



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"We will fail when we fail to try."*

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## ➤ NCLT finds hybrid models of project completion to protect the interest of homebuyers

IBC (Insolvency and Bankruptcy Code) 2016 had objectives to sort matters related to company law and relieve its stakeholders, but the real estate sector is one of the categories where insolvency is not a choice for home buyers, the biggest stakeholders in the category, who invest most of their savings in a home. A home buyer, who takes a home loan for a term of 20-30 years and stays in a rented accommodation in the wait for final possession, always prefers to get the home as a creditor. Due to the beginning of NCLT proceedings in a real estate project, home buyers of the entire group get stuck and find themselves empty handed after several years.

Although IBBI (Insolvency and Bankruptcy Board of India) has changed rules and clarified status of home buyers as Financial Creditors as part of CoC (Committee of Creditors) in IBC, but this is not actually protecting home buyers in many cases. On the other hand, some real estate companies have used the provisions of IBC as a shield to protect themselves and wash their hands of all responsibilities. For some it has become a practice to either proceed for insolvency or force an Operational Creditor to approach NCLT (National Company Law Tribunal). But the resolution process was never an easy task because the objectives of creditors were not always the same. To protect the interest of home buyers of the project in trouble and other projects of the group, lawmakers had to find a suitable way to begin a phase of trial and error like the apex court did in the matter of Amrapali Group, Unitech and the Jaypee Group. But it seems NCLT and NCLAT courts have recognized that home buyers are no longer in favour of insolvency and found a hybrid model for the real estate sector where they are offering a timeline to promoters to complete the construction and clear dues.

**Source: Financial Express**

**Read Full news at:** <https://www.financialexpress.com/money/nclt-finds-hybrid-models-of-project-completion-to-protect-the-interest-of-homebuyers/3025942/>

➤ **Section 30(4) Of IBC Directory In Nature, Does Not Compel CoC To Distribute Payments Based On Value Of Security : NCLT Hyderabad**

The National Company Law Tribunal (“NCLT”), Hyderabad Bench, comprising of Shri Dr. N. V. Rama Krishna Badarinath (Judicial Member) and Shri Satya Ranjan Prasad (Technical Member), while adjudicating a petition filed in Stressed Assets Stabilisation Fund, Mumbai vs. M/s. Galada Power and Telecommunications Ltd., has held that Section 30(4) of IBC is directory in nature and does not compel the CoC to distribute payments to creditors based on the value of security held by them. The Bench has dismissed the application filed by a Financial Creditor claiming that resolution fund must be distributed as per voting share in CoC and not as per the kind of charge a financial creditor has on the assets of the Corporate Debtor.

**Source: Live Law**

**Read Full news at:** <https://www.livelaw.in/news-updates/section-304-of-ibc-directory-in-nature-does-not-compel-coc-to-distribute-payments-based-on-value-of-security-nclt-hyderabad-225511>

➤ **Finquest’s offer for Ballarpur Industries gets NCLT nod**

A bankruptcy court in Mumbai has approved Finquest Financial Solutions’ resolution plan for Ballarpur Industries (BILT), the flagship paper-manufacturing company of the Thapar Group that owes lenders more than `3,000 crore. Details of Finquest’s offer for BILT aren’t public yet. The National Company Law Tribunal (NCLT) bench, led by judicial member HV Subba Rao and technical member Madhu Sinha, approved the resolution plan filed by Finquest Financial on March 31 in an oral order. The order was not uploaded until the publication of this report. Avantha Group Holding-promoted Ballarpur Industries, India’s largest manufacturer of writing and printing (W&P) paper, was admitted under the corporate insolvency resolution process (CIRP) after the company defaulted on its dues of about 50 crore. The company’s total dues to financial creditors exceed 3,174 crore. On January 17, 2020, the company was admitted for insolvency resolution. In January 2022, the company was admitted for liquidation in the absence of any viable resolution plan. Subsequently, the National Company Law Appellate Tribunal (NCLAT) set aside the tribunal’s order in a plea filed by Finquest Financial Solutions.

**Source: The Economic Times**

**Read Full news at:** <https://economictimes.indiatimes.com/industry/indl-goods/svs/paper/-/wood/-/glass/-plastic/-marbles/finquests-offer-for-ballarpur-industries-gets-nclt-nod/articleshow/99194714.cms>

