



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"Get big quietly so you don't tip off potential competitors."*

*"Get big quietly so you don't tip off potential competitors."*

## ➤ IBC | Sec. 9 Petition Not Maintainable Against Claim For Compensation Penalty Under A Contract: NCLAT Delhi

The National Company Law Appellate Tribunal ("NCLAT"), New Delhi Bench, comprising of Justice Ashok Bhushan (Chairperson) and Shri Barun Mitra (Technical Member), while adjudicating an appeal filed in Chandrashekhar Exports Pvt. Ltd. V Babanraoji Shinde Sugar & Allied Industries Ltd., has upheld the dismissal of a petition under Section 9 of IBC which was filed based on claim of compensation penalty under a contract. The Bench held that whether a claim for compensation penalty has crystallized or not is to be adjudicated by a competent Court and not the Adjudicating Authority.

Chandrashekhar Exports Pvt. Ltd. ("Appellant") and Babanraoji Shinde Sugar & Allied Industries Ltd. ("Respondent") had entered into an Agreement. The Clause 10 of the Agreement stated that if the Respondent fails to perform, then it will be liable to repay the advance to the Appellant along with compensation penalty and losses incurred. When the Respondent could not perform the Agreement, it repaid the advance money to the Appellant.

Since the compensation penalty remained unpaid, the Appellant filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Respondent. It was argued that mere refund of the advance money would not absolve the Respondent from making payment of compensation penalty.

**Source: Live Law.**

**Read Full news at:** <https://www.livelaw.in/ibc-cases/ibc-nclat-delhi-sec-9-petition-not-maintainable-against-claim-for-compensation-penalty-under-a-contract-234889>

## ➤ NCLAT Sets Aside NCLT's Order For Acquisition Of RICOH By Dharamshi-Jhunhunwala Consortium

The National Company Law Appellate Tribunal (NCLAT) allowed the appeal filed by Kotak Investment Advisors Limited (KIAL) challenging an order passed by the Mumbai bench of the National Company Law Tribunal (NCLT) which had approved the resolution plan submitted by a consortium of Kalpraj Dharamshi and Rekha Jhunhunwala. KIAL was one of the bidders for Ricoh India Limited.

**Source:** Live Law.

**Read Full news at:** <https://www.livelaw.in/corporate/nclat-sets-aside-nclts-order-for-acquisition-of-ricoh-by-dharamshi-jhunhunwala-consortium-161292?infinitemscroll=1>

