

IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



NBCC (INDIA) LTD. VS ICICI BANK LTD. & ORS. COMPANY APPEAL (AT) (INSOLVENCY) NO. 475 OF 2020

Brief Facts

The resolution plan in the case of Jaypee Infratech Limited which was successfully submitted by NBCC was approved by NCLT, Allahabad Bench with some modifications post CoC approval. NCLT while approving the resolution plan allowed objections of ICICI Bank and Yamuna Expressway Industrial Development Authority and also directed payment to unclaimed fixed deposit holders. Accordingly NBCC aggrieved by NCLT's order preferred an appeal before NCLAT.

Decision

NCLAT held that the learned Adjudicating Authority could not intercede the business decision of the CoC taken by the prescribed voting shares and the learned Adjudicating Authority exceeded its jurisdiction in making such modifications. NCLAT also held that till further orders, the approved resolution plan may be implemented subject to the outcome of this Appeal. The Resolution Professional may constitute 'Interim Monitoring Committee' comprising the 'Successful Resolution Applicant', i.e., the Appellant and the three major Institutional Financial Creditors, who were Members of the CoC. The Resolution Professional, who would be constituent of the 'Interim Monitoring Committee' shall continue to be paid as may be deemed reasonable by the 'Interim Monitoring Committee' from the date of this order. Any fee outstanding for the past services rendered by the Resolution Professional shall be paid as per the decision of the CoC.

Link to the Order

<https://ibbi.gov.in/uploads/order/3e8b4a9592a7d42d6c4264223f255585.pdf>



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)**