



# INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

## IBC Case Law Capsule

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**Jaipur Trade Expocentre Pvt. Ltd. v Metro Jet Airways Training Pvt. Ltd. & Ors.**  
**Company Appeal (AT) (Ins.) No. 1224 of 2023**  
**Date of NCLAT Judgement: December 21, 2023**

### Facts of the Case:-

The Present Appeal is filed by M/s Jaipur Trade Expo Centre Pvt. Ltd. in the capacity of operational creditor (hereinafter referred as 'Appellant') after being aggrieved by order dated 31.08.23 passed by the Adjudicating Authority.

A CIRP application under section 9 of IBC was admitted against Metro Jet Airways Training Pvt. Ltd. & Ors. (hereinafter referred as 'Respondent') by an order dated 10.08.23 passed by the AA, The Interim Resolution Professional ('IRP') made the publication wherein only one claim was received that too of the Appellant who initiated the CIRP. A CoC was constituted and since no other claim was received, in the third Meeting of the CoC a resolution was passed for liquidation of the Respondent. Accordingly, the RP filed the application for liquidation before the AA. The AA disposed of the application and directed the CoC to take steps in successfully resolving the Respondent, including publication of Form-G and appointment of valuers. After being aggrieved by the order passed by the AA, the Appellant filed this appeal in the Appellate Tribunal.

The Applicant submitted that the scheme of IBC does not contemplate that without issuance of Form-G, decision can't be taken by the CoC to liquidate the Respondent and further submitted that the RP, after passing of the interim order passed by the AA, had published From-G but no EOI was received.

### NCLAT Observations: -

The Appellate Tribunal, upon reviewing the arguments presented by both parties, noted that the CoC provided justifications for its decision, highlighting the absence of employees, business activities, a registered office, and the filing of annual accounts with the Ministry of Corporate Affairs since 31.03.2011. Furthermore, it was observed that no returns had been filed, and no transactions had taken place since 2017.



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The Appellate Tribunal emphasized that Section 33(2) of the IBC grants authority to the CoC to opt for liquidation after its constitution. The Tribunal clarified that such decisions must be accompanied by reasons and cannot be made arbitrarily. Upon examining the CoC's resolution, the Tribunal affirmed that there was a deliberate and objective consideration by the CoC in choosing to proceed with the liquidation process.

**Order/Judgement:** The Appellate Tribunal allowed the appeal and set aside the order passed by the AA, and directed the Liquidation of the Respondent. It also ordered the AA to pass an order for the appointment of a liquidator to proceed with the liquidation proceeding.

**Case Review:** Appeal is allowed.