



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"Yesterday is history, tomorrow is a mystery, today is a gift of God,  
which is why we call it the present."*

## ➤ **Adjudicating Authority Cannot Invoke S.60(5) IBC When Ingredients U/S 66 Are Not Made Out: NCLAT New Delhi**

The **National Company Law Appellate Tribunal (NCLAT)**, Principal Bench, New Delhi, comprising Justice Ashok Bhushan (Chairperson) and Barun Mitra, has held that the adjudicating authority cannot invoke section 60(5) of the IBC when ingredients of section 66 are not made out.

The adjudicating authority by its order dated 22.01.2025, while acknowledging that the requirements of section 66 of the IBC were not satisfied, allowed the application by exercising its powers u/s 60(5), citing fraudulent conduct by the respondent. Aggrieved by the order, the present appeal is before the NCLAT.

The appellant contended that the ingredients of section 60 of the IBC were not met; therefore, the adjudicating authority has erred in allowing the application by exercising its power under section 66 of the IBC. It also highlighted that prayers (b) to (d) in the application before the adjudicating authority were against the financial creditor, not the appellant.

It submitted that the corporate debtor took the loan from the financial creditor in the year 1998 and later assigned it to the Stressed Assets Stabilisation Fund (SASF), raising issues of delay and irrelevance under the IBC proceedings that began in 2019.

The respondent argued that the fraudulent conduct had already been judicially determined in prior applications, which had not been appealed by the appellant. Therefore, by exercising its power under section 60(5) of the IBC, the adjudicating authority rightly passed the impugned order.

**Source: Live Law**

**Read Full news:** [Adjudicating Authority Cannot Invoke S.60\(5\) IBC When Ingredients U/S 66 Are Not Made Out: NCLAT New Delhi](#)

➤ **Suspended Director Cannot Halt Liquidation By Submitting Third-Party Settlement Offer After Expiry Of CIRP: NCLAT New Delhi**

The **NCLAT**, Principal Bench, New Delhi, comprising Justice Ashok Bhushan (Chairperson) and Barun Mitra (Member-Technical), has held that a suspended director cannot halt liquidation by submitting a third-party settlement offer after expiry of CIRP.

The appellant contended that it had given the higher offer and has also filed the application seeking direction to consider its offer. It was submitted that considering the higher offer is in accordance with the objectives of the CIRP. However, the NCLT kept the application pending and directed liquidation of the corporate debtor in furtherance of the application by the RP.

**Source: Live Law**

**Read Full news:** [Suspended Director Cannot Halt Liquidation By Submitting Third-Party Settlement Offer After Expiry Of CIRP: NCLAT New Delhi](#)

➤ **Distribution Among Financial Creditors Should Be Based On Pro Rata Basis As Per Vote Share: NCLAT New Delhi**

The **NCLAT**, Principal Bench, New Delhi, comprising Justice Ashok Bhushan (Chairperson) and Barun Mitra (Member-Technical), has held that the distribution among financial creditors should be based on security interest or on a pro rata basis as per voting shares.

The appeal was filed against the decision of the NCLT, Jaipur, wherein the Adjudicating Authority, by its impugned order, has rejected the I.A. 637/JPR/2023 filed by the appellant.

**Source: Live Law**

**Read Full news:** [Distribution Among Financial Creditors Should Be Based On Pro Rata Basis As Per Vote Share: NCLAT New Delhi](#)

