



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



# IBC AU-COURANT

*Latest updates On Insolvency & Bankruptcy*

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**"If the highest aim of a captain were to preserve his ship, he would keep it in port forever"**

## ➤ **Srei promoters submit new resolution plan to exit insolvency process**

Srei Group promoters have submitted a new resolution plan under section 12A of Insolvency and Bankruptcy Code (IBC) with Srei administrator. The promoters have offered to pay off dues of around ₹32,000 crore to creditors to withdraw their companies from the ongoing insolvency process.

The Section 12A of [IBC](#) allows the management of corporate debtors to settle matters between creditors and withdraw cases under Corporate Insolvency Resolution Process (CIRP).

The offer from [Srei](#) promoters Kanorias were the highest with a net present value of ₹7,000 crore, including upfront cash of ₹3,500 crore, reported PTI citing sources.

The remaining debt will be paid through combination of financial instruments such as cash, Non-convertible debentures (NCDs), Optionally convertible debentures (OCDs), and equity over a period of five years, reported PTI.

If such a resolution plan comes, it will be reviewed to see if it qualifies U/S 12A of the IBC and then a decision will be taken by the CoC, bankers said.

Currently, the voting process for the three resolution plans submitted by Prospective Resolution Applicants (PRAs) for Srei Infrastructure Finance and Srei Equipment Finance is underway and will continue till February 14. The Committee of Creditors was supposed to meet on February 15 to finalise it.

After the completion of the challenge mechanism process, the Srei companies received three bids. The state-backed NARCL offered a Net Present Value (NPV) bid of ₹5,555 crore.

Authum Investment and Infrastructure's bid was for ₹5,526 crore while the consortium of Varde Partners and Arena Investors submitted a financial bid of approximately ₹4,680 crore.

The former promoters tried to make a full payment with interest under Section 230 back in October 2020, but the offer was rejected.

**Source:** *Mint*

**Read Full news at:** <https://www.livemint.com/news/india/srei-promoters-submit-new-resolution-plan-to-exit-insolvency-process-11676081719573.html>

## ➤ **Khaitans mull to thwart tea major's insolvency process**

Khaitan family-led Williamson Magor group will do “whatever is necessary” to thwart the initiation of insolvency proceedings against debt-laden tea major McLeod Russel, two sources familiar with the matter told FE.

The admission of group company McLeod for a corporate insolvency resolution process (CIRP) has wrecked Khaitans' efforts to execute an “exclusivity agreement” with Carbon Resources to negotiate a mutually agreeable mechanism to offer a proposed “one-time settlement” of the company's debt to lenders.

The Khaitans are likely to consider both the options—approaching NCLAT and an out-of-court settlement—to pull the company out of the insolvency process.

The Kolkata bench of the National Company Law Tribunal (NCLT) last Friday admitted IL&FS Infrastructure Debt Fund's insolvency petition for initiating CIRP against McLeod Russel India, the country's largest tea producer.

IL&FS Infra Asset Management Limited (IIAML), an asset management company, manages IL&FS Infrastructure Debt Fund (IIDF). IIDF, a financial creditor to McLeod, filed the petition under Section 7 of the Insolvency and Bankruptcy Code (IBC) against the company for a default in payment of Rs 347.47 crore as on November 12, 2019.

Passing the order on February 10, the tribunal appointed Ritesh Prasad Adatiya as the interim resolution professional (IRP) of the corporate debtor to carry out the functions as per the IBC.

“Surely, the group will try to take McLeod out of CIRP either judicially or through an out-of-court settlement. But it is too early to comment on it. The promoters will get a month's time before the formation of the committee of creditors (CoC). Within this time, the group will do whatever is necessary,” according to a source.

A judicial approach to stop initiation of insolvency proceedings against the tea company will require the Khaitans to move National Company Law Appellate Tribunal (NCLAT) against the NCLT order.

“A decision will have to be taken. Lawyers will have to go through the order. Two options are available—approaching NCLAT and an out-of-court settlement with IL&FS Infrastructure Debt Fund. We will consider both the options,” another source told FE.

This is the second instance when the tea maker being admitted for insolvency proceedings. In August 2021, NCLT, New Delhi, had admitted an insolvency application filed by Techno Electric & Engineering under IBC for a default on repayments of term loans of around Rs 100 crore.

The tribunal later gave its approval to withdrawal of CIRP against McLeod after the promoters reached a settlement with Techno Electric, providing a major relief to financially-stressed Williamson Magor group.

Last month, the board of the tea maker had approved the execution of an “exclusivity agreement” with Carbon Resources, which had made a non-binding offer to its lenders to acquire a controlling stake, to negotiate and evaluate a mutually agreeable mechanism for the company to offer a proposed “one-time settlement” of its debt to the lenders.

The board approved the execution of the exclusivity agreement with Carbon for a period of 60 days to exclusively discuss, negotiate and evaluate a mutually agreeable mechanism for the company to offer a proposed one-time settlement of the debt.

“The exclusivity agreement for the proposed one-time settlement is out of view now as McLeod goes into insolvency proceedings. The company cannot do such things under IBC. Once it comes out of IBC, the process whichever was on can be resumed,” said the first source.

Khaitans have only around 6.25% stake in McLeod Russel, whose debt stands at over Rs 1,700 crore. Kolkata-based Carbon Resources, which manufactures carbon products, had earlier picked up a 5.03% stake in the tea company from the open market.

Carbon Resources officials were not available for a comment on the latest development.

For the Khaitan family, regaining control of McLeod Russel seems to have become the foremost aim at present. In July last year, the Burman family, promoters of Dabur India, reclassified itself as the promoters of dry cell battery maker Eveready Industries, replacing Khaitans.

**Source:** *Financial Express*

**Read Full news at:** <https://www.financialexpress.com/industry/khaitans-mull-to-thwart-tea-majors-insolvency-process/2979520/>

## ➤ **“Misconceived, Not Maintainable”: NCLAT Delhi Dismisses Appeal Filed By IBBI**

The National Company Law Appellate Tribunal (“NCLAT”), Principal Bench, comprising of Justice Rakesh Kumar Jain (Judicial Member) and Mr. Naresh Salecha (Technical Member), while adjudicating an appeal filed in Insolvency & Bankruptcy Board of India v GTL Infrastructure Ltd. & Ors., has dismissed an appeal filed by the Insolvency and Bankruptcy Board of India (“IBBI”), challenging the dismissal of a Section 7 petition in a matter to which IBBI was not a party.

The IBBI filed the appeal while contending that the petition was dismissed upon a wrong interpretation of Section 7 by the Adjudicating Authority.

The NCLAT Bench observed that IBBI is not aggrieved by the Adjudicating Authority’s order and has nothing to do with the litigation between the Financial Creditor and Corporate Debtor.

### Background Facts

Canara Bank (“Financial Creditor”) filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“IBC”), seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) against the GTL Infrastructure Ltd. (“Corporate Debtor”), for the resolution of Rs. 646,38,06,271/- as on 01.07.2011.

The Adjudicating Authority dismissed the petition on 18.11.2022. It was observed that the Corporate Debtor is a viable going concern, as it has monthly revenues of Rs. 120 Crores (net of GST).

Further, the Corporate Debtor repaid Rs. 16,915 Crores between 2011 to 2018, which depicts its reasonably healthy position to repay the debt. Reliance was placed on the Supreme Court judgment in Vidarbha Industries Power Limited Vs. Axis Bank Limited, and it was held that the Corporate Debtor’s current management and the overall financial health do not warrant its admission into CIRP.

The Financial Creditor filed two appeals before the NCLAT challenging the order of dismissal which are pending adjudication. The Insolvency and Bankruptcy Board of India (“IBBI”) which was not a party in the proceedings before NCLT, filed a third appeal before the NCLAT challenging the order dated 18.11.2022.

The Corporate Debtor was impleaded as Respondent and the Financial Creditor has been made Perma Respondent.

IBBI argued that it is responsible for the enforcement of rules and regulations pertaining to corporate insolvency resolution. Therefore, it is imperative for IBBI to challenge the Order of dismissal as it is based upon an incorrect interpretation of Section 7 of IBC.

NCLAT Verdict The Bench opined that the IBBI's cause of concern behind filling of the appeal was not known, since the Financial Creditor had already filed two appeals for challenging the order of dismissal.

“However, from the perusal of the memorandum of appeal, we could not find the cause of concern much less the grievance of the Appellant for preferring the present appeal especially when the appeals have already been filed by the aggrieved person.

In this regard, we may also refer to an order passed by this Tribunal in the case of Insolvency and Bankruptcy Board of India Vs. Wig Associates Pvt. Ltd. & Ors., 2018 SCC Online NCLAT 386, in which the Tribunal has recorded its displeasure while noticing the fact that the appeal has been filed by the board as an aggrieved person which was held to be not maintainable.”

It was observed that the IBBI is not aggrieved by the Adjudicating Authority's order and has nothing to do with the litigation between the Financial Creditor and Corporate Debtor. “The appeal is thus totally misconceived and not maintainable and hence, the same is hereby dismissed. No costs.”

The Bench dismissed the appeal filed by IBBI for being misconceived and not maintainable.

**Source: Live Law**

**Read Full news at:** <https://www.livelaw.in/news-updates/misconceived-not-maintainable-nclat-delhi-dismisses-appeal-filed-by-ibbi-221248>

