

INSTITUTE OF INSOLVENCY PROFESSIONALS

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

KNOWLEDGE REPONERE (11th May- 24th May, 2019)

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**").

UPCOMING EVENTS

1. 19th Batch of Pre-Registration Educational Course being organized Bengaluru from 10/06/2019 to 16/06/2019

ICSI IIP is organizing the 19th Batch of Pre-Registration Educational Course ("Course") jointly with the other two IPAs at Bengaluru, Karnataka which tentatively shall take place between 10/06/2019 to 16/06/2019, subject to:

1. A minimum number of 20 participants, enrolled with all the three IPAs, joining the program.
2. Confirmation for holding of the batch from 10/06/2019 to 16/06/2019 will be informed to the participant's on 31st May 2019, subject to (1).
3. Any expenses incurred for travel/stay bookings by outstation participants prior to confirmation by the respective IPAs before 31st May 2019 will be at their own risk.

PAST EVENTS

1. Interactive Meet on MCA circular and IBBI Discussion Paper on 22nd May, 2019

ICSI IIP held an interactive meet on 22nd May, 2019 for insolvency and other Professionals (connected with the insolvency regime) to deliberate on the MCA

circular and IBBI discussion paper (dt. 8th May 2019).The discussions were led by Ms. (CS) Alka Kapoor (CEO, ICSI IIP),Mr. Rameshwar Dhariwal (CGM, IBBI) and Mr. Ashish Makhija (Managing Attorney, AMC Law Firm), and there were about 30 other participants, including IBBI officials, who shared their respective practical experience and knowledge on the subjects under discussion.



❖ ICSI Institute of Insolvency Professionals organized an Interactive meet on 15th May 2019.

The discussions were led by Ms. (CS) Alka Kapoor (CEO, ICSI IIP) and Mr. Ashish Makhija (Managing Attorney, AMC Law Firm), and there were about 30 other participants, who shared their respective practical experiences and knowledge on the topics.



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 provided in the table below:

S. No.	Cause Title	Relevant Section	NCLT Bench	Amount in default mentioned in application (in Rupees)
1.	<i>In the matter of Amrit Jal Ventures Private Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Hyderabad	7.88 Crore
2.	<i>In the matter of Shreechem Pharmaceuticals Pvt. Ltd.</i>	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Mumbai	1.07 Crore
3.	<i>In the matter of Dugal Projects Development Company Private Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Mumbai	131.48 Crore
4.	<i>In the matter of Lanco Thermal Power Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Hyderabad	129.99 Crore
5.	<i>In the matter of Ace Worldwide Tours Ltd.</i>	Section 10 of the Code dealing with the initiation of CIRP by Corporate Applicant.	Ahmedabad	4.25 Crore

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE RESOLUTION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Dighi Port Limited</i>	Mumbai	08.05.2019
2.	<i>In the matter of Marson Limited</i>	Kolkata	09.05.2019

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Sterling Biotech Ltd.</i>	Mumbai	08.05.2019
2.	<i>In the matter of Yes Power & Infrastructure Ltd.</i>	Mumbai	10.05.2019

BRIEF OF JUDGEMENTS

S. No.	Case Details	Date of Order	Courts	Brief	Case link
1.	<i>Superna Dhawan & Anr. v. Bharti Defence and Infrastructure Ltd. & Ors</i>	14.05.2019	NCLAT	<p>In the present matter, the NCLAT upheld the order of the NCLT to reject the resolution plan holding that "the purpose to take up the company with intent to sell the corporate debtor is against the basic object of Insolvency and Bankruptcy Code."</p> <p>The NCLAT also directed the</p>	https://nclat.nic.in/Useradmin/upload/15537608085cdab65571107.pdf

				liquidator to follow the decision and direction given by the NCLAT in " <i>Y. Shivram Prasad v. S. Dhanapal & Ors</i> " in respect of revival under section 230 of the Companies Act, 2013.	
2.	<i>Ingen Capital Group LLC v. Ramkumar S. V. & Anr.</i>	30.04.2019	NCLAT	<p>NCLAT imposed a cost of Rs 10,00,000/- to be paid by Ingen for failure to implement its resolution plan submitted wrt <i>Orchid Pharma Limited</i>(Corporate Debtor) as approved by the COC and AA. The Hon'ble Appellate Tribunal directed the matter to MCA with following observations:</p> <p><i>"The Central Government is directed through the Ministry of Corporate Affairs to take appropriate steps against 'Ingen Capital Group LLC.' and its Managing Director and other Directors who tried to take advantage of the resolution</i></p>	https://ibbi.gov.in/webadmin/pdf/order/2019/May/In%20the%20matter%20of%20Ingen%20Capital%20Group%20LLC%20Vs%20Ramkumar%20S.V.%20CA%20(AT)%20No.795-2018%2019-05-01%2019:14:51.pdf

				<p>process but later on failed to implement its proposal without any basis. If Appellant has no office in India then the Central Government through Ministry of Corporate Affairs may take up the matter with USA, where the Appellant Company is situated.”</p>	
3.	<p>Mr. Arjun Bulchandani i v. Rite Developers Private Limited</p>	06.05.2019	NCLT, Mumbai	<p>Application is submitted by one of the suspended directors, Mr. Samir Shirish Dadia, of Corporate Debtor M/s. Rite Developers Private Limited.</p> <p>A Consent Term for settlement of the outstanding Debt was executed on 12.04.2019 between the Financial Creditor and the Corporate Debtor wherein it was recorded that a Manager Cheque dated 10.04.2019 for a sum of Rs.7.75 Crores in favour of the Financial Creditor, Mr. Arjun Bulchandani, is handed over.</p>	<p>https://ibbi.gov.in/webadmin/pdf/order/2019/May/NCLT%20Mumbai%20Rite%20Developers%20Private%20Limited%20MA%201448-2019%20in%20CP%20(IB)-4025(MB)%20of%202018%20NCLT%20ON%2006.05.2019%20FINAL%202019-05-15%2010:00:37.pdf</p>

				U/s.12A an Adjudicating Authority can allow the withdrawal of Application admitted u/s. 7 on an Application made by the Applicant with the approval of 90% voting share of the Committee of Creditors. Since in this case only one Financial Creditor i.e. the Petitioner himself, was on record, hence should be entitled to move this Application for withdrawal of his own Application moved against the Corporate Debtor.	
4.	<i>Reliance Commercial Finance Ltd. v. Noble Resourcing Business and Solution Pvt. Ltd.</i>	12.04.2019	NCLT, New Delhi (Principle Bench)	In this matter, there were three Financial Creditors with voting share in the CoC, 42.78%, 25.81% and 31.41% respectively, who accorded that the fee of the CIRP with regard to the expenses to be incurred by the IRP shall have to be shared by the three FCs proportionately, i.e., in proportion to their voting share. The FC, <i>Intec Capital Limited</i> (with	https://nclt.gov.in/sites/default/files/Interim-order-pdf/Reliance%20Commercial%20Finance%20Ltd%20Vs.%20Noble%20Resourcing%20Business%20And%20Solutions%20Pvt.%20Ltd%207.pdf

				<p>42.78% share) requested that their share be paid in the end of the CIRP after recovery made by them. NCLT held that the FC constituting the CoC has to contribute to the cost of the process. If the FC is not inclined to pay then it would cause unnecessary delay. The Bench directed the FC to contribute proportionately to the CIRP Cost as approved. Any failure to contribute would result in their claim not being considered.</p>	
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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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