



Case Snippets

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Excel Metal Processors Ltd vs. Benteler Trading International GMBH & Anr. [NCLAT] [21st August 2019]

In this case the respondent company was a German Company . Respondent filed an application under sec 9 of the Insolvency and Bankruptcy Code,2016 against the appellant alleging that the 'Corporate Debtor' committed default in making the payment. The Adjudicating authority (NCLT) admit the application. Appellant has challenged the said order while referring to the agreement reached between the parties and raised the question of jurisdiction of the NCLT, Mumbai Bench.

While deciding the issue of jurisdiction , the NCLAT held that pursuant to the Sec 408 of Companies ACT,2013,NCLT has been constituted in different states .As per Section 60(1)of the I&B Code, Central Government has notified and vested the power on the respective NCLT's to deal with the matter within its territory, where the registered Offices of the Companies are situated.

Thus, the Private contract between the parties cannot override the statutory provisions of the I&B Code and drive out the right of NCLAT and NCLT provided under the I&B CODE.

Thus, the NCLT in whose jurisdiction registered office of the company is situated has the full jurisdiction to entertain the proceedings, even if there is an agreement between the parties.



NUI Pulp and Paper Industries Pvt. Ltd. Vs. M/S Roxcel Trading GMBH (NCLAT) (17th July, 2019)

In this case the NCLT held that it has power and authority to pass an interim order to establish moratorium over the corporate debtors. It comes to the notice on receipt of reply that the Corporate Debtor that there was apprehension of the selling off of the assets of the Corporate Debtor by its directors

In the present case the main issue involved was that whether NCLT has Inherent power under Rule 11 of the National Company Law Tribunal rules, 2016 to impose moratorium before initiation of CIRP or not .

In this case the NCLAT, held that as per Rule 11 of the National Company Law Tribunal Rules, 2016 the Adjudicating Authority(NCLT) has the power to make any such order as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.

