



## INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

# IIPI Newsletter

### KFIL's Resolution Plan for Oliver Engineering approved by NCLT

Kirloskar Ferrous Industries Ltd (KFIL), which is one of the leading castings and pig iron manufacturers in India is all set to acquire Oliver Engineering in ₹110.55 crores through Resolution Plan under the IBC.

As per the Plan, employees will get 95.47% of their claimed amount and financial creditors will get 13.95%.

The CIRP petition against KFIL was filed by Punjab National Bank while Bank of India and Bank of Maharashtra were other lenders. The Fair Value of the CD was evaluated at about ₹153.8 crore while Liquidation Value was ₹99.37 crore. Oliver is engaged in the business of ferrous casting and machining with current capacity of Oliver is 28,000 MT per annum.

**For More Details, Please Visit:**

<https://ibbi.gov.in/uploads/order/a52342cb14f5b13423703a50fc15ef12.pdf>



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## News Update

*\*For Internal Circulation Only*

*\*Knowledge SBU Initiative*

### The clean slate principle would stand negated if the Successful Resolution Applicant is asked to pay the arrears payable by the CD: SC

The Supreme Court has held that the issue of Corporate Debtor's dues falls within the fold of the phrase 'arising out of or in relation to insolvency resolution' under Section 60(5)(c) of the IBC. Therefore, the dues of the Corporate Debtor have to be paid in the manner prescribed in the Resolution Plan, as approved by the Adjudicating Authority. The above judgement came in the case of *TATA Power Western Odisha Distribution Ltd. (TPWODL) Vs. Jagannath Sponge Private Ltd.*

In this appeal, TPWODL, which supplies the electricity, insisted on payment of the dues of the Corporate Debtor by the Successful Resolution Applicant (SRA) - Jagannath Sponge Private Ltd., for restoration/grant of the electricity connection. Relying on the previous Supreme Court judgements in the matter of *Paschimanchal Vidyut Vitran Nigam Ltd. Vs. Raman Ispat Private Limited and Ors.* (2023) and *Southern Power Distribution Company of Andhra Pradesh Limited Vs. Gavi Siddeswara Steels (India) Pvt. Ltd. and Anr.* (2023), the Court ruled that the Appellant cannot insist on payment of arrears, which have to be paid in terms of the waterfall mechanism, for grant of an electricity connection. However, the SRA will have to comply with the other requirements for grant of electricity connection, added the Court. Further, the Court also cited the case of *Embassy Property Developments Pvt. Ltd. Vs. State of Karnataka and Ors.* (2020) wherein the Supreme Court has clarified that a decision by public authority etc. may fall within the jurisdiction of the tribunals constituted under the IBC, where the issue relates to or arises out of the dues payable to an Operational or Financial Creditor.

**For More Details, Please Visit:** [https://www.livelaw.in/pdf\\_upload/34458202332646784order11-sep-2023-492608.pdf](https://www.livelaw.in/pdf_upload/34458202332646784order11-sep-2023-492608.pdf)

## News Roundup

### IBC is 'not a recovery mechanism', observed NCLAT while dismissing a plea against United Telecoms

The Appellant -- an Operational Creditor, contented that the MoU was duly signed by the parties and therefore United Telecoms is bound by the terms of the 'settlement agreement'. Some amount was paid; however, a larger payment was due. He further submitted that the amounts which are balanced and due and payable fall within the definition of 'Operational Debt'. The Court observed that the petition filed in respect of claims arising under the aforementioned settlement agreement does not come within the definition of 'operational debt'. "Time and again, the apex court in a catena of judgments held that the IBC is not a recovery mechanism," said the court and dismissed the plea.

**For More Details, Please Visit:**

<https://www.moneycontrol.com/news/business/nclat-says-ibc-not-a-recovery-mechanism-dismisses-insolvency-plea-against-united-telecoms-11381571.html>

### IBBI announces results of the 4<sup>th</sup> National Online Quiz on the IBC, 2016

The First, Second and Third performers were awarded ₹1,00,000, ₹50,000, and ₹25,000, respectively. The next ten best performers would be awarded consolation prizes of ₹10,000 (Ten thousand rupees) each along with a Certificate of Merit. IBBI in collaboration with MyGov.in and BSE Investors' Protection Fund conducted the 4<sup>th</sup> National Online Quiz on IBC, 2016, to promote awareness and understanding of the Code among various stakeholders, across the country. The Quiz was open from 01<sup>st</sup> July 2023 to 31<sup>st</sup> July 2023. Over 75,820 participants participated in the Quiz from across the country.

**For More Details, Please Visit:**

<https://ibbi.gov.in/uploads/whatsnew/0df949b56a9f6767cb275154ef5fdc02.pdf>

### UK Electric Car Subscription Service 'Onto' Faces Insolvency

Onto, a UK electric car subscription service is currently facing insolvency despite successfully raising £100 million in investments in January of this year. The investments were intended to expand its electric vehicle fleet and potentially expand into other regions. The company cites challenging market conditions, including a significant drop in the price of used electric vehicles, rising interest rates, and financial constraints on consumers' disposable income as reasons for its financial difficulties. According to the company, the administrators now manage the business and affairs as agents of the Company and certain subsidiaries.

**For More Details, Please Visit:** <https://www.electrive.com/2023/09/18/onto-insolvent/>



### If we reduce delay, then the recovery will be better: IBBI Chairperson

"We are trying to speed up the process and are open to suggestions from stakeholders. The direct benefit of the IBC is recovery, but you know the indirect benefit is even bigger and it is called a behavioral change. It is called the change in creditor and borrower relationship," said Ravi Mital, Chairperson, IBBI addressing Assocham's 8<sup>th</sup> National Summit on 'Insolvency and Bankruptcy Code and Valuation'. He also highlighted that the motto was to bring the company back on track; however, IBC is evaluated based on the recovery mode.

IBBI Chairperson informed that now the NCLT is approving 35 plans a month, and if it continues then it will definitely reduce delay to a large extent. "We have to be more innovative to reduce delays. Of course, there is a need for an amendment," said Mital. "We are trying to find out or analyse the cause of delays at various levels and are trying to speed up the processes," he added.

**For More Details, Please Visit:**

<https://www.telegraphindia.com/business/insolvency-and-bankruptcy-board-of-india-seeks-to-plug-delay-and-low-recovery/cid/1966882>

## Event Photograph



*Dr. Navrang Saini, Former Chairperson, IBBI addressing the '14th Executive Development Program (EDP)- Managing Corporate Debtor as Going Concern under CIRP (For IPs)' organized by IIIPI from 12<sup>th</sup> to 16<sup>th</sup> September 2023.*



*62<sup>nd</sup> Batch of Pre-Registration Educational Course (PREC) Online from 19<sup>th</sup> September to 25<sup>th</sup> September 2023.*



## NCLAT set aside the order admitting Coffee Day Global to Insolvency

This order was issued by the Chennai Bench of the NCLAT after the IndusInd Bank reached on a settlement with Coffee Day Global and withdrew the CIRP petition. Coffee Day share price surged 20 per cent to hit its upper circuit on BSE in intraday trade.

The insolvency process of the company was ordered by NCLT Bengaluru on a petition filed by a Financial Creditor pertaining to the unpaid debt of ₹94 crores. Coffee Day Global is a subsidiary of Coffee Day Enterprises, which owns 82 per cent of it. Meanwhile, for the quarter that ended June (Q1FY24), Coffee Day Global reported a net profit of ₹24.57 crore as against a loss of ₹11.73 crore in the year-ago period.

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

<https://www.livemint.com/market/stock-market-news/coffee-day-share-price-surges-14-on-reports-coffee-day-global-and-indusind-bank-settle-insolvency-litigations-11694588237893.html>