IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS

AUG 2026

COVER STORY

PIVOTAL ISSUES

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Editor's Note

Inextricable, our cover story this month examines whether landowners can withdraw land from an integrated township project during CIRP. Through a landmark ruling in Brajesh Kumar Tripathi & Anr. v. Hasti Mal Kachhara (Resolution Professional) & Ors., the National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, New Delhi, clarified that once land forms an integral part of a sanctioned composite project, statutory approvals have been obtained, and homebuyer rights have crystallised, a belated unilateral termination of a Development-cum-Collaboration Agreement cannot be permitted to derail the CIRP or frustrate an approved Resolution Plan.

This edition also analyses the NCLAT's reaffirmation in Taguda Pte. Ltd. v. State Bank of India & Anr. regarding the SRA's absolute burden to secure timely regulatory approvals under Section 31(4) and the high cost of non-implementation leading to liquidation. Additionally, we examine Nakul Gupta v. State Bank of India, addressing personal guarantee liabilities post-resignation and facility renewal, and Value Wise Consultancy Pvt. Ltd. v. Deputy Director, Directorate of Enforcement, where the NCLAT drew the line between the IBC moratorium and PMLA attachment proceedings. We also highlight the Supreme Court's decision in M/s Tata Steel Ltd. v. Varsha & Anr., which further solidified the "clean slate" doctrine by extinguishing sub-judice pre-CIRP claims admitted at notional value upon plan approval.

Across these decisions, courts continue to draw sharper boundaries around arbitrator impartiality, statutory justice, and civil litigation thresholds. To cap it off, we bring you global case law developments and a curated selection of upcoming arbitration events and training.

Let's dive in.

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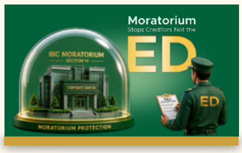
Moratorium
ED


A Foot in the Door Is Not
Enough


CASE

COVER STORY

Can Landowners Withdraw Land from an Integrated Project During CIRP? NCLAT in Brajesh Kumar Tripathi v. Hasti Mal Kachhara

Can landowners exclude their land from the Corporate Debtor's insolvency process and the approved resolution plan by relying on a unilateral termination of the Development-cum-Collaboration Agreement shortly before commencement of CIRP? The issue lies at the intersection of proprietary rights, contractual autonomy, the Real Estate (Regulation and Development) Act, 2016 ("RERA"), and the Insolvency and Bankruptcy Code, 2016 ("IBC"). In Brajesh Kumar Tripathi & Anr. v. Hasti Mal Kachhara (Resolution Professional) & Ors., the National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, New Delhi, held that once land forms an integral part of a sanctioned composite township, statutory approvals have been obtained and homebuyer rights have crystallised, a belated attempt to terminate the agreement cannot be permitted to derail the CIRP or frustrate implementation of an approved Resolution Plan.

The dispute arose from a registered Development-cum-Collaboration Agreement dated 29 January 2010 between the appellants, Brajesh Kumar Tripathi and Abhishek Tripathi, and Pushp Ratna Realty Pvt. Ltd., the Corporate Debtor, for development of land situated at Village Khajrana, Indore. Under the agreement, ownership of the land remained with the appellants while the Corporate Debtor undertook to develop the property, with the developed area to be shared in the ratio of 37:63. The agreement further authorised the Corporate Debtor to obtain the statutory approvals necessary for implementation of the project while clarifying that the arrangement did not constitute a partnership or joint...

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The High Cost of Plan Non-Implementation: NCLAT Reaffirms Liquidation and the SRA's Absolute Burden to Secure Timely Regulatory Approvals

While the Insolvency and Bankruptcy Code, 2016 ("IBC") accords primacy to the resolution of a corporate debtor as a going concern, such preference is not absolute. The statutory framework seeks value maximisation through a time-bound insolvency process and does not contemplate indefinite delays in implementing an approved resolution plan at the cost of continued asset erosion and prejudice to creditors. In Taguda Pte. Ltd. v. State Bank of India & Anr, the National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, New Delhi, reaffirmed that where a Successful Resolution Applicant ("SRA") repeatedly fails to implement an approved resolution plan despite multiple opportunities and judicial directions, liquidation may become the appropriate consequence under the IBC. The Tribunal further emphasised that the responsibility for obtaining statutory and regulatory approvals under Section 31(4) rests upon the SRA and cannot justify prolonged non-implementation of the approved plan. The Corporate Insolvency Resolution Process ("CIRP") against Ushdev International Ltd. commenced pursuant to an order of the NCLT dated 17 May 2018. Taguda Pte. Ltd. emerged as the Successful Resolution Applicant, and its revised Resolution Plan, providing for a total payment of ₹227 crores, including ₹225 crores towards financial creditors, was approved by the NCLT on 3 February 2022. Despite approval of the plan, its implementation remained pending for over three years. The Appellant attributed the delay primarily to its inability to obtain the requisite regulatory approvals, including approvals from the Reserve Bank of India ("RBI"), and...

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Personal Guarantee After Renewal of Credit Facilities: NCLAT in Nakul Gupta v. State Bank of India

Does a director's resignation from a company automatically discharge the obligations arising under a personal guarantee? The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, New Delhi, examined this issue in Nakul Gupta v. State Bank of India and Anr. The appeal required the NCLAT to determine whether a continuing personal guarantee stood discharged following the guarantor's resignation from the corporate debtor and the subsequent renewal of the consortium lending arrangements, even though the lending exposure of the enforcing creditor remained unchanged.

In deciding the issue, the NCLAT reaffirmed the settled principles governing continuing guarantees under the Indian Contract Act, 1872, holding that the liability of a personal guarantor is governed by the terms of the Deed of Guarantee read with the provisions of the Indian Contract Act, 1872. The judgment reinforces that a guarantor's resignation from the corporate debtor does not discharge a continuing guarantee. Instead, the continuation or discharge of such a guarantee depends upon the contractual terms governing the guarantee and the statutory principles regulating its revocation and discharge. The dispute arose from working capital facilities sanctioned by a consortium of banks led by the Bank of India to Technofab Engineering Limited ("Corporate Debtor"). Under consortium arrangements executed in October 2017, the lenders sanctioned aggregate working capital facilities of ₹907 crore in favour of the Corporate Debtor. State Bank of India ("SBI"), one of the consortium members, sanctioned facilities with an individual exposure of ₹117 crore...

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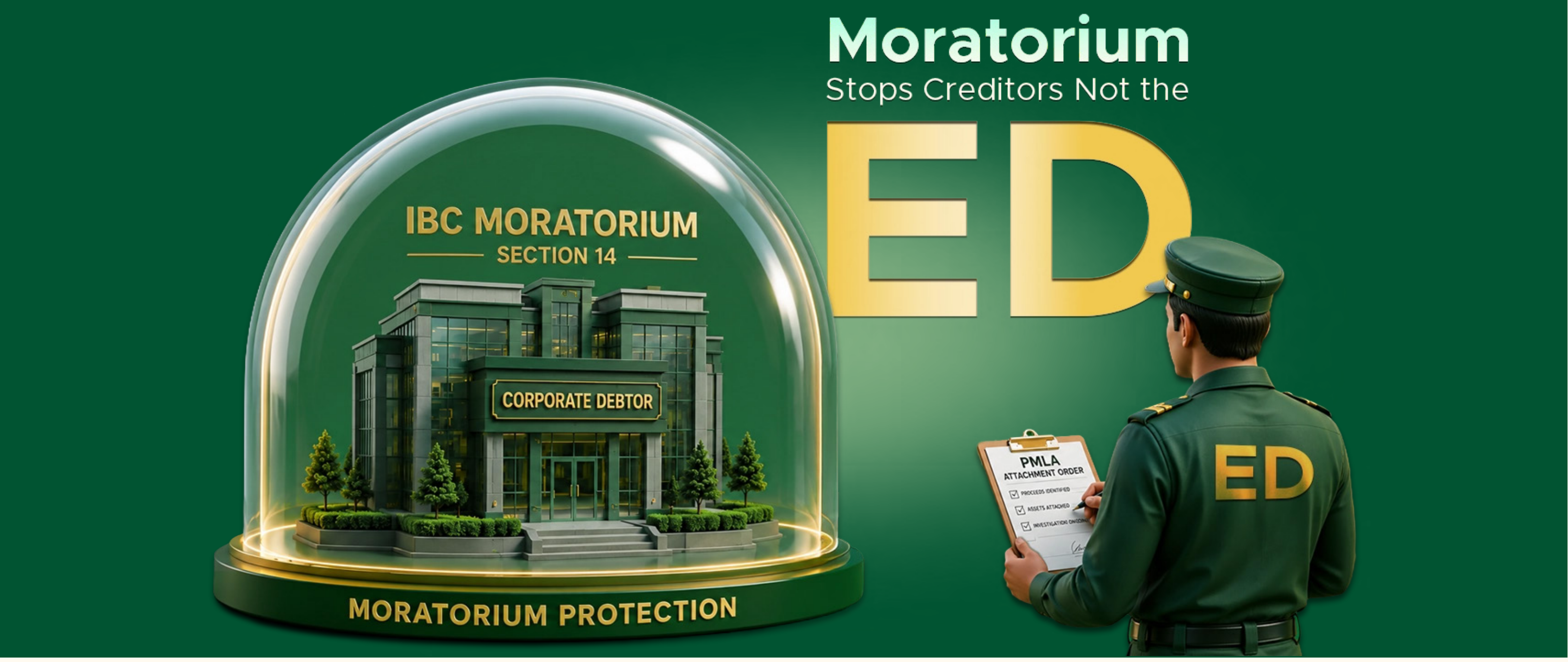
The Moratorium Stops Creditors Not the ED: NCLAT Draws the IBC-PMLA Line in Value Wise Consultancy



India's corporate restructuring jurisprudence has increasingly been shaped by the interaction between two powerful statutory regimes. The Insolvency and Bankruptcy Code, 2016 (IBC) seeks to rescue distressed companies, preserve enterprise value and maximise recoveries through a collective insolvency process. The Prevention of Money Laundering Act, 2002 (PMLA), by contrast, empowers the State to trace, attach and confiscate property alleged to constitute proceeds of crime. For years, courts, insolvency professionals and creditors have debated the limits of the IBC moratorium. In a judgment delivered on 30 June 2026 in Value Wise Consultancy Pvt. Ltd. v. Deputy Director, Directorate of Enforcement, the National Company Law Appellate Tribunal (NCLAT), comprising Justice N. Seshasayee, Mr. Arun Baroka and Mr. Indevar Pandey, addressed that question directly. The Tribunal held that the commencement of insolvency does not automatically suspend attachment proceedings under the PMLA and that challenges to such proceedings must be pursued through the statutory framework created by the PMLA. Jurisprudential Background The early jurisprudence treated the IBC and the PMLA as operating in distinct fields. In Varrsana Ispat Ltd. v. Deputy Director, Directorate of Enforcement, the NCLAT held that the moratorium under Section 14 of the IBC does not prevent penal proceedings under the PMLA. The Delhi High Court adopted a similar position in Deputy Director, Directorate of Enforcement v. Axis Bank, holding that attachment under the PMLA is not a debt-recovery mechanism. Its purpose is to prevent the enjoyment or dissipation of property derived from criminal activity. The Supreme Court's decision in Embassy Property Developments Pvt. Ltd...

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Extinguishment of Sub-Judice Operational Creditor Claims After Resolution Plan Approval: Tata Steel v. Varsha

One of the recurring questions under the Insolvency and Bankruptcy Code, 2016 (IBC) concerns the fate of pending civil suits and arbitral proceedings once a resolution plan receives judicial approval. Can an operational creditor whose pre-CIRP claim remains sub judice and is admitted only at a notional value of ₹1 continue pursuing litigation after approval of the resolution plan?

In M/s Tata Steel Ltd. v. Varsha & Anr, the Supreme Court answered this question in the negative. The decision is particularly significant for successful resolution applicants, insolvency professionals and operational creditors, as it clarifies whether pending civil and arbitral proceedings may survive approval of a resolution plan. Applying Section 31(1) of the IBC together with the approved Resolution Plan, the Court held that pre-CIRP civil suits and arbitral proceedings which had not crystallised into determinable and quantified claims stood abated, extinguished, waived or withdrawn upon approval of the Resolution Plan. In doing so, the Court reinforced the finality of approved resolution plans while further strengthening the "clean slate" doctrine underpinning the IBC. Before the commencement of the Corporate Insolvency Resolution Process (CIRP) against Bhushan Steel Limited (BSL), Respondent No. 1 (Varsha) instituted a summary recovery suit claiming approximately ₹38.89 lakhs, while Masyc Projects Pvt. Ltd. initiated six arbitral proceedings claiming approximately ₹31.30 crores. Both creditors subsequently submitted their claims before the Resolution Professional (RP). The Interim List of Operational Creditors admitted these...

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NCLAT Examines Challenge to Dismissal of Interlocutory Application in SBI's Section 7 Petition Against Kkspun India

In Kkspun India Limited vs. State Bank of India (NCLAT, 17 July 2026) This is an appeal arising out of a Section 7 IBC petition filed by SBI against the corporate debtor (CD), Kkspun India Limited. The CD had filed its reply to the Section 7 petition in August 2024, and the NCLT proceeded to hear the matter over subsequent dates. An interlocutory application (IA No. 3136/2025) filed during the pendency of proceedings was dismissed by the NCLT via order dated 4 July 2025, which appears to be under challenge before the NCLAT in this appeal. The case cites 13 precedents, suggesting a reasonably developed legal analysis, though the fragment doesn't reveal the specific grounds of appeal or the NCLAT's final disposition

VIEW JUDGEMENT

Supreme Court Clarifies Treatment of Employee Dues as Operational Debt in Tata Steel CIRP

In M/S Tata Steel Ltd vs. Varsha (Supreme Court of India, 17 July 2026) This matter concerns the classification and treatment of employee dues in a corporate insolvency resolution process (CIRP) involving Tata Steel. The core issue is whether outstanding employee dues qualify as "operational debt" under the IBC, turning on the statutory definitions of "claim" and "debt." With 27 cited authorities, this appears to be a substantive Supreme Court ruling likely settling or clarifying the priority/treatment of workmen's dues in the resolution or liquidation waterfall under Section 53 read with the definitional provisions of the Code.

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NCLAT Rules on Appellate Jurisdiction Over IBBI Disciplinary Orders Under New Section 220(7)

In Sachin Naveen Sinha (Erstwhile Interim RP) vs. Insolvency and Bankruptcy Board of India (NCLAT, 17 July 2026) This case addresses a jurisdictional question concerning disciplinary proceedings against an insolvency professional. Prior to a 2026 amendment, aggrieved persons could only challenge IBBI disciplinary orders via writ petitions under Article 226 before High Courts. The newly inserted Section 220(7) IBC, introduced by the IBC (Amendment) Act 6 of 2026, now vests appellate jurisdiction over such disciplinary orders directly in the NCLAT. This appears to be an important precedent on the retrospective/prospective application of the amended appellate route for insolvency professionals facing IBBI disciplinary action.

VIEW JUDGEMENT

Karnataka High Court Weighs Overlapping Jurisdiction in Personal Guarantor Insolvency Proceedings

In Manipal Technologies Limited vs. Bank of Baroda (Karnataka High Court, 16 July 2026) This is a High Court matter arising alongside a Section 95 IBC application filed before the NCLT, Bengaluru, apparently against a personal guarantor connected to Manipal Technologies. The fragment suggests the High Court petition runs parallel to the NCLT insolvency proceedings against the guarantor, likely raising questions of maintainability, stay, or overlapping jurisdiction between the writ court and the NCLT. Limited detail is available on the precise relief sought or the High Court's findings.

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SIGNIFICANT CASE LAWS

Bombay High Court Explores Interplay Between IBC Moratorium and Criminal Prosecution

In Neville Tuli vs. Securities and Exchange Board of India (Bombay High Court, 15 July 2026, authored by Justice N.J. Jamadar) This case involves criminal proceedings where a moratorium under Section 14 IBC was invoked as a defense/factor by the accused (A1) against a complaint lodged by SEBI. The matter engages the interplay between IBC's moratorium protections and pending criminal prosecution, an increasingly litigated question of whether Section 14's bar on proceedings extends to protect individuals from criminal liability. With 49 citations, this is a heavily reasoned judgment, though the specific holding on the moratorium-criminal liability interface isn't discernible from the fragment alone.

VIEW JUDGEMENT

ITAT Delhi Addresses Validity of Tax Notices Issued During Corporate Insolvency Resolution

In Vikas WSP Limited, Delhi vs. DCIT, Circle Hissar, Hissar (ITAT Delhi, 15 July 2026) This is an income tax appeal arising from CIRP proceedings initiated against Vikas WSP Limited in February 2022, following which an Interim Resolution Professional (IRP) was appointed. The appeal appears to concern the tax implications or procedural validity of assessment/demand notices issued after the company's board powers stood suspended under Section 17 IBC upon commencement of CIRP a recurring issue where tax authorities' claims and process must yield to the IRP's exclusive management of the corporate debtor's affairs.

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