



INSOLVENCY PROFESSIONAL AGENCY  
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# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"There is nothing impossible to they who will try."*

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## ➤ **Submission Of New Settlement Proposals Not Permissible After CoC Approves Resolution Plan Or Concludes CIRP: NCLAT**

The **National Company Law Appellate Tribunal, New Delhi** division bench of **Justice Ashok Bhushan** (Chairperson) and **Barun Mitra** (Technical Member) held that once a Resolution Plan is approved by the Committee of Creditors (CoC) and the Corporate Insolvency Resolution Process (CIRP) is concluded, the submission of new settlement proposals is not permissible. The CoC's decision, particularly when taken with unanimous consent, is final and cannot be challenged unless it is arbitrary.

The corporate debtor, Nimitaya Hotel & Resorts Pvt. Ltd. ("Nimitaya"), had secured various financial facilities from Indian Bank (formerly Allahabad Bank). Indian Bank filed a Section 7 application under the Insolvency and Bankruptcy Code ("IBC"), which was admitted by the adjudicating authority on 24.12.2021. Dissatisfied with this decision, Mr. Sanjeev Mahajan, a shareholder and promoter of Nimitaya, filed a company appeal challenging the order. On 04.07.2022, the NCLT, New Delhi, disposed of the appeal and allowed Mr Sanjeev to submit a fresh application under Section 12-A to the Interim Resolution Professional (IRP) or Resolution Professional (RP) for consideration by the Committee of Creditors (CoC), with a settlement offer exceeding Rs. 81 crore.

Subsequently, Mr. Sanjeev submitted a settlement proposal, which the CoC rejected. This led him to file a contempt application. The contempt application was dismissed on 21.11.2022, but the NCLT permitted him to participate in negotiations with the CoC, allowing the CoC to request revisions to the settlement proposal.

**Source: Live Law**

**Read Full news:** <https://www.livelaw.in/ibc-cases/submission-of-new-settlement-proposals-not-permissible-after-coc-approves-resolution-plan-or-concludes-cirp-nclat-267254>

## ➤ **No Violation of Section 14(1)(d) IBC in Auction of Subsidiary's Assets Under SARFAESI Act: NCLAT Principal Bench**

The **National Company Law Appellate Tribunal Principal Bench, New Delhi** of *Justice Ashok Bhushan (Chairperson) and Barun Mitra (Technical Member)* has held that there is no violation of Section 14(1)(d) of the Insolvency and Bankruptcy Code (IBC) in the auction of assets or facilities of a subsidiary company if the assets were handed over to the Corporate Debtor for operation and maintenance under the SARFAESI Act.

Section 14(1)(d) prohibits any recovery action or enforcement of security interests by creditors, landlords, or lessors if the assets are in the possession or occupation of the corporate debtor.

**Source: Live Law**

**Read Full news :** <https://www.livelaw.in/ibc-cases/no-violation-of-section-141d-ibc-auction-of-subsidiarys-assets-sarfaesi-act-nclat-principal-bench-267198>

## ➤ **No Inherent Right To Withdraw Section 9 IBC Application And Refile: NCLAT New Delhi**

The **National Company Law Appellate Tribunal, Principal Bench, New Delhi** bench of **Justice Ashok Bhushan** (Chairperson), **Barun Mitra** (Technical Member) and **Arun Baroka** (Technical Member) has held that in proceedings under the Insolvency and Bankruptcy Code (IBC), an Applicant does not have an inherent right to withdraw an application filed under Section 9 at any stage and subsequently request the liberty to file a new application.

The matter pertained to two appeals which were filed against the order issued by the National Company Law Tribunal (NCLT), Ahmedabad. These appeals arose from two Section 9 Applications filed by Florex Tiles (Appellant) under the Insolvency and Bankruptcy Code, 2016 (IBC).

**Source: Live Law**

**Read Full news :** <https://www.livelaw.in/ibc-cases/no-inherent-right-to-withdraw-section-9-ibc-application-and-refile-nclat-new-delhi-267195>

