



## INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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# IIPI Newsletter



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### Reliance capital stares at Liquidation

Anil Ambani owned Reliance Capital has received Resolution Plans from eight bidders out of which Piramal Enterprises-Cosmea Financial Holdings has quoted the highest amount of ₹5,231 crore.

However, even the highest amount is 60% lower than the liquidation value, which have been estimated the liquidation value in the range of ₹12,500 to ₹13,000 crore. Concerned with the low amount, the lenders are planning individual meetings with bidders. If the highest bidders are not able to increase the amount significantly, the company may face liquidation.

**For More Details, Please Visit:**

<https://www.timesnownews.com/business-economy/companies/anil-ambanis-reliance-capital-receives-bids-60-below-liquidation-value-article-95926611>

### News Update

*\*For Internal Circulation Only*

*\*Knowledge SBU Initiative*

### Jurisdiction to deal with the validity and legality of the Regulations framed under the IBC is not conferred upon NCLT: Delhi HC

Delhi High Court has observed that the categories of cases which can be adjudicated by NCLT have been clearly enumerated under Section 60 (5) of the IBC. The NCLT being a creature of the IBC, cannot assume to itself the power of declaring any provisions of the IBC, 2016 or the Regulations as illegal or *ultra vires*. The Court set aside an order of NCLT to the extent it holds Regulation 36 A of the IBBI (CIRP) Regulations 2016 as illegal or *ultra vires*.

This judgement of Delhi High Court came on a Writ Petition filed by Insolvency and Bankruptcy Board of India (IBBI) against an order passed by NCLT on September 05, 2018, in the matter of *State Bank of India Vs. Su Kam Power Systems Ltd.* In this order the NCLT had held Regulation 36A to be *ultra vires* of Section 240(1) of the IBC, despite there being no specific challenge to the said Regulation. The reason given by the NCLT was that it was contrary to the speedy disposal of the Resolution Process. Delhi High Court also cited NCLAT judgement in the matter of *M/s Mohan Gems & Jewels Pvt. Ltd. Vs. Vijay Verma & Anr.* (2020) which restricts wherein it was observed that the need for judicial intervention or innovation from NCLT & NCLAT should be kept at its bare minimum and should not disturb the foundational principles of the IBC.

**For More Details, Please Visit:** <https://www.livelaw.in/news-updates/nclt-cannot-assume-power-declare-regulations-ibc-provisions-illegal-ultra-vires-delhi-high-court-215615>

## News Roundup

### NCLT Mumbai ordered initiation of CIRP of 'Supreme Housing & Hospitality Pvt. Ltd.'

The CIRP petition was filed by Syndicate Bank/Canara Bank under Section 7 of the IBC for dues amounting over ₹368 crore against a term loan provided by the bank. Corporate Debtor contended that "India Bulls Asset Reconstruction Company Limited" was ready to repay the outstanding amount in full, but bank did not release the mortgaged property. However, the Adjudicating Authority considered it as acknowledgement of the Corporate Debtor to liability due to the Financial Creditor and ordered initiation of the CIRP.

**For More Details, Please Visit** <https://www.livelaw.in/law-firms/deals/national-company-law-tribunal-supreme-housing-hospitality-private-limited-corporate-insolvency-resolution-process-215777>

### As Resolution Plan of Sintex Industries stuck in Litigations, CoC to sell debt to ARC

The CoC had approved the Resolution Plan amounting ₹3,651 core submitted by Reliance Industries in partnership with Assets Care & Reconstruction Enterprise (ACRE) in March this year with 97% vote. However, the Resolution Plan is pending with the NCLT as applications of dissenting creditor – Axis Bank and some other litigations are yet to be decided by the Court. CIRP of the Sintex Industries was initiated in April 2021 with around ₹7,500 crore dues on the company. According to the latest report Sintex Industries has been reported to ₹277.93 crore in the quarter ended September 2022 as against net loss of 181.92 crore during the previous quarter ended September 2021.

**For More Details, Please Visit:**

<https://economictimes.indiatimes.com/industry/banking/finance/sintex-industries-lenders-agree-to-sell-debt-as-resolution-hangs-fire/articleshow/95837271.cms>

### Major Crypto Companies went into Bankruptcy in 2022

The year 2022, has been a rough year for the crypto industry. The price of bitcoin has dropped 65% since the start of the year, the cryptocurrency Luna suffered a total collapse in value, and crypto exchange FTX went from buying Super Bowl ads to crash landing into bankruptcy. John Ray, the new CEO brought in to oversee FTX's bankruptcy, said he had never before seen "such a complete failure of corporate controls". He was tasked with cleaning up Enron's debts in the wake of its early-2000s accounting fraud scandal.

**For More Details, Please Visit:** <https://www.reuters.com/technology/crypto-companies-crash-into-bankruptcy-2022-12-01/>



### NCLAT Approved CoC's Decision to Provide 100% Payment to Sugarcane Farmers

Operational Creditors (OCs) had challenged the approval of Resolution Plan of the Corporate Debtor (New Phaltan Sugar Works Ltd.) by NCLT on the ground that the Plan was discriminatory as sugarcane farmers (OCs) were given 100% of the dues whereas the Appellant (s) received only 1% of the dues which violates Section 30(2) of the IBC. It was contended that IBC does now allow discrimination among OCs.

NCLAT observed that the Resolution Plan was approved by 100% Voting Share of the CoC under which the OCs were paid their dues as per Section 30 (2) (b) of the Code which read together with Regulation 38 of the CIRP Regulations, the 'OCs' are entitled to receive only such money that are payable to them as per Section 53 of the Code. The court recognized the 'final discretion' of the 'Collective Commercial Wisdom' of CoC in relation to the amount to be paid and the quantum of money to be paid to a certain category or the incidental category of Creditors, balancing the interests of the 'Stakeholders' and the 'Operational Creditors', as the case may be. The appeal was dismissed.

**For More Details, Please Visit:**

<https://www.livelaw.in/news-updates/nclat-approves-sugar-farmers-as-separate-creditors-group-in-the-sugar-industry-resolution-plan-215762>