



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA
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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"The only limit to our realization of tomorrow will be our doubts of today."

➤ **IBC | Defunct Scheme Of Arrangement Under Companies Act Cannot Stall Corporate Insolvency Resolution Process : Supreme Court**

The Supreme Court on Tuesday (February 24) held that a defunct Scheme of Arrangement under the Companies Act cannot stall the Corporate Insolvency Resolution Process proceedings under the Insolvency & Bankruptcy Code, 2016. A bench of Justices Sanjay Kumar and K Vinod Chandran set aside the NCLAT's decision, which had kept in abeyance the CIRP initiated under Section 7 of IBC against the corporate debtor, merely because the Scheme of Arrangement was pending before the High Court.

"...we find no reason to stall the proceedings for initiation of the CIRP by resorting to the provisions of the IBC, as has been now attempted by the appellant herein, which would ensure rehabilitation of the Company.", the court observed, while allowing the financial creditor's appeal, pointing out that "Section 7 was held to be an independent proceeding, which stands by itself as reiterated in a catena of judgments of this Court, which had to be tried on its own merits."

The dispute traces back to loans amounting to ₹10.60 crore disbursed in 1999–2000 by IDBI Bank's Stressed Assets Stabilisation Fund, the predecessor of the appellant. The corporate debtor defaulted on January 1, 2003, and by the time insolvency proceedings were initiated under Section 7 of the IBC, the outstanding dues had escalated to ₹154.33 crore, inclusive of interest.

Resisting the insolvency proceedings, the corporate debtor contended that a Scheme of Arrangement under Sections 391–394 of the Companies Act, 1956 was pending and alleged suppression of this fact before the adjudicating authority. Aggrieved by the NCLAT's order keeping in abeyance the CIRP, the Appellant moved to the Supreme Court.

Source: *Live Law*

Read Full news: [IBC | Defunct Scheme Of Arrangement Under Companies Act Cannot Stall Corporate Insolvency Resolution Process : Supreme Court](#)

➤ **Committee of creditors not a juristic person but can litigate in IBC disputes: NCLAT**

The Chennai Bench of the National Company Law Appellate Tribunal (NCLAT) has held that a Committee of Creditors (CoC) is not a juristic person in the classical sense, but can nevertheless litigate in its own name for disputes under the Insolvency and Bankruptcy Code (IBC). [*CoC, Think & Learn v. Riju Raveendran*]

A coram of Judicial Member Justice (retd) **Seshasayee** and Technical Member **Jatindranath Swain** delivered the ruling while dismissing an appeal filed by the CoC of Think and Learn (Byju's) challenging an NCLT order refusing to implead it in proceedings seeking removal of GLAS Trust Company LLC from the CoC.

Source: Bar and Bench

Read Full news: [Committee of creditors not a juristic person but can litigate in IBC disputes: NCLAT](#)

➤ **SC upholds Benami Act attachment during IBC moratorium, dismisses appeals**

In a ruling that could have far-reaching implications for insolvency proceedings and enforcement under economic offence laws, the Supreme Court of India on Tuesday dismissed appeals challenging the attachment of property under the Benami law during the moratorium period under the Insolvency and Bankruptcy Code (IBC).

The top court upheld the concurrent findings of the National Company Law Appellate Tribunal (NCLAT) and the National Company Law Tribunal (NCLT), effectively ruling that such attachment can stand even when insolvency proceedings are underway and a moratorium is in force.

Source: CNBC TV 18

Read Full news: [SC upholds Benami Act attachment during IBC moratorium, dismisses appeals - CNBC TV18](#)



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