



## INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

# IIPI Newsletter

### NCLT approved Resolution Plan for MSME - Melstar Info. Tech.

CIRP of Melstar Information Technologies (CD) was started on October 03, 2019. The admitted claim against the CD was ~ ₹1040.14 lakhs.

When the Operational Creditors raised the apprehension as how the promoters of CD can submit the EOI, the RP informed that the CD is a registered MSME, and promoters not barred by Section 29A.

Finally, the Resolution Plan submitted by the promoters amounting ~₹439 lakh was approved by the CoC with 83.37% votes. As per the Plan, Unsecured FCs will get 89%, workmen & employees 50% and Operational Creditors will 8.32% of their admitted claims.

#### For More Details, Please Visit:

<https://ibbi.gov.in/uploads/order/1d295a2ea9b5c396fa0661e6194c5235.pdf>



Nov. 13, 2023

Volume 08, Number 46

## CONTENTS

News Update  
News Roundup  
Upcoming Event  
Event Photograph

### News Update

*\*For Internal Circulation Only*

*\*Knowledge SBU Initiative*

### Legislature has “carefully calibrated” the role of an RP and other procedure contemplated under the IBC: Supreme Court

Deciding a clutch of over 200 petitions challenging a set of IBC provisions on the ground of alleged breach of principles of natural justice and due process in the Insolvency and Bankruptcy Code, 2016 (IBC), a bench led by Chief Justice of India D. Y Chandrachud held that the impugned provisions are bereft of any illegality and augur well with the legislative intent of the insolvency framework. The provisions which were challenged before the court included sections 95, 96, 97, 99, and 100 of the IBC.

Rejecting the challenge, the Supreme Court held that the statute does not suffer from any manifest arbitrariness or was violative of Article 14 (equality and equal protection of law) of the Constitution and added that the statute cannot be held to be operating in a retroactive manner. The petitioners included industrialists and promoters, including Anil Ambani, Venugopal Dhoot, Sanjay Singal and Kishore Biyani among others.

“Parliament has not contemplated a roving enquiry by the resolution professional, but an enquiry for recommendation. The resolution professional, after carrying out process, is required to make an ascertainment in terms of clause (6) of Section 97,” said the Court. Regarding the provision of moratorium, the Court held that it was to insulate the CD from the legal action of the debt. The Court also acknowledged that there were differences with respect to when the RP and the AA steps in, and when a moratorium on other legal proceedings is imposed under Parts II (CIRP) and III (insolvency of individuals and partnerships) of the IBC and held that such differential treatment is justified.

**For More Details, Please Visit:** <https://www.hindustantimes.com/india-news/sc-affirms-key-insolvency-and-bankruptcy-code-provisions-on-role-of-rp-moratorium-101699517084021.html>

## News Roundup

### IBBI's proposals to the insolvency of real estate projects expected to provide relief to homebuyers

IBBI's proposal to allow the CoC to invite separate resolution plans for each real-estate project rather than the whole firm would lead to faster resolution through heightened in the assets among potential bidders and help arrest value erosion. Besides, homebuyers will benefit from the move because under the proposed norms, even after the start of the resolution process, units will continue to be allotted to them on an 'as is where is' basis or on making the balance payment required to complete the construction. According to experts, various proposals of the Discussion Paper dated November 06, 2023, including mandatory registration of every project under RERA, excluding the properties in possession of the allottees from the CIRP and liquidation etc., will empower the homebuyers.

**For More Details, Please Visit:**

<https://www.financialexpress.com/business/industry-sector-specific-tweaks-seen-to-aid-real-estate-insolvency-resolution-3301744/>

### Operational Creditor can not object to the approval of Resolution Plan: NCLT

On an application filed by Operational Creditor (OC) seeking to set aside the advertisement inviting claims and the rejection of the approved Resolution Plan by the CoC, NCLT Mumbai has held that an OC cannot object to the approval of the Resolution Plan by CoC and only a Financial Creditor is eligible to receive a copy of it. "The applicant being an OC whose claim has been admitted by the RP cannot be made a Respondent and given opportunity to object to the approval of the plan," said the Court. In its petition, the OC argued that due to shift in the insolvency commencement date of the CD, claims of various creditors would increase by ~15 to 20%. The petition was dismissed with ₹50, 000 cost on the OC.

**For More Details, Please Visit:**

<https://lawbeat.in/news-updates/operational-creditor-cannot-object-approval-resolution-plan-nclt-mumbai-imposes-rs-50k-cost>

### US lawmakers urge government to help salvage trucking giant Yellow from bankruptcy

Republican Senator Josh Hawley has written a letter to the Treasury on Thursday asking to extend the terms of a controversial \$700 billion pandemic loan granted by the Trump administration to 'Yellow', said media reports. In about a month, five lawmakers cutting across party lines have written to the Treasury demanding relaxation for 'Yellow'. The term of loan to Yellow is due at the end of Sept. 2024 which the company needs to get extended till Sept. 2026. As per the bankruptcy filing, Yellow had \$2.15 billion in assets and \$2.59 billion in debt.

**For More Details, Please Visit:** <https://www.reuters.com/business/autos-transportation/pressure-grows-us-treasury-salvage-trucking-giant-yellow-2023-11-08/>



### IBBI issued 'Discussion Paper' on CIRP and Liquidation of Real Estate projects

The discussion paper titled "Real-Estate Related Proposals- CIRP & Liquidation" dated November 06, 2023, deals with crucial issues being faced in insolvency processes of real-estate projects – Mandatory registration and extension of projects under Real Estate Regulatory Authority (RERA), Operating a separate bank account for each real estate project, Execution of registration/sublease deeds with approval of committee of the creditors (CoC) during corporate insolvency resolution process (CIRP), CoC to examine and invite separate plans for each project, and Exclusion of property in possession of homebuyers from the liquidation estate.

The Discussion Paper is based on recommendations of Shri Amitabh Kant Committee Report on issues related to Legacy Stalled Real Estate Projects. Comments to this Discussion Paper may be submitted electronically by November 28, 2023.

**For More Details, Please Visit:**

<https://ibbi.gov.in/uploads/whatsnew/d9fc8c4d4355e5e255e781b648803b9f.pdf>

## EVENT PHOTOGRAPH



*Webinar on “Office Infrastructure and Usage of Technology” conducted by IIIPI on November 10, 2023.*

### **IIIPI's to conduct LIE Preparatory Classroom (Virtual) Program from Nov. 28, 2023**

The 40 hours Weekday Batch of Limited Insolvency Examination Preparatory Classroom (Virtual) Program will be conducted by IIIPI from 10AM-6PM every day from 28th November to 02nd December 2023. Participants will also be provided online study material. As the seats are limited, the interested candidates are advised to register early.

The highlights of the program include Good Knowledge about the Code & its process Brief Outline of the Training Program, IBC & Regulations: Introduction, IBC & Regulations: CIRP etc.

**For More Details, Please Visit:**

<https://www.iiipicai.in/wp-content/uploads/2023/10/Flyer-for-LIE-Nov.-2023.pdf>