adjudicating Authority held that the Order Dated 19.10.2022 for admitting the Section 7 petition and initiating CIRP against the Corporate Debtor was vitiated due to suppression and misrepresentation of material facts relating to the One Time Settlement (OTS). The Adjudicating Authority found that the OTS sanctioned on 12.07.2022, though initially cancelled, stood revived on 24.08.2022 upon acceptance of delayed interest and receipt of substantial payments, and that no default existed as on the date of admission. The Financial Creditor's failure to disclose revival of the OTS and receipt of payments materially affected the finding of default. Relying on settled principles that an Adjudicating Authority has inherent jurisdiction to recall an order obtained by fraud or misrepresentation, this Adjudicating Authority recalled the admission order, revoked the moratorium, restored management to the directors, and directed listing of the matter for reconsideration of the OTS in correspondence with the determination of default.

-Dr Venkata Rama Krishna Badarinath Nandula, Hon'ble Member (J), and Shri Satya Ranjan Prasad, Hon'ble Member (T)
(Mr. H. Kishen vs. Feno Plast Limited & Anr., TA 1248 of 2022 in CP(IB) No. 10/7/HDB/2022)
Order Dated: 15.11.2022

Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC, 2016")

The Adjudicating Authority, in Indian Bank Vs Indison Agro Foods Limited. [T.P 123 of 2019 in C.P.(IB) No. 137(MP)2019] admitted the petition under section 7 of IBC and moratorium under Section 14 IBC was declared, covering proceedings, enforcement actions (including SARFAESI and RDB Acts), and transfer of assets, subject to Sections 14 and 238 of the Code. Ms. Teena Saraswat Pandey was appointed as IRP, with directions for public announcement, claim collation, cooperation by the Corporate Debtor and its personnel, preservation of assets, and management as a going concern. The Financial Creditor was directed to pay ₹1,00,000/- towards IRP fees and expenses until CoC decision. The Registry was directed to communicate the order, and the CIRP commencement date was fixed as the date of the order. The application was allowed and disposed of.

-Shri Dr. Madan B. Gosavi, Hon'ble Member (J) and Shri Kaushalendra Kumar Singh, Hon'ble Member (T)
(Indian Bank vs. Indison Agro Foods Limited [T.P 123 of 2019 in C.P.(IB) No. 137(MP)2019])
Order Dated: 03.03.2023

Section 252(3) of the Companies Act, 2013

The Tribunal, in Vijay Choudhary (Classic Merchandisers Pvt Ltd) v. RoC Gwalior MP, C.P. No. 43/2022 under Section 252(3) of the Companies Act, 2013, entertained a petition for restoration of a struck-off company's name from the Register of Companies maintained by the Registrar of Companies (ROC). The ROC had invoked Section 248(1) to strike off the company for persistent non-filing of statutory

returns and apparent cessation of operations, as notified in the Official Gazette. The Tribunal scrutinized evidence of ongoing business activities, including bank statements and transactional records, deeming the strike-off action amenable to rectification in the interest of justice. It allowed the petition, directing restoration of the company's name retrospectively from the strike-off date, conditional upon filing overdue e-forms from FY 2010-11, payment of penalties, and compliance with extant provisions. ROC was mandated to effectuate the order, affirming NCLT's equitable jurisdiction to revive genuine entities unjustly removed, thereby safeguarding stakeholders' rights.

-Shri Dr. Madan B. Gosavi, Hon'ble Member (J) and Shri Kaushalendra Kumar Singh, Hon'ble Member (T)
(Vijay Choudhary (Classic Merchandisers Pvt Ltd) v. RoC Gwalior MP, C.P. No. 43/2022.)

Order Dated: 03.03.2023

JAIPUR BENCH

Sections 9, 32A, 35(1)(n) of the IBC, 2016 read with Rule 11 of NCLT Rules

The National Company Law Tribunal (NCLT), Jaipur Bench, in IA No. 15/JPR/2022 in CP (IB) No. 601(ND)/2018, held that the Liquidator of M/s Emgee Cables and Communication Limited (Corporate Debtor) was entitled to carry out the auction of the properties of the Corporate Debtor despite provisional attachment orders passed by the Directorate of Enforcement under the PMLA. The tribunal observed that the Corporate Insolvency Resolution Process (CIRP) was initiated on 27.07.2018 and liquidation ordered on 18.09.2019, with the Applicant appointed as Liquidator on 25.09.2019.

The tribunal noted that the Directorate of

Enforcement had provisionally attached properties of the Corporate Debtor under PMLA on 12.12.2019, which was set aside by this Adjudicating Authority on 07.09.2020, directing withdrawal of the attachment to enable the Liquidator to include those properties in the Liquidation Estate. The Directorate of Enforcement filed a writ petition against this order, which was pending without interim stay. Relying on the NCLAT judgments in The Directorate of Enforcement Vs Manoj Kumar Agarwal & Ors. and Vishal Ghisulal Jain & Ors., the tribunal held that there is no conflict between PMLA and IBC; where CIRP is initiated, properties attached under PMLA belonging to the Corporate Debtor become available for the purposes of IBC till resolution or liquidation sale occurs under Section 32A. The tribunal also referred to relevant High Court and Supreme Court judgments supporting the Liquidator's authority to proceed with liquidation despite PMLA attachment.

The tribunal directed the Liquidator to conduct the auction of the immovable and movable properties of the Corporate Debtor by open auction (preferably Swiss Challenge Method) after stakeholder approval, with notices published in two widely circulated newspapers. The Enforcement Directorate was given liberty to submit its claim within three weeks from the order date, which the Liquidator would consider as per IBC provisions. The entire auction process was to be completed within the timelines under the Code, with sale proceeds distributed as per Section 53 of the Code and Form H filed within 15 days of completion.

-Shri Deep Chandra Joshi, Hon'ble Member (J), and Shri Prasanta Kumar Mohanty, Hon'ble Member (T)
[M/s Packwell (India) Ltd. vs. M/s Emgee Cables and Communication Ltd., IA No. 15/JPR/2022 in CP (IB) No. 601(ND)/2018]
Order Dated: 05.12.2022

Sections 4, 7, 60(5) of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of NCLT Rules, 2016

The National Company Law Tribunal (NCLT), Jaipur Bench, in IA No. 406/JPR/2021 & CP (IB) No. 132/7/JPR/2020, held that the application filed by Financial Creditors seeking initiation of Corporate Insolvency Resolution Process (CIRP) against M/s Columbus Overseas LLP (Corporate Debtor) did not meet the minimum threshold limit prescribed under Section 4 of the Code, as amended by the MCA notification dated 24.03.2020, which fixed the minimum amount of default at Rs. 1 crore for applications filed on or after that date.

The Financial Creditors claimed defaulted amounts aggregating Rs. 80,36,276/-, which was below the prescribed limit at the time of filing the application on 22.06.2020. Although the claim amount including interest had grown beyond Rs. 1 crore subsequently, the Tribunal held that the amount of default must be considered as on the date of filing the application, not on a later date. The Corporate Debtor raised objections on maintainability and threshold limit.

The Tribunal referred to the relevant Supreme Court and NCLAT precedents and rejected the Financial Creditors' attempt to compute the default amount beyond the filing date to satisfy the threshold. Consequently, the application was dismissed for lack of pecuniary jurisdiction. The Corporate Debtor's IA seeking dismissal of the main application was rendered infructuous and disposed of accordingly.

-Shri Deep Chandra Joshi, Hon'ble Member (J), and Shri Prasanta Kumar Mohanty, Hon'ble Member (T)

[M/s Inter Plaza Impex LLP & Ors. vs. M/s Columbus Overseas LLP, IA No. 406/JPR/2021 & CP (IB) No. 132/7/JPR/2020]

Order Dated: 19.10.2022

KOCHI BENCH

Section 59 of the Companies Act, 2013

The dispute arose from a share sale agreement dated 20.12.2018, under which the Appellants and their family members agreed to sell their entire shareholding to the 3rd Respondent, the nominee of the 2nd Respondent, for a consideration of Rs. 20,00,000/-. Although the shares were transferred and registered in the name of the 3rd Respondent, the 2nd Respondent failed to pay the agreed consideration despite repeated demands, leading the 1st Appellant to issue a legal notice. Thereafter, the Appellants issued notices dated 01.06.2021 to Respondents 1 to 3 regarding repayment of the balance consideration amount; however, this request was rejected by the 2nd Respondent by the letter dated 12.07.2021, resulting in the present proceedings.

By way of the present appeal, the Appellants sought reversal of the entire shareholding in their favour, as if no share transfer transaction had ever occurred.

Upon consideration, the Tribunal held that the share transfer pursuant to the agreement dated 20.12.2018 had admittedly been completed and that the shares were validly transferred and registered in the name of the 3rd Respondent. The Tribunal observed that the grievance of the Appellants essentially pertained to the alleged non-payment of sale consideration, for which the appropriate remedy would be a civil suit for recovery of money, and not rectification proceedings under Section 59 of the Companies Act, 2013. Since allowing rectification would effectively result in the reversal of a concluded and completed sale transaction, the appeal was held to be not

maintainable. Accordingly, the Appellants were found not entitled to rectification of the records of the 1st Respondent company, and the appeal was dismissed.

-*Shri. P Mohan Raj Hon'ble Member (J) and Shri. Satya Ranjan Prasad Hon'ble Member (T)*
[K.K. Chandran & Another Vs. Prime Habitats Private Limited & Others, Company Appeal No. 19 (KOB)/2021]

Order Dated: 23.11.2022

Section 7 of the Insolvency and Bankruptcy Code, 2016

In this matter, the Adjudicating Authority held that a petition filed under Section 7 of the Insolvency and Bankruptcy Code, 2016, cannot be entertained unless the Financial Creditor establishes its legal authority to initiate proceedings through valid and enforceable documents. The Adjudicating Authority examined the Assignment Deed dated 17.03.2017, relied upon by the petitioner and found that the said instrument, executed in Kerala on a nominal stamp paper of ₹500/- for the assignment of debts valued at ₹79.25 crores, was insufficiently stamped under Article 22 of the Schedule to the Kerala Stamp Act, 1959.

The Adjudicating Authority observed that in view of Section 34 of the Kerala Stamp Act, an insufficiently stamped instrument cannot be admitted in evidence or acted upon unless the requisite stamp duty and penalty are paid. In the present case, only a photocopy of the Assignment Deed was produced, which could neither be impounded nor validated. Consequently, the Assignment Deed was held to be unenforceable and incapable of forming the basis for initiation of proceedings under the Code.

The Adjudicating Authority further noted that the petition was filed by Phoenix ARC Private Limited in its capacity as Trustee of

Phoenix Trust FY 17-8, but the Trust Deed dated 06.02.2017, which was fundamental to establishing the existence of the trust and the authority of the trustee, was not produced. Rule 4(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 mandates the production of all relevant documents in cases involving the assignment of debt. Thus, the Applicant had failed to establish its locus standi to maintain the petition.

In view of the above deficiencies, the Adjudicating Authority concluded that the petitioner had not complied with the mandatory statutory requirements and accordingly dismissed the Company Petition.

-*Shri. P Mohan Raj Hon'ble Member (J) and Shri. Satya Ranjan Prasad Hon'ble Member (T)*
[Phoenix ARC Private Limited (Trustee of Phoenix Trust FY 17-8) vs. M/s. Cherupushpam Films Private Limited, Company Petition No. 51 (KOB) of 2022]

Order Dated: 15.02.2023

KOLKATA BENCH, COURT - I

Section 9 of the Insolvency and Bankruptcy Code, 2016 read with Rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

The Court, while admitting the application held that under the Code, if a Corporate Debtor truly disputes a debt "in substance and not merely colorably," the NCLT can refuse admission under Section 9. Here, the Tribunal held the defence did not amount to a real dispute, so the CIRP process could be triggered.

-*Shri Rohit Kapoor, Hon'ble Member (J) and Shri Harish Chander Suri, Hon'ble Member (T)*
[Shree Ganpati Powers and Transformer vs.

*Vijeta Projects & Infrastructures Ltd., C.P(IB) No.2082/KB/2019]
Order Dated: 27.04.2022*

Section 43 and 60(5) of the Insolvency and Bankruptcy Code, 2016

The Adjudicating Authority held that we have noticed that the allegations made in application do not constitute anything actionable against the suspended board of Directors/respondents. It was the duty of the RP to come to a conclusive determination before filing an application with the Adjudicating Authority. Simply by repeating the extracts or observations made in the forensic auditors report, the RP could not make an independent determination about the nature of transactions as required by Regulation 35A (2) of the CIRP Regulations.

*-Shri Rohit Kapoor, Hon'ble Member (J) and Shri Harish Chander Suri, Hon'ble Member (T)
[Jitendra Lohia v. Nikhil Chowdhury and Ors., I.A.(IB) No. 208/KB/2021 in C.P.(IB) No.204/ KB/2019]
Order Dated: 06.05.2022*

KOLKATA BENCH, COURT - II

Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

The Adjudicating Authority observed that in the present case, the Corporate Debtor had borrowed from the Indian Bank for which, the Financial Creditor stood surety for this Corporate Debtor and once the amount claimed by the Indian Bank had not been paid by the Corporate Debtor, the surety had to liquidate and discharge the liability of the Corporate

Debtor towards the Indian Bank. Therefore, under the provisions of the Indian Contract Act, 1872, all the rights of the then Creditor i.e. the Indian Bank, would automatically become the rights of the surety (Financial Creditor herein). There can be no doubt that the amount has admittedly been paid by the Financial Creditor on behalf of the principal debtor/Corporate Debtor, to Indian Bank. Further, it held that any agreement of guarantee between the Indian Bank and the Guarantor is sufficient for the purpose of bestowing all the rights of the Bank/ creditor upon the Financial Creditor herein once the Financial Creditor has discharged all the liability of the Corporate Debtor towards Indian Bank.

*-Shri Rohit Kapoor, Hon'ble Member (J) and Shri Harish Chander Suri, Hon'ble Member (T)
[Orbit Towers Pvt. Ltd. vs. Sampurna Suppliers Pvt. Ltd, C.P.(IB) No. 2046/KB/2019]
Order Dated: 27.06.2022*

Section 9 of the Insolvency and Bankruptcy Code, 2016 read with rule 6 of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016.

The Adjudicating Authority dismissed the application filed u/s 9 of IBC referring Hon'ble Supreme Court in Government of India v. Vedanta Limited (2020) ibclaw.in 165 SC, Usha Holdings LCC & v. Francorp Advisors Pvt. Ltd. [2018] ibclaw.in 115 NCLAT and PEC Ltd. v. Austbulk Shipping Sdn. Bhd. (2018) ibclaw.in 154 SC and held that it is imperative to mention that for the enforcement of foreign award in India, an enforcement/ execution petition is required to be filed before the Hon'ble High Court, as per the amendment to section 47 by Act 3 of 2016 (which came into force on 23 October, 2015). A proceeding seeking recognition and enforcement of a foreign award has different stages: in the first stage, the Court would

decide about the enforceability of the award having regard to the requirements of section 47 and 48 of the Arbitration and Conciliation Act, 1996. Once the enforceability is decided, it would further proceed to take further effective steps for execution of the award.

-Shri Rohit Kapoor, Hon'ble Member (J) and Shri Balraj Joshi, Hon'ble Member (T)
[Trans Sea Transport B.V. vs. Lords Polymer [India] Private Limited, C.P.(IB) No. 186/KB/2019]
Order Dated: 28.10.2022

MUMBAI BENCH, COURT - II

Section 9 of the Insolvency and Bankruptcy Code, 2016

The captioned petition C.P.(IB)-4563(MB)/ 2019 was filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, by Ultratech Cement Ltd. claiming an operational debt of ₹4,05,44,443/- owed by the Corporate Debtor. The date of default was stated as 20.03.2019 which is also the due date of the last unpaid invoice, thereby satisfying the essential ingredients of "debt" and "default" under Section 9 of the Insolvency and Bankruptcy Code, 2016. The Bench noted that the Operational Creditor had successfully established the existence of an operational debt amounting to ₹4,05,44,443/-, supported by purchase orders, invoices, ledger records, and demand notices. The Bench observed that there was no pre-existing dispute, the Corporate Debtor had expressly admitted its liability and default, and the date of default was clearly identifiable as 20 March 2019, being the due date of the last unpaid invoice, thereby fulfilling the requirements of "debt" and "default" under Section 9 of the Insolvency and Bankruptcy Code, 2016.

-Justice P.N. Deshmukh (Retd.), Hon'ble Member (J) and Mr. Shyam Babu Gautam, Hon'ble Member (T)
[Ultratech Cement Limited vs. M/s. Jaatvedas Construction Co. Private Limited., C.P.(IB)4563/MB/2019]

Order Dated: 16.09.2022

MUMBAI BENCH, COURT - IV

Section 7 of the Insolvency and Bankruptcy Code, 2016

This petition filed under Section 7 of the insolvency and Bankruptcy Code, 2016 by Jushya Realty Private Limited (the Financial Creditor) seeking initiation of the Corporate Insolvency Resolution Process against Ninety Properties Private Limited (the Corporate Debtor). The Financial Creditor had entered into an arrangement to acquire 100% of the shareholding of the Corporate Debtor from its existing shareholders/promoters for a lump-sum consideration of Rs.4,50,00,000/-. Pursuant thereto, an advance amount of Rs.1,25,00,000/- was paid to the Corporate Debtor on 17.12.2014.

Examination of the financial statements of the Corporate Debtor for the year ending 31.03.2018 indicates that this amount was recorded under 'Other Current Liabilities' as 'Advance from Debtors,' thereby confirming that the transaction is undisputed. The Financial Creditor contended that this advance qualifies as a 'financial debt' within the meaning of Section 5(8) of the Code.

A textual reading of Section 5(8), however, demonstrates that an advance paid towards the purchase of shares does not satisfy the requirement that a financial debt must involve disbursement against consideration

for the time value of money. Furthermore, the transaction does not fall within any of the inclusive categories specified in clauses (a) to (i) of Section 5(8). Accordingly, the amount cannot be characterised as a financial debt. Since the alleged amount in default does not constitute a financial debt, the petitioner does not fall within the definition of a 'financial creditor' under Section 5(7) of the Code. As a consequence, an application under Section 7 being maintainable only at the instance of a financial creditor cannot be sustained. Therefore, the petition filed by Jushya Realty Private Limited seeking initiation of CIRP against Ninety Properties Private Limited was dismissed by this Tribunal.

*-Shri Kishore Vemulapalli, Hon'ble Member (J) and Mr. Prabhat Kumar, Hon'ble Member (T)
[Jushya Realty Pvt. Ltd. vs. Ninety Properties Pvt. Ltd., CP (IB) No.949/MB-IV/2021]*

Order Dated: 24.02.2023

Section 43 of the Insolvency and Bankruptcy Code, 2016

The Resolution Professional filed an application under Section 43 of the IBC seeking a declaration that repayments aggregating Rs. 2,43,40,707/- made by the Corporate Debtor to related parties constituted preferential transactions. The Corporate Debtor had pledged its investments to secure loans of its associate company, Yashraj Containeurs Ltd. Upon the associate's default, the pledged investments were liquidated by the lender, giving rise to a corresponding receivable in favour of the Corporate Debtor. Amounts received thereafter from the associate company, as well as proceeds from sale of assets, were used by the Corporate Debtor to repay antecedent debts owed to related parties.

The respondents argued that only Rs.1,53,67,707/- was actually received and that a portion of the questioned sum was only a book entry. However, no clear explanation was provided regarding the nature or effect of such book adjustment.

The Adjudicating Authority held that the repayment of antecedent debts to related parties, made within the two-year suspect period, conferred an undue advantage over other similarly-placed unsecured creditors under Section 53, thereby constituting preferential transactions within the meaning of Section 43. It further held that even book-entry adjustments amounting to a set-off of receivables constitute 'transfer of property' for the purposes of Section 43.

Accordingly, the Tribunal directed the respondents to refund the preferential amounts to the Corporate Debtor under Section 44(1) and allowed the application.

*-Shri Kishore Vemulapalli, Hon'ble Member (J) and Mr. Prabhat Kumar, Hon'ble Member (T)
[Chetan T. Shah Vs. Mr. Jayesh Vinod Valia, IA-2116/2022 in C.P.(IB)-2146(MB)/2019]*

Order Dated: 21.03.2023

INFRASTRUCTURE

Infrastructure Improvements at the National Company Law Tribunal (NCLT) 2022-2023

Over the past year, the National Company Law Tribunal (NCLT) has made significant progress in enhancing its infrastructure to ensure a more efficient, accessible, and modern environment for all stakeholders. Notable improvements include the refurbishment of courtrooms, ensuring seamless and transparent proceedings. The waiting areas have been expanded, providing greater comfort for litigants and visitors. In addition to courtroom upgrades, significant improvements have been made to office infrastructure, including the installation of high-quality printers, multi-function devices (MFDs), and enhanced CCTV surveillance for better security and operational efficiency. These upgrades are part of NCLT's ongoing commitment to creating a streamlined, secure, and user-friendly environment for all who engage with the Tribunal, ensuring the delivery of justice remains both effective and accessible.

The major infrastructure improvements which have been carried out across benches is as under:

Indore Bench

In the financial year 2022-23, the NCLT Indore Bench undertook essential infrastructure work following its establishment in 2022. The focus was on setting up the initial framework to make the bench operational. This included the establishment of basic office infrastructure, courtroom setup, and supporting facilities to ensure smooth commencement of judicial functioning. The courtroom was made functional with necessary equipment and staff arrangements. This foundational work enabled the bench to begin operations efficiently and laid the groundwork for subsequent upgrades in the following years.



Guwahati Bench

During the financial year 2022–23, NCLT Guwahati Bench initiated the construction of a new office premises at a total project cost of Rs. 2.85 crore. The Project was carried out by UTIITSL. This comprehensive development project included structural construction and preparatory work essential for the commencement of the courts. The infrastructure was planned to accommodate courtrooms, administrative offices, and essential amenities. The project was successfully completed, enabling formal operations in the following financial year.



RTI SET-UP IN NCLT



The Right to Information (RTI) setup in the National Company Law Tribunal (NCLT) has been established in accordance with the provisions of the RTI Act, 2005, to promote transparency, accountability, and timely dissemination of information. The NCLT, being a public authority under the administrative control of the Ministry of Corporate Affairs, has designated Central Public Information Officers (CPIOs) at each of its benches to receive and process RTI applications related to the functioning of the respective benches. In addition, a First Appellate Authority (FAA)—usually the Registrar, NCLT—is appointed to hear appeals against the decisions of CPIOs as per the provisions of Section 19(1) of the RTI Act. In some cases, Assistant Public Information Officers (APIOs) are also designated to facilitate the forwarding of applications to the appropriate officers.

Each NCLT bench manages RTI queries independently, ensuring that responses are provided within the stipulated 30-day period. The Principal Bench oversees coordination and compliance monitoring and also consolidates RTI-related data for reporting to the Ministry or the Central Information Commission (CIC) when required. Applications can be submitted physically at NCLT offices or through the RTI Online Portal, with the applicable fee. Further, in compliance with Section 4 of the RTI Act, NCLT proactively publishes essential information such as organizational structure, functions, contact details, cause lists, orders, and judgments on its official website. This structured setup ensures that NCLT meets its statutory obligations while facilitating informed citizen engagement.

OTHER INITIATIVES

YOGA DAY CELEBRATIONS 2022

The National Company Law Tribunal (NCLT) observed International Yoga Day on 21 June 2022 across all its benches, witnessing enthusiastic participation from Hon'ble Members, officers, and staff. The programme included guided yoga sessions covering basic asanas, pranayama, and meditation practices, with an emphasis on promoting physical fitness, mental well-being, and effective stress management.

The initiative underscored the relevance of yoga in maintaining balance, focus, and overall health. Special sessions were also conducted to highlight the importance of integrating yoga into daily routines. Through this observance, NCLT reaffirmed its commitment to employee welfare while aligning with the national movement towards a healthier and more balanced lifestyle.



OBSERVANCE OF INTERNATIONAL WOMEN'S DAY

The National Company Law Tribunal observed International Women's Day on 8th March, 2023 across all its benches. The occasion was marked as a collective reaffirmation of the institution's commitment to gender equality, inclusiveness, and respect for women in the workplace. The event provided an opportunity to sensitize all participants to the importance of creating a supportive, dignified, and equitable working environment. The event reflected NCLT's broader institutional values of fairness, mutual respect, and social responsibility, reinforcing the spirit of equality as an integral part of its organisational culture.



OBSERVANCE OF RASHTRIYA EKTA DIWAS



National Company Law Tribunal (NCLT) observed Rashtriya Ekta Divas on 31 October 2022 to commemorate the ideals of national unity, integrity, and collective responsibility. The occasion witnessed active and enthusiastic participation from officers and staff members across the Tribunal, reflecting a shared commitment to the values embodied by Sardar Vallabhbhai Patel. On this day, the staff reaffirmed their dedication to fostering unity in diversity and upholding the constitutional ethos in both professional conduct and public service. The observance served as a meaningful reminder of the role of institutions and individuals alike in strengthening the fabric of the nation through cooperation, discipline, and mutual respect.

List of Abbreviations

AA	Authorization for Assignment
AI	Artificial Intelligence
CBI	Central Bureau of Investigation
CCI	Competition Commission of India
CEO	Chief Executive Officer
CIRP	Corporate Insolvency Resolution Process
COC	Committee of Creditors
DC	Disciplinary Committee
DRT	Debt Recovery Tribunal
ED	Executive Director
EMD	Earnest Money Deposit
EOI	Expression of Interest
EPFO	Employees' Provident Fund Organization
FC/FCs	Financial Creditor / Creditors
FiSP/FiSPs	Financial Service Provider/ Financial Service Providers
HC	High Court
IBA	Indian Banks' Association
IBBI / Board	Insolvency and Bankruptcy Board of India
IBC / Code	Insolvency and Bankruptcy Code, 2016
ICAI	Institute of Chartered Accountants of India
ICAI RVO	ICAI Registered Valuers Organisation
ICD	Insolvency Commencement Date
ICMAI	Institute of Cost and Management Accountants of India
ICSI	Institute of Company Secretaries of India
ICSI IIP	ICSI Institute of Insolvency Professionals
IIIP ICAI	Indian Institute of Insolvency Professionals of ICAI
IRPC	Insolvency Resolution Process Cost
IU/IUs	Information Utility/ Utilities
LCD	Liquidation Commencement Date
Liquidation Regulation	IBBI (Liquidation Process) Regulations, 2016
MCA	Ministry of Corporate Affairs
MD	Managing Director
MSME	Micro, Small and Medium Enterprise
NaBFID	National Bank for Financing Infrastructure and Development
NCDRC	National Consumer Disputes Redressal Commission
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal
NeSL	National e- Governance Services Limited

NI Act	Negotiable Instruments Act, 1881
OC/OCs	Operational Creditor/ Creditors
PC Act	Prevention of Corruption Act, 1988
PMO	Prime Minister's Office
PG/PGs	Personal Guarantor/Guarantors
PGIP	Post Graduate Insolvency Programme
PIRP	Personal Insolvency Resolution Process
PMLA	The Prevention of Money Laundering Act, 2002
PMO	Prime Minister's Office
PPIRP	Pre-Packaged Insolvency Resolution Process
PRA	Prospective Resolution Applicant
RA	Resolution Applicant
RoD	Record of Default
RBI	Reserve Bank of India
RP/RPs	Resolution Professional/Professionals
RV/RVs	Registered Valuer/Registered Valuers
SARFAESI Act	Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SC	Supreme Court of India
SCC	Stakeholders' Consultation Committee
SCN	Show Cause Notice
SRA	Successful Resolution Applicant
UIDAI	Unique Identification Authority of India
UNCITRAL	United Nations Commission on International Trade Law
Valuation Rules	The Companies (Registered Valuers and Valuation) Rules, 2017
WP	Write Petition
WTM	Whole Time Member
CD	Corporate Debtor
CEO	Chief Executive Officer
CPE	Continuing Professional Education
CPGRAMS	Centralised Public Grievance Redress & Monitoring System
DRP	Debt Realignment Tribunal
HC	High Court
IIM	Indian Institute of Management
ITD	Income Tax Department
LCD	Liquidation Commencement Date
NITI Aayog	National Institution for Transforming India
Panel Guidelines	Insolvency Professionals to act as interim Resolutions Professional, Liquidators, Resolution Professionals & Bankruptcy Trustees Guidelines, 2024
RBI	Reserve Bank of India
RERA	Real Estate Regulatory Authority

SCRA	Securities Contracts (Regulation) Act, 1956
SEBI	Securities & Exchange Board of India Act, 1992
UPRERA	Uttar Pradesh Real Estate Regulatory Authority

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