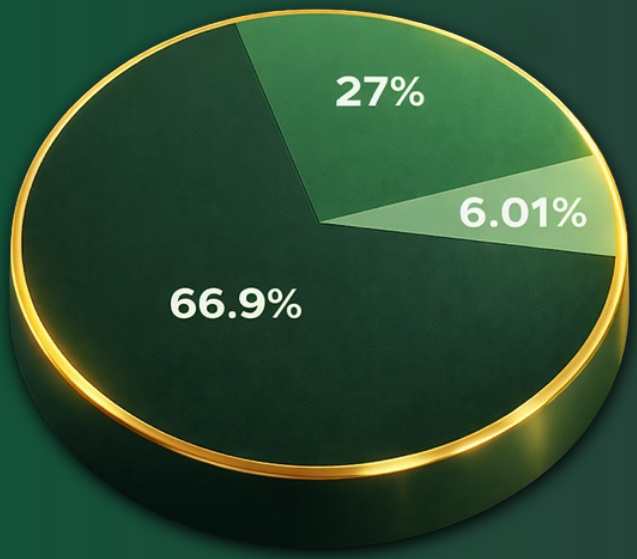
IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS

Who Really Uses The IBC And For What Purpose?

IBBI Data Reveals



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- Encore Asset Reconstruction Co. Pvt. Ltd. v. Pandhe Constructions Pvt. Ltd.
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Editor's Note

Resuscitation Over Recovery, Our cover story, **"Latest CIRP Filing Data Reveals How Financial and Operational Creditors Use the IBC,"** explores a fundamental structural shift in the insolvency landscape. Financial creditors have now overtaken operational creditors as the primary drivers of the IBC, particularly in high-value defaults exceeding **₹10 crore.** The data suggests that while operational-creditor filings remain concentrated in sub-**₹1 crore** disputes often serving as a tactical lever for settlement the IBC itself is maturing into a sophisticated institutional framework for resolving systemic financial distress rather than a routine debt-collection tool. This edition further examines the jurisdictional boundaries defined in **"Section 60(5) IBC: Jurisdiction Over Trademark Ownership Disputes During CIRP."** This analysis reinforces the NCLT's role as a "single-window" clearinghouse while clarifying its limitations in presiding over complex intellectual property title disputes. We also navigate how **Section 18 acknowledgments and restructuring agreements extend limitation periods under Article 137,** illustrating how formal recognitions of debt prevent historical defaults from barring modern creditor remedies. The digest traces **CanTelecom Spectrum be treated as an Asset Under IBC?** specifically looking at why telecom spectrum is treated as more than a mere balance-sheet entry. By ruling that spectrum is a sovereign resource rather than a standard commercial asset, the courts have reaffirmed that public interest and constitutional integrity must take precedence over private creditor claims during a corporate bailout. This is complemented by **"The Dual Pursuit,"** where we analyze the Supreme Court's validation of parallel insolvency proceedings against both debtors and guarantors. Finally, we examine the "clean slate" principle ranging from the protection of auction purchasers against pre-liquidation municipal taxes to the precise bifurcation of Provident Fund arrears. From decoding landmark MCA reforms to the surgical precision of admitting petitions based on the "fact of default," this month's digest is designed to help you navigate the shifting boundaries of corporate liability. As the landscape moves toward equity over technicality, we invite you to explore the insights keeping the industry ahead of the curve.

Let's dive in.

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COVER STORY

Latest CIRP Filing Data Reveals How Financial and Operational Creditors Use the IBC

What separates a bankruptcy framework from a routine payment-recovery lever is who uses it and for what purpose. In the early years of the Insolvency and Bankruptcy Code, 2016 (IBC), the Corporate Insolvency Resolution Process (CIRP) was often invoked in disputes that were, in substance, trade-credit payment conflicts. In many such matters, the filing served as a pressure point for settlement rather than as the opening step in a genuine insolvency-resolution process. That created a structural tension: a statute designed for collective resolution of financial distress was frequently being used in situations that resembled bilateral recovery contests.

The latest data published by the Insolvency and Bankruptcy Board of India (IBBI), however, suggests that this usage pattern is changing. The numbers now indicate a visible shift in the profile of CIRP initiators, with the filing landscape appearing increasingly financial-creditor-led.

Financial Creditors Are Becoming the Dominant CIRP Users

Across the Code's cumulative history, financial creditors (FCs) triggered 47.67% of CIRPs, operational creditors (OCs) triggered about 46.08%, and the balance came from corporate debtors (CDs). But the position looks markedly different when one isolates the Oct–Dec 2025 quarter. During that quarter, CIRP initiations stood at 109(66.9%) by financial creditors, 44(27%) by operational creditors and 10(6.1%) by corporate debtors. The contrast is significant.

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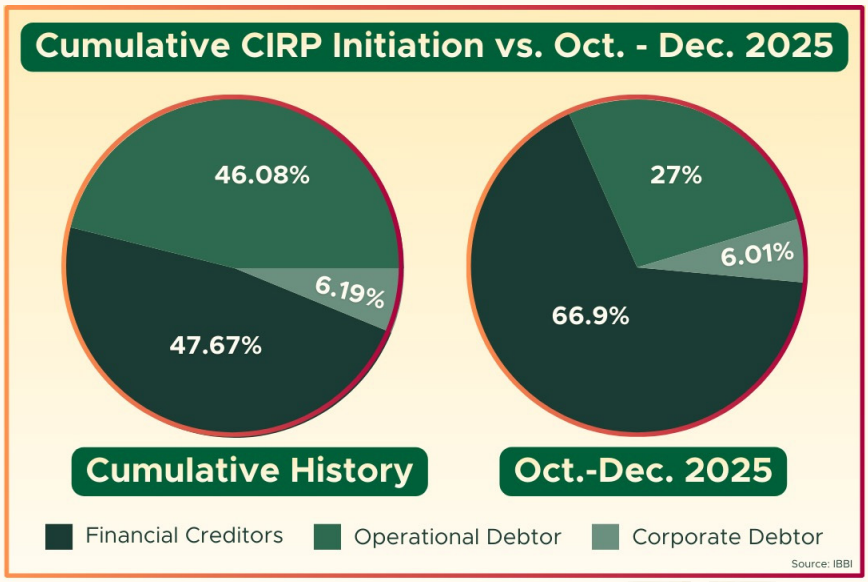
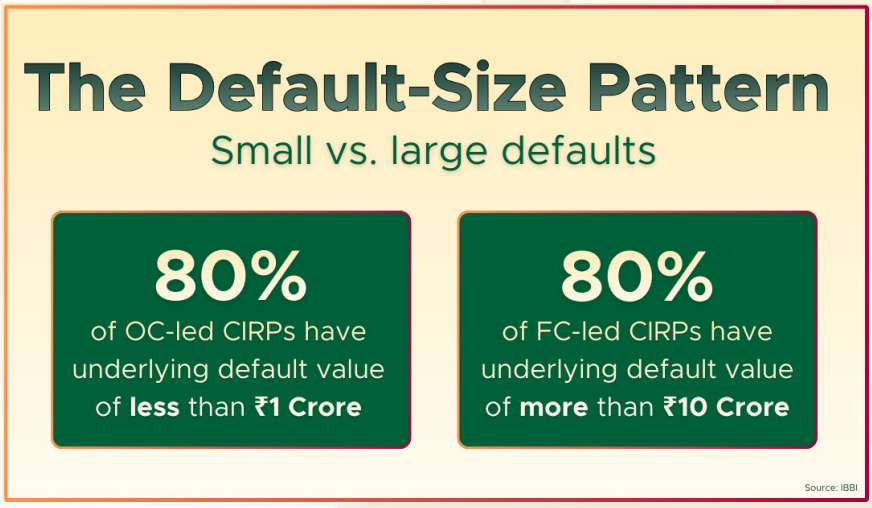


the corresponding figures were 445 and 397 respectively, these numbers support a measured conclusion that a substantial portion of OC-led CIRP activity appears to culminate outside the full resolution-or-liquidation track, which also suggests that settlement dynamics continue to play a meaningful role in OC-led CIRP.

The Default-Size Pattern Behind the Shift

The IBBI newsletter does more than give quarterly totals. It also identifies a default-size pattern in stakeholder-wise initiation. About 80% of CIRPs involving an underlying default of less than ₹1 crore were initiated by operational creditors, while about 80% of CIRPs involving an underlying de fault of more than ₹10 crore were initiated by financial creditors. It indicates that the recent



inversion in filing share is about which kinds of defaults are entering CIRP, and which creditor class is structurally more likely to initiate proceedings at each end of the default spectrum. Initiation, however, is only one side of the story. The more revealing question is what happens to these cases once they enter the system.

What the Closure Data Reveals About Creditor Behaviour

As of 31 December 2025, the outcome of CIRPs initiated by different stakeholders shows that OC-led matters continue to have a strong presence in closures through appeal, review, settlement, or withdrawal. The data suggests that around 51% of OC-initiated CIRPs that were closed ended through appeal, review, or withdrawal, and that such matters accounted for more than 67% of all closures by appeal, review, or withdrawal. The underlying breakup is equally instructive. Of CIRPs initiated by OCs, 908 were closed on appeal/review/settlement and 853 were closed by withdrawal under section 12A. For FCs,

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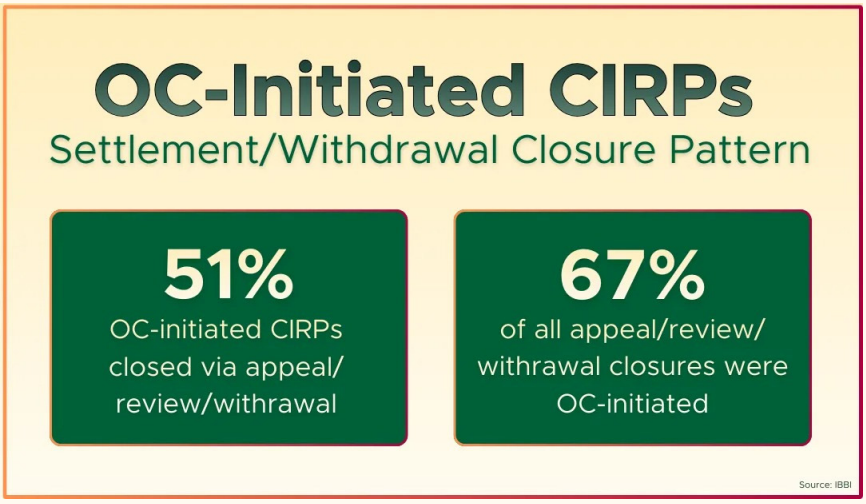

A better way to describe this development is a user-base inversion: the IBC appears to be moving from a filing landscape where FCs and OCs were nearly neck-and-neck toward one where financial creditors are becoming the dominant

What the IBC System Has Actually Produced So Far

If initiation and closure patterns describe how different creditors use CIRP, the outcome shows what the system has produced at scale. IBBI states that the Code has rescued 4,002 corporate debtors, comprising 1,376 through resolution plans, 1,366 through appeal, review, or settlement, 1,260 through withdrawal. At the same time, 2,952 corporate debtors have been referred to liquidation.

For resolved corporate debtors, IBBI reports that realisation has been more than 31.63% of admitted claims, more than 171.54% of liquidation value, and 94.95% of fair value on average.

Realisation against liquidation value and fair value tells us that the process is often preserving and extracting value significantly better than a break-up liquidation baseline. But realisation against admitted claims remains far lower. It reflects that different benchmarks measure different things: one compares outcome against estimated asset value in liquidation, while the other compares outcome against the total claim pool.

A Structural Shift in the Making

It is fair to say that the IBC is increasingly reflecting a lender-led stress-resolution profile, especially in larger-default cases. It is also fair to say that operational-creditor usage remains concentrated in smaller-default matters, many of which continue to close through settlement-oriented routes rather than through the full insolvency pipeline.

The IBC's current usage pattern appears to be moving closer to its institutional centre of gravity: larger-value, creditor-driven insolvency resolution, with operational-creditor, it is a meaningful inversion of its active user profile. In other words, the filing and closure data together point to a practical re-centering of CIRP around higher-value, institutional distress while OCs activity remains concentrated in smaller-default bands.

The latest IBBI data presents a clear message. Historically, financial creditors and operational creditors occupied almost equal ground in CIRP initiation. But in the Oct–Dec 2025 quarter,

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FCs accounted for 109 of 163 initiations, while OCs accounted for 44.

At the same time, IBBI records that about 80% of sub-₹1 crore CIRPs are OC-initiated, while about 80% of over-₹10 crore CIRPs are FC-initiated.

These figures suggest that the IBC's filing base is becoming more strongly aligned with default size, creditor type, and the economics of resolution. It indicates that the IBC is increasingly functioning, at least in its more consequential cases, as a framework for institutional resolution of financial distress rather than a broadly interchangeable substitute for ordinary debt enforcement. And that, in the end, is what separates a bankruptcy framework from a routine payment-recovery lever: who invokes it, and for what objective.

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PIVOTAL ISSUES

Section 60(5) IBC Jurisdiction Over Trademark Ownership Disputes During CIRP

The intersection of the Insolvency and Bankruptcy Code (IBC) and Intellectual Property (IP) law presents a profound legal paradox: the statutory mandate to maximize the value of a Corporate Debtor's assets versus the necessity of protecting a trademark's brand integrity and legal ownership. As insolvency filings rise, a recurring jurisdictional friction has emerged where litigants attempt to settle complex, pre-existing trademark title disputes within the summary proceedings of the National Company Law Tribunal (NCLT). By leveraging the broad residuary powers of Section 60(5), creditors often seek to pull disputed IP assets into the resolution estate. However, recent judicial clarity has established that while the IBC is a "single-window" clearinghouse for insolvency, it is not a "Title Court" for independent civil disputes.

This jurisdictional boundary was sharply defined in the landmark case of Gloster Ltd. v. Gloster Cables Ltd. (2026)1. The factual matrix centered on the ownership of the trademark "GLOSTER," which had been assigned to the respondent through a 2017 Deed of Assignment long before the commencement of the Corporate Insolvency Resolution Process (CIRP). During the insolvency proceedings of the parent company, the NCLT used its plan-approval powers to effectively nullify this assignment, declaring the trademark an asset of the debtor to facilitate a "cleaner" sale to the successful bidder. The matter reached Supreme court primarily as the matter was a fundamental disagreement over the NCLT's jurisdiction. While the NCLAT had ruled on the merits of the trademark ownership, it...

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PIVOTAL ISSUES

How Section 18 acknowledgments and restructuring agreements extend limitation under Article 137 of the IBC despite earlier NPA classification

Can a financial creditor maintain an application for insolvency resolution when the corporate debtor's account was classified as a Non-Performing Asset (NPA) nearly a decade prior to the filing? This central question was examined by the Supreme Court of India in the landmark case of B. Prashanth Hegde v. State Bank of India & Anr. which explored the intricate relationship between the technical date of default, the internal accounting practices of banks, and the legal weight of debt acknowledgments in extending the period of limitation. The issue strikes at the center of the Insolvency and Bankruptcy Code's (IBC) functionality, questioning whether a historical entry in a bank's ledger can permanently bar a creditor from seeking remedy, even if the debtor has spent the intervening years seeking concessions and restructuring the very same debt.

The circumstances of the case involved a consortium of banks, led by the State Bank of India (SBI), which had extended credit facilities exceeding ₹280 crores to M/s. Metal Closure Pvt. Ltd. Although the banks had internally classified the account as an NPA as early as 2010, to comply with Reserve Bank of India (RBI) regulatory norms, the parties spent the subsequent years engaged in active and continuous restructuring negotiations. These efforts were not merely informal discussions but culminated in a series of formal Working Capital Consortium Agreements, the final one being executed in 2014. These agreements reorganized the repayment schedules and interest rates, essentially treating the debt as a live and manageable obligation. When the restructuring ultimately failed and the corporate debtor...

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PIVOTAL ISSUES

Can Telecom Spectrum Be Treated As An Asset Under IBC

TELECOM SPECTRUM AND THE INSOLVENCY ESTATE

When a telecom service provider (TSP) enters insolvency, what exactly enters the insolvency estate with it? Its towers? Yes. Its receivables? Certainly. But what about the most valuable component of its business model the Spectrum allocated through auction?

In State Bank of India v. Union of India & Ors, the Supreme Court of India confronted this precise constitutional commercial collision. The Court was not merely deciding a dispute between lenders and the Department of Telecommunications (DoT), It was identifying the "true legal province" of Spectrum and determining whether the Insolvency and Bankruptcy Code, 2016 (IBC) could be invoked to restructure rights flowing from a sovereign resource. The answer, delivered with constitutional clarity, was that Spectrum allocated to TSPs and shown in their books of account as an "asset" cannot be subjected to proceedings under IBC. The Court's rationale was anchored in the Public Trust Doctrine, a principle established in precedents such as M.C. Mehta v. Kamal Nath and the 2G Case. The Court reiterated that spectrum is a scarce, finite natural resource owned by the people of India, with legal title vesting in the Union of India as a trustee. Under Article 39(b) of the Constitution, material resources must be distributed to best subserve the common good; consequently, they cannot be treated as objects of unfettered private ownership or commercial exploitation. A critical distinction was made between accounting practices and legal reality. While TSPs may record spectrum as an "asset" in their books to reflect control over future economic benefits for the purpose of raising loans, this does not confer a proprietary interest. Section 4 of the...

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PIVOTAL ISSUES

Can CIRP Be Initiated Against Both Borrower and Guarantor? Supreme Court Clarifies in ICICI Bank v Era Infrastructure

The Dual Pursuit

Can a financial creditor simultaneously initiate insolvency proceedings against both a principal debtor and its corporate guarantor for the same debt, or must it choose between them, potentially sacrificing the very assurance a guarantee promises? This question fractured the jurisprudence of India's insolvency tribunals for years, producing contradictory outcomes that left creditors strategically exposed and the sanctity of guarantees in limbo. The Supreme Court of India, in its landmark verdict in ICICI Bank Limited v. Era Infrastructure (India) Limited (2026), delivered by judge bench consisting of Justices Dipankar Datta and Augustine George Masih, has finally resolved this controversy. The Court affirmed a creditor's right to pursue parallel Corporate Insolvency Resolution Processes (CIRP) against both parties, weaving together the Indian Contract Act, 1872, and the Insolvency and Bankruptcy Code, 2016 (IBC) into a coherent framework of credit enforcement.

The legal fault lines that necessitated this intervention emerged primarily from the NCLAT's ruling in Vishnu Kumar Agarwal v. M/s Piramal Enterprises Ltd., which held that the admission of a Section 7 application against one corporate debtor barred a second application for the same debt against another. This restrictive interpretation led the NCLT to reject ICICI Bank's applications against Era Infrastructure (India) Limited and Hyderabad Ring Road Project Private Limited, despite a CIRP already being underway against their common guarantor. Conversely, a different view emerged in SBI v. Athena Energy Ventures (P) Ltd., which declined to follow the Piramal precedent, creating a judicial stalemate While the Supreme...

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SIGNIFICANT CASE LAWS

Surgical Precision in Insolvency: Supreme Court Rules Corporate Debtor's "Ability to Pay" Irrelevant for CIRP Admission

In the case of Power Trust (Promoter of Hiranmaye Energy Ltd.) v. Bhuvan Madan (IRP of Hiranmaye Energy Ltd.) & Ors. (2026), the Supreme Court delivered a definitive blow to judicial hesitation by stating that the Insolvency and Bankruptcy Code (IBC) is triggered by the simple reality of a default, not a complex inquiry into a company's financial health. By clarifying that Section 7 admission is a mandatory obligation rather than a discretionary choice, the Court stripped Adjudicating Authorities of the power to "wait and watch." Once a financial creditor establishes that a debt exists and a default has occurred, the law leaves no room for debate the Corporate Insolvency Resolution Process (CIRP) must be initiated immediately. This ruling marks a final break from the legacy of the Companies Act, 1956. While the old regime forced judges to act as financial detectives to determine if a company was truly "unable to pay," the IBC operates with surgical precision, making such inquiries legally irrelevant. In this new era of Indian commerce, the law prioritizes speed and certainty over prolonged sympathy, ensuring the resolution machinery turns the moment a credit promise is broken.

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SIGNIFICANT CASE LAWS

NCLAT Faults NCLT for Ignoring COVID Limitation Extension and Unexamined Debt Acknowledgment in Encore ARC Case

In a significant ruling on limitation under the IBC, Encore Asset Reconstruction Co. Pvt. Ltd. v. Pandhe Constructions Pvt. Ltd. (NCLAT, 2026), the appellate tribunal set aside the NCLT Mumbai Bench's order that had dismissed Encore ARC's Section 7 application against Pandhe Constructions Pvt. Ltd. as time-barred. The NCLAT found that the NCLT committed two critical errors: first, it failed to correctly apply the Supreme Court's COVID-19 limitation extension directions, which mandated exclusion of the entire period from March 15, 2020 to February 28, 2022 from limitation calculations; and second, it neglected to independently examine the appellant's pleadings regarding acknowledgment of debt under Section 18 of the Limitation Act, 1963, including a one-time settlement proposal dated November 10, 2019 though the NCLAT noted that no documentary evidence of the OTS had been produced before the tribunal. The matter was accordingly remanded to the NCLT for fresh consideration, with directions to correctly compute the limitation period and properly examine the Section 18 acknowledgment question. The ruling is a firm reminder that the Supreme Court's COVID "stop-clock" mechanism is mandatory and not discretionary, and that threshold-stage dismissals on limitation grounds cannot be sustained where relevant legal provisions and evidence remain unexamined.

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SIGNIFICANT CASE LAWS

Supreme Court Dismisses ASR Logistics' SLP, Affirms NCLAT Order Rejecting CIRP Against Leo Creations in Section 9 Dispute

In ASR Logistics (India) Pvt. Ltd. v. Leo Creations Pvt. Ltd. (2026), the Supreme Court of India dismissed the Special Leave Petition filed by ASR Logistics, the operational creditor, thereby bringing a conclusive end to a prolonged Section 9 dispute under the Insolvency and Bankruptcy Code. Although the Court condoned the delay in filing the SLP, the bench led by Justice Pamidighantam Sri Narasimha declined to interfere with the NCLAT's prior ruling, which had carefully examined a debt claim of approximately ₹6.47 lakhs and found it insufficient to sustain insolvency proceedings, particularly in light of questions surrounding actual default and partial settlements. By upholding the NCLAT's findings, the Supreme Court reinforced the principle that operational creditors must meet a high evidentiary threshold to successfully initiate and maintain CIRP, and that mere assertion of a debt without clear proof of default will not suffice. The dismissal effectively concludes the litigation in favour of the Corporate Debtor, Leo Creations, declaring that the NCLAT's assessment of the debt's veracity was legally sound and warranted no further judicial intervention.

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SIGNIFICANT CASE LAWS

Calcutta High Court Upholds Clean Slate Principle, Rules Municipal Authorities Cannot Impose Pre-Liquidation Tax Liabilities on IBC Auction Purchasers

In the landmark ruling of Mamta Binani & Anr. v. Kolkata Municipal Corporation (2026), the Calcutta High Court significantly state the "clean slate" principle enshrined under the Insolvency and Bankruptcy Code by holding that municipal authorities cannot retrospectively revalue property or recover tax liabilities from auction purchasers that were incurred by a corporate debtor prior to a liquidation sale. The dispute arose when the Kolkata Municipal Corporation attempted to impose property tax revaluations dating back to 2005 on a site purchased from the liquidation estate of Nicco Corporation Limited, a move the Court firmly rejected on the ground that the KMC had failed to lodge its claims with the liquidator during the formal insolvency process. The Court further clarified that municipal dues qualify as "operational debts" and must be addressed exclusively through the waterfall mechanism prescribed under Section 53 of the IBC, and that the overriding effect of Section 238 of the Code supersedes any independent recovery action permitted under municipal laws. Importantly, the judgment also settled the question of contractual "as is where is" clauses, ruling that such clauses cannot override the statutory protections afforded by the Code and cannot be used to burden auction purchasers with undisclosed pre-existing liabilities.

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SIGNIFICANT CASE LAWS

Supreme Court Dismisses Appeal Against NCLAT Chennai's Ruling on Fraudulent Asset Diversion in Sree Bhadra Parks Insolvency Proceedings

In K. N. Narayanan Namboodiripad and Ors. v. K. Parameswaran Nair and Anr. (2026), the Supreme Court of India dismissed the civil appeal filed by the suspended management of Sree Bhadra Parks and Resorts Ltd., thereby declaring the findings of the NCLAT Chennai in its order bearing CAAT (CH) (I) No. 409/2022, which had closely examined the conduct of the corporate insolvency resolution process and the role of the Resolution Professional. The appellants, representing the erstwhile management, had challenged the NCLAT's order on grounds relating to the handling of insolvency proceedings, while the underlying dispute involved serious allegations of fraudulent asset diversion and the execution of bogus sale agreements purportedly designed to place corporate assets beyond the reach of secured creditors, including Federal Bank. Although the Supreme Court bench comprising Justice Dipankar Datta and Justice Satish Chandra Sharma condoned the procedural delay in filing the appeal, it found no merit in the substantive challenge raised by the appellants and declined to interfere with the tribunal's findings. The dismissal reinforces the authority of the NCLAT to scrutinize and penalize fraudulent trading under Section 66 of the IBC, and ensures that the liquidation process initiated against the debt-ridden resort entity remains undisturbed and legally intact, sending a strong signal that attempts by suspended management to shield assets from legitimate creditor claims through sham transactions will not be countenanced by the courts.

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SIGNIFICANT CASE LAWS

The Interest Equation: When Contractual Accruals Cross the Insolvency Threshold

In Rajkishore Sukhdeo Mundra v. Prashant D Agarwal and Anr., the National Company Law Appellate Tribunal (NCLAT), New Delhi, addressed the dual question of whether insolvency proceedings under Section 9 of the Insolvency and Bankruptcy Code, 2016, remain maintainable when the statutory threshold of Rs. 1 crore is met partly through accrued contractual interest, and whether the COVID era suspension under Section 10A could shield a Corporate Debtor from proceedings where the default predates the prescribed prohibited window. The dispute arose from commercial transactions in chemicals between the Operational Creditor and M/s Avani Yarns (P) Ltd. between 2017 and 2020, wherein the invoices and purchase orders expressly stipulated an interest rate of 24% per annum upon expiry of a 60-day credit period, and the Tribunal, declaring the NCLT Ahmedabad Bench's order, held that such contractually agreed interest forms an integral component of "operational debt" for the purposes of Section 4 threshold calculation, while further clarifying that the protection afforded under Section 10A is strictly confined to defaults occurring within the notified suspension period and cannot be extended to defaults that crystallised prior to it, regardless of when the demand notice was issued or the petition was formally filed.

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SIGNIFICANT CASE LAWS

The Provident Fund Paradigm: Bifurcating Statutory Dues in the Resolution Matrix

In N A Roto Machines and Moulds India v. Regional Provident Fund Commissioner Vatwa and Anr., the Supreme Court of India upheld the National Company Law Appellate Tribunal's (NCLAT), New Delhi, modification of the NCLT Ahmedabad's earlier order concerning the treatment of Provident Fund dues under the Insolvency and Bankruptcy Code, 2016, wherein the core controversy revolved around whether penal damages levied by the PF authorities ought to form part of the resolution debt alongside the principal and interest components of such statutory dues. The Supreme Court affirmed that while the principal and interest components of Provident Fund arrears remain protected and must be addressed within the resolution framework, the exclusion of penal damages from the ambit of such dues was appropriate under the given circumstances, and further found no infirmity in the NCLAT's directive delegating the precise quantification of the remaining principal and interest to the successful Resolution Applicant in accordance with the established recovery framework, rather than requiring the Tribunal itself to determine exact figures at the stage of plan approval. By dismissing the appeal, the Supreme Court reinforced the nuanced principle that social security obligations under statutes such as the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, are not monolithic in their treatment under the IBC, and that the components of such debt particularly penal damages are capable of bifurcation, with the practical responsibility of calculation being legitimately delegated to the resolution applicant implementing the approved plan.

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