



# IBC AU-COURANT

*Latest updates On Insolvency & Bankruptcy*

**1<sup>st</sup> November 2022**

**"Inspiration does exist, but it must find you working"**

## ➤ **Jindal Saw set to acquire Sathavahana Ispat under IBC for Rs 530 crore**

Jindal Saw, promoted by Prithviraj Jindal, emerged the highest bidder offering about Rs 530 crore for Sathavahana Ispat, undergoing corporate insolvency, said two people aware of the development.

Billionaire Anil Agarwal-promoted Vedanta Ltd was also in the fray to acquire the stock exchange listed steel maker. In a statement to the exchange on Monday, the company said lenders issued a letter of intent to Jindal Saw as a successful resolution applicant. The stock notice does not disclose the offer made by Jindal Saw to acquire the steel company.

ET reported on November 21 last year that Jindal Saw is expected to be the highest bidder for the steel company.

Jindal Saw did not respond to ET's request for comments.

Besides Jindal Saw, six other companies submitted expressions of interest (EOI). These are Vedanta Ltd, Welspun Corp Ltd, Sarda Mines Ltd, Ares SSG Capital (Singapore) Ltd, Khandwala Finstock Pvt Ltd and Trimex Industries Pvt Ltd, according to the disclosures made by the RP on the company's website.

J C Flower Asset Reconstruction Company is the sole creditor with an admitted claim of Rs 1747 crore. In June last year, a consortium of lenders led by Canara Bank sold their entire debt of Sathavahana Ispat to J C Flowers ARC at a Swiss auction.

In May last year, lenders had received an anchor offer of Rs 410 crore from J C Flowers ARC under a Swiss auction.

Pridhvi Asset Reconstruction & Securitisation (Paras) Ltd, an ARC, in partnership with Megha Engineering, gave a counteroffer of Rs 531 crore. JC Flowers ARC matched the counteroffer given by Paras the next day. Under a Swiss auction, the anchor bidder has the right to match the counteroffer.

A month later, Sathavahana Ispat entered corporate insolvency at the behest of a petition filed by J C Flowers ARC. The J C Flowers ARC's acquisition of the distressed steel company was backed by Siddeshwari Tradex, the holding company of P R Jindal group, as reported by ET last November.

Siddeshwari Tradex had availed five-year Rs 500 crore funding from Edelweiss Special Opportunities Fund and ECL Finance.

The funding was against the exclusive pledge of Jindal Energy, Jindal Steel, Jindal Power & Steel, and Jindal Holdings, per the stock exchange disclosures. Sathavahana Ispat has a 50 mega-watt captive power plant and one plant each in Andhra Pradesh and Karnataka producing pig iron and ductile iron pipe

**Source: The Economic Times**

**Read Full news at:** <https://economictimes.indiatimes.com/industry/indl-goods/svs/steel/jindal-saw-set-to-acquire-sathavahana-ispac-under-ibc-for-rs-530-crore/articleshow/95205832.cms>

## ➤ **No Notice Is Required For Personal Guarantor At The Stage Of Appointment Of IRP: NCLT Amravati**

The National Company Law Tribunal ("NCLT"), Amravati Bench, comprising of Justice Telaprolu Rajani (Judicial Member), while adjudicating a petition filed in Central Bank of India v Mr. Kothapatti Raju, has held that in terms of Section 97 and Section 100 of IBC, no notice or right of audience can be given to the Personal Guarantor at a stage before appointing the Interim Resolution Professional.

### **Background Facts**

Sri Ananda Lakshmi Narasimha Industries India Pvt. Ltd. ("Corporate Debtor/Respondent No.2") had availed credit facilities amounting to Rs. 33,18,09,761.02/- from the Central Bank of India ("Financial Creditor"). Mr. Kothapatti Raju ("Personal Guarantor/Respondent No.1") stood as a Personal Guarantor to the credit facilities availed by the Corporate Debtor.

The Financial Creditor filed an application under Section 95 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking to initiate Insolvency Resolution Process against the Personal Guarantor of the Corporate Debtor. Notice was issued to the Personal Guarantor but he did not enter appearance.

### **Decision Of NCLT**

The Bench observed that Notice was issued to the Personal Guarantor but none appeared. It was observed that even if the Personal Guarantor had appeared, no right of audience is available to him under Section 95 or Section 97 of IBC.

The Bench observed that once an application under Section 95 of IBC is filed through a Resolution Professional, the Adjudicating Authority under Section 97 of IBC shall direct

the Board within seven days to confirm that no disciplinary proceedings are pending against Resolution Professional.

The Board shall communicate to the Adjudicating Authority in writing either (a) Confirming the appointment of the resolution professional; or (b) Rejecting the appointment of the resolution professional and nominating another resolution professional for the insolvency resolution process. Under Section 99 of IBC, such Resolution Professional shall submit his report.

Based on the said report, the Adjudicating Authority shall pass an order under Section 100 of IBC, either admitting or rejecting the Application. It is only under Section 100(3) of IBC that the Adjudicating Authority shall provide a copy of the order passed under Section 100(1) to the Creditors.

Hence, in terms of Section 97 & Section 100 of IBC, no right of audience can be given to the Personal Guarantor at a stage before appointing the Interim Resolution Professional (IRP).

The Bench held that no notice is required for the Personal Guarantor at the stage of appointment of IRP. It was observed that the application under Section 95 of IBC was found to be complete. Accordingly, the Bench admitted the application under Section 95 of IBC and initiated insolvency resolution process against the Personal Guarantor.

**Source: Live Law**

**Read Full news at:** <https://www.livelaw.in/news-updates/nclt-amravati-insolvency-and-bankruptcy-code-personal-guarantor-appointment-of-irp-212873>

## ➤ **IBC Cases Weekly Round-Up: 24th To 30th October, 2022**

The National Company Law Appellate Tribunal ("NCLAT") vide an Order dated 21.10.2022 has issued directions for computation of limitation for filing of appeals before NCLAT. The period of limitation shall be computed from the date of presentation of Appeal as per Rule 22 of the NCLT Rules, 2016. The directions are as follows:

The period of limitation shall be computed from the date of presentation of Appeal as per Rule 22 of the NCLAT Rules, 2016.

The requirement of filing Appeals by electronic mode shall continue along with mandatory filing of the Appeals as per Rule 22 of the NCLAT Rules, 2016.

This order will be effective with effect from 1st November, 2022. All concerned shall ensure that Appeals are presented as per Rule 22 of the NCLAT Rules, 2016 within the period of limitation at the filing counter."

Case Title: Overseas Bank v AMW Autocomponent Ltd. Case No.: CP (IB) 185/AHM/2018

The National Company Law Tribunal ("NCLT"), Ahmedabad Bench, comprising of Dr. Deepti Mukesh (Judicial Member) and Shri Ajai Das Mehrotra (Technical Member), has held that promoters and persons associated with the management of the Corporate Debtor are statutorily obligated to extend all assistance to the Resolution Professional.

The Bench declined to interfere with the CoC's decision to not pay remuneration to the Suspended Directors, for the services rendered by them on the request of Resolution Professional during insolvency process.

Case Title: M/s Jones Lang Lasalle Building Operations Pvt. Ltd. v M/s Celebration City Projects Pvt. Ltd. Case No.: IB-652(PB)/ 2019

The National Company Law Tribunal ("NCLT"), Principal Bench, comprising of Justice Ramalingam Sudhakar (President) and Shri Avinash Kumar Srivastava (Technical Member), has held that the decree of a civil court will not alter the basic nature of a transaction.

The transaction prima facie has to be considered for the purpose of adjudicating a claim. The Applicant had an Arbitral Award in its favour and had made a claim before the Resolution Professional stating that it is a real estate allottee and its claim should be treated in that class. The Resolution professional rejected the claim and directed the Applicant to file the same as a financial creditor as award was in the form of a decree.

The Bench directed the Resolution Professional to admit the claim of Applicant as a real estate allottee/creditor in a class.

**Source: Live Law**

**Read Full news at:** <https://www.livelaw.in/news-updates/delhi-high-court-summons-abhijit-iyer-mitra-suit-restoration-suspended-twitter-account-212916?infinitemscroll=1>

