



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

Limitation Period to be counted from date of acknowledgment in each balance sheet

Ordering commencement of CIRP against GIT Textiles Manufacturing Ltd., the NCLT Kolkata Bench has ruled that under Section 18 of the Limitation Act, 1963, there should be fresh computation of limitation period of three years from the date of acknowledgment in each balance sheet.

“Since the last acknowledgments was made on March 31, 2019, the limitation period would last up till March 31, 2022,” said the Court rejecting the argument of the company management that limitation period had already lapsed.

For More Details, Please Visit:

<https://www.livelaw.in/news-updates/national-company-law-tribunal-nclt-insolvency-and-bankruptcy-code-corporate-debtor-interim-resolution-professional-git-textiles-202319>



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**For Internal Circulation Only*

**Knowledge SBU Initiative*

Insolvency Law Panel against any exemption to SEBI from Moratorium under IBC, 2016

In its recent report submitted to the Ministry of Corporate Affairs, the Insolvency Law Committee (ILC) has recommended against giving any special dispensation to the Securities and Exchange Board of India (SEBI) from the moratorium under Section 14 under IBC, 2016. This recommendation has reportedly come on as a representation of the SEBI to the MCA seeking exemption from the provisions of moratorium during the Corporate Insolvency Resolution Process (CIRP).

The Section 14 of the IBC, 2016, puts a blanket ban on all government authorities to initiate or pursue any action/ enforcement during pendency of the CIRP. However, the government has been granted the power under Section 14 (3) (a) to provide certain exemptions. “The exemption under Section 14(3)(a) (exemption from moratorium) should be exercised only in exceptional circumstances, which may not hinder the smooth conduct of the CIRP and hence, should not be relaxed until found necessary from the implementation experience of the code,” recommended the ILC. According to media reports, SEBI had sought the exemption on the ground that in several cases; the interests of public shareholders were being put at risk by these companies. There have been cases where companies continued to be listed on the stock exchanges during the CIRP and did not comply with the listing rules. Besides, the ILC has suggested that an effective insolvency law must protect the value of the insolvency estate against diminution by the actions of multiple stakeholders to insolvency proceedings.

For More Details, Please Visit: <https://economictimes.indiatimes.com/news/economy/policy/sebi-cant-initiate-proceedings-against-companies-under-ibc-says-panel/articleshow/92396507.cms>

News Roundup

After relief from NCLAT, Supertech concentrates on flats which can be delivered in next three months

Supertech has reportedly resumed construction at all its projects except on “Eco Village II” located at Greater Noida (west), which is undergoing CIRP. The company plans to raise about ₹300 Crores to expedite construction activities at its ongoing projects across the Delhi-NCR market. It has reiterated its commitment to comply with the orders of the NCLAT by delivering homes to allottees while clearing the bank debt. NCLAT via an order on June 10, 2022, had allowed the company to continue project execution at its various projects and limiting the scope of CIRP only to “Eco Village II”. The CIRP of Supertech was initiated by NCLT Delhi on a petition filed by the Union Bank of India.

For More Details, Please Visit: <https://www.outlookindia.com/business/supertech-plans-to-raise-around-rs-300-crore-to-expedite-construction-at-its-ongoing-projects-news-203941>

Claims or Reliefs which were not a part of the Resolution Plan, cannot be claimed after it is approved by the Adjudicating Authority: NCLT Mumbai

Rejecting the demands of compensation by a supplier for cancellation of order by the Resolution Professional (RP) of Rohit Ferro Tech Limited, the NCLT Mumbai has ruled that the Applicant had no right to file any application or seek any relief after the approval of the Resolution Plan. It added that the Applicant had not approached the Adjudicating Authority while the Resolution Plan was under consideration. The supplier raised 16 purchase orders upon the Corporate Debtor dated December 17, 2021. During pendency of these orders, the Resolution Plan was approved on April 07, 2022.

For More Details, Please Visit: <https://www.livelaw.in/news-updates/national-company-law-tribunal-nclt-corporate-insolvency-resolution-process-cirp-resolution-plan-insolvency-and-bankruptcy-code-202318>

US based Tesla still struggling to avoid bankruptcy

“We're not out of it yet. That's overwhelmingly our concern is how do we keep the factories operating so we can pay people and not go bankrupt,” said Elon Musk, the Chief Executive Officer (CEO) of Tesla indicating the possibility of bankruptcy in a recent media interview. The company is facing billions of dollars in losses from its new plants, supply chain problems and Covid lockdowns. Tesla's two factories opened in the quarter, in Germany and Texas, are reportedly facing billions of dollars in losses.

For More Details, Please Visit: <https://edition.cnn.com/2022/06/23/cars/elon-musk-tesla-losses-bankruptcy-threat/index.html>



Give mediation a fair chance: Dr. Ashok Haldia, Chairman, IIIPI- Board

In an Opinion piece published in the prestigious daily business' newspaper The Mint, Dr. Ashok Haldia has strongly supported introduction of a mediation framework to govern mediation at every stage of insolvency and bankruptcy process - before and after the commencement of CIRP, including verification of claims, assets, third parties, resolution plans, avoidance action and the like.

“Suitable steps should also be taken to lay down mediation-related provisions that cover the enforceability of mediated settlements and the roles, rights and responsibilities of insolvency professionals, other stakeholders, etc, as such an exercise would grant out-of-court mediation the requisite legal back to ensure discipline and proper enforcement,” contended Dr. Haldia. He also hailed the Mediation Bill of 2021 as “a step in the right direction”. “It requires disputants to try and settle civil or commercial disputes through mediation before approaching any court, within a mandated period,” he added. Referring the international experience on mediation in insolvency process, particularly that of the USA, Dr. Haldia opined that the mediation could be used under the IBC, too.

For More Details, Please Visit: <https://www.livemint.com/opinion/online-views/lets-promote-mediation-as-a-way-to-resolve-ibc-delays-11656002273450.html>

Event Photographs



Shri Sameer Kakkar, Hon'ble Member, NCLT Chennai addressing the Inaugural Session of International Webinar on "Landmark Judgments under IBC" organized by IIIPI on June 23, 2022.



Shri Ashish Makhija, IP, speaking on "Landmark Judgments under IBC" organized by IIIPI on June 23, 2022.



A written contract cannot be treated as a pre-requisite to prove the existence of a financial debt: NCLT Mumbai

In the matter of *Gateway Offshore Private Limited and Anr. Vs. Runwal Realtors Pvt. Ltd.*, the NCLT Mumbai denied admitting "written contract" of monetary transaction as evidence to prove existence of Financial Debt. The Appellant, *Gateway Offshore Private Limited and Anr.*, had provided ₹4.44 crore with 9% rate of interest to the Corporate Debtor in the form of a financial facility. Rejecting the CIRP filed by the Appellant, the Court said, "it failed to bring on record any other evidence in the form of a loan agreement, promissory note, contract or any document to substantiate their claim that there was a financial debt and a default of the same,".

For More Details, Please Visit:

<https://www.livelaw.in/news-updates/nclt-mumbai-insolvency-and-bankruptcy-code-corporate-insolvency-resolution-process-cirp-corporate-debtor-financial-debt-202166>