

IBC News

Parliamentary Panel suggests 4-point action plan to improve IBC outcomes

The Standing Committee of Parliament on Finance has reportedly directed the Ministry of Corporate Affairs (MCA) to implement a direct submission system for resolution plans through a central online portal. This move aims to ensure confidentiality in the submission process, preventing any undue advantage for certain parties, the Committee reportedly stated in its latest report on MCA's demands for grants for 2025-26. In addition to this, the four-point action plan also includes Enhancing the Role and Accountability of Resolution Professionals; Transparent Monitoring of Case Resolution Timelines and Review of the Committee of Creditors' (CoC) Structure.

Source: *Hindu Businessline*, March 20, 2025.

<https://www.thehindubusinessline.com/economy/standing-committee-on-finance-recommends-direct-submission-system-for-ibc-resolution-plans/article69352602.ece>

Acquisition of Reliance Capital completed

IndusInd International Holdings Ltd (IIHL), the Successful Resolution Application (SRA) of Reliance Capital, has reportedly claimed that it has completed the transaction to acquire Reliance Capital IBC by transferring the entire bid amount to lenders. "The journey for value creation would now begin. The value of the Reliance Capital business on a conservative basis would be ₹20,000 crore," said IIHL to the media. The Resolution Plan of IIHL was finally approved in April 2023 in which it had offered ₹9,650 crore to acquire Reliance Capital.

Source: *The Hindu*, March 18, 2025.

<https://www.thehindu.com/business/iihl-completes-reliance-capital-acquisition-entire-bid-amount-transferred/article69345868.ece>

No tax demand after approval of the Resolution Plan: Supreme Court

The Supreme Court has ruled that no tax demand, even if raised by the income tax (IT) department, can be allowed to be included in a resolution plan after its approval by



the Adjudicating Authority (AA/NCLT). The Apex Court also clarified that all claims must be submitted to and decided by professional resolution so that a prospective resolution applicant knows exactly what has to be paid, so that it may then take over and run the business of the Corporate Debtor.

"A successful resolution applicant cannot suddenly be faced with 'undecided' claims after the resolution plan submitted by him has been accepted, as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant who would successfully take over the business of the corporate debtor," said the Supreme Court in a case of insolvency against Tehri Iron and Steel Casting Limited. In this case, the resolution plan was approved by the NCLT on May 21, 2019. Thereafter, the Income Tax (IT) department issued demand notices dated December 26, 2019, and December 28, 2019, under the IT Act concerning assessment years 2012-13 and 2013-14, respectively, in respect of the Corporate Debtor. The NCLT and NCLAT, however, sided with the I-T department. The Apex Court observed that no claims about the demands for the two assessment years were submitted.

Source: *Business Standard*, March 21, 2025.

https://www.business-standard.com/finance/news/no-tax-demand-can-be-raised-after-resolution-plan-approval-says-sc-125032101110_1.html

Cheque Bounce Case Barred Against Ex-Director Post IBC Moratorium: Supreme Court

The Supreme Court has ruled that cheque bounce proceedings under Section 138 of the Negotiable Instruments Act, 1881 (NI Act) cannot continue against

an ex-director if the cause of action arises after the imposition of a moratorium under the Insolvency and Bankruptcy Code, 2016 (IBC). A bench comprising Justices Sudhanshu Dhulia and Ahsanuddin Amanullah set aside the Punjab & Haryana High Court's decision, which had refused to quash proceedings against the appellant. The Court distinguished this case from *P. Mohan Raj vs. M/S Shah Brothers Ispat Pvt. Ltd.* (2021), clarifying that in Mohan Raj, the cause of action arose before the moratorium, while in this case it arose after. The Apex Court emphasized that upon the imposition of a moratorium, the corporate debtor's management vests with the Insolvency Resolution Professional (IRP), and ex-directors cannot be held liable for acts they are no longer authorized to undertake. Since the demand notice in the present case was issued after the moratorium was imposed, the liability did not extend to the appellant. Highlighting that the offence under S.138 NI Act arises only after the lapse of 15 days from a demand notice, the Court concluded that the appellant could not be prosecuted. Accordingly, it quashed the cheque dishonour case against the appellant, reinforcing the legal protection granted under IBC's moratorium provisions.

Source: *Livelaw.in*, March 18, 2025.

<https://www.livelaw.in/supreme-court/no-s138-ni-act-case-against-ex-director-of-company-when-cause-of-action-arose-after-ibc-moratorium-was-declared-supreme-court-286691>

NCLT directs RP to invite single Plan for entire JAL

Initially, the Resolution Professional (RP) had invited Expressions of Interest (EOIs) under two options, Option I: Resolution of Jaiprakash Associates Ltd. (JAL) as a whole, as a going concern, and Option II: Resolution of specific business clusters separately, with JAL's operations categorized into 12 clusters. However, the NCLT has directed that only Option I will proceed, meaning all EOIs must now be invited for the entire company. Option II has been set aside, and any EOI submitted for specific clusters will not be considered.

Source: *CNBCTV19.COM*, March 10, 2025.

<https://www.cnbctv18.com/business/companies/nclt-directs-jaiprakash-associates-to-continue-with-single-resolution-plan-19571145.htm>

Builders can't use IBC to evade penalties: Supreme Court

In a landmark judgement, the Supreme Court has held that the real estate corporate debtors undergoing insolvency process cannot evade monetary penalties imposed for consumer rights violations. The court clarified that penalties imposed by consumer courts serve a regulatory function and do not constitute "debt" under the Insolvency and Bankruptcy Code, 2016 (IBC).

"Homebuyers, many of whom invest their life savings in purchasing residential units, are already in a precarious position due to delays in possession and breaches of contractual obligations. Staying penalties that serve as deterrence against such unfair practices would render consumer protection mechanisms ineffective and erode trust in the regulatory framework," said the Court. The judgement came in the matter of the proprietor of East & West Builders (RNA Corp Group Co), who had sought relief from penalties imposed by the National Consumer Disputes Redressal Commission (NCDRC) on the grounds that an application under Section 95 of the IBC had filed against her, triggering an interim moratorium under Section 96 of the IBC. The NCDRC had in 2018 imposed 27 penalties on the proprietor for failing to deliver possession of residential units within the agreed timeline, causing distress to homebuyers. "The IBC is not a tool for escaping liability arising from statutory obligations. The penalties imposed by the NCDRC are meant to ensure compliance with consumer laws and cannot be equated with a recoverable financial debt," said the Supreme Court.

Source: *Hindustan Times*, March 05, 2025.

<https://www.hindustantimes.com/india-news/builders-can-t-use-insolvency-to-evade-penalties-top-court-101741114940426.html>

Attachment under the BUDS Act does not have precedence over proceedings under SARFAESI Act and IBC: Kerala High Court

The Kerala High Court has held that the proceedings under the Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and the Insolvency and Bankruptcy Code,

2016 (IBC) will have superseding effects on proceedings of attachment under the Banning of Unregulated Deposit Schemes Act (BUDSA). This judgement was delivered in a case wherein the Appellant filed a writ petition seeking directions to the Respondent to register the Sale Certificate issued by it in terms of the provisions contained in the SARFAESI Act 2002 and consequently, for directions to the revenue authorities to carry out the mutation of the property covered by Sale Certificate. "It is clear that the expression 'Save as otherwise provided in the SARFAESI Act 2002 or the IBC, 2016 can only mean that any action/proceeding under the SARFAESI Act and the IBC is saved from the provision providing precedence to the BUDS Act," said the Court. The Court did not accept arguments of the Government counsel to invoke the High Court's power under Article 226. This matter is not related to Writ Appeal No. 1087/2024, as that case pertains to the High Court's power under Article 226 to efface an attachment ordered by a Court without approaching the competent Court and is unrelated to the present issue, the Court further observed.

Source: *Verdictum.in*, March 03, 2024.

<https://www.verdictum.in/court-updates/high-courts/kerala-high-court/hdb-financial-services-limited-vs-the-sub-registrar-2025ker14342-no-precedence-to-attachment-under-buds-act-over-proceeding-under-sarfaesi-act-and-ibc-1569891>

NCLAT sets aside CIRP against Coffee Day Enterprises

The shares of Coffee Day Enterprises Ltd (CDEL), surged to their 20 percent upper circuit limit of ₹25.65 in intra-day trading on Monday, March 3, after the NCLAT, Chennai Bench dismissed insolvency proceedings against the company. The CIRP began when IDBI Trusteeship Services Ltd. (IDBITSL) moved NCLT, Bengaluru, alleging a default of ₹228.45 crore by CDEL. However, CDEL appealed against the order and the matter reached the Supreme Court which directed the NCLAT to dispose of the matter.

Source: *Livemint.com*, February 27, 2025.

<https://www.livemint.com/companies/news/nclat-sets-aside-insolvency-proceedings-against-coffee-day-enterprises-11740636672582.html>

Application u/s 9 of the IBC cannot be entertained when the debt is not unequivocally admitted by the CD: NCLAT

The NCLAT has held that a Section 9 Application by Operational Creditor (OC) must be denied if the OC receives notice of dispute or if a dispute is noted in the Information Utility in accordance with section 9(5)(ii) of the IBC. In this case, the OC sent a demand notice under section 8 of the IBC to the Corporate Debtor (CD). However, the CD responded to the notice contesting the OC's claim. Thereafter, the OC sent out a payment reminder and then filed an application under section 9 of the IBC. Subsequently, the NCLT passed an order of insolvency against the CD which was challenged in the Appellate Tribunal. "When Operational Creditor seeks to initiate insolvency process against a CD, it can only be done in clear cases where no real dispute exists between the two," said the Court.

Source: *Taxscan.in*, March 01, 2025.

<https://www.taxscan.in/application-u-s-of-ibc-must-not-be-entertained-when-debt-is-not-unequivocally-admitted-by-corporate-debtor-nclat/494126/>

Benches assigned to newly appointed NCLT Members

The Union government has reportedly assigned benches to 21 of the 24 newly appointed judicial and technical members of the National Company Law Tribunal (NCLT). These members were appointed to 11 NCLT Benches across the country to fill the vacant positions. However, the delay in assigning the benches was reportedly due to the non-completion of the induction program. The vacancies in the NCLT adversely affect the resolution of cases. According to the IBBI, the recovery rate for creditors stands at 49.2% if the CIRP is concluded within 330 days. It reduces to 36% if the CIRP process concludes between 330-599 days; and beyond 600 days, recovery stands at mere 26.1%.

Source: *Financial Express*, March 02, 2025.

<https://www.financialexpress.com/business/industry-21-new-nclt-members-get-to-work-after-sc-rap-over-delays-3764797/>

Challenge to the Resolution Plan cannot be maintained on behalf of one lone homebuyer: NCLAT

The Appellate Tribunal has held that one lone homebuyer has to go with the majority decision of the homebuyers and cannot be allowed to challenge the approval of Resolution Plan which is law settled by the Supreme Court in *Jaypee Kensington Boulevard Apartments Welfare Association and Ors. v. NBCC (India) Limited & Ors.* The home buyer had challenged the Resolution Plan on the grounds that the Plan is conditional and contingent which lacks necessary ingredients required under Regulation 38. This ruling came in the case of *Jai Prakash Keswani v. MB Malls Pvt. Ltd & Ors.* Deciding on an IA filed by the promoter who had challenged the approval of the same Resolution Plan on the grounds of viability, feasibility and implementation, the Appellate Tribunal held that it is the commercial wisdom of the Committee of Creditors (CoC) to take a decision on viability and feasibility of the Plan. The CoC, having approved the Plan with 100% voting, deemed it to have adverted to the viability and feasibility of the Resolution Plan, said the Court. On the question of whether the Plan is implementable within the specified period, the Appellate Tribunal clarified that such a question can be raised after expiry of the period contemplated in the Plan. The question of whether the Plan is not implementable within specified period is not an issue which can be decided at the time of approval of the Plan, said the Court.

Source: *Livelaw.in*, February 23, 2025.

<https://www.livelaw.in/ibc-cases/nclat-lone-homebuyer-cant-challenge-approval-of-resolution-plan-284744>

Financial creditors of Anil Ambani-promoted Reliance Big Pvt. Ltd. to face a 99% haircut

NCLT has approved the Resolution Plan for Reliance Big Pvt. Ltd. submitted by Manoj Kumar Upadhyay through his affiliate firm, ACME Cleantech Solutions Private Limited. As per the plan the creditors will get ₹3.5 crores against the total admitted claim of ₹999 crores. The entire amount of the Resolution Plan will go to secured financial creditors while unsecured financial creditors, who submitted claims totaling ₹515 crore, will not receive any payments. The plan also includes an

upfront cash infusion of ₹4 crore in the form of equity. The Corporate Debtor, which is engaged in radio and television activities, including the production of radio and TV programs, entered the CIRP in August 2023 after failing to maintain security cover for its debenture obligations.

Source: *The New Indian Express*, February 20, 2025.

<https://www.newindianexpress.com/business/2025/Feb/20/creditors-take-99-haircut-in-reliance-big-insolvency-resolution-case>

There is a visible trend reversal in the number of companies going into liquidation under the code: IBBI

Chairperson In 2017-18, for every corporate debtor (CD) resolved, five CDs went into liquidation. By 2024-25, the ratio had improved to 1.3 CDs per resolved entity, said media reports citing the IBBI Newsletter for October – December 2024. “With many distressed entities still entering liquidation, enhancing recoveries for claimants is crucial. The liquidation process needs further refinement to improve outcomes,” said Mital. Despite these gains, the recoveries from completed liquidations reportedly remained significantly lower than those under the corporate insolvency resolution process (CIRP). IBBI has been amending liquidation regulations periodically to increase efficiency, said the media reports.

Source: *The Telegraph*, February 17, 2025.

https://www.telegraphindia.com/business/positive-shift-in-corporate-resolutions-under-insolvency-and-bankruptcy-code-ibbi/cid/2083985#goog_rewarded

CCI's approval must in merger cases before CoC's voting on Resolution Plan: SC

The Supreme Court of India has ruled that Section 31(4) of the Insolvency and Bankruptcy Code (IBC) makes it clear that in cases involving combinations (mergers/acquisitions), prior approval from the Competition Commission of India (CCI) is a prerequisite before the Committee of Creditors (CoC) votes on a resolution plan. By enforcing this requirement, the judgment prevents potential anticompetitive outcomes and ensures compliance with the legislative intent of both the IBC and the Competition Act. The Apex Court also clarifies

that IBC, and the Competition Act must operate in alignment to maintain investor confidence. This ruling highlight that competition law considerations cannot be bypassed in insolvency proceedings, particularly when market dominance is at stake. The verdict came in the case involving AGI Greenpac's acquisition of Hindustan National Glass and Industries Ltd. (HNGIL), which was challenged by Independent Sugar Corporation Ltd.

Source: *Insolvency Tracker*, February 10, 2025.

<https://insolvencytracker.in/2025/02/10/sc-upholds-prior-cci-approval-mandate-in-hngil-cirp-quashes-agi-greenpacs-resolution-plan/>

IBBI proposes 'mini group insolvency' to streamline resolution of interconnected entities

The Discussion Paper issued by the IBBI highlights the inefficiencies, escalated costs and conflicts arising from the absence of a structured approach when multiple related entities undergo CIRP simultaneously. This initiative is being viewed as a "mini group insolvency" mechanism, laying the groundwork for a more comprehensive group insolvency framework under the IBC. Recent judicial precedents in cases such as Videocon Industries and SREI Infrastructure Finance have underlined the need for a more sophisticated approach to handling interconnected corporate entities. The proposed mechanism includes provisions for joint hearings, appointment of a common RPs, information sharing protocols and coordinated timelines.

Source: *The Hindu Businessline*, February 07, 2025.

<https://www.thehindubusinessline.com/economy/ibbi-proposes-mini-group-insolvency-to-streamline-resolution-of-interconnected-entities/article69188971.ece>

Actor Akshay Kumar's insolvency plea against edtech firm rejected

The actor had moved the NCLT against the ed-tech company Cue Learn over the nonpayment of ₹4.83 crore as part of a 2021 endorsement agreement, terming the dues as Operational Debt. However, the tribunal observed that his claims did not qualify as Operational Debt under the Insolvency and Bankruptcy Code, 2016 (IBC). "We conclude that the application filed by the

applicant under Section 9 of the Code for initiating CIRP (Corporate Insolvency Resolution Process) against the Respondent is not maintainable and stands dismissed," said the Adjudicating Authority (AA). The Operational Debt, under the IBC, refers to money a company owes for goods or services it has received. It includes unpaid bills for supplies, rent, or salaries.

Source: *Mint*, January 22, 2025

<https://www.livemint.com/companies/news/nclt-rejects-akshay-kumar-s-insolvency-plea-against-edtech-cue-learn-11737545079375.html>

NCLT approved Resolution Plan for PMC Pvt. Ltd.

The Resolution Plan of Purulia Metal Casting (PMC) Pvt. Ltd amounting ₹55.51 crores by DD International Pvt. Ltd., the Successful Resolution Applicant (SRA), was already approved by the Committee of Creditors (CoC) with an 87.16% majority vote. The RP has been directed to transfer all records to the SRA within 30 days. The SRA must secure regulatory approvals (e.g., land surveys, permits etc.) within 1 year. Noncompliance by the SRA could result in forfeiture of the ₹5.56 crore performance guarantees.

Source: *Business Standard*, January 16, 2025.

https://www.business-standard.com/content/press-releases-ani/nclt-approves-resolution-plan-for-rite-builtec-private-limited-125011601349_1.html

IRP acting on behalf of the CD represents the 'Promoter' and is subject to the same obligations under Section 43(5) of RERA Act: High Court

A double bench of the Delhi High Court has held that the Interim Resolution Professional (IRP) representing the company itself, that is, the "Promoter" and therefore, is to be considered as a "Promoter" for the purposes of the appeal and the application of provisions of Section 43(5) of the RERA.

The Court has ruled that the moratorium imposed under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC), does not exempt a promoter from complying with the mandatory pre-deposit requirement under Section 43(5) of the Real Estate (Regulation & Development) Act,

2016 (RERA). Further, citing the NCLAT judgement in the matter of *Flat Buyers Association Winter Hills – 77, Gurgaon vs. Umang Realtech Pvt. Ltd.* (2020) wherein it was clarified that insolvency process against a real estate company is limited to a project as per approved plan by the Competent Authority and not the other projects which are separate at other places for which separate plans approved, the High Court clarified that the Appellant cannot seek any benefit of the moratorium that has been issued by the NCLT for seeking an exemption from making the pre-deposit in terms of Section 43(5) of the RERA. The Appellant had claimed that the petition filed by the IRP cannot be considered as an appeal filed by a “Promoter” and, therefore, the rigours of Section 43(5) of the RERA would not be applicable.

Source: *Ibclaw.in*, January 27, 2025.

<https://shorturl.at/sclHw>

The issue of maintainability of application under Section 7 of the IBC can either be decided separately or with other substantive issues: NCLAT

The Principal Bench of NCLAT, New Delhi has held that although the Adjudicating Authority (AA) is not obligated to decide the question of maintainability in a Section 7 application separately, it may choose to decide such objections separately. “Justice would be served if

both parties are allowed to present their arguments on merits therefore it was held that although the issue of maintainability stands resolved in favor of the applicant, other issues with respect to debt and default can be decided by the Adjudicating Authority on merits by providing opportunity to both the parties to lead their evidence,” observed the NCLAT in the matter of *Pioneer Urban Land & Infrastructure Ltd. v. Presidia Araya Residents Welfare Association* (2025). In this case, the respondent filed an application under Section 7 of the IBC before NCLT seeking initiation of the insolvency process against the Appellant (Corporate Debtor). The Appellant raised objections with respect to maintainability of the application which were agreed to be heard by the AA. After completing the hearing, the AA held the application to be maintainable. Before the NCLAT, the Appellant submitted that while deciding the issue of maintainability, the AA unnecessarily went on to decide other issues on merits thereby precluding the Appellant from raising them in further proceedings. However, the respondent argued that no error was committed by the AA as sufficient opportunity of being heard was provided to both the parties.

Source: *Livewlaw.in*, January 21, 2025.

<https://www.livewlaw.in/ibc-cases/issue-of-maintainability-application-us-7-of-ibc-can-be-decided-separately-by-adjudicating-authority-nclat-281545>

