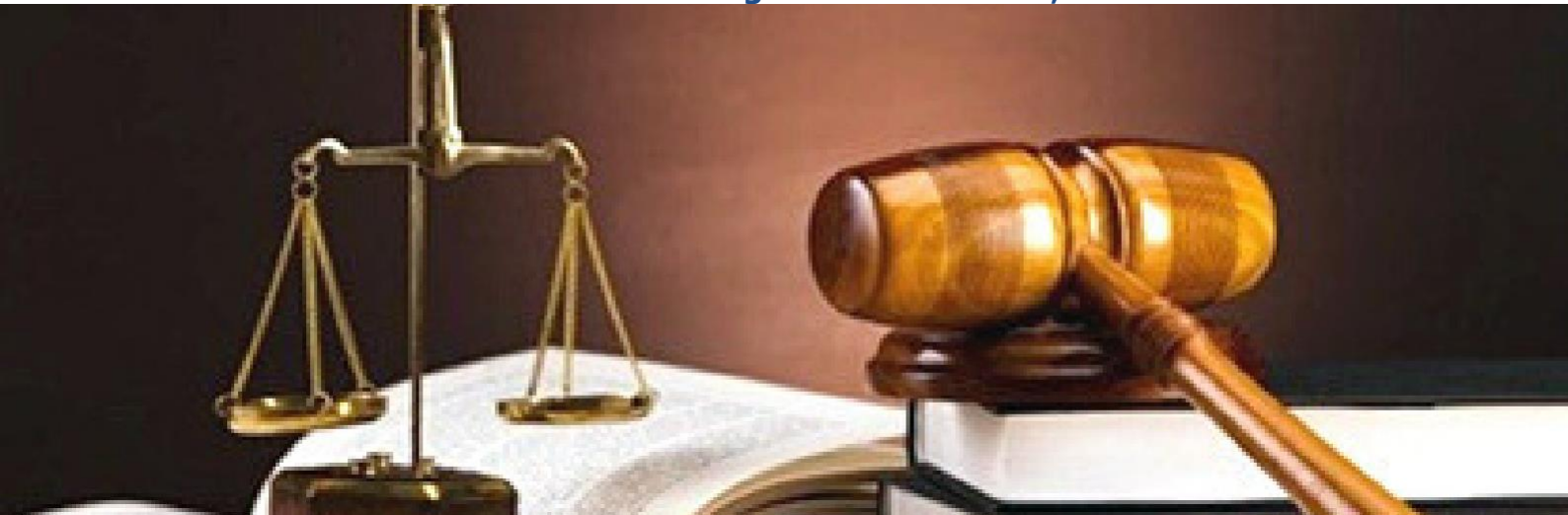


IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



State Bank of India Vs Rohit Ferro Tech Ltd.

Brief Facts

In the abovementioned matter, The State Bank of India filed an application under Section 7 of the Code, 2016 for initiation of CIRP against Rohit Ferro Tech Limited. The NCLT beheld that there is a prima facie debt owed by the CD, Ferro Tech Ltd. but dismissed the application stating that the petition was filed for initiating CIRP through RBI circular dated February 12, 2018 which was held to be ultra-vires and illegal by the apex court. Hence the application is not maintainable and CIRP shall not be initiated. The impugned order was appealed in the NCLAT by the State Bank of India.



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

Decision

- a.** The NCLAT dismissed the impugned order of the NCLT stating that the declaration of RBI circular being ultra-vires by the Supreme Court does not yield to barring initiation of CIRP. **[Para 11, 13]**

- b.** The NCLAT reiterated that Petition under Section 7 of the Code is to be considered by the Adjudicating Authority on its own merits taking into consideration the records presented to it. **[Para 11]**

- c.** NCLAT further clarified that any creditor cannot only rely upon the circular to initiate insolvency proceedings, it needs to be backed by proper evidence. **[Para 11]**

Link of the Order

<https://ibbi.gov.in/uploads/order/34399e870e976d7c58ae727d9aba9b8c.pdf>

