



# INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

## IBC Case Law Capsule

Number 240

(September 08, 2025)



**KSS Petron Private Limited vs. Bhubaneswar Expressways Pvt. Ltd.**

**TA (IBC)-37(PB)/2025**

**Date of NCLT Judgement, 08 August 2025**

### Facts of the Case: -

The matter concerns three Transfer Applications and connected proceedings before the NCLT Delhi, KSS Petron Private Limited, incorporated for engineering, procurement, and Construction (EPC) works (hereinafter referred as Applicant), had incorporated Bhubaneswar Expressways Pvt. Ltd. (BEPL) as its subsidiary with 52% shareholding. The Applicant was admitted into CIRP on 01.08.2017 before NCLT, Mumbai and later into liquidation on 27.12.2019. Similarly, Petron Engineering Constructions Ltd. (PECL), a subsidiary of the Applicant, was admitted into CIRP on 23.03.2018 and subsequently into liquidation on 23.01.2020.

In the liquidation proceedings of the Applicant, one of the assets included equity shareholding and receivables from BEPL. On 20.06.2024, the liquidator of the Applicant was permitted by NCLT, Mumbai to initiate proceedings against BEPL. Accordingly, on 02.08.2024, a Section 7 application was filed before NCLT Delhi, leading to admission of CIRP against BEPL on 09.12.2024. Subsequently, Sayam Shares and Securities Pvt. Ltd., claiming as an assignee of Feedback Highway OMT Pvt. Ltd., challenged the initiation of CIRP against BEPL through IA-2693/2025, contending that the liquidation order of the Applicant dated 27.12.2019 was illegal and that there were irregularities in CoC constitution. Parallel IAs were also filed before NCLT, Mumbai challenging liquidation orders of the Applicant and PECL after nearly five years.

The Transfer Applications were filed seeking consolidation of proceedings either before NCLT, Mumbai or NCLT, New Delhi, citing common issues, forum shopping, and judicial economy. The applicants argued that multiple proceedings across forums could lead to conflicting findings, while the respondents contended that each court must decide independently as per its jurisdiction and cause of action.

### NCLT's Observations:

The Tribunal noted that the Section 7 application in NCLT New Delhi was filed more than four years and six months after the liquidation order of the Applicant, and the challenge to its maintainability must be adjudicated by NCLT, New Delhi on merits.



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Similarly, IAs filed before NCLT, Mumbai to recall liquidation orders of 2019 and 2020 must be adjudicated independently by NCLT, Mumbai. The Tribunal emphasized that though underlying issues may appear common, each proceeding arose from distinct causes of action and therefore required adjudication by the respective benches where they were filed.

The Bench observed that forum shopping by filing identical applications across multiple forums could not be entertained. It further stressed the importance of case management, noting that matters of maintainability should not consume 25–30 hours of hearings across multiple dates, as it hampers timely disposal of pending cases.

**Order/Judgement:** The Tribunal held that there was no justification to transfer the cases from one bench to another and each NCLT Bench (Mumbai and New Delhi) was directed to adjudicate matters pending before them on their own merits. The Tribunal discouraged prolonged hearings on maintainability issues and highlighted the need for judicial economy and avoidance of forum shopping.

**Case Review:** *Transfer Applications were dismissed.*