



RESOLVE™

INSOLVENCY AND BANKRUPTCY JOURNAL

NO. 3 | PG. 1-100 | MARCH 2020 | ₹ 500 (SINGLE COPY)



INSIGHTS 59-80 | JUDICIAL PRONOUNCEMENTS 67-70 | KNOWLEDGE CENTRE 13-18 | POLICY UPDATES 29-80



INSTITUTE OF INSOLVENCY PROFESSIONALS

A wholly owned subsidiary of ICSI and registered with IBBI
(Formerly known as ICSI Insolvency Professionals Agency)

**'ICSI House', 3rd Floor, 22, Institutional Area,
Lodhi Road, New Delhi - 110 003**

Residential Refresher Course held in Delhi from 13th March to 15th March 2020.



R-L : Mr. Ravi Prakash Ganti (IP), Dr. Binoy J. Kattadiyil (MD,ICSI IIP), Mr. Sudhakar Shukla (WTM, IBBI), Mr. Chetan Shah (IP), Mr. Munish K.Sharma (IP)



R-L : Mr. Ravi Prakash Ganti (IP), Mr. Munish K.Sharma (IP), Mr. Debajyoti Ray Chaudhuri (CGM, IBBI), Mr. Chetan Shah (IP)

Workshop by ICSI IIP and ICSI (Ahmedabad Chapter, WIRC) on "Resolution Plan" and "Recent Landmark Judgments under IBC" held on 14th March 2020 at Ahmedabad



R-L: Central Council Member, CS Chetan Patel and Adv. Nipun Singhvi

BOARD OF DIRECTORS

CHAIRMAN

Mr. Prem Kumar Malhotra

INDEPENDENT DIRECTORS

Mr. Ashish Kumar Chauhan

Mr. Gopal Krishan Agarwal

OTHER DIRECTORS

CS Ashish Garg

CS Nagendra D. Rao

CS Devendra Vasant Deshpande

Dr. Binoy J. Kattadiyil

EDITOR & PUBLISHER

Dr. Binoy J. Kattadiyil

SUB-EDITOR

Mr. Nitin Satija

At a Glance

No. 3 | Pg. 1-100 | March 2020

'ICSI IIP Insolvency and Bankruptcy Journal' is normally published in the first week of every month • Non- receipt of any issue should be notified within that month • Articles on subjects of interest to Insolvency Professionals are welcome • Views expressed by contributors are their own and ICSI IIP does not accept any responsibility • ICSI IIP is not in any way responsible for the result of any action taken on the basis of the advertisements published in the JOURNAL • All rights reserved • No part of the JOURNAL may be reproduced or copied in any form by any means without the written permission of ICSI IIP.

Developed and Marketed by

TAXMANN®

Printed at

TAXMANN®

Edited & Published by

Dr. Binoy J. Kattadiyil

for

ICSI Institute of Insolvency Professionals

'ICSI House', 3rd Floor, 22,
Institutional Area, Lodi Road,
New Delhi- 110 003.

Phones : 45341099, 45341048

E-Mail : info@icsiip.com

Website : <http://www.icsiip.com>

Printed at

Tan Prints (India) Pvt. Ltd.

44 km. Mile Stone, National Highway, Rohtak
Road, Village Rohad, Distt. Jhajjar, Haryana
(India)

ANNUAL SUBSCRIPTION

(JANUARY - DECEMBER 2020) : ₹ 5,500

Cheques to be drawn in favour of

For ICSI IIP Members

• ICSI Institute of Insolvency Professionals

'ICSI House', 3rd Floor, 22,
Institutional Area, Lodi Road,
New Delhi- 110 003.

Phones : 45341099, 45341048

E-Mail : nitin.satija@ICSI.edu

For Non-Members

• Taxmann Publications Pvt. Ltd.

59/32, New Rohtak Road,
New Delhi-110005

Ph. : 91-11-45562222

email : sales@taxmann.com

Mode of Citation [2020] (IBJ)... (Pg. No.)

Messages 25-30

- P.K. Malhotra (ILS, Retd.), Chairman • [P-25](#)
- Dr. Binoy J. Kattadiyil, Managing Director, ICSI Institute of Insolvency Professionals • [P-28](#)

Insights 59-80

- Limitation under Insolvency and Bankruptcy Code, 2016
– Devarajan Raman, Ashish Jha • [P-59](#)
- Corona Crisis: Developments in Insolvency and Bankruptcy Laws to Save Debt-Laden Companies
– Karan Sahi, Pranay Bhattacharya • [P-72](#)
- Whether rent obligation are Operational Debt?
– Richa Saraf • [P-77](#)

Judicial Pronouncements 67-70

- Arun Kumar Gupta, In re
(2020) 117 taxmann.com 173 (IBBI) • [P-67](#)

Section 208, read with sections 18, 23 and 25 of the Insolvency And Bankruptcy Code, 2016, read with Regulations 11 and 13 of the IBBI (Inspection and Investigation) Regulations, 2017 - Insolvency professionals - Functions and obligations of - Whether where initially RP did not face any resistance from director/employees of Corporate Debtor and when resistance came first from director of Corporate Debtor, he employed more security guards at factory premises to protect

factory and reported to NCLT and thereafter regularly visited factory and reviewed working of Corporate Debtor, its assets and security arrangements, in absence of any time limit within which control and custody must be taken of assets of Corporate Debtor by the IRP/RP, RP cannot be held liable - Held, yes - Whether moreover, Code is also silent on the issue that actual physical control of assets must be taken or symbolic control is also considered as sufficient and in such a situation, it could not be said that RP had acted in contravention of Code - Held, yes - Whether where in CoC meeting, RP sought approval of CoC for appointment of forensic auditor, he had compromised his independence in favour of CoC - Held, yes - Whether in the absence of any timeline for appointment of forensic auditor under Code, RP could not be held liable for making delay in appointment of forensic auditor being appointed a month after receiving reports of Auditors showing huge difference in inventory of Corporate Debtor - Held, yes (Para 3.2 and 3.3)

- **Cognizance For Extension of Limitation, In re**

(2020) 117 taxmann.com 66 (SC)

• P-68

Section 5 of the Limitation Act, 1963, read with articles 141 and 142 of the Constitution of India - Extension of prescribed period in certain cases - Whether to obviate difficulties faced by litigants on account of COVID-19 in filing petitions/suits/applications/appeals/all other proceedings within period of limitation prescribed under general law of limitation or under special laws, it is ordered that period of limitation in all such proceedings irrespective of period prescribed under general law or special law shall stand extended with effect from 15-3-2020 till further orders passed by Court - Held, yes - Whether such order is passed by Supreme Court in exercise of powers conferred under article 142 and is binding on all Courts/Tribunal and authorities - Held, yes (Paras 2 and 3)

- **Suo Moto, In re**

(2020) 117 taxmann.com 180 (NCLAT- New Delhi)

• P-69

Section 12 of the Insolvency and Bankruptcy Code, 2016 - Corporate insolvency resolution process - Time-limit for completion of - Whether period of lockdown ordered by Central Government and State Governments including period as may be extended either in whole or part of country, where registered office of corporate debtor may be located, shall be excluded for purpose of counting of period for 'Resolution Process' under section 12 in all cases where 'Corporate Insolvency Resolution Process' has been initiated and pending before any bench of National Company Law Tribunal or in appeal before Appellate Tribunal - Held, yes - Whether further, any interim order/stay order passed by Appellate Tribunal in anyone or other appeal under Insolvency and Bankruptcy Code, 2016 shall continue till next date of hearing - Held, yes

- **Tarun Jaggi, In re**

(2020) 117 taxmann.com 181 (IBBI)

• P-70

Section 208, read with sections 18, 23 and 25 of the Insolvency And Bankruptcy Code, 2016, read with Regulations 11 and 14 of the IBBI (Voluntary Liquidation Process) Regulation, 2017 - Insolvency professionals - Functions and obligations of - Whether where Liquidator failed to publish the public announcement in newspapers within prescribed time of five days from his appointment, regulation 14(1) was violated - Held, yes - Whether where Liquidator continued with same auditors for auditing financial information of company under voluntary liquidation who were also statutory auditors prior to commencement of voluntary liquidation, same was in contravention of Regulation 11(2) - Held, yes - Whether monetary penalty was to be imposed for non-compliance of law - Held, yes (Paras 4.3 and 5.2)

Knowledge Centre

13-18

• Practical Questions

• [P-13](#)

- Can the pendency of an action either under the SARFAESI Act or under the RDB&FI Act by the FC be a ground for rejection or dismissal of an CIRP application u/s 7, IBC?
- Can the term "person" defined in section 3(23), IBC be said to include a trade union of a CD?
- Can the pendency of proceedings initiated under either SARFAESI Act or RDB & FI Act be a ground for extension of limitation period for a CIRP application?
- Can the statutory prescribed period of 14 days for passing of order by AA u/s 7, IBC be taken to be mandatory?
- Can the AA direct for re-bidding in a case wherein the CoC has approved the resolution plan (with an overwhelming voting share of 84.70%, in this case)?
- Can the terms "Financial Creditor" and "Operational Creditor" in sections 7 and 9 respectively be held to include a decree holder to initiate CIRP under Part II, IBC?
- In view of the true intent of IBC law, what is the true interpretation of the term "or" as appearing between "corporate debtor" and "the transferee" in section 43(3)(a), IBC?
- Can a Financial Creditor file an application u/s 7, IBC in respect of a company which is a guarantor to an individual or Sole proprietorship firm?
- Can an act of withdrawal of money by a Director of the CD (undergoing CIRP proceedings) be *prima facie* treated as

criminal misappropriation and criminal breach of trust?

- Can any party insist upon the AA to pass an order for further valuation before approving the Resolution plan, especially when the AA is satisfied as regards the Resolution plan approved by the CoC?

• Learning Curves

• [P-17](#)

- An action under section 43 of the IBC can lie only when the Liquidator or RP arrive at an opinion that an 'undue preference' was given to a particular Creditor/Guarantor/Surety when the CD entered into transaction with any individual
- The Financial Creditor can proceed simultaneously under SARFAESI Act, 2002 as well as under the IBC, 2016
- The provisions investing jurisdiction and authority in the NCLT have not made the commercial decision exercised by the CoC of not approving the resolution plan or rejecting the same, justiciable
- In cases where a CD (within 10 days of receipt of Demand Notice) has not sent a reply to the OC, an affidavit to that effect can be submitted in terms of section 9(3)(b), IBC
- The period of lockdown ordered by the CG and the SG including the period as may be extended either in whole or part of the country, where the registered office of the CD may be located, shall be excluded for the purpose of counting of period for Resolution Process u/s 12, IBC in all cases where CIRP has been initiated and pending before the NCLT or in Appeal before the NCLAT

Policy Updates 29-80

- **INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020 - AMENDMENT IN SECTIONS 5, 7, 11, 14, 16, 21, 23, 29A, 227, 239 AND 240; INSERTION OF SECTION 32A**
• [P-29](#)
- **JAMMU AND KASHMIR REORGANISATION (ADAPTATION OF CENTRAL LAWS) ORDER, 2020.**
• [P-34](#)
- **SECTION 5(15) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INTERIM FINANCE - NOTIFIED FINANCIAL DEBT - SPECIAL WINDOW FOR AFFORDABLE AND MIDDLE-INCOME HOUSING INVESTMENT FUND I**
• [P-78](#)
- **SECTION 4 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS - NOTIFIED MINIMUM AMOUNT OF DEFAULT FOR PURPOSES OF SAID SECTION**
• [P-79](#)



Indian Institute of
Corporate Affairs
Partners in Knowledge. Governance. Transformation.

INDIAN INSTITUTE OF CORPORATE AFFAIRS

(An autonomous Institute under M/o Corporate Affairs)
Plot no. 6,7,8, Sec-5, IMT Manesar, Gurugram, Haryana

IBBI CHAIR PROFESSOR

Indian Institute of Corporate Affairs is looking for eminent Scholar from Academic/Industrial segment of National/ International repute for IBBI Chair Professor. For further details, please visit Institute's website at :

<https://iica.nic.in/>

TAXMANN®
Tax & Corporate Laws of INDIA

MOBILE APP

LATEST UPDATES | RESEARCH



- ▶ Get real-time updates
- ▶ See summary of all stories
- ▶ Choose what you want to read according to area of practice
- ▶ Access your taxmann.com subscription through mobile



taxmann.com

Insolvency and Bankruptcy Code

Highlights

- ▶ Covering everything on Insolvency and Bankruptcy Code
- ▶ An integrated database of Case laws, Acts, Rules, Circulars and Notifications
- ▶ Get practical guidance and solutions with Articles and Commentaries authored by Industry's Experts
- ▶ Largest database and powerful search features helps you in doing comprehensive and pin-pointed research
- ▶ Real time updates and analysis of all latest developments in IBC

Case Laws

- ▶ Database of 3,400+ case laws with comprehensive and pin-pointed headnotes and digest
- ▶ Covering almost all relevant judgments of the Supreme Court, High Courts, NCLAT and NCLT
- ▶ Every case law has been tagged with 10+ parameters which provide you the relevant results only
- ▶ Also covering winding-up cases under the Companies Act, 2013 and Companies Act, 1956

Acts, Rules, Circulars and Notifications

- ▶ Always amended database of Acts, Rules and Forms
- ▶ Covering all Circulars and Notifications on IBC

Commentaries

- ▶ Complete Commentary on each topic of IBC for thorough understanding of the Code.
- ▶ Various FAQs on the topic to quickly understand the Insolvency and Bankruptcy Code

Your Queries

- ▶ Get Replies on all your practical queries on IBC

[CLICK & GET 7 DAYS FREE TRIAL](#)
[SUBSCRIBE NOW](#)

From Chairman's Desk



P.K. MALHOTRA
 ILS (Retd.) and Former
 Law Secretary
 (Ministry of Law & Justice,
 Govt. of India)

Your limitation – it's only your imagination.

Dear Professional Members,

As citizens of India, and as humans, we all are going through a very tough phase of life wherein we are duty bound to ensure that we protect ourselves from the spread of COVID-19, not only for our individual benefit, but also for those whom we get connect with. How big may be the challenge, I am quite confident that with our concerted efforts we can and we shall be able to succeed in our mission by preventing this spread by the mere technique of social distancing. Hon'ble PM in his address to the nation on 19th March 2020 has emphasised on the need for all of us to take preventive measures, and to maintain patience in this fight.

The above caveat, though sounds to be a little gloomy as a prologue to the message, but the danger of this disease is so large that I consider it to be my duty to emphasise on what needs to be done in the larger public interest and good.

In the month of March, 2020 (13th March 2020 to be precise) we have seen Presidential assent been given to the passing of *Insolvency and Bankruptcy Code (Amendment) Act, 2020*. The Act has been brought into force with retrospective effect

from 28th December 2019. If I may sum-up the changes that have been brought about *vide* the said amendment act, these are: (a) introduction of minimum threshold of number of applicants (for certain categories of financial creditors (Home Buyers)), for invoking provisions of [section 7](#), IBC; (b) clarification provided stating that a CD is permitted to file a CIRP application against another CD ([section 11](#)); (c) prohibition on suspension or termination of license, permit, registration, *etc.* given by the government under the moratorium period; (d) Continuance of supply of goods and services critical for the Corporate Debtor ([section 14](#)); (e) change of Time limit for appointment of the interim resolution professional (from earlier 14 days of Insolvency Commencement Date to the date of insolvency commencement itself) ([section 16](#)); (f) immunity from CD's criminal liability (whose resolution plan gets approved) for offences committed prior to commencement of CIRP ([section 32A](#)). The amendment was earlier introduced by way of promulgation of *The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019* by the President of India (acting on the aid and advise of the Council of Ministers) in exercise of its powers u/[Art. 123](#) of the Constitution of India, and thus, the Amendment Act has been given a retrospective effect.

The other major development has been the constitution of a bench of NCLAT at Chennai. The Bench shall hear appeal from orders passed by the NCLTs located in the Karnataka, Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Lakshadweep and Puducherry, and for the other NCLTs, the Principal Bench of NCLAT located in Delhi shall continue of hear appeals. It is important to realise that there is a very strong determination of all stakeholders (under the present insolvency and bankruptcy regime) to make sure that we succeed in achieving the objectives of the Code. The pace at which the Government is responding to different challenges posed in the way of effective implementation of IBC provisions is itself unprecedented and appreciable. Also, while there have been several stories painting a gloomy picture around the Code, and questioning its effectiveness in bringing insolvency resolutions (rather than liquidations), the picture becomes more clear when one realises that the bad debts from which the best value has been realised through liquidation were the ones which were pending before the BIFR from several years. One also needs to appreciate the fact that the underlying

theme of the whole CIRP is to have a time-bound process for insolvency resolution. Delay is now rightly understood as the cause of depletion of value of assets of a CD. Dr. M.S. Sahoo, in his recently written article, titled as *Achievement of the Insolvency Code is that debtors now resolve defaults in early stages*, has, while addressing several myths thrown on the subject of effectiveness of IB Code, has, very aptly and succinctly, put his views as *"The beneficiaries of the old order usually put every reform to several rounds of agni pariksha. They build public opinion against the reform, challenge it before every possible forum, create hurdles in implementation, misrepresent facts and figures and even spread rumours and canards. However, such resistance ultimately takes the reform deeper and makes it stronger. The insolvency reform (IBC) is no exception..."*

I am sure that with the passage of every day, month and year, the Code is going to evolve victorious as well as glorious!

Wishing all the Insolvency Professionals the very best in all their future endeavours, and also requesting you all to keep yourself safe in these tough times.

...

Managing Director's Message



Dr. BINOY J. KATTADIYIL
Managing Director
ICSI Institute of Insolvency
Professionals

Even if you're on the right track, you'll get run over if you just sit there.

...Will Rogers

I hope you all are keeping yourself safe and protected. It is a difficult situation wherein the entire world is threatened by the consequences of spread of COVID-19. In such difficult times, the Government of India is constantly reminding us about the benefits of maintaining social distancing, and thus, it becomes our prime responsibility to not only know and follow such guidelines, but also spread awareness about it amongst our circles.

An amendment has been brought into the Insolvency and Bankruptcy Code which has been made effective from 28th December, 2019. The law now provides for ring-fencing successful bidders of insolvent companies from the risk of criminal proceedings for offences committed by the previous promoters. Replying to a debate on the bill, Hon'ble Finance Minister, Smt. Nirmala Sitharaman had informed that the amendments are in sync with the time and also adhere to the Supreme Court order in "*letter and spirit*". It is important to understand that the need for bringing in amendments to the IBC is based on the "changing requirement" and "requirement of fine-tuning" the law. One of the most debated part of the amendment has been the introduction of minimum threshold wrt home

buyers for filing a CIRP application against the builder. While the *home buyers* as class of creditors are already recognised as financial creditors, it was important to introduce an act of balancing of their right *vis-à-vis* the real estate developers, and thereby also avoid frivolous litigations. Ultimately, no law can be allowed to be put to misuse.

The IBBI has amended its CIRP Regulations (*Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016*) in view of the realisation that due to the contingency created by threat of spread of COVID-19 it is difficult (a) for the IPs to continue to conduct the process; (b) for the CoC members to attend meetings, and (c) for prospective resolution applicants to prepare and submit their resolution plans, during the period of lockdown. Accordingly, it has been provided that the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to the lockdown in relation to the CIRP. This exclusion shall, however, be subject to subject to the overall time-limit provided in the Code. The NCLT has also vide its notice dt. 23rd March 2020 directed all NCLT benches to remain closed from 23.3.2020 to 31.3.2020 for the purposes of judicial work therein, subject to certain conditions.

Further, the RBI has also come up with a statement setting-out various developmental and regulatory policies that directly address the stress in financial conditions caused by COVID-19. The statement consist of: (i) expanding liquidity in the system sizeably to ensure that financial markets and institutions are able to function normally in the face of COVID-related dislocations; (ii) reinforcing monetary transmission so that bank credit flows on easier terms are sustained to those who have been affected by the pandemic; (iii) easing financial stress caused by COVID-19 disruptions by relaxing repayment pressures and improving access to working capital; and (iv) improving the functioning of markets in view of the high volatility experienced with the onset and spread of the pandemic. The Central Government has also, in exercise of the powers conferred upon it under the proviso to section 4, IBC, specified one crore rupees as the minimum amount of default for the purposes of the said section.

The Ministry of Home Affairs, has, *vide* its order dt. 18th March 2020, and in exercise of its powers [u/s 96](#) of the Jammu and

Kashmir Reorganization Act, 2019, directed for extension of application of IBC to the Union territory of Jammu and Kashmir.

A webinar on the Case study of successful resolution of *Ruchi Soya Industries Ltd.* was recently conducted by IBBI in collaboration with ICSI IIP. During the webinar, the RP in the case as also the RA's counsel not only elaborated and dwelled upon various nitty-gritties and nuances involved in the successful completion of CIRP proceedings in respect of the aforementioned CD, but also discussed some very crucial aspects of the case which can help the IPs in their future assignments too. The webinar received an overwhelming response and the viewership far exceeded our estimates.

In the month of March, 2020, the IBBI also conducted a seminar on the subject "*MSMEs and Insolvency and Bankruptcy Code, 2016*" wherein in his keynote address, Dr. Sahoo highlighted the best practices being followed proactively by IBBI in ensuring high degree of stakeholders' engagement in various forms. He emphasised the importance of giving timely suggestions to the IBBI and also invited the stakeholders to give their comments on the existing regulations and other issues to make the best use of available opportunity of stakeholder consultation in the larger interest of all stakeholders.

Your Institute, ICSI IIP is also organising several webinars in collaboration with the IBBI to be conducted in the month of April, 2020. The first one which is scheduled on 2nd April, 2020 shall involve a detailed discussion on the subject "*Impact of IBC on Ease of Doing Business*" and "*Relaxation of IBC threshold*". I invite and encourage all the Insolvency Professionals to participate in this series of webinars to be conducted by your institute.

Please take a good care of yourself!

...

Limitation under Insolvency and Bankruptcy Code, 2016



DEVARAJAN RAMAN
CS



ASHISH JHA
Advocate

I. Objective

1. The objective of this article is to understand the applicability of Limitation Act 1963 to the provisions of the Insolvency & Bankruptcy Code, 2016.(IBC) detailing in the process the way the Tribunals, the Appellate tribunals and the Supreme Court has viewed the matter and explain the final law as laid down by the Supreme Court and to analyse the fall out in the IBC process.

II. Background

2. Lot of water has flown under the bridge before Supreme Court has given finality to the applicability of Limitation Act to IBC. With an initial view that the Limitation Act is not applicable to IBC proceedings to a diametrically opposite view of, not only applicability but stringently narrowing it only to [article 137](#) of the Limitation Act 1963, the law on the subject evolved.

3. Before adverting to limitation under Insolvency and Bankruptcy Code, 2016 (hereafter "Code") it would be apposite to understand the term in common legal parlance, [S. 2\(j\)](#) of the Limitation Act, 1963 (hereafter referred as "Act") defines "period of limitation" as *period of limitation prescribed for any suit, appeal or application by the Schedule*, and "prescribed period" is defined as *the period of limitation computed in accordance with the provisions of this Act* (Limitation Act, 1963).

4. Similarly, [S. 3](#) of the Act deals with bar of limitation and provides that every suit instituted, appeal preferred, and application made after the prescribed period shall be dismissed,

although limitation has not been set up as a defence, subject to provisions contained in [ss. 4 to 24](#).

5. The law of limitation does not seek to destroy any right to recover but merely prescribes time period within which an action can be brought against a party who has caused damage, by a person who has suffered damage. When legal right of a party is infringed, it is for the party suffering from the damage to approach the appropriate court seeking remedy against the same, at the earliest. If the person does not avail his/her right by approaching the court within the prescribed period, though he may retain the right, however, the remedy to recover is lost. Courts come to rescue of only those litigants who are vigilant and not those who sleep over their rights. When a suit or application becomes time-barred, it does not extinguish the right, but merely makes it unenforceable by any court of law since the legal remedy is lost due to lapse of time. In order to ensure this, the legislature in its wisdom enacted the Limitation Act, 1963 prescribing the limitation period within which action is to be initiated by the party claiming the right.

6. The Code, perhaps while it was being enacted did not address the question of application of law of limitation, but the same is no more a *res integra*.

7. The basic requirement for filing an application under the Code, is that there must exist a *debt* and there must be a *default* in payment of such debt. The right to file an application accrues when the *default* occurs, and the *default* should not have occurred 3 years prior to filing the

application. It is important to note that the Financial Creditor must only establish *default* and the Operation Creditor must establish the right to payment, meaning thereby that the debt should be legally due, *i.e.*, devoid of dispute and should not be barred by limitation. For Applications under [Section 10](#) of the Code, the law of limitation is not applicable as the Corporate Applicant is making the application. This is the current position after the decision of the Hon'ble Supreme Court.

III. Position taken by NCLT

8. The NCLT and the NCLAT took their own particular view on this subject of limitation before the matter was finally decided by the Apex Court. The NCLT held a view that time-barred action cannot be entertained by the Adjudicating Authority, whilst on the other hand, the NCLAT held that the Act is not applicable, as the legislature in their wisdom has not made the provisions of the Act applicable to the Code.

9 NCLT (Principal Bench) in the matter of *Deem Roll-Tech Ltd. v. R.L. Steel & Energy Ltd.* (Company Application No. (I.B.) 24/PB/2017, dated 31-3-2017) held that s. 433 of Companies Act, 2013 makes the Limitation Act applicable even in relation to proceedings under the Code, and the same has been followed in the case of *Sanjay Bagrodia v. Sathyam Green Power (P.) Ltd.* (C.P. No. (IB) 108/PB/2017, Dated 25-5-2017) wherein it was held that provisions of the Act are applicable to the Code and have refused to entertain time-barred Applications under the Code.

10. Interestingly, in [Machhar Polymers \(P.\) Ltd v. Sabre Helmets \(P.\) Ltd. \(2017\)](#)

[87 taxmann.com 209/144 SCL 511](#) the Mumbai NCLT on 28th September 2017 took the view that Limitation Act is applicable even though the NCLAT had stated in [Neelkanth Township & Construction \(P.\) Ltd. v. Urban Infrastructure Trustees Ltd. \(2017\) 85 taxmann.com 120/143 SCL 538](#) matter on that the Act is not applicable to IBC, 2016 explaining in detail the reasoning for arriving at such a conclusion. However, the decision in *Machhar Polymer* was later set aside by the NCLAT.

IV. Position taken by NCLAT

11. On the contrary when the question of applicability of the Act to the Code came for consideration before Hon'ble NCLAT in the matter of *Neelkanth Township & Construction Pvt. Ltd.* (supra) that since the Code is not for recovery of claims, so long as the debt is due, application under the Code can be filed, regardless of limitation, and as such held that the Act shall not be applicable for matters under the Code. In further appeal, the Apex Court declined to interfere with the decision of the Hon'ble NCLAT. The appeal was dismissed keeping the question of law viz. whether the Act would apply to proceedings under the Code, open.

12. The aforesaid view has been affirmed by the Hon'ble NCLAT in [Black Pearl Hotels \(P.\) Ltd. v. Planet M Retail Ltd. \(2018\) 91 taxmann.com 387](#). The Hon'ble NCLAT went a step further and held that even if it is accepted that for initiation of Corporate Insolvency Resolution Process, in such cases Article 137 of the Act will be applicable, IBC has come into force from 01.12.2016. As the right to apply u/s. 9 of the Code accrued to the appellant

from 1st December, 2016, the application filed before the completion of three years, from commencement cannot be held to be barred by limitation.

13. NCLAT, further, in the matter of [Speculum Plast \(P.\) Ltd. v. PTC Techno \(P.\) Ltd. \(2017\) 88 taxmann.com 83](#) held that legislature did not intend to make the provision of [S. 433](#) of the Companies Act, 2013 (hereinafter referred to as CA) applicable to the Code as [S. 425](#) of the CA has been specifically incorporated in the Code through reference, the same is not the case with [S. 433](#) of the CA, which shows specific legislative intent to exclude application of such provision to the Code.

V. Amendment to clarify applicability of Limitation Act to the Code.

14. Finally, the Insolvency & Bankruptcy Code (Amendment) Ordinance, 2018 which introduced a new [section 238A](#) to the Code, after the report of the Insolvency Law committee in March 2018, categorically states that the provision of the Act would be applicable to proceedings before the Adjudicating Authorities and Appellate Authority under the Code.

VI. Decision of the Supreme Court

15. In [B. K. Educational Services \(P.\) Ltd. v. Parag Gupta and Associates \(2018\) 98 taxmann.com 213/150 SCL 293](#), the question before the Apex Court was whether the Act was applicable to the Code and whether the newly inserted section was to apply prospectively or retrospectively to the Code. The Apex Court held that the

Act was applicable from the inception and hence applicable retrospectively and any application filed under the Code after 3 years from the date of default would be time-barred under [Article 137](#) of the Act. In conclusion, the Apex Court has given a quietus to the issue and settled that the Act is applicable to the Code retrospectively. Time-barred application can be entertained only when delay is condoned [u/s. 5](#) of the Act. The exact words used by the Hon'ble Supreme court are as follows:

"The right to sue", therefore, accrues when a default occurs. If the default has occurred over three years prior to the date of filing of the application, the application would be barred under [Article 137](#) of the Limitation Act, save and except in those cases where, in the facts of the case, [Section 5](#) of the Limitation Act may be applied to condone the delay in filing such application"

Thus, the key requirement is that as per article 137 an application has to be filed within 3 years from the time when the right to apply accrues, which in respect of applications under [sections 7 & 9](#) of IBC is to be computed from the date of default.

16. It is important to examine this judgment as it dealt with various aspects which are very important and would be regarded as a path breaking judgment to understand the applicability of the law of limitation in general and to the I & B Code, 2016 in particular:

- (a) The Insolvency Law Committee report clearly stated that it was not the intention of the legislature to revive time bar debts by giving a fresh opportunity to the Creditors and claimants who did not exercise their remedy under the existing law within the prescribed period.
- (b) The Act will not apply to [section 10](#) application as it is not a creditors remedy.
- (c) The intention of the Code could not have been to give a new lease of life to time barred debts.
- (d) Under [section 408](#) of the Companies Act 2013, (hereafter referred to as CA) NCLT was set up to deal with matters under CA and for any other law for the time being in force.
- (e) Under [section 433](#) of the CA, limitation was made applicable to NCLT and NCLAT without indicating which legislations are covered for the said purpose, meaning thereby that all proceedings in NCLT and NCLAT will be subject to limitation depending on the provisions of the respective legislations.
- (f) Under [section 424](#) of the CA dealing with procedures it is very clearly stated that the reference is to both, the CA and the I & B Code 2016, unlike [section 433](#).
- (g) Under [section 434\(1\)\(c\)](#) of the CA all pending proceedings including winding up proceedings are transferred to the NCLT. It is inconceivable that while Limitation is applicable to all proceedings, being

- a court, it will not be applicable to the same proceedings under the Tribunal. Thus [section 433](#) of the CA would be applicable to proceedings under [sections 7 & 9](#) of the I & B Code 2016.
- (h) [Section 238A](#) being clarificatory is applicable retrospectively.
 - (i) Limitation being procedural in nature would ordinarily apply retrospectively, save and except that the new law of limitation cannot revive a dead remedy.
 - (j) Thus, an application filed in 2016 or 2017 after the Code came into force cannot revive a time barred debt.
 - (k) To stretch the interpretation to include time barred debts under "Amount due" would attract [article 14](#) of the Constitution.
 - (l) A debt may not be due if it is not payable in law or in fact.
 - (m) It is the settled law of this country that the statute of Limitation only bars the remedy but does not extinguish the debt.
 - (n) [Section 25\(3\)](#) of the Contract Act, a barred debt is good consideration for a fresh promise to pay the amount.
 - (o) When a debtor makes a payment without any direction as to how it is to be appropriated, the creditor has the right to appropriate it towards a barred debt. (Vide [Section 60](#) of the Contract Act).
 - (p) It has also been held that a creditor is entitled to recover the debt from the surety, even though a suit on it is barred against the principal debtor.
 - (q) And when a creditor has a lien over goods by way of security for a loan, he can enforce the lien for obtaining satisfaction of the debt, even though an action thereon would be time-barred.
 - (r) The Apex Court explained the difference between "Due and Payable and Actually Due and Payable" and the differentiation brought about by Section 60 of the Contract Act by stating that what is "Due & payable" is a lawful debt if the right to remedy is exercised within the limitation period. In contrast, what is "Actually Due & Payable" in the context of section 60 of the Contract Act 1872, where the creditor has the right to appropriate payment received even against time barred debts, in the event of the Debtor being silent on where the debt has to be discharged is not indicated, it is important that the amount is **actually** due and payable even though it may be barred by limitation, meaning there by that it should be a lawful debt without any dispute.
 - (s) It has been held that when the debt becomes time-barred the amount is not recoverable lawfully through the process of the court, but it will not mean that the amount has become not lawfully payable.

Law does not bar a debtor to pay nor a creditor to accept a barred debt.

- (t) There would have been no reason to have [section 60\(6\)](#) in the Code if the intention was not to make law of limitation applicable to the Code.
- (u) The right to sue therefore accrues on default. If the default occurs three years prior to the date filing of the application the application would be barred under article 137 of the Act, save and except in those cases, where given the facts of the case, section 5 may be applied to condone the delay.

17. This was reiterated by the Hon'ble Apex Court in [Gaurav Hargovindbhai Dave v. Asset Reconstruction Co. \(India\) Ltd. \(2019\) 109 taxmann.com 395/156 SCL 397](#) decided on 18th Sept 2019. Further, the apex court went on to state that [Article 62](#) of the Act would not apply as it is only applicable to suits. This article is specifically for enforce payment of money secured by mortgage. By inference, this also would not apply to applications under IBC as they are not for recovery of money.

18. In [Jignesh Shah v. Union of India \(2019\) 109 taxmann.com 486/156 SCL 542 \(SC\)](#) decided on 25th Sept 2019 the winding up petition was transferred from High Court to NCLT under the I & B Code 2016 and was admitted. NCLAT upheld the admission on appeal and then the matter travelled to Supreme Court where it was held that the winding up petition was filed beyond the period of three years as prescribed in [article 137](#) of the Act. The mere transfer

of such a proceeding to NCLT would not give a new lease of life and as such set aside the order of NCLT & NCLAT.

19. In [Sagar Sharma v. Phoenix ARC \(P.\) Ltd. \(2019\) 110 taxmann.com 50/156 SCL 707](#) decided on 30th Sept 2019 by the Apex court the decisions in BK Educational and other cases referred to above was reiterated and held that if action is not taken for initiating Insolvency within 3 years of default as per the provisions of [Article 137](#) of the Act, then such action is time barred. As this issue of limitation was coming up before it repeatedly, after detailed judgment in BK Educational and other similar judgments, the Supreme Court further reiterated that as per Article 141 of the Constitution of India mandates that their judgments are followed in letter and spirit.

20. Recently, Hon'ble NCLAT has in *Radhika Mehra v. Vaayu Infrastructure LLP* (Company Appeal (AT) (Insolvency) No.121 of 2020, dated 23-1-2020) refused to entertain an appeal which was filed after the time prescribed [u/s. 61\(2\)](#) of the Code. The tribunal has refused to condone the delay after conjoint reading of [SS. 238](#) and [61\(2\)](#) of the Code and has held that the Code being a special act, [S. 61\(2\)](#) of the Code supersedes [S. 5](#) of the Limitation Act

VII. Section 25 of the Contract Act 1872

21. This section deals with exception to the rule that agreement without consideration is void. The requirement is that the agreement must be in writing and registered for a past promise, or inadequate consideration or for a time barred debt. The promise

to pay a time barred debt is adequate consideration to revive the debt and thereby commence fresh computation of the period of limitation. Such an agreement is a contract and is valid, even if the consideration is inadequate, so long as the consent is freely given. The courts may take in to account the inadequacy of consideration to decide whether the consent was given freely without any coercion or deceit.

The permitted exclusions for Computing the Period of Limitation

22. It is pertinent to note that the Hon'ble Supreme Court has only permitted exclusions which fall squarely under [section 5](#) of the Act. This will be decided on a case to case basis depending on facts. Thus, even the unilateral acknowledgement by the borrower, in terms of [section 18](#) of the Act, of the liability in the balance sheet, is not to be reckoned for the purpose of computing the limitation period, even though such an acknowledgement is without any fraud, deceit or coercion. While, this is not being considered currently, the Hon'ble Tribunal, if it is satisfied, could consider this for computation of a fresh period of limitation. However, the Hon'ble NCLAT is of the view that the acknowledgement must be bilateral and not unilateral. In this regard, it is important to consider whether the unilateral acknowledgement in the balance sheet is qualified in any manner either by the Auditor or by way of note to the Balance Sheet of the Corporate Debtor, as such a qualification would not amount to unconditional acknowledgement and may not satisfy the court as provided in [section 5](#) of the Act. In the event of the liability being acknowledged in an unqualified

manner in the balance sheet within the period of 3 years from default, there is a good chance that the Tribunal may consider the acknowledgement for computing fresh period of limitation or as an exclusion under [section 5](#) of the Act. The matter anyway is pending before the Supreme court for consideration. It is pertinent to note that even the acknowledgement in writing has to be before the expiry of the three-year period from the date of default or date of NPA as held by the Hon'ble NCLAT in [C. Sivakumar Reddy v. Dena Bank \(2020\) 114 taxmann.com 219](#). Thus, there is a need for continuous cause of action without any break. The NCLAT further went on to state that an application for restructuring or for payment of interest will not amount to acknowledgement as per the provisions of [section 18](#) of the Act. Further, the acknowledgement of debt in the balance sheet dated 3 years after the date of default will not amount to acknowledgement of debt. Interestingly, in the matter of [Seshnath Singh v. Baidyabati Sheoraphuli Cooperative Bank Ltd. \(2020\) 114 taxmann.com 282/158 SCL 211 \(NCL-AT\)](#), it was held that the time spent on prosecuting *bona fide* SARFAESI proceedings, the period from the time the action was initiated under [section 13\(2\)](#) of SARFAESI till the stay on the proceedings by the Kolkata High Court was excluded under [sec. 14\(2\)](#) of the Act. Thus, it is evident that what is excluded depends purely on the facts and circumstances of the case. This judgment appears to be contrary to the interpretation of the BK Educational case.

23. Two issues emerge for understanding from the aforesaid discussion. a.) Whether, the exclusions provided in [sections 14, 18](#)

and other sections would be available for exclusion in computing time period? b.) Whether, the right under IBC for exclusion is limited to the discretion of the AA and the appellate authority only under [section 5](#) of the Limitation Act, 1963.

- (a) As far as [section 14](#) is concerned, 14(1) is limited to suits so applications cannot be considered. [Section 14\(2\)](#) It is limited to application against the same party for the same relief. As the application under IBC is not the same relief as a recovery suit, such cases shall not be considered for exclusion. This also means that BIFR applications which are for the same relief as IBC would be entitled for exclusions for the period, they have been pursued with BIFR. [Section 18](#) deals with a situation where before the expiration of the prescribed period for a suit or application in respect of a property or a right a written acknowledgement is received a fresh period of limitation shall be computed from the time when the acknowledgement was so signed. This matter is under the consideration of the Supreme Court, in the light of the judgment in BK Educational case. The question of law for consideration here, appears to be whether, the unqualified acknowledgement in the Balance sheet, prior to the expiry of limitation, would reset the date form computation of limitation. This is expected to be answered by the Hon'ble Supreme Court, in the light of the stated position that the date of default

in making the payment gives the right to file an application under IBC. The right under IBC not being a recovery right, whether such a right can be kept open indefinitely by periodic acknowledgement, is the moot question, especially when the Supreme Court has ruled that the right accrues on default and not on the date of the commencement of the Code.

- (b) It is evident that exclusions are limited to the discretion of the AA under [section 5](#) of the Act. Thus, from the date of default till the filing of the application, if the period is beyond 3 years, whether there are valid reasons to exclude such periods, shall be decided by AA. It is humbly submitted that, based on the interpretation of the judgment of the Hon'ble Supreme Court, it is likely that only time spent on pursuing relief akin to IBC will be eligible for exclusions.

24. Arising out of the foregoing, another interesting aspect that needs to be considered is whether the time spent in pursuing an option for revival and rehabilitation in BIFR, under the provisions of erstwhile Sick Industries Companies (Special Provisions) Act, 1985 could be considered for exclusion in computing the period of limitation. One of the key differentiation factor for the Hon'ble Supreme Court not to consider the time spent in proceedings under a summary suit, Application to DRT or SARFAESI proceedings, for exclusions, is that they are recovery proceedings and the proceedings under I & B Code 2016, unlike

a recovery proceeding, is an application for initiating insolvency Resolution Process. This also led to a situation, where it was alleged that such application made, when other options were not yielding results for the FC, amounted to malicious application attracting the penalty prescribed under [section 65](#) of the Code. However, the time elapsed proceedings under BIFR should be permitted as an exclusion in computing the period of limitation, for the following reasons:

- (a) Invariably the application under BIFR was mandatory once there is an erosion of net worth.
- (b) The application was made by the Corporate Debtor (CD)
- (c) The application was for resolution which is akin to the provisions of the I & B Code, 2016.
- (d) Section 22 of SICCA mandates such an exclusion.
- (e) The suspension of other legal proceedings u/s 22 of SICCA is similar to [section 14](#) of the I & B Code, 2016
- (f) The I&B Code 2016 prescribed a period by which the pending applications in BIFR could be transferred without payment of any fees.
- (g) Last but not the least the I & B Code, 2016 is a consolidation of all existing insolvency laws and one of the laws that was consolidation into IBC is SICCA and as such the proceedings under BIFR are similar to the proceedings under I&B Code 2016

25. It is pertinent to examine section 22 of SICCA which states as under:

“ Suspension of legal proceedings, contracts, etc.— (1) *Where in respect of an industrial company, an inquiry under section 16 is pending or any scheme referred to under section 17 is under preparation or consideration or a sanctioned scheme is under implementation or where an appeal under section 25 relating to an industrial company is pending, then, notwithstanding anything contained in the Companies Act, 1956 (1 of 1956) or any other law or the memorandum and articles of association of the industrial company or any other instrument having effect under the said Act or other law, no proceedings for the winding up of the industrial company or for execution, distress or the like against any of the properties of the industrial company or for the appointment of a receiver in respect thereof 3(and no suit for the recovery of money or for the enforcement of any security against the industrial company or of any guarantee in respect of any loans or advance granted to the industrial company) shall lie or be proceeded with further, except with the consent of the Board or, as the case may be, the Appellate Authority.*

(2) *Where the management of the sick industrial company is taken over or changed 3(in pursuance of any scheme sanctioned under section 18), notwithstanding anything contained in the Companies Act, 1956 (1 of 1956) or any other law or in the memorandum and articles of association of such*

company or any instrument having effect under the said Act or other law—

- (a) it shall not be lawful for the shareholders of such company or any other person to nominate or appoint any person to be a director of the company;
- (b) no resolution passed at any meeting of the shareholders of such company shall be given effect to unless approved by the Board.
- (3) (Where an inquiry under section 16 is pending or any scheme referred to in section 17 is under preparation or during the period) of consideration of any scheme under section 18 or where any such scheme is sanctioned thereunder, for due implementation of the scheme, the Board may by order declare with respect to the sick industrial company concerned that the operation of all or any of the contracts, assurances of property, agreements, settlements, awards, standing orders or other instruments in force, to which such sick industrial company is a party or which may be applicable to such sick industrial company immediately before the date of such order, shall remain suspended or that all or any of the rights, privileges, obligations and liabilities accruing or arising thereunder before the said date, shall remain suspended or shall be enforceable with such adaptations and in such manner as may be specified by the Board:

Provided that such declaration shall not be made for a period exceeding two years which may be extended by one year at a time so, however, that the total period shall not exceed seven years in the aggregate.

(4) Any declaration made under subsection (3) with respect to a sick industrial company shall have effect notwithstanding anything contained in the Companies Act, 1956 (1 of 1956) or any other law, the memorandum and articles of association of the company or any instrument having effect under the said Act or other law or any agreement or any decree or order of a court, tribunal, officer or other authority or *of any submission, settlement or standing order and accordingly,—*

- (a) any remedy for the enforcement of any right, privilege, obligation and liability suspended or modified by such declaration, and all proceedings relating thereto pending before any court, tribunal, officer or other authority shall remain stayed or be continued subject to such declaration; and
- (b) *on the declaration ceasing to have effect—*
 - (i) any right, privilege, obligation or liability so remaining suspended or modified, shall become revived and enforceable as if the declaration had never been made; and

- (ii) any proceeding so remaining stayed shall be proceeded with, subject to the provisions of any law which may then be in force, from the stage which had been reached when the proceedings became stayed.

(5) In computing the period of limitation for the enforcement of any right, privilege, obligation or liability, the period during which it or the remedy for the enforcement thereof remains suspended under this section shall be excluded."

26. The aforesaid section prescribes the following, which has similarities with the provisions of the I & B Code, 2016

- (a) Once a resolution is under consideration, no suit or proceedings shall lie except with the permission of the Board.
- (b) There was no concept of creditor control; but there was a provision to change the management of the CD and in the event of such a change, the powers of the Shareholder was withdrawn for making any change in the Directorship of the Company.
- (c) The suspensions of contracts and agreements prior to the date of registration could be ordered and all consequential liabilities also could be suspended or enforced with such changes and adaptation as may be prescribed by the Board.
- (d) Remedy for enforcement of any of the aforesaid rights and privileges

also stood suspended which is akin to the Moratorium.

- e) The period for which such suspension is enforced is excluded for the purpose of computation of period of limitation.
- f) Thus, in all fairness the Tribunals should exclude such periods irrespective of whether the CD had opted for the transfer of the pending proceedings under BIFR as per the provisions of the Code and also irrespective of whether the reference to BIFR was made by the CD or by the Financial Creditor.

VIII. Commercial Impact of the judgment and the recent Covid-19 development

27. The decision has a huge impact on the financial creditors' strategy in terms of their course of action regarding NPA accounts. While, the June 7, 2019 circular of RBI has prescribed a time limit of 180 days for a resolution/restructuring and thereafter reference under IBC in the event of a stalemate, these accounts will clearly move ahead for a resolution. The issues are with reference to accounts that have been registered under BIFR and later have not been transferred/referred under IBC either by the Corporate Debtor or the Financial Creditor. However, by now, unless long periods of justifiable exclusions from limitations are available, most of such cases would be time barred. There are many applications that have been admitted and

CIRP has commenced & concluded, which are technically barred by limitation. Many applications for initiating CIRP has been admitted, after the October 2018 judgment of the Supreme Court and unfortunately the Adjudicating Authorities have not dealt with Limitation. Some promoters have appealed and obtained relief, while many have not. The AA is required to address the issue of Limitation irrespective of whether it is brought up as a defence. The promoters of such CDs may feel cheated as their rights have been infringed unfairly. Be that as it may, the current position on the law of limitation w.r.t IBC is clear, and it would encourage Banks, Financial institutions and other financial creditors to simultaneously exercise their rights of recovery and initiate CIRP. Similarly, the operational creditors would also follow similar process and will not wait for a decree and then proceed with initiating CIRP when they realise that execution of the Decree and recovering money is a herculean task. On the contrary, now there will be a bias towards initiating CIRP first and then explore other options later since, this process is time bound.

28. The Insolvency Professional community it also impacted by the current law on limitation under IBC, as the number of applications submitted to NCLT will reduce and consequently will impact the admission rate. The increase in the threshold limit to Rs. 100 lakhs coupled with an impending suspension of new applications for a period of 6 months would effectively, be a challenge to Insolvency Professionals who do not have any other revenue verticals. The fall out of Covid-19 will also have a huge impact since businesses will

be restructured, business models will be reengineered, cashflows relooked, loans aligned to current realities either through the process outlined by RBI or through the IBC route. The way we live and do business is sure to change and these are challenges that an insolvency Professional is likely to face in the CIRP under progress and the new cases that are in the process of admission. All this will effectively pave way for Corporate Debtor with a viable size being available for resolution and maximisation of value of the assets is achieved. The realisation for the MSMEs who are stuck with receivables in such Corporate Debtor would be much better.

IX. Conclusion

29. To conclude, it is important to understand that one of the reason for the Apex Court to lay down the law on applicability of Limitation to I & B Code 2016, apart from other reasons enumerated above, is that the remedy of recovery by suit or an application for insolvency is available concurrently to the creditor and it is not necessary to exhaust one remedy to avail the other, as there is no double jeopardy involved, the actions being distinctly different- viz: one for recovery and the other for initiation of Insolvency resolution process. As the Code does not specifically prescribe time limit for filing application [u/s. 7](#) or [9](#) of the Code it is governed by [Article 137](#) of the Act and delay, if any, can be condoned [u/s. 5](#) of the said Act, by the AA or the Appellate Authority, provided the applicant is able to validly justify the delay in filing the application. The other aspect to note is that Limitation is procedural in nature and no right in equity

is involved. Hence, the application of any amendment, in respect of Limitation, is ordinarily retrospective, unless of course the act stipulates otherwise. This is the reason why it was ruled that section 238A of the Code has retrospective application. The other issue that was considered is that in the event of the right being permitted, even for cases where defaults have occurred earlier, would affect the right of the Corporate Debtor under [Article 14](#) of the Constitution, as a non-existent right when the default occurred, is being used against it. The contention is that the CD would have acted differently when the default occurred then, if such a remedy was available then. However, since the Code specifically prescribes time limit to file appeal, the same needs to be strictly followed as NCLAT does not have the

power to grant any concession beyond the prescribed 15-day period delay in filing appeal.

30. There are a few questions that are yet to be decided, in view of the conflicting judgments by different benches of the NCLAT regarding interpretation of [section 18](#) of the Act. The clarity from the Apex Court in this regard is awaited.

31. The blanket extension of CIRP timeline during the lock down period of 40 days and the decision of the Supreme Court to exclude the lockdown period in computing limitation are also welcome to ensure that justice is done. The IPs should use this period to develop competencies to manage CIRP post Covid-19.

...

Corona Crisis: Developments in Insolvency and Bankruptcy Laws to Save Debt-Laden Companies



KARAN SAHI
CS

**PRANAY
BHATTACHARYA**

1. Introduction

1.1. The changing market dynamics, from crashing stock markets to restaurants, airlines and businesses shutting down, the Coronavirus ("**Covid-19**") has hit almost every sector. The pandemic has not only caused global business disruption by halting the international trade, it has also caused major economic unrest affecting the small companies and organizations that were already struggling with financiers and creditors to repay their debts. Due to the status-quo orders of the state and the Central Government for lockdowns, the business owners are facing difficulties to meet their expenses and obliging their pre-existing liabilities. The third quarter (i.e., October to December¹) has almost witnessed around 1961 Corporate Insolvency Resolution Process ("**CIRP**") against companies. In the current situation, the number is likely to soar with the economic in the country have come down to standstill.

1.2. Amidst the ongoing crisis, effort has made by every regulatory authority (*be it Reserve Bank of India, SEBI, Ministry of Corporate Affairs or Courts*) to ease the burden on general public by recalibrating their existing regulatory frameworks. In this backdrop, the IBBI has taken certain measures to protect these debt-laden entities and Non-Performing Assets ("**NPA**") of the Corporate Debtor that are already facing severe liquidity crunch and provided relaxation to companies facing difficulty to replay their claims.

2. Amended Legal Provision and Regulations

2.1 Deferred Timelines for Completing CIRP:

The IBBI through a notification dated 29th March, 2020 has decided that the 21 days of lockdown period cannot be used within the outer-limit of CIRP time-frame, where the process has been triggered. The companies will get an extension of 17 days (starting from March 29th) as against the due date for completion of the process.

The present timeline requires the CIRP to be completed within a period of 180 extendable up to 270 days, and in exceptional cases within 330 days (*as decided in Essar Steel Judgment*). This time frame remains unchanged. This means, even after the extension, the outer limit of completing the CIRP remains same. In this light, a 3rd amendment is made in the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 with insertion of **Regulation 40C** as a Special provision relating to time-line to defer the payment excluding the period of lockdown.

"Regulation 40C : *Notwithstanding the time-lines contained in these regulations, but subject to the provisions in the Code, the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to such lockdown, in relation to a corporate insolvency resolution process."*

(Emphasis Supplied)

The IBBI further clarified that *"the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to the lockdown, in relation to a corporate insolvency resolution process. This would, however, be subject to the overall time-limit provided in the Code"*.

Revised IBC Threshold Limit

2.2 The Union Finance Minister through a press conference and notification² dated 24th March 2020 also decided to raise the threshold for filing an insolvency application about 100% i.e. from Rs. 1 lakh to Rs. 1 Crore.

Before such notification, the provision under Part II, Insolvency Resolution and Liquidation for Corporate Persons under **Section 4** required a minimum default amount of Rs. 1 lakh for initiating CIRP; with an additional power to the central government to increase it to Rs. 1 crore at its discretion. The government analyzing the need of the hour exercised this right to protect the corporate debtor against the creditors filing Insolvency for meager amounts, given such low threshold amount. This move will allow the corporate debtor a breathability time from multiple recovery cases during this period.

Suspension and extension of timeline for certain filings under limitation laws

2.3 The NCLAT extended any provisions relating to the laws of limitation, or where

any timeline such as appearance or filing of affidavit is required within a particular date, such timelines are extended till further notice. The NCLAT took a suo moto cognizance of the matter and passed an order dated 30.03.2020³ under Rule 11 of National Company Law Appellate Tribunal Rules, 2016. The same measure has already been taken by the Supreme Court [Cognizance for Extension of Limitation, In re \(2020\) 117 taxmann.com 66](#) for all cases and matters taken before the Apex Court.

Points to Ponder

3. Apart from the various measures taken by the IBBI, there are questions that still remain unanswered and require much clarity amidst the pandemic. Some of these are:

3.1. Whether the defense of Force Majeure clause is applicable in Insolvency Cases?

3.1.1. In *Parvesh Magoo v. IREO Grace Realtech (P.) Ltd.*, (Company Appeal (AT) (In solv.) No. 1141 of 2019, dated 26-2-2020), the NCLAT observed the view of Hon'ble Supreme Court as referred in [Pioneer Urban Land and Infrastructure Ltd. v. Union of India, \(2019\) 108 taxmann.com 147/155 SCL 622](#) and held that it is upon the Adjudicating Authority (NCLT or NCLAT) to decide whether the default has been caused due to the fault of the Corporate Debtor, or is it a force majeure condition ("FMC") due to which he has failed to comply with his obligations. And, if the default has not caused due to the Corporate Debtor, but due to any force majeure event, it can be adduced that the Corporate Debtor has not made any

default. These two cases, in particular, are related to the real estate sector. It is to be seen whether, these judgments can be used as a precedent to seek an extension of the moratorium period or the outer-limit CIRP timeline.

3.1.2. It would be interesting to note, if such matters come up during this period, whether the NCLT or NCLAT considers the existence of a pre-existing FMC in the contract, or the situation has to be taken from the point of view of the Adjudicating Authority. Therefore, it would be interesting to note, whether the corporate debtor can seek relief by invoking the FMC against insolvency if any disruption is caused due to the outbreak of Covid-19.

3.2. Whether the threshold of Rs 1 Crore is applicable to individual creditor or group of creditors?

3.2.1. For Financial Creditor ("FC"): [Section 7 \(1\)](#) of Insolvency and Bankruptcy Code, 2016 ("IBC") allows the FC to file an application either by himself or other financial creditor for filing CIRP against a default by the corporate debtor. With the default amount being raised, it is still unclear whether the application can be initiated by individual FC or jointly with other financial creditors. Given the present circumstance and analyzing it from the perspective of [Section 4](#) of IBC, which allowed individual financial creditor to trigger CIRP, the same can be applied here. However, since the amount is too high for an individual creditor, there is no bar to include other creditors, if the default amount gets fulfilled as per the notification. Therefore, the default amount stands aggregated sum of Rs 1 crore from

all the creditors jointly or individually to fulfil the revised threshold amount.

3.2.2. Further, the Insolvency and Bankruptcy Code (Amendment) Act, 2020 under [Section 7](#) also requires the financial creditors such as allottees, agents/trustees of deposit holders to file an application jointly by not less than 100 of such creditors in the same class or not less than 10%. Therefore, such proviso will also be applicable to initiate CIRP during this pandemic period to reach the threshold of Rs 1 crore. The above move will not only protect the exiting corporate debtors but also MSMEs and start-ups. The number of applications will be reduced.

3.2.3. For Operation Creditor ("OC"): The IBC does not provide any particular provision for threshold amount to be fulfilled by the OC, individually or conjointly. Therefore, for an application under [Section 9](#), in light of the revised provision, an OC is required to fulfil the threshold amount of Rs 1 crore for triggering CIRP.

3.3. Whether the resolution plan can be changed after initiation of CIRP?

3.3.1. In [Rahul Jain v. Rave Scans \(P.\) Ltd. \(2020\) 113 taxmann.com 342/157 SCL 531](#), the Supreme Court held that once a plan has been approved, the plan has attained finality. Therefore, no modifications and amends can be made by the Adjudicating authority i.e. the NCLT or the NCLAT. The same has been held by the NCLAT in *R.G.G. Vyapaar (P.) Ltd. v. Arun Kumar Gupta (CACAT) (Insolv.) No. 509 of 2018*, dated 31-8-2018).

3.3.2. Although, as of now, there have been no precedents or provisions of amending

the resolution plan once submitted. Given the current situation, and larger objective of the IBC to protect the corporate debtor as well as the investor by maximum realisation of assets, such a measure should be allowed. The resolution plan submitted to the adjudicating authority by the Committee of Creditors ("CoC") may not meet the haircut amount due to the affect of Covid-19. Therefore, the CoC should be allowed to reconsider on the previous plan, and submit a revised plan by approval of 90% of the CoC.

4. Way Forward

4.1.1. **Suspension of [Sections 7, 9 and 10](#) i.e. Initiation of CIRP** : Apart from the measures taken, the government has additionally proposed to suspend [Sections 7, 9 and 10](#) if the present situation continues. Therefore, suspending these provisions may give additional relief from getting dragged into insolvency amidst this crisis.

4.1.2. **Raising finance for the Corporate Debtor through Interim Finance measures under [Section 5\(15\)](#) of IBC**: In light of the 2020 amendment⁴ under [Section 5\(15\)](#) of the IBC, the government has inserted the word "*and such other debt as may be notified*" in addition to "*during the insolvency resolution process period*". This gives a leeway to the IRP/RP to raise finances as and when the need arises. Therefore, this provision can be applied in the present situation of pandemic, where the IRP/RP can raise short term finances for the corporate debtor to keep the business as going concern. This can be done by taking bank loans to maintain the liquidity/ cash flow and avoid increasing debts in the wake of such disruption⁵.

Conclusion

5. With the number of cases increasing and the government taking different measures to tackle the situation by making various reforms, IBC is no such exception. The government recognizing the need of the hour has taken different measures for survival and maximum realisation to protect the NPAs and debt-laden entities. The measures taken by the government such as increasing

the threshold of triggering insolvency from 1 lakh to 1 crore, excluding the lockdown period from the CIRP timeline may boost confidence and give some relief to these ailing corporate entities. In this light, the measures taken by the government will give extra time and space to the Corporate Debtors while ensuring best returns to the creditors when this crisis ends.

...

1. Quarterly Newsletter For Oct-Dec, 2019, Insolvency and Bankruptcy Board of India at <https://www.ibbi.gov.in/uploads/publication/62a9cc46d6a96690e4c8a3c9ee3ab862.pdf>
2. (F. No. 30/9/2020-Insolvency) Ministry Of Corporate Affairs Notification New Delhi, the 24th March, 2020 at <https://ibbi.gov.in/uploads/legalframework/48bf32150f5d6b30477b74f652964edc.pdf>
3. Suo Moto - Company Appeal (AT) (Insolvency) No. 01 of 2020 at <https://ibbi.gov.in/uploads/order/0fd02d6fd104fcdd63936eb4cb23021b.pdf>
4. The Insolvency And Bankruptcy Code (Amendment) Act, 2020 at <http://egazette.nic.in/WriteReadData/2020/218654.pdf>
5. Coronavirus impact: These banks are offering credit line with softer terms to retail borrowers at https://economictimes.indiatimes.com/wealth/save/coronavirus-impact-these-banks-are-offering-credit-line-with-softer-terms-to-retail-borrowers/articleshow/74826322.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Whether rent obligation are Operational Debt?



RICHA SARAF

Legal Advisor, Vinod
Kothari Consultants
(P.) Ltd.

In a recent case of [M. Ravindranath Reddy v. G Kishan \(2020\) 113 taxmann.com 526](#), one of the significant issues for determination by the Hon'ble National Company Law Appellate Tribunal was whether a lessor, providing lease, will be regarded as "operational creditor" and the rental obligations therewith be regarded as "operational debt".

The lessor, in the instant case, had leased an industrial premises to the corporate debtor, and on default in payment of rental dues, a petition was filed before the National Company Law Tribunal, Hyderabad Bench, for initiation of corporate insolvency resolution process against the lessee. NCLT, vide order dated 21st January 2019, ordered for admission of the petition, and therefore, the lessee had filed an appeal before the appellate authority.

Vide order dated 21-1-2019, NCLAT has held that a lessor, providing premises on lease, is not providing "services" to the lessee and hence, will not be regarded as an "operational creditor" under the Insolvency and Bankruptcy Code, 2016. This judgment has raised questions as to the scope of the term "operational creditor" and "operational debt". In this article, the author has tried to analyse the ruling and its impact.

Relevance of the discussion

Determination of nature of debt is relevant for two reasons: (a) for filing of petition under IBC; (b) for proving of claim under IBC. As far as filing of insolvency petition is concerned, only

two types of creditors are eligible, namely, financial creditor and operational creditor. In case of any other debt, the creditor will not be eligible to file a petition, either under [Section 7](#) or [9](#) of IBC.

The Apex Court in the case of [Swiss Ribbons \(P\). Ltd. v. Union of India \(2019\) 101 taxmann.com 389/152 SCL 365](#), pointing out the distinction between a financial creditor and an operational creditor, observed as follows:

*"Financial creditors generally lend finance on a term loan or for working capital that enables the corporate debtor to either set up and/or operate its business. **On the other hand, contracts with Operational Creditors are relatable to the supply of goods and services in the operation of business.**"*

Therefore, an action can be initiated under the provisions of [Section 9](#), only if the creditor is able to substantiate that the debt is in course of operations of the corporate debtor i.e. there exists a **buyer-seller relationship or a service provider-service recipient** relationship between the operational creditor and the corporate debtor.

Observations in the ruling

The NCLAT observed that operational creditors are allowed to file a petition for initiation of corporate insolvency resolution process for a simple rationale that in case there is a default in payment to an operational creditor, it implies that the company is not even able to meet its regular payments and operational expenses, which is quintessential for its day to day functioning. Thus, there is an indication

to insolvency, warranting the resolution process to be put in place.

While substantiating that a lessor cannot be regarded as "operational creditor", and the dues w.r.t. lease cannot be treated as "operational debt", the counsel of the corporate debtor contended that providing of lease facility by the lessor cannot be regarded as a provision for "services", and in this regard, relied on the following:

- (i) The provisions of Schedule II of the Central Goods and Services Tax Act, 2017 lists down activities which are to be treated as supply of goods or services. It provides-
 - "(a) any lease, tenancy, easement, licence to occupy land is a supply of services;
 - (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services."
- (ii) As per [Section 14\(2\)](#) of the IBC, essential goods and services of corporate debtor can't be terminated or suspended during the moratorium and Regulation 32 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 stipulates what constitutes "essential goods and services"- electricity, water, telecommunication services, and information technology services.

Relying on the aforesaid, the NCLAT observed "any debt arising without nexus to

the direct input to the output produced or supplied by the corporate debtor, cannot, in the context of Code, be considered as an operational debt, even though it is a claim amounting to debt”.

Without delving into the aspect that an immovable property can be considered as stock-in-trade, hence, bearing a direct nexus to input and output, or that providing of a premise for conducting business has a direct nexus with the output produced, since it aids in supply of the corporate debtor, the Bench held that lease of an immovable property cannot be considered as a supply of goods or rendering of services, and the lessor will not be considered to be an operational creditor, since there is no nexus between the input (services provided by the lessor) and output (goods produced by the corporate debtor).

Analysis


The IBC does not define the terms “goods” or “services”, but the relevance of definition contained under GST Act has to be considered, before applying it to IBC. In general parlance, there may be a case where X is regarded as a “service”, but this does not necessarily imply that the same is subject to tax. The GST Act lists down all services which are taxable, and the definition contained therein might not be much relevant for determining whether X is a service as per IBC or not.

Therefore, to determine whether X should be considered as a service in the context of IBC, the intent of the lawmakers may be regarded.

Discussing the different types of creditors, the Bankruptcy Law Reform Committee has in its report stated that “enterprises have financial creditors by way of loan and debt contracts as well as **operational creditors** such as employees, **rental obligations**, utilities payments and trade credit.” While discussing that “operational creditors are those whose liability from the entity comes from a transactions on operations”, the BLRC Report gives illustrations as to who may be regarded as an operational creditor, and specifically mentions “**the lessor that the entity rents out space from is an operational creditor to whom the entity owes monthly rent on a three-year lease**”.


While one may argue that it is essential to restrict the term “operational creditor” to safeguard the interests of the corporate debtor, so that the insolvency process is not misused as a ransom, and that no person exercises unwarranted pressure on the corporate debtor, to seek recovery. However, it is also relevant to understand that if the corporate debtor is carrying out its operations in a premises leased by the lessor, there is a clear and direct nexus of the leased premises with the operations of the corporate debtor, and a narrow interpretation may be averse to such lessor.

...




www.taxmann.com

An Authentic Research Platform



- ▶ Income-tax
- ▶ Goods & Services Tax
- ▶ Company & SEBI Laws
- ▶ Competition Laws
- ▶ FEMA Banking & Insurance
- ▶ Insolvency & Bankruptcy
- ▶ Transfer Pricing
- ▶ International Taxation
- ▶ Accounts & Audit
- ▶ Indian Acts & Rules

Releasing Shortly

Version 3.0

LATEST

Fastest reporting of the latest happenings with impact analysis

RESEARCH

Largest and most accurate research platform

PRACTICE

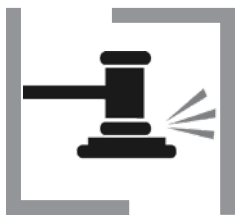
A tool that has the answer to all your Practical Queries

BARE ACTS

Always amended and most extensive database of Acts and Rules

CLICK & GET 7 DAYS FREE TRIAL





INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Arun Kumar Gupta, In re

DR. NAVRANG SAINI, MEMBER

NO. IBBI/DC/19/2020

MARCH 13, 2020

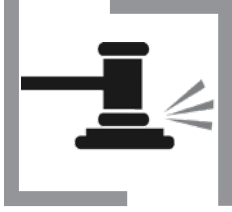
Section 208, read with sections 18, 23 and 25 of the Insolvency And Bankruptcy Code, 2016, read with Regulations 11 and 13 of the IBBI (Inspection and Investigation) Regulations, 2017 - Insolvency professionals - Functions and obligations of - Whether where initially RP did not face any resistance from director/ employees of Corporate Debtor and when resistance came first from director of Corporate Debtor, he employed more security guards at factory premises to protect factory and reported to NCLT and thereafter regularly visited factory and reviewed working of Corporate Debtor, its assets and security arrangements, in absence of any time limit within which control and custody must be taken of assets of Corporate Debtor by the IRP/ RP, RP cannot be held liable - Held, yes - Whether moreover, Code is also silent on the issue that actual physical control of assets must be taken or symbolic control is

also considered as sufficient and in such a situation, it could not be said that RP had acted in contravention of Code - Held, yes - Whether where in CoC meeting, RP sought approval of CoC for appointment of forensic auditor, he had compromised his independence in favour of CoC - Held, yes - Whether in the absence of any timeline for appointment of forensic auditor under Code, RP could not be held liable for making delay in appointment of forensic auditor being appointed a month after receiving reports of Auditors showing huge difference in inventory of Corporate Debtor - Held, yes (Para 3.2 and 3.3)

Arun Kumar Gupta, Joy Saha, Sr. Adv., **Arik Banerjee**, Adv. and **S.M. Gupta**, FCA for the Appellant. **Umesh Kumar Sharma**, Chief General Manager and **Ms. Rashmi Gupta**, Research Associate for the Respondent.

For Full Text of the Judgment see
[2020] 117 taxmann.com 173 (IBBI)

[Click & Get](#)
[7 days Free Trial](#)



SUPREME COURT OF INDIA

Cognizance For Extension of Limitation, *In re*

SANJAY KUMAR, CJ. L. NAGESWARA RAO AND SURYA KANT, JJ.

SUO MOTU WRIT PETITION (CIVIL) NO(S). 3 OF 2020

MARCH 23, 2020

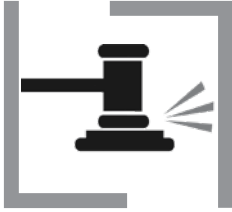
Section 5 of the Limitation Act, 1963, read with articles 141 and 142 of the Constitution of India - Extension of prescribed period in certain cases - Whether to obviate difficulties faced by litigants on account of COVID-19 in filing petitions/suits/applications/appeals/ all other proceedings within period of limitation prescribed under general law of limitation or under special laws, it is ordered that period of limitation in all such proceedings irrespective of period prescribed under general law or special

law shall stand extended with effect from 15-3-2020 till further orders passed by Court - Held, yes - Whether such order is passed by Supreme Court in exercise of powers conferred under [article 142](#) and is binding on all Courts/Tribunal and authorities - Held, yes (Paras 2 and 3)

Tushar Mehta, SG, Ms. Swati Ghildiyal, Ankur Talwar, G.S. Makkar, Raj Bahadur, Advs., B.V. Balaram Das, AOR and Dushyant Dave, Adv. for the Appearing Parties.

For Full Text of the Judgment see
[\[2020\] 117 taxmann.com 66 \(SC\)](#)

[Click & Get](#)
[7 days Free Trial](#)



NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Suo Moto, In re

BANSI LAL BHAT, ACTING CHAIRPERSON
ANANT BIJAY SINGH, JUDICIAL MEMBER
AND DR. ASHOK KUMAR MISHRA, TECHNICAL MEMBER
COMPANY APPEAL (AT) (INSOLVENCY) NO. 01 OF 2020
MARCH 30, 2020

Section 12 of the Insolvency and Bankruptcy Code, 2016 - Corporate insolvency resolution process - Time-limit for completion of - Whether period of lockdown ordered by Central Government and State Governments including period as may be extended either in whole or part of country, where registered office of corporate debtor may be located, shall be excluded for purpose of counting of period for 'Resolution Process' under

section 12 in all cases where 'Corporate Insolvency Resolution Process' has been initiated and pending before any bench of National Company Law Tribunal or in appeal before Appellate Tribunal - Held, yes - Whether further, any interim order/stay order passed by Appellate Tribunal in anyone or other appeal under Insolvency and Bankruptcy Code, 2016 shall continue till next date of hearing - Held, yes (Para 1)

For Full Text of the Judgment see

[2020] 117 taxmann.com 180 (NCLAT- New Delhi)

**[Click & Get](#)
7 days Free Trial**



INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

Tarun Jaggi, In re

DR. NAVRANG SAINI, MEMBER

NO. IBBI/DC/20/2020

MARCH 20, 2020

Section 208, read with sections 18, 23 and 25 of the Insolvency And Bankruptcy Code, 2016, read with Regulations 11 and 14 of the IBBI (Voluntary Liquidation Process) Regulation, 2017 - Insolvency professionals - Functions and obligations of - Whether where Liquidator failed to publish the public announcement in newspapers within prescribed time of five days from his appointment, regulation 14(1) was violated - Held, yes - Whether where Liquidator continued with same

auditors for auditing financial information of company under voluntary liquidation who were also statutory auditors prior to commencement of voluntary liquidation, same was in contravention of Regulation 11(2) - Held, yes - Whether monetary penalty was to be imposed for non-compliance of law - Held, yes (Paras 4.3 and 5.2)

Om Prakash and **Ms. Rashi Gupta** for the Appellant.

For Full Text of the Judgment see
[2020] 117 taxmann.com 181 (IBBI)

[Click & Get](#)
[7 days Free Trial](#)





Practical Questions

Q. 1 Can the pendency of an action either under the SARFAESI Act or under the RDB&FI Act by the FC be a ground for rejection or dismissal of an CIRP application [u/s 7](#), IBC?

Ans. No, such pendency of action(s) does not create any bar on initiation of [section 7](#) proceedings by an FC

(NCLAT decision dt. 20th February 2020 passed in the matter of [Rakesh Kumar Gupta v. Mahesh Bansal, \(2020\) 117 taxmann.com 300](#))

Q. 2 Can the term “person” defined in [section 3\(23\)](#), IBC be said to include a trade union of a CD?

Ans. Yes, a “Trade Union” comes within the meaning of “person” [u/s 3\(23\)](#) since a Trade Union represents its members who are workers in the CD.

(SC decision dt. 30th April 2019 passed in the matter of [JK Jute Mill Mazdoor Morcha v. Juggial Kamlapat Jute Mills Company Ltd., \(2019\) 105 taxmann.com 1 /154 SCL 1](#))

Q. 3 Can the pendency of proceedings initiated under either SARFAESI Act or RDDB & FI Act be a ground for extension of limitation period for a CIRP application?

Ans. No, as per [section 238](#), IBC, it is a complete code and has an overriding effect of other laws; hence, no extension of limitation can be granted on such grounds.

(NCLAT judgment dt. 5th March 2020 passed in the matter of [Bimal kumar Manubhai Savalia v. Bank of India, \(2020\) 117 taxmann.com 227](#))

Q. 4 Can the statutory prescribed period of 14 days for passing of order by AA [u/s 7](#), IBC be taken to be mandatory?

Ans. No, but, as held by Hon'ble NCLAT (In Surendra Trading Company), the order is required to be passed with utmost expedition.

(NCLAT judgment dt. 3rd March, 2020 passed in the matter of [Techno Electric & Engineering Co. Ltd. v. McLeod Russel India Ltd., \(2020\) 117 taxmann.com 258](#))

Q.5. Can the AA direct for re-bidding in a case wherein the CoC has approved the resolution plan (with an overwhelming voting share of 84.70%, in this case)?

Ans. No, the statutory provision does not permit the AA to interfere with the commercial wisdom of CoC.

(NCLAT judgment dt. 5th March 2020 passed in the matter of [Shrawan Kumar Agrawal v. Rituraj Steel Private Limited \(2020\) 117 taxmann.com 302](#))

Q.6. Can the terms "Financial Creditor" and Operational Creditor in [sections 7](#) and [9](#) respectively be held to include a decree holder to initiate CIRP under Part II, IBC?

Ans. No, while [section. 3\(10\)](#), IBC includes a Decree Holder within the definition of “Creditor”, [section 5\(7\)](#) does not include the same.

(NCLAT judgment dt. 5th March 2020 passed in the matter of [Digamber Bhondwe v. JM Financial Asset Reconstruction, \(2020\) 117 taxmann.com 188](#))

Q.7. In view of the true intent of IBC law, what is the true interpretation of the term “or” as appearing between “corporate debtor” and “the transferee” in [section 43\(3\)\(a\)](#), IBC?

Ans. The term “or” is to be read (and construed) as “and” to ensure the principal focus of the enquiry on dealings and affairs of CD is not distracted.

(SC judgment dt. 26th February 2020 passed in the matter of [Anuj Jain v. Axis Bank Ltd. \(2020\) 114 taxmann.com 656](#))

Q.8. Can a Financial Creditor file an application [u/s 7](#), IBC in respect of a company which is a guarantor to an individual or Sole proprietorship firm?

Ans. Yes.

(NCLAT judgment dt. 19th March 2020 passed in the matter of [Laxmi Pat Surana v. Union Bank of India \(2020\) 117 taxmann.com 192](#))

Q.9. Can an act of withdrawal of money by a Director of the CD (undergoing CIRP proceedings) be prima facie treated as criminal misappropriation and criminal breach of trust?

Ans. Yes

(NCLAT decision dt. 12th March 2020 passed in the matter of [Manoj K Daga v. ISGEC Heavy Engineering Ltd., \(2020\) 117 taxmann.com 249](#))

Q.10. Can any party insist upon the AA to pass an order for further valuation before approving the Resolution plan, especially when the AA is satisfied as regards the Resolution plan approved by the CoC?

Ans. No, no party has such a right to insist on such orders to be passed by the AA.

(NCLAT decision dt. 13th March 2020 passed in the matter of [Asset Reconstruction Company \(India\) Ltd. v. Corporation Ltd. \(2020\) 117 taxmann.com 186](#)).



Learning Curves

- An action under [section 43](#) of the IBC can lie only when the Liquidator or RP arrive at an opinion that an 'undue preference' was given to a particular Creditor/Guarantor/Surety when the CD entered into transaction with any individual

[K L Jute Products \(P\) Ltd. v. Tirupati Jute Industries Ltd., \(2020\) 114 taxmann.com 623](#), NCLAT decision dt. 20th February, 2020

- The Financial Creditor can proceed simultaneously under SARFAESI Act, 2002 as well as under the IBC, 2016

[Punjab National Bank v. Vindhya Cereals \(P.\) Ltd., \(2020\) 117 taxmann.com 254](#), NCLAT decision dt. 26th February, 2020

- The provisions investing jurisdiction and authority in the NCLT have not made the commercial decision exercised by the CoC of not approving the resolution plan or rejecting the same, justiciable

[Shrawan Kumar Agrawal Consortium v. Rituraj Steel \(P.\) Ltd. \(2020\) 117 taxmann.com 302](#), NCLAT decision dt. 5th March 2020.

- In cases where a CD (within 10 days of receipt of Demand Notice) has not sent a reply to the OC, an affidavit to that effect can be submitted in terms of [section 9\(3\)\(b\)](#), IBC

[Sangeeta Goel v. Roidec India Chemicals \(P.\) Ltd., \(2020\) 117 taxmann.com 177](#), NCLAT decision dt. 17th March 2020.)

- The period of lockdown ordered by the CG and the SG including the period as may be extended either in whole or part of the country, where the registered office of the CD may be located, shall be excluded for the purpose of counting of period for Resolution Process u/s 12, IBC in all cases where CIRP has been initiated and pending before the NCLT or in Appeal before the NCLAT

[Suo Moto, In re \(2020\) 117 taxmann.com 180](#), decision dt. 30th March 2020)



INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020 - AMENDMENT IN SECTIONS 5, 7, 11, 14, 16, 21, 23, 29A, 227, 239, AND 240; INSERTION OF SECTION 32A

NO. 1 OF 2020, DATED 13-3-2020

Short title and commencement

1 (1) This Act may be called the Insolvency and Bankruptcy Code (Amendment) Act, 2020.

(2) It shall be deemed to have come in force on the 28th day of December, 2019.

Amendment of [section 5](#)

2 In section 5 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) (hereafter referred to as the principal Act),—

- (i) in clause (12), the proviso shall be omitted;
- (ii) in clause (15), after the words “during the insolvency resolution process period” occurring at the end, the words “and such other debt as may be notified” shall be inserted.

Amendment of [section 7](#)

3. In section 7 of the principal Act, in sub-section (1), before the Explanation, the following provisos shall be inserted, namely:—

“**Provided** that for the financial creditors, referred to in clauses (a)

and (b) of sub-section (6A) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted

by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.”.

Amendment of [section 11](#)

4. In section 11 of the principal Act, the *Explanation* shall be numbered as *Explanation I* and after *Explanation I* as so numbered, the following *Explanation* shall be inserted, namely:—

“*Explanation II.*—For the purposes of this section, it is hereby clarified that nothing in this section shall prevent a corporate debtor referred to in clauses (a) to (d) from initiating corporate insolvency resolution process against another corporate debtor.”.

Amendment of [section 14](#)

5. In section 14 of the principal Act,—

(a) in sub-section (1), the following *Explanation* shall be inserted, namely:—

“*Explanation.*—For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central

Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;”; (b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.”; (c) in sub-section (3), for clause (a), the following clause shall be substituted, namely:— “(a) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;”.

Amendment of [section 16](#)

6. In section 16 of the principal Act, in sub-section (1), for the words “within fourteen days from the insolvency commencement date”, the words “on the insolvency commencement date” shall be substituted

Amendment of [section 21](#)

7. In section 21 of the principal Act, in sub-section (2), in the second proviso, after the words “convertible into equity shares”, the words “or completion of such transactions as may be prescribed,” shall be inserted.

Amendment of [section 23](#)

8. In section 23 of the principal Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:

“**Provided** that the resolution professional shall continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period, until an order approving the resolution plan under sub-section (1) of section 31 or appointing a liquidator under section 34 is passed by the Adjudicating Authority.”.

Amendment of [section 29A](#)

9. In section 29A of the principal Act,—

- (i) in clause (c), in the second proviso, in *Explanation I*, after the words, “convertible into equity shares”, the words “or completion of such transactions as may be prescribed,” shall be inserted;
- (ii) in clause (j), in *Explanation I*, in the second proviso, after the words

“convertible into equity shares”, the words “or completion of such transactions as may be prescribed,” shall be inserted.

Insertion of new [section 32A](#)

10. After section 32 of the principal Act, the following section shall be inserted, namely:—

“32A. *Liability for prior offences, etc.*

- (1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority under section 31, if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not—
 - (a) a promoter or in the management or control of the corporate debtor or a related party of such a person; or
 - (b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence,

and has submitted or filed a report or a complaint to the relevant statutory authority or Court:

Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having been fulfilled:

Provided further that every person who was a “designated partner” as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008(6 of 2009.), or an “officer who is in default”, as defined in clause (60) of section 2 of the Companies Act, 2013(18 of 2013), or was in any manner incharge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor’s liability has ceased under this sub-section.

- (2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor,

where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not—

- (i) a promoter or in the management or control of the corporate debtor or a related party of such a person; or
- (ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

Explanation.—For the purposes of this sub-section, it is hereby clarified that,—

- (i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;
- (ii) nothing in this sub-section shall be construed to bar an action against the property

of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.

- (3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any person who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process.”.

Amendment of [section 227](#)

11. In section 227 of the principal Act,—

- (i) for the words “examined in this Code”, the words “contained in this Code” shall be substituted;
- (ii) the following Explanation shall be inserted, namely:—

“*Explanation.*—For the removal of doubts, it is hereby clarified that the insolvency and liquidation proceedings for financial service providers or categories of financial service providers may be conducted

with such modifications and in such manner as may be prescribed.”.

Amendment of [section 239](#)

12. In section 239 of the principal Act, in sub-section (2), after clause (f), the following clauses shall be inserted, namely:—

- “(fa) the transactions under the second proviso to sub-section (2) of section 21;
- (fb) the transactions under Explanation I to clause (c) of section 29A;
- (fc) the transactions under the second proviso to clause (j) of section 29A;”.

Amendment of [section 240](#)

13. In section 240 of the principal Act, in sub-section (2), after clause (i), the following clause shall be inserted, namely:—

“(ia) circumstances in which supply of critical goods or services may be terminated, suspended or interrupted during the period of moratorium under sub-section (2A) of section 14;”.

Repeal and savings

14. (1) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019(Ord. 16 of 2019) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016 (31 of 2016), as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act.



JAMMU AND KASHMIR REORGANISATION (ADAPTATION OF CENTRAL LAWS) ORDER, 2020.

NOTIFICATION NO. S.O 1123(E) (F.NO. 11014/05/2014-K.I),
DATED 18-3-2020

NO. 1 OF 2020, DATED 13-3-2020

In exercise of the powers conferred by [section 96](#) of the Jammu and Kashmir Reorganization Act, 2019 (34 of 2019), and of all other powers enabling it in that behalf, the Central Government hereby makes the following Order in respect of the Union territory of Jammu and Kashmir, namely: -

1. (1) This Order may be called the Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Order, 2020.

(2) It shall come into force with immediate effect.
2. The General Clauses Act, 1897 applies for the interpretation of this Order as it applies for interpretation of laws in force in the territory of India.
3. With immediate effect, the Acts mentioned in the Schedule to this Order shall, until repealed or amended by a competent Legislature or other competent authority, have effect, subject to the adaptations and modifications directed by the Schedule to this Order, or if it is so directed, shall stand repealed.
4. Where this Order requires that in any specified section or other portion of an Act, certain words shall be substituted for certain other words, or the certain words shall be omitted, such substitution or omission, as the case may be, shall, except where it is otherwise expressly provided, be made wherever the words referred to occur in that section or portion.
5. The provisions of this Order which adapt or modify any law so as to alter the manner in which, the authority by which or the law under or in accordance with which, any powers are exercisable, shall not render invalid any notification, order, commitment, attachment, bye-law, rule or regulation duly made or issued, or anything duly done before the 31st day of October, 2019; and any such notification, order, commitment, attachment, bye-law, rule, regulation or anything may be revoked, varied or undone in the like manner, to the like extent and in the like circumstances as if it had been made, issued or done after the commencement of this Order by the competent authority and in

accordance with the provisions then applicable to such case.

6. (1) The repeal or amendment of any law specified in the Schedule to this Order shall not affect—

(a) the previous operation of any law so repealed or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under any law so repealed;

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against any law so repealed; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if the Jammu and Kashmir Reorganisation Act, 2019 or this Order had not come into force.

(2) Subject to the provisions of subparagraph (1), anything done or any action taken (including any appointment or delegation made, notification, instruction or

direction issued, form, bye-law or scheme framed, certificate obtained, permit or licence granted or registration effected or agreement executed) under any such law shall be deemed to have been done or taken under the corresponding provisions of the Central Laws now extended and applicable to the Union territory of Jammu and Kashmir and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under the Central Laws now extended to the Union territory of Jammu and Kashmir.

THE SCHEDULE

(See Paragraph 3)

CENTRAL LAWS

1. THE ADVOCATES ACT, 1961 (25 of 1961)

Section 2

In sub-section (2), omit “in the State of Jammu and Kashmir or”, “that State of”.

Omit Section 58AF

2. THE ALL INDIA SERVICES ACT, 1951 (61 of 1951)

Section 3

In sub-section (1), omit “including the State of Jammu and Kashmir”.

3. THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS ACT, 1958 (24 of 1958)

Omit Section 2A.**4. THE ARBITRATION AND CONCILIATION ACT, 1996 (26 of 1996)****Section 1**

In sub-section (1), omit the proviso and Explanation.

Insertion of section 8A and section 8B.

2. After section 8, insert the following sections, namely:–

“8A. Power of the court, seized of petitions under section 9 or 11 of the Act, to refer the dispute to Mediation or Conciliation.– (1) If during the pendency of petitions under section 9 or 11 of the Act, it appears to the court, that there exists elements of a settlement which may be acceptable to the parties, the court may, with the consent of parties, refer the parties, for resolution of their disputes, to,–

- (a) mediation; or
- (b) conciliation.

- (2) The procedure for reference of a dispute to mediation is as under–

- (a) where a dispute has been referred for resolution by recourse to mediation, the procedure framed under that Act shall apply;
- (b) in case of a successful resolution of the dispute, the Mediator shall immediately forward the mediated settlement to the referral court;

- (c) on receipt of the mediated settlement, the referral court shall independently apply its judicial mind and record a satisfaction that the mediated settlement is genuine, lawful, voluntary, entered into without coercion, undue influence, fraud or misrepresentation and that there is no other legal impediment in accepting the same;
- (d) the court shall record a statement on oath of the parties, or their authorised representatives, affirming the mediated settlement as well as a clear undertaking of the parties to abide by the terms of the settlement;
- (e) if satisfied, the court shall pass an order in terms of the settlement;
- (f) if the main petition, in which the reference was made is pending, it shall be disposed of by the referral court in terms thereof;
- (g) if the main petition, in which the reference was made stands disposed of, the mediated settlement and the matter shall be listed before the referral court, which shall pass orders in accordance with clauses (iii), (iv) and (v);
- (h) such a mediated settlement, shall have the same status and effect as an arbitral award and

may be enforced in the manner specified under section 36 of the Act.

- (3) With respect to reference of a dispute to conciliation, the provisions of Part II of this Act shall apply as if the conciliation proceedings were initiated by the parties under the relevant provision of this Act.

8B. *Power of the court, seized of matters under section 34 or 37 of the Act, to refer the dispute to Mediation or Conciliation*

– (1) If during the pendency of a petition under section 34 or an appeal under section 37 of the Act, it appears to the court, that there exists elements of a settlement which may be acceptable to the parties, the court may, with the consent of parties, refer the parties, for resolution of their disputes, to:–

- (a) mediation; or
- (b) conciliation.

- (2) The procedure for reference of a dispute to mediation is as under:–

- (a) where a dispute has been referred for resolution by recourse to mediation, the procedure framed under the Act shall apply;
- (b) in case of a successful resolution of the dispute, the Mediator shall immediately forward the mediated settlement to the referral court;
- (c) on receipt of the mediated settlement, the referral court shall independently apply its judicial

mind and record a satisfaction that the mediated settlement is genuine, lawful, voluntary, entered into without coercion, undue influence, fraud or misrepresentation and that there is no other legal impediment in accepting the same;

- (d) the court shall record a statement on oath of the parties, or their authorized representatives, affirming the mediated settlement, a clear undertaking of the parties to abide by the terms of the settlement as well as statement to the above effect;
 - (e) if satisfied, the court shall pass an order in terms of the settlement;
 - (f) if the main petition, in which the reference was made is pending, it shall be disposed of by the referral court in terms thereof;
 - (g) if the main petition, in which the reference was made stands disposed of, the mediated settlement and the matter shall be listed before the referral court, which shall pass orders in accordance with clauses (iii), (iv) and (v);
 - (h) such a mediated settlement, shall have the status of a modified arbitral award and may be enforced in the manner specified under section 36 of the Act.
- (3) With respect to reference of a dispute to conciliation, the provisions of Part

III of the Act, shall apply as if the conciliation proceedings were initiated by the parties under the relevant provision of this Act."

Amendment of [section 29A](#)

3. (a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.

Explanation — For the purposes of this sub-section, an arbitral tribunal shall be deemed to have entered upon the reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing, of their appointment."

- (b) in sub-section (4), omit second and third provisos.

Amendment of [section 34](#)

4. (i) after sub-section (2), insert the following sub-section, namely:—

"(2A) An arbitral award may also be set aside by the Court, if the Court finds that the award is vitiated by patent illegality appearing on the face of the award:

Provided that an award shall not be set aside merely on the ground of an erroneous application of the law or by re-appreciation of evidence."

- (ii) in sub-section (3),—

- (i) for "three months" substitute, "six months";

- (ii) in proviso thereto, for, "three months" and "thirty days" substitute respectively "six months" and "sixty days".

5. THE CENSUS ACT, 1948 (37 of 1948)

Omit [Section 2A](#)

6. THE CENTRAL GOODS AND SERVICES TAX ACT, 2017 (12 of 2017)

[Section 2](#)

- (i) in clause (114), in sub-clause (e), omit "and" and after sub-clause (e), insert the following sub-clause, namely:—

"(ea) Ladakh; and"; and

- (ii) omit clause (121).

7. THE CINEMATOGRAPH ACT, 1952 (37 of 1952)

Omit [Section 2A](#)

8. THE CODE OF CIVIL PROCEDURE, 1908 (5 of 1908)

[Section 35](#)

1. In section 35, in sub-section (1), omit "Commercial".

[Section 35A](#)

2. In section 35A, omit sub-section (2).

Amendment of [First Schedule](#)

3. In the First Schedule to the Code,—
(A) In Order V, in Rule 1, in sub-rule (1), for the second proviso,

substitute the following proviso, namely:

“Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record.”;

- (B) In Order VII, after Rule 2, insert the following Rule, namely:—

“2A. Where interest is sought in the suit,—

- (1) Where the plaintiff seeks interests, the plaint shall contain a statement to that effect along with the details set out under sub-rules (2) and (3).
- (2) Where the plaintiff seeks interest, the plaint shall state whether the plaintiff is seeking interest in relation to a commercial transaction within the meaning of

section 34 of the Code of Civil Procedure, 1908 and, furthermore, if the plaintiff is doing so under the terms of a contract or under an Act, in which case the Act is to be specified in the plaint; or on some other basis and shall state the basis of that.

- (3) Pleadings shall also state—

- (a) *the rate at which interest is claimed;*
- (b) *the date from which it is claimed;*
- (c) *the date to which it is calculated;*
- (d) *the total amount of interest claimed to the date calculation; and*
- (e) *the daily rate at which interest accrues after the date.”;*

- (C) In Order VIII,—

- (i) in Rule 1, for the proviso thereto, substitute the following proviso, namely:

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on

such other day, as may be specified by the court, for reasons to be recorded in writing and on payment of such costs as the court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the court shall not allow the written statement to be taken on record.”;

- (ii) after Rule 3, insert the following Rule, namely,–

“3A. *Denial by the defendant in suits.*–

- (1) *Denial shall be in the manner provided in sub-rules (2), (3), (4) and (5) of this rule.*

- (2) *The defendant in his written statement shall state which of the allegations in the particulars of plaint he denies, which allegations he is unable to admit or deny, but which he requires the plaintiff to prove, and which allegations he admits.*

- (3) *Where the defendant denies an allegation of fact in a plaint, he must state his reasons for doing so and if he intends to put forward a different version of events from that given by the plaintiff, he must state his own version.*

- (4) *If the defendant disputes the jurisdiction of the court he must state the reasons for doing so, and if he is able, give his own statement as to which court ought to have jurisdiction.*

- (5) *If the defendant disputes the plaintiff valuation of the suit, he must state his reasons for doing so, and if he is able, give his own statement of the value of the suit.”;*

- (iii) in Rule 5, in sub-rule (1) after first proviso thereto, insert the following proviso, namely:

“**Provided further**, that every allegation of fact in the plaint, if not denied in the manner provided under Rule 3A of this order, shall be taken to be admitted except as against a person under disability.”;

(iv) in Rule 10, insert the following proviso, namely–

“**Provided** that no court shall make an order to extend the time provided under Rule 1 of this order for filing of the written statement.”;

(D) For Order XI of the Code, substitute the following Order, namely.–

“ORDER XI

DISCLOSURE, DISCOVERY AND INSPECTION OF DOCUMENTS

Disclosure and discovery of documents

1. (1) Plaintiff shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the plaint, including:–

(a) documents referred and relied on by the plaintiff in the plaint;

(b) documents relating to any matter in question in the proceedings, in the power, possession, control or custody of the plaintiff, as on the date of filing the plaint, irrespective of whether the same is in support of or adverse to the plaintiffs case; and

(c) nothing in this rule shall apply to documents produced by plaintiffs and relevant only–

(i) for the cross-examination of the defendant’s witnesses, or

(ii) in answer to any case setup by the defendant subsequent to the filing of the plaint, or

(iii) handed over to a witness merely to refresh his memory.

(2) The list of documents filed with the plaint shall specify whether the documents in the power, possession, control or custody of the plaintiff are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document, mode or execution, issuance or receipt and line of custody of each document.

(3) The plaint shall contain a declaration on oath from the plaintiff that all documents in the power, possession, control, or custody of the plaintiff, pertaining to the facts and circumstances of the proceedings initiated by him have been disclosed and copies thereof annexed with the plaint, and that the plaintiff does not have any other documents in its power, possession, control or custody

Explanation— A declaration on oath under this sub-rule shall be contained in the Statement of Truth as set out in the Appendix I.

(4) In case of urgent filings, the plaintiff may seek leave to rely on additional documents, as part of the above declaration on oath and subject to grant of such leave by court, the plaintiff shall file such additional documents in court, within thirty days of filing the suit, along with

a declaration on oath that the plaintiff has produced all documents in its power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by the plaintiff and that the plaintiff does not have any other documents, in its power, possession, control or custody.

- (5) The plaintiff shall not be allowed to rely on documents, which were in the plaintiff's power, possession, control or custody and not disclosed along with plaint or within the extended period set out above, save and except by leave of court and such leave shall be granted only upon the plaintiff establishing reasonable cause for non-disclosure along with the plaint.
- (6) The plaint shall set out details of documents, which the plaintiff believes to be in the power, possession, control or custody of the defendant and which the plaintiff wishes to rely upon and seek leave for production thereof by the said defendant.
- (7) The defendant shall file a list of all documents and photocopies of all documents, in its power, possession, control or custody, pertaining to the suit, along with the written statement or with its counter-claim if any, including—
 - (a) the documents referred to and relied on by the defendant in the written statement;
 - (b) the documents relating to any matter in question in the

proceeding in the power, possession, control or custody of the defendant, irrespective of whether the same is in support of or adverse to the defendant's defense;

- (c) nothing in this rule shall apply to documents produced by the defendants and relevant only—
 - (i) for the cross-examination of the plaintiff's witnesses;
 - (ii) in answer to any case setup by the plaintiff subsequent to the filing of the plaint; or
 - (iii) handed over to a witness merely to refresh his memory.
- (8) The list of documents filed with the written statement or counter-claim shall specify whether the documents, in the power, possession, control or custody of the defendant, are originals, office copies or photocopies and the list shall also set out in brief, details of parties to each document being produced by the defendant, mode of execution, issuance or receipt and line of custody of each document.
- (9) the written statement or counter-claim shall contain a declaration on oath made by the deponent that all documents in the power, possession, control or custody of the defendant, save and except for those set out in sub-rule (7) (c) (iii), pertaining to the facts and circumstances of the proceedings

initiated by the plaintiff or in the counter-claim, have been disclosed and copies thereof annexed with the written statement or counter-claim and that the defendant does not have in its power, possession, control or custody, any other documents.

- (10) Save and except for sub-rule (7) (c) (iii), defendant shall not be allowed to rely on documents, which were in the defendant's power, possession, control or custody and not disclosed along with the written statement or counter-claim, save and except by leave of court and such leave shall be granted only upon the defendant establishing reasonable cause for non-disclosure along with the written statement or counter-claim.
- (11) The written statement or counter-claim shall set out details of documents in the power, possession, control or custody of the plaintiff, which the defendant wishes to rely upon and which have not been disclosed with the plaint, and call upon the plaintiff to produce the same.
- (12) Duty to disclose documents, which have come to the notice of a party, shall continue till disposal of the suit.

Discovery by interrogatories

2. (1) In any suit the plaintiff or defendant by leave of the court may deliver interrogatories in writing for the examination of the opposite parties or anyone or more of such parties, and such interrogatories when delivered shall have a note at the foot thereof

stating which of such interrogatories each of such persons is required to answer:

Provided that no party shall deliver more than one set of interrogatories to the same party without an order for that purpose:

Provided further that interrogatories which do not relate to any matters in question in the suit shall be deemed irrelevant, notwithstanding that they might be admissible on the oral cross-examination of a witness.

- (2) On an application for leave to deliver interrogatories, the particular interrogatories proposed to be delivered shall be submitted to the court, and that court shall decide within seven days from the day of filing of the said application, in deciding upon such application, the court shall take into account any offer, which may be made by the party sought to be interrogated to deliver particulars, or to make admissions, or to produce documents relating to the matters in question, or any of them, and leave shall be given as to such only of the interrogatories submitted as the court shall consider necessary either for disposing fairly of the suit or for saving costs.
- (3) In adjusting the costs of the suit inquiry shall at the instance of any party be made into the propriety of exhibiting such interrogatories, and if it is the opinion of the taxing officer or of the court, either with or without an application for inquiry, that such interrogatories have been exhibited

- unreasonably, vexatiously, or at improper length, the costs occasioned by the said interrogatories and the answers thereto shall be paid in any event by the party in fault.
- (4) Interrogatories shall be in the form provided in Form No. 2 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.
 - (5) Where any party to a suit is a corporation or a body of persons, whether incorporated or not, empowered by law to sue or be sued, whether in its own name or in the name of any officer or other person, any opposite party may apply for any order allowing him to deliver interrogatories to any member or officer of such corporation or body, and an order may be made accordingly.
 - (6) Any objection to answering any interrogatory on the ground that it is scandalous or irrelevant or not exhibited *bona fide* for the purpose of the suit, or that the matters required into are not sufficiently material at that stage, or on the ground of privilege or any other ground may be taken in the affidavit in answer.
 - (7) Any interrogatories may be set aside on the ground that they have been exhibited unreasonably or vexatiously, or struck out on the ground that they are prolix, oppressive, unnecessary or scandalous and any application for this purpose may be made within seven days after service of the interrogatories.
 - (8) Interrogatories shall be answered by affidavit to be filed within ten days, or within such other time as the court may allow.
 - (9) An affidavit in answer to interrogatories shall be in the Form provided in Form No. 3 in Appendix C to the Code of Civil Procedure, 1908, with such variations as circumstances may require.
 - (10) No exceptions shall be taken to any affidavit in answer, but the sufficiency or otherwise of any such affidavit objected to as insufficient shall be determined by the court.
 - (11) Where any person interrogated omits to answer, or answers insufficiently, the party interrogating may apply to the court for an order requiring him to answer, or to answer further, as the case may be, and an order may be made requiring him to answer, or to answer further, either affidavit or by viva voce examination, as the court may direct.

Inspection

3. (1) All parties shall complete inspection of all documents disclosed within thirty days of the date of filing of the written statement or written statement to the counter-claim, whichever is later, the court may extend this time limit upon application at its discretion, but not beyond thirty days in any event.
- (2) Any party to the proceedings may seek directions from the court, at any stage

of the proceedings, for inspection or production of documents by the other party, of which inspection has been refused by such party or documents have not been produced despite issuance of a notice to produce.

- (3) Order in such application shall be disposed of within thirty days of filing such application, including filing replies and rejoinders (if permitted by court) and hearing.
- (4) If the above application is allowed, inspection and copies thereof shall be furnished to the party seeking it, within five days of such order.
- (5) No party shall be permitted to rely on a document, which it had failed to disclose or of which inspection has not been given, save and except with leave of court.
- (6) The Court may impose exemplary costs against a defaulting party, who wilfully or negligently failed to disclose all documents pertaining to a suit or essential for a decision therein and which are in their power, possession, control or custody or where a court holds that inspection or copies of any documents had been wrongfully or unreasonably withheld or refused.

Admission and denial of documents

4. (1) Each party shall submit a statement of admissions or denials of all documents disclosed and of which inspection has been completed, within fifteen days of the completion of inspection or any later date as fixed by the court.

- (2) The statement of admissions and denials shall set out explicitly, whether such party was admitting or denying:

- (a) correctness of contents of a document;
- (b) existence of a document;
- (c) execution of a document;
- (d) issuance or receipt of a document;
- (e) custody of a document.

Explanation—A statement of admission or denial of the existence of a document made in accordance with clause (b) of sub-rule (2) shall include the admission or denial of the contents of a document.

- (3) Each party shall set out reasons for denying a document under any of the above grounds and bare and unsupported denials shall not be deemed to be denials of a document and proof of such documents may then be dispensed with at the direction of the court.
- (4) Any party may however submit bare denials for third party documents of which the party denying does not have any personal knowledge of, and to which the party denying is not a party to in any manner whatsoever.
- (5) An affidavit in support of the statement of admissions and denials shall be filed confirming the correctness of the contents of the statement.

- (6) In the event that the court holds that any party has unduly refused to admit a document under any of the above criteria, costs (including exemplary costs) for deciding on admissibility of a document may be imposed by the court on such party.
- (7) The court may pass orders with respect to admitted documents including for waiver of further proof thereon or rejection of any documents.

Production of documents

5. (1) Any party to a proceeding may seek or the court may order, at any time during the pendency of any suit, production by any party or person, of such documents in the possession or power of such party or person, relating to any matter in question in such suit.
- (2) Notice to produce such document shall be issued in the form provided in Form No. 7 in Appendix C to the Code of Civil Procedure, 1908 (5 of 1908).
- (3) Any party or person to whom such notice to produce is issued shall be given not less than seven days and not more than fifteen days to produce such document or to answer to their inability to produce such document.
- (4) The court may draw an adverse inference against a party refusing to produce such document after issuance of a notice to produce and where sufficient reasons for such

non-production are not given and order costs.

Electronic Records

6. (1) In case of disclosures and inspection of electronic records as defined in the Information Technology Act, 2000 (21 of 2000), furnishing of printouts shall be sufficient compliance of the above provisions.
- (2) At the discretion of the parties or where required (when parties wish to rely on audio or video content), copies of electronic records may be furnished in electronic form either in addition to or in lieu of printouts.
- (3) Where electronic records form part of documents disclosed, the declaration on oath to be filed by a party shall specify–
 - (a) the parties to such electronic record;
 - (b) the manner in which such electronic record was produced and by whom;
 - (c) the dates and time of preparation or storage or issuance or receipt of each such electronic record;
 - (d) the source of such electronic record and date and time when the electronic record was printed;
 - (e) in case of e-mail ids, details of ownership, custody and access to such e-mail ids;

- (f) in case of documents stored on a computer or computer resource (including on external servers or cloud), details of ownership, custody and access to such data on the computer or computer resource;
 - (g) deponent's knowledge of contents and correctness of contents;
 - (h) whether the computer or computer resource used for preparing or receiving or storing such document or data was functioning properly or in case of malfunction that such malfunction did not affect the contents of the document stored;
 - (i) that the printout or copy furnished was taken from the original computer or computer resource.
- (4) The parties relying on printouts or copy in electronic form, of any electronic records, shall not be required to give inspection of electronic records, provided a declaration is made by such party that each such copy, which has been produced, has been made from the original Electronic Records.
 - (5) The court may give directions for admissibility of electronic records at any stage of the proceedings.
 - (6) Any party may seek directions from the court and the court may of its motion issue directions for submission

of further proof of any electronic record including metadata or logs before admission of such electronic record."

- (E) Insertion of Order XV-A.— After Order XV of the Code, insert the following Order, namely,-

"ORDER XV-A

First Case Management Hearing

1. The court shall hold the first Case Management Hearing, not later than four week's from the date of filing of affidavit of admission or denial of documents by all parties to the suit.

Orders to be passed in a Case Management Hearing

2. In a Case Management Hearing, after hearing the parties, and once it finds that there are issues of fact and law which require to be tried, the court may pass an order—
 - (a) framing the issues between the parties in accordance with Order XIV of the Code of Civil Procedure, 1908 (5 of 1908) after examining pleadings, documents and documents produced before it, and on examination conducted by the court under Rule 2 of Order X, if required;
 - (b) listing witnesses to be examined by the parties;

- (c) fixing the date by which affidavit of evidence to be filed by parties;
- (d) fixing the date on which evidence of the witnesses of the parties to be recorded;
- (e) fixing the date by which written arguments are to be filed before the court by the parties;
- (f) fixing the date on which oral arguments are to be heard by the court; and
- (g) setting time limits for parties and their advocates to address oral arguments.

Time limit for the completion of a trial

3. In fixing dates or setting time limits for the purposes of Rule 2 of this order, the court shall ensure that the arguments are closed not later than six months from the date of the first Case Management Hearing.

Recording of oral evidence on a day-to-day basis

4. The court shall, as far as possible, ensure that the record of evidence shall be carried on, on a day-to-day basis until the cross examination of all the witnesses is complete.

Case Management hearings during trial

5. The court may, if necessary, also hold Case Management Hearings anytime during the trial to issue appropriate orders so as to ensure adherence by the parties to the dates fixed under

Rule 2 and facilitate speedy disposal of the suit.

Powers of the court in a Case Management Hearing

6. (1) In any Case Management Hearing held under this order, the court shall have the power to -
 - (a) prior to the framing of issues, hear and decide any pending application filed by the parties under Order XIII-A;
 - (b) direct parties to file compilations of documents or pleadings relevant and necessary for framing issues;
 - (c) extend or shorten the time for compliance with any practice, direction or court order if it finds sufficient reason to do so;
 - (d) adjourn or bring forward a hearing if it finds sufficient reason to do so;
 - (e) direct a party to attend the court for the purposes of examination under Rule 2 of Order X;
 - (f) consolidate proceedings;
 - (g) strike off the name of any witness or evidence that it deems irrelevant to the issues framed;
 - (h) direct a separate trial of any issue;
 - (i) decide the order in which issues are to be tried;
 - (j) exclude an issue from consideration;

- (k) dismiss or give judgment on a claim after a decision on a preliminary issue;
- (l) direct that evidence be recorded by a Commission where necessary in accordance with Order XXVI;
- (m) reject any affidavit of evidence filed by the parties for containing irrelevant, inadmissible or argumentative material;
- (n) strike off any parts of the affidavit of evidence filed by the parties containing irrelevant, inadmissible or argumentative material;
- (o) delegate the recording of evidence to such authority appointed by the court for this purpose;
- (p) pass any order relating to the monitoring of recording the evidence by a commission or any other authority;
- (q) order any party to file and exchange a costs budget;
- (r) issue directions or pass any order for the purpose of managing the case and furthering the overriding objective of ensuring the efficient disposal of the suit.

(2) When the court passes an order in exercise of its powers under this order, it may—

- (a) make it subject to conditions, including a condition to pay

a sum of money into court; and

- (b) specify the consequence of failure to comply with the order or a condition.

- (3) While fixing the date for a Case Management Hearing, the court may direct that the parties also be present for such Case Management Hearing, if it is of the view that there is a possibility of settlement between the parties.

Adjournment of Case Management Hearing

- 7. (1) The Court shall not adjourn the Case Management Hearing for the sole reason that the advocate appearing on behalf of a party is not present:

Provided that an adjournment of the hearing is sought in advance by moving an application, the court may adjourn the hearing to another date upon the payment of such costs as the court deems fit, by the party moving such application.

- (2) Notwithstanding anything contained in this rule, if the court is satisfied that there is a justified reason for the absence of the advocate, it may adjourn the hearing to another date upon such terms and conditions it deems fit.

Consequences of non-compliance with orders

- 8. Where any party fails to comply with the order of the court passed in

a Case Management Hearing, the court shall have the power to—

- (a) condone such non-compliance by payment of costs to the court;
- (b) foreclose the non-compliant party's right to file affidavits, conduct cross-examination of witnesses, file written submissions, address oral arguments or make further arguments in the trial, as the case may be; or
- (c) dismiss the plaint or allow the suit where such non-compliance is wilful, repeated and the imposition of costs is not adequate to ensure compliance".

(F) Amendment of Order XVIII.— In Order XVIII of the Code,—

- (I) in Rule 2, after sub-rule (3), insert the following sub-rules, namely:—

"(3A) A party shall, within four weeks prior to commencing the oral arguments, submit concisely and under distinct headings written arguments in support of his case to the court and such written arguments shall form part of the record.

(3B) The written arguments shall clearly indicate the provisions of the laws being cited in support of the arguments and the citations of judgments being relied upon by the party and include copies

of such judgments being relied upon by the party.

(3C) A copy of such written arguments shall be furnished simultaneously to the opposite party.

(3D) The court may, if it deems fit, after the conclusion of arguments, permit the parties to file revised written arguments within a period of not more than one week after the date of conclusion of arguments.

(3E) No adjournment shall be granted for the purpose of filing the written arguments unless the court, for reasons to be recorded in writing, considers it necessary to grant such adjournment.

(3F) It shall be open for the court to limit the time for oral submissions having regard to the nature and complexity of the matter".

- (II) In Rule 4, after sub-rule (1), insert the following sub-rules, namely:—

"(1A) The affidavits of evidence of all witnesses whose evidence is proposed to be led by a party shall be filed simultaneously by that party at the time directed in the first Case Management Hearing.

(1B) A party shall not lead additional evidence by the affidavit of any witness (including of a

witness who has already filed an affidavit) unless sufficient cause is made out in an application for that purpose and an order, giving reasons, permitting such additional affidavit is passed by the court.

(IC) A party shall however have the right to withdraw any of the affidavits so filed at any time prior to commencement of cross-examination of that witness, without any adverse inference being drawn based on such withdrawal:

Provided that any other party shall be entitled to tender as evidence and rely upon any admission made in such withdrawn affidavit”.

(G) Amendment to Order XIX.-In Order XIX of the Code, after Rule 3, insert the following new rules, namely -

“4. Court may control evidence.-(1) The court may, by directions regulate the evidence as to issues on which it requires evidence and the manner in which such evidence may be placed before the court.

(2) The court may, in its discretion and for reasons to be recorded in writing, exclude evidence that would otherwise be produced by the parties.

Redacting or rejecting evidence

5. A court may, in its discretion, for reasons to be recorded in writing-

- (i) redact or order the redaction of such portions of the affidavit of examination-in-chief as do not, in its view, constitute evidence; or
- (ii) return or reject an affidavit of examination-in-chief as not constituting admissible evidence.

Format and guidelines of affidavit of evidence

6. An affidavit must comply with the form and requirements set forth below:-

- (a) such affidavit should be confined to, and should follow the chronological sequence of, the dates and events that are relevant for proving any fact or any other matter dealt with;
- (b) where the court is of the view that an affidavit is a mere reproduction of the pleadings, or contains the legal grounds of any party's case, the court may, by order, strike out the affidavit or such parts of the affidavit, as it deems fit and proper;
- (c) each paragraph of an affidavit should, as far as possible, be confined to a distinct portion of the subject;
- (d) an affidavit shall state-
 - (i) which of the statements in it are made from the

deponent's own knowledge and which are matters of information or belief; and

(ii) the source for any matters of information or belief.

(e) an affidavit should—

(i) have the pages numbered consecutively as a separate document (or as one of several documents contained in a file);

(ii) be divided into numbered paragraphs;

(iii) have all numbers, including dates, expressed in figures; and

(iv) if any of the documents referred to in the body of the affidavit are annexed to the affidavit or any other pleadings, give the annexures and page numbers of such documents that are relied upon”.

4. Insertion of Appendix I

After Appendix H, insert the following Appendix, namely:—

“APPENDIX-I

STATEMENT OF TRUTH

(Under First Schedule, Order XI-Rule 1, sub-rule (3))

I the deponent do hereby solemnly affirm and declare as under:

1. I am the party in the above suit and competent to swear this affidavit.
2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.
3. I say that the statements made in paragraphs are true to my knowledge and statements made in paragraphs are based on information received which I believe to be correct and statements made in paragraphs are based on legal advice.
4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.
5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.
6. I say that the above mentioned pleading comprises of a total of pages, each of which has been duly signed by me.
7. I state that the Annexures hereto are true copies of the documents referred to an relied upon by me.
8. I say that I am aware that for any false statement or concealment, I shall be

liable for action taken against me under the law for the time being in force.

Place:

Date:

DEPONENT

VERIFICATION

I, do hereby declare that the statements made above are true to my knowledge. Verified at on this

DEPONENT

9. THE CODE OF CRIMINAL PROCEDURE, 1973 (2 of 1974)

Section 24

A. After sub-section (6), insert the following sub-section, namely:-

“(6A).- Notwithstanding anything contained in sub-section (1) and sub-section (6), the Government of the Union territory of Jammu and Kashmir may appoint a person who has been in practice as an Advocate for not less than seven years as Public Prosecutor or Additional Public Prosecutor for High Court and for the District Courts and it shall not be necessary to appoint Public Prosecutor or Additional Public Prosecutor for the High Court in consultation with High Court and Public Prosecutor or Additional Public Prosecutor for the District Court from amongst the person constituting the cadre of Prosecution for the State of Jammu and Kashmir.”

Section 25A

B. (i) for sub-sections (1) and (2), substitute—

(1) The Government of the Union territory of Jammu and Kashmir shall establish a Directorate of Prosecution consisting of a Director General of Prosecution and such other officers, as may be provided in rules to be framed by the said Government; and

(2) The Post of Director General of Prosecution and all other officers, constituting the prosecution cadre, shall be filled in accordance with the rules to be framed by the said Government.

(ii) in sub-section (3), substitute “Director of Prosecution” with “Director General of Prosecution”;

(iii) for sub-section (4), substitute—

“(4) subject to the control of the Director General of Prosecution, the Deputy Director shall be subordinate to and under the Control of a Joint Director”.

(iv) substitute sub-section (5),—

“Every Public Prosecutor, Additional Public Prosecutor and Special Public Prosecutor appointed by the Government of the Union territory of Jammu and Kashmir under sub-section (1), or the case may be under sub-section (8) of section 24

to conduct cases in the High Court shall be subordinate to the Advocate General.”;

(v) for sub-section (7), substitute—

“(7) The powers and functions of the Director General of Prosecution and other officers of the prosecution cadre shall be such as may be provided by the rules”.

Amendment of The First Schedule

C. In the First Schedule of the Code of Criminal Procedure, 1973 after the entries relating to section 354E, insert the following entries, namely,—

| 1 | 2 | 3 | 4 | 5 | 6 |
|------|------------|---|------------|--------------|-------------------------------|
| 354E | Sextortion | Imprisonment of not less than 3 years but which may extend to five years and with fine. | Cognizable | Non-bailable | Magistrate of the First Class |

10. THE COLLECTION OF STATISTICS ACT, 2008 (07 of 2009)

Section 1

In sub-section (2), the proviso thereto shall be omitted.

11. THE COMMISSIONS OF INQUIRY ACT, 1952 (60 of 1952)

Section 2

In clause (a), in sub-clause (i), omit the Proviso.

Omit [Section 2A](#)

12. THE COURT-FEES ACT, 1870 (7 of 1870)

Section 26

Section 26 shall be numbered as sub-section (1) thereof, and after sub-section (1) so renumbered, insert the following sub-section, namely:—

“(2) For the purposes of sub-section (1), and section 25, “stamp” means any mark, seal or endorsement by any agency or person duly authorised by the Appropriate Government, and includes an adhesive or impressed stamp, for the purposes of court fee chargeable under this Act.

Explanation:-. “Impressed stamp” includes impression by a franking machine or another machine, or a unique number generated by e-stamping or similar software, as the Appropriate Government may, by notification in the official Gazette, specify”.

13. THE DENTISTS ACT, 1948 (16 of 1948)

Omit [Section 2A](#)

Section 33

In sub-section (1), in third proviso thereto, omit clause (c).

14. THE FAMILY COURTS ACT, 1984 (66 of 1984)

Section 1

In sub-section (2), omit “except the State of Jammu and Kashmir”

Section 19

Omit sub-section (6)

15. THE GOVERNMENT SECURITIES ACT, 2006 (38 of 2006)Omit [Section 33](#)**16. THE HIGH COURT JUDGES (SALARIES AND CONDITIONS OF SERVICES) ACT, 1954 (28 of 1954)**Omit **Section 23C****17. THE HOMEOPATHY CENTRAL COUNCIL ACT, 1973 (59 of 1973)****Section 2**

Omit sub-section (2)

18. THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956 (104 of 1956)Omit [Section 2A](#).**19. THE INCOME-TAX ACT, 1961 (43 of 1961)**Omit [Section 269S](#).**20. THE INDIAN FOREST ACT, 1927 (16 of 1927)****[Section 2](#)**

(i) for clause (1), the following clauses shall be substituted, namely:—

“(1) “authorised officer” means an officer authorized under sub-section

(2) of section 52;

(1A) “cattle” include elephants, camels, buffaloes, horses, mares, geldings, ponies, colts, fillies, mules, asses, pigs, ram, ewes, sheep, lambs, goats and kids;

(1B) “forest based industry” means an industry or unit in which any forest produce is used as raw material or as a source of energy”;

(ii) for clause (4), the following clause shall be substituted, namely:—

(4) “forest-produce” includes—

(a) timber, charcoal, caoutchouc, catechu, wood-oil, resin, natural varnish, bark, lac, kuth, myrobalans, dioscorea, firewood, humus, rasaunt, morels (*Morchella* spp), *Aconitum* spp, *Podophyllum* spp, *Picrorhiza* spp, *Trillium* spp, *Nardostachys* spp, *Taxus* spp, *Valeriana* spp, *Rheum* spp, wild animals, skins, tusks, horns, bones and all other parts or produce of wild animals whether found in, or brought from, a forest or not; and

(b) the following when found in, or brought from, a forest, namely:—

(i) *trees and leaves, flowers and fruits, roots and all other parts or produce of trees not specified in clause (a);*

(ii) plants not being trees (including grass, bamboos, creepers, reeds and moss and

lichen), and all parts or produce of such plants;

(iii) silk, cocoons, honey and wax; and

(iv) peat, surface soil, rock, and minerals (including limestone, laterite, mineral oils, and all products of mines or quarries);”.

(iii) after clause (5), insert the following clause, namely:—

“(5A) “saw mill” means any plant and machinery with which and the premises (including the precincts thereof) in which or in any part of which sawing is carried on with the aid of electrical or mechanical power;”.

(iv) after clause (6), insert the following clause, namely:—

“(6A) “transporter” includes a person, a private agency, a Government Department, Corporation or any other agency engaged in transport of forest produce whether on his own or on behalf of any other person”;

(v) after clause (7), insert the following clause;

“(8) “wild animal” shall have the same meaning as assigned to it in the Wild Life (Protection) Act, 1972.”.

Section 20A

After section 20, insert the following section—

“20A. *Demarcated forests deemed to be reserved forests.*—

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, any forest which has been notified as a demarcated forest under the erstwhile Jammu and Kashmir Forest Act, 1987 (1930 A.D.), prior to the appointed day notified under the Jammu and Kashmir Reorganization Act, 2019, shall be deemed to be a reserved forest under this Act.
- (2) All questions decided, orders issued and records prepared in connection with the constitution of such forest as demarcated forests shall be deemed to have been decided, issued and prepared under this Act, and the provisions of this Act relating to reserved forests shall apply to forest to which the provision of sub-section (1) are applicable”.

Section 26

In sub-section (1)–

- (i) in clause (e), substitute the word “dragging” with the words “dragging or removing”;
- (ii) in clause (f), substitute the words “the same” with the words “the same or any forest produce”;
- (iii) for clause (h), substitute the following clause, namely:–

“(h) clears or breaks up any land or erects a fence, enclosure or any structure for cultivation or cultivates or attempts to cultivate any land in any other manner in any reserved forest, or for any other purpose”;
- (iv) in the long line, for the words “six months, or with fine which may extend to five hundred rupees,”, substitute the words “two years, or with fine which may extend to twenty five thousand rupees,”;

Section 28

- (i) in sub-section (1), for the word “reserved forest”, substitute the words “reserved forest or declared a protected forest or is a land which has been entered in settlement records as khalsa land”;
- (ii) in sub-section (3) after the words “reserved forests”, insert the words “or protected forests, as the case may be”..

Section 29A

After section 29, insert the following section–

“29A. *Undemarcated forests deemed to be protected forests.*—

- (1) Notwithstanding anything contained in this Act or any other law for the time being in force, any undemarcated forest (which means and includes all forest land other than demarcated forest which is the property of the Government of Union territory of Jammu and Kashmir and is not appropriated for any specific purpose and includes all the undemarcated and berun line forest vested in the Forest Department under the provisions of section 48 of the Jammu and Kashmir Village Panchayat Act, 1958 or any other law for the time being in force), prior to the appointed day notified under the Jammu and Kashmir Reorganization Act, 2019, shall be deemed to be a protected forest under this Act.
- (2) All questions decided, orders issued and records prepared in connection with the constitution of such forest as undemarcated forests shall be deemed to have been decided, issued and prepared under this Act, and the provisions of this Act relating to protected forests shall apply to forest to which the provision of sub-section (1) are applicable”.

Section 33

In sub-section (1)–

- (d) in clause (c), after the words "or clears", insert the words "or attempts to break-up or clear";
- (ii) in clause (f), after the word "drags", insert the words "or removes";
- (iii) in the long line for the words "six months, or with fine which may extend to five hundred rupees", substitute the words "two years, or with fine which may extend to twenty-five thousand rupees".

Section 42

In sub-section (1), for the words "six months" and "five hundred rupees", substitute the words "two years" and "twenty-five thousand rupees" respectively.

Section 51

In sub-section (2), for the words "six months, or with fine which may extend to five hundred rupees", substitute the words "two years, or with fine which may extend to twenty-five thousand rupees".

Section 52

Substitute section 52 with the following section, namely:-

"52. Seizure of property liable to confiscation and procedure thereof –

- (1) When there is reason to believe that a forest offence has been committed in respect of any reserved forest, protected forest, village forest or forest produce, the forest produce, together with all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any

other article used in committing any such offence, may be seized by a Forest Officer or Police Officer.

- (2) Every officer seizing any property under this section shall place on such property a mark indicating that the same has been so seized and shall, as soon as may be, make a report of such seizure before an officer not below the rank of the Divisional Forest Officer (hereinafter referred to as the 'authorised officer'):

Provided that when the forest produce with respect to which such offence is believed to have been committed is the property of the Government and the offender is unknown, it shall be sufficient if the officer makes, as soon as may be, a report of the circumstances to his official superior.

- (3) Subject to sub-section (5), where the authorised officer upon receipt of report about seizure, is satisfied that a forest offence has been committed in respect thereof, he may, by order in writing and for reasons to be recorded, confiscate forest produce so seized together with all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing such offence and a copy of the order of confiscation shall be forwarded without any undue

delay to the person from whom the property is seized and to the Conservator of Forest Circle in which the forest produce, tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article as the case may be, has been seized.

- (4) No order confiscating any property shall be made under sub-section (3) unless the authorised officer,-

(a) sends an intimation in writing about initiation of proceedings for confiscation of the property to the Magistrate having jurisdiction to try the offence on account of which the seizure has been made;

(b) issues a notice in writing to the person from whom the property is seized and to any other person who may, in the opinion of the authorised officer to have some interest in such property;

(c) affords an opportunity to the persons referred to in clause (b) of making a representation within such reasonable time as may be specified in the notice against the proposed confiscation; and

(d) gives to the officer effecting the seizure and the person or persons to whom notice

has been issued under clause (b), a hearing on date to be fixed for such purpose.

- (5) No order of confiscation under sub-section (3) of any tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article (other than timber or forest produce seized) shall be made if any person referred to in clause (b) of sub-section (4) proves to the satisfaction of authorised officer that any such tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article were used without his knowledge or connivance or, as the case may be, without the knowledge or connivance of his servant or agent and that all reasonable and necessary precautions had been taken against the use of objects aforesaid for commission of forest offence.

- (6) Where the cattle are involved in the commission of a forest offence, the same after seizure by any officer, shall be entrusted to any responsible person under a proper receipt on an undertaking to produce the same when required in case there is no cattle pound within a radius of five kilometres from the place of such offence:

Provided that notwithstanding anything contained in section 57,

in case of unclaimed cattle a Forest Officer not below the rank of Range Officer, after giving sufficient publicity in the vicinity of the place of offence for the owner to come forward to claim the cattle within seven days from the date when such publicity has been given, may dispose them of by public auction.

- (7) The provisions of the Cattle Trespass Act, 1871 (1 of 1871), shall apply in respect of the charges to be levied for the upkeep and fee of the cattle.”.

Insertion of sections 52A to 52D.— After section 52, insert the following sections, namely:-

“52A. Revision before Court of Sessions against order of confiscation- (1) Any party aggrieved by an order of confiscation under section 52 may within thirty days of the order or if facts of the confiscation have not been communicated to him, within thirty days of knowledge of such order submit a petition for revision to the Court of Sessions Division whereof the headquarters of Authorised Officer are situated.

Explanation I.-In computing the period of thirty days under this sub-section, the time required for obtaining certified copy of the order of Authorised Officer shall be excluded.

Explanation II.-For the purposes of this sub-section a party shall be

deemed to have knowledge of the order of confiscation under section 52 on publication of such order in two daily newspapers having circulation in the State.

- (2) The Court of Sessions may confirm, reverse or modify any final order of confiscation passed by the Authorised Officer.
- (3) Copies of the order passed in revision shall be sent to the Authorised Officer for compliance or passing such further order or for taking such further orders or for taking such further action as may be directed by such Court.
- (4) For entertaining, hearing and deciding a revision under this section, the Court of Sessions shall, as far as may be, exercise the same powers and follow the same procedure as it exercises and follows while entertaining, hearing and deciding a revision under the Code of Criminal Procedure, 1973.
- (5) Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1973 (2 of 1974) the order of Court of Sessions passed under this section shall be final and shall not be called in question before any Court.

52B. Bar to jurisdiction of Courts etc. under certain circumstances.—

- (1) On receipt of report under sub-

section (4) of Section 52 about intimation of proceedings for confiscation of property by the Magistrate having jurisdiction to try the offence on account of which the seizure of property which is subject matter of confiscation, has been made, no Court, Tribunal or Authority other than Authorised Officer and Court of Sessions referred to in sections 52 and 52A shall have jurisdiction to make orders with regard to possession, delivery, disposal or distribution of the property in regard to which proceedings for confiscation are initiated under section 52, notwithstanding anything to the contrary contained in this Act, or any other law for the time being in force.

Explanation.-Where under any law for the time being in force, two or more Courts have jurisdiction to try the forest offences, then receipt of intimation under sub-section (4) of section 52 by one of the Courts shall operate as bar to exercise jurisdiction on all such other Courts.

- (2) Nothing in sub-section (1) shall affect the power saved under section 61 of the Act.

52C. *Power of search and seizure.*—

(1) Any Forest Officer or Police Officer may, if he has reason to believe that a vehicle has been or is being used for the transport of forest produce in respect of which there is reason to believe that a forest offence has

been or is being committed, require the driver or other person in charge of such vehicle to stop the vehicle and cause it to remain stationary as long as may reasonably be necessary to examine the contents in the vehicle and inspect all records relating to the goods carried which are in the possession of such driver or other person in charge of the vehicle.

- (2) Any forest officer not below the rank of Range officer, having reasonable grounds to believe that forest produce is, in contravention of the provisions of this Act, in the possession of a person in any place, may enter such place with the object of carrying out a search for the forest produce and its confiscation:

Provided that such search shall not be conducted otherwise than in accordance with the provisions of the Code of Criminal Procedure, 1973.

52D. *Penalty for forcibly opposing seizure.*— Whosoever opposes the seizure of any forest-produce, tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article liable to be seized under this Act, or forcibly receives the same after seizure, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty five thousand rupees, or with both.”.

Section 53

For section 53, substitute the following section, namely:-

"53 Power to release property seized under section 52.— Any forest officer of a rank not inferior to that of a Range Officer, who, or whose subordinate, has seized any tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing any forest offence, including the forest produce, under section 52, may release the same on the execution by the owner thereof, of a security in a form of a bank guarantee, of an amount not less than the value of such property, as estimated by such officer, for the production of the property so released when so required by the Magistrate having jurisdiction to try the offence or by the authorised officer empowered under sub-section (2) of section 52, on account of which the seizure has been made:

Provided that when any forest produce is seized at a remote location from where it is not practicable to transport it immediately, the officer who, or whose subordinate has effected such seizure under section 52, may entrust the same (Supardnama) to any responsible person on the execution of a bond thereof, by such person, for the production of the property so entrusted if and when required by the Magistrate having jurisdiction to try the offence or before the authorised officer empowered under sub-section

(2) of section 52, on account of which the seizure has been made."

Section 54

For section 54, substitute the following section, namely:-

"54 Receipt of report of seizure by Magistrate and procedure thereupon — Upon the receipt of any report under sub-section (4) of section 52, the Magistrate shall, with all convenient dispatch, take such measures as may be necessary for the arrest and trial of the offender and the disposal of the property according to law:

Provided that before passing any order for disposal of property the Magistrate shall satisfy himself that no intimation under sub-section (4) of section 52 has been received by his court or by any other court having jurisdiction to try the offence on account of which the seizure of property has been made."

Section 55

For sub-section (1), substitute the following sub-section:-

"(1) All timber or forest produce which in either case is not the property of the Government and in respect of which a forest offence has been committed, and all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article, in each case used in committing any forest offence shall, subject to the provisions of sections 52, 52A and 52B, be liable to confiscation upon

conviction of the offender for such offence.”.

Section 56

For the words “When the trial of”, substitute the words, figures and letter, “Without prejudice to the provisions of section 52C, when the trial of”.

Section 57

For section 57, substitute the following section, namely:-

“57. *Procedure when the offender is not known or cannot be found* — When the offender is not known or cannot be found the Magistrate may, if he finds that an offence has been committed, but subject to section 52B, order the property in respect of which offence has been committed, to be confiscated or forfeited together with all tools, arms, boats, carts, equipment, ropes, chains, machines, vehicles, cattle or any other article used in committing the offence, and taken charge of by the Forest officer, or to be made over to the person whom the Magistrate deems to be entitled to the same:

Provided that, no such order shall be made until the expiration of one month from the date of seizing such property or without hearing the person, if any, claiming any right thereto, and the evidence, if any, which he may produce in support of his claim.”

Section 58

For section 58, substitute the following section, namely:-

“58. *Procedure as to perishable property seized under section 52* — The Authorised Officer under sub-section (2) of section 52, or the Magistrate may, notwithstanding anything hereinbefore contained, direct the sale of any property seized under section 52 and subject to speedy and natural decay, and may deal with the proceeds as he would have dealt had it not been sold”.

Section 60

Renumbered as sub-section (2) thereof, and, before sub-section (2) as so renumbered, insert the following sub-section, namely:-

“(1) Property ordered to be confiscated by an authorised officer under section 52, subject to the result of revision before Court of Sessions under section 52A shall upon conclusion of proceedings in revision, vest in the Government free from all encumbrances:

Provided that if no revision is preferred under section 52A, such vesting shall take effect on expiry of period specified for the submitting petition for revision under section 52A”.

Section 63

For the words, “or with fine”, substitute the words “or with fine which may extend to twenty-five thousand rupees”.

Insertion of section 64A

After section 64, insert the following section, namely:-

"64A. *Offences non-bailable.* — Notwithstanding anything contained in this Act or in the Code of Criminal Procedure, 1973 (2 of 1974), all offences under this Act other than those compoundable under section 68 shall be non-bailable".

Insertion of sections 65A and 65B.- After section 65, insert the following sections, namely:-

"65A. *Requisition for police assistance.* —Any forest officer may requisition the services of any police officer to assist him for all or any of the purposes specified in sections 52, 63 and 64 and it shall be the duty of every such officer to comply with such requisition.

65B. *Police officers bound to seek technical clearance from Authorized Officer.* —Any police officer seizing any property under the provisions of this Act or rules framed thereunder shall be bound to seek technical clearance of the authorized officer to lodge a complaint to the magistrate under section 52 of this Act."

Section 67

For the words "not exceeding six months, or fine not exceeding five hundred rupees", substitute the words "not exceeding two years or with fine not exceeding twenty five thousand rupees".

Section 68

For section 68, substitute the following section, namely:-

"68. *Power to compound offences.*-(1) The Government may, by notification in the Official Gazette, empower any forest officer not below the rank of Assistant Conservator of Forests-

- (a) to accept from any person against whom a reasonable suspicion exists, that he has committed any forest offence involving damage not exceeding fifty thousand rupees, other than an offence specified in section 62 or section 63, a sum of money by way of compensation for the offence, which such person is suspected to have committed:

Provided that the sum of money accepted by way of compensation shall in no case be less than double the amount involved in the loss caused by such offence; and

- (b) when any property has been seized as liable to confiscation, release the same on payment of the value thereof, in addition to the compensation referred to in clause (a) of this sub - section, as estimated by such officer.
- (2) On the payment of such compensation and such value, to such officer, the suspected person if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceedings shall be taken against such person or property".

Section 69

For the words, “contrary is proved”, substitute the words “contrary is proved by the accused”.

Section 69A

After section 69, insert the following section, namely:–

“69A. Double penalties for offences–
The penalties which are double of those mentioned under the provisions of this Act or rules framed thereunder shall be inflicted in cases where the offence is committed after sunset and before sunrise, or after preparation for resistance to lawful authority or where the offender has been previously convicted of a like offence”.

Section 71

For the words “ten rupees”, “two rupees”, “one rupee” and “eight annas”, substitute the words “one thousand rupees”, “two hundred and fifty rupees”, “one hundred rupees” and “fifty rupees” respectively.

Section 72

For section 72, substitute the following section, namely;

“72. Government of Union territory of Jammu and Kashmir may invest Forest officers with certain powers.–

(1) The forest officers shall have the following powers, namely:–

- (a) power to enter upon any land and to survey, demarcate and make a map of the same.

- (b) the powers of a Civil Court to compel the attendance of witnesses and the production of documents and material objects;

- (c) power to hold an inquiry into forest offences and in the course of such inquiry, to receive and record evidence; and

- (d) power to issue search warrants under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that powers under clause (b) and (c) shall not be exercised by a forest officer below the rank of a Range Officer:

Provided further that the powers under clause (d) shall not be exercised by a forest officer below the rank of a Divisional Forest Officer.

- (2) Any evidence recorded under clause (c) of sub-section (1) shall be admissible in any subsequent trial before a Magistrate, if that it has been taken in the presence of the accused person.
- (3) Any forest officer not below the rank of a Range Officer may delegate his powers of inquiry to an officer of the rank of Forester if the offence is compoundable under section 68 of this Act.”

Section 74

For section 74, substitute the following section, namely:–

"74. *Indemnity for acts done in good faith.*— (1) No suit, prosecution or other legal proceedings shall lie against any public servant for anything done in good faith or omitted to be done likewise, under this Act or the rules or orders made thereunder.

- (2) No Court shall take cognizance of any offence alleged to have been committed by a forest officer while acting or purporting to act in the discharge of his official duty except with the previous sanction of the Government of Union territory of Jammu and Kashmir".

Section 76A

After section 76, insert the following section, namely:—

76A. *Power to regulate manufacture and preparation of articles based on forest produce.*— (1) The Government of Union territory of Jammu and Kashmir may make rules,–

- (a) to provide for the establishment, and regulation by licence, permit or otherwise (and the payment of fees thereof), of saw mills, timber depots, firewood depots and other units including the factories or industries engaged in the consumption of forest produce or manufacture or preparation of the following articles:–

- (i) katha (catechu) or kutch out of khairwood;
- (ii) rosin, turpentine, other products out of resin, and wood oil;

- (iii) plywood, veneer and wood-based products;

- (iv) match boxes and match splints;

- (v) boxes including packing cases made out of wood;

- (vi) joinery and furniture items made out of wood;

- (vii) charcoal, lime stone and gypsum;

- (viii) such other articles based on forest produce as the Government of Union territory of Jammu and Kashmir may, by notification in the Official Gazette, from time to time, specify;

- (b) to provide for the regulation by licence, permit or otherwise, of procurement of raw material for the preparation of articles mentioned in clause (a), the payment and deposit of fees therefore and for due compliance of the condition thereof, the forfeiture of the fees so deposited or any part thereof for contravention of any such condition and adjudication of such forfeiture by such authority as the Government of Union territory of Jammu and Kashmir may, by notification, specify.

- (2) The Government of Union territory of Jammu and Kashmir may provide that, as the contravention of any

rules made under this section shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty five thousand rupees, or both."

Section 77

For the words "extend to one month, or fine which may extend to five hundred rupees", substitute the words "extend to two years or with fine which may extend to twenty five thousand rupees".

Section 79

In sub-section (2), in the long line, for the words "shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees" substitute the words, "shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees".

Insertion of sections 79A to 79C – After section 79, insert the following sections, namely:–

"79A. Penalty for unauthorisedly taking possession of land constituted as reserved or protected forest. —

- (1) Any person who unauthorisedly takes or remains in possession of any land in areas constituted as reserved forest or protected forest under section 20 or section 29 as the case may be, may, without prejudice to any other action that may be taken against him under any other provision of this Act, be

summarily ejected by order of a forest officer not below the rank of a Divisional Forest Officer and any crop which may be standing on such land or any building or other work which he may have constructed thereon, if not removed by him within such time as such forest officer may fix, shall be liable to forfeiture:

Provided that no order of ejectment under this sub-section shall be passed unless the person proposed to be ejected is given a reasonable opportunity of showing cause why such an order should not be passed.

- (2) Any property so forfeited shall be disposed of in such manner as the forest officer may direct and the cost of removal of any crop, building or other work and, of all works necessary to restore the land to its original condition shall be recoverable from such person in the manner provided in section 82.
- (3) Any person aggrieved by an order of the forest officer under sub-section (1) may, within sixty days from the date of such order prefer an appeal by petition in writing to the concerned Chief Conservator of Forests in person or through a duly authorized agent and such petition shall be accompanied by a certified copy of the order appealed against.

(4) On receipt of the appeal and after summoning the parties and perusing the record of the proceedings, the Chief Conservator of Forests shall fix a date and convenient place for hearing the appeal and shall give notice thereof to the parties, and shall hear the appeal accordingly.

(5) The order passed on the appeal by the Chief Conservator of Forests shall be final.

79B. Summary action by Deputy Commissioner in fire cases. — If in any case under clauses (a) and (b) of sub-section (1) of section 79, it appears to the Deputy Commissioner of the district within which the forest concerned is situated after local enquiry made in a summary and administrative manner, either by himself, or through a Tehsildar deputed by him for the purpose, that any such person or village or other community has neglected to give such information or to render such assistance as is required thereby, he may impose a fine not exceeding one thousand rupees on, as well as direct payment of compensation for damage to Government's property by, such person, village or other community or such individual member of such village or other community as may be determined in consultation with the Divisional Forest Officer and all fines imposed under this section shall be recoverable as arrears of land revenue.

79C. Appeal against order of Deputy Commissioner. — An appeal against every order passed under section 79B may be made to the concerned Divisional Commissioner whose decision thereon shall be final."

For section 82, substitute the following section, namely:—

*"82. Recovery of money due to Government—*All money payable to the Government under this Act or under any rule made under this Act, or on account of the price of timber, or other forest produce, or of expenses incurred in execution of this Act in respect of timber and other forest produce, or under any contract relating to timber and other forest produce including any sum recoverable thereunder for breach thereof, or in consequence of its cancellation, or under the terms of a notice relating to the sale of timber or other forest produce by auction or by invitation of tenders, issued by or under authority of a forest officer and all compensation awarded to the Government under this Act shall, if not paid when due, be recovered, under the law for the time being in force, as if it were an arrear of land revenue".

Insertion of Sections 82A to 82H.—After section 82, insert the following sections, namely:—

*"82A. Recovery of penalties due under a bond—*When in respect of any forest lease any person binds himself by any bond or instrument to perform any duty or act, or covenants by any

bond or instrument that he, or that he and his servant and agents will abstain from any act, the whole sum mentioned in such bond or instrument as the amount to be paid in case of a breach of the conditions thereof shall notwithstanding anything in section 74 of the Indian Contract Act, 1872, be recovered from him in case of such breach as if it were an arrear of land revenue.

82B. *Restoration of advantage or benefit or payment of compensation*—Notwithstanding anything contained in this Act or in the Indian Contract Act, 1872, or in any other law for the time being in force,-

- (a) where any transaction or lease relating to sale of forest produce or extraction of timber from any forest is or is discovered to be void only on the ground that the transaction or lease is not in conformity with the provisions of article 299 of the Constitution of India or any order or direction issued thereunder, any person who has received any advantage or has enjoyed any benefit by virtue of such transaction or lease shall be bound to restore it or to make compensation for it, to the person or party from whom he received it;
- (b) the extent of any advantage or benefit or the amount of compensation payable in lieu thereof, referred to in clause (a), shall be determined in accordance with the provisions

of this Act and the value of the advantage or benefit or the amount of compensation so determined shall be recoverable as arrears of land revenue.

82C. *Constitution of Authority*. —For the purposes of determining the extent of advantage or benefit or the value thereof or the amount of compensation under section 82B, the Government of Union territory of Jammu and Kashmir shall, by notification in the Official Gazette, constitute, as and when necessary, an Authority consisting of one or more members having such qualification and experience and on such terms and conditions as may be prescribed and where the Authority consists of more than one member, one of them may be appointed as Chairperson thereof.

82D. *Powers of the Authority* — (1) The Authority shall, for purposes of holding inquiry for determining the extent of advantage or benefit or value thereof or the amount of compensation, as the case may be, under section 82B, have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of any person or witness and examining him on oath or solemn affirmation;
- (b) requiring the discovery or production of any document relating to the subject matter of inquiry;

- (c) receiving evidence on affidavits;
 - (d) requisitioning any public record or copy thereof relating to the subject matter of inquiry from any court or office; and
 - (e) issuing commissions for examination of witnesses, documents or other books of account relating to the subject matter of inquiry.
- (2) The Authority shall also have power to issue a commission to such person as it considers fit for local investigation which may be requisite or proper for the purpose of elucidating any matter which is the subject matter of inquiry or of ascertaining the market value of any property.
- (3) The person directed to execute a commission for any purpose under this section shall have all the powers of a commissioner appointed by a Civil Court in pursuance of the provisions of the Code of Civil Procedure, 1908 (5 of 1908).
- (4) The Authority shall have the power to pass such orders as it thinks fit for the seizure, attachment, management, preservation, interim custody or sale of any forest produce or timber (wherever it may be in the State) which may be the subject matter of proceedings before it including the appointment of a receiver for any of the aforesaid purposes.
- 82E. *Restriction on alienation.* (1) Notwithstanding anything contained in any law for the time being in force,-
- (a) where at any stage of the inquiry, the Authority is satisfied by affidavit or otherwise that a person liable to restore any advantage or benefit or to pay compensation in lieu thereof under any transaction or lease referred to in section 82B, is likely to alienate his movable or immovable property with intent to evade payment or to defeat the recovery, of the advantage or benefit or the value thereof or the amount of compensation, that may be determined by him, it may by order in writing direct that such person shall not alienate his movable and immovable property or such portion thereof, as it may specify in the order, during the pendency of the inquiry;
 - (b) any alienation of property made in contravention of any order or direction issued under clause (a) shall be void, and no transferee of such property shall be deemed to have acquired any right, title or interest therein.
- Explanation.--For the purposes of this section "alienation" includes mortgage, sale, gift, bequest, benami transaction, family settlement or any other mode of transfer of any right, title or interest in the property.
- (2) For removal of doubts it is hereby declared that restrictions imposed under this section on the rights conferred by clause (1) of article 19

of the Constitution of India shall be deemed to be reasonable restrictions.

82F. Procedure to be followed by the Authority. – (1) The Authority shall, subject to any rules made by the Government of Union territory of Jammu and Kashmir in this behalf, have power to regulate its own procedure in all matters arising out of or connected with the discharge of its functions, in consonance with the principles of natural justice.

- (2) The parties shall have a right of being represented by counsel.

82G. Appeal. – (1) Any person aggrieved by a final order of the Authority, determining the extent of advantage or benefit or value thereof or the amount of compensation under section 82B, may, within thirty days of the date of the order, file an appeal against such order before the High Court and every such appeal shall be heard by a Division Bench of the High Court.

- (2) No other order of the Authority shall be appealable.
- (3) The order of the Authority shall, subject to the decision of the High Court under sub-section (1) in appeal, be final and shall be deemed to be a certificate within the meaning of section 90 of the Jammu and Kashmir Land Revenue Act, 1996.
- (4) No further appeal shall lie against the decision of the High Court.

82H. Exclusion of jurisdiction of Civil Court. – No Civil Court shall have jurisdiction to entertain any suit or other proceeding in respect of any matter which the Authority has taken cognizance of under section 82B."

Insertion of section 83A

After section 83, insert the following section, namely:–

"83A. Restriction on alienation.—

- (1) Notwithstanding anything contained in the Transfer of Property Act 1882, or in any other law for the time being in force, no property offered by a forest lessee or by any other person on behalf of a forest lessee, as security for payment of royalty, interest, compensation, penalty or any other amount chargeable from the forest lessee, under any lease deed, bond or instrument shall be alienated without the previous permission of the Government of Union Territory of Jammu and Kashmir, till such time as the Chief Conservator of Forests certifies that such forest lessee has duly performed all the obligations devolving upon him under such lease deed, bond or instrument.
- (2) Any alienation of property made in contravention of sub-section (1) shall be void, and no transferee of such property shall be deemed to have acquired any right, title or interest therein.

- (3) Any amount of royalty, interest, compensation or penalty or any other sum falling due from a forest lessee under any lease deed, bond or instrument shall be recoverable as arrears of land revenue in accordance with the law for the time being in force, from the property offered by him or on his behalf as security and from any other movable or immovable property owned by the forest lessee.

Explanation - For the purposes of this section,

- (a) "alienation" includes sale, gift, exchange, bequest, mortgage, benami transaction, family settlement or any other mode of transfer of any right, title or interest therein or creation of any encumbrance thereon;
- (b) the expression "forest lessee" shall be construed to mean a person in whose favour a right to convert and remove forest produce from any forest has been granted under any lease deed, bond or instrument.
- (4) For removal of doubts it is hereby declared that restriction imposed under this section on the rights conferred by clause (1) of article 19 of the Constitution of India shall be deemed to be reasonable restrictions."

Insertion of section 84A.-After section 84, insert the following section, namely:-

"84A. *Application of the Act to land.* — The Government may, by notification in the Official Gazette, declare that any of the provisions of this Act shall apply to any land which is the property of the Government of the Union territory of Jammu and Kashmir or the Central Government, and thereupon such provisions shall apply to such land accordingly."

21. THE INDIAN MEDICINE CENTRAL COUNCIL ACT, 1970 (48 of 1970)

Omit sub-section (2) of Section 2.

22. THE INDIAN PENAL CODE, 1860 (45 of 1860)

354E – After set section 354D, insert the following section, namely:-

"354E. *Sextortion.*— (1) Whoever,–

- (a) being in a position of authority; or
- (b) being in a fiduciary relationship; or
- (c) being a public servant, abuses such authority or fiduciary relationship or misuses his official position to employ physical or non-physical forms of coercion to extort or demand sexual favours from any woman in exchange of some benefits or other favours that such person is empowered to grant or withhold, shall be guilty of offence of sextortion.

Explanation.—For the purpose of this section, 'sexual favour' shall mean and include any kind of

unwanted sexual activity ranging from sexually suggestive conduct, sexually explicit actions such as touching, exposure of private body parts to sexual intercourse, including exposure over the electronic mode of communication.

- (2) Any person who commits the offence of sextortion shall be punished with rigorous imprisonment for a term which shall not be less than three years but may extend to five years and with fine."

23. THE INSOLVENCY AND BANKRUPTCY CODE, 2016 (31 of 2016)

Section 1

In sub-section (2), omit the proviso.

24. THE LIMITATION ACT, 1963 (36 of 1963)

Insertion of Section 30A

After section 30, insert the following section, namely:—

"30A. *Provision for suits, etc., for which the prescribed period is shorter than the period prescribed by the Limitation Act, samvat 1995.*—Notwithstanding anything contained in this Act,—

- (a) Any suit for which the period of limitation is shorter than the period of limitation prescribed by the Limitation Act, Samvat 1995, may be instituted within a period of one year next after the commencement of the Jammu and Kashmir Reorganisation Act, 2019 or within the period

prescribed for such suit by the Limitation Act, Samvat 1995, whichever period expires earlier:

Provided that if in respect of any such suit, the said period of one year expires earlier than period of limitation prescribed therefore under the Limitation Act, Samvat 1995 (now repealed) and the said period of one year together with so much of the period of limitation in respect of such suit under the said Act, as has already expired before the commencement of the Jammu and Kashmir Reorganisation Act, 2019 is shorter than the period prescribed for such suit under the Limitation Act, 1963, then, the suit may be instituted within the period of limitation prescribed therefore under the Limitation Act, 1963;

- (b) Any appeal or application for which the period of limitation is shorter than the period of limitation prescribed by the Limitation Act, Samvat 1995, may be preferred or made within a period of ninety days next after the commencement of the Jammu and Kashmir Reorganisation Act, 2019 or within the period prescribed for such appeal or application by the Limitation Act, Samvat 1995, whichever period expires earlier."

25. THE NATIONAL CO-OPERATIVE DEVELOPMENT CORPORATION ACT, 1962 (26 of 1962)

Omit Section 2A

26. THE OFFICIAL LANGUAGES ACT, 1963 (19 of 1963)

Omit Section 9

27. THE PRESS AND REGISTRATION OF BOOKS ACT, 1867 (25 of 1867)

In section 1, omit sub-section (2).

28. THE PRESS COUNCIL ACT, 1978 (37 of 1978)

Section 3

Omit "Jammu and Kashmir of".

29. THE PREVENTION OF CORRUPTION ACT, 1988 (49 of 1988)

Insertion of section 17B

After section 17A, insert the following section, namely:—

"17B. *Establishment of Anti-Corruption Bureau for the Union territory of Jammu and Kashmir.*— (1) Notwithstanding anything contained in this Act, the Government of Union territory of Jammu and Kashmir shall, by notification in the Official Gazette, establish a Bureau for investigation of offences under this Act under the name of 'Anti-Corruption Bureau'.

- (2) The Bureau shall consist of the Director and such other officers and staff subordinate to him as the Government of Union territory of Jammu and Kashmir may from time to time think fit to appoint.

- (3) The qualification of officers (other than the Director) shall be such as may be prescribed by the Government of Union territory of Jammu and Kashmir:

Provided that till qualification of officers (other than the Director) is prescribed by the Government of Union Territory of Jammu and Kashmir, the rules notified by the Government in this regard under the Prevention of Corruption Act, Samvat, 2006 (now repealed) shall continue to govern the qualification of such officers.

- (4) The Director and the officers and staff subordinate to him shall hold office for such term and on such conditions as the Government of Union Territory of Jammu and Kashmir may from time to time determine."

Explanation :—The Anti-Corruption Bureau established under the Prevention of Corruption Act, Samvat, 2006 (now repealed) shall deemed to be Anti-Corruption Bureau established under the provisions of this Act, as if the same has been established under the provisions of this Act and any reference to the Anti-Corruption Bureau in any law, order, notification or rules in force in the Union Territory of Jammu and Kashmir shall be construed to mean the Anti-Corruption Bureau established under the provisions of this Act.

Insertion of sections 17C to 17G

After section 17A, insert the following sections, namely:—

"17C. Powers of attachment of property.

– (1) If an officer (not below the rank of Deputy Superintendent of Police) of the Anti-Corruption Bureau, investigating an offence committed under this Act, has reason to believe that any property in relation to which an investigation is being conducted has been acquired by resorting to such acts of omission and commission which constitute an offence of 'criminal misconduct' as defined under section 5, he shall, with the prior approval in writing of the Director of the Anti-Corruption Bureau, make an order seizing such property and, where it is not practicable to seize such property, make an order of attachment directing that such property shall not be transferred or otherwise dealt with, except with the prior permission of the officer making such order or of the Designated Authority to be notified by the Government of Union territory of Jammu and Kashmir before whom the properties seized or attached are produced and a copy of such order shall be served on the person concerned:

Provided that the Investigating Officer may, at any stage of investigation after registration of F.I.R. in respect of any case under the Act where he has reason to believe that such property is likely to be transferred or otherwise dealt with to defeat the prosecution of the case direct that such property shall not be transferred or dealt with for such period, not exceeding ninety days, as may be specified in the order except with

the prior approval of the Designated Authority.

Explanation- For the purposes of this section, "attachment" shall include temporarily assuming the custody, possession and/or control of such property).

- (2) The Investigating officer shall inform the Designated Authority, within forty eight hours, of the seizure or attachment of such property together with a report of the circumstances occasioning the seizure or attachment of such property, as the case may be.
- (3) It shall be open to the Designated Authority before whom the seized or attached properties are produced either to confirm or revoke the order of seizure or attachment so issued within (thirty days):

Provided that an opportunity of being heard shall be afforded to the Investigating Officer and the person whose property is being attached or seized before making any order under this sub-section:

Provided further that till disposal of the case the Designated Authority shall ensure the safety and protection of such property.

- (4) In the case of immovable property attached by the Investigating Officer, it shall be deemed to have been produced before the Designated Authority, when the Investigating Officer notifies his report and places it at the disposal of the Designated Authority.

- (5) Any person aggrieved by an order under the proviso to sub-section (1) may apply to the Designated Authority for grant of permission to transfer or otherwise deal with such property.
- (6) The Designated Authority may either grant, or refuse to grant, the permission to the applicant.
- (7) The Designated Authority, acting under the provisions of this Act, shall have all the powers of a civil court required for making a full and fair enquiry into the matter before it.

17D. Appeal against the order of Designated Authority – (1) Any person aggrieved by an order made by the Designated Authority under sub-section (3) or sub-section (5) of section 17C may prefer an appeal, within one month from the date of receipt of the order, to the Special Judge and the Special Court may either confirm the order of attachment of property or seizure so made or revoke such order and release the property or pass such order as it may deem just and proper within a period of sixty days.

- (2) Where any property is seized or attached under section 17C and the Special Court is satisfied about such seizure or attachment, it may order forfeiture of such property, whether or not the person from whose possession it is seized or attached is prosecuted in the

Special Court for an offence under this Act.

- (3) It shall be competent for the Special Court to make an order in respect of property seized or attached, -
 - (a) directing it to be sold if it is a perishable property and the provisions of section 459 of the Code of Criminal Procedure, 1973 (2 of 1974) shall, as nearly as may be practicable, apply to the net proceeds of such sale;
 - (b) nominating any officer of the Government, in the case of any other property, to perform the function of the Administrator of such property subject to such conditions as may be specified by the Special Court.

*17E. Issue of show-cause notice before forfeiture of the property. —*No order under sub-section (2) of section 17D shall be made by the Special Court -

- (a) unless the person holding or in possession of such property is given a notice in writing informing him of the grounds on which it is proposed to forfeit such property and such person is given an opportunity of making a representation in writing within such reasonable time as may be specified in

the notice against the grounds of forfeiture and is also given a reasonable opportunity of being heard in the matter;

- (b) if the person holding or in possession of such property establishes that he is a bona fide transferee of such property for value without knowing that such property has been so acquired.

17F. *Appeal.* – (1) Any person aggrieved by order of the Special Court under section 17D may within one month from the date of the receipt of such order, appeal to the High Court of Jammu and Kashmir.

- (2) Where any order under section 17D is modified or annulled by the High Court or where in a prosecution instituted for the contravention of the provisions of this Act, the person against whom an order of the special court has been made is acquitted, such property shall be returned to him and in either case if it is not possible for any reason to return the forfeited property, such person shall be paid the price therefore as if the property had been sold to the Government with reasonable interest calculated from the date of seizure of the property and such price shall be determined in the manner prescribed.

17G. *Order of forfeiture not to interfere with other punishments.*—The order of forfeiture made under this Act by the Special Court, shall not prevent the infliction of any other punishment to

which the person affected thereby is liable under this Act.”

30. THE PROTECTION OF HUMAN RIGHTS ACT, 1993 (10 of 1994)

Section 21

- (i) in sub-section (5), omit the second Proviso;
- (ii) in sub-section (7), for “other than Union territory of Delhi” substitute “other than Union territory of Delhi, Union territory of Jammu and Kashmir and Union territory of Ladakh”; and
- (iii) in sub-section (8), for “Union territory of Delhi” substitute “Union territory of Delhi, Union territory of Jammu and Kashmir and Union territory of Ladakh”.

31. THE PUBLIC DEBT ACT, 1944 (18 of 1944)

Omit [Section 31](#)

32. THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) ACT, 1966 (29 of 1966)

Omit **Section 15**

33. THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 (16 of 2016)

[Section 2](#)

In clause (g), in sub-clause (ii), for ‘Puducherry’ substitute ‘Puducherry and Union territory of Jammu and Kashmir’.

34. THE REPRESENTATION OF PEOPLE ACT, 1950 (43 of 1950)

Section 27A

After sub-section (4), insert the following sub-section, namely:–

“(5) The electoral college of the Union territory of Jammu and Kashmir shall consist of the elected members of the Legislative Assembly constituted for that territory under the Jammu and Kashmir Reorganization Act, 2019 (34 of 2019)”.

35. THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013 (30 of 2013)

Section 3

In clause (e):-

(i) in sub-clause (ii), after “except Puducherry”, insert “and Jammu and Kashmir”;

(ii) in sub-clause (iii), after “Union territory of Puducherry” occurring at both the places, insert “and Union territory of Jammu and Kashmir”.

36. THE SECURITISATION AND RECONSTRUCTION OF FINANCIAL ASSETS AND ENFORCEMENT OF SECURITY INTEREST ACT, 2002 (54 of 2002)

Omit [Section 17A](#) and [Section 18B](#).

37. THE TEXTILES COMMITTEE ACT, 1963 (41 of 1963)

Omit Section 2A.

...



SECTION 5(15) OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016 - INTERIM FINANCE - NOTIFIED FINANCIAL DEBT - SPECIAL WINDOW FOR AFFORDABLE AND MIDDLE-INCOME HOUSING INVESTMENT FUND I

NOTIFICATION NO. S.O. 1145(E) (F. NO. 30/9/2020-INSOLVENCY), DATED 18-3-2020

In exercise of the powers conferred by [clause \(15\)](#) of [section 5](#) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby notifies a debt raised from the Special Window for Affordable and Middle-Income Housing Investment Fund I, for the purposes of the said clause.

Explanation.—For the purposes of this

notification, the expression “Special Window for Affordable and Middle-Income Housing Investment Fund I” shall mean the fund sponsored by the Central Government for providing priority debt financing for stalled housing projects, as an alternate investment fund and registered with the Securities and Exchange Board of India, established under sub-section (1) of [section 3](#) of the Securities

and Exchange Board of India Act, 1992 (15 of 1992), to provide financing for the completion of stalled housing projects that

are in the affordable and middle-income housing sector.

...



SECTION 4 OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

- INSOLVENCY RESOLUTION AND LIQUIDATION FOR CORPORATE PERSONS

- NOTIFIED MINIMUM AMOUNT OF DEFAULT FOR PURPOSES OF SAID SECTION

NOTIFICATION NO. S.O. 1205(E) (F.NO.30/9/2020-INSOLVENCY), DATED 24-3-2020

In exercise of the powers conferred by the proviso to [section 4](#) of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby specifies

one crore rupees as the minimum amount of default for the purposes of the said section.

...



Corporate Laws

2020 Edition

- ▶ **Limited Insolvency Examination Question Bank with Insolvency Examination Quick Guide**
Tejpal Sheth
- ▶ **Guide to Insolvency and Bankruptcy Code & Law Relating To SARFAESI/Debt Recovery & winding Up**
V.S. Datey
- ▶ **Insolvency and Bankruptcy Code, 2016**
12th Edition
- ▶ **Limited Insolvency Examination Guide**
V.S. Datey
- ▶ **Insolvency and Bankruptcy Law Digest**
- ▶ **Company Law Manual**
13th Edition
- ▶ **Corporate Laws**
In 2 Volumes, 41st Edition
- ▶ **Company Law Ready Reckoner**
8th Edition
- ▶ **Companies Act with Rules**
13th Edition
Also Available
 - Pocket Hardbound Edition
 - Paperback Pocket Edition
- ▶ **Companies Act (Bare Act)**
3rd Edition
- ▶ **Companies Act with Rules & Forms**
In 2 Volumes, 12th Edition
- ▶ **Foreign Exchange Management Manual with FEMA & FDI Ready Reckoner and Case Laws Digest**
In 2 Volumes, 36th Edition
- ▶ **FEMA Ready Reckoner**
13th Edition
- ▶ **Statutory Guide for NBFCs with Law Relating to Securitisation and Reconstruction of Financial Assets**
24th Edition
- ▶ **SEBI Manual with SEBI Case Laws Digest**
In 3 Volumes, 35th Edition
- ▶ **Insurance Law Manual**
21st Edition

[CLICK HERE TO KNOW MORE](#)

ORDER FORM

SPECIAL OFFER

ICSI IIP MEMBERS

On Special Rates Mentioned as under

☐ **ICSI IIP (In Print Journal) -**

Insolvency and Bankruptcy Journal (Resolve)

Price : ₹

5500/-

☐ **Combo - Insolvency & Bankruptcy Code Module**

+

Company & SEBI Laws Module

(With Indian Acts & Rules as complimentary)

10,500*/-

☐ **Company & SEBI Laws Module**

5590*/-

☐ **Insolvency & Bankruptcy Code Module**

5000*/-

*GST @18% extra

Pay by Cheque:

Please send your cheque/demand draft in favour of **Taxmann Publications Private Limited** at:
Taxmann, 59/32, New Rohtak Road, New Delhi-110005

Pay by NEFT:

Make payment by NEFT in favour of following account details and send us the remittance details at sales@taxmann.com:

Name of the Account..... **Taxmann Publications Pvt. Ltd.**
Account Number..... **4611673257**
Name of the Bank..... **Kotak Mahindra Bank**
Address..... **D-10, No. 1 and 2, Local Shopping Centre**
Vasant Vihar, D Block, New Delhi-110057
IFSC Code:..... **KKBK0000182**
MICR Code:..... **110485013**
SWIFT Code:..... **KKBKINBB**
GSTIN of Taxmann Publications Pvt. Ltd..... **07AAACT2774P1ZT**

Contact Details

Name Designation

Name of the Firm/Organization

GSTIN

Flat/Door No. Street/Road No.

City: State: Pin code:

Email: Phone/Mobile No.

PLEASE FILL ALL THE FIELDS TO ACTIVATE YOUR SUBSCRIPTION

For more details call **011-45562222** or give a missed call at **91-8688939939** | e-mail : sales@taxmann.com



INSTITUTE OF INSOLVENCY PROFESSIONALS

A wholly owned subsidiary of ICSI and registered with IBBI
(Formerly known as ICSI Insolvency Professionals Agency)

**'ICSI House', 3rd Floor, 22, Institutional Area,
Lodhi Road, New Delhi - 110 003**