

**The NCLT/NCLAT can exercise jurisdiction under section 60(5)(c) of the IBC to stay termination of contracts solely on account of CIRP being initiated against the CD.**

<b>CASE TITLE</b>	Gujarat Urja Vikas Nigam Limited Vs. Mr. Amit Gupta & Ors. <sup>1</sup>
<b>CASE CITATION</b>	Civil Appeal No. 9241 of 2019
<b>DATE OF ORDER</b>	08.03.2021
<b>COURT/TRIBUNAL</b>	Supreme Court
<b>CASES REFERRED</b>	<ul style="list-style-type: none"><li>• <i>S. Sukumar vs The Secretary, Institute of Chartered Accountants of India</i></li><li>• <i>P Mohanraj vs Shah Brothers Ispat Pvt. Ltd</i></li></ul>
<b>SECTION/REGULATION REFERRED</b>	Section 60, 14 of IBC

**Brief of the case:**

The Hon'ble Supreme Court in its order dated 8th March, 2021 dismissed the appeal and made some important observations in the context of insolvency proceedings as under:

- Under Section 60(5)(c), NCLT has jurisdiction to adjudicate disputes, which arise solely from or which relate to the insolvency of the CD.
- RP can approach the NCLT for adjudication of disputes that are related to the insolvency resolution process.
- The residuary jurisdiction of the NCLT under Section 60(5)(c) of the Code provides it a wide discretion to adjudicate questions of law or fact arising from or in relation to the insolvency resolution proceedings.
- The Code has been in effect from 5 August 2016, and has also been amended multiple times. Hence, if the 'going concern' status of CDs was being affected on a regular basis due to ipso facto clauses (which are in vogue even in the present contracts similar to the current PPA), then the legislature may, if it considered necessary, have proceeded to legislate on an explicit position with regard to the operation of ipso facto clauses.
- The inclusion of the Explanation to Section 14(1) and Section 14(2A) indicates that Parliament has been amending the Code to ensure that the status of a CD as a 'going concern' is not hampered on account of varied situations.
- The jurisdiction of the NCLT under Section 60(5)(c) of the Code cannot be invoked in matters where a termination may take place on grounds unrelated to the insolvency of the CD.
- NCLT/NCLAT correctly stayed the termination of PPA, since allowing it to terminate the PPA would certainly result in the corporate death of the CD due to the PPA being its sole contract.



**QR CODE FOR FULL ORDER/JUDGEMENT:**

<sup>1</sup> <https://ibbi.gov.in/uploads/order/79e3093d3be5f907a06411924f0a6b62.pdf>