

INSTITUTE OF INSOLVENCY PROFESSIONALS

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

KNOWLEDGE REPONERE (27thMay- 16thJune, 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**").

PAST EVENTS



❖ *ICSI Institute of Insolvency Professionals* organized an Interactive Meet on 5th June, 2019 at New Delhi for a discussion on different topics, *inter alia*

including, Challenges that lie ahead for the IBC and Changes required in the Code, Rules and Regulations.

The discussions were led by Ms. (CS) Alka Kapoor (CEO, ICSI IIP), Mr. Alok Dhir (Managing Partner, Dhir & Dhir Associates) and Mr. Sanjay Grover (Managing Partner, Sanjay Grover & Associates), and there were about 25 other participants, who shared their respective practical experience and knowledge on the subjects under discussion.

As there were a number of issues to be deliberated, the meeting has been deferred to be held in the second week of July, 2019.

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 Honeycomb Technologies Private Limited</i>	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Chennai	3.13 Lakhs
2.	<i>In the matter of Advance Sufactants India Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	New Delhi	157.25 Crores
3.	<i>In the matter of Marg Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Chennai	71.69 Crores

4.	<i>In the matter of AM Clean Air Engineering Private Limited</i>	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Chennai	49.94 Lakhs
5.	<i>In the matter of Hirakud Industrial Works Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Cuttack	24.11 Lakhs
6.	<i>In the matter of M B Malls Private Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	New Delhi	54.12 Crores
7.	<i>In the matter of Tripurari Agro (Pvt.) Limited</i>	Section 9 of the Code dealing with the initiation of CIRP by operational creditor.	Chandigarh	17.88 Lakhs
8.	<i>In the matter of Shree Vindhya Paper Mills Ltd.</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Mumbai	195.05 Crores
9.	<i>In the matter of Thiru Arooran Sugars Private Limited</i>	Section 7 of the Code dealing with the initiation of CIRP by Financial Creditor.	Chennai	149.36 Crores

LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE RESOLUTION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Dadi Impex Pvt. Ltd.</i>	Mumbai	22.05.2019

2.	<i>In the matter of Allied Strips Ltd. & Ors.</i>	New Delhi	30.05.2019
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LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Infrastructure Development Corporation of India Limited</i>	Guwahati	30.05.2019
2.	<i>In the matter of K.T.C. Foods Private Limited</i>	Chandigarh	31.05.2019
3.	<i>In the matter of Fatheypori Garden Private Limited</i>	New Delhi	04.06.2019
4.	<i>In the matter of AKR Holdings Private Limited</i>	Chennai	07.06.2019
5.	<i>In the matter of Shriramrathi Steels Private Limited</i>	Kolkata	10.06.2019

BRIEF OF JUDGEMENTS

S. No.	Case Details	Date of Order	Courts	Brief	Case link
1.	<i>Rana Saria Poly Pack Pvt. Ltd. v. Uniword sugars Pvt. Ltd.</i>	04.06.2019	NCLT, Allahabad Bench	In the present matter, the RP had sought directions from NCLT for conducting an urgent meeting of the COC for a discussion and decision on an urgent Agenda. The period of 270 days is stated to be over,	https://nclt.gov.in/sites/default/files/Interim-order-pdf/169_1.pdf

				<p>however, considering the fact that the application seeking liquidation is still under consideration, the NCLT permitted the RP and the CoC to continue with the CIRP for safeguarding CD's interest.</p> <p>The Tribunal held that since the RP has not been discharged, hence, COC cannot be treated to be <i>functus officio</i> till the order for liquidation is passed.</p>	
2.	<i>IDBI bank Limited v. Jaypee Infratech Limited</i>	24.05.2019 (pronounced in NCLT, Allahabad Bench open court on 04.06.2019)	NCLT, Reference Bench, New Delhi	NCLT in the ongoing matter considered the opinions of Home Buyers, Lenders, IBBI and MCA on "whether the various threshold voting share fixed for the decision of the CoC under various sections of the I & B Code needs to be followed literally or whether they are only directory, and if so, what procedure has to be followed in determining the voting percentage among the CoC to pass a particular	https://ibbi.gov.in/webadmin/pdf/order/2019/Jun/In%20the%20matter%20of%20Jaypee%20Greens%20Krescent%20Homes%20Buyers%20Welfare%20Association%20Vs%20Jaypee%20Infratech%20Ltd%20CA%20No.223-2018%20and%20CA%20No.%20266-2018%20in%20CP%20No.

			<p><i>resolution?</i></p> <p>The Tribunal after taking into consideration all the opinions held that:</p> <p>The Committee of Creditors (CoC), taking into consideration section 21(2) of IBC, 2016, shall comprise of all financial creditors and must be construed as one and cannot be segmented class wise particularly for the purpose of computation of voting share;</p> <p>The voting share as prescribed and required to be achieved under the respective provisions of IBC, 2016 are mandatory in nature and cannot be held to be directory;</p> <p>For the computation of voting share, class wise voting of financial creditors, be it home buyers or lenders or otherwise and to treat the majority vote of that particular class in relation to a resolution,</p>	<p>%20(IB)%207-ALD-2017_2019-06-04%2020:17:42.pdf</p>
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				<p>particularly by adding the voting share of those financial creditors who had abstained, as the will and vote of the entire class in the CoC, cannot be accepted.</p> <p><u>Note: In this context, NCLAT vide its interim order dated 10.06.2019, specifically with regard to the ongoing voting in Jaypee Infratech, made it clear that if any of the 'Financial Creditor' remains absent from voting, their voting percentage should not be counted for the purpose of counting the voting shares.</u></p>	
3.	<i>S.Muthuraju v. Commissioner of Police and Another</i>	27.05.2019	NCLT, Chennai Bench	Application was filed by the Counsel of Liquidator, submitting that the Liquidator was not allowed to perform his duties enumerated under	https://ibbi.gov.in/webadmin/pdf/order/2019/May/27th%20May%202019%20in%20the%20matter%20of%20S

				<p>Section 35 of the I&B Code, 2016 and sought police protection to enable him to discharge the duties as Liquidator of the Corporate Debtor.</p> <p>NCLT Chennai Bench, directed Superintendent of Police of the concerned jurisdiction to give adequate police protection to the Liquidator so that he could be in a position to perform his duties.</p>	<p>wastik%20Spinners%20India%20Pvt.%20Ltd.%20MA-504-2019%20in%20CP-288-IB-2018_2019-05-29%2011:21:10.pdf</p>
4.	<p><i>CS SatyadeviAlamuri v. Thuvakudi GB Engineering Labour Union</i></p>	27.05.2019	NCLT, Chennai Bench	<p>Application was filed against the employees seeking relief against their act of not allowing the Applicant (buyer of the machinery) to access the machinery for the purposes of their removal. The applicant had purchased the machinery by way of an e-auction conducted by the Liquidator.</p> <p>Counsel for the Employees Union filed a memo that</p>	<p>https://ibbi.gov.in/webadmin/pdf/order/2019/May/27th%20May%202019%20in%20the%20matter%20of%20G%20B%20Engineering%20Pvt.%20Ltd.%20MA-505-2019%20in%20CP-64-IB-2018_2019-05-29%2011:23:57.pdf</p>

				the employees will not create any hurdle for removing the machinery by the Applicant.	
5.	<i>HM textiles Pvt. Ltd. v. TangedCo</i>	24.05.2019	NCLT, Chennai Bench	<p>In the matter, the Resolution Plan was approved by the AA and was being implemented. In the meantime, the CD received a notice asking to make payment of its electricity dues in default of which the electricity connection shall be disconnected.</p> <p>Realising the necessity, NCLT directed for a stay on the notice issued by electricity department till further orders.</p>	https://ibbi.gov.in/webadmin/pdf/order/2019/May/24th%20May%202019%20in%20the%20matter%20of%20Subburaj%20Sinning%20Mills%20Pvt.%20Ltd.%20MA-503-2019%20in%20CP-655-IB-2017_2019-05-28%2015:58:56.pdf
6.	<i>ICICI Bank v. Punj Lloyd Ltd.</i>	22.05.2019	NCLT, Principle Bench	<p>On an application filed under Section 22(3)(b) of Code seeking permission for replacing the IRP with a newly proposed RP, The NCLT, after finding that the requirements of law are fulfilled and that the replacement shall be in order,</p>	https://ibbi.gov.in/webadmin/pdf/order/2019/May/PB%20-%20ICICI%20Bank%20Ltd%20Vs.%20Punj%20Lloyd%20Ltd. 22.05.2019 appointment%20of%20RP 2019-

				granted its approval for the said appointment with directions RP to carry out the CIR process strictly in accordance with law.	05-24%2011:20:46.pdf
7.	<i>Alchemist Asset Reconstructi on Co. Pvt. Ltd. V. Monet Exports Pvt. Ltd.</i>	27.05.2019	NCLT, New Delhi Bench	On an application filed by Resolution professional seeking permission for extension of time period of Corporate Insolvency Resolution Process by 90 days (beyond 180 days) was approved by the NCLT (Principal Bench) after taking into account the resolution passed to this effect in the CoC meeting with 100% vote share.	https://ibbi.gov.in/webadmin/pdf/order/2019/May/27th%20May%202019%20in%20the%20matter%20of%20Monet%20Exports%20Pvt.%20Ltd.%20(IB)-1347(PB)-2018 2019-05-30%2012:30:37.pdf

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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