



**INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI**  
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# IIPI Newsletter

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## CONTENTS

**News Update**  
**News Roundup**  
**Upcoming Event**

### Jio moves NCLT for early resolution of Reliance Infratel bankruptcy process

Jio has moved a fresh application in the NCLT Mumbai, offering to deposit the total resolution sum of Rs 3,500 crore to acquire RTIL, which houses the tower and fibre assets of bankrupt Reliance Communications.

As the RTIL's creditors legal battle over the distribution of fund is pending before the Supreme Court, Jio has urged to issue directions to creditors to provide the necessary no-dues-certificate and all that would remain would be the inter-se distribution among creditors, subject to the outcome of the legal proceedings in the apex court

#### **For More Details, Please Visit:**

<https://economictimes.indiatimes.com/industry/telecom/telecom-news/jio-moves-nclt-for-early-resolution-of-reliance-infratel-bankruptcy-process/articleshow/95341618.cms>



### News Update

*\*For Internal Circulation Only*

*\*Knowledge SBU Initiative*

### **Interim Moratorium under Section 96 of IBC is limited to particular Guarantor and will not protect the other personal Co-Guarantors of same debt: Delhi High Court**

The Delhi High Court while dealing with two summary suits filed by creditors of Bhushan Steel Limited against the ex-promoters for recovery of money has held that the interim moratorium under section 96 of the IBC 2016 is specific to all debts of a particular debtor and will not be applicable to other personal co-guarantors.

The defendant contended that insolvency proceedings have also been filed against him before NCLT, Delhi after the judgement was reserved therefore, by virtue of interim moratorium, suit cannot proceed against any of the Defendant. It was further contended that interim moratorium would only apply against all debts of a particular co debtor and not any other person or co-guarantor. The Plaintiffs opposed the same on the ground that by virtue of Section 78 & 79 of Code, the adjudicating authority for personal guarantors is DRT and therefore, an application under Section 95 of IBC cannot be filed before NCLT.

The Bench referring to the judgment of NCLAT in *State Bank of India v. Mahendra Kumar Jajodia* held that in relation to insolvency resolution for corporate persons, including corporate debtors and personal guarantors, the Adjudicating Authority shall be the NCLT. The Court also held that interim moratorium against one of the Co-guarantors will not protect the other co-guarantor even though the liability of both the the co-guarantors arise from the same debt.

**For More Details, Please Visit:** <https://www.livelaw.in/news-updates/delhi-high-court-section-96-of-insolvency-bankruptcy-code-personal-guarantor-interim-moratorium-213421>

Hope you find this update helpful. Suggestions if any, may be mailed to [iiipi.pub@icai.in](mailto:iiipi.pub@icai.in)

## News Roundup

### When Corporate Debtor does not create a Gratuity Fund, No Gratuity is payable: NCLT Chandigarh

The NCLT while adjudicating an application filed in SIDBI v International Mega Food Park Ltd., has held that if the CD had not created a Gratuity Fund, then the RP cannot be directed to pay Gratuity to the employee(s). Further, the salary and leave encashment of employees accrued during CIRP period fall within the definition of insolvency resolution process cost under Section 5(13)(c) of IBC.

Reliance was placed on the Supreme Court judgment in *Sunil Kumar Jain and others v Sundaresh Bhatt and others*. The Bench further directed the RP to make provisions for payment of salary and leave encashment to the Applicant after taking necessary information.

**For More Details, Please Visit:** <https://www.livelaw.in/news-updates/nclt-chandigarh-small-industries-development-bank-of-india-sidbi-corporate-debtor-gratuity-213420>.

### Tax appellate tribunal asks CBIC to frame norms for tax recovery in insolvency cases

Giving its ruling in the Ultratech Nathdwara Cement Ltd case, the Ahmedabad bench of CESTAT asked CBIC to frame guidelines to deal with outstanding tax demands against companies facing insolvency proceedings.

The tribunal noted that the assessee against whom the IBC proceedings are initiated approach CESTAT for disposing of the appeals in the light of the NCLT's orders as the IBC overrides any other law and stipulates that recovery proceedings including tax recovery cannot be initiated post approval of the resolution plan. In the absence of any guideline by the CBIC, the tax officers are unaware as to what stand is to be taken in such cases.

**For More Details, Please Visit:** <https://www.moneycontrol.com/news/business/tax-appellate-tribunal-asks-cbic-to-frame-norms-for-tax-recovery-in-insolvency-cases-9401301.html>

### Aluminium extrusions Titan China Zhongwang enters Bankruptcy Proceedings.

The biggest aluminium extrusions producer in the People's Republic of China and the second biggest in the world is now in bankruptcy proceedings.

As per estimate the firm has about US\$64 billion in liabilities, but less than half that amount in assets at present. In mid-October the company announced that its subsidiaries have endured significant losses and were thus unable to address the situation appropriately.

Zhongwang's growth was almost as impressive as its downfall. In 2019 the firm's market cap was US\$3.8 billion.

**For More Details, Please Visit:** <https://aluminiuminsider.com/aluminium-extrusions-titan-china-zhongwang-enters-bankruptcy-proceedings/>



### NCLT admits Valecha Engineering under Insolvency Resolution Process

The NCLT Mumbai Bench has admitted the application filed by SBI against the listed infrastructure firm Valecha Engineering under CIRP and has appointed the interim resolution professional of the company.

The company has failed to repay its dues exceeding Rs 347 crore to the bank. The account of the company were classified as NPA in June 2016 as per RBI prudential norms.

Mumbai-based Valecha Engineering is into construction of roads, bridges and tunnels, airports and irrigation dams, among other projects. In FY 2022, the company has reported a revenue of Rs 230.81 crore and posted a net profit of Rs 2.33 crore.

**For More Details, Please Visit:** [https://economictimes.indiatimes.com/news/india/nclt-admits-valecha-engineering-under-insolvency-resolution-process/articleshow/95243677.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/india/nclt-admits-valecha-engineering-under-insolvency-resolution-process/articleshow/95243677.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)