



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

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IBBI withdrew Paras on Liquidation Regulation set aside by Bombay HC

The IBBI had on Sept. 28, 2023, issued a Circular titled 'Clarification w.r.t. Liquidators' fee under clause (b) of sub-regulation (2) of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016'.

The Bombay High vide order dated April 04, 2024, in the matter of *Amit Gupta vs. IBBI & Union of India* while confirming the validity of the remaining part of the Circular struck down two paragraphs of this Regulation i.e., Paragraph 2.1 ('Amount Realized') and Paragraph 2.5 ('Period for calculation of fee'). Accordingly, these two paragraphs have been withdrawn through this circular dated April 18, 2024.

For More Details, Please Visit:
<https://ibbi.gov.in/uploads/legalframework/d9278b0d6a1def375f5a9b9046c3cc85.pdf>



News Update

**For Internal Circulation Only*
**Knowledge SBU Initiative*

Special Court with Sessions Judge or Additional Sessions Judge can hear offences filed under the IBC: Supreme Court

In a landmark verdict, the Supreme Court has held that the sessions judges and additional sessions judges are empowered to hear criminal complaints filed under the Insolvency and Bankruptcy Code, 2016 (IBC). Thus, the Apex Court has reversed the judgement of Bombay High Court in 2022, which held that only a special court comprising metropolitan magistrate under the Companies Act, 2023, would have the authority to hear criminal complaints under the IBC.

The Supreme Court has interpreted that the insertion of a special provision through an amendment in the Companies Act, 2013 in 2017 creating courts with metropolitan magistrates was only for the purpose of the IBC. Not granting the jurisdiction to a special sessions court was to ensure that the court was not burdened with the cases from both IBC and the Companies Act. "The object to create another class of Special Court was to speed up the trial of offences under the IBC. If that was not an object as contended by the Respondent, the question is, why for Central Government has been empowered to designate Court of Metropolitan Magistrate". The Court of Additional Session Judge in Mumbai had issued summons under Section 73(a) and 235 A of the IBC, which deal with punishments for 'false representation' and 'violation of the provisions of the IBC', respectively. However, the summons was quashed by the Bombay High Court, which was challenged by the IBBI in the Supreme Court.

For More Details, Please Visit: <https://www.moneycontrol.com/news/trends/legal/special-court-with-sessions-judge-can-hear-offences-under-insolvency-code-sc-12677571.html>

News Roundup

NCLAT sets aside CIRP against Sporta Technologies on the ground of 'time barred' application

Admitting the appeal filed by promoter of Sporta Technologies, the parent company of fantasy gaming platform Dream 11, the Appellate Tribunal said, "the application filed by the Operational Creditor under Section 9 was clearly barred by Section 10A". However, the NCLAT allowed the Operational Creditor to file a fresh application for default committed by Corporate Debtor (Sporta Technologies) subsequent to the Section 10A of the IBC. The Operational Creditor shall have liberty to seek appropriate remedy for their dues in accordance with law, said the NCLAT. The CIRP petition against Sporta Technologies was filed by Reward Solutions, the Operational Creditor, for an alleged default of ₹7.61 crore.

For More Details, Please Visit:

<https://www.barandbench.com/news/nclat-sets-aside-insolvency-proceedings-against-dream-11s-parent-company-sporta-technologies>

NCLT admits personal insolvency against Zee Group's Subhash Chandra on default of debt he had guaranteed

The petition for initiation of insolvency proceedings against Subhash Chandra, the Chairperson Emeritus of Zee Entertainment Enterprises Ltd., was filed by Indiabulls Housing Finance (IBHF) in 2022 under the provisions of 'Personal Guarantor to Corporate Debtor' (PG to CD) of the IBC after a loan of ₹170 crore it had given to Vivek Infracon (Corporate Debtor) had turned into non-performing assets (NPA). IBHF also submitted that while Chandra indicated of a settlement being reached in the dispute, it has not fructified even after months. As a result of Chandra being admitted to moratorium, no litigation can be initiated against him. Chandra also cannot alienate or sell any of his assets and the Resolution Professional (RP) will now process the claims of dues against him.

For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/nclt-admits-indiabulls-personal-insolvency-plea-against-zees-subhash-chandra-12689991.html>

Fashion Retailer Express Inc filed for bankruptcy in USA

Express Inc., the retailer whose portfolio includes brands such as Express, Bonobos and UpWest Express, listed assets and liabilities in the range of \$1 billion to \$10 billion, according to a filing with the bankruptcy court in Delaware, USA. The company has planned to close more than 100 stores. Mark Still, who has served as interim CFO since November 2023, has been appointed the new CEO of the company. The company reportedly operates about 530 Express retail and Express Factory Outlet stores in the United States and Puerto Rico and around 12 UpWest retail stores.

For More Details, Please Visit: <https://www.reuters.com/business/retail-consumer/apparel-retailer-express-files-us-bankruptcy-protection-close-over-100-stores-2024-04-22/>



MCA invited comments on various rules under the IBC

The Ministry of Corporate Affairs (MCA) has invited online comments on the review of rules prescribed under the Insolvency and Bankruptcy Code, 2016 (IBC) under – “general comments” and “specific comments”.

The “general comments” may be pertaining to inconsistency, difficulty in implementation of any of the provisions in any rule, any provision that should have been provided in any rule but has not been provided, and any provision that has been provided in any rule but should not have been provided. However, specific comments can be provided on the specific rule or sub-rule. These comments should be submitted online to the MCA within 30 days from the date of upload.

This initiative has been taken in pursuance to the para-B.1 of MCA’s policy for pre-legislative consultation and comprehensive review of existing rules and regulations prescribed under various legislations administered by it, which are in line to the announcement made in para 99 & 100 of Budget Speech (2023-24).

For More Details, Please Visit: <https://ibbi.gov.in/uploads/whatsnew/45711692a135cb163faf4300515d7338.pdf>

EVENT PHOTOGRAPHS



Webinar on “Case Study – CIRP & Liquidation” organized by IIPI on April 19, 2024.



Limited Insolvency Examination - Preparatory Classroom (Virtual) Program Batch from 16th to 20th April 2024.

IIPI announces one day workshop on “Soft Skills for Insolvency Professionals”

Indian Institute of Insolvency Professionals of ICAI (IIPI) is organizing a daylong workshop on "Soft Skills for Insolvency Professionals" from 10.00 am to 5.00 pm (including lunch) on Saturday, May 04, 2024, at Indian Habitat Centre, Delhi.

Mr. Abhilash Lal, Insolvency Professional and CA. Vivek Mathur Partner, PWC India, will be key faculties in this workshop. The key highlights of the workshop include leadership skills, negotiation skills, effective communication and role plays.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2024/04/WORKSHOP-FLYER-4TH-MAY-1.pdf>