

## **KNOWLEDGE REPOINERE (17<sup>th</sup>– 30<sup>th</sup>September, 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**").

### **NEWS UPDATE(S)**

#### ➤ **Jet lenders asked to release interim funds**

On 25<sup>th</sup> September, 2019, the Mumbai bench of the National Company Law Tribunal (NCLT) has directed the Financial Creditors to approve and allocate funds (as interim finance) to the Resolution Professional (RP) of Jet Airways. The orders came in the background of RP's counsel informing the Tribunal that the share of banks in interim financing was approved in the first meeting of CoC where the lenders had decided to release collectively Rs. 63 Crores. He further informed that, as against this, only the SBI and Syndicate Bank had released their part of the fund.

*Read more at:*

<https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/nclt-asks-jet-lenders-to-release-lifeline-funds-within-15-days/articleshow/71298440.cms?from=mdr>

#### ➤ **Thomas Cook collapses leaving some travelers stranded**

A 178-year-old British tour company, Thomas Cook, has collapsed. The immediate answer suggested in this regard is that it was unable to secure a £200m lifeline from its bankers, including government-owned RBS. The company said in a statement that its Board "concluded that it had no choice but to take steps to enter into compulsory liquidation with immediate effect."

*Read more at:*

<https://edition.cnn.com/videos/business/2019/09/23/thomas-cook-travel-firm-collapse-vpx.cnn>

## LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE RESOLUTION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Scotts Garments Limited</i>	Bengaluru	16.09.2019
2.	<i>In the matter of Jasper Engineers Private Limited</i>	New Delhi	17.09.2019

## LIST OF COMPANIES THAT HAVE RECENTLY UNDERGONE LIQUIDATION

S. No	Case Title	Bench	Date of Order
1.	<i>In the matter of Transstroy (India) Limited</i>	Amaravathi Bench	18.09.2019
2.	<i>In the matter of Devikripa Trading Pvt. Ltd.</i>	Kolkata	19.09.2019
3.	<i>In the matter of Antrix Diamond Exports Pvt. Ltd.</i>	Mumbai	20.09.2019

## BRIEF OF JUDGEMENTS

S. No.	Case Details	Date of Order	Courts	Brief	Case link
1.	<i>Committee of Creditors of Amtek Auto through Corporation Bank v. Dinkar T. Subramaniam and Ors.</i>	24.09.2019	Supreme Court	The civil appeal was filed contending that the resolution plan wrt Amtek Auto Ltd. had failed owing to non-fulfillment of the commitment by the Resolution Applicant, Liberty House, which consumed the time period provided under Section 12 of the Code.  Placing reliance on	<a href="https://ibbi.gov.in/uploads/order/ddb77798c9c62a395a6a6c7719578b01.pdf">https://ibbi.gov.in/uploads/order/ddb77798c9c62a395a6a6c7719578b01.pdf</a>

				<p>the third proviso to section 12(3), IBC as introduced by virtue of the Amendment Act, 2019 made effective from 16.08.2019, by which the resolution process may be permitted to be completed within 90 days from the date of the commencement of the Amendment Act, the Tribunal held that the period for completion of resolution process now would be 15<sup>th</sup> November 2019 and therefore, the resolution professional was directed to invite fresh resolution plans for the CoC to consider.</p>	
2.	<i>Edelweiss Asset Reconstruction Company Limited v. Sachet Infrastructure Pvt. Ltd. &amp; ors.</i>	20.09.2019	NCLAT	<p>Corporate Insolvency Resolution Process in respect of M/s Adel Landmarks Limited was admitted by the Adjudicating Authority vide its order dated 5.12.2018. During its pendency, Edelweiss Asset Reconstruction Company Limited, in</p>	<p><a href="https://ibbi.gov.in/uploads/order/e43157f60f13a1679d4efb03b8d3a908.pdf">https://ibbi.gov.in/uploads/order/e43157f60f13a1679d4efb03b8d3a908.pdf</a></p>

whose favour certain Corporate Guarantees were executed by a number of Corporate Guarantors in respect of the loan facility extended by it to M/s Adel Landmarks Ltd., had filed different insolvency applications under Section 7 IBC against all the nine Corporate Guarantors, which were dismissed by the Adjudicating Authority.

The Resolution Professional of Adel Landmarks Limited had made a submission that in the given circumstances, the resolution process would not succeed if the whole project was not taken over by the Resolution Professional for a consolidated Resolution Plan as to keep the project a going concern.

While setting aside the impugned order dated 7th March, 2019 and remitted the case to the

				<p>Adjudicating Authority, the NCLAT directed the AA to admit the applications under Section 7 filed by 'Edelweiss Asset Reconstruction Company Limited' against five companies and to appoint the Resolution Professional of Adel Landmarks Limited as common Resolution Professional to ensure joint corporate insolvency resolution process.</p>	
3.	Jet Airways (India) Ltd v. State Bank of India & Anr.	24.09.2019	NCLAT	<p>NCLAT has allowed the Dutch Bankruptcy Administrator to attend the meeting of CoC in the ongoing Jet Airways Insolvency proceedings. NCLAT held that the Dutch Administrator is equivalent to the Resolution Professional in India, and as per our law also he has the right to attend CoC meetings. NCLAT further clarified that the Dutch Administrator would</p>	<p><a href="https://ibbi.gov.in/uploads/order/b7bbd5ba93be73bb4602dfe25f25cdd4.pdf">https://ibbi.gov.in/uploads/order/b7bbd5ba93be73bb4602dfe25f25cdd4.pdf</a></p>

				work in cooperation with the Resolution Professional and shall give its suggestions.	
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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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