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OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

# IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

*"In order to succeed. We must first believe that we can."*

## ➤ **Arbitral award unenforceable when claims are not part of insolvency resolution plan: Supreme Court**

The Supreme Court on Monday ruled that an arbitral award passed by a Micro, Small and Medium Enterprises (MSME) Facilitation Council after the approval of an insolvency resolution plan is unenforceable [*Electrosteel Steels Limited v. Ispat Carrier Private Limited*].

A Bench of Justices **Abhay S Oka** and **Ujjal Bhuyan** clarified that once a resolution plan is approved by the National Company Law Tribunal (NCLT), all claims not included in it are extinguished, and no person is entitled to initiate or continue proceedings for such claims which are not part of the resolution plan.

The Court made the observations while setting aside execution proceedings initiated against an MSME.

*"Upon approval of the resolution plan by the NCLT, the claim of the respondent being outside the purview of the resolution plan stood extinguished. Therefore, the award dated 06.07.2018 is incapable of being executed,"* the Court said.

The dispute arose from claims by Ispat Carrier for equipment it had supplied to Electrosteel Steels Limited (ESL).

**Source: Bar and Bench**

**Read Full news:** <https://www.barandbench.com/news/litigation/arbitral-award-unenforceable-when-claims-not-part-insolvency-resolution-plan-supreme-court>

➤ **IBC | Section 12A Application Not Mandatory If No Other Creditors Are Involved & Settlement Is Reached: NCLAT New Delhi**

The **National Company Law Appellate Tribunal**, Principal Bench, New Delhi, comprising Justice Ashok Bhushan (Chairperson), Barun Mitral (Member-Technical), and Arun Baroka (Member-Technical), disposed of an appeal while holding that if no other claims have been received in the Corporate Insolvency Resolution Process (CIRP) and a full settlement has been reached between the parties, then it is not mandatory to file a Section 12A application under the IBC. Exercising its inherent power, the tribunal closed the CIRP proceedings.

The appeal was filed by the corporate debtor, challenging the order passed by the Adjudicating Authority admitting the Section 7 application filed by the Financial Corporation. The appellant contended that the CIRP application was admitted without giving sufficient opportunity to the corporate debtor to present its defence. Also, the application seeking the modification of the order was pending before the adjudicating authority.

**Source: Live Law**

**Read Full news:** <https://www.livelaw.in/ibc-cases/section-12a-application-not-mandatory-if-no-other-creditor-exists-and-settlement-is-reached-nclat-new-delhi-289963>

