

Unqualified acknowledgement of debt in the balance sheet extends period of limitation for filing of CIRP: Supreme Court reiterates

CASE TITLE	State Bank of India Vs. Krishidhan Seeds Private Limited ¹
CASE CITATION	Civil Appeal No 910 of 2021
DATE OF ORDER	April 18, 2022
COURT/ TRIBUNAL	Supreme Court of India
SECTION/ REGULATION REFERRED	Section 18 of the Limitation Act, Section 7 IBC
CASE LAWS REFERRED	<ul style="list-style-type: none">• V Padmakumar v/s. Stressed Assets Stabilisation Fund and another• Laxmi Pat Surana v Union Bank of India• Asset Reconstruction Company (India) Limited v Bishal Jaiswal• Sesh Nath Singh v Baidyabati Sheoraphuli Coop. Bank Ltd.

Brief of the case:

NCLT rejected an application filed by the State Bank of India under Section 7 of the IBC for initiation of the CIRP on the ground of limitation. It held that a statement contained in the balance sheet cannot be treated as an acknowledgement of liability under Section 18 of the Limitation Act, 1963. While upholding this order, the Hon'ble NCLAT held that recourse to Section 18 of the Limitation Act (Effect of acknowledgment in writing) was not available.

Decision:

While considering the appeals filed against these orders, the Hon'ble Apex court bench noted that the judgments relied on by the NCLT/NCLAT has been specifically overruled by the Hon'ble Supreme Court. It held that,

“In view of the above decisions, the position of law has been set at rest. Neither the NCLT nor the NCLAT had the benefit of adjudicating upon the factual controversy in the context of the decisions of this Court. The principles which emerge are that:

(i) The provisions of Section 18 of the Limitation Act are not alien to and are applicable to proceedings under the IBC; and

(ii) An acknowledgement in a balance sheet without a qualification can furnish a legitimate basis for determining as to whether the period of limitation would stand extended, so long as the acknowledgement was within a period of three years from the original date of default.”

QR CODE FOR FULL ORDER/JUDGEMENT:



¹ https://www.livelaw.in/pdf_upload/497-state-bank-of-india-v-krishidhan-seeds-18-april-2022-418425.pdf