



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Peace begins with a smile."

➤ **Rs 3.8 lakh crore stuck in pending clawback from promoters of bankrupt firms evading recoveries**

India's insolvency regime is facing a major test as efforts to claw back funds from promoters of bankrupt firms have remained largely unsuccessful.

Despite an expanding number of cases and favourable tribunal orders, the actual recoveries are proving elusive, raising questions over the effectiveness of the Insolvency and Bankruptcy Code's (IBC) avoidance framework.

Official data for FY25 showed that 1,396 avoidance cases, collectively valued at Rs 3.8 lakh crore have been filed across various National Company Law Tribunal (NCLT) benches. While orders have been passed in 202 of these cases sanctioning clawbacks worth Rs 65,650 crore, the resolution professionals have managed to actually recover only Rs 6,434 crore from erstwhile promoters.

Several high-profile insolvency cases have highlighted this problem. In the ongoing insolvency of Hindustan Glass & Industries (HNG) - with admitted claims of Rs 3,012 crore - a forensic audit by BDO flagged multiple transactions that breached IBC provisions. Last week, the employees union of HNG had filed complaint with various agencies seeking action against previous promoters for alleged diversion of funds from the company, according to news reports.

Similar suspect dealings were reported during Tata Steel's acquisition of Bhushan Steel and Piramal Housing's takeover of DHFL. In most cases, assets are found to have been alienated or dissipated long before recovery proceedings can conclude, leaving little for creditors to claw back.

Source: Money Control

Read Full news: [Rs 3.8 lakh crore stuck in pending clawback from promoters of bankrupt firms evading recoveries](#)

➤ **Invocation Of Guarantee Does Not Preclude Financial Creditor From Initiating CIRP: NCLT Kolkata**

The **National Company Law Tribunal (NCLT) Kolkata bench of Smt. Bidisha Banerjee (Judicial Member) and Cmde Siddharth Mishra (Technical Member)** admitted a petition under section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC) against Vasupuiya Enterprises Pvt. Ltd., a corporate guarantor of Ankit Metal & Power Ltd., holding that there is no bar under the IBC from simultaneously filing two applications under section 7 of the IBC against Borrower as well as the guarantor.

The Tribunal further held that once for the same set claim one petition is admitted against any of them, the second petition under section 7 of IBC cannot be admitted. The Tribunal also held that the IBC proceedings are distinct from recovery actions before the Debt Recovery Tribunal (DRT). It held that *“Invocation of a guarantee and the filing of a recovery proceeding under a different statute does not preclude the Financial Creditor from initiating CIRP under the Code, provided the debt and default continue.”*

Source: Live Law

Read Full news: [Invocation Of Guarantee Does Not Preclude Financial Creditor From Initiating CIRP: NCLT Kolkata](#)

➤ **Resolution Professional Can Be Replaced U/S 60(5) IBC If He Deliberately Avoids Placing Agenda For His Replacement Before CoC: NCLAT**

The **NCLAT, Chennai Bench**, comprising Justice Sharad Kumar Sharma (Member-Judicial) and Jatindranath Swain (Member-Technical), has held that Section 60(5) of the IBC can be invoked to replace a resolution professional (RP) if he deliberately avoids placing the agenda for his replacement before CoC

The CIRP of the corporate debtor was initiated, and the appellant was appointed as the resolution professional. However, the financial creditor sought replacement of the appellant, citing the factor of non-cooperation, obstructionist behavior, and failure to facilitate the CIRP effectively.

Source: Live Law

Read Full news: [Resolution Professional Can Be Replaced U/S 60\(5\) IBC If He Deliberately Avoids Placing Agenda For His Replacement Before CoC: NCLAT](#)

