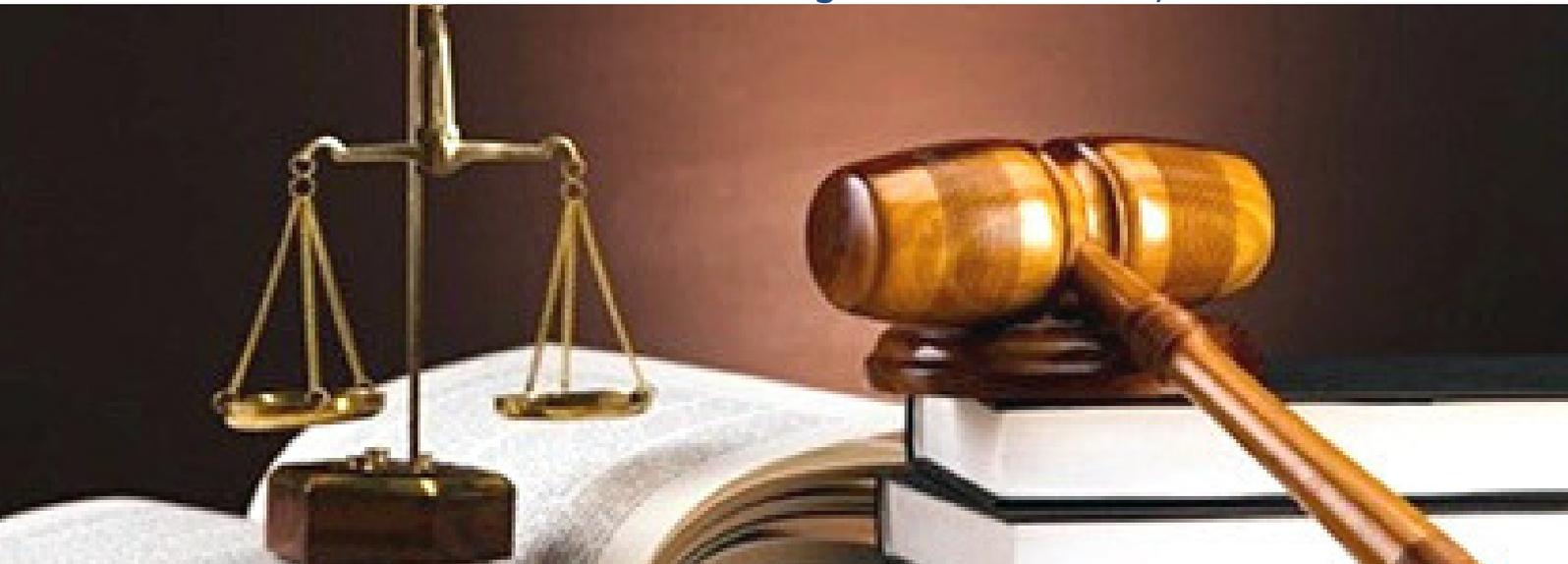


# IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



## MR. KAUSHAL RAMESH MEHTA VS. METALLICA INDUSTRIES LTD. & ORS. COMPANY APPEAL (AT) (INSOLVENCY) NO. 1437 OF 2019

### Brief Facts

In the corporate insolvency resolution process of Metallica Industries Limited (“Corporate Debtor”) the resolution plan of the corporate debtor was approved with 85.89% voting share of the CoC and also accordingly approved by the Adjudicating Authority. Mr. Kaushal Ramesh Mehta (“Appellant”) had made an arrangement/ agreement with the corporate debtor for purchase of a part of the Gala (Project) in their favour which was rejected by the RP and also RP didn’t accepted them as ‘Secured Financial Creditor’ and accordingly being aggrieved by the resolution plan of the corporate debtor an appeal was preferred by Mr. Mehta before NCLAT thereby challenging the approved resolution plan.

### Decision

In this matter NCLAT held that in order to challenge an approved resolution plan, appeal should be under grounds provided in Section 61(3) of IBC, 2016 which are as follows:

- i) the approved resolution plan is in contravention of the provisions of any law for the time being in force;
- ii) there has been material irregularity in exercise of the powers by the resolution professional during the corporate insolvency resolution period;
- iii) the debts owed to operational creditors of the corporate debtor have not been provided for in the resolution plan in the manner specified by the Board;
- iv) the insolvency resolution process costs have not been provided for repayment in priority to all other debts;
- v) the resolution plan does not comply with any other criteria specified by the Board

In the said matter the appeal didn’t have any merit to establish any ground on the conditions under Section 61(3) of IBC,2016 and therefore the appeal was dismissed.

### Link to the Order

<https://ibbi.gov.in//uploads/order/0d472737d3c56583fcb6d6a0bc2dd690.pdf>

