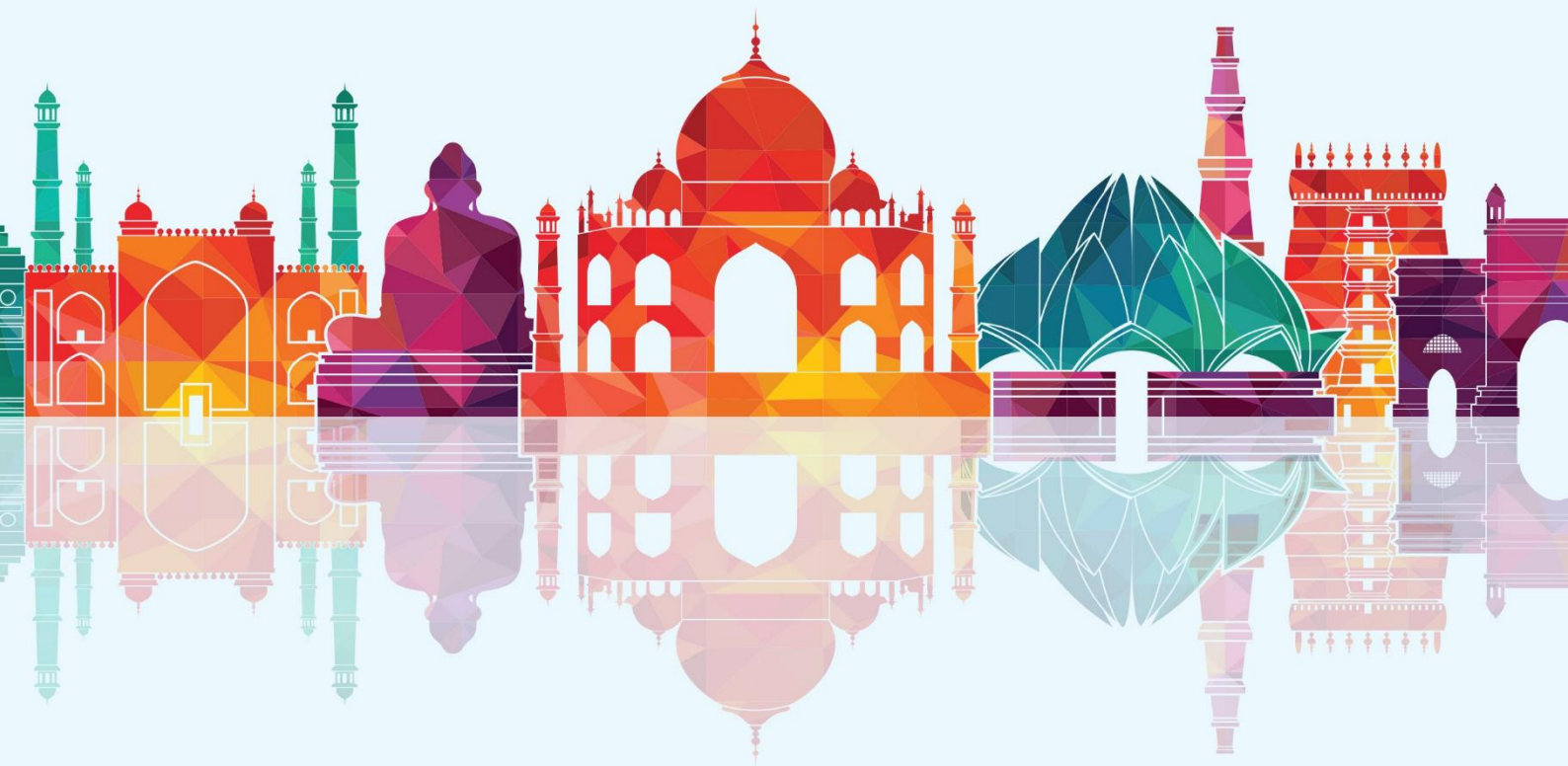




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NCLT JUDGMENTS

Punjab & Sind Bank V. Umesh Singhal (IRP) & Anr.

NCLT ON LIMITS OF TRIBUNAL'S INHERENT POWERS UNDER RULE 11

Case No.: I.A. No. 1601 of 2025 in C.P. No. 462 (ND) of 2023 with I.A. No. 1761 of 2025 in C.P. No. 462 (ND) of 2023 and I.A. No. 1767 of 2025 in C.P. No. 462 (ND) of 2023

Court: NCLT New Delhi Bench – Court IV

Date of Decision: October 10, 2025

GIST OF THE JUDGEMENT:

The inherent powers under Rule 11 of the NCLT Rules, 2016 cannot be invoked to supervise or micro-manage functions that are statutorily vested in the Interim Resolution Professional (**IRP**) under the Insolvency and Bankruptcy Code (**IBC**).

The Tribunal emphasized that the Adjudicating Authority may step in only where there is a *specific violation or irregularity* in the IRP's conduct, not to oversee day-to-day decisions or inter-creditor issues.

It further observed that an IRP is not expected to adjudicate inter-creditor disputes or engage in bilateral reconciliation among lenders, his role is confined to duties prescribed under the IBC and CIRP Regulations.

Punjab & Sind Bank V. Umesh Singhal (IRP) & Anr.

FUNCTIONAL LIMITS OF NCLT'S INHERENT POWERS

Case No.: I.A. No. 1601 of 2025 in C.P. No. 462 (ND) of 2023 with I.A. No. 1761 of 2025 in C.P. No. 462 (ND) of 2023 and I.A. No. 1767 of 2025 in C.P. No. 462 (ND) of 2023

Court: NCLT New Delhi Bench – Court IV

Date of Decision: October 10, 2025

GIST OF THE JUDGEMENT:

NCLT held that inherent powers under Rule 11 cannot be invoked to supervise or micro-manage the IRP's statutory functions. The Adjudicating Authority may interfere only upon a clear finding of irregularity or violation of IBC provisions. The IRP is not expected to adjudicate inter-creditor disputes or engage in bilateral reconciliations beyond his statutory role.

SIDBI V. KRISHNAKANT BAGREE

LIMITATION FOR SECTION 95 APPLICATIONS

Case No.: CP(IB) No. 62 of 2023- NCLT

Date: October 29, 2025

Court: NCLT Indore Bench

GIST OF THE JUDGEMENT:

The Bench held that the limitation for filing an application under Section 95 (personal guarantor insolvency) is three years from the date of default or invocation of guarantee. An OTS proposal made after expiry of limitation does not constitute an acknowledgment under Section 18 of the Limitation Act and hence does not extend limitation.

- **Principle reinforced:** OTS beyond limitation cannot revive time-barred claims.

SHABANABANU GAFARBHAI MANDAVIYA V. HDFC BANK LTD.

COSTS IMPOSED FOR MISUSE OF SECTION 94 PROCEEDINGS

Date of Judgement: September 26, 2025

Court: NCLT – Ahmedabad Bench

Case Nos.: CP (IB)/365(AHM) 2025

GIST OF THE JUDGEMENT:

The Tribunal imposed costs on an individual debtor for filing a Section 94 IBC application merely to stall SARFAESI proceedings initiated by the bank.

*“In fact, the Corporate Debtor and Applicant made an unsuccessful attempt to stall recovery proceedings under SARFAESI by obtaining a favourable order from the DRT in SA No. 357 of 2022, which was not honoured by them. Again, in order to just stall the auction dated 25.08.2025 of the secured asset under the SARFAESI Act, 2002, the present petition was filed on 21.08.2025 by invoking the interim moratorium to frustrate the said legitimate auction process. The Hon’ble NCLAT in **Syed Sirajis Salikin Khadri v. Edelweiss Asset Reconstruction Company Ltd. and Anr.** held that Section 94 application filed to stall recovery proceedings under SARFAESI by taking advantage of the moratorium under IBC, **Getz Cables Judgment** is not applicable.*

12. *In view of the above discussions, it is established that the present Petition was filed by the Applicant only to halt the proceedings initiated by the Secured Financial Creditor against the secured asset and to frustrate other proceedings under the SARFAESI Act. The sole intention of the Applicant herein is to enjoy the moratorium as*

contemplated under Section 96(1) of the IBC, 2016, which automatically commences on the date of the filing of the Petition U/s 94 or 95 of the IBC, 2016.”

- **Principle reinforced:** IBC cannot be used as a shield against legitimate enforcement.

SHIVA ASPHALTIC PRODUCTS PVT. LTD. V. ATLAS CONSTRUCTIONS PVT. LTD.

TIME IN PRE-LITIGATION MEDIATION NOT EXCLUDABLE

Case No.: CP (IB)-339(ND)/2025

Date: October 14, 2025

Court: New Delhi Bench (Court-IV)

GIST OF THE JUDGEMENT:

Held that the time spent in voluntary pre-litigation mediation cannot be excluded under Section 14 of the Limitation Act when computing limitation for a Section 9 application.

*“In this context, reference may be made to the **“Report on Framework for Use of Mediation under the Insolvency and Bankruptcy Code, 2016”**, dated 31.01.2024, prepared by the Expert Committee constituted by the Insolvency and Bankruptcy Board of India (IBBI). The Committee, while deliberating on the scope of mediation in insolvency matters, specifically observed as follows:*

“5.42. Pre-institutional Mediation falls outside of Insolvency:

The Committee also discussed at length, the possibility of pre-institutional mediation in insolvency matters, and is of the view that it may not fit well within the spirit of the Code. The remedies under the Code come into effect only after the statutory ‘default’ has occurred and an application has been made to initiate insolvency proceedings. Any mediation prior to such application would fall outside the realm of the Code and technically not be ‘insolvency mediation.’ Thus, it cannot therefore be enforced in the same manner as mediations post the filing of an application under the Code.”

viii. The above extract clearly strengthens the point that any mediation prior to filing of an insolvency application falls outside the framework of the Code and cannot be treated as a proceeding “in relation to insolvency.” Therefore, the time spent in such voluntary pre-institution mediation proceedings cannot be excluded for computation of limitation under Section 14 of the Limitation Act.”

- **Principle reinforced:** Only time spent in proceedings before a court of competent jurisdiction can be excluded under Section 14.

MANISH BAGRODIA V. ANIL KOHLI (RP)

CONFIDENTIALITY OF VALUATION REPORTS – LIMITED ACCESS

Case No.: Company Appeal (AT)(Insolvency) No. 1078/2025

Court: NCLAT – Company Appeal (AT)(Insolvency)

Date: October 29, 2025

Corporate Debtor: Rohit Ferro Tech Limited

GIST OF THE JUDGEMENT:

NCLAT dismissed an ex-director's plea for access to discarded valuation reports in Winsome Yarns' CIRP, holding that:

- Suspended directors have notice and participation rights under Section 24,
- But no entitlement to interim or abandoned valuation reports under Reg. 35(2), which restricts sharing to CoC members under confidentiality undertakings. The Bench distinguished Vijay Kumar Jain (SC), clarifying that access rights extend to resolution plans, not discarded valuations.

CANARA BANK LTD. V. SANJANA UDAY DESAI

ACKNOWLEDGE OF DEBT BY RP

Case No.: CP (IB) NO. 25/MB/2025

Date: October 1, 2025

Court: NCLT Mumbai Bench

GIST OF THE JUDGEMENT:

Acceptance of claim of financial creditor in CIRP of Corporate Debtor can further extend the period of limitation for Section 95 application | There is no provision in the law which vitiates the proceedings if the statutory demand notice is issued after gap of years so long as the filing of Application consequent thereto is found within the limitation period.

Liability due to financial creditor having been verified by RP of Corporate Debtor in its CIRP as within limitation in itself constitutes acknowledgement by Corporate Debtor and binds Personal Guarantor as well extending the period of limitation for an application under Section 95 of IBC.

Rawfert Resources Pvt. Ltd. V. R V Global Pvt. Ltd.**EXISTENCE OF ARBITRATION AGREEMENT DOES NOT EXCLUDE JURISDICTION OF NCLT****Case No.: CP (B) No. 367/MB/2025****Date: October 10, 2025****Court: NCLT Mumbai Branch****GIST OF THE JUDGEMENT:**

The existence of an arbitration clause does not preclude the filing of an application under Section 9 of the IBC. It is established law that the operational creditor may initiate insolvency proceedings even when an arbitration agreement is present, as the objective of the IBC is resolution rather than mere recovery of dues through traditional dispute resolution mechanisms. Moreover, the Hon'ble Supreme Court in **Tata Consultancy Services Ltd. v. Vishal Ghisulal Jain**, [Civil Appeal No 3045 of 2020] has categorically held

"21. In terms of Section 238 and the law laid down by this Court, the existence of a clause for referring the dispute between parties to arbitration does not oust the jurisdiction of the NCLT to exercise its residuary powers under Section 60(5)(c) to adjudicate disputes relating to the insolvency of the Corporate Debtor."

Accordingly, it is now well settled that the jurisdiction of the Adjudicating Authority under the IBC is not excluded merely by reason of an arbitration clause. Hence, the CD's argument that arbitration should be pursued before insolvency is legally unsustainable."

Equentia Financial Service Pvt. Ltd. V. Puneet Singh Jaggi**PARALLEL PROCEEDINGS AGAINST PERSONAL GUARANTOR AND CORPORATE DEBTOR ARE PERMISSIBLE AND DO NOT AMOUNT TO DUPLICITY.****Case No: C.P. (IB) No. 333/NCLT/(AHM) /2025 with I.A. No. 1042/NCLT/AHM/2025****Date: October 13, 2025****Court: NCLT Ahmedabad Bench****GIST OF THE JUDGEMENT:**

Admission of claim in Corporate Insolvency Resolution Process does not discharge the personal guarantor. The personal guarantee creates an independent obligation enforceable Separately from the corporate debt. Parallel proceedings against the personal guarantor are permissible and do not amount to duplicity. As per section 128 of the Contract Act, 1872, a guarantor's liability is co-extensive with that of the principal debtor. The creditor can take action against both the principal debtor and guarantor at the same time.

Manish Bagrodia V. Anil Kohli (RP)**RIGHT TO PARTICIPATE OF SUSPENDED DIRECTORS****Case No.: Company Appeal (AT) (Insolvency) No. 1078 of 2025****Date: October 29, 2025****Court: NCLAT New Delhi Bench****GIST OF THE JUDGEMENT:**

Right to participate of Suspended Director/ ex-Management of Corporate Debtor in CoC Meetings under Section 24 of IBC does not extend to deliberations over Valuation Report / documents which are statutorily restricted and confidential in nature.

"It may not be off the mark to hold that the Appellant being part of the suspended management was responsible for the insolvency of the Corporate Debtor. It therefore does not behove the Appellant to self-proclaim that they are the only participant entity which is focused on efficient and beneficial resolution of the Corporate Debtor. We also do not find any rationale in the Appellant pressing for the first set of valuation reports when these had already been categorically rejected by the CoC and no longer carried any relevance to the resolution plans which were discussed by the CoC. The unilateral perception of the Appellant on the reliability of the first set of valuation reports which had already been rejected by the CoC lacks force of contention. The Adjudicating Authority had not committed any error in rejecting the application filed by the Appellant to provide them with copies of the first set of valuation reports which had been discarded by the CoC."

Subhash Aggarwal V. State Bank of India and Anr.**NO STATUTORY PROHIBITION ON SUBMISSION OF MULTIPLE REPORTS UNDER SECTION 99****Case No.: Company Appeal (AT) (Insolvency) No. 512 of 2024****Court: NCLAT New Delhi Bench****Date: October 29, 2025****GIST OF THE JUDGEMENT:**

There is no statutory prohibition on submission of multiple reports/ additional report under Section 99 of the IBC by Resolution Professional (RP) in personal insolvency.

"In such circumstances, it does not appeal to reason for the Appellant to question the submission of the Additional Report. When sufficient opportunity had also been given to the Appellant to deal with the Additional Report, the Appellant cannot claim to have suffered any prejudice on this count. Even the contention that the Additional Report filed by the RP could not have been considered by the Adjudicating Authority as it was beyond the statutory period of

10 days provided under Section 99 of IBC is not tenable since there is no prohibition on the RP to file an Additional Report in continuation of his earlier report. Moreover, the Additional Report was placed with the prior approval of the Adjudicating Authority. Further under Section 100 of IBC, any aggrieved party can produce additional documents before the RP. In the present case, the Appellant had also filed additional documents. Having availed this benefit, they cannot now question the conduct of the RP on this count. Apart from the fact that there was no embargo on the filing of an Additional Report, the Appellant cannot raise this ground at this stage when it did not challenge the order passed by the Adjudicating Authority on 14.12.2022. The contention raised by the Appellant that the RP could not have filed an additional report is a frivolous technical plea which lacks basis."

Arul Prasad Senniappan V. Viprah Technologies Ltd.

WHOLE-TIME DIRECTOR CAN FILE AN APPLICATION UNDER SECTION 9 OF IBC FOR INITIATION OF CIRP AGAINST THE CORPORATE DEBTOR FOR UNPAID SALARY DUES

Case No.: IBA/1297(CHE)/2019

Court: NCLT Chennai Bench

Date: October 10, 2025

GIST OF THE JUDGEMENT:

"The Tribunal is conscious that the IBC is not a forum for recovery of disputed claims, but once the debt and default are established and there is no genuine dispute prior to the issuance of demand notice, the statutory mandate under Section 9(5) requires admission of the application. The Respondent's defences appear to be afterthoughts raised belatedly with the sole object of avoiding admission of the petition."

MECK PHARMACEUTICALS AND CHEMICALS PVT. LTD. V. ACCURATE INFRABUILD PVT. LTD.

DISBURSAL MUST BE AGAINST CONSIDERATION FOR TIME VALUE OF MONEY EVEN IF IT IS NOT INTEREST- BEARING

Case No.: CP(AT) (Insolvency) No 544 of 202

Court: NCLT New Delhi Bench

Date: October 29, 2025

HELD:

For any debt to be treated as financial debt under Section 5(7) of IBC, the pre-requisite is disbursement of money to borrower and that the disbursement must be against consideration for time value of money even if it is not interest-

bearing | Even if there is no agreement/contract between the parties, nothing precludes NCLT from looking into the real nature of transaction to determine whether the transaction in question.

Vithal M. Dahake (RP) V. Suraksha Realty Ltd. And Ors

AVOIDANCE TRANSACTION

Case No.: IA 4504/2024 in CP No 380/IB/MB/2021

Court: NCLT Mumbai Bench

Date: October 10, 2025

GIST OF THE JUDGEMENT:

Mortgage Deed executed in favour of Suraksha Realty Ltd. constituted a preferential transaction under Section 43 of the IBC, as it changed the status of Suraksha from unsecured to secured creditor within the look-back period and was not in the ordinary course of business.

"It is an undisputed fact that the Respondent No. 1 in the present case is not a related party and the relevant time for scrutinizing the preferential transactions made in favour of a person other than a related party is one year preceding the insolvency commencement date. In the present case the CIRP of the Corporate Debtor was initiated vide order dated 06.09.2021 and the Corporate Debtor and Respondent No. 1 has executed the said Mortgage deed on 29.07.2021. Hence, the mortgage deed and subsequent creation of security interest in favour of the Respondent No.1 clearly falls under the look back period of one year as stipulate under section 43(4)(b)."

Vidushi Technical and Commercial Services Pvt. Ltd. V. Kamani Foods Pvt. Ltd.

WHEN PARTIES ARE RELYING ON A DULY EXECUTED CONTRACT BETWEEN THEM, THEN COURTS CANNOT REWRITE OR CREATE A NEW CONTRACT.

Case No.: CP (IB)/533(MB)2025

Court: NCLT Mumbai Bench

Date: October 9, 2025

GIST OF THE JUDGEMENT:

"The CD has submitted that the Applicant has imposed conditions on the CD with mala fide intentions and the terms and conditions of the loan facility that the Applicant has envisaged the failure of the CD to meet such unreasonable terms despite being aware about the hardships faced by the CD. We are of the view that, it is a settled principle that when the parties are relying on a duly executed contract between them, then the Courts cannot rewrite or create a new contract between the parties and have to simply rely on the terms and conditions of the agreement. Reliance is

placed on the judgment of the Hon'ble Supreme Court in **Venkataraman Krishnamurthy and Another v. Lodha Crown Buildmart Pvt. Ltd. (2024 INSC 132)** where it held that:

"15. Once the parties committed themselves to a written contract, whereby they reduced the terms and conditions agreed upon by them to writing, the same would be binding upon them."

*"17. More recently, in **Shree Ambica Medical Stores vs. Surat People's Coop. Bank Ltd.**³, it was observed that, through its interpretative process, the Court cannot rewrite or create a new contract between the parties and has to simply apply the terms and conditions of the agreement as agreed between the parties."*

South Indian Bank V. K.C. Mohanan

SECTION 94 – MORATORIUM CAN NOT BE USED TO STALL SARFAESI ACT

Case Number: IA (IBC) 1063/ (CHE)/ 2025 in CP (IB) 109/ (CHE)/ 2023

Court: National NCLT Chennai Bench

Date of Decision: October 10, 2025

GIST OF THE JUDGEMENT

An application under Section 94 of the IBC cannot be permitted to solely to stall recovery proceedings under SARFAESI Act and unjustly enjoy moratorium benefits without bona fide intent to resolve debts.

"This Bench notes that the Respondent has been enjoying the protection of moratorium for more than two years without any meaningful progress towards resolution or settlement. Even as per the Applicant's submissions, repeated representations were made by the Respondent citing "ongoing settlement discussions", yet no concrete steps were taken to discharge admitted liabilities. The prolonged pendency of the Section 94 petition thus appears to have operated to the sole benefit of the Respondent, while severely prejudicing the legitimate recovery rights of the Financial Creditor.

3.6. *Reliance has rightly been placed by the Applicant on the decision of the Hon'ble NCLT, Bengaluru Bench in C.P. No. 8 of 2024, wherein it was observed that the provisions of Section 94 of the IBC cannot be permitted to be misused merely to thwart recovery actions initiated under the SARFAESI Act, particularly when such measures are already at an advanced stage. The principle squarely applies to the present case, where the Respondent's filing under Section 94 has effectively stalled recovery proceedings for an extended period without any bona fide attempt at repayment."*

Nagaraj C. M., (PG) of Right Engineers and Equipments India Pvt. Ltd**LIMITATION PERIOD AGAINST A GUARANTOR RUNS FROM THE DATE OF INVOCATION****Case No.: I.A. No. 702/2024 in C.P.(IB) No. 151/BB/2024****Court: NCLT Bengaluru Bench****Date: September 29, 2025****GIST OF THE JUDGEMENT:**

"It is an admitted fact that the Respondent stood as a Personal Guarantor for the financial facilities extended by the Applicant to the Corporate Debtor, who defaulted and was ordered into liquidation. The Personal Guarantee dated 25.10.2016 was invoked, and despite service of demand notice in Form B dated 17.12.2022 under Rule 7(1) of the 2019 Rules read with Section 95(4)(b) of the Code, the guarantor failed to discharge his liability. Hence, a clear default stands established.

14. *On the issue of limitation, the Respondent's objection is untenable. The Hon'ble Supreme Court in **Syndicate Bank v. Channaveerappa Beleri (Civil Appeal No. 6894/1997, decided on 10.04.2006)** has categorically held that the limitation period against a guarantor runs from the date of invocation of the guarantee and demand, not from the date of default of the principal borrower. In this case, the guarantee was invoked on 10.06.2022, demand was made on 17.12.2022, and the present application was filed on 14.05.2024, well within the limitation period of three years.*

15. *Under Section 128 of the Indian Contract Act, 1872, the liability of the guarantor is co-extensive with that of the principal debtor. Since the Corporate Debtor failed to discharge its liability, the guarantor is equally bound to repay. The Applicant has therefore rightly invoked the personal guarantee and initiated proceedings under Section 95 of the Code."*

UCO Bank V. Debashish Nanda (RP)**A HOME LOAN LENDER BANK, IN THE ABSENCE OF A TRIPARTITE AGREEMENT OBLIGATING CORPORATE DEBTOR TO REPAY THE LOAN TO THE BANK, CANNOT FILE A CLAIM AS A FINANCIAL CREDITOR IN THE INSOLVENCY OF THE BUILDER.****Tribunal/Court: National Company Law Appellate Tribunal, New Delhi****Date of Decision: October 29, 2025****GIST OF THE JUDGEMENT:**

"As per the definition of 'contract of indemnity', there has to be a promise by one party to save the other from loss caused to him by the conduct of the promisor himself, or by the conduct of any other person. None of the clauses of Tripartite Agreement contain any contract of indemnity and Clause-41 on which reliance is placed, only contains

agreement of builder that it accepts the present terms and conditions of the Tripartite Agreement and binds itself for the said terms and conditions. Thus, Clause-41 is reiteration of earlier terms and conditions of the Agreement. Applicability of Clause-41 arises only when there is any terms and conditions in the Agreement, which requires Builder to discharge the liability of Borrower for repayment to the Bank. There being no such terms and conditions in the Tripartite Agreement that on failure of Borrower to repay the loan to the Bank, the Builder is obliged to discharge the liability, Clause-41 in no manner helps the Appellant in the facts of the present case.”

IIFL Home Finance Ltd. V. Bliss Infratech Pvt. Ltd.

NESL RECORD OF DEFAULT AND DEMAND NOTICES CANNOT SUBSTITUTE FOR THE SUBSTANTIVE REQUIREMENT OF PROVING THAT THE CORPORATE DEBTOR IS THE OBLIGOR OF THE FINANCIAL DEBT. NESL IS A REPORTING MECHANISM AND NOT CONCLUSIVE PROOF OF LIABILITY

Case No.: CP IB No. 434 of 2025

Tribunal/Court: National Company Law Tribunal, New Delhi

Date of Decision: October 10, 2025

GIST OF THE JUDGEMENT:

“On perusal of the Tripartite Agreement, it is pertinent to note that Clause 10 of the Tripartite Agreement dated March 2016 clearly casts a refund obligation upon the Builder. The relevant extract of the Clause 10 of the Tripartite Agreement is reproduced hereunder:

Clause 10. That if the Borrower failed to pay the balance amount representing the difference between the loan sanctioned by IIFL HFC and the actual purchase price of the flat/residential apartment, or in the event of death of the Borrower or in the event of cancellation of the residential apartment for any reason whatsoever, the entire amount advanced by IIFL HFC will be refunded by the Builder to IIFL HFC forthwith. The Borrower hereby subrogates all his rights for refund with respect to the said residential apartment in favour of IIFL HFC.

9. The abovementioned clause unequivocally provides that in the event of default by the borrower, death of the borrower, or cancellation of the apartment for any reason, the entire loan amount advanced by the lender (the financial creditor) shall be refunded by the Builder to the financial creditor forthwith. Clause 12 and 15 reinforce this liability by mandating the Builder to cancel the allotment upon intimation from IIFL and to refund the entire loan disbursed directly to the lender. Thus, the contractual terms clearly make the Builder i.e., Supertech Limited liable to refund the loan amount to the lender upon default or cancellation.”

State Bank of India V. Shri Bernard John

ACKNOWLEDGMENT OF DEBT IN BALANCE SHEET OF CORPORATE DEBTOR, EVEN WHEN SIGNED BY SUSPENDED DIRECTORS DURING CIRP, CONSTITUTES VALID ACKNOWLEDGMENT EXTENDING LIMITATION AGAINST PERSONAL GUARANTOR

Case Number: CA(AT)(I)-351/2024-NCLAT

Tribunal/Court: National Company Law Appellate Tribunal, New Delhi

Date of Decision: October 17, 2025

GIST OF THE JUDGEMENT:

*"We also note that the Hon'ble Supreme Court in **Asset Reconstruction Company (India) Ltd. v. Bishal Jaiswal, (2021) 6 SCC 366**, decisively held that an acknowledgment of liability in a company's balance sheet constitutes acknowledgment under Section 18 of the Limitation Act, thereby restarting limitation. This principle was reaffirmed in **Dena Bank v. C. Shivakumar Reddy, (2021) 10 SCC 330**, where the Court observed that acknowledgment in a balance sheet or in a one-time settlement proposal renews the period of limitation for the purpose of proceedings under the IBC.*

58. *Therefore, each and every acknowledgment of the debt by the Corporate Debtor in the balance sheet up to FY 2019–20 has the effect of extending the limitation period.*

62. *Regarding the respondent's liability for repayment based on the acknowledgment in balance sheet, the Appellant highlighted the Clauses 12 and 19 of the Deed of Guarantee dated 31.03.2015, executed by the Respondent in favour of the Bank, which specifically stipulate that any acknowledgment, admission, or statement made by the principal borrower in respect of the debt "shall be binding on the guarantor and shall be deemed to have been made on his behalf." Therefore, acknowledgment of liability made by the Corporate Debtor in its financial statements has the effect of acknowledgment by the guarantor himself for purposes of limitation."*

Kannan Tiruvengadam (Liquidator) V. Assets Care & Reconstruction Enterprise Ltd. and Ors.

FEE OF THE LIQUIDATOR

Case No.: Company Appeal (AT) (Insolvency) No. 15

Tribunal/Court: National Company Law Appellate Tribunal, New Delhi

Date of Decision: October 15, 2025

GIST OF THE JUDGEMENT:

Where Stakeholders' Consultation Committee (**SCC**) and Committee of Creditors (**CoC**) have not fixed Liquidator's fee, the liquidator's entitlement is governed strictly by Regulation 4(2)(b) of Regulation 4 of IBBI (Liquidation Process) Regulations, 2016, i.e., as a percentage of the amount realised or distributed, and not by way of a fixed monthly fee. If any of original executants of the POA has expired, their legal representative shall step in to execute the Sale Deed | NCLT has jurisdiction under Section 60(5) IBC to direct execution of Sale Deed in favour of Successful Resolution Applicant (**SRA**) for land.

VANTAGE POINT ASSET MANAGEMENT PTE. LTD. V. GAURAV MISRA RP OF ALCHEMIST INFRA REALITY LTD. AND ANR.

PROVISIONAL ATTACHMENT ORDER PASSED PRIOR INITIATION OF CIRP SHALL CEASE TO OPERATE AFTER APPROVAL OF RESOLUTION PLAN

Case No.: Company Appeal (AT) (Ins) No. 1495 of 2024 & I.A. No. 1987 of 2025

Tribunal/Court: National Company Law Appellate Tribunal, New Delhi

Date of Decision: October 14, 2025

GIST OF THE JUDGEMENT:

Provisional Attachment Order passed prior initiation of CIRP shall cease to operate after approval of Resolution Plan, bringing into effect Section 32A of IBC and there is no necessity to obtain any order by SRA from Adjudicating Authority under the PMLA | NCLT will have no jurisdiction to set aside order passed by the adjudicating authority in PMLA Act, 2002 | Where proceeding under Section 8 of PMLA Act has not even commenced, no order of confiscation being there, Provisional attachment under PMLA does not divest ownership or prevent inclusion of assets in the Resolution Plan.

"Section 32A which was inserted by Act No. 01/2020 in the IBC was brought by legislature providing for certain immunity from the liability from prior offences to a new management of the corporate debtor, which has come into existence after approval of the resolution plan, which result in change in the management or control of the corporate debtor. Section 32A only give immunity to the new management of the corporate debtor and conditions which are mentioned in Section 32A(a) and (b) has to be fulfilled, that is the new management who has come into control of the corporate debtor is not a promoter or in the management or control of the corporate debtor or related party of such person or person with regard to whom investigation authority on the basis of material has reason to believe that he has awaited conspire omission of offence. It is clear from the scheme that 32A that the provisions of Section 32A does not absolve the person who was promoter or person who was in the management of corporate debtor and proceeding under the PMLA against the promoter or the persons who were in the management of the corporate debtor and were involved in the commission of the offence fact can be proceeded. The question which has up for consideration in the present case is as to whether the Provisional Attachment Order which was passed on 24.01.2019 still was required to be vacated for implementation of the resolution plan and whether the SRA was required to file an application before

the adjudicating authority (**PMLA**) for release of the attachment. The answer to the said question has to be found out from the legislative scheme under Section 32A. Section 32A does not carve any exception that resolution plan cannot be approved with regard to assets of the corporate debtor which has been attached under the PMLA Act prior to approval of the resolution plan. There is no exception in scheme of Section 32A that where Provisional Attachment Orders have been passed prior to initiation of CIRP or prior to approval of the resolution plan assets have to be kept out of the resolution. The trigger event when 32A comes into operation is the approval of the resolution plan, which is also laid down by the Delhi High Court in '**Rajiv Chakraborty**' (*supra*). Under sub-Section (1) of Section 32A the phrase used is the liability of the corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease. The liability of the corporate debtor and further sub-Section (1) provides that corporate debtor shall not be prosecuted for such an offence from the date when resolution plan has been approved by the adjudicating authority. Thus, two consequences have been provided, they are (i) liability of corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease; (ii) corporate debtor shall not be prosecuted for such offence from the date of resolution plan has been approved. The above consequence can follow, of course when resolution plan condition stipulated in sub-Section (1) are fulfilled."

Rakesh Bhailalbhair Patel V. Vasundhara Seamless Stainless Tubes Pvt. Ltd. and Anr.

COMMERCIAL BREACHES AND SECTION 9 IBC PROCEEDINGS

Case No.: Company Appeal (AT) (Ins.) No. 1695 of 2024

Tribunal/Court: National Company Law Appellate Tribunal, New Delhi

Date of Decision: October 17, 2025

GIST OF THE JUDGEMENT:

The IBC does not exclude commercial breaches from its ambit | Once an advance is shown to have been paid and not returned, and there exists no plausible evidence of discharge, default stands established | Mere assertion of a dispute or the filing of a complaint after the commencement of insolvency proceedings is insufficient to oust the jurisdiction of the Adjudicating Authority under Section 9 of the IBC.

"The belated police complaint filed on 20.07.2024 appears to be an afterthought. Its timing, after the case was reserved for judgment, clearly indicates that it was filed to create a semblance of dispute when none existed earlier. Courts have consistently held that a dispute fabricated after issuance of demand notice or after filing of the Section 9 petition does not qualify as a "pre-existing dispute." The ratio in *Mobilox (supra)* and subsequent decisions such as *Kay Bouvet Engineering Ltd. v. Overseas Infrastructure Alliance (India) Pvt. Ltd. (2021) SCC OnLine SC 1349* reinforce this principle.

79. The contention regarding the NeSL portal is also not convincing. The Code does not treat the NeSL information as determinative of the existence of a dispute. The mere marking of a debt as “disputed” on the portal, without supporting evidence, cannot override the underlying contractual documents and financial records. Moreover, the Corporate Debtor’s audited financial statements for FY 2020–21 and 2021–22 continue to reflect the amount of Rs.1 crore under the head “Advance from Others – B.N. Enterprises,” without any qualification or disclaimer. These audited statements, prepared and signed under statutory obligation, are reliable indicators that the Corporate Debtor treated the amount as an outstanding liability, not as a disputed claim.”

Late Babu Lal Through Its Legal Heir Mr. Sunder Lal V. Jasrati Education Solutions Ltd. and Ors.

IF ANY OF ORIGINAL EXECUTANTS OF THE POA HAS EXPIRED, THEIR LEGAL REPRESENTATIVE SHALL STEP IN TO EXECUTE THE SALE DEED

Case No.: Company Appeal (AT) (Insolvency) No. 1293 of 2025

Tribunal/Court: National Company Law Appellate Tribunal, New Delhi

Date of Decision: October 15, 2025

GIST OF THE JUDGEMENT:

If any of original executants of the POA has expired, their legal representative shall step in to execute the Sale Deed. NCLT has jurisdiction under Section 60(5) IBC to direct execution of Sale Deed in favour of Successful Resolution Applicant (**SRA**) for land.

We hope you have found this information useful. For any queries/clarifications please write to us at insights@elp-in.com or write to our authors:

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