

Business Standard

With NCLT, NCLAT closing for vacations, insolvency resolutions face delays

Legal experts and resolution professionals handling cases where the deadline expires within the next two weeks said they were not sure how to proceed

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With the National Company Law Tribunal (NCLT) and the National Company Appellate Law Tribunal (NCLAT) closing for vacations, the resolution process for firms

undergoing bankruptcy proceedings are staring at further delays.


The Bengaluru, Chennai and Ahmedabad Benches of the NCLT are already on a two-week vacation, while the vacations for Mumbai, Kolkata and Hyderabad Benches will begin May 21 and end on June 1.

Though it is for the committee of creditors (CoC) and resolution professionals (RPs) to decide on a resolution plan, consultations with the tribunals will not be possible during their holidays.

Lawyers are concerned about the way ahead. “At the moment there is no clarity on this but I believe wherever the vacation period comes in the way of the timelines, the parties concerned will definitely approach the NCLT for an extension,” said Subodh Sadana, partner at Advaita Legal.

Legal experts and resolution professionals handling cases where the deadline expires within the next two weeks said they were not sure how to proceed. “We will file requests with the NCLT to extend the deadline for submitting a resolution plan,” said a lawyer who did not wish to be quoted.

Representatives of stressed companies could seek more time for submitting a resolution plan, provided there is appropriate justification, said legal experts, but getting an extension will not be automatic just because an NCLT Bench is on vacation.

HOLIDAY TIME		270-DAY DEADLINE	
Chennai May 7–May 18		Companies	
Bengaluru May 14–May 25		ERA Infra*	Feb 2, '19
Ahmedabad May 14–May 25	Chandigarh Jun 18–Jun 29	Jyoti Structures	Mar 31, '18
Delhi Jun 15–Jun 29	Allahabad Jun 18–Jun 29	Alok Industries	Apr 14, '18
Mumbai May 21–Jun 1	Guwahati Jul 2–Jul 16	Monnet Ispat	Apr 14, '18
Kolkata May 21–Jun 1	National Company Law Appellate Tribunal Jun 1–Jun 9	Electrosteel	Apr 17, '18
Hyderabad May 21–Jun 1		Amtek Auto	Apr 20, '18
		Bhushan Power & Steel	Apr 22, '18
		Bhushan Steel	Apr 22, '18
		ABG Shipyard	Apr 28, '18
		Essar Steel	Apr 29, '18
		Lanco Infratech	May 4, '18
		Jaypee Infratech	May 6, '18
		* Era Infra was added to the NCLT list only this month Source: Companies	

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Sivaprakasam, partner with Economic Laws Practice, told Business Standard: “This is not a general direction for all cases; appropriate justification needs to be made before the tribunal for an extension. The 180-day and 270-day deadline is binding on all parties in the CoC and the RP to draw a resolution plan.”

However, there may be situations wherein an extension of two weeks may be granted, said Sivaprakasam.

A situation where an extension can be granted is when the 270-day deadline expires during the vacation and the stressed company has to automatically go into liquidation.

The second situation for an extension is if an application placed before an NCLT Bench had not been addressed prior to the vacation, and due to the lack of direction or clarity from the tribunal, the CoC and RP could not proceed with producing a resolution plan.

Manoj K Singh, founding partner, Singh and Associates, however, said: “The resolution process is managed by the RP along with the CoC. NCLT’s vacation has no bearing on its validity or timelines. The vacation period is not to be excluded from the period of 270 days unless the process was restrained due to the vacation.”

Further, since there is no clarity, the parties would definitely file their applications before the vacation of the Benches start instead of taking the risk of waiting for the vacation to be over.”

The NCLT Benches in Delhi, Chandigarh and Allahabad close for vacation from the third week of June for two weeks, while the Guwahati Bench will close from July 2. The National Company Law Appellate Tribunal will close on 1 June for a month.

Despite the NCLAT functioning throughout May, it will not entertain applications for extensions because it is not a designated vacation Bench, Sivaprakasam said.

Lawyers said the NCLAT vacation may mean some key decisions are likely to be postponed if not heard prior to its holidays.