

3 August 2019

IBC 2016 in Motion

**IBC Amendments
Passed**

When can counter claim against a Corporate Debtor be stayed under Section 14 IBC: Delhi HC answers

The Delhi High Court has held that a counter claim against a corporate debtor, which is integral to a recovery suit initiated by it, would not be hit by Section 14 of the Insolvency and Bankruptcy Code (IBC) until it reaches the stage of execution.

Relying on the High Court's judgement in *Power Grid Corporation of India v. Jyoti Structures Ltd.*, (2018), the Court noted that until and unless the proceeding had the effect of endangering, diminishing, dissipating or adversely impacting the assets of corporate debtor, it was not prohibited under Section 14(1)(a) of the Code.

Cannot reject insolvency plea over claims disputed after demand notice: NCLAT

The National Company Law Appellate Tribunal (NCLAT) has asked the NCLT to decide over an insolvency plea filed against leading real estate firm Raheja Developers by one of its operational creditors.

Setting aside the earlier order passed by the National Company Law Tribunal (NCLT), the NCLAT said existence of any "disputed claim" cannot be a ground to reject an application under Section 9 of the Insolvency and Bankruptcy Code (IBC) to initiate insolvency proceedings, if it is not raised before issuance of a demand notice.

Insolvency and Bankruptcy Code (Amendment) Bill passed in Rajya Sabha

Among other changes, the Insolvency and Bankruptcy Code (Amendment) Bill seeks to tweak provisions related to time limits, specifies minimum payouts to operational creditors under resolution plans, and specifies the manner in which the representative of a group of financial creditors should vote.

NCLAT extends Jaypee Infratech insolvency period by 90 days

In a boost to homebuyers and lenders of Jaypee Infratech, an appellate tribunal directed the appointed resolution professional (RP) to call fresh bids for resolution of the real estate developer. It also excluded a period of 90 days from insolvency proceedings thus far, granting additional time under the 270-day resolution timeline. Jaypee Infratech has failed to deliver around 23,000 flats and owes over Rs 9,800 crore to lenders.

The National Company Law Appellate Tribunal (NCLAT) barred Jaypee Infratech's parent company Jaiprakash Associates Ltd. (JAL) from participating in the process.

NCLAT stays insolvency process for Dighi Port till Aug 21

The National Company Law Appellate Tribunal (NCLAT) has stayed the corporate insolvency resolution process of Dighi Port Ltd till August 21 and directed Balaji Infra Projects Ltd, the port promoter, to discuss and mutually settle the lenders dues. NCLAT also observed that APSEZ and Jawaharlal Nehru Port Trust (JNPT), can talk directly to the port promoter if they were keen on investing in Dighi Port.

Jaypee infra parent moves SC against NCLAT fresh bid order

Jaiprakash Associates, the parent company of embattled Jaypee Infratech (JIL), on Thursday moved the Supreme Court challenging the National Company Law Appellate Tribunal's (NCLAT) on Tuesday order that allowed fresh bidding for the debt-laden real estate firm and also barred promoters from participating in the fresh auction.

A bench led by Justice AM Khanwilkar is likely to hear the case on Friday. It said that the SC had once permitted JAL to present its proposal before the committee of creditors (CoC) of JIL, but the same was merely rejected as a statutory bar stipulated under the IBC.

No relief for Jet Airways employees, lenders reluctant to release funds

The committee of creditors (CoC) had in July approved interim funding to the tune of Rs 70 crore for maintenance and upkeep of Jet's assets and to cover some costs of the corporate insolvency resolution process. Of this, State Bank of India has released Rs 10 crore while other lenders are yet to provide funding.

Last month, the National Company Law Tribunal (NCLT) had directed the resolution professional (RP) of Jet Airways to discuss concerns over payment of salaries with the CoC, citing the necessity of ensuring payment for 'survival of employees'.

Relief for Jaiprakash Associates: NCLAT says company need not return land to Jaypee Industries

The National Company Law Appellate Tribunal (NCLAT) on Thursday set aside a National Company Law Tribunal (NCLT) Allahabad bench order that directed Jaiprakash Associates (JAL) to return

758 acres of land, which was pledged with several banks, to its bankrupt subsidiary Jaypee Infratech (JIL).

In its judgement on Thursday, a two-member NCLAT bench, headed by chairman Justice SJ Mukhopadhaya, allowed the pleas of all banks as well as JAL. The bench said that the transactions were genuine and the allegation of undervaluation was not justified. The appellate tribunal said that “it was not open to the NCLT to hold that mortgage deeds, in question, were made by way of transactions which come within the meaning of ‘fraudulent trading’ or ‘wrongful trading’.”

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