



## IIPI Newsletter

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Knowledge SBU Initiative

### **IBBI slaps Rs 34.22 lakh penalty on an Insolvency Professional**

Insolvency regulator IBBI's Disciplinary Committee (DC) has slapped a penalty of Rs 34.22 lakhs on an insolvency professional, Mohan Lal Jain for violations of certain provisions of the IBC. The penalty imposed is equal to 25 per cent of the fee that he had received as RP in the Corporate Insolvency Resolution Process of Mack Soft Tech Pvt Ltd.

### **Section 240A applies in a post-admission scenario and can't be considered as stage of admission: NCLT**

Section 240A of IBC, which stipulates that provisions of clauses (c) and (h) of section 29A shall not apply to resolution applicant in respect of corporate insolvency resolution process of any micro, small and medium enterprises, applies in a post-admission scenario and cannot be considered at stage of admission of CIRP petition; where corporate debtor was in default of a debt due and payable, the CIRP petition filed by financial creditor under section 7 was admitted.

### **Saving viable companies more important than liquidating unviable ones: IBBI chief**

Insolvency and Bankruptcy Board of India Chairman M S Sahoo said on Sunday it made no sense to save an insolvent firm when one could not save the economy. He said rescuing a viable firm was more crucial than failing to liquidate an unviable one during the current Covid-19 crisis. Addressing a webinar, Dr. Sahoo said there were 13,000 pending applications for admission of corporate insolvency resolution process filed with the National Company Law Tribunal. There were 2,000-3,000 insolvency processes which will continue under the IBC.

### **IBBI frames new guidelines for panel of IPs**

Insolvency regulator IBBI has framed new guidelines for setting up a panel of insolvency professionals for appointment as interim resolution professionals, liquidators, resolution professionals and bankruptcy trustees by the Adjudicating Authority (say NCLT or DRTs) with effect from July 1.

## POINT TO PONDER

*"The mind once enlightened cannot again become dark."  
— Thomas Paine*

### March 24 Notification on enhanced minimum threshold of Rs 1 crore for IBC proceedings prospective in nature: NCLT

The National Company Law Tribunal, Chennai Bench has held that the March 24 Notification issued by the Central Government on enhanced minimum threshold of Rs 1 crore for initiation on insolvency proceedings is prospective in nature.

### Suspension of IBC: Spotlight now on schemes under the Companies Act

In view of the suspension of the IBC, the government must create an alternative framework. It is the need of the hour. The finance minister has announced the suspension of fresh insolvency proceedings for up to one year. During this period, the IBC will not be available for debt resolution and distressed companies and their creditors may turn to 'schemes' under the Companies Act, 2013.

### 'Likely blanket suspension of fresh cases under IBC may kill any chances of viable restructuring of assets'

As part of the stimulus package announcement, the Finance Minister has recently announced in connection with the Insolvency laws in India, that there would be a suspension of fresh cases under IBC for six months and up to 1 year. The ordinance to this effect was passed on June 5, 2020, which notifies Section 10 A of the Code, suspending the enabling provisions under Section 7, 9 and 10 of the Code that allows for the initiation of a fresh application by a financial creditor, operational creditor or the corporate debtor, respectively.

### Need to Rethink Suspension of IBC to Adjust Equities

A debate is gathering steam about whether banks must not charge interest if they decide to provide a moratorium to a borrower, and whether the banks would in turn get a right to deny interest payable to depositors who are the source of the money they lend. In parallel, the President has promulgated an Ordinance to suspend the right to invoke the IBC for defaults occurring after March 25, 2020 for a period of six months or such further period as may be notified.

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