



THE INSOLVENCY PROFESSIONAL

Your Insight Journal

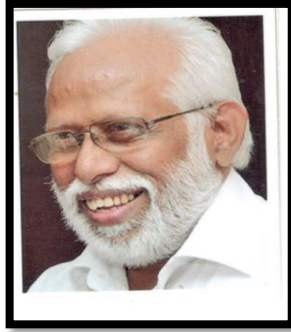


INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

OVERVIEW

Insolvency Professional Agency of Institute of Cost Accountants of India (IPA-ICMAI) is a Section 8 Company incorporated under the Companies Act-2013 promoted by the Institute of Cost Accountants of India. We are the frontline regulator registered with Insolvency and Bankruptcy Board of India (IBBI). With the responsibility to enroll there under solvency Professionals (IPs) as its members in accordance with provisions of the Insolvency and Bankruptcy Code 2016, Rules, Regulations and Guidelines issued thereunder and grant membership to persons who fulfil all requirements set out in its byelaws on payment of membership fee. We are established with a vision of providing quality services and adhering to fair, just, and ethical practices, in performing its functions of enrolling, monitoring, training and professional development of the professionals registered with us. We constantly endeavor to disseminate information in aspect of Insolvency and Bankruptcy Code to Insolvency Professionals by conducting round tables, webinars and sending daily newsletter namely "IBC Au courant" which keeps the insolvency professionals updated with the news relating to Insolvency and Bankruptcy domain.

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CASEBOOK

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MESSAGE FROM THE DESK OF MANAGING DIRECTOR

Dear Reader,

Greetings to you from all of us in TEAM IPA-ICMAI. At IPA-ICMAI, our young team strives to be up to mark on both streams of our mandate - regulation and professional development.

Professional development happens through continuous professional education including updates on changes in code and relevant laws and regulations as also new case laws. The equally important side of professional development is sharing of a professional's knowledge and experience with fellow professionals. In the IBC ecosystem which is still young and evolving, developments happen quite frequently and swiftly. All the more reason it is that practising professionals need to be keyed in always to be abreast of the latest developments. I invite more and more professionals to contribute articles and opinions to the E-Journal on all aspects that IBC ecosystem and related domains that will enrich the knowledge base of the readers.

At IPA-ICMAI, we strive to make our publications relevant, informative, interesting and lucid. This issue of the 'Insolvency Professional - Your Insight Journal' has carries three interesting articles on a wide array of topics ranging from very practical issues like dealing with claims to increasingly important topics like mediation, digital assets and artificial intelligence-

- *The contentious role of high court in IBC jurisprudence by Shri Govindarajan, IP,*
- *Relevance of intellectual property in valuation of plant and machinery under IBC by R Shyamsunder, RV.*
- *Highlights of the IBC as it has evolved that have impacted the Ease of Doing Business by Shri Gopinath, IP.*

I am sure you will find all the articles interesting and useful. We welcome your responses to the published articles in this journal. You are welcome to write to publication@ipaicmai.in.

Wish you all happy reading.

**Mr. G.S. Narasimha Prasad
Managing Director**



**PROFESSIONAL
DEVELOPMENT
INITIATIVES**

EVENTS CONDUCTED

<u>FEBRUARY 2025</u>	
Date	Events Conducted
11th February 2025	Round Table Discussion on 'Streamlining Processes under the IBC .
15th February 2025	Interactive Meet on 'Discussion on Recent Developments under IBC, 2016
16th February 2025	Workshop on "Interface of different Laws with IBC, 2016." (Series - 3)
21st February 2025	Physical workshop on 'Evolving Jurisprudence under IBC' was held in Bhubaneswar ,
22nd February 2025	Workshop on 'Personal Guarantors to Corporate Debtors'
28th February 2025	Workshop on Disciplinary Aspects & Governance under IBC, 2016"



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IBC AU COURANT

Updates on Insolvency and Bankruptcy Code

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*Our Daily
Newsletter which
keeps the
Insolvency
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updated with the
news on
Insolvency and
Bankruptcy Code*

ARTICLES



INSOLVENCY PROFESSIONAL AGENCY
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Mr. Gopinath Insolvency Professional

- **Background and Objectives of the IBC**

The introduction of the Insolvency and Bankruptcy Code (IBC), 2016, marked a transformative era in India's economic and legal framework. The Code aimed to resolve insolvency issues effectively, significantly improving India's ease of doing business. It consolidated multiple laws into a unified framework and introduced time-bound mechanisms to address financial distress among individuals, partnerships, and corporate entities. The IBC has transformed India's insolvency landscape, fostering a creditor-friendly regime and further enhancing the ease of doing business. By prioritizing time-bound resolutions, transparency, and value maximization for stakeholders, it has boosted investor confidence and economic growth. Despite challenges, the IBC remains a cornerstone of India's financial and legal framework, driving a robust and resilient business ecosystem.

Before the enactment of the Insolvency and Bankruptcy Code (IBC), India lacked a comprehensive mechanism for resolving insolvency, resulting in delays and inefficiencies in addressing financial distress. Overlapping laws, such as the Sick Industrial Companies Act (SICA), 1985, and the Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), 1993, created significant challenges for creditors and investors. The IBC replaced these fragmented systems with a unified framework, shifting the control of distressed assets from a "debtor-in-possession" model to a "creditor-in-control" approach. The key objectives of the IBC include: **I)** Consolidation and amendment of insolvency

laws. **ii)** Time-bound resolution processes (180 days, extendable by 90 days). **iii)** Maximizing asset value for stakeholders. **iv)** Promoting entrepreneurship and the availability of credit. **v)** Establishing a robust regulatory framework through the Insolvency and Bankruptcy Board of India (IBBI).

Control Dynamics:

Pre-IBC: The management of the corporate debtor retained significant control over the company's operations even during financial distress. This often resulted in delays in addressing insolvency issues.

Post-IBC: The IBC introduces a creditor-in-control model during the Corporate Insolvency Resolution Process (CIRP), where creditors, through a resolution professional, take control to prevent value erosion of the distressed firm.

Resolution Process:

Pre-IBC: Multiple fragmented laws governed insolvency, leading to prolonged and inefficient resolution processes without a clear timeline.

Post-IBC: The IBC provides a streamlined, time-bound resolution process, mandating that the total time limit for a Corporate Insolvency Resolution Process (CIRP) is 180 days from the date of admission of the application, with a possible one-time extension of 90 days by the Adjudicating Authority. This makes the maximum allowed time for the entire CIRP process 270 days. Additionally, provisions for expedited resolutions are available through the Pre-Packaged Insolvency Resolution Process (PPIRP) for MSMEs, which must be completed within 120 days.

Stakeholder Involvement:

Pre-IBC: Limited involvement of creditors and stakeholders in decision-making processes.

Post-IBC: Enhanced participation of creditors, particularly financial creditors, in the decision-making process during CIRP and PPIRP has been ensured. The resolution plan requires approval from a majority of the Committee of Creditors (CoC), with a voting threshold of 66% for both CIRP and PPIRP.

Focus on Value Maximization:

Pre-IBC: The focus was often on liquidation rather than restructuring, leading to asset stripping and loss of business value.

Post-IBC: The IBC emphasizes maximizing asset value and promoting business continuity. The framework encourages restructuring over liquidation, aligning with global best practices in insolvency management.

Legal Framework and Efficiency:

Pre-IBC: A complex legal framework with multiple overlapping laws created confusion

and inefficiencies. i) Multiple fragmented laws dealt with insolvency and bankruptcy. ii)

Separate forums like DRT, SARFAESI, and BIFR had limited application. iii) Resolution

mechanisms were slow and ineffective. iv) There was no unified legislation for

insolvency resolution. v) Legal processes were lengthy and lacked a time-bound

approach. vi) Promoters and existing management retained significant control.

Post-IBC: The Insolvency and Bankruptcy Code (IBC) of 2016 introduced a unified legal framework, simplifying the insolvency process and providing clarity and efficiency in handling corporate debtors' cases. This shift has reduced litigation costs and facilitated faster resolutions. In summary, the IBC has transformed the treatment of

corporate debtors from a debtor-centric approach to a creditor-focused regime, enhancing efficiency, control, and value maximization during insolvency proceedings. i) Consolidated a single umbrella legislation covering corporate entities and individuals. ii) Introduced a time-bound resolution process. iii) Shifted power dynamics from debtors to creditors. iv) Introduced the Corporate Insolvency Resolution Process (CIRP). v) Maximizing asset value became a primary objective. vi) Introduced the Pre-Packaged Insolvency Resolution Process (PPIRP) for MSMEs. vii) Enforced strict timelines for resolution. viii) Creditors gain full control through resolution professionals. ix) Prevents directors and promoters from taking loans or alienating assets during financial stress.

Here are the key changes that have impacted on its implementation:

i) Legislative Amendments:

Section 29A: This section was introduced to disqualify certain categories of individuals from being resolution applicants, particularly those who have committed fraud or are connected to defaulting entities. It aims to enhance the integrity of the resolution process by preventing unscrupulous individuals from taking control of distressed firms.

Limitation Act Application: The introduction of **Section 238A**, which applies the Limitation Act to the IBC, has clarified the timelines for filing applications and established a framework to address delays in insolvency proceedings. This amendment aims to expedite the resolution process and minimize litigation.

ii) Regulatory Framework by RBI:

Prudential Framework for Resolution of Stressed Assets: The Reserve Bank of India (RBI) introduced this framework to harmonize the processes for resolving stressed assets, providing lenders with greater discretion in formulating resolution plans while ensuring compliance with IBC

provisions. This approach has encouraged timely interventions for distressed borrowers. **Disincentives for Delayed Resolutions:** The RBI has implemented measures requiring banks to make additional provisions for delayed implementation of resolution plans. These measures incentivize quicker resolutions and enhance the effectiveness of the IBC.

iii) Judicial Interpretations:

Supreme Court Judgments: Landmark Supreme Court rulings have clarified and reinforced various provisions of the IBC, significantly shaping its application and effectiveness. These judgments have resolved ambiguities in the law and provided guidance on critical issues, such as the eligibility criteria for resolution applicants and the roles of creditors and debtors.

iv) Information Utilities:

Establishment of Information Utilities: The creation of information utilities that consolidate data regarding defaults has improved transparency in the insolvency process. These utilities provide reliable evidence of defaults, facilitating quicker initiation of insolvency proceedings and reducing disputes over claims.

v) Behavioral Changes:

Shift in Creditor-Debtor Dynamics: The IBC has redefined the relationship between creditors and debtors, creating a sense of urgency among borrowers to manage their debts responsibly due to the risk of losing control over their enterprises during insolvency proceedings. This behavioral shift has fostered more disciplined borrowing practices.

vi) Exemptions for MSMEs:

Special Provisions for MSMEs: Amendments have introduced specific provisions that exempt Micro, Small, and Medium Enterprises (MSMEs) from certain stringent clauses under Section 29A, acknowledging

their unique challenges and facilitating their recovery through more lenient frameworks. In summary, these legal and regulatory changes have collectively enhanced the effectiveness of the IBC by streamlining processes, resolving legal ambiguities, promoting timely resolutions, and fostering a more disciplined approach among borrowers and lenders alike.

Key Improvements after impact on IBC Act 2016

i) Faster resolution of non-performing assets, ii) Better recovery rates, iii) Improved corporate governance, iv) Promotion of entrepreneurship and credit availability, v) Implementation of a market-driven mechanism for insolvency resolution. vi) The effectiveness of the Insolvency and Bankruptcy Code (IBC) has been significantly shaped by various legal and regulatory changes introduced since its enactment in 2016.

1.Improved Global Rankings:

The IBC significantly improved India's ranking in the World Bank's Ease of Doing Business Index, particularly in the "Resolving Insolvency" parameter. India rose from 130th in 2016 to 63rd in 2020. The government has implemented various programs to improve the ease of doing business in India, including the Goods and Services Tax Network (GSTN) and the IBC Act of 2016.

2.Creditor Rights and Recovery Rates:

The IBC has strengthened creditor rights by providing a structured and transparent framework for debt recovery. Key achievements include:

i) **Faster resolution of cases:** Compared to pre-IBC systems, where the average resolution time was approximately 1,500 days, the IBC stipulates a time limit of 330 days for resolution. The post-IBC average resolution time stands at approximately 698 days.

ii) **As of September 2024:** The Code has rescued **8,002 Corporate Debtors (CDs)**, including: i)1,068 through resolution plans, ii)1,221 through appeal, review, or settlement, and iii)1,120 through withdrawal. iv)The Code has referred to **2,630 CDs for liquidation**, with **1,963 cases ongoing**. v)Creditors have realized **₹3.55 lakh crore** under resolution plans so far.

3.Time-Bound Resolutions:

The IBC mandates the resolution of insolvency cases within **330 days**, repl

acing outdated systems like the Board for Industrial and Financial Reconstruction (BIFR).Although challenges remain in adhering to the timeline, the Code has established a benchmark for expediting insolvency proceedings.

4.Boost to Investments:

The IBC has created an investor-friendly environment by:Attracting domestic and foreign investments through transparent bidding processes.Allowing non-residents to participate in the Corporate Insolvency Resolution Process (CIRP).Facilitating mergers and acquisitions of distressed companies. Facilitating mergers and acquisitions of distressed companies

5.Preservation of Businesses:By focusing on reviving viable businesses, the IBC:Preserves jobs and economic activity. Encourages entrepreneurship by providing a clear exit route for failed ventures.

6.Economic Growth: The IBC injected fresh capital into the economy by recovering bad debts, reducing Non-Performing Assets (NPAs), and ensuring financial discipline among borrowers.

7.Impact on Startups and MSMEs: The Code has created a platform for resolving financial distress among smaller enterprises, fostering growth and sustainability.

Challenges:

Delays in Legal Disputes: Many cases exceed the 330-day resolution target due to Legal dispute delays and procedural inefficiencies.

Fluctuating Recovery Rates: Recovery rates remain inconsistent, especially during economic downturns like the pandemic and other global economic trend.

Future Outlook:

The government and regulatory bodies are introducing amendments, strengthening institutional frameworks, and increasing legal remedies for quick time bound solutions. The IBC is expected to evolve further, addressing cross-border insolvency, and expanding its applicability to new sectors. Develop robust valuation frameworks, Introduce stricter penalties for unnecessary delays ,Create clearer cross-border insolvency guidelines

Conclusion:

The **Insolvency and Bankruptcy Code (IBC), 2016**, has been a game-changer for India's insolvency landscape, fostering a creditor-friendly regime and improving the ease of doing business. Its emphasis on time-bound resolutions, transparency, and maximizing value for stakeholders has significantly boosted investor confidence and economic growth. While challenges remain, the IBC continues to evolve as a cornerstone of India's financial and legal framework, paving the way for a robust and resilient business ecosystem.The IBC represents a landmark economic reform that has fundamentally restructured India's approach to addressing corporate financial distress.

Sources:

- IBC Act 2016
- Company Act 2013
- Ease of doing business wikipedia
- Statistics from IBBI quarterly newsletter July-Sep2024
- IBC Journey so far Economic Laws Practice

Mr. R Shyamsunder
Registered Valuer

Synopsis

Under India's Insolvency and Bankruptcy Code (IBC), valuing plant and machinery with embedded intellectual property (IP) is crucial for successful resolutions. IP, including patents, trademarks, and trade secrets, significantly enhances asset value. However, challenges arise due to time constraints, data limitations, and inherent IP valuation uncertainties.

Valuers must conduct thorough due diligence, engage IP experts, and employ various valuation methods, such as cost, market, and income approaches. Transparency and addressing uncertainties are paramount in this process. Accurate valuation maximizes value realization for creditors and facilitates successful resolutions within the IBC framework.

The Mandate

The Insolvency and Bankruptcy Code (IBC) of India mandates accurate valuation of assets for successful resolution processes. In the context of modern manufacturing, plant and machinery often embody significant intellectual property (IP) – patents, trademarks, trade secrets, and copyrights. This embedded IP significantly enhances their value, impacting production efficiency, competitive advantage, and ultimately, the potential returns for creditors.

Types of Intellectual Property

Patents

These grant exclusive rights to an invention for a limited period. Valuing patented technology requires assessing factors like patent strength (breadth of claims, novelty, non-obviousness), remaining patent term, potential for infringement lawsuits, and the

impact of potential future technological advancements.

Trademarks

These protect brand names, logos, and symbols. Their value lies in their ability to differentiate products and services, build brand loyalty, and command premium pricing. Valuing trademarks involves assessing brand recognition, market share, customer loyalty, and the potential for brand dilution.

Copyrights

These protect original works of authorship, including software, manuals, and designs. Their value lies in the exclusive rights to reproduce, distribute, and display the protected work. Valuing copyrights associated with machinery often involves assessing the contribution of the copyrighted material to the overall functionality and value of the equipment.

Trade Secrets

These are confidential and valuable business information that provides a competitive advantage. Valuing trade secrets involves assessing the secrecy of the information, its importance to the business, the measures taken to protect the secrecy, and the potential for reverse engineering or disclosure.

Relevance of IP

Identifying and Assessing IP part expects valuers to meticulously identify all relevant IP associated with the machinery. This may involve analyzing patents, trademarks, registered designs, copyright registrations, and internal documentation to understand the scope, strength, and legal protection of the subject assets.

Quantifying IP Contribution involves determining the precise contribution of embedded IP to the overall value of the machinery, which presents a significant challenge.

Methods commonly used include

Cost Approach, which estimates the cost of developing and implementing the IP, including research and development expenses, legal fees, and licensing costs.

Market Approach, which analyses comparable sales of similar machinery with embedded IP to determine market value. This requires identifying comparable transactions, adjusting for specific features and IP rights, and considering market conditions.

Income Approach, which estimates the future income stream(s) generated by the IP-enhanced machinery, such as increased revenue, reduced costs, or licensing royalties. This method requires careful forecasting of future market conditions, competitive pressures, and the potential for technological obsolescence.

The relevance of Intellectual Property (IP) in valuation is paramount in today's knowledge-driven economy. Here's a breakdown:

Key Considerations in Business Transactions:

Mergers and Acquisitions (M&A)

IP is a crucial factor in M&A deals. Accurate IP valuation helps determine the fair value of a company, identify synergies between the acquiring and acquired companies, and allocate purchase price appropriately.

Licensing and Franchising:

IP valuation is essential for setting fair licensing fees and royalty rates. It helps ensure that both licensors and licensees receive equitable returns on their investment.

Investment Decision

Investors rely on IP valuations to assess the value and potential of companies, particularly in technology-driven sectors. Strong IP portfolios can attract investors and increase the company's valuation.

Financial reporting

IP assets, such as patents and trademarks, are considered intangible assets on a company's balance sheet. Accurate valuation is crucial for financial reporting purposes and compliance with accounting standards.

Taxation

IP valuation plays a role in determining tax liabilities, especially for companies that transfer IP across borders.

Infringement Cases

In cases of IP infringement, accurate valuation helps determine the extent of damages suffered by the rightful owner.

Licensing Disputes

IP valuation can help resolve disputes related to licensing agreements, ensuring that both parties receive fair compensation.

R&D Investment

IP valuation helps companies prioritize research and development efforts by identifying which areas are most likely to yield high returns, as part of strategic decision.

Portfolio Management

IP valuation allows companies to assess the value of their existing IP portfolio and make informed decisions about which assets to protect, license, or divest.

Challenges under IBC

Following are the challenges faced during the valuation process.

Time Constraints

The compressed timelines within the Corporate Insolvency Resolution Process (CIRP) pose a significant challenge. Thorough IP due diligence and valuation

require adequate time for research, analysis, and expert consultations.

Data Limitations

Access to complete and accurate information on the IP may be limited due to the distressed circumstances of the company and also due to no-availability of right personnel for sharing information. This can hinder comprehensive analysis and accurate valuation.

Uncertainty and Risk

The inherent uncertainty surrounding the value of IP, particularly in the context of a distressed company, presents significant challenges. Factors such as the strength of IP rights, potential for infringement, and the impact of technological advancements can significantly impact value.

Confidentiality

Maintaining the confidentiality of sensitive IP information while ensuring transparency to stakeholders is crucial for right consideration during the valuation process.

Best practices for Valuers

It is recommended that valuers adopt the best practices listed below to achieve desired results in valuation.

Interdisciplinary approach involves engaging with IP experts, such as patent attorneys and technology consultants, is crucial for a comprehensive understanding of the IP and its value.

Multiple valuation methods employ a combination of valuation methods provides a more robust and reliable assessment of the asset value.

Addressing uncertainties explicitly address the uncertainties and risks associated with the valuation of IP in the valuation report. This may include sensitivity analyses to assess the impact of different assumptions on the valuation outcome.

Being transparent helps to maintain clear and comprehensive documentation of the valuation process, including assumptions, data sources, and methodologies used.

Ethical Standards ensure adherence to professional ethical standards and the independence and objectivity of valuer's assessment..

Conclusion

In a nutshell, IP valuation is critical for one or more of the following reasons.

- Accurate financial reporting
 - Informed business decisions
 - Successful M&A transactions
 - Fair and equitable licensing agreements
 - Effective risk management
 - Competitive advantage
- By accurately valuing their IP assets, companies can make informed decisions, maximize their value, and ensure long-term success.

M. Govindarajan Insolvency Professional

SYNOPSIS

The Insolvency and Bankruptcy Code, 2016 is the game changer in the corporate laws. It paves the way for survival of the business entities which are going in for winding up/liquidation process. The Code achieved a lot from the date of inception to this date. The National Company Law Tribunal is the Adjudicating Authority. The National Company Law Appellate Tribunal is the appeal authority hearing appeals against the order of NCLT. The Supreme Court is to hear the appeals from NCLAT. The High Court is having no role in this hierarchy. However, many writ petitions were filed before High Court in the IBC cases on the ground of lack of jurisdiction or violation of principles of Natural Justice. Recently the Supreme Court held that the Code is complete in itself and empowers the NCLT and NCLAT to decide any subject matter. The IBBI also brought a circular in this regard for the guidance of the service providers namely Insolvency Professionals, IPE, and IPAs.

Insolvency and Bankruptcy Board of India, 2016 ('Code' for short) provides for the conduct of corporation insolvency resolution process ('CIRP' for short), liquidation process, insolvency resolution process etc. Rules and Regulations are framed by the Government and the Insolvency and Bankruptcy Board ('Board' for short) for the purpose of carrying out the provisions of the code smoothly and effectively. The National Company Law Tribunal Rules, 2016 prescribe the procedure for filing petition/application before the National Company Law Tribunal. The National Company Law Appellate Tribunal Rules, 2016 provides for the procedure of filing appeal before the Appellate Tribunal against the order of the Tribunal. Against the order

of Appellate Tribunal, the further appeal lies only to Supreme Court and not to High Court. Therefore, the High Courts are having no role in the Code itself.

Many a writ petition has been filed before various High Courts in insolvency matters invoking Article 226 of the Constitution of India contending that the order has been passed without jurisdiction, without complying principles of Natural Justice etc. The litigants used this High Courts for prolongation of the duration of the insolvency process.

The Supreme Court in its recent cases held that the Code itself is a complete code in itself. The Code has sufficient checks and balances and thus, the exercise of supervisory jurisdiction and judicial review by High Courts should be exercised in exceptional and compelling circumstances.

Section 60(5) of the Code provides that notwithstanding anything to the contrary contained in any other law for the time being in force, the National Company Law Tribunal ('NCLT' for short) shall have jurisdiction to entertain or dispose of-

- any application or proceeding by or against the corporate debtor or corporate person;
- any claim made by or against the corporate debtor or corporate person, including claims by or against any of its subsidiaries situated in India; and
- any question of priorities or any question of law or facts, arising out of or in relation to the insolvency resolution or liquidation proceedings of the corporate debtor or corporate person under this Code.

Thus, the above-mentioned section gives ample powers to decide any matter put forth before it. Further Rule 11 of the National Company Law Tribunal Rules, 2016 provides that nothing in these rules shall be deemed to limit or otherwise affect the inherent powers of the Tribunal to make such orders as may be necessary for meeting the ends of justice or to prevent abuse of the process of the Tribunal.

In **'Committee of Creditors of KSK Mahanadi Power Company Limited v. Uttar Pradesh Corporation Limited and others'** – Civil Appeal No. 11086 of 2024 – Supreme Court, decided on 14.10.2024, KSK Mahanadi Power Company Limited was undergoing Corporate Insolvency Resolution Process. The Uttar Pradesh Corporation Limited, the first respondent in the present appeal filed an interim application before the High Court seeking a consolidation of the appellant together with the Committee of Creditors of KSK Water Infrastructure Private Limited and Raigarh Champa Rail Infrastructure Private Limited. All the said three companies sought for the consolidation of the three companies by the NCLT, Hyderabad Bench – II. The same was rejected by the NCLT vide their order dated 12.02.2021. The Financial Creditor challenged the order of NCLT before NCLAT. The NCLT deferred the Resolution Process until further orders subject to the outcome of the appeal pending before the NCLAT. The NCLAT also granted stay of CIRP proceedings and directed the Resolution Professional not to undertake any such process.

The matter was taken up to the High Court. The High Court by its impugned order dated 10.09.2024 declined to grant the main relief seeking consolidation of the CIRP of the Corporate Debtor with two other companies. The High Court relegated the first respondent to file an application before the NCLT and raise all grounds available under law. The CoC of the corporate debtor filed the present appeal before the Supreme Court.

The Supreme Court observed that the High

Court declined to grant the main relief which was sought in the petition for the consolidation of the CIRP of three corporate entities. After coming to that conclusion, there was absolutely no reason for the High Court to exercise its jurisdiction under Article 226 by directing the deferment of the CIRP. Such a direction under Article 226 breaches the discipline of the law which has been laid down in the provisions of the Insolvency and Bankruptcy Code 2016.

In **'Mohammed Enterprises (Tanzania) Limited v. Farooq Ali Khan and others'** – Civil Appeal No. 48 of 2025; 49 of 2025 and 50 of 2025 – Supreme Court, decided on 03.01.2025, the Oriental Bank of Commerce initiated CIRP against the corporate debtor on 26.10.2018. The Resolution Professional invited expression of interest on 28.11.2018 under Section 29 of the Code. One of the respondents in this case submitted a resolution plan before the Committee of Creditors. The said resolution plan has been considered by the Committee of Creditors. Certain amendments were directed to be added in the resolution plan. The revised resolution plan has been prepared and submitted before the Committee of Creditors after issuing notice to all concerned. The resolution plan was approved by the Committee of Creditors on 11.10.2020.

In the meanwhile, another company named Swamitva requested the Committee of Creditors to permit it to submit resolution plan. The same was rejected. Therefore, the said company filed a petition seeking directions to be issued to the Committee of Creditors to reconsider the resolution plan. The Adjudicating Authority allowed the said application. Against this an appeal was filed before the National Company Law Appellate Tribunal ('NCLAT' for short). Before NCLAT the suspended director of the corporate debtor filed an application seeking rejection of the resolution plan. The NCLAT allowed the appeal and set aside the order of Adjudicating Authority.

The first respondent in this case filed a writ

petition before the Karnataka High Court under Article 226 of the Constitution seeking-

- quashing of Minutes of Meeting dated 11.02.2020;
- quashing of letter of intent dated 09.03.2020;
- declaration of respondent no.1 as successful resolution applicant;
- direction to the CoC for acceptance of its proposal dated 07.12.2022; and
- for setting aside of Minutes of Meeting dated 21.12.2022, wherein the CoC Members had unanimously rejected the settlement proposal of respondent no.1.

The High Court initially granted *ex-parte* stay directing adjudicating authority to maintain the status quo, and finally by order dated 22.11.2023 allowed the writ petition whereby appellant's resolution plan was set aside. Review Petitions were filed by the consortium banks were allowed on 22.11.2023 and the writs were restored. The High Court, on 22.11.2023 allowed the writ petition setting aside the resolution plan on the ground that principles of natural justice are violated as 24 hours' notice was not granted.

The case reached to the Supreme Court. The Solicitor General objected to the order of the High Court exercising jurisdiction under Article 226 interdicting proceedings under the Code. He relied on the judgment of the Supreme Court in '**CoC of KSK Mahanadai Power Company Limited**' (*supra*) taking exception to the High Court exercising its discretionary jurisdiction under Article 226 of the Constitution, breaching the discipline of alternate remedy as contemplated under the Insolvency and Bankruptcy Code.

The Corporate Debtor contended that the jurisdiction of the High Court is not barred when the principles of Natural Justice were violated. After hearing the parties to the appeal, the Supreme Court held that the High Court committed an error in entertaining the

writ petition. The High Court High Court should have noted that Insolvency and Bankruptcy Code is a complete code in itself, having sufficient checks and balances, remedial avenues and appeals. Adherence of protocols and procedures maintains legal discipline and preserves the balance between the need for order and the quest for justice. The supervisory and judicial review powers vested in High Courts represent critical constitutional safeguards, yet their exercise demands rigorous scrutiny and judicious application. This is certainly not a case for the High Court to interdict CIRP proceedings under the Insolvency and Bankruptcy Code. The Supreme Court allowed the appeal and set aside the order of High Court. The Supreme Court further directed that the Adjudicating Authority will now commence the proceedings from where it was interdicted by the High Court and complete the same as expeditiously as possible, which is also the spirit of the Code.

In view of the above judgments of Supreme Court, the Board brought a circular on 27.01.2025 for the information of its service providers namely, the insolvency professionals, Insolvency Professional entities and Insolvency Professional Agencies. In that circular the Board elaborated the role of the National Company Law Tribunal. As regards the violation of principles of natural justice is concerned, the adjudicating authority (NCLT) or the appellate authority (NCLAT) are not precluded from considering such violation. Section 60(5) read with Rules 11 and 34 of the National Company Law Tribunal (NCLT) Rules, 2016 make it abundantly clear that the adjudicating authority is vested with inherent powers to make such orders as may be necessary for meeting the ends of the justice or to prevent the abuse of due process. When an alternative and equally efficacious statutory remedy is open to a litigant, he/she should first invoke the specific remedy provided by the statute before invoking the plenary jurisdiction of the High Courts under Article 226 of the Constitution of India. It has further been held that if the right or

obligation is created by a statute and it prescribes a remedy or procedure for enforcement of the said right or obligation, then the High Courts may refuse to entertain writ petitions and direct the party to seek remedy under the statute only. Further, section 60(5) read with Rule 11 of the National Company Law Tribunal (NCLT) Rules, 2016 make it abundantly clear that the Adjudicating Authority is vested with inherent powers to make such orders as may be necessary for meeting the ends of the justice or to prevent the abuse of due process.

The Board advised the service providers to take note of the same and make submissions for expeditious disposal of pending IBC matters before the High Courts.

CASE LAWS



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

SECTION 31 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN - APPROVAL OF

Lords Social Welfare Association (Home Buyers Association) Successful Resolution Applicant of Kindle Developers (P.) Ltd. v. New Okhla Industrial Development Authority [2024] 169 taxmann.com 34 (NCLAT- New Delhi)

Where lease deed of plot allotted to corporate debtor had been cancelled before initiation of CIRP against it, said plot was not part of assets of corporate debtor and could not be included in CIRP.

Respondent No. 1 (NOIDA) allotted a plot to the corporate debtor under lease deed. Due to non-payment of instalments, lease deed was cancelled. Thereafter, CIRP was initiated against the corporate debtor. Resolution Plan in CIRP of the Corporate debtor included plot in question which came to be approved by the CoC. NOIDA filed application before Adjudicating Authority praying for exclusion

of plot from the resolution plan.

Held that right of the corporate debtor having come to an end after cancellation of lease deed, plot in question was not part of assets of the corporate debtor and was to be excluded from CIRP of the corporate debtor. Since neither the corporate debtor had paid any rent/instalments after cancellation of plot nor any such amount was accepted by NOIDA and NOIDA at no point of time assented to continuing of the corporate debtor in possession, no right could be claimed by the corporate debtor on principal as contained in section 116 of 1882 Act.

Case Review: Amit Kumar Malik v. Kindle Developers (P.) Ltd. [2024] 169 taxmann.com 33 (NCLT - New Delhi), affirmed

SECTION 25 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PROFESSIONAL - DUTIES OF

Manish Jaju, Resolution Professional of CAN Enterprises (P.) Ltd v. Malharshanti Enterprises [2024] 169 taxmann.com 36 (NCLAT- New Delhi)

Role of Resolution Professional has been defined in Code, inter alia, regarding collation of claims as against adjudicator's role given to Liquidator qua claims filed in liquidation proceedings; action of Resolution Professional in rejecting claim of operational creditor admitted by NCLT, NCLAT and Supreme Court was much beyond his role and scope and was to be set aside.

CIRP was initiated by NCLT against the corporate debtor on application under section 9 filed by the operational creditor. Suspended director of the corporate debtor challenged said order but the Appellate Tribunal and the Supreme Court dismissed appeal. However, in meantime, Resolution Professional (RP) of the

corporate debtor addressed an e-mail to the operational creditor rejecting its entire claim on ground of insufficient documentation.

Held that role of RP has been defined in Code, inter alia, regarding collation of claims as against adjudicator's role given to Liquidator qua claims filed in liquidation proceedings, and action of RP in rejecting claims of the operational creditor altogether, which had gone through entire round of litigation from Adjudicating Authority to Appellate Tribunal and to Supreme Court of India, was much beyond his role and scope, therefore, the Adjudicating Authority rightly set aside e-mail of RP. On facts IBBI was to be directed to look into role of RP regarding his conduct/misconduct and take necessary action.

Case Review : Malharshanti Enterprises v. Can Enterprises (P.) Ltd. [2024] 169 taxmann.com35 (NCLT - Mum) (para 58) affirmed

SECTION 238 - OVERRIDING EFFECT OF CODE

Harsh Mehta v. Securities and Exchange Board of India [2024] 169 taxmann.com 129 (Bombay)

Where equity shares of corporate debtor were delisted pursuant to approval of plan under IBC, case would be governed by provisions of IBC and IBC being a complete code containing a non-obstante clause, Regulation 3(2)(b)(i) of SEBI (Delisting of Equity Shares) Regulations, 2021 providing that Delisting Regulations shall not apply in case of delisting of equity shares pursuant to a resolution plan approved under section 31 of IBC could not be regarded as ultra-vires SEBI Act or rules made thereunder.

Pursuant to initiation of Corporate Insolvency A petition was filed before NCLT for admitting 'RCL' to CIRP and NCLT admitted said petition. The petitioner purchased some shares of 'RCL.' Resolution plan was submitted which assigned nil value to all equity shareholders and for subsequent delisting and cancellation of all existing shares of 'RCL' - Said plan was sanctioned by NCLT vide impugned order holding that liquidation value of equity shareholders was nil and equity shareholders would not be entitled to any payment. Stock exchanges issued Circulars suspending trading in shares of 'RCL.' The petitioner filed instant

petition challenging vires of Regulation 3(2)(b)(i) of SEBI Regulations and impugned order on grounds that Impugned Regulations denied protection of Delisting Regulations to any delisting of equity shares of a listed company pursuant to a resolution plan approved under section 31 and same was ultra-vires provisions SEBI Act of 1992.

Held that a delisting of equity shares pursuant to approval of a plan under IBC would be governed by provisions of IBC and regulations made thereunder. IBC being a complete code containing a non-obstante clause, impugned Regulation, i.e. Regulation 3(2)(b)(i) providing that Delisting Regulations shall not apply in case of delisting of equity shares pursuant to a resolution plan approved under section 31 of IBC, could not be regarded as ultra-vires SEBI Act or rules made thereunder. In all probability, provisions of IBC/CIRP Regulations would prevail, given that IBC is later legislation that was given an overriding effect. Impugned regulations could not be styled as capricious, irrational, or excessively disproportionate and instant petition was to be dismissed.

SECTION 31 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN - APPROVAL OF

Chetraj N. Khadka v. Dighi Port Ltd. [2024] 169 taxmann.com 160 (Bombay)

Decree holder is a separate class of creditor recognized under IBC and claim of a decree holder is subject to rigours of resolution process and has to be satisfied along with other claims in accordance with waterfall mechanism envisaged under section 53; claim

of a decree holder would stand extinguished once resolution plan was approved by Adjudicating Authority.

The Applicant filed Execution Application seeking execution of the decree dated 17-12-2012 of the Court against the Respondent who was the Defendant in the Suit and now a judgment debtor. It was stated that despite the

fact that by order dated 5-3-2020, the National Company Law Tribunal (NCLT), Mumbai Bench, had approved the Resolution Plan under section 31(1) of the Insolvency and Bankruptcy Code, 2016 (IBC), since the Applicant/Decree holder was defined as a Creditor under section 3(10) of the IBC as a separate class of creditor different from a financial creditor or an operational creditor or a secured creditor or an unsecured creditor, the Execution Application could not be said to be infructuous.

Held that once resolution plan is approved, all claims not part of resolution plan stand extinguished and no proceedings in respect of such dues for period prior to date on which the Adjudicating Authority grants its approval under section 31 can be continued. Decree holder is a separate class of creditors recognized under IBC and claim of a decree holder is subject to rigours of resolution

process and has to be satisfied along with other claims in accordance with waterfall mechanism envisaged under section 53. A decree holder is one of creditors and is also distinguished from financial creditors and operational creditors. Applicant/decree holder had filed execution application seeking execution of decree against respondent despite fact that NCLT had approved resolution plan under section 31(1). Since resolution plan was final, claims not part of resolution plan stood extinguished and all proceedings with respect to claims or dues could neither be initiated nor be continued and execution application was one such proceeding, thus, claim of applicant stood rejected and extinguished and execution proceeding could not be continued.

SECTION 25 AND BANKRUPTCY CODE, 2016 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PROFESSIONAL - DUTIES OF -

Vish Wind Infrastructure LLP v. Shailen Shah, Resolution Professional of Wind World (India) Ltd. [2024] 169 taxmann.com 347 (SC)

Where CIRP was initiated against corporate debtor and RP got corporate debtor registered as MSME prior to approval of resolution plan, benefit of section 240A would be extended to corporate debtor and ineligibility under section 29A(c) could not be relied upon for declaring successful resolution applicant ineligible.

Where appellant operational creditor had failed to make payment of dues of WTGs lying with a corporate debtor, for which arbitration proceedings had already been initiated, decision taken by RP not to handover WTGs was in accordance with provisions of IBC Code and did not violate any rights of operational creditor.

The appellant-operational creditor had

entered into an agreement with the corporate debtor for supply of Wind Turbine Generators (WTGs). The corporate debtor supplied WTGs for which payments were made by the appellant. Meanwhile, CIRP was initiated against the corporate debtor and, the appellant had filed its claim of Rs. 132 crores, claiming it to be an advance payment made to the corporate debtor for supply of WTGs. Claim of the appellant was admitted in CIRP. Later, the appellant made a request to RP to supply WTGs in terms of agreement. RP rejected said request on ground that appellant owed an amount along with interest to corporate debtors and, appellant's claim had already been admitted in CIRP. The appellant had filed an application before NCLT seeking directions for RP to adhere to terms of agreement and supply immediately WTGs. NCLT rejected said application. NCLAT upheld order of NCLT on ground that corporate debtor had not received dues from appellant for which arbitration proceedings were

pending thus, decision taken by RP not to handover WTGs was as per wisdom of RP, who was to run corporate debtor as a going concern. Therefore, appeal filed by the appellant against order of NCLAT was to be dismissed.

Case Review: Vish Wind Infrastructure LLP v. Shailen Shah, Resolution Professional of Wind World (India) Ltd. [2024] 169 taxmann.com 131 (NCLAT -New Delhi), affirmed.

SECTION 35 - CORPORATE LIQUIDATION PROCESS - LIQUIDATOR - POWERS AND DUTIES OF -

Narottamka Trade & Vyapaar (P.) Ltd. v. SPP Insolvency Professionals LLP [2024] 169 taxmann.com 382 (NCLAT - Chennai)

Where e-auction process for sale of corporate debtor as a going concern was completed and successful bidder was now in helm of affairs of corporate debtor, no cause prevailed for consideration of scheme of arrangement or compromise under section 230 on Companies Act, 2013 submitted by appellant - shareholder of corporate debtor by NCLT, therefore, appeal filed by appellant against order of NCLT approving said sale was to be dismissed.

CIRP was initiated against the corporate debtor on an application filed by the financial creditor / bank - Later, CoC voted for liquidation of the corporate debtor. Tribunal allowed application for liquidation and appointed liquidator. Liquidator formed Stakeholders Consultation Committee (SCC) and issued a Public Announcement for sale of the corporate debtor as a going concern. Subsequently, e-auction was held and highest bidder was issued with letter of intent. Liquidator filed application to confirm sale of

the corporate debtor as a going concern before NCLT which, was approved by impugned order. The appellant, minority shareholder, submitted a scheme of arrangement which was rejected by SCC. The appellant filed an application before NCLT to set aside e - auction process and to direct liquidator to consider said scheme. However, NCLT rejected said application vide impugned order.

Held that sale of the corporate debtor as a going concern under regulations 32(e) & 32A was more transparent and effective, therefore, sale of the corporate debtor as a going concern would have precedence, rather than resorting to Scheme of Compromise under section 230 (1) of Companies Act, 2013 - Held, yes - Whether successful bidder was now in helm of affairs of corporate debtor and he was operating corporate debtor as a going concern, accordingly, no cause as such prevailed for purposes of appellant in instant appeals - Held, yes - Whether therefore instant appeal was to be dismissed.

Case Review : Narottamka Trade & Vyapaar (P) Ltd v. CA Mahalingam Suresh Kumar [2024] 168 taxmann.com 686 (NCLT- Chennai), affirmed

SECTION 54 - CORPORATE LIQUIDATION PROCESS - CORPORATE DEBTOR, DISSOLUTION OF

Janak Jagjivan Shah, Resolution Professional Rainbow Infrabuild (P.) Ltd. v. Committee of Creditors [2024] 169 taxmann.com 463 (NCLAT- New Delhi)

Where CoC consisting of sole financial creditor, who initiated CIRP against corporate debtor, was not ready to proceed any further and CIRP period already came to an end, no further steps

were required in CIRP of corporate debtor and RP could have closed matter by intimating Registrar of Companies for striking off name of company from Register of companies direction by NCLT for transaction audit was unsustainable.

CIRP was initiated against the corporate debtor by NCLT, and the appellant was appointed as RP. Public announcement was made by RP, and one claim was submitted by the financial creditor of the corporate debtor which was admitted by RP. RP constituted CoC, consisting of financial creditor as 100% member of CoC. RP invited Expression of Interest and no EoI was received. CoC resolved not to initiate liquidation process and decided to file an application for dissolution of the corporate debtor. An interim application was filed by RP which was rejected by the Adjudicating Authority vide impugned order holding that said application under section 54 for dissolution of the corporate debtor could be filed only when assets of the corporate debtor were liquidated. RP was directed to

carry out transaction audit. RP filed instant appeal against the impugned order. It was noted that CIRP was unsuccessful, and no liquidation order was passed, recourse to section 54, could not have been taken by RP.

Held that since CoC consisting of sole financial creditor, who initiated CIRP against the corporate debtor, was not ready to proceed any further and CIRP period already came to an end, no further steps were required in CIRP of the corporate debtor and RP could have closed matter by intimating Registrar of Companies for striking off name of the company from Register of companies. There was no cash or cash balance except of a meagre amount of Rs.1,451/- and no other assets were found, CIRP came to an end, direction by Adjudicating Authority for transaction audit was unsustainable, therefore, impugned order was to be set aside.

Case Review: Janak Jagjivan Shah RP of Rainbow Infrabuild (P.) Ltd., In re [2024] 168 taxmann.com 711 (NCLT - Ahd.), set aside

SECTION 7 - CORPORATE INSOLVENCY RESOLUTION PROCESS – INITIATION BY FINANCIAL CREDITOR

Cadillac Infotech (P.) Ltd. v. JKM Infrastructure (P.) Ltd. [2024] 169 taxmann.com 492 (NCLAT- New Delhi)

Where director of financial creditor company was also director of sister company which was struck off on account of default under section 248(1) of Companies Act, 2013, said director was fully competent to file section 7 application and swear affidavit in support of section 7 application.

A section 7 petition was filed by the financial creditor against the corporate debtor. Said application was filed through authorized representative, 'V' who was one of directors of financial creditor. The corporate debtor filed an application seeking dismissal of CIRP petition on ground that ground that 'V' was not competent to file CIRP petition.

According to the corporate debtor 'V' was also a director in sister concern of the financial creditor and said sister concern had been struck off, and thus, Directors of said sister concern including V were disqualified under Section 164 (2) and said disqualification would render office of 'V' vacant in all companies other than defaulting company, as per proviso to Section 167(1)(a). NCLT by impugned order dismissed said application. It was noted that striking off sister company was not on ground as mentioned in section 164(2) of the Companies Act, 2013, rather on ground mentioned under section 248(1) of the Companies Act. Thus, there being no disqualification attached under Section 164 (2), there was no question of applicability of Section 167(1). Further, Section 167(1)(a) which extends disqualification of director to

sister companies, came into force after company being struck off. Therefore, such a disqualification shall extend only to the defaulting company and not to its other affiliates.

Held that 'V' was fully competent to file section 7 application and swear affidavit in support of section 7 application, thus, there was no error in order of Adjudicating

Authority in rejecting application filed by the corporate debtor.

Case Review : JKM Infrastructure (P.) Ltd. v. Cadillac Infotech (P.) Ltd. [2024] 169 taxmann.com 283 (NCLT - New Delhi) and Airwil JKM Infrastructure (P.) Ltd. v. Cadillac Infotech (P.) Ltd. [2024] 169 taxmann.com 159 (NCLT - New Delhi) (para 22) affirmed.

SECTION 5(21) - CORPORATE INSOLVENCY RESOLUTION PROCESS - OPERATIONAL DEBT

M. Ramakanth v. Nagarjuna Fertiliser and Chemicals Ltd. [2024] 169 taxmann.com 494 (NCLAT - Chennai)

Where appellant, an employee of a corporate debtor, claimed performance pay, which required to be determined based upon analytical criteria and arithmetical analysis, which had variable factors to be adopted and considered, since said performance pay did not fall within definition of 'operational debt' or even a 'debt' as defined under section 3(11), denial of same by NCLT could not be said to be irrational or without an application of mind.

Appellant was appointed as Company Secretary in respondent-corporate debtor - Appellant claimed that he was entitled for payment of performance pay at 15 per cent of CTC - Appellant issued a notice under section 8 claiming performance pay - Since said amount was not paid, appellant filed application under section 9, which was rejected by NCLT vide impugned order -

Whether since claim of performance pay was required to be determined based upon analytical criteria and arithmetical analysis, which had variable factor to be adopted and considered, amount claimed by appellant would fall to be a variable factor and would not fall within definition of 'operational debt' or even a 'debt' as defined under section 3(11), denial of same by NCLT could not be said to be irrational or without an application of mind - Held, yes - Whether since appellant himself was not very sure enough, that it was not a determined claim of a debt, which was being raised before NCLT, rejection of claim by virtue of impugned order by NCLT did not suffer from any apparent illegality which may call for an interference in exercise of Appellate Jurisdiction under section 61 - Held, yes [Paras 11, 14 and 16]

Case Review : M. Ramakanth v. Nagarjuna Chemicals and Fertilizers Ltd. [2024] 169 taxmann.com 225 (NCLT - Hyd.), affirmed.

China Development Bank v. Doha Bank Q.P.S.C. [2024] 169 taxmann.com 526 (SC)

Where as per deed of hypothecation (DOH) executed in favour of appellant-bank, corporate debtor had undertaken to discharge liability of borrowers (RCom and RTL), DoH had amounted to a guarantee provided by corporate debtor to appellants and, thus, appellant was to be classified as financial creditor of corporate debtor.

The appellant bank had extended financial facilities to borrowers (RCom and RTL). In order to secure repayment of said facilities, RCom entities (corporate debtor, RCom and RTL) had executed a deed of hypothecation (DoH) in favour of the appellant bank. CIRP was initiated against the corporate debtor. The appellant bank submitted its claim as financial creditor of the corporate debtor and same was admitted by RP. The respondent-secured financial creditor of the corporate debtor had filed an application before NCLT, alleging that appellants were not direct lenders of the corporate debtor, and it was impermissible to admit them as financial creditors on basis of deeds of hypothecation. NCLT held that decision of RP to classify indirect lenders as financial creditor of the corporate debtor was correct. NCLAT vide impugned order had set aside NCLT's order on ground that deeds of hypothecation was not a deed of guarantee and a mere security interest created by hypothecation or mortgage would not constitute a financial debt.

Held that right to payment can be legal, equitable, secured or unsecured and, therefore, if there is a liability or obligation in respect of a payment which is disputed, it still becomes a claim and once there is a liability or obligation in respect of a claim, it becomes a debt and once there is a financial debt, person to whom a debt is owed, becomes a financial creditor. Amount of any

liability in respect of any guarantee of money borrowed against payment of interest constitutes financial debt under section 5(8). Under deed of hypothecation, the corporate debtor had undertaken to discharge liability of third parties (RCom and RTL) and, therefore, DoH had amounted to a guarantee provided by the corporate debtor to appellants in terms of section 126 of Contract Act. Since there was no requirement incorporated in section 5(8) that a debt becomes financial debt only when default occurs, appellants would be classified as financial creditors of the corporate debtor, NCLAT was not justified in holding that the appellant bank was not a financial creditor and, therefore, impugned order passed by NCLAT was to be set aside.

Case Review: Doha Bank Q. P.S. C v. Anish Nanavaty, Resolution Professional of Corporate Debtor Deloitte Touche Tohmatsu India LLP [2022] 144 taxmann.com 75 (NCLAT-New Delhi), reversed.

ROUND TABLE DISCUSSION ON "STREAMLINING PROCESSES UNDER THE CODE: REFORMS FOR ENHANCED EFFICIENCY AND OUTCOMES" ON 11TH FEBRUARY 2025.



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