



## IIPI Newsletter

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Knowledge SBU Initiative

### **NCLT grants post-facto approval to Liquidator under IBC to initiate legal proceeding on behalf of Corporate Debtor**

The NCLT has granted post-facto approval in terms of Section 33(5) of IBC to a Liquidator for initiation of a legal proceeding on behalf of the corporate debtor. The order of liquidation was passed by the NCLT in December 2018. Meanwhile, an award was passed by an Arbitral Tribunal in a proceeding between the Corporate Debtor and the respondent, M/s Bharat Heavy Electricals Ltd. The Award allowed a portion of the amount in favour of the Corporate Debtor and the other part of the claim was rejected.

### **No IBC Provision That Resolution Plan Should Match Liquidation Value; Approved Resolution Plan Can't Be Withdrawn Under S12A : SC**

The Supreme Court has held that there is no requirement under the IBC that the resolution plan should match the liquidation value of the corporate debtor.

This was held by a bench comprising Justices R F Nariman and Aniruddha Bose in the case *Maharashtra Seamless Ltd (MSL) v Padmanabhan Venkatesh and others*.

The bench was considering the legality of an order of the NCLT, by which the Resolution Applicant (MSL) was directed to modify the resolution plan on the ground that it was below the liquidation value of the corporate debtor and that the operational creditors were not treated at par with the financial creditors.

### **DHFL's administrator orders three transaction audit reports**

The administrator for DHFL has ordered three transaction audit reports by Grant Thornton to examine the alleged related-party and fraudulent transactions. The administrator is understood to have informed lenders to the beleaguered lender the three reports would be submitted soon, bankers familiar with the development told FE.

The draft report also suggests that funds could have been diverted by DHFL and the SFIO is carrying on a parallel investigation.

## POINT TO PONDER

*"Coming together is a beginning. Keeping together is progress. Working together is success."  
--Henry Ford*

### NCLAT sets asides insolvency proceedings against Raheja Developers

Providing a major relief to Raheja Developers, the NCLAT has set aside the insolvency proceedings against the NCR-based real estate firm and handed over the management of the company back to its board of directors. Earlier, the Delhi-based principal bench of the NCLT had directed to initiate insolvency proceedings against the company over the plea filed by one of its flat buyers citing delay in the project and appointed an interim resolution professional. Setting aside it, a three member NCLAT bench headed by Chairperson Justice S J Mukhopadhaya said that delay in the project was not because of the real estate firm but caused due to absence of clearance by the competent authorities, which was beyond its control and the NCLT "failed to appreciate the fact".

### Govt-appointed New Unitech board to discuss way forward

The government-appointed new board of Unitech in its first meeting on January 28 will discuss the way forward for the embattled realty firm. The seven-member board, headed by Haryana cadre IAS officer Yudvir Singh Malik, has been asked by the Supreme Court to prepare a resolution framework of the company and submit a comprehensive proposal within two months. Last Monday, the apex court accepted the government's proposal to take over the management control of Unitech and superseded its existing board and appointed a new board headed by Malik as its chairman and managing director.

### CoC meet for Reliance Communications to be delayed beyond January 31

The resolution of beleaguered Reliance Communications could be delayed further, as the meeting of the CoC, which was to be held on January 31, could be cancelled. "China Development Bank has communicated unavailability for meeting to CoC, therefore, the meeting for voting on January 31 is cancelled and it may be called again in the month of February." NCLT Mumbai on Friday has granted extension of time period for resolution process from February 3 to March 10, 2020, now.

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