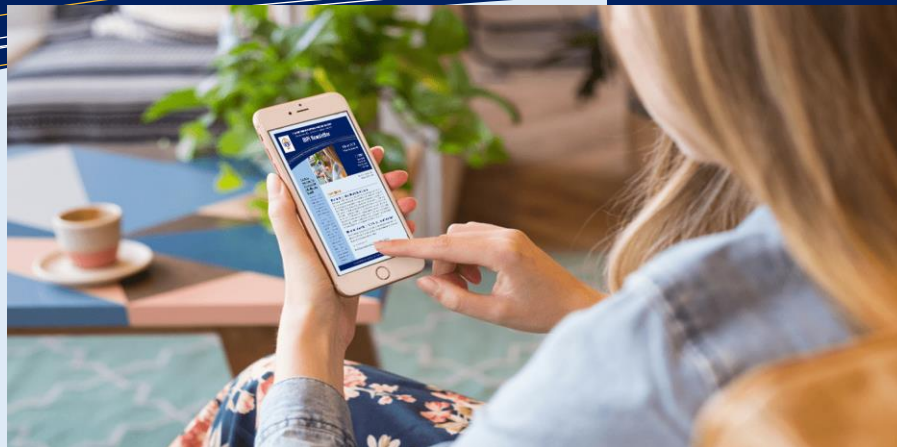




INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter



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Threshold Limit for initiation of CIRP includes Interest: NCLAT

NCLAT has upheld that the total amount i.e., ₹1 crore, for maintainability of a debt as per Section 4 of the IBC, will include both the principal debt as well as the interest on the delayed payment. In the present case, the Operational Creditor (OC) had clearly mentioned that the interest will be charged @18% after the due date of the bill. Based on definition of the Debt as in defined in Section 3(11) and definition of Claim as in Section 3(6) of the IBC, Court included the interest in calculating the dues and admitted the insolvency application against CD.

For More Details, Please Visit:

<https://www.livelaw.in/news-updates/national-company-law-appellate-tribunal-section-4-insolvency-bankruptcy-code-bombay-rayons-fashions-ltd-operational-creditor-205352>

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**Knowledge SBU Initiative*

News Update

Liability of a Personal Guarantor does not get extinguished upon subsequent acquisition of citizenship of a foreign country: NCLAT

NCLAT, New Delhi has held that mere fact that the Appellant claims to be citizen of a foreign country and has given an address of a foreign nation is wholly irrelevant for initiating proceedings against the Appellant.

This judgement was delivered in the matter of *Sudip Dutta Vs. State Bank of India* in which the PG had claimed that after signing the Deed of Guarantee he acquired the citizenship of Singapore, and therefore, the provisions of IBC were not applicable to him, as foreign citizens does not come within the jurisdiction of the IBC. He also invoked Section 234 and Section 235 of the IBC, 2016, which according to him, provide for enforcement of IBC outside India only when Central Government enters into an agreement with the Government of any country outside India. "It was further observed that the 'personal guarantors' as mentioned under Section 60(1), are personal guarantors irrespective of the fact as to whether they are Indian citizen or foreign nationals," said the Court. Regarding Section 234 and Section 235, the Court observed that it is only applicable when assets or property of Personal Guarantor are situated outside India. "The statutory scheme of the IBC does not contain any indication that the PG of a CD can escape from its liability under the Personal Guarantee Deed merely on the ground that he is now started residing in another country and acquired citizenship of another country and is no more an Indian citizen," said the Court.

For More Details, Please Visit: <https://www.livelaw.in/news-updates/nclat-delhi-liability-of-personal-guarantor-insolvency-and-bankruptcy-code-nclt-kolkata-foreign-citizen-205350>

News Roundup

Serving Demand Notice to the Address and Email of the CD provided in MCA Master Data, is valid: NCLAT

NCLAT Principal Bench has held that the CD cannot take the stand that the serving Demand Notice was inadequate when it was affected on the E-mail id provided in the MCA's Master Data. The NCLT had rejected the petition as per Rule 5(2) of the Adjudicating Authority Rules and observed that non-service of demand notice under Section 9 of the IBC would render the petition non-maintainable. "The email ID on which Notice was issued was very much part of the Master Data and the service was effected on the said email ID," observed the NCLAT. Furthermore, Notices in the two Newspaper having already been published under the Orders of this Court, the Respondent did not appear. The Appellate Tribunal set aside the order of AA and referred the matter back to the NCLT.

For More Details, Please Visit: <https://www.livelaw.in/news-updates/nclat-nclt-section-9-insolvency-and-bankruptcy-code-cirp-initiation-rule-5-ibbi-application-to-adjudicating-authority-rules-204779>

Investors challenge Resolution Plan for DSK Developers Ltd. (DSKDL) due to massive Hair Cut

Investors have challenged the Resolution Plan of Mumbai based DSKDL approved by the Committee of Creditors (CoC) through Intervention Applications (IAs) before the NCLT stating that they are not happy with the ₹827 crore Plan and are not confident about the procedure followed during the process. As the total debt of the Company was about ₹2,300 crore, the CoC has accepted a haircut of 65%. "If this is the situation, then what will be the amount given to depositors?" said an investor.

For More Details, Please Visit: <https://www.hindustantimes.com/cities/pune-news/investors-challenge-insolvency-resolution-given-by-nclt-in-dsk-case-101658939371457.html>

Facing \$150 million damages, Conspiracy website InfoWars parent files for bankruptcy

The parent of far-right conspiracy website InfoWars filed for U.S. bankruptcy protection as the company and its founder Alex Jones face up to \$150 million in damages in a trial over longstanding falsehoods, he perpetuated about the Sandy Hook elementary school massacre. This bankruptcy filing by the InfoWars parent, Free Speech Systems LLC, would normally result in the trial and related litigation being halted. But Free Speech plans to ask a bankruptcy judge to allow the trial currently underway in Texas to continue and sought an emergency hearing.

For More Details, Please Visit: <https://www.reuters.com/business/media-telecom/infowars-parent-files-bankruptcy-2022-07-29/>



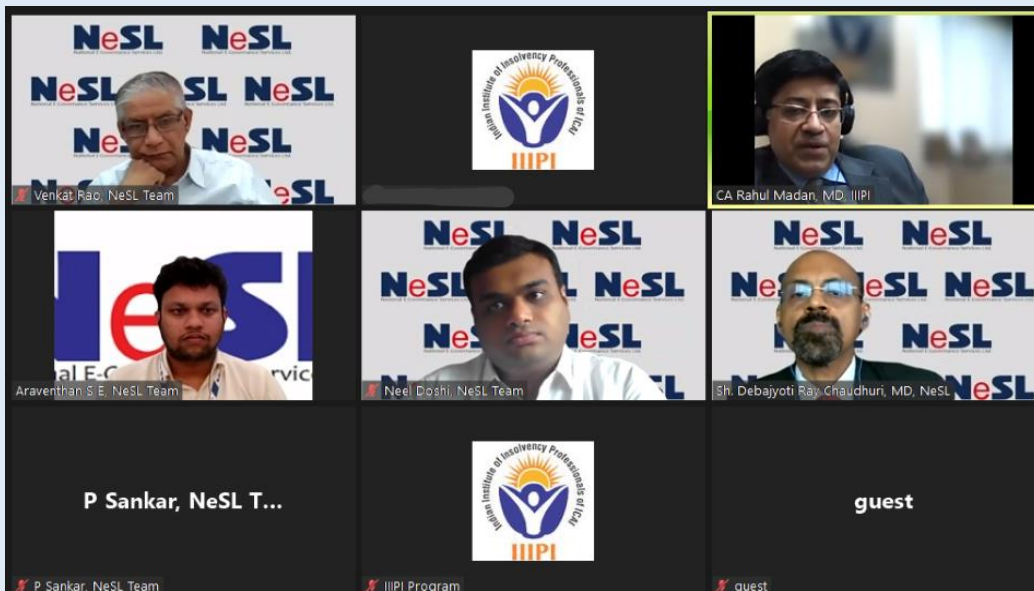
NCLT imposed ₹ 50 Lacs fine on Financial Creditor for submitting fraud documents to ensure CIRP order

NCLT Kolkata, has imposed a penalty of ₹50 lakhs on Financial Creditor (FC) under Section 65 of the IBC, 2016 after it was found guilty of committing fraud. The court also terminated the CIRP and referred the case to Ministry of Corporate Affairs (MCA) for further investigation.

In 2020, Electroparts India Private Limited, the Financial Creditor (FC) claimed a default of ₹300 million by Videocon Infinity Infrastructure Private Limited, the Corporate Debtor (CD). NCLT Kolkata, in September 2022, admitted the CIRP petition. During the CIRP, Infinity Infotech, a 50% shareholder of the CD filed an Interlocutory Application and submitted that the FC had obtained the CIRP order by way of blatant fraud and in complicity with the CD. The Bench noted that during the CIRP process, the matter was settled by payment of ₹30 lacs of which cheques although were given on behalf of the CD by some unknown person but not cashed by the FC.

For More Details, Please Visit: <https://www.moneylife.in/article/nclt-imposes-rs50-lakh-penalty-on-financial-creditor-electroparts-for-fraud-in-infinity-infotech-insolvency-case/67901.html>

Event Photograph



A Snapshot of the Webinar on IU's Technology Solutions for IPs organized by IIPI jointly with NeSL on July 29, 2022.

IIPI in association with the British High Commission is Organising a Session on “Role of Mediation in IBC Processes”

The session to be held between 11.00 A.M. to 01.00 P.M. on August 6, 2022. The session will emphasize on mediation as an effective tool and its role in US bankruptcy process. Further, the session will provide insights on need for mediation in Indian Insolvency Proceedings and role of IP as a Mediator. Keynote speakers would be Ms. Laura N. Coordes, Associate Dean of Faculty, SDOC College of Law, USA & Ms. Pooja Mahajan, Managing Partner, Chandiok and Mahajan, India. Participating IP members will be provided CPE: 1 hour.

For More Details, Please Visit:

https://www.iiipicai.in/wp-content/uploads/2022/07/Flyer_Role-of-Mediation-in-Insolvency-and-Bankruptcy-Processes_6th-August-2022_V2-2.pdf