

IBC News

Leveraging technology and filling up posts are two key factors in increasing the speed in rescuing companies: Rajesh Verma, Secretary MCA

Speaking at an event organized by the NCLT, Shri Rajesh Verma, Secretary-MCA has emphasized on the use of technology and having more manpower could help in speeding up rescuing companies undergoing bankruptcy proceedings. He also informed that the Central government is considering introduction of cross border insolvency framework under IBC to enhance its effectiveness. Pendency of cases in NCLT Benches have been a major concern of insolvency experts to which the government is expediting filling up of vacancies to reduce the backlog.

“Artificial Intelligence (AI) can be used in case resolution, especially in admission of cases,” said Chief Justice (Retd.) Ramalingam Sudhakar, who was the chief guest at the event. IBBI Chairperson Shri Ravi Mittal said that IBBI is always ready to collaborate with NCLT in simplification of the process of resolution. “With more standardization, the speed of resolution of cases can be increased,” added Mittal. Besides the insolvency and bankruptcy cases, the NCLT also handles other cases under the Companies Act. So far, the NCLT has disposed of about three fourth of over 83,000 cases filed before its various benches spread throughout the country since its inception in 2016.

Source: *LiveMint.com, March 26, 2022*

<https://www.livemint.com/companies/news/technology-more-manpower-can-speed-up-bankruptcy-resolution-official-11648306694590.html>

As real estate giants make beeline for insolvency, UP Government orders to set up probe panel

The recent orders of insolvency on two real estate giants in less than a week – Supertech and Logix Citys – have left thousands of home buyers in lurch who have been paying EMIs of their home loans for years. This has prompted the Uttar Pradesh Chief minister Yogi Adityanath to order Industrial Development Department for a probe panel to find out the reasons behind financial strain of real estate



“Things are not streamlined. Uncertainty looms large even after the establishment of Real Estate Regulatory Authority (RERA). Why the developers are declaring themselves bankrupt needs to be probed,” writes media reports citing a senior official of the state government. Some of the major real estate companies going into insolvency due to financial strain include Wave Real Estate Group, Amrapali, Jaypee Group, 3 C Homes, Unitech and Sahara etc. The maximum projects of these companies are in the twin cities of Noida and Greater Noida. Here, most of the housing projects, launched during 2009-2014, remain incomplete.

Source: *The New Indian Express, April 02, 2022*

<https://www.newindianexpress.com/nation/2022/apr/02/up-govt-to-form-panel-to-probe-why-ncr-builders-are-going-bankrupt-leaving-buyers-in-the-lurch-2437198.html>

SpiceJet Reaches an In-Principle Settlement with its Lender, Credit Suisse AG, which Sought its Insolvency

SpiceJet airlines' lender, Credit Suisse AG, had sought insolvency of the airlines over unpaid dues. The airline has now reached in-principal settlement on about \$24 million dues and is now on the way to file consent documents to resolve the dispute. Senior lawyer, Mukul Rohatgi, who is appearing for SpiceJet in a separate case against Kalanithi Maran, informed the Supreme Court regarding the same. The apex court suggested SpiceJet and Kalanithi Maran to sort their ongoing disputes as the April 12 hearing is deferred.

Source: *ETNow, March 31, 2022*

<https://www.timesnownews.com/business-economy/companies/relief-for-spicejet-as-airline-reaches-settlement-with-lender-which-sought-its-insolvency-article-90566431>

Financial Creditors Recover 51% of Admitted Claims in 8 out of 12 Large Cases Recommended by RBI

RBI-recommended cases for resolution under the IBC 2016 framework got financial creditors recover 51% of their admitted claims in eight of the twelve large cases. The twelve firms owed approximately Rs 3.45 trillion to their financial creditors. However, for two stressed firms, Era Infra Engineering and Jaypee Infratech, the CIRP is still going on, and Lanco Infratech and ABG Shipyard are getting liquidated, said by Shri Bhagwat Karad, Minister of State for Finance, while he tabled a written reply in the Rajya Sabha.

Source: *Financial Express, March 17, 2022.*

<https://www.financialexpress.com/industry/cases-recommended-by-rbi-financial-creditors-recovered-51-in-eight-large-ibc-cases/2463470/>

Bankruptcy Judge for LATAM Airlines Affirms \$734 Million to Finance Fees

A court approval of a deal with creditors has been attained by LATAM Airlines Group SA for financing a restructuring proposal. The junior creditors expressed their outcry, they opposed hundreds of millions of dollars in fees associated with the transaction. Due to pandemic, world travel came to a halt. In May 2020, LATAM had filed for Chapter 11 in the US Bankruptcy Court for the Southern District of New York. In Manhattan, US Bankruptcy Judge, James Garrity, approved LATAM's backstop agreement with a creditor group wherein the creditors assured to finance in case no one else steps for the same. The considered deal would provide the 15 backstop creditors with \$734 million in fees to ensure that \$5.4 billion in stock and debt offerings are fully financed. The judge also approved a deal with existing shareholders, including Delta, to backstop \$400 million of a common stock offering and up to \$1.3 billion of a debt offering. This does not include the fees but provides legal protections and expense reimbursements for the shareholders.

Source: *Reuters, March 16, 2022*

<https://www.reuters.com/legal/transactional/latam-airlines-bankruptcy-judge-oks-734-million-financing-fees-2022-03-15/>

Projects with implementation risks should normally be financed by Capital Markets and not by banks using public deposits: Former RBI Deputy Governor

Former RBI Deputy Governor, Shri N. S. Vishwanathan, has opined that India needs a very strong bond market that can fund projects and manage its risks. Speaking at an event organized by industry body ASSOCHAM, Shri Vishwanathan suggested that projects with implementation risks should be funded by capital markets, not by banks using public deposits. He also expressed concerns on high ratio of Non-Performing Assets (NPAs) of Indian banks and suggested that Indian banking system should have NPAs of globally accepted standards.

On this occasion, Shri Santosh Kumar Shukla, Executive Director-Insolvency and Bankruptcy Board of India (IBBI) said that in 2014, the RBI had then thought creating a study of the asset quality review due to the huge NPAs the banks were sitting on. He noted that even though the IBBI has achieved a lot, it is still the beginning progress thenceforth. He informed that the time taken for the resolution deteriorates the value of the asset of the Corporate Debtor. If the CoC considers faster decisions and cooperates with other stakeholders, or if the entities play in the ecosystem in a constructive way, the amount of time will come down. Ajit Pai, NITI Aayog's distinguished expert on Economics and Finance, pointed out that as compared to most of the G20 countries India's debt to the GDP ratio is very high that needs to be brought down.

Source: *The Economic Times, March 10, 2022*

<https://economictimes.indiatimes.com/industry/banking/finance/banking/projects-with-implementation-risks-should-be-financed-by-capital-markets-former-rbi-deputy-governor/articleshow/90133289.cms>

Tata Power's Singapore Joint Venture selected as Successful RP for UP's Power Transmission Firm

Resurgent Power, a joint venture of Tata Power, ICICI Bank and other international investors from abroad, has won the bid to acquire Southeast UP (Uttar Pradesh) Power Transmission Company Ltd. (SEUPTCL) through insolvency under the IBC. The Resolution Professional of SEUPTCL has reportedly provided a Letter of Intent (LOI) to the Resurgent Power as Successful Resolution Applicant of the Corporate Debtor on March 09, 2022.

As per the Resolution Plan, Resurgent Power will infuse equity and raise debt in SEUPTCL at a total enterprise value of more than ₹6,000 crore for implementing and commissioning the elements timely and turnaround the asset that will maximize value for all the stakeholders. The SEUPTCL was incorporated in 2009 as a special power vehicle (SPV) to operate the specified intra-state transmission system for a period of 35 years under public-private partnership model on build-own-operate-maintain & transfer basis. Resurgent Power acquired Prayagraj Power Plant in 2019 followed by System Strengthening Scheme in Northern Region NRSS XXXVI Transmission Limited.

Source: *The Economic Times, March 09, 2022*

<https://economictimes.indiatimes.com/industry/energy/power/tata-powers-singapore-jv-wins-bid-to-acquire-seuptcl/articleshow/90106613.cms>

No insolvency against deceased Guarantor: NCLT Principal Bench

NCLT Delhi's Principal Bench has ordered closure of insolvency proceedings under Section 95 of the IBC against a guarantor who died during the process. "It is not a case for recovery of any amount because that will go contrary to the scheme of IBC, 2016, question of continuing the proceedings against such a dead person will not arise," said the Bench. The case is related to Mr. Deepak Puri who stood as a Personal Guarantor (PG) to the Corporate Debtor (CD), namely Moser Baer India Limited. During inquiry under Section 99 of the IBC, it was found that the PG expired on October 02, 2021, at State of California, County of Santa Clara (USA).

Source: *Taxscan.in, March 13, 2022*

<https://www.taxscan.in/no-continuing-insolvency-resolution-process-against-personal-guarantor-after-his-demise-nclt/160419/>

Dubai implements amendments in Insolvency and other laws to align with the international best practices

The amendments to the Insolvency Law 2019 (and Insolvency Regulations) bring bonding requirements in line with current practices in the UAE and ensure consistency in the liquidator's reporting obligations in respect of the different types of liquidation procedures available under the law. Besides the insolvency law,

amendments to Data Protection Law of 2020, Electronic Transactions Law of 2017, Trust Law of 2018, Strata Title Law of 2007, and Common Reporting Standard Law of 2018, as well as to the rules of interpretation in various DIFC Laws also came into effect from March 08.

Source: *Gulfnews.com, March 08, 2022*

<https://gulfnews.com/business/new-difc-law-amendments-come-into-effect-1.86281077>

SEBI asks for Debenture Holder's nod for M&A

According to SEBI, clearance of any scheme of merger and acquisition (M&A) shall require mandatory prior approval of debenture holders. This initiative is aimed at empowering investors in debentures. The new rule will ensure that the debenture holders do not get short-changed. However, the companies which frequently issue debentures, particularly financial service providers, have argued that this would create duplicity as the process already requires approvals of NCLT and RBI.

Source: *Times of India, February 28, 2022.*

<https://timesofindia.indiatimes.com/business/india-business/debenture-holders-nod-needed-for-mas-sebi/articleshow/89878310.cms>

Suspended Board of Directors Has No Power to Appoint a Resolution Professional: NCLAT, Chennai

The suspended Board of Directors under IBC has no power to appoint or replace a resolution professional, has held the NCLAT, Chennai. This power lies with Committee of Creditors (CoC) and Adjudicating Authority (AA). As per the terms of Section 27, the RP may be replaced during CIRP by the CoC with a 66% majority of voting share. In case no name is proposed by the CoC, the AA is called upon to propose a person's name on recommendations of the IBBI.

Source: *Live Law.in, March 02, 2022*

<https://www.livelaw.in/ibc-cases/nclat-chennai-ibc-resolution-professional-committee-of-creditors-coc-193138>

IBBI is fully clothed with jurisdiction to regulate payment of remuneration of RP and IRP: NCLAT

In a landmark judgement, the NCLAT has said that the Insolvency and Bankruptcy Board of India (IBBI) has full jurisdiction to regulate payment of fee to IRP and RP by framing regulation and also by issuing executive

instructions till regulations are not framed. The court further said that the issue of payment of fee to the IRP/RP occur very frequently which needs to be regulated by IBBI, the Regulating Authority under the IBC.

In this matter *Insolvency Professional Vs. J P Engineers*, the IRP in the first meeting of the CoC demanded a fee of ₹ 2 lakh per month but the CoC approved ₹ 50,000 per month. Finally, the case reached to the Appellate Tribunal. Hearing the matter, the Principal Bench of the NCLAT comprising Justice Ashok Bhushan, Chairperson-NCLAT and Technical Member Mr. Sumit Bansal, relied on Section 240 (1) of the IBC under which IBBI (Insolvency Professionals) Regulations, 2016 has been made. The Regulation 7 (2) (h) states that the IP has to abide by the Code of Conduct specified in the First Schedule. Furthermore, the Item 25 of the First Schedule, requires an IP to provide services for remuneration which is charged in a transparent manner, is a reasonable reflection of the work. “The mere fact that IBBI has been asked to submit its recommendations by the AA, in the present case, we see no reason to question,” said the Court and directed the AA to dispose of the application after receiving recommendations from IBBI.

Source: *Live Law.in, February 25, 2022.*

<https://www.livelaw.in/ibc-cases/ibbi-nclat-irp-sumit-bansal-insolvency-professional-v-committee-of-creditors-of-jp-engineers-192785>

Several Airlines heading to bankruptcy, Bloomberg Study

Though Covid-19 restrictions are being eased out but still the good days are a distant dream for airlines, globally. Bloomberg's analysis didn't cover non-operational and chartered airlines and removed carriers with the smallest fleets. Of the lowest scorers, six are in Asia, where inter-regional air passenger traffic is still 61% below pre-pandemic levels, versus about 25% for Europe and only 0.5% in the U.S., according to aviation analytics firm Cirium.

Source: *Bloombergquint.com, February 25, 2022.*

<https://www.bloombergquint.com/business/the-airlines-still-facing-risk-of-bankruptcy-as-travel-returns>

Supreme Court rejects Customs' Claim for not applying to the Resolution Professional

In his rejoinder, the Commissioner of Customs argued that no notice was issued to the Authority at Mangalore and there was certain confusion as to whether the operational debt as defined under Section 5(21) of the IBC would cover the claim. However, the Supreme Court relied on the judgement in the matter of *Ghanashyam Mishra & Sons Pvt. Ltd. Vs. Edelweiss Asset Reconstruction Company Ltd. and others*, in which it was held that once a Resolution Plan is approved, no creditor can take steps to recover claims which are not part of the Plan. Accordingly, the claim of the Customs Department was not admitted, and the appeal of Ruchi Soya Ltd. against Karnataka High Court was allowed.

Source: *Livelaw.in, February 24, 2022.*

<https://www.livelaw.in/top-stories/ibc-claim-which-is-not-part-of-resolution-plan-doesnt-survive-supreme-court-192747>

Session Court Judges Don't Have Jurisdiction to Try Offences under the IBC: Bombay High Court

The Bombay High Court has stated that the Session Court Judges are not empowered to try offences under the IBC 2016 but only the special courts constituted under the Companies Act. In this case the petitions had filed a plea, heard by Justice SK Shinde, assailing an order of the Mumbai Sessions Court according to which summons were issued to them in a complaint of the Insolvency and Bankruptcy Board of India (IBBI).

The petition stated that the Sessions Judge did not have the jurisdiction to entertain the complaint filed by the IBBI and added further that as per Section 236 of IBC, the Special Courts under the Companies Act were empowered to try offences under the IBC as Court of Sessions. It was further submitted before the High Court, that the objective behind Section 236 was speedy trial of offences under the IBC. Relying on the intent of the legislators to ensure speedy trial of offences under IBC, Justice Shinde noted, “If trials in offences under IB Code were also to be tried by the Special Court comprising of Sessions Judge or Additional Sessions Judge, it would frustrate to object of the speedy trial, for which the Special Courts have been established.”. The court further stated that the courts of

Sessions Judges are to try offences under the Companies Act and the ones of Magistrates to try offences under the acts other than the Companies Act. The order issued against the petitioners was reckoned as being without jurisdiction and unsustainable and was hence quashed.

Source: *Indiatoday.in, February 17, 2022*

<https://www.indiatoday.in/law/story/court-of-sessions-judge-not-empowered-to-try-ibc-offences-bombay-hc-1914407-2022-02-17>

Ireland's Property Developer Gets His Savings in 'Irish Pension Scheme' through UK's Bankruptcy Law Property

Businessman Bernard McNamara and his wife had set up a property developing company 'Simcoe Industries' in Ireland. In 2012, on his bankruptcy application, the UK High Court declared him bankrupt. However, the matter of his pension became a contentious issue as it was allowed as per the UK law but not as per the Ireland's bankruptcy law. Accordingly, the joint trustees of McNamara's bankruptcy also had tried to claim his pension investments to use in the bankruptcy proceedings, arguing that these were part of his estate. The UK court referred the matter to the European Court of Justice (EJ) due to the conflict between the laws of both the countries. In its judgement, ECJ held that the outcome depended on there being no public interest in McNamara's pension funds being handed over to creditors. Subsequently, the UK High Court confirmed its ruling on February 15, 2022, paving the way for McNamara to access his €8.4 million (~\$11.4 million). An LCP response to the ruling noted, "Once the ECJ had supported the original ruling it seemed unlikely the High Court would need to change the original decision."

Source: *Pensionsexpert.com, February 17, 2022*

<https://www.pensions-expert.com/Law-Regulation/High-Court-confirms-Irish-pension-exclusion-from-bankruptcy-case?ct=true>

Chinese Businessman, Guo Wengui, Approached US Bankruptcy Court for Individual Bankruptcy Protection

Guo Wengui, a Chinese Businessman, has filed for individual bankruptcy protection in a U.S. bankruptcy court in Bridgeport. He had listed assets in the range of \$50,001 to \$100,000, and liabilities between \$100 million

and \$500 million. The list of creditors who have claims against Guo includes Pacific Alliance Asia Opportunity Fund's largest claim of around \$254 million. The fund had been engaged in a legal battle with him for four years. As per media reports, he has liability of about \$88 million unpaid loans borrowed between 2008 to 2011.

Source: *Reuters.com, February 17, 2022*

<https://www.reuters.com/markets/us/chinese-businessman-guo-wengui-files-bankruptcy-us-court-2022-02-16/>

Resolution Plan once approved by CoC leaves no Scope for Negotiation: NCLAT

The NCLAT set aside the order of the NCLT-Mumbai bench, which directed the administrator of the debt-ridden DHFL to put the second settlement proposal before its lenders for consideration by erstwhile promoter Kapil Wadhwan. NCLAT stated that the direction of the NCLT was passed even after the CoC of DHFL had by an overwhelming majority approved resolution plan. "Once the requirements of the IBC have been fulfilled, the NCLT and the NCLAT are duty-bound to abide by the discipline of the statutory provisions. Neither of them has an unchartered jurisdiction in equity," said the NCLAT.

Source: *Business Standard, January 31, 2022.*

https://www.business-standard.com/article/companies/dhfl-nclat-sets-aside-order-that-directed-to-consider-wadhwan-s-2nd-offer-122013000351_1.html

Even if Notice U/S 8 was Issued Pre-Amendment Insolvency, the Application must Meet Threshold as Per Amended S.4 of IBC

The High Court of Kerala in the matter of M/s Tharakan Web Innovations Pvt. Ltd. v. National Company Law Tribunal & Ors. held that the litmus test is whether the default exists as defined in amended Section 4 of the IBC w.e.f. 24.3.2020, increasing the default amount from Rs. 1 Lakh to Rs. 1 Crore, on the date of the application, and not on the date when the notice was sent to the Corporate Debtor u/s 8 of the Code. The High Court observed that "From the date of the amendment, Part II of the IBC can apply only to matters relating to insolvency and liquidation of corporate debtors, where the minimum amount of default is Rs.1 Crore. Once that is the position,

the application of Part II itself is taken away with effect from 24.03.2020 as far as defaults less than Rs.1 Crore are concerned and hence no application can be filed after 24.03.2020 regarding an amount where the default is less than Rs.1 Crore."

Source: *Livelaw.in, February 01, 2022.*

<https://www.livelaw.in/ibc-cases/iinsolvency-application-must-meet-threshold-as-per-amended-s4-ibc-though-notice-u/s-8-was-issued-pre-amendment-kerala-high-cour-190906>

Increase in Insolvency numbers in U.K. by 20% than last year

The latest insolvency figures for February 2022 have shown a 20% increase in corporate insolvencies compared to February last year in U.K. Further the figures released for December 2021 by the U.K. government's Insolvency Service also showed that it was 33% higher than the number registered in December 2019. In December 2021, there were 1,486 insolvencies, compared to 1,237 in December 2020, and 1,120 in December 2019.

Source: *Recuriter.co.uk, February 03, 2022*

<https://www.recuriter.co.uk/news/2022/02/insolvency-numbers-20-higher-last-year>

After approval of Resolution Plan, IT department cannot issue notices for dues prior to CIRP Commencement Date: High Court

Nagpur Bench of the Bombay High Court has ruled that the Income Tax (IT) department cannot issue notices for raising fresh claims to a Corporate Debtor, after its resolution plan is approved under IBC, on the ground that its assessing officer believes the income chargeable has escaped assessment. The court quashed the notices issued by the IT Assessment Officer issued to the CD on March 25, 2021, seeking to reopen 2014-15 while the Resolution Plan was approved by NCLT on June 03, 2019. The same was subsequently approved by the NCLAT on January 24, 2020.

"The IT authorities ought to have been diligent to verify previous years assessment of a debtor as per the law and to raise claim within time before RP. In this case the authorities failed to do so, and therefore, the claim stood extinguished," said a division bench comprising Justice

Sunil Shukre and Justice Anil Pansare. The bench noted that there could be a contingency where statutory claim is raised after the approval of the Resolution Plan, owing to receipt of information of Corporate Debtor having suppressed certain facts while filing returns of previous years. The HC quashed IT notices issued to the Corporate Debtor, Murli Industries Limited, and made crystal-clear that the IT department cannot issue a notice to a corporate debtor asking it to submit a return for assessment year prior to resolution plan's approval date under the IBC. Earlier, the Corporate Debtor, had filed return for the assessment Year 2014-15 on September 09, 2014, declaring a loss of over ₹ 28 crore.

Source: *Times of India, January 26, 2022.*

<https://timesofindia.indiatimes.com/city/nagpur/no-i-t-notices-after-ibc-nod-to-resolution-plan-hc/articleshow/89124168.cms>

NCLAT directed CoC to Review Assigning ₹1 to DHFL's Bad Loans

The NCLAT on January 28, 2022, directed the CoC to reconsider Piramal Capital and Housing Finance (PCHF) assigning a token value of only ₹1 to the bad loans of Dewan Housing Finance Corp. Ltd (DHFL). PCHF has acquired DHFL in 2021 through a Resolution Plan under the IBC. The petitioner, 63 Moons Technologies Ltd led by Jignesh Shah, questioned the "commercial wisdom" of the CoC in approving the resolution plan. It also pointed out that assigning a value of ₹1 would mean that the amount will be written off by the lenders, and recovery, as and when it happens, will be credited to the resolution applicant.

Source: *Livemint.com, January 28, 2022.*

<https://www.livemint.com/companies/news/nclat-asks-coc-to-reconsider-assigning-re-1-to-fraud-transactions-in-dhfl-case-11643275932167.html>

A claimant cannot be denied perusal of the approved Resolution Plan: NCLAT

In the matter of Association of Aggrieved Workmen of Jet Airways (India) Limited v. Jet Airways (India) Ltd, the NCLAT has held that after approval by the Adjudicating Authority (AA), the Resolution Plan is no more a confidential document. Therefore, an aggrieved claimant

cannot be denied its perusal. This judgement has been delivered by a bench comprising of Justice Ashok Bhushan (Chairperson) and Dr Ashok Kumar Mishra (Technical Member). The question for consideration before the bench was whether the appellant, herein the Operational Creditors – an association of aggrieved workmen of Jet Airways (India) Ltd., who has filed an appeal against the order of the Adjudicating Authority is entitled to behold a copy of the Resolution Plan or any of its part in the proceedings? However, since the appellant was not entitled to participate in the meeting of the CoC, thus, during CIRP they were not entitled for the copy of the Resolution Plan. Section 24 of the IBC read with Regulation 21(3) (iii) of the Process Regulations 2016 explicates that the copy of the documents is for those who participate in the process.

Source: *Livewlaw.in, January 23, 2022.*

<https://www.livewlaw.in/ibc-cases/ibc-insolvency-and-bankruptcy-board-of-india-insolvency-professionals-regulation-2016-nclt-rules-2016-cirp-proceedings-190157>

NCLAT rejects SREI's Resolution Plan for Deccan Chronicle on the ground 'Discrimination' in the allocation of funds among the Creditors

In its order, the NCLAT termed the Resolution Plan of SRIE Group for acquisition of the Deccan Chronical Holdings Ltd. (DCHL) 'nonsustainable' and directed the CoC to distribute the resolution amount in conformity to the provisions of IBBI (CIRP), 2016. DCHL, which has a payable dues of ₹ 8,180 crore from 37 Financial Creditors, is undergoing through insolvency process on a petition filed by Canara Bank. In its Resolution Plan, approved by the CoC, the SREI Group had offered an upfront cash of ₹350 crore to the financial creditors. However, IDBI, a financial creditor, challenged the Resolution Plan on the ground that the amount offered was less than its pro-rata basis entitlement and opposed classifying of financial creditors and it should be treated at par with others.

Source: *The Economic Times, January 24, 2022*

<https://economictimes.indiatimes.com/news/india/nclat-sets-aside-nclt-order-approving-sreis-resolution-plan-for-deccan-chronicle-holdings/articleshow/89097340.cms>

Section 29A(h) IBC will stand attracted on mere invocation of personal guarantee by a creditor, notwithstanding the fact that the insolvency process was initiated by another creditor: SC

The SC has delivered a judgment on the scope of Section 29A(h) of the IBC specifying the categories of persons who are not eligible to be resolution applicants. Section 29A(h) refers to the persons whose guarantees stand invoked by the creditors of the corporate debtor. “Section 29A(h) IBC will stand attracted on mere invocation of personal guarantee by a creditor, notwithstanding the fact that the insolvency process was initiated by another creditor,” said a bench comprising comprising Justice Sanjay Kishan Kaul and Justice MM Sundresh. The Court noted that Section 29A protects and balances the interest of the CoCs and the CD.

Source: *Livewlaw.in, January 18, 2022.*

<https://www.livewlaw.in/ibc-cases/section-29ah-ibc-guarantor-barred-from-submitting-resolution-plan-if-guarantee-was-invoked-by-any-creditor-regardless-of-who-initiated-insolvency-supreme-court-189779?infinitescroll=1>

Sri Lanka's Financial Crisis puts the country on the Brink of Bankruptcy

Sri Lanka has about \$7.3 billion in domestic and foreign loans which it needs to repay in next by the end of this year, said media reports. This includes \$500-million international sovereign bond repayment due in January. According to media reports, a spurt in printing money to square off domestic loans and foreign bonds drove inflation to 12.1% in December 2021 from 9.9% in November. The pandemic has led to loss of tourism, high-government spending, and tax-cuts eroding state revenues. In December 2021, food price inflation soared to 22.1 percent from 17.5 percent, the country's central bank announced.

Source: *Moneycontrol.com, January 03, 2022.*

<https://www.moneycontrol.com/news/business/sri-lanka-on-the-brink-of-bankruptcy-with-record-high-inflation-and-mounting-dues-7892791.html>

MCA to Firm-Up the Framework for Cross-Border Insolvency

The IBC Amendment Bill is likely to get a push in the upcoming Budget session by the Government. As part of it, several changes to the CIRP are to be made to avoid delays in the resolution process. The framework when enacted as part of the IBC would further aid in doing business in India. “We are discussing the comments received on the consultation paper... We are approaching the suggestions with an open mind,” a senior official reportedly told to media. The MCA had in November 2021 invited public comments on the proposed legal framework for cross border insolvency.

Source: *The Indian Express, December 31, 2021.*

<https://indianexpress.com/article/business/panel-proposal-to-speed-up-resolution-30-days-for-nclts-to-decide-on-plan-7698836/>

NCLT orders CIRP of Ind-Barath Power Infra Ltd. promoted by MP Ram Krishan Raju

NCLT Hyderabad has given go ahead for Corporate Insolvency Resolution Process (CIRP) Ind-Barath Power Infra Ltd on a CIRP petition filed by the Punjab National Bank. The Company is promoted by Mr. Ram Krishan Raju, a rebel Lok Sabha MP of YSR Congress. According to media report, the company took about Rs. 1,384 crore loans from various banks. Aggrieved with the defaults the banks formed a consortium under in the leadership of Punjab National Bank which has about Rs. 327 crore dues to the Ind-Barath. In its order the NCLT also directed the registry to send a copy of the order to the Registrar of Companies to enable him to write appropriate remarks against the Company.

Source: *Times of India, January 02, 2022*

<https://timesofindia.indiatimes.com/city/hyderabad/insolvency-ordered-against-raju-firm-for-1-3k-cr-loan-default/articleshow/88640796.cms>



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