



**INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI**

(Company formed by ICAI under Section 8 of the Companies Act 2013)

# IIPI Newsletter

**July 09, 2021**

**Volume 06, Number 27**

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## MCA gets Minister of State (Independent Charge)

Shri Rao Inderjit Singh has been appointed as Minister of State (Independent Charge), Ministry of Corporate Affairs (MCA) w.e.f. July 07. He is law graduate from Faculty of Law, Delhi University and represents Gurugram in Lok Sabha.

His appointment has been made after elevation of Shri Anurag Thakur from Minister of State (MoS), MCA to the rank of Cabinet Minister in a major reshuffle of the Union Cabinet on 07<sup>th</sup> July.

Shri Rao will also hold the responsibilities of MoS (IC), the Ministry of Planning and Ministry of Statistics & Program Implementation.

**For More Details, Please Visit:**

<https://www.indiatvnews.com/news/india/modi-cabinet-new-ministers-portfolios-announced-who-gets-what-full-list-717567>

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## News Update

### NCLAT rejects CIRP Application after ‘Signs of Collusion’ noticed between applicant FC and CD

In a landmark judgment, the National Company Law Appellate Tribunal (NCLAT) has ruled that NCLTs can use ‘discretion’ to ensure that the resolution process under the IBC is not abused by persons coming with unclean hands before the tribunal to avoid their obligations and enjoy the benefits of moratorium during CIRP.

“It is hard to convince oneself that the company having a net worth of Rs 15,36,39,015 is not able to make a payment of Rs 3 lakh. It appears that the petition at hand has been filed in collusion with the corporate debtor,” observed NCLAT and upheld the decision of NCLT Kolkata in the matter of Hytone Merchants Pvt Ltd Vs. Satabadi Investment Consultants Pvt. In the appeal before NCLAT, the petitioner has argued that NCLT does not have the powers to proceed with an unjustified and roving enquiry into mala fides on its own.

While interpreting Section 7.5 (a) of the IBC which reads “a default has occurred and the application under sub-section (2) is complete, and there is no disciplinary proceedings pending against the proposed resolution professional, it may, by order, admit such application”, the court relied on the word ‘may’ and held that the law itself gives it a discretion to admit or reject an application for initiation of CIRP. “Where it appears that application is filed collusively not with the purpose of insolvency resolution but otherwise, then despite fulfilling all the conditions of Section 7(5) of the code, the adjudicating authority can exercise its discretion in rejecting the application relying on Section 65 of the code,” ordered the NCLAT.

**For More Details, Please Visit:**

<https://www.moneylife.in/article/in-a-first-nclat-sets-aside-insolvency-application-on-signs-of-collusion/64467.html>

## News Roundup

### IBC should have provisions to give MSME suppliers priority in the order of settlement of creditors' dues

“In the insolvency cases under IBC, dues owed to MSME suppliers are not given priority in the order of settlement of creditors' dues. If MSME vendors do not get their dues settled on time, it is but natural that they will default on their bank loan obligation,” said Vijay Kalantri, President, All India Association of Industries (AIAI) and Chairman, World Trade Center. He was speaking in a Webinar organized by AIAI. He further said that the public sector banks are lagging behind the private sector in credit disbursement to MSMEs. Kalantri urged commercial banks to open dedicated branches for SMEs across the country and also called for the conversion of SIDBI into a full-fledged bank for SMEs.

**For More Details, Please Visit:**

<https://www.financialexpress.com/industry/sme/msme-eodb-government-should-bring-provisions-under-ibc-for-priority-settlement-of-msme-vendors-dues-says-expert/2284430/>

### NCLAT allows withdrawal of OYO's CIRP case, other creditors may approach NCLT separately

The withdrawal was allowed after the company settled its financial dispute of ₹ 14 lakh with the original petitioner. The court dismissed the appeals of intervention by rest of all the other Financial Creditors (FCs) but provided a little breather to the FCs by reserving their right to approach the corporate debtor (OYO) to enter a settlement. Furthermore, the court also reserved the right of all the Financial Creditors (FCs) to approach the NCLT separately in case they have their own claim and recommence the CIRP.

**For More Details, Please Visit:**

<https://www.moneycontrol.com/news/business/startup/just-in-nclat-dismisses-hoteliere-claims-against-oYO-7138061.html>

### Fyre Festival attendees get ~96% haircut under USA Bankruptcy Regime

Ticket buyers of the Fyre Festival in USA to which several Hollywood models were paid handsomely for promotion, are set to receive less than 4% of their investments.

Gregory Messer, the bankruptcy trustee in the case, has told the judge that he's collected a measly \$1.4 million. After subtracting bankruptcy fee, there will be just \$3 lakh left for creditors including ticket purchasers who had invested more than \$7million by purchasing tickets and packages costing \$1,200 and \$1 lakh, respectively.

**For More Details, Please Visit:**

<https://nypost.com/2021/07/07/fyre-festival-attendees-stand-to-recover-almost-nothing-from-bankruptcy/>



### IBBI announces 2<sup>nd</sup> “National Online Quiz on IBC, 2016” with 1<sup>st</sup> Prize of ₹1 lakh

Take 10 minutes quiz on Insolvency and Bankruptcy Code (IBC), 2016 from anywhere, any mobile/ computer, anytime and you may win a prize of ₹1 lakh.

With a view to create awareness on IBC among the masses, the Insolvency and Bankruptcy and Bankruptcy Board of India (IBBI) will conduct its 2nd National Online Quiz on IBC, 2016 from 01st to 31st August 2021. The winner of the First Prize will get ₹1 lakh while the 2nd and 3rd Prizes have been kept at ₹ 50,000 and ₹ 25,000, respectively. Besides, there are 10 consolation prizes of ₹ 10,000/- each for next 10 best performers. Furthermore, top 10% performers shall be awarded "Certificate of Merit".

The Quiz shall be open on MyGov portal <https://quiz.mygov.in> for a period of one month from 01st to 31st August 2021. The Quiz is open to Indian citizens aged 18 years plus.

**For More Details, Please Visit:**

<https://www.ibbi.gov.in/uploads/whatsnew/01013f80a100479c1d417c2ee03f5ffb.pdf>