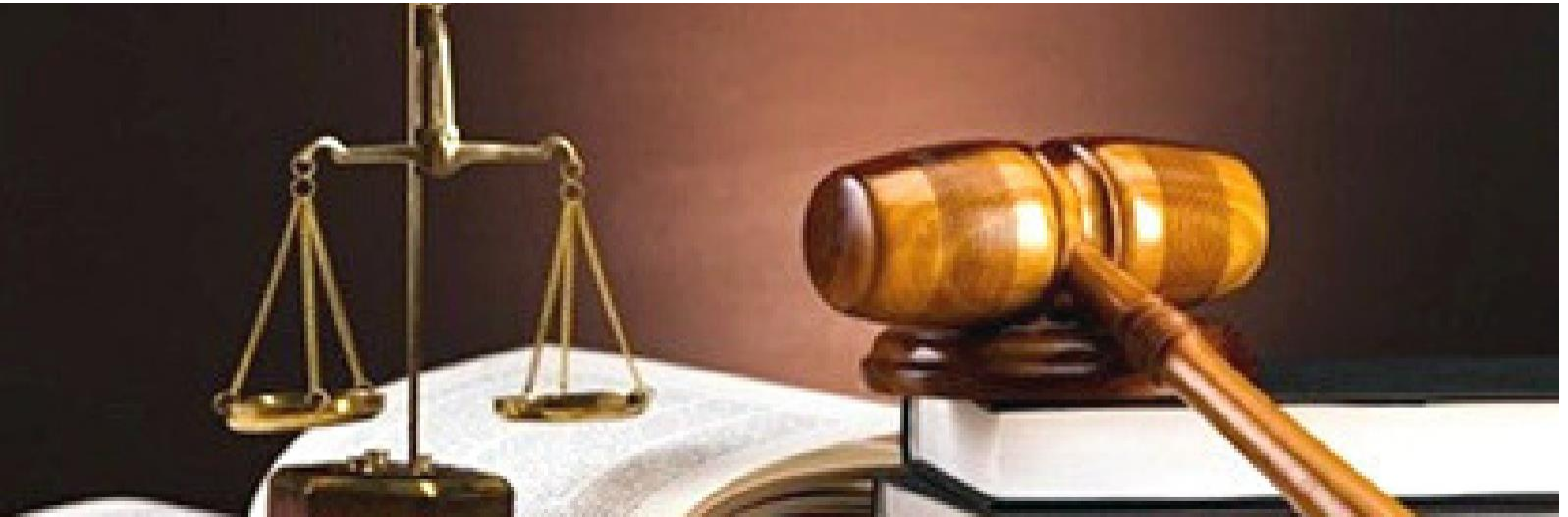


IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



Gaurav Hargobindbhai Dave Vs Asset Reconstruction Company (India) Ltd. and Anr.

Brief Facts

In the above-mentioned matter, the debt owed by the CD dated back to 2011. An application was moved in 2017 under Section 7 of the Code by the FC and the application was accepted by NCLT. The tribunal applied Article 62 of Limitation Act in accepting the application which pertains to suits initiated to enforce payment of money secured by a mortgage or otherwise charged upon immovable property for which limitation period is 12 years.

NCLAT upheld the NCLT admission of the application for Insolvency and held that Since the Code came into effect from 2016, The period of limitation of 12 years under Article 62 will commence from 2016.

The appeal was then made to the Supreme Court.

Decision

- a. The Supreme Court held that the Article 62 of Limitation Act is only applicable on 'suits' and not on 'applications' moved under Section 7 of the Code. **[Para 6].**

- b.** The application moved under Section 7 of the Code in the present case would fall under the ambit of residuary Article 137 of Constitution of India. **[Para 6].**
- c.** The Supreme Court allowed the appeal and annulled the judgments delivered by NCLT and NCLAT. **[Para 8].**

[Link of the Order](#)

<https://ibbi.gov.in/uploads/order/97287a91278728dba5c0c54ef51ff3ad.pdf>



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**