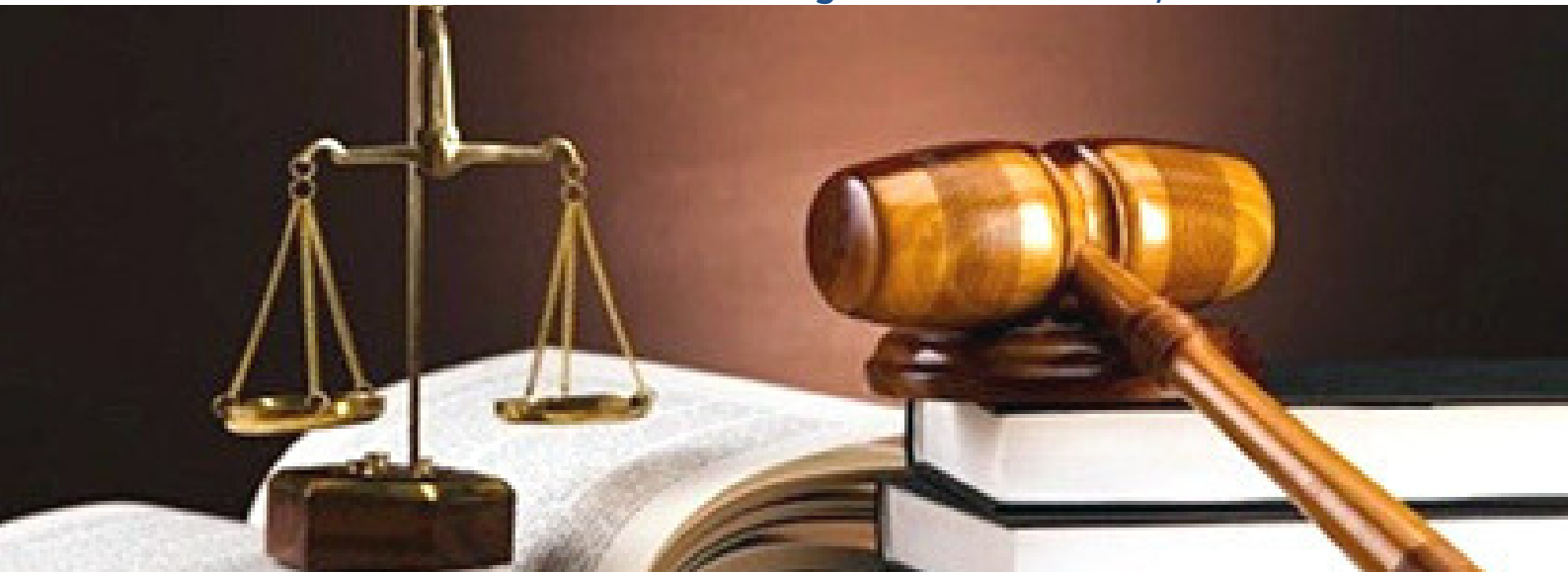


# IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



## SHAKUNTALA EDUCATIONAL & WELFARE SOCIETY VS. PUNJAB & SIND BANK

### Brief Facts

Shakuntala Educational & Welfare Society (“Petitioner”) is a charitable society engaged in the business of imparting education. Petitioner availed six term loans from the Punjab & Sind Bank (“Respondent”) out of which four term loans were fully repaid. On account of pandemic, Petitioner failed to pay the instalment due in March 2020. Petitioner submitted that educational institutes in Uttar Pradesh were prohibited by the State Government from coercing the students to pay due fees by way of the issuance of a special directive. Consequently, Petitioner was unable to repay the March instalment on time.

However, the Petitioner assured the Delhi High Court that the instalment will be paid to the Respondent within a week time from the date of withdrawal of such prohibitive directive. During the matter, Petitioner relied on the judgement in the matter of Transcon Skycity Private Limited (Writ Petition LD-VC No. 28 of 2020) and Transcon Iconica Private Limited (Writ Petition LD-VC No. 30 of 2020) and Anant Raj Limited vs Yes Bank Limited. In both the referred cases, the respective petitioner also sought direction from the court for the grant of moratorium of three months and not to declare their pending loan accounts as NPA.

However the Respondent bank denied Petitioner's stand on the ground that the instalment became due on 31st December 2019 and 31st March 2020 was actually the deadline to classify the pending loan account as NPA. Hence, the petitioner should not be given undue advantage of the moratorium provided by RBI under the Press Release dated 27th March 2020 (Statement on Developmental and Regulatory Policies) and other relevant circulars. The Respondent further submitted that the regulatory policy rolled out by RBI nowhere provides for any deferment of a pending loan account being classified as NPA on account of the pandemic of Covid-19.



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

# SHAKUNTALA EDUCATIONAL & WELFARE SOCIETY VS. PUNJAB & SIND BANK

## Decision

Hon'ble Delhi Court directed that till the next due date, Respondent stand restrained from declaring the Petitioner's accounts as NPA. However, the court clarified that as soon as the directive issued by the State of Uttar Pradesh is lifted, the Petitioner would be liable to forthwith pay the instalments within one week from the date of such withdrawal. This way the court granted a conditional stay on the bank from classifying the borrower's account as NPA.

## Link to the Order

<https://ibbi.gov.in/uploads/order/9d8994718d822c587162604366694180.pdf>

