



INSOLVENCY PROFESSIONAL AGENCY  
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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"If you can dream it, you can do it."*

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## ➤ NCLT directs to initiate insolvency proceedings against Imperia Structures, appoints IRP

The National Company Law Tribunal (NCLT) has directed to initiate insolvency proceedings against Delhi NCR-based realty firm Imperia Structures and has appointed an interim resolution professional.

Admitting a joint plea filed by 28 unit holders of its Gurugram-based project 'Imperia Mindscape', the insolvency tribunal said after examining the records, it is clear that there is a debt and a subsequent default by the realty firm for an amount of Rs 36.79 crore as it could not provide assured returns as promised.

"The petition establishes that the corporate debtor is in default of a debt due and payable and that the default is for an amount which is more than the minimum amount of pecuniary threshold stipulated under section 4 (1) of the Code. The instant petition.. for initiating CIRP against Imperia Structures Limited, the corporate debtor, stands admitted and CIRP of Imperia Structures Limited is initiated," said NCLT.

NCLT has also appointed Gaurav Katiyar as Interim Resolution Professional suspending the board of the realty firm, in its order delivered on August 31, 2023. Imperia Structures launched 'Imperia Byron/Mindspace' project at Sector- 62, Gurugram, Haryana along with a 'guaranteed assured return' in the year 2011.

**Source: The Economic Times.**

**Read Full news at:** <https://realty.economictimes.indiatimes.com/news/regulatory/nclt-directs-to-initiate-insolvency-proceedings-against-imperia-structures-appoints-irp/103311391>

## ➤ **Forensic audits gain pivotal role in insolvency landscape**

Rising instances of bankruptcy actions by creditors under India's Insolvency and Bankruptcy Code (IBC) against distressed companies are fuelling the growth of forensic audits, and signifies the increasing importance of such audits in providing evidence for court proceedings, said experts.

Forensic auditors scrutinize financial records to unearth evidence, including irregularities, which are relevant in legal cases. IBC's focus on reviewing past transactions of companies highlights the critical role of forensic auditors in addressing industrial distress in India, the experts added. Anoop Rawat, a partner specializing in IBC at the law firm Shardul Amarchand Mangaldas & Co., explained the provisions for dealing with preferential, undervalued, or fraudulent transactions of corporate debtors leading up to insolvency proceeding, or 'avoidance transactions.'

"Under these provisions, resolution professionals can hire services of professionals (forensic auditors) for a determination on these transactions, and upon determination by a resolution professional, he is required to approach tribunals for seeking reversal of avoidance transaction among other remedies."

Besides, lenders, under the Reserve Bank of India norms, often get forensic audits done to decide whether the corporate debtor is involved in any fraud, said Rawat. According to experts, in the case of related-party transactions, the resolution professional's examination of pre-bankruptcy dealings extends up to two years from the date of bankruptcy admission in a tribunal. For other transactions, this period is up to one year. The growing focus on scrutinizing historical transactions of bankrupt companies to optimize available assets for restructuring is bolstering the forensic audit industry, the experts added.

**Source: Mint.**

**Read Full news at:** <https://www.livemint.com/companies/news/cci-clears-air-india-vistara-merger-11693718372986.html>

## ➤ **Date Of Default To Be Assessed For Each Invoice For At Least 3 Years Preceding The Filing Date; NCLT Mumbai**

The National Company Law Tribunal ("NCLT"), Mumbai Bench-IV comprising of Mr. Prabhat Kumar (Technical Member) and Mr. Kishore Vemulapalli (Judicial Member) adjudicating a petition filed in Laxmi Trading Corporation v. Hindustan Construction Company Ltd. dismissed the petition to initiate Corporate Insolvency Resolution Process (CIRP) against Hindustan Construction Company.

**Source: Live Law.**

**Read Full news at:** <https://www.livelaw.in/ibc-cases/nclt-mumbai-date-of-default-to-be-assessed-for-each-invoice-for-at-least-3-years-preceding-the-filing-date-236894?infinitemscroll=1>

## ➤ **Section 35 Of IBC | Liquidator Empowered To Recover Arrears Of Rent/Damages From Tenant In Occupation Of Corporate Debtor's Property: NCLT Hyderabad**

The National Company Law Tribunal ("NCLT"), Hyderabad Bench, comprising of Dr. Venkata Ramakrishna Badarinath Nandula (Judicial Member) and Shri Charan Singh (Technical Member), while adjudicating a petition filed in LIC Housing Finance Ltd. v M/s. Butta Infrastructure Pvt. Ltd., has held that the NCLT has jurisdiction to direct a Tenant to pay arrears of rent, who is in possession of the Corporate Debtor's property and has defaulted in payment of rent.

Further, in terms of Section 35(1)(b) and (d) of IBC, Liquidator is empowered to recover arrears of rent/damages from a Tenant, as it is incidental as well as necessary to secure the custody/control of the Corporate Debtor's assets, which forms part of the liquidation estate.

**Source: Live Law.**

**Read Full news at:** <https://www.livelaw.in/ibc-cases/nclt-hyderabad-ibc-liquidator-empowered-recover-arrears-rent-damages-tenant-occupation-corporate-debtors-property-236865>

## ➤ **NCLT Admits Rasna To Insolvency On A Rs 71 Lakh Claim By Logistics Firm**

The National Company Law Tribunal (NCLT) on Friday admitted the insolvency application against instant drink mix Rasna for unpaid dues to the tune of Rs 71 lakh. The application for insolvency was filed by logistics company Bharat Road Carrier Pvt Ltd.

It said they had transported goods to Rasna for which they had raised various invoices from April 2017 to August 2018. With this, a moratorium period is in place. "The order of moratorium shall have effect from the date of this order till the completion of the Corporate Insolvency Resolution Process or until this Adjudicating Authority approves the Resolution Plan under sub-section (1) of Section 31 or passes an order for liquidation of Corporate Debtor under Section 33 of the IBC, 2016, as the case may be," the NCLT said.

The application was admitted under Section 9 of the Insolvency and Bankruptcy Code (IBC), which allows operational creditors to initiate insolvency processes against a company. Rasna said that in November 2018, it had filed a case against Bharat Road Carrier Pvt Ltd for damages amounting to Rs 1.25 crore at the Commercial Court in Ahmedabad. The case was referred to mediation. The logistics firm did not appear before the mediator and, hence, the mediation failed, Rasna said.

"Notice was issued by the Honourable ble Commercial Court upon the Operational Creditor on April 30, 2019. Until the date of filing the reply, the Operational Creditor has not appeared before the Hon'ble Commercial Court," Rasna alleged.

**Source: Business Standard.**

**Read Full news at:** [https://www.business-standard.com/companies/news/nclt-admits-instant-drink-mix-rasna-into-insolvency-for-unpaid-dues-123090101331\\_1.html](https://www.business-standard.com/companies/news/nclt-admits-instant-drink-mix-rasna-into-insolvency-for-unpaid-dues-123090101331_1.html)

## ➤ NCLT grants request to safeguard resolution professional in Nitin Desai insolvency case

The National Company Law Tribunal (NCLT) on Friday allowed the resolution professional's plea seeking protection from any action for his inability to immediately take steps under the insolvency code in deceased art director Nitin Desai's ND's Art World's insolvency case.

In his petition before the NCLT, Nausher Kohli, counsel representing the resolution professional of ND's Art World, said that owing to the sensitivity involved in the matter, the resolution professional will only be able to take necessary steps in discharge of his duties as required to be undertaken under the insolvency code after "normalcy is restored".

Kohli informed the NCLT that the petition has been filed by the resolution professional praying that the creditors of ND's Art World and the Insolvency and Bankruptcy Board of India should not take any action against him for not being able to take necessary steps as required under the Insolvency Code in light of the extraordinary circumstances.

"We consider that the facts brought to our notice can be taken on record to safeguard the office of resolution professional, and in particular, likelihood of any proceeding against him for negligence in discharge of his duties under the code in relation to CIR (corporate insolvency resolution) process," said a bench led by Justices Virendrasingh Bisht and Prabhat Kumar.

ND's Art World owned by Desai was admitted into insolvency by the NCLT in July. Edelweiss ARC had filed an application to initiate the corporate insolvency resolution process, which was allowed by the NCLT. Following this, the dedicated bankruptcy tribunal appointed Jitender Kothari as the interim resolution professional to carry out the day-to-day affairs of the company.

**Source:** *Mint*.

**Read Full news at:** <https://www.livemint.com/news/india/nclt-grants-request-to-safeguard-resolution-professional-in-nitin-desai-insolvency-case-11693577890215.html>

