

## Learning Curve-1012

November 30, 2023

**Distribution to secured creditor must be made as per their admitted claim and not as per security interest over assets of corporate debtor**

CASE TITLE	ICICI Bank Limited Vs. BKM Industries Limited & Anr.
CASE CITATION	Company Appeal (AT) (Insolvency) No.405 of 2023
DATE OF ORDER	November 06, 2023
COURT/ TRIBUNAL	NCLAT, New Delhi

### BRIEF FACTS:

CoC approved a Resolution Plan submitted by the Resolution Applicant with vote share of 78.79%. The Plan provides that payment to secured creditors shall be distributed amongst them based on proportion of their admitted claim. The RP filed an application for approval of the Resolution Plan. The appellant raised objection and filed an IA before the AA seeking a direction to distribute as per security interest. The IA was rejected by the AA. Aggrieved with the rejection the appellant filed an appeal.

### DECISION:

The Hon'ble NCLAT, New Delhi, held that,

*“From the Minutes of the 14th and 15th CoC, it is clear that specific Agenda Item was placed before the CoC for consideration as to whether distribution has to be made as per the admitted claim of the secured lenders or on the basis of security interest over assets of the Corporate Debtor. When the CoC approved the voting at Agenda Item No.1, i.e., distribution based on the proportion of admitted claim of the respective secured lenders, which was also in accordance with the Resolution Plan submitted by the Resolution Applicant, no challenge by the Appellant can be entertained...*

*Section 3, sub-section (6) defines the ‘claim’, which claim is to be filed by a Financial Creditor as per Regulation 8, sub-section (1) of the CIRP Regulations, 2016. Thus, the scheme of Section 53, sub-section (1), clearly indicates distribution as per the debt and in the legislative scheme there is no scope of distribution of assets among the Financial Creditors as per security interest...*

*In view of the forgoing discussions, we are of the view that no error has been committed by the Adjudicating Authority in rejecting IA No.471 of 2022.”*