



## INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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# IIPI Newsletter

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## Under IBC, No 'indulgence' or 'latitude' can be shown to any Statutory Body: NCLAT

Rejecting the claims of Provident Fund (PF) Department due to delays of 936 days in the matter of *The Regional PF Commissioner Vs. Mr. Vasudevan* (2022), NCLAT has said that just because the Appellant is a Statutory Organisation, no 'indulgence' or 'latitude' can be shown, since the 'Law' applies to one and all in a level playing field. In reality, the Officials must act with as much as diligent as is expected from a 'Litigant', as per decision in *District Board, Sargodha Vs. Shemas*, said the Court.

**For More Details, Please Visit:**  
<https://www.livelaw.in/news-updates/nclat-chennai-provident-fund-commissioner-corporate-insolvency-resolution-process-cirp-nclt-203797>

## News Update

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

## NCLT Mumbai orders CIRP for Future Retail, the owner of Big Bazar

NCLT Mumbai, while adjudicating a petition filed in *Bank of India Vs. Future Retail Ltd.*, on July 20, 2022, ordered to initiate Corporate Insolvency Resolution Process ("CIRP") for Future Retail Limited. According to the petition filed by the Bank of India, the Future Retail Ltd. owes banks ₹5,322.32 crore as of March 31, 2022. Besides Bank of India, the lenders also include Union Bank of India, State Bank of India, Bank of Baroda, and IDBI Bank, among others.

In this case, Amazon had also filed an Intervention Application against Bank of India opposing insolvency proceedings on the ground that the petition to initiate insolvency proceedings against the company was with malicious intent. Amazon alleged that the lenders have been colluding with the company by initiating the sale of the assets to Reliance Retail. Back in 2019, Future group had decided to go for a jumble sale of its unlisted and listed companies to Reliance Retail to repay its debt. However, Amazon, which, in 2019, acquired 49% stake in Future Coupons, which is Future Group's gift voucher unit, got 7.3 percent in Future Retail, tried to block the Reliance deal by obtaining a freeze order from the Singapore Arbitration Court. Amazon's application in the recent case was rejected for lack of *locus standi*. Future Retail Ltd. is the flagship company of Future Group of companies that operates popular retail chains such as Big Bazar, Foodhall, Easyday Club and WH Smith.

**For More Details, Please Visit:** <https://www.moneycontrol.com/news/business/nclt-initiates-insolvency-proceedings-against-future-retail-8856991.html>

## News Roundup

### NCLT initiates CIRP against Sahara Hospitality

NCLT Mumbai admitted the petition of Delta Electro Mechanical Pvt. Ltd. to initiate Corporate Insolvency Resolution Process (CIRP) against Sahara Hospitality. Sahara Hospitality had given a work order, principal amount of which was ₹32 Crores, to Delta Electro Mechanical for supply, installation, testing and commission of heating, ventilation and air conditioning and electrical system at Hotel Sahara Star, Mumbai which is owned by Sahara Hospitality. Delta Electro Mechanical had first approached the NCLT in 2018, which was disposed of in 2021, after Sahara agreed to settle the claim for ₹20 crore to be paid in 14 monthly instalments. However, the company failed to pay the amount.

**For More Details, Please Visit:** <https://www.livewlaw.in/news-updates/nclt-mumbai-insolvency-proceedings-sahara-hospitality-ltd-hotel-sahara-star-203939>

### Report under Section 99 of IBC Cannot be filed by Resolution Professional without the Adjudicating Authority's Directions: NCLT

The Resolution Professional (RP), in the case of *Bank of Baroda Limited Vs Mr. Pawan V Kikavat*, was directed by the NCLT to file a fresh report under Section 99 of the Insolvency and Bankruptcy Code, 2016 for recommending approval or rejection of insolvency petition against the Personal Guarantor. In this case, without there being any direction from the Adjudicating Authority (AA), the RP had filed the report. It was ordered that this report is only to be filed after a direction from the AA.

**For More Details, Please Visit:** <https://www.livewlaw.in/news-updates/nclt-mumbai-insolvency-and-bankruptcy-code-resolution-professional-section-99-of-ibc-insolvency-resolution-process-203492>

### London grocer disqualified for 10 years for squandering £50,000 bounce bank loan instead of spending on his company

Al-Amir Ltd traded as a grocer and butchers from London. The company entered creditors voluntary liquidation in 2021. In an investigation by the Insolvency Service, it was pointed out that the company secured a £50,000 bounce back loan in August 2020 which the director Abbas Kifayah squandered. Deputy Head of Insolvent Investigations, in a statement said: “Bounce back loans were available to support viable businesses through the pandemic. Abbas Kifayah, however, abused the government’s support when he inflated his company’s turnover in order to receive the maximum loan,”.

**For More Details, Please Visit:** <https://www.gov.uk/government/news/grocer-banned-for-abusing-50000-government-loan>



### One Time Settlement (OTS) Proposal is evidence for Acknowledgment of Debt: NCLAT Delhi

NCLAT Delhi has held that the OTS proposal falls within the definition of the ambit of ‘acknowledgement of debt’ as envisaged in the Section of the Limitation Act, 1963. The Court rejected the contention of the Corporate Debtor that the petition was “barred by limitation” and counted the period of limitation from the date of OTS proposal.

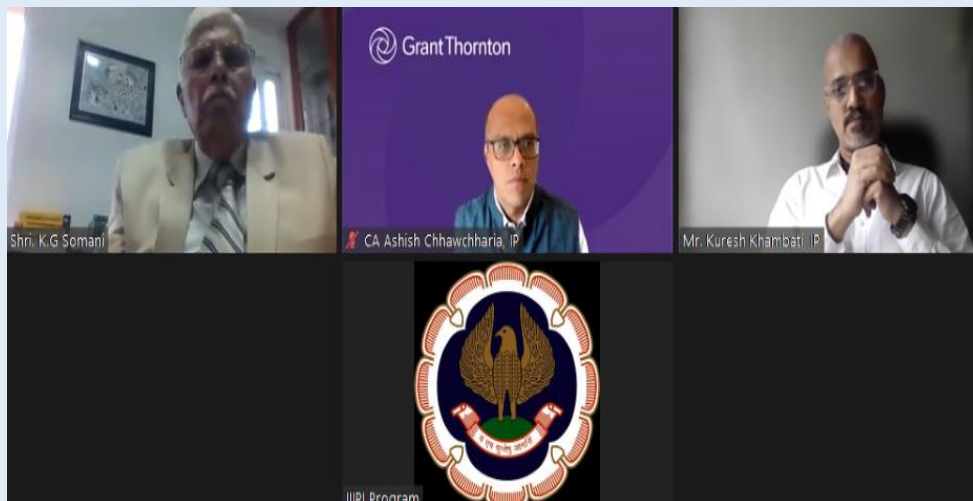
This decision came in the case of *Tejas Khandhar Vs. Bank of Baroda*, wherein a financial assistance was extended to the CD by the Financial Creditor. Three years after the default, the CD filed OTS proposal. “It is seen from the record that the date of default has been mentioned as September 13, 2013, which stood revived with the OTS proposal dated August 01, 2016,” said the Court. The Court also observed that another OTS proposal was filed by the CD dated March 07, 2018, which was accepted by the Bank and a ‘timeline’ was provided to the CD for payment of the debt.

**For More Details, Please Visit:** <https://www.livewlaw.in/news-updates/nclat-delhi-insolvency-and-bankruptcy-act-limitation-act-one-time-settlement-ots-acknowledgement-of-debt-204464>

## Event Photographs



*CA. K.G Somani, Past-President, ICAI, addressing the Webinar on “IM and Resolution Plan - Evolution & Learnings” organized by IIIPI on July 22, 2022.*



*CA Ashish Chhawchharia, IP and Shri Kuresh Khambati, IP in the webinar on “IM and Resolution Plan- Evolution and Learnings” organized by IIIPI on July 22, 2022.*



### **IIIPI is organizing a Webinar on IU's Technology Solutions for IPs**

Indian Institute of Insolvency Professionals of ICAI (IIIPI) in association with National E-Governance Services Limited (NeSL) is organizing a Webinar on “IU's Technology Solutions for IPs” at 4 pm to 6 pm on July 29, 2022. Participating IP members will be provided CPE: 1 hour. The fee for the program is ₹500.

***For More Details, Please Visit:***  
<https://www.iiipicai.in/wp-content/uploads/2022/07/29th-webinar-flyer-1.pdf>