

# **KNOWLEDGE REPONERE**

**(24 APRIL- 4 MAY, 2018)**

 **INSTITUTE OF INSOLVENCY PROFESSIONALS**

A wholly owned subsidiary of ICSI and registered with IBBI  
*(Formerly known as ICSI Insolvency Professionals Agency)*

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## **KNOWLEDGE REPONERE** **(24 April- 4 May, 2018)**

**Dear Professional Members,**

Greetings!

We are pleased to share with you our next issue of the knowledge bulletin on the Insolvency and Bankruptcy Code, 2016 (“Code”).

### **IBBI Disciplinary Committee suspends Insolvency Professional for violation of the Code of Conduct for Insolvency Professionals and Code**

On 03<sup>rd</sup> May 2018, Disciplinary Committee of the Insolvency and Bankruptcy Board of India (“IBBI”) has suspended the registration of Ms. Bhavna Sanjay Ruia, Insolvency Professional for a period of one year on the grounds of violation of Clause 1, 2, 5, 10, 12, 24, 25 and 27 of the Code of Conduct for Insolvency Professionals under the First Schedule of the under the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 and Section 20 of the Code.

The detailed order is available at the following link:  
[http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/May/Bhawna%20Ruia%20Order%20dated%20May%203,%202018\\_2018-05-03%2018:27:52.pdf](http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/May/Bhawna%20Ruia%20Order%20dated%20May%203,%202018_2018-05-03%2018:27:52.pdf)

### **IBBI invites public comments on Regulations notified under the Code**

IBBI has invited public comments on Regulations already notified under the Code from public, including the stakeholders, on the regulations already notified under the Code. As per IBBI press release, the comments received between 30th April, 2018 and 31st December, 2018 shall be processed together and following the due process, regulations will be amended to the extent considered necessary. Further, as per IBBI press release, it is expected that IBBI will notify modified regulations by 31st March, 2019 and bring them into force on 1<sup>st</sup> April, 2019.

The detailed press release is available at the following link:  
<http://ibbi.gov.in/webadmin/pdf/press/2018/Apr/Inviting%20Public%20Comments%20on%20all%20regulations%20press%20release%2030%20April-R.pdf>

### **Discussion Paper on Monitoring the performance of Insolvency Professionals**

In another development, IBBI has come out with Discussion Paper on “*Monitoring the performance of Insolvency Professionals under the Code and the regulations made there under*” and invited comments, suggestions and feedback covering modifications / additions / deletions / regrouping in the contents in Forms A to H to be filed by Interim Resolution Professional and/or Resolution Professional, as the case may be, and timing of filing by 12<sup>th</sup> May, 2018 in the structure prescribed under the said Discussion Paper. We request members to send their suggestions/comments at [reporting@icsiip.com](mailto:reporting@icsiip.com) so that we can consolidate the suggestions and send the same to the IBBI latest by 10<sup>th</sup> May 2018.

The Discussion Paper is available at the following link:  
[http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Apr/Discussion%20paper%20and%20Forms%20A%20to%20H\\_2018-04-28%2010:25:34.pdf](http://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Apr/Discussion%20paper%20and%20Forms%20A%20to%20H_2018-04-28%2010:25:34.pdf)

### **Supreme Court asks SEBI to hold joint meeting with Resolution Professional of M/s. Royal Twinkle Star Club Limited**

On 26<sup>th</sup> April 2018, Hon’ble Supreme Court of India in *Anant Kajare Vs. Eknath Aher & Anr. (Civil Appeal No 20971/2017)* directed Securities and Exchange Board of India (“SEBI”) and other investors challenging the Corporate Insolvency Resolution Process (“CIRP”) of M/s. Royal Twinkle Star Club Limited (“Royal Twinkle”) to have a joint meeting with the Resolution Professional in relation to investment scheme investigated by SEBI. Aforesaid directions were passed by Supreme Court while noting a Progress Report submitted by Resolution Professional of Royal Twinkle undergoing CIRP that the funds collected in the investment scheme have been diverted by Citrus Check Inn and Royal Twinkle to other companies and restraint order from travelling abroad has also been granted against the concerned persons.

It may be noted that, earlier, National Company Law Appellate Tribunal (“NCLAT”) in *Anant Kajare Vs. Eknath Aher & Anr (Company Appeal (AT) (Insolvency) No. 296 of 2017)* dismissed the appeal filed by Anant Kajare, Investor of Royal Twinkle that the initiation of CIRP against Royal Twinkle under section 9 of the Code have been made fraudulently by Operational Creditor in collusion with directors. NCLAT observed that Anant Kajare being Investor cannot claim to be aggrieved person for preferring appeal against order passed by NCLT whereby application under section 9 of the Code was

admitted. NCLAT observed that Anant Kajare being Investor can file claim before Insolvency Resolution Professional. NCLAT held that in the absence of any power of review or recall vested with the Adjudicating Authority (NCLT), NCLT rightly refused to recall the order of admission of CIRP application.

### **Supreme Court grants relief to Resolution Professional against adverse remarks of NCLT**

Hon'ble Supreme Court of India in *Devendra Padamchand Jain Vs. State Bank of India & ors*, (Civil Appeal No. 3592 of 2018) while dismissing the appeal of the Devendra Padamchand Jain, Resolution Professional of VNR Infrastructure Limited observed that observations made in the impugned orders against appellant individually are deleted. Earlier in *VNR Infrastructures Limited Vs. State Bank of India & Ors (CA No 142 of 2017 in CP (IB) No. 12/10/HDB/2017)*, NCLT observed that it was of prima facie view that the new /competent liquidator should be appointed in the interest of all the stakeholders especially employees, secured creditors, unsecured creditors, various government authorities. In the said case, NCLT was also of the prima facie view that the existing Resolution Professional has not assisted the Adjudicating Authority to the satisfaction during various hearings held. Though the Committee of Creditors consented to propose the name of existing Resolution Professional as Liquidator, NCLT observed that in view of its observations (as stated above), the adjudicating authority would like to appoint the liquidator after obtaining the name of liquidator from the IBBI for replacing the existing Resolution Professional.

Aforesaid decision of NCLT was challenged in *Mr. Devendra Padamchand Jain, Resolution Professional, C/o VNR Infrastructure Limited v. State Bank of India & ors (Company Appeal (AT) (Insolvency) No. 177 of 2017)*. NCLAT dismissed the appeal of the Resolution Professional challenging the order passed by the Adjudicating Authority replacing the appellant as resolution professional to liquidator and not appointing him as liquidator as beyond its jurisdiction. In the said case, NCLAT noted that as per Section 34 (1) of the Code on passing of the order for liquidation under Section 33, normally the Resolution Professional is to act as Liquidator, unless replaced by the Adjudicating Authority for the grounds mentioned in Section 34 (4). In this regard, NCLAT held that the Adjudicating Authority is also empowered to remove the resolution professional, apart from the Committee of Creditors, but it should be for the reasons and in the manner as provided under the relevant provisions. NCLAT also held that the Adjudicating Authority has jurisdiction to remove the resolution professional if it is not satisfied with its functioning of the resolution professional, which amounts to non-compliance of Section 30 (2) of the Code.

## ADMITTED CASES

Cases under the Code are being filed expeditiously across the various benches of National Company Law Tribunal (“NCLT”). The newly admitted cases with regard to CIRP under the Code are as below:

S. No.	Case Title	Relevant Section	NCLT Bench	Amount in default mentioned in application (in Rupees)
1.	M/s. Stanbic Bank Ghana Limited v/s. M/s. Rajkumar Impex Private Limited	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Chennai	US \$ 12,878,922
2.	M/s. Bank of India v/s. Shree Veeraganapathi Steels Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Chennai	24.12 Crores
3.	State Bank of India v/s. M/s. Andaman Sea Foods Pvt. Ltd.	Section 7 of the Code dealing with the initiation of CIRP by financial creditor.	Kolkata	37.65 Crores
4.	M/s. Platinum Leasing Limited v/s. Business Jets India Private Limited	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Chennai	254 Crores
5.	M/s. Varanasi Auto Sales Limited	Section 10 of the Code dealing with initiation of CIRP by corporate debtor.	Allahabad	33 Crores



6.	M/s. Educomp Infrastructure and School Managemnt Limited	Section 10 of the Code dealing with initiation of CIRP by corporate debtor.	Chandigarh	5 Crores
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## RESOLUTION PLANS APPROVED

### List of Companies that have recently undergone Liquidation

S. No	Case Title	Bench	Date of Order
1	M/s. Lloyd Insulations India Limited v/s. Cethar Limited	Chennai Bench	25.04.2018

## NEWS AROUND THE CORNER

### 1. CoC of Essar Steel looking into Arcelor Mittal and Numetal bids

Following directions of NCLT Ahmedabad Bench, Committee of Creditors (CoC) of Essar Steel undergoing CIRP is looking into explanations of Arcelor Mittal and Numetal, the two bidders whose earlier bids were rejected on the issue of eligibility in terms of sections 29A of the Code

(Source: Financial Express/Dated: May 3, 2018)

<https://www.financialexpress.com/industry/meeting-with-coc-arcelormittal-numetal-make-their-case-for-essar-steel-bid/1153778/>

### 2. NCLT seeks Electrosteel Steel bidding details

In an appeal filed by Renaissance Steel questioning Vedanta's eligibility to bid under section 29A of the Code, NCLAT has ordered the lenders of Electrosteel to submit the evaluation criteria and comparative charts showing the score matrix done by it of the top three bidders in insolvency resolution proceedings. NCLAT has also asked Resolution Professional and the CoC to submit statements of offers made by the top three bidders for Electrosteel.

(Source: Business Standard /Dated: May 1, 2018)

[http://www.business-standard.com/article/companies/insolvency-proceedings-tribunal-seeks-electrosteel-steels-bid-details-118050101131\\_1.html](http://www.business-standard.com/article/companies/insolvency-proceedings-tribunal-seeks-electrosteel-steels-bid-details-118050101131_1.html)

We trust you will find this issue of our bulletin useful and informative.

Wish you good luck in all your endeavors!!

**Team ICSI IIP**

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