

IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS



COVER STORY

Can a Successful Bidder in an IBC Liquidation Sale Seek Reliefs Beyond “As Is Where Is” Terms? 04

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Afterthought, our cover story this month examines whether a successful bidder in liquidation can seek reliefs beyond the strict “as is where is” terms of sale. We analyse how courts are approaching the limits of post-sale claims and the extent to which commercial risk is intended to remain with the bidder.

This edition’s pivotal issues explore key fault lines within the insolvency framework. We unpack the NCLAT’s clarification on whether **debts of a proprietorship can be clubbed with a company** to trigger insolvency, the jurisdictional divide between **succession law and corporate repayment obligations**, and whether the existence of an arbitral **award can be used to resist CIRP initiation**.

We also examine the limits of reopening completed transactions under **Section 230 schemes**, particularly in the context of disinvestment claims and minority exit, alongside broader questions of procedural finality.

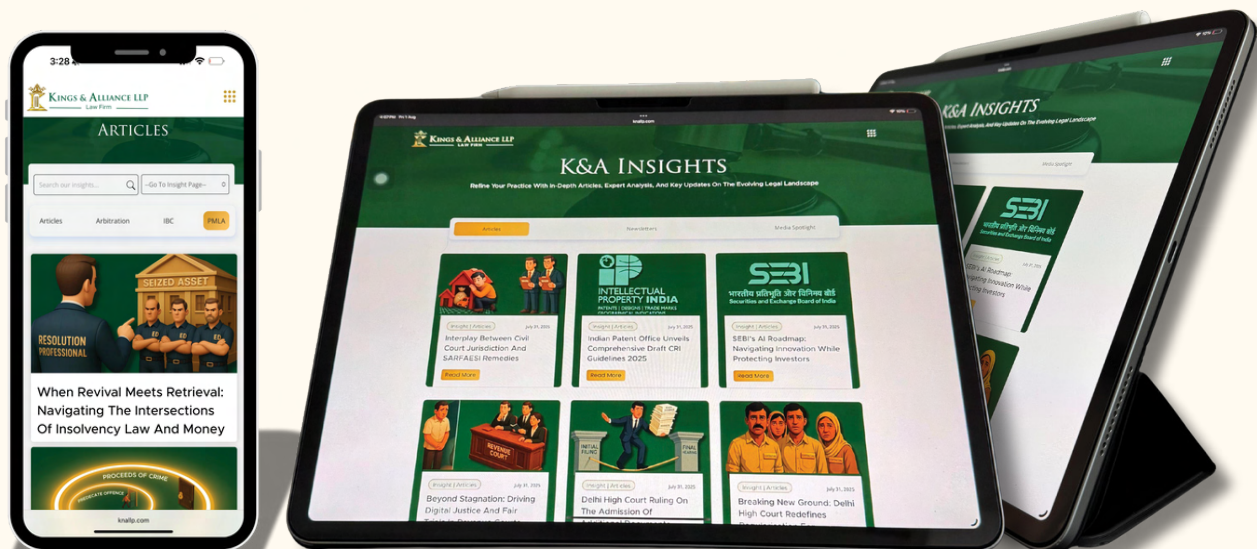
On the regulatory front, we highlight the **Corporate Laws (Amendment) Bill, 2026**, which signals further alignment across the Companies Act, CSR framework, NFRA oversight, and the IBC.

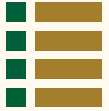
Together, these developments reflect a continued judicial emphasis on **certainty, finality, and disciplined application** of the insolvency regime.

To cap it off, this edition brings you key case law developments along with curated events and trainings shaping insolvency practice.

Let’s dive in.

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COVER STORY

04

Can a Successful Bidder in an IBC Liquidation Sale Seek Reliefs Beyond “As Is Where Is” Terms?



PIVOTAL ISSUES

05

Jurisdictional Boundaries Between Succession Law and Deposit Repayment Obligations Under the Companies Act



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REGULATORY UPDATE

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Corporate Laws (Amendment) Bill, 2026: Key Changes to Companies Act, CSR, NFRA, and IBC Alignment



TRAINING & EVENTS

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COVER STORY

Can a Successful Bidder in an IBC Liquidation Sale Seek Reliefs Beyond “As Is Where Is” Terms?

Finality of

ASIS WHERE WHAT HOW **IS**



Could the successful bidder in a liquidation sale, having accepted assets on an "as is where is" basis, later seek judicial intervention to secure extensive reliefs and concessions not stipulated in the original auction notice? On April 2, 2026, the National Company Law Appellate Tribunal (NCLAT), Chennai Bench, in *Biotech Pvt. Ltd. v. Dr. Kondapalli Venkat Srinivas (Liquidator)*, has answered this in the negative, stating that such requests are barred by the doctrine of caveat emptor and the procedural rigors of constructive res judicata. The Tribunal clarified that once a bidder participates in an auction with full knowledge of its "no recourse" terms, they cannot later utilize the Liquidator to bypass previous judicial dismissals or to rewrite the commercial terms of the sale.

The dispute originated from the sale of Veda Biofuel Limited as a going concern. Biotech Pvt. Ltd. was declared the successful bidder following an e-auction conducted on September 16, 2024. Although the bidder initially moved the National Company Law Tribunal (NCLT) for various reliefs and concessions, that application was withdrawn unconditionally on November 8, 2024, without liberty to refile. Subsequently, the Liquidator filed a fresh application under Section 35 and 60(5) of the IBC, seeking not only to report the completion of the sale but also to grant 41 specific concessions to the bidder including tax waivers, discharge of past liabilities, and electricity due clearances. The NCLT rejected this application, leading to the present appeal before the NCLAT. In upholding the NCLT's rejection, the Appellate Tribunal grounded its rationale in the strict contractual nature of...

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PIVOTAL ISSUES

Jurisdictional Boundaries Between Succession Law and Deposit Repayment Obligations Under the Companies Act



STATUTORY COMPLIANCE VS. SUCCESSION STALEMATE

Safeguarding Estate Assets Amidst Probate Disputes

Could the pendency of a multi-party succession dispute over a deceased depositor's estate grant a company a perpetual "free pass" to retain matured deposits in violation of the Companies Act, 2013. The National Company Law Appellate Tribunal (NCLAT), Chennai Bench, recently addressed this critical tension in *Dr. M.A.M. Ramaswamy Chettiar v. Chettinad Coal Washeries Pvt. Ltd. and Anr.* The Appellate Tribunal clarified that while the question of who ultimately inherits an asset rests with a probate court, the regulatory mandate to protect that asset and ensure statutory compliance regarding corporate deposits falls squarely within the jurisdiction of the National Company Law Tribunal (NCLT). By invoking the principle that a beneficiary can act to protect an estate even before a will is probated, the NCLAT ensured that the estate of the late Dr. M.A.M. Ramaswamy would not be depleted by corporate non-compliance or potential mismanagement during the interim of a testamentary battle. The legal saga began in 2014 when the late Dr. M.A.M. Ramaswamy Chettiar approached the Company Law Board seeking the repayment of deposits from Chettinad Coal Washeries Pvt. Ltd. under the Companies Act, 2013. Following his demise in 2015, two rival claimants emerged: his adopted son, Mr. M.A.M.R. Muthiah, claiming via an adoption deed, and the Chettinad Charitable Trust, claiming under a 2015 will. This ignited a "dispute of succession" that led the NCLAT, in a prior 2022 ruling, to set aside substitution orders and remit the matter to the NCLT to be decided only after the conclusion of testamentary proceedings before the Madras...

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PIVOTAL ISSUES

Can a Completed Section 230 Takeover Be Reopened?
NCLT on Disinvestment Claims and Minority Exit in TIIIC
v. Dipak Raj Sood

Statutory Supremacy over Executive Mandate



Can a state-owned entity bypass statutory takeover procedures under the Companies Act, 2013, by invoking its own internal executive disinvestment guidelines to demand a significantly higher share valuation? In the landmark ruling of Tamilnadu Industrial Investment Corporation Ltd. (TIIIC) v. Dipak Raj Sood and Ors The National Company Law Tribunal (NCLT) Chennai rejected these contentions. The Bench held that a statutory "squeeze-out" under central legislation is a mandated legal mechanism fundamentally distinct from a voluntary, policy-driven disinvestment process. Consequently, executive instructions issued by a state government cannot override the structural integrity of the Companies Act or grant a government entity "special status" to disrupt the principle of shareholder parity.

The dispute originated from a Scheme of Arrangement initiated by the promoters of India Forge & Drop Stampings Ltd. under Section 230(11) of the Companies Act, 2013. The scheme sought to acquire the entire minority shareholding of the company to facilitate a total takeover, citing limited monetization avenues for public shareholders and the high cost of managing a vast majority of public shareholders for what effectively functioned as a private company. The primary point of contention arose when TIIIC, a Tamil Nadu government undertaking holding 71,179 shares (approx. 2.39%), rejected the fair valuation of ₹1,156 per share. This value was determined by registered valuers in accordance with the higher of two reports produced under the Companies (CAA) Rules, 2016. TIIIC asserted that as a state-owned entity, its exit must instead be governed by G.O. Ms. No. 448 (1991)...

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PIVOTAL ISSUES

Does Holding an Arbitral Award Allow a Corporate Debtor to Avoid CIRP under Section 7 IBC?

Debt vs. Discretion



Whether the NCLT is justified in admitting a Section 7 application where the Corporate Debtor holds an arbitral award in its favour that could potentially discharge its liabilities, particularly when the total admitted debt materially exceeds the realistically recoverable value of that award? In the matter of *Vikram Sharma v. Canara Bank* on April 10, 2026 the NCLAT reaffirmed the NCLT's decision to admit the CIRP Proceedings against the Company. The Appellate Tribunal clarified that while the Supreme Court's landmark ruling in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.* granted Adjudicating Authorities the discretion to stay proceedings, such discretion is not a safe harbor for Corporate Debtors whose financial health is beyond repair and whose liabilities eclipse their projected assets.

The dispute originated from a project involving the four-laning of state highways in Maharashtra, for which Supreme Best Value Kolhapur (Shiroli) Sangli Tollways Pvt. Ltd. was incorporated as a Special Purpose Vehicle (SPV) in 2011. To finance the project, the Corporate Debtor secured a consortium loan of ₹247.50 crores, with Canara Bank eventually disbursing ₹85.80 crores. However, the project hit a stalemate when Supreme Best Value Kolhapur (Shiroli) Sangli Tollways Pvt. Ltd. failed to get a completion certificate for the Public Works Department (PWD) and the National Highways Authority of India (NHAI) took over the project in 2016. This left the Corporate Debtor in a precarious position; it defaulted on its repayments, leading its account to be declared a Non-Performing Asset (NPA) in July 2017. While the Corporate Debtor successfully secured an arbitral award of approximately ₹318.94...

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PIVOTAL ISSUES

Whether Debts of a Proprietorship Can Be Clubbed with a Company to Trigger Section 9 IBC? NCLAT Clarifies in Bhushan Power & Steel v. AG Pipes

Crossing One Line To Cross The Other The ₹1 Crore Threshold



Can a creditor aggregate the debts of a sole proprietorship with those of a private limited company to meet the statutory ₹1 crore threshold under the Insolvency and Bankruptcy Code (IBC), simply because they share common management? In the matter of Bhushan Power & Steel Ltd. v. A.G. Pipes Pvt. Ltd, the National Company Law Appellate Tribunal (NCLAT) totally rejected these contentions. The Tribunal affirmed that a corporate entity is a distinct legal person, and its liability cannot be artificially inflated by "loading" it with the debts of an independent proprietorship concern, even if both are operated by the same individuals. Consequently, if the debt specifically attributable to the Corporate Debtor falls below the limit prescribed under Section 4 of the Code, the petition must be dismissed as non-maintainable.

The Appellant, Bhushan Power & Steel Ltd. (BPSL), filed a Section 9 petition against A.G. Pipes Pvt. Ltd. (the Corporate Debtor), claiming a default of approximately ₹1.49 crores. BPSL contended that it had supplied steel products to the Respondent's units and maintained two separate ledger accounts (SAP codes 1000224 and 1000579) for accounting convenience. BPSL further argued that the Respondent's website listed both manufacturing locations one in Faridabad and one in Palwal under the same brand name. The Respondent, however, countered that "A.G. Pipes" (a sole proprietorship) and "A.G. Pipes Pvt. Ltd." (a company) were separate legal entities with distinct GST registrations, PAN cards, and utility bills. They argued that the vast majority of the debt belonged to the...



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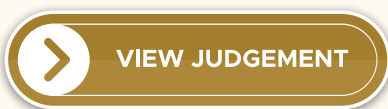


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SIGNIFICANT CASE LAWS

Supremacy of IBC Moratorium over State Depositor Protection Laws: The Case of CMA Shaikh Nafis Anjum (Liquidator) v. Tehsildar, Bkhara and Anr.

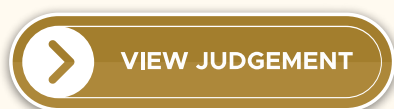
In CMA Shaikh Nafis Anjum (Liquidator) v. Tehsildar, Bkhara and Anr., the National Company Law Tribunal (NCLT), Indore Bench, declared an auction sale of a Corporate Debtor's properties null and void because it was conducted by state revenue authorities during a subsisting moratorium period. The core of the case involved a conflict between the Insolvency and Bankruptcy Code (IBC), 2016, and the Chhattisgarh Protection of Interest of Depositors Act, 2005, under which the properties had been seized and auctioned to repay defrauded investors. The Tribunal's rationale was grounded in Section 14 of the IBC, which imposes an absolute embargo on any proceedings or recovery actions against a debtor's assets once the Corporate Insolvency Resolution Process (CIRP) begins, and Section 238, which ensures the IBC overrides any inconsistent state laws. Ultimately, the main point of the case is that the statutory mandate of the moratorium is absolute; any asset sale conducted during this period—even if sanctioned by a Special Court under another statute—is legally non est, ensuring that all claims, including those of protected depositors, must be centralized and processed by the Liquidator under the IBC framework.



SIGNIFICANT CASE LAWS

Gutz Feel Film Production LLP v. Eros International Media Ltd.: Distinguishing Revenue-Sharing from Operational Debt

In *Gutz Feel Film Production LLP v. Eros International Media Ltd.*, the National Company Law Tribunal (NCLT), Mumbai Bench, dismissed an application filed under Section 9 of the Insolvency and Bankruptcy Code (IBC), 2016, which sought to initiate insolvency proceedings over unpaid dues from film production agreements. The core of the case centered on whether a claim for a 50% share of profits arising from a revenue-sharing arrangement—specifically related to the films *English Vinglish* and *Ki and Ka*—qualified as "operational debt". The rationale provided by the Tribunal was that the agreements constituted a commercial collaboration or joint venture rather than a contract for the supply of goods or services; because the Petitioner failed to produce invoices for specific services rendered and was instead seeking a distribution of realized profits, the debt did not fall under the definition provided in Section 5(21) of the Code. The main point of the case is that profit-sharing entitlements in a joint business venture are not equateable to operational debt, and such recovery disputes should be litigated in civil court rather than through the summary proceedings of the IBC.



SIGNIFICANT CASE LAWS

Rejection of CIRP Initiation Due to Lack of Bona Fide Intent: Q Top Fab Engineering Pvt. Ltd. v. Punjab National Bank

The National Company Law Tribunal (NCLT), Ahmedabad Bench, dismissed the petition filed by Q Top Fab Engineering Pvt. Ltd. under Section 10 of the Insolvency and Bankruptcy Code (IBC), 2016, which sought to initiate the Corporate Insolvency Resolution Process (CIRP). While the existence of financial debt and default was established, the Tribunal's rationale for dismissal centered on the lack of bona fide intent and the absence of a "going concern" status. The core of the case revealed that the Corporate Applicant had no active business, employees, or tangible assets since the 2020-2021 financial year, and had even written off its receivables when asked for debtor confirmations. Consequently, the NCLT concluded that the petition was not a genuine attempt at insolvency resolution but rather a tactical device intended to trigger the Section 14 moratorium to stall ongoing recovery proceedings initiated by creditors under the SARFAESI Act and the Debts Recovery Tribunal (DRT). The main point established is that the IBC cannot be used as a "protective umbrella" to frustrate legitimate recovery actions when there is no potential for revival or value maximization.



SIGNIFICANT CASE LAWS

Finality of Approved Resolution Plans and the "Clean Slate" Doctrine: Deputy Commissioner of Commercial Taxes v. Adhunik Alloys and Power Ltd.

In the case of Deputy Commissioner of Commercial Taxes v. Adhunik Alloys and Power Ltd., the NCLT Kolkata Bench dismissed an application filed by statutory authorities seeking the disclosure of confidential CIRP documents—including forensic audit reports and valuation details—nearly three years after the Corporate Debtor's resolution plan had been approved. The applicants, acting as operational creditors, alleged procedural irregularities and criminal misconduct regarding tax forms, arguing that the lack of transparency during the CIRP necessitated the production of these records to defend separate litigation. However, the Tribunal's rationale was grounded in the "Clean Slate" doctrine established by the Supreme Court in Essar Steel, holding that once a resolution plan is approved under Section 31 of the IBC, it becomes binding on all stakeholders and extinguishes all undecided claims to ensure certainty for the successful resolution applicant. The main point established by the Tribunal is that the NCLT's jurisdiction under Section 60(5) cannot be invoked to reopen a settled insolvency process or provide a "fishing exercise" for documents at a belated stage, as doing so would undermine the finality and time-bound objectives of the IBC framework.



VIEW JUDGEMENT



SIGNIFICANT CASE LAWS

Jurisdictional Finality and the Scope of Post-Disposal Applications: Orissa Metaliks Pvt. Ltd. v. Avil Jerome Menezes (RP)

In the case of Orissa Metaliks Pvt. Ltd. v. Avil Jerome Menezes (RP) and Ors., the NCLAT addressed an interlocutory application (I.A. No. 5413 of 2025) seeking to declare a completed e-challenge mechanism as final and to stay a second negotiation process initiated by the Committee of Creditors (CoC). The core of the dispute lay in the Appellant's contention that since they had already emerged as the highest bidder in the first e-challenge on July 18, 2025, the subsequent decision of the CoC on September 2, 2025, to conduct a second challenge was illegal and bad in law. The NCLAT's rationale for refusing the prayers was based on jurisdictional finality: because the underlying appeal had already been decided on July 25, 2025, the Tribunal could not entertain an application concerning subsequent events specifically a new negotiation process within a closed matter. The main point established is that while the NCLAT will not allow a disposed appeal to be used as a vehicle for challenging new developments in the CIRP, it will protect the party's right to seek justice by granting liberty to file a fresh application before the Adjudicating Authority to contest the legality of renewed bidding rounds



[VIEW JUDGEMENT](#)

SIGNIFICANT CASE LAWS

Requirement of Prior Invocation of Personal Guarantee: Indian Bank v. Varez Karsi Dadina

In the case of Indian Bank v. Varez Karsi Dadina, the NCLT Kolkata Bench dismissed an application filed under Section 95 of the IBC seeking to initiate the Insolvency Resolution Process against a personal guarantor for a default of approximately ₹34.62 crores. The core of the dispute centered on whether the statutory demand notice in Form B (under Rule 7(1) of the Personal Guarantors Rules) could itself serve as the invocation of the guarantee, or if a separate, prior invocation was required. The Tribunal's rationale, supported by NCLAT precedents such as Deepak Kumar Singhania, established that a "default" on the part of a guarantor only arises after the guarantee has been formally invoked in accordance with the terms of the specific Deed of Guarantee. The main point of the case is that a notice issued under Section 13(2) of the SARFAESI Act or a Form B demand notice cannot be treated as a valid invocation unless the language of the notice explicitly demands payment from the guarantor in that capacity; as the bank failed to prove a prior, clear invocation before filing the Section 95 petition, the debt was not yet "in default" under the Code.



SIGNIFICANT CASE LAWS

Finality of Admitted Claims and the Invalidity of Perpetual Re-verification: Jai Kishore Prasad v. Apex Heights Pvt. Ltd.

In *Jai Kishore Prasad v. Apex Heights Pvt. Ltd.*, the NCLAT set aside an NCLT order that had directed homebuyers to undergo a fresh "scrutiny" of their claims by the Successful Resolution Applicant (SRA) years after the Resolution Plan's approval. The core of the dispute involved homebuyers whose claims had already been admitted by the Resolution Professional (RP) and verified by the Monitoring Committee, but were being resisted by the SRA under a "verification clause" in the approved plan. The Tribunal's rationale established that the power to adjudicate claims rests solely with the RP under Regulations 13 and 14, and an SRA cannot indefinitely re-verify or reject admitted claims, especially when the 60-day window provided in the plan for document verification had lapsed. The main point of the case is that an insolvency process is not a "casino" for SRAs to wager on the rights of homebuyers; the SRA is estopped from questioning the authenticity of documents signed by the Corporate Debtor's erstwhile management once those claims form part of the approved plan. Consequently, the NCLAT directed the immediate implementation of the plan for the Appellants and called for an IBBI investigation into potential systemic fraud within the CIRP.



REGULATORY UPDATE:

Corporate Laws (Amendment) Bill, 2026: Key Changes to Companies Act, CSR, NFRA, and IBC

Corporate Laws (Amendment Bill) 2026

Changes to Companies Act, CSR, NFRA, and IBC Alignment

The Corporate Laws (Amendment) Bill, 2026, represents a pivotal shift from a culture of "policing compliance" to one of "facilitating governance." At its heart, the Bill addresses a critical tension in modern Indian commerce: How can the state maintain high standards of Corporate Social Responsibility (CSR) and transparency while allowing entities the flexibility to adopt modern structures like Limited Liability Partnerships (LLPs)? The legislative answer lies in a "trust-but-verify" model, where the burden of proof shifts toward self-declaration, and regulatory focus is reserved for high-impact, high-risk scenarios.

The Bill introduces a significant bridge for "Specified Trusts" (registered under SEBI or IFSCA), allowing them to convert seamlessly into LLPs. This acknowledges that trust structures, often used for investment or social ends, may reach a stage where the operational agility and legal personhood of an LLP are more appropriate for their maturing business objectives. Key Amendments to the Companies Act, 2013 The Companies Act has undergone several revisions aimed at enhancing corporate governance and ease of doing business, particularly for small companies and those operating in IFSCs. Expanded "Small Company" Thresholds: Under Section 2(85), the definition of a small company has been broadened to include entities with a paid-up capital of up to twenty crore rupees and a turnover of up to two hundred crore rupees. Digital Presence and Foreign Currency: Prescribed companies are now...



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Workshop on IBC Amendment Act and Proposed IBC Regulations

Organizer: Indian Institute of Insolvency Professionals of ICAI (IIPI)



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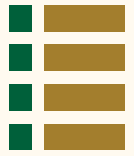
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