

INSTITUTE OF INSOLVENCY PROFESSIONALS

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

KNOWLEDGE REPONERE
(22nd October-02nd November, 2018)

Dear Professional Members,

Greetings!

We are pleased to share with you our next issue of the knowledge bulletin on the Insolvency and Bankruptcy Code, 2016 ("**Code**").

UPDATES

- **Interactive Meet for Insolvency Professionals and Other Professionals held on 24th October, 2018**



ICSI Institute of Insolvency Professionals organized an Interactive meet for Insolvency & Other Professionals on 24th Oct 2018 at India International Centre, New Delhi, where around 60 professionals participated and Madaan Law Offices were the associate partner for the event. Over all, it can be said that the session was a big success and such meet shall be organized again at shorter intervals to encourage the Insolvency Professionals to get a platform to open up their views, opinions and problems. The participants deliberated on issue wise challenges and identified the issues where Regulations/ Code requires amendment. The issues were relating to creating revenue model for Insolvency Resolution Professionals, calling off CoC after completion of CIRP period, avoidable transactions, powers of authorized representatives for class of creditors etc.

➤ **Webinar on Role of RP in view of recent judicial pronouncements held on 23rd October, 2018**



ICSI Institute of Insolvency Professionals organized a Webinar on the topic '*Role of RP in view of recent judicial pronouncements*' on 23rd October, 2018. The Insolvency Professionals came up with their views, opinions and questions on the evolving Role of Insolvency Professionals as is stipulated in the circulars issued by IBBI and in various orders of NCLT and NCLAT which were responded by the faculty quite eloquently.

ADMITTED CASES

Cases under the Code are being filed expeditiously across the various benches of National Company Law Tribunal ("NCLT"). The newly admitted cases with regard to CIRP under the Code are as below:

S. No.	Case Title	Relevant Section	NCLT Bench	Amount in default as mentioned in application (in Rupees)
1.	PMT Machines Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Mumbai	119 Crores
2.	In the matter of M L Mansukhani & Co. Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by operational creditor.	Mumbai	1.18 Crore

3.	In the matter of Maharashtra Aluminium & Alloys Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Mumbai	61 Lakh
4.	In the matter of Harsh Polymers (India) Ltd.	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Ahmedabad	1.23 Lakhs
5.	In the matter of Akhil Logistics Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Mumbai	89 Lakhs
6.	In the matter of Pradeep Downhole Equipments Private Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	New Delhi	45 Lakhs
7.	In the matter of Snowqueen Towers Private Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Kolkata	3.45 Crores
8.	In the matter of Amazon Enterprises Pvt. Ltd	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Hyderabad	2.61 Crores
9.	In the matter of Liners India Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Hyderabad	60 Lakhs

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	In the matter of BMM Ispat Limited	Mumbai	22.10.18
2.	In the matter of Anil Ltd	Ahmedabad	25.10.18
3.	In the matter of Andaman Sea Foods Pvt. Ltd.	Kolkata	25.10.18
4.	In the matter of Forgings Pvt. Ltd.	New Delhi	26.10.18
5.	In the matter of Biotropics Pharma Pvt. Ltd.	New Delhi	26.10.18
6.	In the matter of Kamineni Steel & Power India Pvt. Ltd	Hyderabad	26.10.18
7.	In the matter of Rasoya Proteins Ltd.	Mumbai	30.10.18

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE RESOLUTION

S. No	Case Title	Bench	Date of Order
1.	In the matter of Parte Casters Pvt. Ltd.	Mumbai	22.10.18

BRIEF OF JUDGEMENTS

S. No.	Case Details	Date of Order	Courts	Brief	Case link
1.	In the matter of Transmission Corporation of Andhra Pradesh Limited Vs Equipment Conductors and	23.10.18	Supreme Court	An application was moved to NCLT u/s 9 of IBC. NCLT dismissed the petition observing that the very claims were subject matter	https://ibbi.gov.in/webadmin/pdf/order/2018/Oct/33945_2018_Judgement_04-Oct-2018_2018-

	Cables Limited			<p>of arbitration and the award was passed rejecting these claims as time-barred.</p> <p>In the appeal filed before NCLAT, it observed that a prima facie case has been made out by the petitioner and said that if appeal is allowed and corporate insolvency resolution process is initiated against Transmission Corporate of Andhra Pradesh Ltd., the government undertaking may face trouble.</p> <p>Hon'ble Supreme Court observed that Insolvency and Bankruptcy Code is not intended to be substitute to a recovery forum. It is also laid down that whenever there is existence of real dispute, the IBC provisions cannot be invoked. It has also set aside order dated September 04, 2018 passed by the NCLAT. However, It was</p>	<p>10-04%2015:36:20.pdf</p>
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				further observed that as the Court has gone into merits and found that order of the NCLT is justified, no purpose would be served if the matter is remanded back to the NCLAT for deciding the appeal filed. Accordingly the Appeal was dismissed.	
2.	In the matter of Gaurav Hargovindbhai Dave Vs. Asset Reconstruction Cmpny (India) Ltd.	26.10.18	NCLAT	<p>IRP was directed to ensure the following:</p> <ul style="list-style-type: none"> • that the company remains on going and the manufacturing and production of the company do not suffer. • payment of wages to the employees/workmen are made on time. • if any material is supplied during corporate resolution process, the payment must be paid to the supplier/credi 	https://ibbi.gov.in/webadmin/pdf/order/2018/Oct/26th%20Oct%202018%20in%20the%20matter%20of%20Gaurav%20Hargovindbhai%20Dave%20Vs%20Asset%20Reconstruction%20Cmpny%20(India)%20Ltd.%20&%20Anr.%202018-10-31%2011:04:32.pdf

				<p>tor.</p> <ul style="list-style-type: none"> If necessary, will take aid of (suspended) Board of Directors. <p>Further, it also directed the Bank having account of the corporate debtor to cooperate with the Insolvency Resolution Professional to ensure the compliance of the above directions.</p>	
3.	In the matter of M/s Usha Tubes and Pipes Pvt. Ltd.	30.10.18	NCLT	<p>Adjudicating Authority had to decide whether interest fee deposited will fall under the category of debt or not. The dispute arose out of the lease agreement entered by the petitioner and the respondent. Both the parties i.e. petitioner and Respondent were directed to approach the Arbitrator as per the existence of specific Article (Article 16) of arbitration as admitted by both the parties under provisions of Arbitration and</p>	<p>https://ibbi.gov.in/webadmin/pdf/order/2018/Oct/30th%20Oct%202018%20in%20the%20matter%20of%20Usha%20Tubes%20and%20Pipes%20Pvt.%20Ltd.%20CP%20(IB)%20No.%2024-9-HDB-2018%2018-10-31%2011:54:54.pdf</p>

				Conciliation Act, 1996. The application was disposed of.	
4.	In the matter of Polychroic Petrochemicals Pvt. Ltd.	23.10.18	NCLT	<p>It was observed that the resolution plan submitted by the suspended Promoter/Director of the Corporate Debtor was not put before the COC for its consideration and was rejected by the RP himself.</p> <p>Further, considering the facts and circumstances of the case, statutory developments and the Judgement of the Hon'ble Supreme Court referred to, the Adjudicating Authority directed the suspended Promoter/Director to submit a legally valid resolution plan within seven days from the date of this order to RP and RP to put before the COC, and after that the COC shall take a formal decision, on merits of the resolution plan, either accepting or rejecting the resolution plan.</p>	https://ibbi.gov.in/webadmin/pdf/order/2018/Oct/23rd%20Oct%202018%20in%20the%20matter%20of%20Polychroic%20Petrochemicals%20Pvt.%20Ltd.%20CP%201313-I&BP-NCLT-MAH-2017 2018-10-26%2017:49:35.pdf

We trust you will find this issue of our bulletin useful and informative.

Wish you good luck in all your endeavors!!

Team ICSI IIP

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