

IBC NEWSLETTER

Weekly Updates on Insolvency, Bankruptcy, SARFAESI and Banking Laws

SUPREME COURT DENIES BACK-DOOR ENTRY OF DEFAULTING PROMOTERS...

who is barred under Section 29A of IBC from bidding for his company undergoing insolvency proceedings, cannot also take control of the company back by using the provision of the scheme of arrangement under Section 230 of the Companies Act.

NCLT HAS JURISDICTION TO DETERMINE AMOUNT PAYBLE TO VALUER...

as an intrinsic part of CIRP costs, even after the CIRP is set aside, under Section 60(5) of IBC, held by a division bench of the apex court.

Auction purchaser liable to discharge outstanding statutory dues on a property under SARFAESI Act

NEWS

The Insolvency and Bankruptcy Board of India (IBBI) the regulatory body of IBC, disclosed in its latest quarterly bulletin, that about 80% of insolvency and bankruptcy proceedings involving default of less than Rs. one crore was initiated by the operational creditors. Around three-fourths of all bankruptcy proceedings initiated by operational creditors resulted in the liquidation of the corporate debtor.

Operational creditors such as vendors have filed the bulk of bankruptcy cases so far involving payment defaults of less than ₹1 crore, while financial creditors (Financial Institutions) dragged debt-laden companies to NCLTs/ NCLATs for defaults of up to ₹10 crore, as per official data.

80% of Insolvency Cases of Default of less than ₹1 crore was initiated by the Operational Creditors

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Editor's Note

IBC Newsletter is an initiative by REEDLAW to provide the latest weekly updates on Insolvency, Bankruptcy and Banking laws to its readers and subscribers. The IBC Newsletter gives an insight on the landmark judgments and orders by the Supreme Court of India, High Courts, National Company Law Appellate Tribunals, National Company Law Tribunals, Debts Recovery Appellate Tribunals and Debts Recovery Tribunals. It also covers targeted news on the topic and announcements by the regulators such as the Insolvency and Bankruptcy Board of India. Lastly, the newsletter will also include thought-provoking articles on the subject by industry leaders and practitioners.

The IBC Newsletter will be published weekly with an aim to bridge the information gap and asymmetry in the domain of Insolvency and Bankruptcy laws. The information in the newsletter has been carefully curated by the editorial team from the large legal databases of REEDLAW, the premier portal for insolvency and bankruptcy practitioners. The editorial team welcomes the views and criticisms of the readers and subscribers and invites them to share their opinions on the IBC Newsletter on editor@reedlaw.in.

INSOLVENCY AND BANKRUPTCY LAW

Case Laws

R. Subramaniakumar, Administrator of Dewan Housing Finance Corporation Limited v. Committee of Creditors and Another

NCLT Mumbai

7 June 2021

Citation - REED 2021 NCLT Mum 06523

Subject - Corporate Insolvency - Resolution Plan

Brief – In the light of the Apex Court verdicts in different cases and judicial precedents, the Adjudicating Authority held that the Present Resolution Plan meets the requirements of Section 30(2) of the Code and Regulations 37, 38, 38(1A) and 39(4) of the CIRP Regulations. The Resolution Plan does not contravene the provisions of Section 29A of the Code and is in accordance with law. Hence the plan was approved.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016, RBI Act, 1932, National Housing Bank Act, 1987, IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, National Company Law Tribunal Rules, 2016 [Read More](#)

Satya Narayan Jhunjhunwala v. Supriyo Kumar Chaudhuri and Others

NCLT New Delhi

10 June 2021

Citation - REED 2021 NCLAT Del 06520

Subject - Corporate Insolvency - Permission to sell perishable goods by e-auction

Brief – It is an admitted fact that the inventory as mentioned in paragraph 'z' i.e. Olein and Refined Palm oil is perishable

goods. There is no denial that the stock of Olein and Refined Palm oil expired and cannot fit for human consumption. If the said inventory/stock is kept for long time the same may not be useful for other purpose also. In view of the reason that the inventory/goods are perishable in nature the Appellate Authority were of the view that the said inventory be permitted to sell by e-auction keeping in view of the interest of all the Stakeholders. [Read More](#)

State Bank of India v. Sangita Agarwal and Others

NCLAT New Delhi

10 June 2021

Citation - REED 2021 NCLAT Del 06519

Subject - Corporate Insolvency

Brief – The applicant 'State Bank of India neither filed the intervention application before the NCLT, Kolkata Bench nor this Tribunal in the aforesaid proceedings. For the first time Applicant has filed the I.A. No. 966 of 2021 and brought new facts before this Tribunal through I.A. which cannot be permitted. The Appeal was decided after hearing the parties, facts pleaded and argued between the parties. Therefore, I.A. No. 966 of 2021 under Rule 11 is not maintainable. In the facts and circumstances of the case, I.A. No. 966 of 2021 was dismissed as not maintainable.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016, SARFAESI Act, 2002, Security Interest (Enforcement) Rules, 2002, National Company Law Tribunal Rules, 2016

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**IDBI Trusteeship Services Limited v. Shiv Nandan
Sharma (IRP of Saha Infratech Pvt. Ltd.)**

NCLAT New Delhi

9 June 2021

Citation - REED 2021 NCLAT Del 06516

Subject - Corporate Insolvency

Brief – The Appellate Authority found that this is a matter where CIRP started on 28th February, 2020 against the Corporate Debtor CIRP is still pending. It appears that there were various disputes raised including issues relating to the admission of the claim. It also appears that there was dispute regarding the Appellants to be related parties. All these issues are yet to be decided one way or the other by the Adjudicating Authority. It would not be appropriate for us to entertain the present appeals. The Appellate Authority disposed of these appeals with a request to the Adjudicating Authority to consider and decide the applications which are pending at the earliest so that the CIRP continues smoothly.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016 [Read More](#)

**Martin S.K. Golla Erstwhile Resolution Professional v.
Wig Associates Private Limited and Others**

NCLT Mumbai

4 June 2021

Citation - REED 2021 NCLAT Del 06515

Subject - Corporate Insolvency - Resolution Plan

Brief – The Appellate Authority observed that there is no doubt that at the time when the Corporate Debtor submitted the One Time Settlement to the Bank, which was converted by Respondent No.2 with the help of Appellant as a Resolution Plan, he could not have done so. The arguments of Respondent No.2 show that it had already approved the OTS proposal. It also appears that Debtor had already paid Rs.103 Lakhs to the Bank. Thus, what appears is that the OTS was already approved by the Respondent No.2 Bank, which was the only Financial Creditor and thus the actions taken on 5th April, 2018 in third COC and 20th April, 2018 were only completion of formalities. The subsequent introduction of Section 240A of IBC and subsequent taking of certificate of being MSME will not cure the ineligibility at the time of submitting OTS-cum-Resolution Plan which was not permissible. Considering the provisions of law and the fact as appearing from the record, the Appellate Court found that the said Resolution Plan submitted by the Corporate Debtor could not have been acted upon and the Appellant erred in presenting the same before COC. For above reasons, the Impugned Order is required to be set aside. The Appeal was allowed. The Impugned Order approving Resolution Plan was quashed and set aside. The alleged Resolution Plan submitted by the Corporate Debtor was rejected. The matter is remitted back

to the Adjudicating Authority. The Adjudicating Authority is required to pass Orders of liquidation of the Corporate Debtor under Section 33 of the IBC.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016, IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [Read More](#)

**Earth Gracia Buildcon Private Limited v. Earth
Infrastructure Limited**

NCLAT New Delhi

8 June 2021

Citation - REED 2021 NCLAT Del 06513

Subject - Corporate Insolvency

Brief – The disbursement of debt should be against the consideration for time value of money. However, to pay interest is not only consideration, there may be other considerations also. When the company is in dire need of funds, the promoter/director or shareholder may in order to protect the company infuse funds without claiming interest. In the present case, Financial Creditor has been unable to point out any consideration for the alleged debt. Thus, they have failed to prove that the transaction in question comes within the definition of Financial Debt. In the light of the proposition laid down by the Hon'ble Supreme Court in the case of Phoenix Arc Pvt. Ltd., REED 2021 SC 02501, the Appellate Court was unable to agree with the argument advanced by the Appellant that RP and the Adjudicating Authority rejected the Appellant's claim only for want of loan agreement. On the other hand, from the facts and circumstances it reflects that these transactions are sham. The Appellate Authority observed that the Appellant has failed to prove that these transactions come within the definition of Financial Debt under Section 5(8) of the IBC and Appellant Company is Financial Creditor as defined under Section 5(7) of the IBC.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016 [Read More](#)

Punjab National Bank v. Subrata M. Maity

NCLAT New Delhi

8 June 2021

Citation - REED 2021 NCLAT Del 06512

Subject - Corporate Insolvency - Resolution Plan

Brief – The Appellate Authority observed that CoC took decision and it was resolved that the Appellant will revert within seven days on their decision an amount of Rs.17,95,04,271.79 by this, resolution was never carried by the Appellant. Hence leading the Respondent RP of Corporate Debtor to file M.A. No. 136 of 2020 before the NCLT, Special Bench, Chennai which directed the Appellant (herein) to deposit the amount of Rs.17,95,04,271.79 to the Corporate Debtor Account. The Appellate Court were of the

view that the Appellant have failed to make out any ground and the finding recorded by Ld. Adjudicating Authority. The Appellate Court noted that no illegality found in impugned order dated 29.05.2020 passed by the Adjudicating Authority.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016 [Read More](#)

Oren Hydrocarbons Private Limited v. Akzo Nobel Industrial and Another

NCLAT Chennai

7 June 2021

Citation - REED 2021 NCLAT Chen 06511

Subject - Corporate Insolvency - Withdrawal of Application

Brief – The 'Withdrawal of Application' as per Regulation 30A of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 should be submitted to the Interim Resolution Professional or the Resolution Professional as the case may be in Form-FA of the schedule, etc. The Appellate Tribunal observed that in view of the fact that this court had clearly stated in the order dated 26-3-2021, that in the event of Appellant/ Corporate Debtor filing the Section 12A 'Withdrawal Application' under the IBC, within the time granted, the same shall be taken on file by the Adjudicating Authority and to dispose of the same as expeditiously as possible, of course, in accordance with Law. Appeal is disposed of.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016, IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, National Company Law Tribunal Rules, 2016, Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016

[Read More](#)

Jayanta Banerjee v. Shashi Agarwal, Liquidator of INCAB Industries Ltd. and Another

NCLAT New Delhi

4 June 2021

Citation - REED 2021 NCLAT Del 06509

Subject - Corporate Insolvency - Liquidation

Brief – The Appellate Authority observed that the Constitution of the Committee of Creditors violated the proviso to Section 21(2) of the IBC 2016 read with 12(3) of CIRP Regulations. Therefore, the Constitution of the creditors' committee is a nullity in the eye of law that vitiates the entire CIRP. Liquidation is like a death knell for the corporate entity/corporate person. Liquidation based on the resolution of the CoC, which consists of related party. Financial Creditors having 77.20 % vote share, is a matter of grave concern. Hon'ble Supreme Court in the case of Phoenix Arc Private Limited v. Spade Financial Services

Limited and Others, REED 2021 SC 02501, has described the entering of such related party Financial Creditors in the Committee of Creditors as an act of commercial contrivances through which these entities sought to enter the COC, which could affect the other independent Financial Creditors. An order for liquidation of corporate debtor based on the sole decision of related parties Financial Creditors could be fatal for the existence of the corporate debtor, cannot be sustained. It is also pertinent to mention that when the Constitution of the Committee of Creditors itself is found to be tainted, then the decision of that COC cannot be validated on the pretext of exercise of commercial wisdom. In light of the foregoing, the Appellate Authority held that the constitution of the CoC in the present case violated the proviso to Section 21(2) of the IBC read with Section 12(3) of CIRP Regulations. Therefore, the Constitution of the creditors' committee was a nullity in the eye of law that vitiated the entire CIRP and the impugned order of liquidation passed by the NCLT was accordingly set aside. The NCLT was also directed to appoint another IRP/ RP in place of Respondent No.1.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016, SARFAESI Act, 2002, Companies Act, 1956, Transfer of Property Act, 1882, IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 [Read More](#)

Dhan Prakash Gupta v. Daehsan Trading India Private Ltd.

NCLAT New Delhi

1 June 2021

Citation - REED 2021 NCLAT Del 06504

Subject - Corporate Insolvency - Auction sale of property

Briefs – If a borrower challenges the legality of auction of his property by a bank, then it becomes the duty of the bank to show to the Tribunal that it had sold the mortgaged property after following all the relevant Rules under SARFAESI Act, and if the banks fail to do so, the claims made by a borrowers have to be admitted. The appeal was accordingly allowed partly only to the extent that auction sale of the shop was set aside and rest of the reliefs sought for were declined.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016 [Read More](#)

Rakesh Kumar Agarwal and Others v. Devendra P. Jain Liquidator of M/s Asis Logistics Limited

NCLAT New Delhi

1 June 2021

Citation - REED 2021 NCLAT Del 06503

Subject - Corporate Insolvency - Liquidation

Brief – It is settled law as per the decisions of the Hon'ble Supreme Court that the liquidation is only the last resort and

as per the preamble of the IBC the main object of the Code is in resolving corporate insolvencies and not the mere recovery of monies due and outstanding. For the foregoing reasons and relied upon the Judgments of the Hon'ble Supreme Court and this Tribunal were of the view that the Appellant being eligible to submit a scheme by virtue of an amendment to Section 7 of Micro, Small and Medium Enterprises Development Act, 2006 vide notification dated 01.06.2020. Accordingly, the impugned order dated 15.10.2020 was set aside. The Appellants were allowed to submit a scheme of arrangement to the liquidator of the Corporate Debtor and the liquidator shall consider the scheme of arrangement in accordance with the law.

Applicable Statute - Insolvency and Bankruptcy Code, 2016, Companies Act, 2013, Micro, Small and Medium Enterprises Development Act, 2006, Industries (Development and Regulation) Act, 1951, IBBI (Liquidation Process) Regulations, 2016 [Read More](#)

Navneet Jain v. Manoj Sehgal and Others

NCLAT New Delhi

1 June 2021

Citation - REED 2021 NCLAT 06502

Subject - Corporate Insolvency

Brief – The Appellate Authority was convinced by the contention of the Appellant that Respondent No. 2 and Respondent No. 3 were connected parties as per Section 29A of IBC at the time the Resolution Plan was submitted by the Respondent No. 2. This leads to the obvious and inevitable conclusion that Respondent No. 2 was not eligible to submit the Resolution Plan and hence the Resolution Plan so submitted and approved by the Adjudicating Authority was bad in law. The Resolution Plan was rejected as it was submitted by a person hit by Section 29A of IBC. All actions taken in implementation of the Resolution Plan which were approved by the order dated 08.06.2020 were declared null and void as the approved Resolution Plan contravenes Section 30(2) of IBC.

Applicable Statutes - Insolvency and Bankruptcy Code, 2016 [Read More](#)

SARFAESI LAW

Case Laws

Tata Capital Financial Services Limited v. State of Chhattisgarh Through District Magistrate, Raipur Chhattisgarh and Others

Chhattisgarh High Court

7 June 2021

Citation - REED 2021 Chh 06207

Subject - SARFAESI Act Proceedings

Brief – The SARFAESI Act provides that when Section 14 is moved, the officer shall after satisfy the contents of the affidavit pass suitable orders for the purpose of taking possession of the secured assets within a period of thirty days from the date of application and if he fails to do it then the said period of thirty days may further extend to sixty days but shall not exceed which aggregate to sixty days. The SARFAESI Act further provides that the reasons shall also be recorded in the order. Prima facie the document shows that sixty days' time has already exceeded, therefore, the District Magistrate was directed to conclude the proceeding under Section 14 of the SARFAESI Act within a further period of 30 days from the date of receipt of the copy of this order.

Applicable Statutes - SARFAESI Act, 2002 [Read More](#)

Grandstar Realty Pvt. Ltd. v. YES Bank and Another

DRAT New Delhi

7 June 2021

Citation - REED 2021 DRAT Del 06206

Subject - SARFAESI Act Proceedings

Brief – The Appellate Tribunal had unhesitatingly come to the conclusion that the Appellate Tribunal need not go into the merits of the controversy. The Appeal was accordingly dismissed but making it clear that this Tribunal has not examined the merits of the controversy between Yes Bank and the appellant-auction purchaser regarding allegations of fraud in the conduct of auction of the property in question levelled by the appellant. In case the appellant decides to approach DRT even now by way of an independent S.A. claiming that Yes Bank had sold the property to it by playing fraud upon the appellant and the auction was liable to be set aside on that ground and the Bank was liable to refund the auction money the DRT will decide that S.A. in accordance with law uninfluenced by any observation in its order which was under challenge in the present appeal and the dismissal of the present appeal and its rejection will not be construed as any expression regarding the alleged fraud in the conduct of the auction. It is also needless to state that if any S.A. is filed by the appellant Yes Bank will be at liberty

to oppose the same on all possible grounds which it may like to press into service

Applicable Statutes - SARFAESI Act, 2002, Security Interest (Enforcement) Rules, 2002, Haryana Development and Regulations of Urban Areas Rule 1976 [Read More](#)

Pankajbhai Narotamdas Raithatha and Another v. The Authorized Officer of Kotak Mahindra Bank Ltd.

DRAT Mumbai 7 June 2021

Citation - REED 2021 DRAT Mum 06205

Subject - SARFAESI Act Proceedings

Brief – The partial deposit made before DRAT as a pre-condition for appeal against the judgment of Debt Recovery Tribunal (DRT) in terms of Section 18 of SARFAESI Act, 2002, is not a secured asset. The Appellate Authority observed that if after the disposal of the said appeal, the Appellant makes a prayer for refund of the pre-deposit, the same has to be allowed and the pre-deposit has to be returned to the Appellant if, inter-alia, there is no attachment over the deposited amount and Appellant has not given any consent for the appropriation of deposited amount.

Applicable Statutes - SARFAESI Act, 2002, Security Interest (Enforcement) Rules, 2002 [Read More](#)

Ved Parkash Khetarpal and Others v. Authorised Officer and Assistant General Manager, Bank of India and Others

DRAT New Delhi

7 June 2021

Citation - REED 2021 DRAT Del 06204

Subject - Education Loan - Recovery Proceedings

Brief – The Appellate Authority found force in the grievance of the appellants that the authorised officer of the bank had simply given the shop in question on a platter to the so-called auction purchaser and actually there was no auction conducted at all. The Appellate Authority observed that the learned DRT has passed the impugned order in a very casual manner as far as the challenge of the appellants to the legality of the auction of the mortgaged shop in question is concerned. The bank has also taken the legal fight quite lightly under the impression that banks' cases invariably accepted as gospel truth which in fact was considered to be so by the DRT. The appeal was accordingly allowed partly only to the extent that auction sale of the shop of appellant no.1 in Faridabad is set aside. Rest of the reliefs sought for stand declined.

Applicable Statutes - SARFAESI Act, 2002 [Read More](#)

BANKING LAW

Case Laws

Sanjay Hemanbhai Pandit v. State of Gujarat

Gujarat High Court 9 June 2021

Citation - REED 2021 Guj 06005

Subject - Dishonour of Cheque

Brief – Section 118 of the N.I. Act draws the 'presumption' that the cheques issued were duly signed and delivered. Therefore, the burden to prove the contrary is on the respondent No.2, which could be done by leading evidence before the competent Court. The respondent No.2 could raise all defences in the proceedings initiated by the petitioner and which are pending before the Special Court under the N.I. Act. If the respondent No.2 believed that the petitioner had played mischief or had committed fraud as regards the cheques issued by him, then it was always open to him to instruct his Bank for the "stop payment" of such

cheques; however, no such action was taken by the respondent No.2. Considering the above aspects, this Court is of the opinion that the impugned complaint is nothing but, a counter-blast to the legal proceedings initiated by the petitioner against the respondent No.2 under the N.I. Act. Having considered the allegations made in the impugned complaint in light of the principle laid down by the Apex Court, the High Court was of the opinion that the impugned complaint filed by the respondent No.2 is a clear misuse and abuse of the process of law and deserves to be quashed and set aside in exercise of the inherent powers under Section 482 of Cr.P.C.

Applicable Statutes - Negotiable Instruments Act, 1881, Code of Criminal Procedure, 1973, Indian Penal Code, 1860

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Ganesh Babu Gupta v. State of U.P. and Another

Allahabad High Court

7 June 2021

Citation - REED 2021 All 06001**Subject** - Dishonour of Cheque - Service of Notice

Brief – There was an assertion in the complaint regarding service of notice. The factum of disputed service of notice requires adjudication on the basis of evidence. The same can only be done and appreciated by the trial court and not by the High Court under the jurisdiction conferred by Section 482 Cr.P.C. Further, the burden of proving that the cheque had not been issued for any debt or liability, is also upon the applicant and can also be gone into by the Trial Court. The High court did not seem it proper, and, therefore cannot be persuaded to have a pre-trial before the actual trial begins. At the stage of summoning, the Magistrate has only to see whether a prime facie case was made out or not. Thus, in view of the legal principles as enunciated by the Hon'ble Supreme Court, and for the reasons stated above, the High Court observed that the present application was misconceived and liable to be dismissed.

Applicable Statutes - Negotiable Instruments Act, 1881, Code of Criminal Procedure, 1973, Evidence Act, 1872, General Clauses Act, 1977 [Read More](#)

M.Parthasarathy v. C. Karthikeyan

Madras High Court

4 June 2021

Citation - REED 2021 Mad 06002**Subject** - Dishonour of Cheque

Brief – The court below has not precluded the petitioner from adducing any evidence. Such being the case, it is always open to the petitioner to produce the necessary documentary evidence without calling the proposed defence witness to the box for examination. In such view of the matter, this Court is of the opinion that the petitioner can produce the documentary evidence along with a letter from the authorised official of the concerned bank to prove his claim as to the dormant nature of the account during the relevant period. However, liberty was granted to the petitioner to produce the bank statement as well as letter from the authorised official of the bank concerned in support of his claim. With the aforesaid direction, the Criminal Revision Petition stands disposed of.

Applicable Statutes - Negotiable Instruments Act, 1881, Code of Criminal Procedure, 1973 [Read More](#)

Anil Kumar Goel v. State of U.P. and Another

REED 2021 All 06004

7 June 2021

Citation - REED 2021 All 06001**Subject** - Dishonour of Cheque - Disputes regarding Notice

Brief – The factum of disputed service of notice requires adjudication on the basis of evidence and the same can only be done and appreciated by the trial court and not by the High Court under the jurisdiction conferred by Section 482 Cr.P.C. Further, the High Court noted that the contention raised by the applicant that the complaint on the basis of second notice dated 02.11.2012 was not maintainable, cannot be accepted. Second notice has no relevance at all, the second notice would be construed as a reminder of respondent's obligation to discharge his liability. The High Court observed that both the submissions raised by the applicants are not found to be cogent enough to dislodge the proceedings of Complaint Case No. 3972 of 2012. The present application under Section 482 Cr.P.C. is devoid of merit and it is, accordingly, dismissed. **Applicable Statutes** - Negotiable Instruments Act, 1881, Code of Criminal Procedure, 1973, Evidence Act, 1872, General Clauses Act, 1977 [Read More](#)

Chandrasekar v. Govindarajan, General Manager, Sri Sai Traders

Madras High Court

2 June 2021

Citation - REED 2021 Mad 06003**Subject** - Dishonour of Cheque - Grant of Bail

Briefs – The High Court noted that the petitioner has arguable points in the revision case, which require detailed appraisal. Further, the revision case is not likely to be taken up in the near future. In such view of the matter and taking into consideration the facts and circumstances of the case. The Court observed that the petitioner was entitled to the relief of suspension of sentence and grant of bail. The Court directed certain conditions to be fulfilled by the petitioner.

Applicable Statutes - Negotiable Instruments Act, 1881, Code of Criminal Procedure, 1973 [Read More](#)

NEWS

IBBI extends the last date for submission of Expression of Interest (EOI)

Insolvency and Bankruptcy Board of India (IBBI) referred to its communication dated 5 June 2021 in connection with the invitation of expression of interest (EOI) in accordance with 'Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021 [Guidelines].'

In this connection, the IBBI informed that keeping in mind the difficulties posed by the ongoing COVID-19 pandemic, the last date for submission of expression of interest (EOI) under the Para 10 of the aforesaid guidelines has been extended to 25 June 2021. Accordingly, the IBBI will send the Panel to the AA by 30 June 2021. [Read More](#)

80% of insolvency cases of default of less than ₹ 1 crore were initiated by the operational creditors

The Insolvency and Bankruptcy Board of India (IBBI) the regulatory body of IBC, disclosed in its latest quarterly bulletin, that about 80% of insolvency and bankruptcy

proceedings involving default of less than Rs. one crore was initiated by the operational creditors. Around three-fourths of all bankruptcy proceedings initiated by operational creditors resulted in the liquidation of the corporate debtor.

Operational creditors such as vendors have filed the bulk of bankruptcy cases so far involving payment defaults of less than ₹1 crore, while financial creditors (Financial Institutions) dragged debt-laden companies to NCLTs/ NCLATs for defaults of up to ₹10 crore, as per official data.

Insolvency cases filed by operational creditors accounted for over half of the total 4,376 cases initiated under the Insolvency and Bankruptcy Code till 31 March 2021, while around 43% of the cases were triggered by financial creditors.

The dominance of insolvency cases by the operational creditors, especially over smaller defaults, reflect how suppliers are struggling with delayed payments from corporate clients - a trend that has only been aggravated during the second wave of the COVID-19 pandemic. Several small firms said their payment cycle got prolonged during the second wave of the pandemic. [Read More](#)

ARTICLES

Supreme Court elucidates on freezing of bank accounts under Prevention of Money Laundering Act 2002

A Full Bench of the Hon'ble Supreme Court comprising Justices S. A. Bobde, A. S. Bopanna and V. Ramasubramanian, while expounding on the scope of Enforcement Directorate's power to freeze bank accounts under Prevention of Money Laundering Act, 2002, (PML Act) held that though the Directorate of Enforcement (ED) is vested with sufficient power to freeze the accounts, it requires the recording of reasons and failures to adhere to it will render the freezing to be illegal...

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Auction purchaser liable to discharge outstanding statutory dues on a property under SARFAESI Act

A Division Bench of the Bombay High Court comprising Justices Sunil B. Shukre and Avinash G. Gharote held that in receipt of sale proceeds, as per Section 26-E of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 the dues of the secured creditor will have priority over dues owed to the government, but the obligation to discharge dues under any Central/State/Local Act survives and therefore, the auction purchaser is liable to discharge the outstanding government dues. [Read More](#)

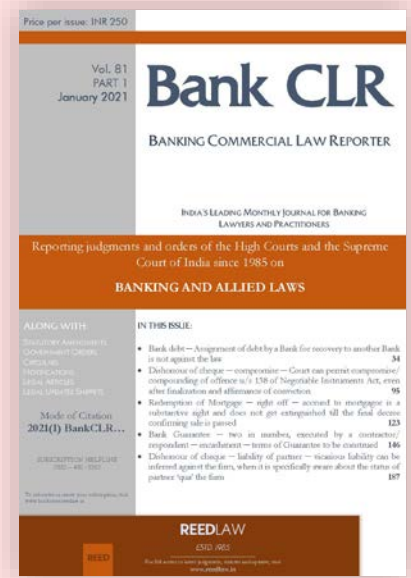
NCLT has jurisdiction to determine amount payable to the valuer as an intrinsic part of CIRP costs

A Division Bench of the Hon'ble Supreme Court comprising Justices Dr. Dhananjaya Y. Chandrachud and M.R. Shah in the matter titled Alok Kaushik v. Mrs. Bhuvaneshwari Ramanathan and Others, REED 2021 SC 03551 held that the National Company Law Tribunal (NCLT) has jurisdiction under Section 60(5)(c) of Insolvency and Bankruptcy Code, 2016 (IBC) to adjudicate as insolvency cost, the monetary claim of an expert valuer appointed by Resolution Professional (RP) during the Corporate Insolvency Resolution Process (CIRP), even after the CIRP is set aside. [Read More](#)

Supreme Court denies back-door entry of defaulting promoters in CIRP under section 29A of IBC

A Division Bench of the Hon'ble Supreme Court comprising Justices Dr. Dhananjaya Y. Chandrachud and M. R. Shah observed that a promoter, who is barred under section 29A of IBC from bidding for his company undergoing insolvency proceeding, cannot also take control of the company back by using the provision of the scheme of arrangement under section 230 of the Companies Act, 2013. [Read More](#)

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