

IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS



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- *Akhilesh Kulshrestha vs. SAAB India Technologies Private Limited*
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K&A INSIGHTS

Editor's Note

Pressure creates reform — and resistance reveals fault lines. This month, **IBC Insights** brings you a close look at how stakeholder behavior is adapting—and sometimes resisting—the Insolvency and Bankruptcy Code's evolving framework. From institutional accountability to creditor confidence, the **IBC's behavioural footprint** is widening, as captured in recent **IIM Bangalore** research featured in this issue.

Our cover story breaks down the Supreme Court's striking rejection of **JSW's resolution plan** for Bhushan Steel. More than just a decision, it's a precedent-setting moment that recalibrates how resolution applicants, creditors, and regulators perceive risk, responsibility, and statutory compliance under the IBC.

Among pivotal judicial developments, we explore the Supreme Court's push for timeliness and finality in **Tata Steel v. Raj Kumar Banerjee**, the nuanced stance on property attachments under **MPID Act vis-à-vis IBC moratorium**, and the NCLAT's firm stand that SEBI penalties do not qualify as financial debt—tightening the contours of what qualifies for recovery under insolvency.

We also spotlight key regulatory shifts—from **SEBI's** proposed revisions to the master circular on non-convertible securities to **RBI's** updated digital lending guidelines. Together, they signal a tightening grip on market discipline even beyond the IBC's core provisions and our deep dive on NCLT's use of **receivership powers** in cases of corporate mismanagement—a tool increasingly invoked but still loosely defined.

Finally, our **case law round-up** includes significant decisions from the Supreme Court and NCLAT, with rulings that touch on state tax recovery, operational debt claims, and resolution plan sanctity—each one sharpening the path forward for insolvency practitioners.

Join us as we unpack the key developments.



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- Sri Vethaa Dairy Pvt. Ltd. vs. Jayashree S Iyer and Anr.
- Future Consumer Limited vs. Aussee Oats India Limited, the National Company Law Tribunal
- Ashwani Kumar Bhatia vs. The Union of India and Ors.

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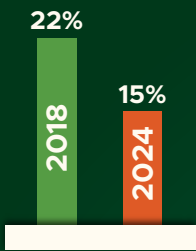
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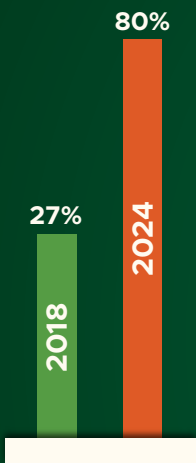
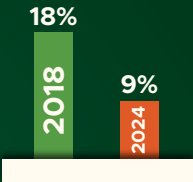
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IBC Trends

IBC Behavioral Impact



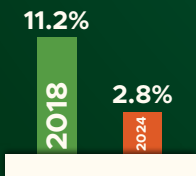
Decline in overdue amounts as a share of the total outstanding loan value indicating better credit monitoring and early interventions by lenders.



Rise in the ratio of total defaulted loan amount to total overdue loan amount indicating creditors are increasingly willing to escalate large overdue accounts into default status.

Transition Time Between Loan Status Categories

Reflects faster action by creditors and quicker settlements/resolutions by borrowers under IBC’s pressure.

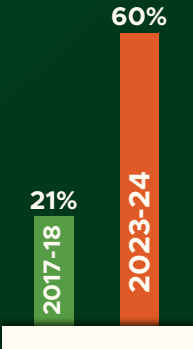


Drop in Net NPAs for Public Sector Banks

Coincides with IBC implementation and increased use of resolution processes, suggesting cleaner bank balance sheets.

CIRP Outcomes

Rise in Resolution-to-liquidation ratio indicating that IBC increasingly leads to restructured outcomes rather than liquidation.
₹10.22 lakh crore in default amounts settled before admission into CIRP indicating IBC as a deterrent to resolve defaults pre-admission.



Source: IIM Bangalore Research Study on Behavioral Impact of IBC

REGULATORY UPDATES

1. SEBI draft revision to master Circular on Non-Convertible Securities

Key Changes Introduced in the Circular:

- Secretarial Compliance Report
- Corporate Governance Report
- Related Party Transactions (RPTs)



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2. RBI Notifies Reserve Bank Of India (Digital Lending) Directions, 2025

Key Highlights of the New Framework

- Enhanced Due Diligence and LSP Oversight
- Fair and Transparent Borrower Engagement:
- Streamlined Disbursal and Repayment Protocols
- Robust Data Protection and Technology Standards:
- Digital Lending Apps (DLAs) and Reporting
- Regulated Default Loss Guarantee (DLG) Framework:
- Strengthened Customer Redressal and Accountability



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3. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) (Amendment) Regulations, 2025

The Procedural Blueprint of New Regulation 17B

- Non-Submission of Repayment Plan
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4. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2025

Key Amendments and Legal Implications

- Flexibility in Resolution Plan Structure
- Empowering Interim Finance Providers
- Prioritized and Pro Rata Payment to Dissenting Financial Creditors
- Mandatory Presentation of All Plans to CoC



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COVER STORY

How SC's Rejection of JSW's Resolution Plan for Bhushan Steel Redefines Stakeholders' Accountability and IBC Sanctity?

The Supreme Court's verdict in Kalyani Transco v. Bhushan Power and Steel Ltd. underscores the critical importance of strict compliance with the Insolvency and Bankruptcy Code (IBC), 2016. The Court overruled the NCLAT's interference with the ED's asset attachment under the Prevention of Money Laundering Act (PMLA), asserting that insolvency proceedings cannot shield corporate debtors from other statutory actions. It also struck down JSW Steel's resolution plan for BPSL due to multiple procedural lapses by the Resolution Professional, failure of the Committee of Creditors to exercise proper commercial judgment, and deliberate delays by JSW Steel. The Court ordered BPSL's liquidation, highlighting the consequences of laxity, non-compliance, and bad faith in insolvency proceedings. This judgment stands as a stern reminder that the IBC is a rigorous legal framework demanding transparency, diligence, and timely action from all stakeholders...



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PIVOTAL ISSUES

Strict Timelines and Finality in Appeals under IBC: Supreme Court in Tata Steel v. Raj Kumar Banerjee

The Insolvency and Bankruptcy Code, 2016 (IBC) framework prioritizes speed and finality, aiming to prevent the erosion of asset value and maximize recoveries for creditors. At the heart of this efficiency lies a strict adherence to prescribed timelines, particularly concerning appeals against decisions made during the insolvency resolution process. While the law acknowledges the possibility of delays and provides a limited window for condonation, the recent Supreme Court judgment in *Tata Steel Ltd. v. Raj Kumar Banerjee and Ors.* has reiterated the sacrosanct nature of these timelines, especially concerning appeals filed before the National Company Law Appellate Tribunal (NCLAT). The present case arose from a challenge to the resolution plan approved by the National Company Law Tribunal (NCLT), Kolkata. Raj Kumar Banerjee, an erstwhile shareholder of the Corporate Debtor, Rohit Ferro-Tech Limited, filed an appeal before the NCLAT under Section 61 of the IBC, seeking to challenge the NCLT's approval of Tata Steel's resolution plan. Crucially, this appeal was accompanied by an application for condonation of delay...



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PIVOTAL ISSUES

Property Attachments under the MPID Act are not barred by the IBC Moratorium

The Supreme Court in the matter of National Spot Exchange Ltd. v. Union of India and Ors.¹ ruled that the moratorium under the Insolvency & Bankruptcy Code (“IBC”) doesn’t prohibit attachment of properties under the Maharashtra Protection of Interest of Depositors Act (“MPID Act”). The Bench comprising Justice Bela M Trivedi and Justice Satish Chandra Sharma was hearing the case that arises from the 2013 National Spot Exchange Limited (NSEL) scam, where NSEL, a commodity exchange platform, defaulted on payments worth ₹5,600 crores to around 13,000 traders. This led to the filing of multiple legal proceedings; however, due to difficulties in executing decrees across multiple jurisdictions, the Appellant-NSEL filed a writ petition before the Supreme Court in 2019, seeking the consolidation of proceedings.

Exercising its extraordinary powers under Article 142 of the Constitution, the Court established a Supreme Court Committee (SCC) led by a retired judge. This committee was tasked with executing all decrees and awards against defaulters, selling attached properties – those subject to attachment under PMLA⁵ or MPID Act, repaying investors, and ensuring equitable distribution of the proceeds among depositors. Subsequently, the corporate debtor challenged SCC’s recommendations, arguing that an ongoing moratorium under the IBC should stop attachment proceedings under MPID Act. However, the Supreme Court reaffirmed the SCC’s valid constitution under Article 142...



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PIVOTAL ISSUES

“Fine” Line in Bankruptcy: SEBI Penalties Held Excluded Debt

The Insolvency and Bankruptcy Code, 2016 (IBC) stands as a comprehensive legal edifice designed to resolve financial distress. Within its intricate framework, Section 79(15)(a) acts as a specific carve-out, declaring that a "liability to pay fine imposed by a court or tribunal" lies beyond the grasp of bankruptcy proceedings. This seemingly clear demarcation, however, encounters turbulence when confronted with penalties levied by regulatory behemoths like the Securities and Exchange Board of India (SEBI), igniting a legal tug-of-war. Section 79 of the IBC meticulously defines the lexicon of Part III, governing insolvency resolution and bankruptcy for individuals and partnerships. Sub-section (15) meticulously lists "excluded debts," obligations that a bankrupt individual isn't compelled to discharge through the bankruptcy process. At the forefront of this list is clause (a), addressing the "liability to pay fine imposed by a court or tribunal." The rationale underpinning this exclusion likely resides in the inherently punitive nature of fines, instruments intended to chastise wrongdoing and deter future transgressions, rather than merely addressing financial woes...



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PIVOTAL ISSUES

Examining the Grounds for Appointment of Receiver by NCLT in Cases of Corporate Mismanagement

The appointment of an administrator or receiver in a company represents a significant judicial intervention, typically reserved for situations where the company's affairs are in disarray, threatening its continued existence or the interests of its stakeholders. This measure is primarily undertaken to preserve the company's assets, ensure its continuity as a going concern, and safeguard the rights of both shareholders and creditors. Both Indian and foreign legal precedents offer clear guidance on the circumstances that necessitate such appointments. In the US, the power of appointment of a receiver is frequently invoked to prevent fraud, safeguard the subject of litigation from material injury, or rescue it from threatened destruction. While courts are hesitant to disturb possession when only title is disputed, they will intervene with a receiver for property security if the property is exposed to danger and loss, and the current possessor lacks a clear legal right.



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SIGNIFICANT CASE LAWS

State Entitled To Secured Creditor Status Under IBC Due To Statutory Charge Created U/S 48 Of GVAT Act

The NCLAT New Delhi, in **State Tax Officer vs. Premraj Ramratan Laddha and Ors.** in a significant ruling, has held that the State Tax Officer, with a pre-existing charge under **Section 48 of the Gujarat Value Added Tax (GVAT) Act**, is a secured creditor under the Insolvency and Bankruptcy Code, 2016 (IBC). This decision stems from an appeal challenging a resolution plan that denied the State's claim as a secured creditor. The Appellant, the State Tax Officer, asserted that a sum of Rs. 11,70,47,801/- accrued from assessment years 2009-11 and 2014-16 under the GVAT Act and CST Act, creating a charge on the Corporate Debtor's property by operation of law. Despite the admission of this amount, the resolution plan treated the State as an operational creditor, granting no recovery. The State argued its right to be treated as a secured creditor, relying on the Supreme Court's *State Tax Officer Vs. Rainbow Papers Limited* (2022) judgment. Conversely, the Respondent contended that the Appellant initially filed as an operational creditor and that statutory dues are not secured debt without a registered charge. They further argued that government dues rank lower under **Section 53(1)(e)(i)** of the IBC. The NCLAT, however, sided with the Appellant, emphasizing that *Rainbow Papers (Supra)* clarified that Section 53 of the IBC does not override Section 48 of the GVAT Act. The Tribunal reiterated that under Section 53(1)(b)(ii), debts owed to secured creditors, including the State under the GVAT Act, rank equally. It further noted that the IBC's definition of "secured creditor" in **Section 3(30)** includes security interests created by law, encompassing government authorities. The NCLAT dismissed arguments questioning *Rainbow Papers'* validity and found the resolution plan in violation of statutory provisions and Supreme Court precedent, thereby setting aside the impugned order.



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SIGNIFICANT CASE LAWS

NCLAT Upholds DLF's Stance, Dismisses Contractor's ₹4.65 Cr. IBC Appeal Citing Pre-Existing Dispute

In **Drilltech Engineers Pvt. Ltd. vs. DLF Limited**, the **National Company Law Appellate Tribunal (NCLAT)** New Delhi, dismissed an appeal filed under Section 61 of the Insolvency and Bankruptcy Code (IBC) by a contractor against DLF for a debt of Rs. 4.65 crores. The NCLAT held that the presence of a pre-existing dispute between the corporate debtor and the operational creditor, evidenced by multiple communications prior to the demand notice, rendered the application non-maintainable before the National Company Law Tribunal (NCLT). The contractor argued that work approval and initial payments constituted acknowledgment of debt. However, the Tribunal observed that DLF had consistently claimed losses due to the contractor's non-performance, even issuing a Show Cause Notice dated June 21, 2022, before the contractor's demand notice on July 1, 2022.

The NCLAT, referencing the Supreme Court's **Mobilox Innovation Pvt. Ltd. Vs. Kirusa Software Private Limited (2018)** ruling, affirmed that a genuine pre-existing dispute necessitates rejection of an insolvency application under Section 9(5)(ii)(d) of the Code. The Tribunal's role is to confirm the plausibility of the dispute, not to adjudicate its merits. Consequently, the appeal was dismissed, reinforcing that the IBC is not a forum for resolving pre-existing contractual disputes.



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SIGNIFICANT CASE LAWS

NCLAT Rules Employment Contract Disputes Outside IBC's Purview, Not for NCLT/NCLAT Adjudication

In **Akhilesh Kulshrestha vs. SAAB India Technologies Private Limited**, the National Company Law Appellate Tribunal (NCLAT) New Delhi, ruled that disputes stemming from employment contracts, specifically concerning emoluments and salaries post-termination, fall outside the adjudicatory scope of the National Company Law Tribunal (NCLT) and NCLAT under the Insolvency and Bankruptcy Code (IBC). The Appellant claimed unpaid salary and dues of ₹30,01,999/-, asserting continued service as a Director despite his termination as CFO. He contended that statutory filings and financial statements showed dual capacity remuneration. Conversely, the Respondent maintained that remuneration was solely for the CFO role, as per the employment contract. The Tribunal observed that Form MR-1, a statutory filing, did not prove separate compensation for the 'Whole-Time Director' role, noting it only allows one designation. It found no Board resolution approving additional remuneration for the directorship, a requirement under the Articles of Association. The NCLAT concluded that the Appellant's removal as a Whole-Time Director followed due process, and he performed no directorial duties entitling him to additional compensation post-CFO termination. Since the dispute arose from an employment contract and was contractual in nature, the appeal was dismissed, affirming that such matters are not to be raised under the IBC.



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SIGNIFICANT CASE LAWS

No U-Turn on Admissions: NCLAT Limits Amendments to Section 7 IBC Applications

In **Vasavai Power Services Pvt. Ltd. vs. Canara Bank Ltd.**, the **National Company Law Appellate Tribunal (NCLAT)**, Chennai Bench, delivered a significant ruling on the permissibility of amendments to Section 7 applications under the Insolvency and Bankruptcy Code (IBC). The Tribunal held that an amendment cannot be allowed if it amounts to the withdrawal of an admission or if it undermines a pleading already raised and pending judicial consideration. The case involved a Financial Creditor who filed a Section 7 application, stating a specific date of default. The Corporate Debtor subsequently filed an Interlocutory Application (IA) challenging this date on limitation grounds, which was pending before the Adjudicating Authority. Despite this, the Financial Creditor sought to amend the date of default in their original application. The Adjudicating Authority allowed this amendment without considering the Corporate Debtor's pending objections. Aggrieved, the Corporate Debtor appealed to the NCLAT. The NCLAT allowed the appeal, quashing the amendment order. It reasoned that permitting such an amendment would nullify the Corporate Debtor's existing and contested objection. The Tribunal reiterated the settled legal principle that amendments cannot be permitted if they withdraw admissions or fundamentally alter the genesis of ongoing proceedings. The matter was remitted back to the NCLT to adjudicate the Corporate Debtor's original objection on its merits.



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SIGNIFICANT CASE LAWS

Tribunal's Inherent Powers Remain Despite Liquidator's Closure Application: NCLAT

In **Sri Vethaa Dairy Pvt. Ltd. vs. Jayashree S Iyer and Anr.**, the National Company Law Appellate Tribunal (NCLAT), Chennai Bench, allowed an appeal by modifying an order of the Adjudicating Authority (NCLT, Chennai). The NCLAT held that the mere filing of a closure application by the liquidator does not diminish the Tribunal's inherent powers to ensure justice, especially when the modification has no adverse impact on parties' rights and is supported by consensus. The case involved the liquidation of M/s. GHO Agro Private Limited, where M/s. Shri Vethaa Dairy Private Limited was the successful auction purchaser. The original NCLT order permitted the "sale of Corporate Debtor as a going concern." The appellant sought clarification to change this to "sale of the business of the Corporate Debtor as a going concern," aligning with a resolution from the 10th Stakeholders Consultation Committee (SCC). The NCLT had rejected this, doubting the SCC meeting's genuineness and deeming the distinction immaterial. However, the NCLAT found no material basis to question the SCC's resolution. Given that the modification was a mere clarification, did not prejudice any party, and the respondents did not oppose it, the NCLAT exercised its inherent powers to allow the clarification and modify the impugned order, emphasizing the Tribunal's prerogative to meet the ends of justice.



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SIGNIFICANT CASE LAWS

NCLAT: Insolvency Petition Not Maintainable When Creditor is Net Debtor to Corporate Debtor

In **Future Consumer Limited V/s Aussee Oats India Limited**, the **National Company Law Tribunal (NCLT)**, Mumbai bench, dismissed a Section 7 petition, holding that insolvency proceedings cannot be initiated against a corporate debtor for non-payment of a financial debt when the financial creditor itself owes a larger amount to the debtor. Future Consumer Limited (Financial Creditor) extended a short-term loan of Rs. 2 crore to Aussee Oats India Limited (Corporate Debtor). The Corporate Debtor repaid Rs. 1.35 crore, leaving an outstanding balance of Rs. 65 lakh. Despite demand notices, the balance remained unpaid, prompting the Financial Creditor to file an insolvency petition. The Corporate Debtor countered, alleging the loan's Term Sheet was forged and, crucially, that the outstanding Rs. 65 lakh had been adjusted against a larger amount owed by the Financial Creditor to the Corporate Debtor for goods supplied. They highlighted that the Financial Creditor's own audited balance sheet, signed by its CFO, showed no amount due from the Corporate Debtor, but an outstanding amount payable by the Financial Creditor to the Corporate Debtor. The Financial Creditor argued against set-off, citing the Term Sheet's "absolute and unconditional" repayment clause. The Tribunal found that irrespective of the Term Sheet's genuineness, the Financial Creditor's own audited statements confirmed it owed money to the Corporate Debtor, allowing for adjustment. It rejected the Financial Creditor's contention against linking repayment to other transactions, asserting the debtor's right to adjust mutual dues. The NCLT concluded that insolvency proceedings are unsustainable when the creditor is, in effect, a net debtor to the Corporate Debtor.



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SIGNIFICANT CASE LAWS

Madras High Court Affirms Validity of Circular on RP Recommendation in IBC Section 95 Proceedings

In **Ashwani Kumar Bhatia Versus The Union of India and Ors.**, the Madras High Court upheld a circular issued by the Insolvency and Bankruptcy Board of India (IBBI) that permits creditors to recommend a Resolution Professional (RP) in applications filed under **Section 95** of the Insolvency and Bankruptcy Code (IBC). The Court ruled that this circular, issued under **Section 196** of the Code, is not ultra vires (beyond its powers) and enhances the efficiency of the insolvency process. The petitioner argued that only the IBBI has the authority to nominate an RP, and a creditor's recommendation would inherently create bias, overriding the IBC's provisions, particularly **Section 97**. They contended that **Section 196** does not grant the IBBI power to delegate its nomination authority. However, the Court observed that the RP's role, as clarified by the Supreme Court in *Dilip B. Jiwrajka vs. Union of India*, is primarily facilitative, gathering facts and submitting a non-binding report. This limited, non-decision-making role negates claims of inherent bias. The Court reasoned that allowing a creditor to recommend an RP from the IBBI's empaneled professionals saves time and mitigates potential conflicts of interest, aligning with the IBC's objectives of efficiency. Since the Adjudicating Authority retains final approval power under **Section 97(5)** and the debtor can raise objections, no prejudice is caused. Therefore, the High Court concluded the circular is valid and consistent with the Code.



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TRAINING AND EVENTS

1. 4th International Research Conference on Insolvency and Bankruptcy

Focus: India's pivotal Insolvency and Bankruptcy Code (IBC) of 2016

Date: September 28-29, 2025

Venue: Indian School of Business (ISB), Hyderabad Campus

Organized by: Insolvency and Bankruptcy Board of India (IBBI) and Indian School of Business (ISB)



3. Third International Research Conference on Insolvency and Bankruptcy

Date: July 2-3, 2025

Venue: Hyderabad, India

Organized by: Events

Submission Deadline: June 25, 2025

Inquiry Email: pgppro@isb.edu



2. 7th Annual Conference on Insolvency and Bankruptcy Code – Conference and Awards 2025

Date: June 21, 2025

Venue: Hotel Orchid, Mumbai-400099

Organized by: Achromic Point



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