INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

20 | August | 2026

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"It is never too late to be what you might have been."

➢ Personal Insolvency Moratorium Does Not Stay Cheque-Bounce Proceedings Against Directors: Bombay High Court

The Bombay High Court has held that Personal Insolvency proceedings initiated by a company director do not require cheque-bounce proceedings against the director to be stayed where the dishonoured cheque was issued towards the Company's Debt.

Justice N. J. Jamadar observed, "To put it in other words, the debt referred to in Section 96 must be a debt of the person by or against whom the insolvency resolution process is initiated under Sections 94 or 95, as the case may be."

The ruling concerned whether the interim moratorium under Section 96 of the Insolvency and Bankruptcy Code, 2016 could stay proceedings under Sections 138 and 141 of the Negotiable Instruments Act, 1881, against directors and other persons responsible for a company's affairs. Section 138 deals with cheque dishonour, while Section 141 extends liability to persons in charge of and responsible for the conduct of a company's business. Section 96 provides an interim moratorium on pending legal proceedings in respect of the debts of a person undergoing personal insolvency proceedings.

In the representative case, National Spot Exchange Limited had filed a cheque-bounce complaint against Mohan India Private Limited and its directors, including Jagmohan Garg. Under a Settlement Award, ₹771 crore became payable by Mohan India in 13 instalments. After the company defaulted on the instalments, it issued a ₹30 crore cheque towards the liability. The cheque was returned unpaid with the remarks "funds insufficient" and "account freezed".

Garg later filed an application under Section 94 of the IBC before the National Company Law Tribunal, Delhi for initiation of his insolvency resolution process and sought a stay of the complaint under Section 96. He argued that the cheque had been issued towards discharge of the debt and that the moratorium covered the prosecution.

Source: Live Law Biz
Read Full News: *Personal Insolvency Moratorium Does Not Stay Cheque-Bounce Proceedings Against Directors: Bombay High Court*

- ## NCLT Guwahati Admits IL&FS Insolvency Plea, Holds Pledged Shares Dispute No Defence To Default

The Guwahati National Company Law Tribunal (NCLT) has held that a dispute over the invocation and appropriation of pledged securities cannot defeat an insolvency petition under Section 7 of the Insolvency and Bankruptcy Code, 2016, once the existence of Financial Debt and default is established.

A Bench of Judicial Member Rammurti Kushawaha and Technical Member Yogendra Kumar Singh made the observation while admitting an insolvency petition filed by IL&FS Financial Services Limited against Adhunik Meghalaya Steels Private Limited.

Source: Live Law Biz
***Read Full News**:* *NCLT Guwahati Admits IL&FS Insolvency Plea, Holds Pledged Shares Dispute No Defence To Default*

- ## Supreme Court To Examine If Winding-Up Petitions Transferred From HC To NCLT Must Meet IBC Threshold

The Supreme Court on Wednesday agreed to examine whether a winding-up petition filed before a High Court can be subjected to the ₹1 crore minimum default threshold under the Insolvency and Bankruptcy Code after being transferred to the National Company Law Tribunal.

The case concerns winding-up proceedings instituted before the ₹1 crore threshold was introduced under the Code.

The court will consider whether the threshold applicable when the proceedings were originally filed should continue to govern them after their transfer to the tribunal.

Source: Live Law Biz
***Read Full News**:* *Supreme Court To Examine If Winding-Up Petitions Transferred From HC To NCLT Must Meet IBC Threshold*