

INSTITUTE OF INSOLVENCY PROFESSIONALS

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

KNOWLEDGE REPONERE
(27th November-16th December, 2018)

Dear Professional Members,

Greetings!

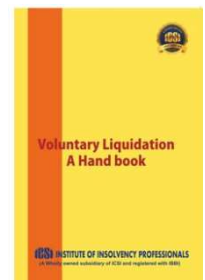
We are pleased to share with you our next issue of the knowledge bulletin on the Insolvency and Bankruptcy Code, 2016 ("**Code**").

!! ICSI IIP PUBLICATIONS NOW AVAILABLE ALSO ON FLIPKART AND AMAZON!!

Voluntary Liquidation- A Handbook:

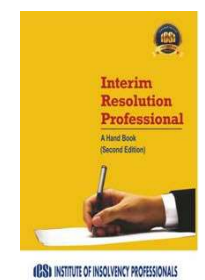
This Publication covers the procedural aspects of voluntary liquidation of corporate persons along with the specimen formats of Board resolution, shareholders' resolution, engagement letter, intimations to various authorities, preliminary report, final report, application to NCLT for dissolution, FEMA and taxation aspects of Voluntary liquidation etc.

<http://dl.flipkart.com/dl/voluntary-liquidation-handbook/p/itm9n26hqwy3sf?pid=9789386676047&cmpid=product.share.pp>



Interim Resolution Professional- A Handbook (Second Edition):

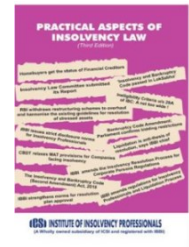
This Publication is an updated edition covering the role of Interim Resolution Professional, and the compliances and functions required to be performed. It also contains specimen formats of NCLT applications, Notices of COC, process of handing over from IRP to RP, important judgements supporting/directing IRP directly.



<http://dl.flipkart.com/dl/interim-resolution-professional-hand-book/p/itm9n25azggfy23?pid=9789386676030&cmpid=product.share.pp>

Practical Aspects of Insolvency Law (Third Edition):

This Publication is updated up to August, 2018 and covers the Insolvency and Bankruptcy (Amendment) Act, 2018 and related changes in the Regulations, Circulars etc., specimen formats of NCLT applications along with major landmark judgments that would help Insolvency Professionals get an insight into the interpretations of provisions of Code.



<http://dl.flipkart.com/dl/practical-aspects-insolvency-law/p/itm9n263hqmcfgs?pid=9789386676023&cmpid=product.share.pp>

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.	In the matter of NRC Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Mumbai	273 Crore
2.	In the matter of Ortel Communications Ltd.	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	New Delhi	11.94 Crore
3.	In the matter of Atharva Advisory Services Private Limited	Section 7 of the Code dealing with the initiation of CIRP by financial	Mumbai	4.22 Crore

		creditor.		
4.	In the matter of Digamber Buildcon Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	New Delhi	9.14 Crore
5.	In the matter of Golen Glow Estates Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	New Delhi	239 Crores
6.	In the matter of Liquid Space Entertainment Private Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Bengaluru	5.99 Crore
7.	In the matter of Mak Power Transformers Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Kolkata	6.98 Lakh
8.	In the matter of RLS Alloys Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Chennai	3.59 Lakh
9.	In the matter of Crown Realtech Private Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	New Delhi	24.63 Lakh
10.	In the matter of ERA T&D Limited	Section 7 of the Code dealing with the initiation of CIRP by financial	New Delhi	26.72 Crores

		creditor.		
11.	In the matter of EVAN Multispeciality Hospital & Research Centre Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	New Delhi	27 Lakh
12.	In the matter of Adel Landmarks Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	New Delhi	663 Crore
13.	In the matter of Rational Buildcon Pvt Ltd	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	New Delhi	316 Crore
14.	In the matter of Reacon Engineers (India) Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Kolkata	20 Lakh
15.	In the matter of R.E. Cables & Conductors Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Hyderabad	5.23 Crore
16.	In the matter of Shree Badrinarain Alloys & Steels Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Kolkata	85 Crore
17.	In the matter of Excel Intelligence Services Private	Section 9 of the Code dealing with the initiation of CIRP by operational	Bengaluru	2.51 Lakh

	Limited	creditor.		
18.	In the matter of White & Brown Alloy Castings Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Kolkata	13.65 Crore
19.	In the matter of St. John Freight System Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Chennai	73 Crore

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE RESOLUTION

S. No	Case Title	Bench	Date of Order
1.	In the matter of Garg Inox Ltd.	New Delhi	04.12.18

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	In the matter of Sree Ramakrishna Alloys Limited	Hyderabad	30.11.18
2.	In the matter of Nova Electro Magnetics Limited	Chennai	30.11.18
3.	In the matter of Harshavardhan Cotton and Synthetics Pvt. Ltd.	Chennai	03.12.18
4.	In the matter of Arohi Infrastructure Private Limited	Chennai	05.12.18
5.	In the matter of Matrix Metal Traders Private Limited	Chennai	05.12.18
6.	In the matter of Coatal Proejcts Ltd	Kolkata	06.12.18

7.	In the matter of Vasudev Ispat Private Limited	Kolkata	07.12.18
8.	In the matter of Aman Medical Pvt. Ltd.	Allahabad Bench	10.12.18

BRIEF OF JUDGEMENTS

S. No.	Case Details	Date of Order	Courts	Brief	Case link
1.	Asset Reconstruction Private Limited v. Rustogi Impex Pvt. Ltd.	29.11.2018	NCLT	An application under Section 33(Initiation of Liquidation) of IBC was filed. NCLT held that the public notice for inviting Expression of Interest was issued in the paper in an insignificant portion and would not attract attention of anyone. NCLT keeping in mind the basic objectives of the Code and the because the period of 270 days was not over, allowed for a new invitation to be issued in a different newspaper and extension for the period from 180 days to 270 days was granted .	https://ibbi.gov.in/webadmin/pdf/order/2018/Dec/29th%20Nov%202018%20in%20the%20matter%20of%20Rustogi%20Impex%20Pvt.%20Ltd.%20Item%20No.%20128%20(IB)-77(PB)-2018-12-04%2014:31:08.pdf
2.	TATA Chemicals Limited v. Raj Process Equipments and Systems Private	30.11.2018	NCLT, Mumbai Bench	TATA Chemicals Limited, filed a Petition under Section 9 of the Insolvency and	https://nclt.gov.in/sites/default/files/final-orders-pdf/CP%2021%20OF%202018%20T

	Limited			<p>Bankruptcy Code, 2016 for initiation of CIRP against the Corporate Debtor. It was observed by NCLT that the Petitioner's claims does not fall within the definition of Operational Debt. Petitioner has filed false affidavit to prove that the actual principal amount due is ₹9,19,40,000/- instead of ₹4,40,000/-.</p> <p>Therefore, Petition is dismissed with costs of ₹10,00,000/-</p>	<p>ATA%20CHEMICALS%20LTD%20vs%20RAJ%20PROCCESS%20EQUIPMENTS%20%26%20SYSTEMS%20PVT%20LTD.pdf</p>
3.	Gaurav Pandey v. Eternity Investment Services Pvt. Ltd. &Anr.	30.11.2018	NCLAT	<p>NCLAT observed that the parties had signed a 'settlement deed' on 1st November 2018 i.e much before the date of admission of application on 13th November 2018. NCLAT held that all actions like freezing of assets, public announcement made by the Resolution Professional, declaring moratorium were all illegal and were set aside. NCLAT dismissed the application filed</p>	<p>https://ibbi.gov.in/webadmin/pdf/order/2018/Dec/30th%20Nov%202018%20In%20the%20matter%20of%20Gaurav%20Pandey%20vs%20Eternity%20Investment%20Services%20Pvt.%20Ltd.%20&%20Anr.%20OCA%20(AT)%20(Insolvency)%20714-2018_2018-12-03%2017:57:47.pdf</p>

				under section 7 of the Code.	
4.	Nathella Depositors Welfare Association v. Union of India, Through its Secretary, Ministry of Finance	30.11.2018	NCLAT	<p>The depositors of the 'Corporate Debtor' have formed the 'welfare association'. This appeal was preferred by Nathella Depositors Welfare Association against order dated 23rd April, 2018 passed by the Adjudicating Authority (NCLT, Chennai Bench) whereby and whereunder the 'Committee of Creditors' has been allowed to recommend the name and to appoint a new 'Resolution Professional'.</p> <p>NCLAT observed that the amount deposited by the depositors do not come within the definition of 'financial debts' as defined under Section 5(8) of the I&B Code. NCLAT considered the fact that large number of depositors have deposited the amount with the</p>	https://ibbi.gov.in/webadmin/pdf/order/2018/Dec/30th%20Nov%202018%20In%20the%20matter%20of%20Nathella%20Depositors%20Welfare%20Association%20vs%20UOI,%20Through%20its%20Secretary,%20Ministry%20of%20Finance%20CA%20(AT)%20(Insolvency)%20732-2018_2018-12-03%2018:10:10.pdf

				<p>'Corporate Debtor' and they come within the meaning of 'creditors', NCLAT predicts that when the 'resolution plan' will be filed by 'Resolution Applicant' or taken into consideration by the 'Committee of Creditors', they will consider whether the 'Resolution Applicant' has made provision for the depositors.</p>	
5.	Insolvency & Bankruptcy Board of India v. Wig Associates Pvt. Ltd. & Ors	03.12.2018	NCLAT	<p>IBBI raised issue that Mahendra Wig's resolution plan for 'one time settlement' is not permissible under the provisions of the Code and alleges that Mahander Wig, Resolution Applicant is a related party to the Corporate Debtor. NCLAT issued a notice to the respondents of the appeal to submit as to why the appropriate order be not passed and if so required 'approved resolution plan' be not declared null and void.</p>	<p>https://ibbi.gov.in/webadmin/pdf/order/2018/Dec/03.12.2018%20In%20the%20matter%20of%20Insolvency%20&%20Bankruptcy%20Board%20of%20India%20Vs%20Wig%20Associates%20Pvt%20Ltd%20&%20Ors%20CA%20(AT)%20No.%20415%200-2018%20IA%20No.1950-2018_2018-12-04%2020:58:42.pdf</p>
6.	Manish Agarwal	06.12.2018	NCLAT	The Resolution	<p>https://nclat.nic.in</p>

	v. G.S.Express Pvt. Ltd.			Professional is entitled to get the amount of the expenses incurred by them for the resolution process and their fees for the same from the Corporate Debtor.	/Useradmin/upload/13184072945c0a2197bc238.pdf
7.	Ajay Agarwal and Anr. v. Ashok Magnetics Limited	09.11.2018	NCLT	NCLT directed the member of the CoC to work out a "Standard Operating Procedures" to be followed by them for determining the suitability and viability of Resolution Plans",) under IBC. The resolution applicants were actually promoters of Ashok Magnetics, the CoC cited Section 29A of the Code to reject their proposal. Applicants submitted that since Ashok Magnetics is an MSME, the exception carved out for the class of companies under the IBC (Amendment) Ordinance would apply. NCLT asserted that it was an exercise in futility to remand the matter to the RP and the CoCs for	https://ibbi.gov.in/webadmin/pdf/order/2018/Nov/9th%20Nov%202018%20in%20the%20matter%20of%20Ashok%20magnetics%20Limited%20&%20Anr.%20MA-478-2018%20In%20CP-551-IB-2017%2018-11-27%2016:29:35.pdf

				reconsideration of the Resolution Plan, as they have no intention to consider any Resolution Plan, in spite of the direction of NCLT and thus noting that the period of 270 days was already over, it pass an of liquidation of Ashok Magnetics.	
8.	Jaipur Metals & Electricals Employees Organization v. Jaipur Metals & Electricals Ltd.	12.12.2018	Supreme Court	The Supreme Court held that the company petition pending before the High Court cannot be proceeded with further in view of Section 238(non-obstante clause) of the Code. The writ petitions that are pending before the High Court should also be disposed of in light of the fact that proceedings under the Code must run their entire course first.	https://ibbi.gov.in/webadmin/pdf/order/2018/Dec/12th%20Dec%202018%20in%20the%20matter%20of%20Jaipur%20Metals%20&%20Electricals%20Employees%20Organisation%20Vs.%20Jaipur%20Metals%20&%20Electricals%20Ltd.%202018-12-13%2014:20:51.pdf
9.	Anuj Jain (IRP for Jaypee Infratech Limited) in the matter of IDBI Bank Ltd. v. Jaypee Infratech Pvt. Ltd.	10.12.2018	NCLT, Allahabad Bench	The IRP should follow Regulation 13(2) of CIRP Regulations as it is a just, fair and reasonable regulation that would help to have effective resolution	https://ibbi.gov.in/webadmin/pdf/order/2018/Dec/10th%20Dec%202018%20in%20the%20matter%20of%20Jaypee%20Infratech%20Ltd.%20Company%20Applic

				process. Publishing the names of allottees of plots/flats of the Corporate Debtor is not going to effect the Right to Privacy of allottees.	aiton%20No.225-2018%20In%20Company%20Petition%20No.(IB)77-ALD-2017 2018-12-13%2019:01:17.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

Disclaimer: Although due care and diligence has been taken in the production of this Knowledge Reponere, the ICSI Institute of Insolvency Professionals shall not be responsible for any loss or damage, resulting from any action taken on the basis of the contents of this Knowledge Reponere. Anyone wishing to act on the basis of the material contained herein should do so after cross checking with the original source.