



## IIPI Newsletter

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Knowledge SBU Initiative

### **'Homebuyers' voting rights need clarity'**

A bench of the National Company Law Tribunal (NCLT) New Delhi, has ordered notices to the Union government and Chairman, Insolvency and Bankruptcy Board of India (IBBI), seeking their views on the the issue of voting rights of homebuyers and financial creditors of Jaypee Infratech Limited.

The case relates to a deadlock over resolutions to be passed at a meeting of the firm's committee of creditors (CoC).

### **IBBI, not NCLT, is the competent body to act against resolution professionals: NCLAT**

The Insolvency and Bankruptcy Board of India (IBBI) will be the competent authority and not the National Company Law Tribunal (NCLT) to act against any resolution professional (RP) for dereliction of duty, the National Company Law Appellate Tribunal has stated in an order recently.

This will encourage professionals who find huge career opportunity in this new-age profession that plays a crucial role in the fight against bad loans.

### **Defaulting promoters getting 'backdoor' entry to regain companies under IBC**

The Insolvency and Bankruptcy Code's (IBC's) controversial Section 29 A, which bars promoters from bidding for companies against whom IBC proceedings have started, is slowly getting diluted due to the amendments in the law and different court orders.

The National Companies Law Appellate Tribunal (NCLAT), the appellate tribunal under IBC, has recently passed a judgement paving the way for promoters to settle with creditors even after the company has been ordered to be liquidated under the insolvency law.

## POINT TO PONDER

**"Opportunity is missed by most people because it is dressed in overalls and looks like work."**

**-Thomas Edison**

### **"Claims Towards Rent Do Not Qualify As Operational Debt Under IBC"**

The Hon'ble National Company Law Tribunal or NCLT (Mumbai) Bench in *M/S Citicare Super Speciality Hospital vs. Vighnaharta Health Visionaries Pvt. Ltd.*<sup>1</sup> has held that claims towards outstanding rent do not qualify as "Operational Debt" as defined under Insolvency and Bankruptcy Code, 2016 (IBC) and therefore the petition is not maintainable under Section 9 of the IBC. This judgment has raised some serious questions as far as Claims towards rent are concerned. This order of adjudicating authority has turned the position grey and, according to some commentators, may require judicial review.

### **30-day grace period will hurt repayment discipline**

The IBC cases are turning out to be very time-consuming and yielding little, and bankers believe that the one-day default rule should be scrapped and a 30-day period to be allowed before the stress is recognised. However, a strongly held view is that the borrowers must be penalised for delaying a payment, even if the delay is of one day and a 30-day grace period will simply defeat the purpose for which tightening of the norms is suggested, because they will go back to their old ways.

### **Ballarpur Industries unit dragged to bankruptcy court for second time**

Kotak Mahindra Bank approached the Mumbai bench of the National Company Law Tribunal against BILT Graphic under the Insolvency and Bankruptcy Code in March for a default of Rs 218 crore. Kotak Mahindra Bank is the second lender after IDBI Bank to move the NCLT against BILT Graphic, which owes about Rs 7,000 crore to its creditors.

### **Jaypee Infratech homebuyers offered Rs 97 crore compensation**

Jaypee Infratech is now offering 97 crore towards delay compensation, relief on stamp duty, shareholder status in the firm and one-year free maintenance of flats in their revised resolution plan which would address minimum haircut to banks and reflects their intent to complete the pending housing projects and address delayed compensation.

**\*Feedback requested at [ipa@icai.in](mailto:ipa@icai.in)**