

IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS



COVER STORY

Can Assets of a Subsidiary Company Be Dealt with in the CIRP of the Holding Company? Supreme Court Clarifies in Alpha Corp v. GNIDA 04

SIGNIFICANT CASE LAWS

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- Hindustan Dorr-Oliver Ltd. v. Uranium Corporation of India Ltd.
- Garg Inox Ltd. and Anr. v. Union of India and Ors,
- Gulam Mustafa Enterprises Pvt. Ltd. v. India Housing Fund and Anr.
- Dhanlaxmi Bank Ltd. v. Mohammed Javed Sultan and Ors
- Elegna Co-Op. Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. and Anr.

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Veil, our cover story this month examines the Supreme Court's clarification on one of the most consequential questions in group insolvencies: whether assets held by a subsidiary can be dealt with during the CIRP of its holding company. We unpack the Court's approach to corporate separateness, economic reality, and the circumstances in which the boundaries between related entities come under closer judicial scrutiny.

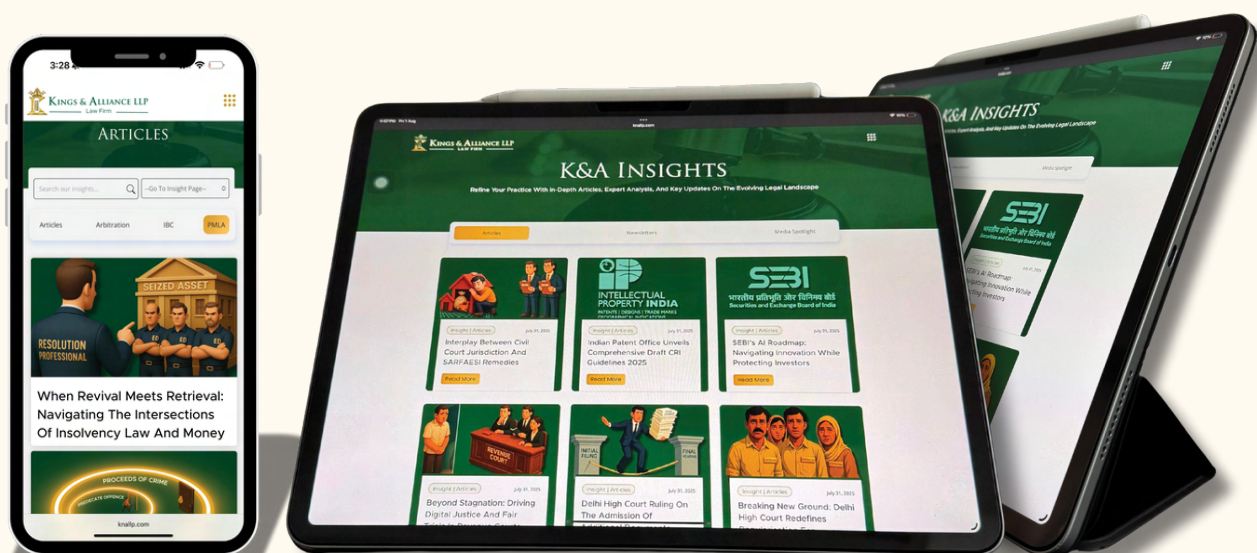
This edition's pivotal issues explore several important developments across the insolvency landscape. We analyse whether time spent pursuing a failed insolvency proceeding can be excluded for limitation purposes, the impact of disputed status on the maintainability of Section 9 applications, and the continuing evolution of the relationship between the IBC and anti-money laundering enforcement under Section 32A.

We also examine the growing debate surrounding personal insolvency, including the Supreme Court's decision to refer to a larger bench the question of whether an interim moratorium can halt proceedings under Section 138 of the Negotiable Instruments Act.

To cap it off, this edition brings you key case law developments along with a curated selection of insolvency-focused trainings and events from across the globe.

Let's dive in.

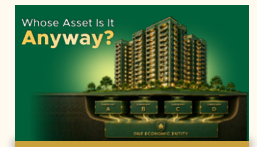
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PIVOTAL ISSUES 06

When Does Section 32A IBC Override PMLA Asset Attachment Proceedings?



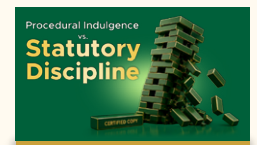
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Can Time Spent in a Failed Section 9 Proceeding Be Excluded Under Section 14 of the Limitation Act? Calcutta High Court Clarifies in JLL v. M.A. Leasing



PIVOTAL ISSUES 08

Why an Appeal Without a Certified Order Is No Appeal at All: Supreme Court in Angelwoods v. M Lalitha



PIVOTAL ISSUES 09

Can the Personal Insolvency Moratorium Halt Section 138 Proceedings? Supreme Court Refers Conflict to Larger Bench in Dineshchand Surana v. UCO Bank

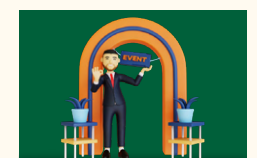


CASE LAWS 10

- Hindustan Dorr-Oliver Ltd. v. Uranium Corporation of India Ltd.
- Garg Inox Ltd. and Anr. v. Union of India and Ors,
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- Elegna Co-Op. Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. and Anr.
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- Anil Arora (RP) v. Commissioner, Municipal Corporation Faridabad



TRAINING & EVENTS 17



COVER STORY

Can Assets of a Subsidiary Company Be Dealt with in the CIRP of the Holding Company? Supreme Court Clarifies in Alpha Corp v. GNIDA

Whose Asset Is It Anyway?



The Supreme Court's judgment in Alpha Corp Development Private Limited v. Greater Noida Industrial Development Authority (GNIDA) & Ors. addresses a fundamental conflict: Can the insolvency process of a holding company absorb the assets of its subsidiaries, and to what extent can a public authority's failure to monitor projects impact its right to claim penal interest? The Court ultimately ruled that while subsidiaries are generally separate legal entities, they may be treated as an "alter ego" of the parent company if they were created solely to facilitate the parent's projects. Furthermore, the Court held that a public authority like GNIDA cannot claim penal interest if it has been negligent in monitoring the progress of real estate projects, thereby failing in its "public trust" duty toward homebuyers.

The litigation arose from the Corporate Insolvency Resolution Process (CIRP) of Earth Infrastructures Limited (EIL). EIL had undertaken three major projects Earth Towne, Earth TechOne, and Earth Sapphire Court on lands leased from GNIDA. Notably, these leases were not held by EIL directly but by its subsidiaries: Earth Towne Infrastructures Private Limited (ETIPL), Neo Multimedia Limited, and Nishtha Software Private Limited. GNIDA's own scheme required the formation of a Special Purpose Company (SPC) like ETIPL for such allotments, where EIL remained the lead member. After EIL defaulted on its payments and construction stalled in 2016, CIRP was initiated in 2018. The National Company Law Tribunal (NCLT) approved resolution plans by Alpha Corp and Roma Unicon for these projects. However, the National Company Law Appellate Tribunal (NCLAT) later set aside these...

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PIVOTAL ISSUES

Can a Section 9 Application Survive a "Disputed" Status in NeSL? NCLAT Clarifies in Span Engineers v. Pragati Infra

Plausible Contentions vs. Summary Adjudication



Can a Section 9 application under the Insolvency and Bankruptcy Code be sustained when the underlying debt remains subject to a pre-existing dispute and an authentication status of "disputed" in the Information Utility records? The National Company Law Appellate Tribunal (NCLAT), Principal Bench, rejected this view in the case of Span Engineers v. Pragati Infra and Engineering LLP, affirming that the existence of a plausible, non-spurious dispute prior to the issuance of a demand notice is a complete bar to the initiation of the Corporate Insolvency Resolution Process (CIRP). The tribunal clarified that once a notice of dispute is received or a record of dispute exists within an Information Utility like NeSL, the adjudicating authority is mandated to reject the application without delving into the deep merits of the claim. The case centers on an operational debt claimed by Span Engineers, which was engaged by Pragati Infra and Engineering LLP for civil works and the supply of goods under a work order dated May 1, 2020. The appellant asserted that it had raised three invoices between June 2020 and February 2021, totaling approximately ₹1.26 crore, for which only partial payments were received. Following the alleged failure of the Corporate Debtor to clear the outstanding dues within the agreed six-month timeframe, the appellant issued a Section 8 demand notice on April 1, 2023. In response, the Corporate Debtor issued a reply on April 12, 2023, categorically disputing the claim on several grounds, including defective service, breach of work order terms, failure to deposit GST and labour law payments, and the...

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PIVOTAL ISSUES

When Does Section 32A IBC Override PMLA Asset Attachment Proceedings?

Value Maximization Over Confiscation



"Does the IBC offer a 'clean slate' immunity that prevents the Enforcement Directorate from attaching or seizing a company's assets under the PMLA, once the business has been transferred to a new owner through an NCLT-approved resolution plan?" This fundamental conflict between the commercial imperative of corporate revival and the state's mandate to seize proceeds of crime was definitively addressed by the PMLA Appellate Tribunal in its landmark judgment on 23 April 2026 in *M/s. Viceroy Hotels Ltd. v. The Deputy Director, Directorate of Enforcement, Chennai*. The Tribunal held that Section 32A of the IBC acts as an absolute statutory bar against the attachment of a corporate debtor's property once a resolution plan is approved and control passes to a bona fide, unconnected resolution applicant. The dispute originated from a Provisional Attachment Order (PAO) issued by the Directorate of Enforcement (ED) in March 2019, covering properties worth over Rs. 315 crores, including the Marriott hotel of Viceroy Hotels Ltd. (VHL) in Hyderabad. The ED's action was rooted in allegations that funds received by Viceroy Hotels Ltd. (VHL) from M/s. Mahal Hotels Pvt. Ltd. (MHPL) as part of a terminated 2011 Business Transfer Agreement were actually "proceeds of crime" derived from a larger bank fraud involving Best & Crompton Engineering Projects Ltd. While these PMLA proceedings were pending, VHL entered the Corporate Insolvency Resolution Process (CIRP). In 2023, the National Company Law Tribunal (NCLT) approved a resolution plan submitted by Anirudh Agro Farms Ltd. (AAFL). With the change in management, the new owners sought the protection of Section 32A of the IBC, arguing that they should not inherit the "sins" of the previous management...

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PIVOTAL ISSUES

Can Time Spent in a Failed Section 9 Proceeding Be Excluded Under Section 14 of the Limitation Act? Calcutta High Court Clarifies in JLL v. M.A. Leasing

Pre-existing Dispute vs. Defect of Jurisdiction



Could the dismissal of an insolvency petition on the grounds of a "pre-existing dispute" be categorized as a "defect of jurisdiction or other cause of a like nature," thereby allowing a plaintiff to save their civil suit from the bar of limitation? In the significant ruling of Jones Lang Lasalle Property Consultants (India) Pvt. Ltd. v. M. A. Leasing and Construction Pvt. Ltd. and Ors. The High Court of Calcutta answered this in the affirmative. The Court held that Section 14(1) of the Limitation Act, 1963, must be interpreted liberally to advance justice, ensuring that a diligent litigant is not non-suited simply because they first approached a forum the National Company Law Tribunal (NCLT) which was statutorily barred from entertaining the claim due to the nature of the dispute rather than the merits of the debt itself.

The factual matrix of this case began when the plaintiff, a property consultant, sought unpaid fees for services rendered to the defendants. Following a statutory demand notice under Section 8 of the Insolvency and Bankruptcy Code (IBC) in late 2019, the plaintiff initiated a Section 9 IBC proceeding before the NCLT in July 2020. However, on September 10, 2023, the NCLT dismissed the application, observing that a "pre-existing dispute" existed between the parties, which precluded the tribunal from admitting the insolvency petition. Seeking to recover its dues, the plaintiff subsequently filed a commercial suit before the High Court in December 2025. The primary hurdle was limitation: the suit was filed well beyond the standard three-year period unless the time spent bona fide before the NCLT was excluded under Section 14 of the Limitation Act. The Court's rationale centered on the broad...

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PIVOTAL ISSUES

Why an Appeal Without a Certified Order Is No Appeal at All: Supreme Court in Angelwoods v. M Lalitha

Procedural Indulgence vs. **Statutory Discipline**



Is merely e-filing an appeal on the final day of limitation enough to keep a legal challenge alive, or does the absence of a mandatory foundational document render the entire exercise non-existent in the eyes of the law? This critical question formed the heart of the Supreme Court of India's decision in *Angelwoods Apartment Allottees Association v. M Lalitha*. In this landmark ruling, a Division Bench comprising Justice Sanjay Kumar and Justice K. Vinod Chandran dismantled the common litigation assumption that any placeholder filing suffices to stall a deadline. The Court held that an appeal presented without a certified copy of the impugned order and without an accompanying application for exemption fails to satisfy the baseline conditions of legal existence. Rather than being a routine "defective" filing capable of structural cure, such an appeal is "wholly incompetent," meaning it is fundamentally incapable of invoking a tribunal's jurisdiction or enjoying the exercise of its discretionary powers. The controversy originated from an insolvency resolution process involving the corporate debtor, Samson and Sons Builders and Developers Pvt. Ltd. On 14 August 2024, the National Company Law Tribunal (NCLT), Kochi Bench, formally approved a resolution plan submitted by the Angelwoods Apartment Allottees Association. Seeking to challenge this approval, M Lalitha, the mother of a suspended director of the corporate debtor and a self-claimed financial creditor, e-filed an appeal before the National Company Law Appellate Tribunal (NCLAT), Chennai. This appeal was filed on 28 September 2024, which marked the final day of the strict 45-day outer limitation window prescribed under the proviso to Section 61(2) of the Insolvency and Bankruptcy Code, 2016 (IBC). What followed, however, was...

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PIVOTAL ISSUES

Can the Personal Insolvency Moratorium Halt Section 138 Proceedings? Supreme Court Refers Conflict to Larger Bench in Dineshchand Surana v. UCO Bank



Section 138 NI Act vs. Part III IBC Moratorium

Whether a statutory moratorium operating during individual insolvency or bankruptcy under the Insolvency and Bankruptcy Code, 2016 (the "IBC") can stall or shield a debtor from penal prosecution under Section 138 of the Negotiable Instruments Act, 1881 (the "NI Act") remains one of the most intricately balanced questions at the intersection of commercial rehabilitation and criminal accountability. The conflict intensifies when the debtor is a company director facing vicarious criminal liability under Section 141 of the NI Act, who subsequently enters personal insolvency proceedings. The Supreme Court of India in *Dineshchand Surana v. UCO Bank* comprehensively parsed this friction to delineate the overlapping boundaries of these distinct statutory mechanisms. The issue is not merely whether a Section 138 proceeding seeks the recovery of money, but whether its inherently penal character can be subsumed by a statutory system meant to reorganize personal financial distress. To reconcile this, the Apex Court analyzed the nature of Section 138 as a hybrid enforcement tool, ultimately opting to refer the crucial questions to a larger three-judge bench for an authoritative pronouncement. The factual background of this controversy originated with M/s. Surana Power Ltd. (SPL), a company engaged in electricity generation that later went into liquidation under an order passed by the National Company Law Tribunal (NCLT). The appellant, serving as the Managing Director of SPL, had availed of various financial facilities from the respondent bank, including an Irrevocable Letter of Credit facility amounting to ₹5,03,21,250. As part of the arrangement, the appellant provided a blank security cheque with the understanding that the bank could encash it if the company...

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SIGNIFICANT CASE LAWS

Judicial Endorsement of Minimal Section 11 Intervention: Upholding Competence-Competence Amid Insolvency and Limitation Challenges

In *Hindustan Dorr-Oliver Ltd. v. Uranium Corporation of India Ltd.* (2026), the Jharkhand High Court examined the scope of Section 11(6-A) of the Arbitration and Conciliation Act, 1996 in relation to appointment of an arbitrator. The dispute arose from a contract dated 20.03.2009 containing arbitration clauses in the agreement and the Notice Inviting Tender (NIT). After disputes emerged, the applicant invoked arbitration through a notice dated 04.09.2025. The respondent opposed the application on the grounds that the claims were barred by limitation and had become non-maintainable because insolvency and liquidation proceedings had been initiated against the applicant company under the Insolvency and Bankruptcy Code, 2016. It was also argued that the company had been sold as a going concern to M/s Pan India Tubes Pvt. Ltd., which, being a non-signatory to the agreement, lacked locus standi to invoke arbitration. Rejecting these objections, the Court held that under Section 11(6-A), the Court's jurisdiction is confined to a prima facie examination of the existence of an arbitration agreement. The Court observed that issues relating to limitation, maintainability, insolvency consequences, and competency of the claimant are matters to be decided by the arbitral tribunal under Section 16 of the Act. Relying upon *Interplay Between Arbitration Agreements under Arbitration and Conciliation Act and Stamp Act, In Re* (2024) 6 SCC 1, the Court reiterated that Section 11 proceedings are not meant to become a "mini-trial" on disputed questions of fact and law. Accordingly, the Court appointed a sole arbitrator while keeping all objections open for adjudication before the arbitral tribunal.

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SIGNIFICANT CASE LAWS

Judicial Affirmation of the Clean Slate Theory: Extinguishment of Pre-CIRP Statutory Dues upon Resolution Plan Approval under the IBC

In *Garg Inox Ltd. and Anr. v. Union of India and Ors.* (2026), the Delhi High Court reaffirmed that once a resolution plan is approved under Section 31 of the Insolvency and Bankruptcy Code, 2016, all claims not forming part of the approved plan stand extinguished. The case involved challenge to recovery notices issued by various statutory authorities, including Income Tax, GST, Customs, and Provident Fund departments, for dues relating to the period prior to commencement of the Corporate Insolvency Resolution Process (CIRP). The CIRP commenced on 25.07.2017 and the resolution plan was approved by the NCLT on 04.12.2018. Despite such approval, authorities continued recovery proceedings for dues relating to financial years 2009-10 to 2016-17. The petitioners argued that these claims stood extinguished after approval of the resolution plan. The High Court relied upon *Ghanshyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Company Ltd.* and *Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta* to hold that all claims not included in the approved resolution plan become legally unenforceable. The Court emphasized the “Clean Slate Theory,” observing that a successful resolution applicant must take over the corporate debtor free from uncertain past liabilities. It further held that allowing statutory authorities to continue recovery proceedings would defeat the finality intended under Section 31 of the IBC. Since the impugned demands related to pre-CIRP dues and were not part of the approved resolution plan, the Court quashed the recovery notices and held the claims to be extinguished.

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SIGNIFICANT CASE LAWS

Judicial Restraint in Insolvency Oversight: Preserving NCLT's Procedural Autonomy while Safeguarding Homebuyers' Participatory Rights

In *Gulam Mustafa Enterprises Pvt. Ltd. v. India Housing Fund and Anr.* (2026), the Karnataka High Court examined the scope of interference under Article 227 of the Constitution in insolvency proceedings pending before the NCLT under Section 7 of the Insolvency and Bankruptcy Code, 2016. The petitioner, a real estate developer, sought directions that its interlocutory application regarding maintainability and subsistence of default be decided before the main insolvency proceedings. The dispute arose from proceedings initiated by financial creditors concerning secured non-convertible debentures issued for financing a housing project. The petitioner argued that despite settlements in certain proceedings, parallel proceedings continued before the NCLT without deciding its pending applications. Rejecting the challenge, the High Court held that proceedings under Section 7 of the IBC are summary and time-bound, where the NCLT is mainly required to determine the existence of financial debt and default. The Court emphasized that the NCLT has procedural autonomy to regulate its proceedings and no litigant can dictate the sequence in which applications should be heard. It further held that supervisory jurisdiction under Article 227 cannot be used to “micromanage” insolvency proceedings before the Tribunal. However, the Court recognized the importance of the intervention application filed by homebuyers and observed that their rights under the IBC required proper consideration. Accordingly, while refusing to interfere with the Tribunal’s procedural discretion, the Court directed the NCLT to first decide the homebuyers’ intervention application before proceeding further with the Section 7 proceedings and connected matters.

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SIGNIFICANT CASE LAWS

Section 7 IBC and the Boundary Between Recovery and Insolvency

In *Dhanlaxmi Bank Ltd. v. Mohammed Javed Sultan and Ors.* (2026), the Supreme Court of India examined whether proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 could be invoked in a dispute arising from a quadripartite real estate financing arrangement. The bank had sanctioned a loan for purchase of a commercial unit, and the amount was directly disbursed to the builder under the agreement executed between the bank, corporate debtor, builder, and WBHIDCL. Subsequently, disputes arose regarding repayment obligations, transfer of property, and obligations of the builder, leading the bank to initiate proceedings before the Debt Recovery Tribunal as well as insolvency proceedings under Section 7 of the IBC. The Supreme Court held that the IBC cannot be used as a recovery mechanism in disputes that are predominantly contractual in nature. The Court observed that the obligations of the parties were deeply connected with construction, transfer, refund, and property-related obligations, and therefore the dispute could not be treated as a simple financial debt default. The builder had also undertaken obligations relating to refund of amounts, clear title, and restrictions on transfer or mortgage of the property, showing that the transaction involved interconnected contractual obligations rather than a straightforward lending arrangement. The Court further noted that the dispute was already pending before the Debt Recovery Tribunal and that permitting insolvency proceedings in such circumstances would amount to misuse of the IBC framework for recovery purposes. Accordingly, the Supreme Court upheld the NCLAT's decision setting aside admission of CIRP against the corporate debtor. The judgment reiterates that the IBC is intended for insolvency resolution and not for enforcement of recovery claims arising out of contractual disputes.



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SIGNIFICANT CASE LAWS

Debt and Default as the Sole Threshold for Section 7 Admission

In *Elegna Co-Op. Housing and Commercial Society Ltd. v. Edelweiss Asset Reconstruction Company Ltd. and Anr.* (2026), the Supreme Court examined the scope of judicial discretion under Section 7 of the Insolvency and Bankruptcy Code, 2016 and the rights of homebuyers' societies at the pre-admission stage of insolvency proceedings. The dispute arose from defaults in a real estate project financed through loans granted by Edelweiss Asset Reconstruction Company Ltd. While the NCLT dismissed the Section 7 application on the ground that the IBC was being used as a recovery mechanism and that CIRP would prejudice homebuyers, the NCLAT reversed the decision and admitted the corporate debtor into CIRP. The Supreme Court upheld the NCLAT's order and held that once the existence of financial debt and default are established, admission under Section 7 becomes mandatory unless the application is incomplete. Relying on *Innoventive Industries, E.S. Krishnamurthy*, and *Swiss Ribbons*, the Court observed that considerations such as project viability, unsold inventory, or possible prejudice to homebuyers are generally irrelevant at the admission stage. The Court further clarified that *Vidarbha Industries* constitutes only a limited exception. On the issue of intervention, the Court held that the homebuyers' society was not a financial creditor and therefore lacked locus standi to intervene before admission of CIRP. It observed that participatory rights of homebuyers arise only after admission through the mechanism provided under Section 21(6A) of the IBC and Regulation 16A of the CIRP Regulations. Accordingly, the Supreme Court upheld admission of CIRP and rejected the intervention application of the society.

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SIGNIFICANT CASE LAWS

Section 60 IBC: Preventing Conflicting Insolvency Decisions

In *Patel Engineering Ltd. v. State Bank of India (2026)*, the National Company Law Tribunal examined Sections 60(1), 60(2), and 60(3) of the Insolvency and Bankruptcy Code, 2016 concerning insolvency proceedings against a principal borrower and corporate guarantor. The dispute arose after Patel Engineering Ltd. furnished a corporate guarantee in favour of SBI for loan facilities granted to GM Infinite Dwelling (India) Pvt. Ltd. Upon default, SBI initiated CIRP proceedings against GM Infinite before the NCLT Bengaluru Bench and separate proceedings against Patel Engineering before the NCLT Mumbai Bench. Patel Engineering sought transfer of the Mumbai proceedings to Bengaluru, arguing that Sections 60(2) and 60(3) require proceedings relating to the principal borrower and guarantor to be heard by the same Adjudicating Authority. SBI opposed the plea by relying on territorial jurisdiction under Section 60(1), since the guarantor's registered office was situated in Mumbai. The Tribunal held that Section 60(2) is an exception to Section 60(1) and is intended to consolidate proceedings involving the principal borrower and guarantor before one forum. It observed that both proceedings arose from the same loan transaction and corporate guarantee and therefore should be adjudicated together to avoid conflicting decisions and multiplicity of proceedings. Accordingly, the Tribunal directed transfer of the Mumbai proceedings to the NCLT Bengaluru Bench. The judgment reinforces the principle of forum consolidation and coordinated adjudication under Section 60 of the IBC.



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SIGNIFICANT CASE LAWS

IRP's Right to Access Corporate Debtor's Assets and Records

In *Anil Arora (RP) v. Commissioner, Municipal Corporation Faridabad (2026)*, the National Company Law Tribunal examined whether a Resolution Professional could obtain access to sealed premises and records of a corporate debtor despite recovery proceedings initiated under the Haryana Municipal Corporation Act, 1994. The application was filed by the Resolution Professional of SRS Entertainment India Ltd. under Section 60(5) of the Insolvency and Bankruptcy Code, 2016 seeking access to the registered office and financial records sealed by the Municipal Corporation for non-payment of property tax and advertisement fees. The RP contended that books of account, computers, financial records, and documents necessary for conducting CIRP and pursuing arbitration claims were lying inside the sealed premises. The Municipal Corporation opposed the application by arguing that the sealing action had been taken prior to commencement of CIRP and that an alternative appellate remedy was available under the Municipal Corporation Act. Rejecting these objections, the Tribunal held that the RP was not challenging the legality of the sealing order but was only seeking assistance in performing statutory duties under Sections 17 and 18 of the IBC. The Tribunal observed that once CIRP commences, the RP is required to take control and custody of the assets and records of the corporate debtor. Relying upon Section 238 of the IBC, the Tribunal held that the Code has overriding effect over conflicting statutory recovery proceedings and that denial of access would obstruct the insolvency resolution process. Accordingly, the Municipal Corporation was directed to permit access to the premises and allow retrieval of records, electronic data, and other assets of the corporate debtor while retaining liberty to submit its claims under the IBC framework.



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TRAINING AND EVENTS

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LEADERSHIP



MOHIT CHAUDHARY

FOUNDER AND MANAGING PARTNER

Former AAG for State of J&K at Supreme Court of India
Advocate on Record, Supreme Court of India

+91 98106 63997

mohit@knallp.com

mohitchaudhary2020@gmail.com



KUNAL SACHDEVA

PARTNER

+91 99536 55270

kunal@knallp.com

kunalsachdeva826@gmail.com



PUJA CHAUDHARY

PARTNER

+91 98106 22198

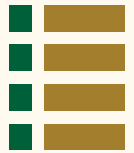
puja@knallp.com

pujabhaskar1@rediffmail.com

EXPOSITORS

Associate
Adv. Aparna Shukla

Associate
Adv. Jahnobi Paul



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 +91 981 981 5818

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 www.knallp.com



Kings & Alliance LLP

wa.me/919819815818

WhatsApp Business Account



LOCATIONS

CORPORATE OFFICE

13 Ring Road, Lajpat Nagar IV,
New Delhi - 110024

CHAMBER

511, Ad. Complex, Supreme Court
of India, New Delhi - 110001

IPR OFFICE

T 518, Sector 99, Supreme Tower,
Noida, Uttar Pradesh - 201303

INSIGHT DIVISION

62/6, Channi Himmat
(Green Belt), Jammu - 180015

MUMBAI

Chamber No.3, Block No.23, O2nd Floor,
Bell Building, Sir Phirozshah, Mehta Road,
Fort, Mumbai - 400 001



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Corporate Office - 13 Ring Road, Lajpat Nagar IV, New Delhi - 110024

Chamber - 511, Ad. Complex, Supreme Court of India, New Delhi - 110001

 +91 981 981 5818

 INFO@KNALLP.COM

 WWW.KNALLP.COM