



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"You never achieve real success unless you like what you are doing."*

*"You never achieve real success unless you like what you are doing."*

## ➤ NCLT Asks SpiceJet To Resolve Its Problems With Lessors In Insolvency Case

SpiceJet was instructed by the National Company Law Tribunal (NCLT) to attempt to settle disagreements with the lessors who had started bankruptcy proceedings against the airline.

This came up during the insolvency proceedings against SpiceJet by one of its lessors -- Celestial Aviation Services Limited. The NCLT highlighted that lessors, and not banks or other financial institutions, had filed all insolvency petitions against SpiceJet. The court has deferred the matter to 15 September for now, before asking the airlines to also offer its shares to the lessors.

SpiceJet announced that in order to pay off debts totaling 231 crore, it will award 48.1 million shares on a preferential basis to nine of its aircraft lessors. The low-cost airline reported in a stock exchange filing that the company's board of directors approved numerous resolutions, including a 2,500 crore fundraising campaign and a preferential offer of shares to lessors at an issue price of Rs 48 per share to pay off its outstanding debts.

Lessors had asked the Directorate General of Civil Aviation (DGCA) to have one aircraft, leased to SpiceJet, to be deregistered in May 2023. These lessors include Wilmington Trust SP Services, Sabarmati Aviation Leasing, and Falgu Aviation. The bankruptcy case filed by Celestial Aviation Services Limited against SpiceJet is the fifth such instance. Petitioning lessors also include Willis Lease Finance, Aircastle, and Wilmington. The airline is also embroiled in legal disputes as the Delhi High Court has also ordered SpiceJet to pay former owner Kalanithi Maran Rs 100 crore. This has to be done by September 10th to repay a debt.

**Source: Outlook Business + Money.**

**Read Full news at:** <https://business.outlookindia.com/economy-and-policy/nclt-asks-spicejet-to-resolve-its-problems-with-lessors-in-insolvency-case>

## ➤ **Authority's "Paranoia" Not Sufficient For Issuance Of Look-Out Circulars Curtailing Individual Liberty: Calcutta High Court**

The Calcutta High Court has observed that the mere paranoia of Authorities whenever a person against whom any allegations are levelled seeks to leave the country, cannot be sufficient grounds for issuance of a lookout circular ("LOC"), which curtails the individual's liberty to travel abroad. Quashing the LOCs issued against the two petitioners, a single-bench of Justice Sabyasachi Bhattacharya held.

In the absence of a single allegation in the records that the petitioners are not cooperating in the investigation or a single instance that the petitioners did not comply with any request or direction of the Investigating Officers, there is nothing on record to justify the arbitrary curtailment of the petitioners' personal liberty. It has to be kept in mind that the high grounds which are required to be made out for restraining the personal liberty of a person as guaranteed under Article 21 of the Constitution and the right of a person to move within the country under Article 19, a necessary corollary of which is the right to travel abroad, have to be on a much elevated footing than mere pendency of an investigation or allegations of financial frauds against the concerned person. The mere paranoia of the authorities whenever a person against whom allegations are levelled seeks to leave the country cannot be sufficient for issuance of LOCs and curtailing the person's personal liberty to travel abroad.

*Source: Live Law.*

*Read Full news at: <https://www.livelaw.in/high-court/calcutta-high-court/calcutta-high-court-quashes-look-out-circular-right-to-travel-abroad-individual-liberty-article-19-237082>*

## ➤ **NCLT Chandigarh: Suspended Directors Have No Vested Right In The Removal Of Liquidator**

The National Company Law Tribunal (NCLT), Chandigarh comprising of Mr. Harnam Singh Thakur (Judicial Member) and Mr. Subrata Kumar Dash (Technical Member) dismissed an application filed by Kulwinder Singh Makhni (Applicant) for the removal of Mr. Sanjay Kumar Aggarwal (Liquidator) and for appointment of a new Liquidator of the Corporate Debtor.

It held that the suspended director does not have the authority to recommend the liquidator's removal and the power rests with the Stakeholders Consultation Committee (SCC) as per Regulation 31A (11) substituted by Liquidation Process (Second Amendment) Regulations, 2021.

*Source: Live Law.*

*Read Full news at: <https://www.livelaw.in/ibc-cases/nclt-chandigarh-suspended-directors-have-no-vested-right-in-the-removal-of-liquidator-237027>*

## ➤ Financial Creditor Cannot Invoke CIRP Against Corporate Debtor To Recover Debt From Homebuyer

The National Company Law Tribunal ("NCLT"), New Delhi Court – III comprising of Mr. Bachu Venkat Balaram Das (Judicial Member) and Mr. Atul Chaturvedi (Technical Member) adjudicating a petition filed in South Indian Bank Limited vs. Magic Info Solutions Private Limited dismissed the petition to initiate Corporate Insolvency Resolution Process (CIRP) against Magic Info Solutions Private Limited (Corporate Debtor).

The NCLT held that the only financial institutions directly disbursing loans against consideration of the time value of money have the right and right to file a petition to invoke the CIRP since they would invariably be interested in the revival of the Corporate Debtor, as opposed to other financial institutions without any financial debt, who would be solely concerned with the recovery of the debt. The Financial Creditor cannot invoke CIRP against the Corporate Debtor to recover its loan from the homebuyer.

**Source: Live Law.**

**Read Full news at:** <https://www.livelaw.in/ibc-cases/nclt-delhi-financial-creditor-cannot-invoke-cirp-against-corporate-debtor-to-recover-debt-from-homebuyer-237026>

