



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

IIPI jointly with III (USA), organizing International Seminar on 17th June

IIPI jointly with International Insolvency Institute (III), USA is organizing an International Webinar (Virtual) on “Cross Border Insolvency and Global Lessons for India” from 4.30 PM to 6.30 PM on June 17, 2022.

Shri Ravi Mital, Chairperson, IBBI has kindly consented to grace the occasion as Chief Guest. Besides, CA (Dr.) Debashis Mitra, President, ICAI, Mr. Evan J. Zucker, Of Counsel, Blank Rome LLP & III NextGen Chairperson (USA) and Dr. Ashok Haldia, Chairman, IIPI will address the Inaugural Session. Besides, eminent experts from India and USA will also address the Conference.

For More Details, Please Visit: <https://www.iiipicai.in/wp-content/uploads/2022/06/IIPI-International-Webinar-1.pdf>



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**For Internal Circulation Only*
**Knowledge SBU Initiative*

SC directs NCLATs and NCLTs not to "sit on appeal" if minimum 90% of creditors agree on "Settlement Plan" of Corporate Debtor

The Supreme Court (SC) has ruled that if 90% or more of the creditors agree on a "Settlement Plan" filed by promoter/s of the Corporate Debtor on the ground that it would be in the interest of all the stakeholders to withdraw CIRP as per Section 12A of the IBC, 2016; NCLT or NCLAT "can not sit in appeal over such commercial wisdom of Committee of Creditors (CoC)".

An application was filed by IDBI Bank Ltd. (Financial Creditor) under Section 7 of the IBC, 2016 for commencement of CIRP against M/s Siva Industries and Holdings Ltd, which was admitted by NCLT, Chennai on July 04, 2019. During CIRP, the financial creditors and promoters of the Corporate Debtor agreed on a "Settlement Plan" to settle the Corporate Debt. Accordingly, an application was filed by the Resolution Professional under Section 12A of the IBC, 2016 seeking withdrawal of the CIRP. However, the NCLT, Chennai rejected the application. The same was rejected by the NCLAT as well.

Relying on the SC judgement in the matter of *Ajay Kumar Jagatramka v. Jindal Steel and Power Limited* (2021), the Apex Court emphasized on minimum judicial interference by the NCLATs and NCLTs in the framework of IBC, 2016. "The interference would be warranted only when the Adjudicating Authority or the appellate authority finds the decision of the CoC to be wholly capricious, arbitrary, irrational and *dehors* the provisions of the statute or the Rules," said the SC.

For More Details, Please Visit: <https://www.livelaw.in/top-stories/supreme-court-ibc-section-12a-committee-of-creditors-settlement-plan-cirp-withdrawal-nclt-nclat-v-200825>

Hope you find this update helpful. Suggestions if any, may be mailed to iiipi.pub@icai.in

News Roundup

GST and IBC, 2016 will help India to achieve \$5 trillion: Chief Economic Advisor (CEA) to Government of India

India's CEA Shri V. Anantha Nageswaran has asserted that the Covid-19 pandemic and the contemporary geopolitical conflicts have shadowed recent structural reforms such as the Goods and the Service Tax (GST) and the IBC, it will benefit the economy in future. "They will begin to manifest their benefits and advantages in advancing India's potential growth in decades to come. That is why India is now forecasted by the IMF to cross US dollar 5 trillion by 26-27. And if the dollar GDP of the country doubles every seven years, we will be at \$20 trillion GDP by 2040 with a per capita income of close to \$15,000," he projected. "We need to understand that the medium-term fundamentals of the Indian economy remain solid," said Shri Nageswaran in an event hosted by Department of Economic Affairs (DEA) to mark the Azadi Ka Amrit Mahotsav celebrations of the Ministry of Finance and MCA.

For More Details, Please Visit:

<https://www.thehindu.com/business/Economy/gst-insolvency-and-bankruptcy-code-reforms-to-push-growth-after-clouds-recede-says-chief-economic-advisor/article65507693.ece>

NCLT rejected insolvency petition of Noida's Wave City Centre under Section 10, imposes ₹1 crore penalty

Wave Mega City Center (WMCC) of Noida had approached NCLT under Section 10 of the IBC, 2016, to initiate the CIRP of its own flagship project at 6.18 lakh square meters land spread between Sector 25 and 32 in Noida. "It was an attempt on the part of the CD to play fraud on thousands of homebuyers, the Noida Authority, and the government authorities," said the Court and directed the Central Government to investigate into alleged siphoning of the money from the project. The homebuyers have collectively contributed ~₹1,400 crore into the ~ ₹ 3,800 crore. However, they were neither provided possession nor refund.

For More Details, Please Visit:

<https://www.hindustantimes.com/cities/noida-news/tribunal-junks-insolvency-plea-by-wave-group-imposes-1-crore-penalty-101654712242173.html>

France-Based Green Energy Producer, Qair Group, to Acquire Insolvent Green City

Qair Group has acquired a deal to buy the core business of renewables developer Green City AG, almost after four months the company filed for insolvency. Through the asset deal, the Qair Group will acquire around 150 project companies which were set up for the development of solar and wind power plants. The group will also acquire Green City's two companies in Italy and France apart from Green City Operations and Management GmbH.

For More Details, Please Visit: <https://renewablesnow.com/news/frances-qair-group-agrees-to-buy-insolvent-green-city-787142/>



IBBI solicits comments on Draft Regulation for "Remuneration of an Insolvency Professional"

The Discussion Paper and Draft Regulation released by Insolvency and Bankruptcy Board of India (IBBI) on June 09, 2022, propose to amend CIRP Regulations to provide for:

- (a) minimum fixed (floor) fee of IP in CIRP,
- (b) performance-linked incentive fee for (i) timely completion of CIRP, and (ii) value maximization subject to the condition that – such fee to be duly approved by CoC; higher of the amounts payable under (i) and (ii) shall be considered for arriving at such fee; and such fee shall not exceed ₹5 crore at any point of time
- (c) escrow account mechanism for payment of fees to IP.

IRP/RP will get a minimum of ₹1.5 lakh per month for the lowest slab of admitted claims of a CD amounting up to ₹50 crores and the minimum fees for the claim amounting ₹10,000 crore or more will be ₹7.5 lakh per month. Besides, there are various performance-based incentives.

Comments may be submitted electronically by June 30, 2022, on IBBI website in the given format.

For More Details, Please Visit:

<https://www.ibbi.gov.in/uploads/whatsnew/5acce496099bdf369bae66be487c985.pdf>