IBC INSIGHTS

A MONTHLY NEWSLETTER FOR INSOLVENCY MATTERS

SEP 2026

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Editor's Note

Discretion, our cover story this edition delves into the evolving jurisprudence surrounding the commercial wisdom of the Committee of Creditors (CoC) and its role in the Corporate Insolvency Resolution Process (CIRP). The cover story, Rajesh Mehru v. Punjab National Bank, examines the extent to which the Adjudicating Authority can depart from a unanimous recommendation of the CoC, holding that such a recommendation cannot be disregarded without a valid statutory basis. Similarly, Asset Reconstruction Company (India) Ltd v. Umesh Garg examines whether the CIRP can proceed to CoC voting when a substantial creditor's claim remains disputed on the ground of limitation.

We further explore significant developments across insolvency law. In Prabhjit Singh Soni v. Gautam Builders with Rapid Contracts Pvt. Ltd., the NCLT considers issues arising in the resolution process, while the Supreme Court's decision in Srinivasa Reddy Velagala v. Sravanthi Infratech Pvt. Ltd. addresses important questions concerning insolvency proceedings. The Delhi High Court's decision in IDBI Trusteeship Services Limited v. Manish Jain & Ors. further examines the rights of creditors in insolvency proceedings.

Our newsletter covers development rights as CIRP assets, settlement of operational debt, limitation in personal guarantor proceedings, and the scope for avoiding liquidation where alternative avenues for resolution remain available.

This edition reflects IBC's continued evolution and the courts' efforts to balance commercial decision-making with the statutory framework and stakeholders' interests.

Let's dive in.

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INDEX

COVER STORY

Can the NCLT Disregard the CoC's Recommendation While Appointing a Liquidator? NCLAT in Rajesh Mehru v. Punjab National Bank

Can an Adjudicating Authority appoint a liquidator independently without considering the unanimous recommendation of the Committee of Creditors ("CoC")? The National Company Law Appellate Tribunal ("NCLAT"), New Delhi, examined this question in Rajesh Mehru v. Punjab National Bank & Rajeesh Gupta, and clarified the limits of the Adjudicating Authority's discretion under Section 34 of the Insolvency and Bankruptcy Code, 2016 ("IBC").

The NCLAT held that the National Company Law Tribunal ("NCLT") erred in appointing a liquidator from the IBBI panel without considering the CoC's unanimous recommendation, which had been reaffirmed twice. The Tribunal further held that the IBBI communication dated 18 July 2023 could not justify the appointment, particularly when the proposed liquidator had never served as the Interim Resolution Professional ("IRP") or Resolution Professional ("RP") of the Corporate Debtor. The decision consequently reinforces the importance of the CoC's recommendation while recognising that such recommendation remains subject to the statutory requirements of Section 34. The proceedings concerned Macro Dairy Ventures Private Limited ("Corporate Debtor"). Punjab National Bank ("PNB") was the sole member of the CoC with 100% voting share. The Section 7 application was admitted on 30 November 2022. Krishan Vrind Jain was appointed as IRP and was subsequently replaced by Anand Sonbhadra as RP. Rajesh Mehru, the appellant, was never appointed as either IRP or RP. At its 8th meeting on 21 November 2023, the CoC resolved to initiate liquidation under Section 33(2) of the IBC. Subsequently, PNB proposed...

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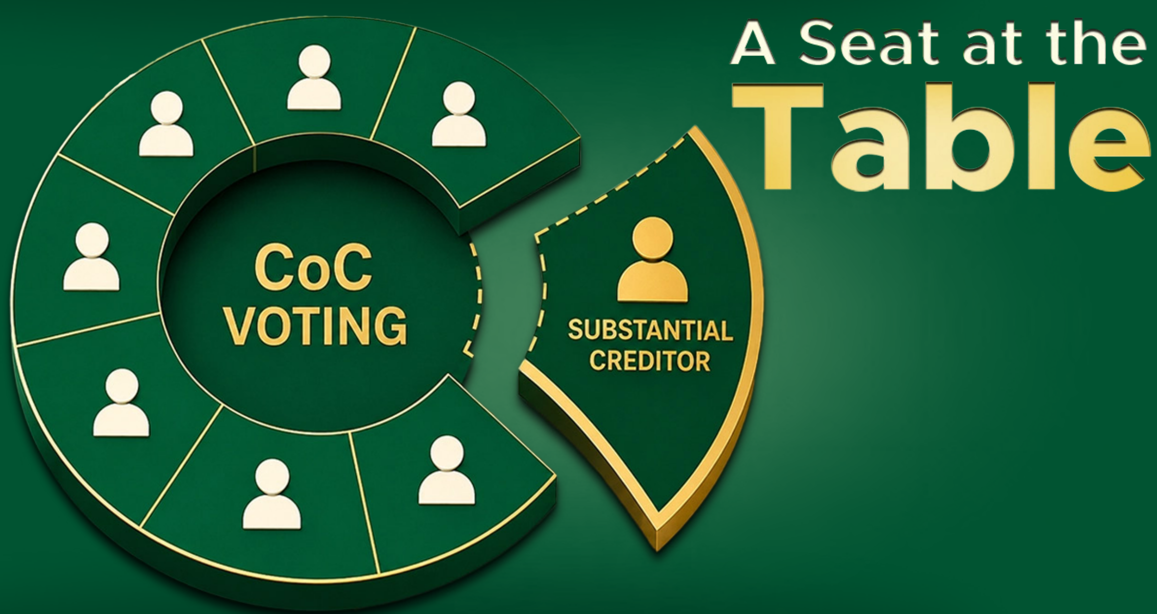
PIVOTAL ISSUES

Can a resolution plan proceed to CoC voting when a substantial creditor's claim remains disputed on limitation? NCLAT in ARC(I)L v. Umesh Gar



Can a resolution plan proceed to Committee of Creditors (CoC) voting when a substantial creditor's claim remains disputed on limitation? This issue came before the National Company Law Appellate Tribunal (NCLAT) in Asset Reconstruction Company (India) Ltd v Umesh Garg. The NCLAT kept in abeyance the order of the National IlCompany Law Tribunal (NCLT), Chandigarh, which had upheld the rejection of Asset Reconstruction Company (India) Ltd.'s (ARCIL) ₹3,482 crore claim against JCT Ltd. The appellate tribunal held that the issue of limitation should be decided before the resolution plan is put to vote.

JCT Ltd. had executed corporate guarantees in favour of IFCI Ltd. in relation to credit facilities extended to its subsidiary, JCT Electronics Ltd. Following default, IFCI invoked the guarantees in January 2002. The debt was subsequently assigned to ARCIL in 2015. After JCT Ltd. entered CIRP in October 2024, ARCIL submitted a claim of approximately ₹3,482 crore. The Interim Resolution Professional provisionally admitted approximately ₹56.68 crore and inducted ARCIL into the CoC with around 20% voting share, while the balance claim remained under verification. The RP subsequently rejected ARCIL's claim in January 2026, citing, inter alia, limitation and deficiencies in the documents submitted in support of the claim. ARCIL challenged the rejection before the NCLT. On 10 July 2026, the NCLT Chandigarh upheld the RP's decision, finding the claim to be time-barred. The NCLT held that limitation ran...

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NCLT Review After Supreme Court Remand: Limits Under Sections 30(2) and 31 IBC

Can the National Company Law Tribunal (NCLT), while considering a resolution plan for approval, examine its commercial merits or substitute its own assessment for the decision of the Committee of Creditors (CoC)? The NCLT, New Delhi, considered this issue in Prabhjit Singh Soni, Resolution Professional of JNC Constructions Pvt. Ltd. v. Gautam Builders with Rapid Contracts Pvt. Ltd. (in Consortium). By order dated 29 July 2026, the Tribunal approved the resolution plan submitted by Gautam Builders in consortium with Rapid Contracts Pvt. Ltd. for JNC Constructions Pvt. Ltd., after the Supreme Court had earlier set aside the Tribunal's approval and required the plan to be reconsidered in accordance with the statutory requirements of the Insolvency and Bankruptcy Code, 2016 (IBC) The decision is significant for reiterating the narrow scope of the Adjudicating Authority's jurisdiction under Sections 30(2) and 31 of the IBC. While the NCLT must satisfy itself that a resolution plan complies with the statutory framework, it cannot enter into the commercial wisdom of the CoC or substitute its own commercial assessment for that of the creditors.

The CIRP of JNC Constructions Pvt. Ltd. commenced on 30 May 2019. The CoC comprised homebuyers, represented through their authorised representative with 96.07% voting share, HDFC Bank with 0.21% and Suraksha Asset Reconstruction Ltd. with 3.72%. Four resolution plans were ultimately received and placed before the CoC. The plan submitted by Gautam Builders in consortium with Rapid Contracts Pvt. Ltd. was approved with 96.07% of the voting share. The NCLT approved the plan on 4 August 2020, following which the...

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When Does a Contractual Claim Become Operational Debt Under IBC Section 9?

A commercial contract can generate several monetary claims at once. An unpaid invoice may sit alongside idling charges, demobilisation costs, compensation for delay and other amounts claimed because contractual performance has broken down. They may all arise from the same agreement, but under the Insolvency and Bankruptcy Code, 2016, they do not necessarily carry the same legal character.

The Supreme Court confronted this distinction in Srinivasa Reddy Velagala v. Sravanthi Infratech Pvt. Ltd., arising from an Engineering, Procurement and Construction contract for setting up a 225 MW gas-based power project. The ₹827 crore EPC contract contemplated milestone-based payments. After several milestones were achieved, payments remained outstanding, work was suspended and the contractor subsequently claimed not only the unpaid contractual amounts, but also suspension, idling and demobilisation charges. A Section 9 application followed. The dispute therefore raised a question that goes beyond EPC contracts: when does a monetary claim arising from a contract become an operational debt capable of triggering insolvency proceedings? The Supreme Court's answer draws a clear line between consideration that has accrued for goods or services and compensation claimed because the contract has been breached. Section 5(21) of the IBC defines an "operational debt" as a claim in respect of the provision of goods or services, including employment, or specified statutory dues. The word "claim" itself is defined broadly under Section 3(6), while Sections 3(11) and 3(12) distinguish a debt from the event of default that...

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When the Moratorium Falls Away: Section 96(4) and Pending Section 95 Applications

Until recently, the filing of an insolvency application against a personal guarantor to a corporate debtor produced an immediate consequence under Section 96 of the Insolvency and Bankruptcy Code, 2016. An interim moratorium commenced from the date of filing itself, staying pending legal proceedings in respect of the debt and preventing creditors from commencing fresh action. The Insolvency and Bankruptcy Code (Amendment) Act, 2026 changed that position. With effect from 26 May 2026, Section 96(4) provides that Section 96 shall not apply where an application is filed for initiating an insolvency resolution process in respect of a personal guarantor to a corporate debtor.

The question that remained was: what happens where the Section 95 application had already been filed, and the interim moratorium was already operating, before Section 96(4) came into force? The Delhi High Court addressed this question in IDBI Trusteeship Services Limited v. Manish Jain & Ors. A Section 95 application against the personal guarantor had been filed on 10 August 2024. The guarantor therefore argued that the interim moratorium had been deemed in his favour long before the amendment and continued to bar proceedings against him. The Court rejected that argument. Section 96(4), it held, operates retroactively and is applicable to pending applications. Consequently, the interim moratorium enjoyed by the personal guarantor would be deemed to have been vacated. The Court further held that the interim protection of moratorium and the bar against the plaintiff instituting a suit against the personal guarantor to the corporate debtor stood...

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Beyond Ownership: Can Development Rights Form Part of the Corporate Debtor's Insolvency Estate?

In Jossy Steephen Kattur, Resolution Professional of Kerala Chamber of Commerce and Industries v. Cherupushpam Films Private Limited & Ors. (IA(IBC)/142/KOB/2026 in CP(IB)/33/KOB/2021) the NCLT, Kochi Bench considered whether development and allied rights arising from a Joint Development Agreement (JDA) could form part of the Corporate Debtor's asset base during CIRP. The Respondent No.1 (Cherupushpam Films) owned the land forming part of the Kerala Trade Centre project, while Kerala Chamber of Commerce and Industries (KCCI) undertook its development under a JDA providing for revenue sharing. During CIRP, the Resolution Professional included the project and associated rights in the Information Memorandum. The landowner challenged this inclusion, contending that ownership of the land remained with it and that third-party property could not constitute CIRP assets. Relying on Victory Iron Works Ltd. v. Jitendra Lohia, the Tribunal held that although title to the land remained with Respondent No.1, the valuable development, commercial and project rights vested in KCCI constituted "property" under Section 3(27) of the IBC. Accordingly, the project and allied rights were held to form part of KCCI's CIRP asset base, and the landowner was directed to cooperate with the Resolution Professional and the implementation of the approved resolution plan

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Liquidation Cannot Follow Mechanically: NCLAT Chennai Restores CIRP and Directs Consideration of Section

In Babu Manoharan Jaikumar Christhurajan v. Umesh Garg & Ors. (Company Appeal (AT) (CH) (Ins) No. 358/2022), NCLAT Chennai set aside the liquidation order passed against Jeppiaar Cements Pvt. Ltd. and restored its CIRP, directing the Resolution Professional to explore withdrawal under Section 12A. The Corporate Debtor had stood as corporate guarantor for loans availed by Jeppiaar Power Corporation Ltd. Although the CIRP timeline was nearing its outer limit, the financial creditors had not approved liquidation and were simultaneously pursuing an OTS that was ultimately satisfied. NCLAT held that the Resolution Professional should have exercised independent judgment and should not have proceeded under Section 33(1) merely on the basis of Registry directions. The Tribunal further held that where multiple lawful routes exist to resolve insolvency, an informed choice must be made and Section 12A should not be overlooked.

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Guarantor's Own OTS Proposal Cannot Extend Limitation Under Section 18: NCLAT

In Smt. Kanta Gupta v. Bank of India & Ors. (Company Appeal (AT) (Insolvency) No. 1058 of 2026), NCLAT New Delhi held that a personal guarantor cannot rely upon her own One-Time Settlement (OTS) proposals to extend limitation under Section 18 of the Limitation Act. The Tribunal observed that an acknowledgment under Section 18 must be made by the person against whom the right is claimed; therefore, an OTS proposal made by the guarantor cannot be used by the guarantor herself to obtain a fresh period of limitation. The Tribunal held that limitation for the Section 94 personal insolvency application commenced from invocation of the personal guarantee on 10 September 2019 and expired three years thereafter. Since the application was filed only in December 2025, it was time-barred. The appeal was accordingly dismissed.

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Personal Guarantor’s Time-Barred Insolvency Application Can Be Rejected Without RP Appointment: NCLAT

In Prabhaben Ravjibhai Harkani v. Bank of Baroda & Anr. (Company Appeal (AT) (Insolvency) No. 1002 of 2025), NCLAT New Delhi held that an NCLT may reject a personal guarantor's Section 94 insolvency application at the threshold where the application is ex facie barred by limitation, without first appointing a Resolution Professional under Section 97. The appellant's personal guarantee had been invoked in September 2016, whereas her Section 94 application was filed years later. The Tribunal rejected the argument that appointment of an RP and a report under Section 99 were mandatory in every case before the application could be rejected. It held that where the application is clearly not maintainable on admitted facts and applicable law, the Adjudicating Authority can reject it at the threshold. The appeal was accordingly dismissed.

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Operational Debt Settled, Other Claims Discharged: NCLAT Sets Aside CIRP Admission

In Mrunal Kanubhai Patel v. Vanshita Transport (Company Appeal (AT) (Insolvency) No. 1214 of 2026), NCLAT New Delhi set aside the admission order initiating CIRP against Monte Carlo Limited after the operational creditor's entire claim was settled and the creditor consented to closure of the proceedings. The appeal also involved an alleged pre-existing dispute concerning transportation charges and measurement of distance under the underlying contract. NCLAT noted that the operational creditor had expressly acknowledged settlement and had no objection to setting aside the admission order. The Tribunal further noted that the only other claim, filed by EPFO, had also been fully discharged. In view of the settlement, absence of remaining creditor claims and the admitted existence of a prior dispute, NCLAT held that there was no impediment to closing the CIRP and set aside the NCLT's admission order.

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