



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"Success usually comes to those who are too busy to be looking for it."*

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## ➤ **Set-Off Conundrum Under Insolvency And Bankruptcy Code, 2016**

The Supreme Court recently in *Bharti Airtel Limited and Anr. v. Vijay Kumar Iyer and Ors*[1] ["Bharti Airtel Judgement"] has settled the issue on the applicability of the principle of setoff under Insolvency and Bankruptcy Code, 2016 ["IBC"]. The Division bench of Supreme Court of India comprising of Justice Sanjiv Khanna and Justice S.K.V Bhatti dismissed an Appeal filed by Bharti Airtel Limited ["Airtel"] under Section 62 of IBC. The bench by its judgement dated 3rd January, 2024 upheld the order of National Company Law Appellate Tribunal ["NCLAT"], wherein the NCLAT castigated the applicability of the Set offs during Corporate Insolvency Resolution Process ["CIRP"] under IBC on the ground that the use of set offs during CIRP is against the objectives of the IBC. Additionally, the Supreme Court while approving the view of the NCLAT has categorically defined the applicability of set offs under IBC and carved out certain exceptions for its applicability.

**Source:** *Live Law*

**Read Full news:** <https://www.livelaw.in/articles/set-off-conundrum-under-insolvency-and-bankruptcy-code-2016-267740>

## ➤ **Insolvency and Bankruptcy Board of India proposes changes to ease resolution process for MSMEs**

The Insolvency and Bankruptcy Board of India (IBBI) has proposed a new amendment to corporate insolvency regulations aimed at supporting micro, small, and medium enterprises (MSMEs).

"The proposed amendment is expected to reduce information asymmetry in the resolution process for MSMEs," the IBBI said. "It may also encourage greater participation from potential resolution applicants who may have otherwise been uncertain about their eligibility."

Under the proposed rule, corporate debtors would be required to disclose their MSME status at the beginning of the resolution process.

It is proposed to amend Regulation 36 of the CIRP Regulations for making disclosures about the status of the corporate debtor, being registered or not, as a micro, small or medium enterprise in accordance with the provisions of the MSME Development Act, 2006, the IBBI said.

**Source: Telegraph India**

**Read Full news :** <https://www.telegraphindia.com/business/insolvency-and-bankruptcy-board-of-india-proposes-changes-to-ease-resolution-process-for-msmes/cid/2043823>

### ➤ **Section 3 of Interest Act empowers the Court to allow the interest, not Resolution Professional: NCLAT**

The National Company Law Appellate Tribunal (NCLAT) has held that there cannot be any dispute to the statutory provision of Section 3 of Interest Act which empowers the Court to allow the interest. However, Section 3 is not applicable against Resolution Professional who collates the claim and allow the interest.

The appeal was filed against the order passed by National Company Law Tribunal, Chandigarh. The dispute occurred when Resolution Professional accepted the claim of the Financial Creditor. However, The Resolution professional did not allow the interest.

The Adjudicating Authority after hearing the dispute held that the Financial Creditor has failed to place any document which entitles for the alleged interest and the Resolution Professional could admit the amount which is principal amount only.

**Source: The Economic Times**

**Read Full news :** <https://legal.economictimes.indiatimes.com/news/litigation/section-3-of-interest-act-empowers-the-court-to-allow-the-interest-not-resolution-professional-nclat/112785602>

