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# IBC AU-COURANT

*Insolvency Professional Agency of Institute of Cost Accountants of India*



**"Worry is a misuse of imagination"**

## **Updates on Insolvency and Bankruptcy Code**

### **➤ Creditors Filing False Claims Liable To Be Punished Under S.235A IBC: Centre Tells Delhi High Court**

The Central Government has informed the Delhi High Court that creditors filing false or misleading claims during the corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 can be prosecuted and punished under Section 235A of the Code. Section 235A provides that if any person contravenes any of the provisions of the Code or the rules or regulations made thereunder for which no penalty is provided, such person shall be punishable with fine which shall not be less than 1 lakh rupees but which may extend to 2 crore rupees.

Section 15(1)(e) makes provision of penalties for filing false or misleading claims. The development ensued in a writ petition filed by an Insolvency Professional, alleging that one of the creditors had impersonated herself as an employee/ consultant of the debtor and filed a false and misleading claim for Rs 2.80 lacs.

He claimed that such creditor, deliberately and intentionally filed the false and misleading claim with the petitioner, knowingly well that filing of false and misleading proof of claims under section 15 of IBC shall attract penalties but there is no such provision of penalties to enforce the said provision.

**Source: Live Law**

**Read Full news at:**

<https://www.livelaw.in/news-updates/delhi-high-court-false-claims-ibc-punishable-under-section-235a-195492>

## ➤ [Future Enterprises defaults on loan repayment of Rs 2,888 crore](#)

Future Enterprises (FEL) failed to make a scheduled payment of ₹2,888 crore to lenders on March 31 as per the terms of the one-time restructuring (OTR) deal that it had signed with lenders last April, said two people aware about the development. To prevent the account from being classified as a non-performing loan (NPL), FEL will have to pay the amount during a one-month curative period

**Source: *The Economic Times***

**Read Full news at:**

<https://economictimes.indiatimes.com/industry/services/retail/future-enterprises-defaults-on-loan-repayment-of-rs-2888-crore/articleshow/90578059.cms>

## ➤ [NCLT allows IRP Against Personal Guarantor in Absence of CIRP of Corporate Debtor: Supreme Court stays Order \[Read Order\]](#)

The Supreme Court has stayed the order of the NCLAT in the matter of State Bank of India v. Mahendra Kumar Jajodia, wherein the Appellate Tribunal had settled the widely contended position on whether Insolvency Resolution Process (IRP) can be initiated against the Personal Guarantor in the absence of Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor and held that cases not covered under Section 60(2) will fall under Section 60(1) of the Code. Justice S. Abdul Nazeer and Justice Vikram Nath was considering an appeal filed by the Personal Guarantor, Mahendra Kumar Jajodia against the order of the NCLAT, which allowed initiation of IRP against him u/s 95(1) of the Code.

The appellant challenged a paragraph wherein it was stated that “Section 60(2) prescribes that in the event of an ongoing resolution process or liquidation process against a corporate debtor, an application for resolution process or bankruptcy of the personal guarantor to the corporate debtor shall be filed with NCLT concerned seized of the resolution process or liquidation. Therefore, the Adjudicating Authority for personal guarantors will be NCLT, if a parallel resolution process or liquidation process is pending in respect of a corporate debtor for whom the guarantee is given. The same logic prevails, under Section 60(3), when any insolvency or bankruptcy proceeding pending against the personal guarantor in a court or tribunal and a resolution process or liquidation is initiated against the corporate debtor. Thus if A, an individual is the subject of a resolution process before the DRT and he has furnished a personal guarantee for a debt owed by a company B, in the event a resolution process is initiated against B in an NCLT, the provision results in transferring the proceedings going on against A in the DRT to NCLT.201D

**Source: *TaxScan***

**Read Full news at:**

<https://www.taxscan.in/nclt-allows-irp-against-personal-guarantor-in-absence-of-cirp-of-corporate-debtor-supreme-court-stays-order/165350/>

➤ **SREI Group: Resolution applicants may have to offer minimum upfront cash of ₹500 cr to lenders**

Resolution Applicants for Srei Infrastructure Finance Ltd (SIFL) and Srei Equipment Finance Ltd (SEFL) may have to propose minimum upfront cash recovery of ₹500 crore in their Resolution Plan(s) for the consolidated Committee of Creditors to evaluate their plan(s). Further, the Resolution Applicants (RAs) may be required to offer Performance Bank Guarantee (PBG) equivalent to 5 per cent of the aggregate resolution amount proposed under the Resolution Plan(s), subject to a minimum amount of ₹560 crore. The RAs may also need to stump up ₹150 crore as earnest money deposit (EMD), said sources aware of the contours of the corporate insolvency resolution process (CIRP) for the Kolkata-based SREI Group. The Administrator for SIFL and SEFL (corporate debtors) has shortlisted 14 prospective resolution applicants, including Vedanta Ltd, Assets Care & Reconstruction Enterprise Ltd, Asset Reconstruction Company (India) Ltd, International Asset Reconstruction Company Pvt Ltd, JM Financial Asset Reconstruction Company Ltd, Arena Investors, LP, Jindal Power, Prudent ARC, and Edelweiss Alternative Investment Advisors. The aforementioned RAs are required to submit their Resolution Plans by May 17. The SREI Group's secured loans (other than debt securities), comprising Term Loans, Working Capital Facilities and Collateral Borrowings, stood at ₹25,703 crore as on March 31, 2021.

Further, the outstanding in debt securities and secured debentures stood at ₹2,441 crore and ₹2,403 crore, respectively, as on March 31, 2021. Unsecured loan (other than debt securities and subordinated liability) stood at ₹772 crore as on March 31, 2021, as per SIFL's FY2021 annual report. Distribution of cash The Resolution Plan submitted by RAs is expected to provide for distribution of the aggregate cash balance of the Corporate Debtors. The cash balance will pass through to the financial creditors and be for their benefit. These amounts cannot be used for offering, or considered towards calculation, of upfront cash recovery, said sources. Further, equity, if any, allotted to assenting financial creditors as part of the Resolution Plan will not exceed 49 per cent of total equity of the Corporate Debtors.

**Source: The Hindu Business Line**

**Read Full news at:**

<https://www.thehindubusinessline.com/money-and-banking/srei-group-resolution-applicants-may-have-to-offer-minimum-upfront-cash-of-500-cr-to-lenders/article65277427.ece>



**Insolvency Professional Agency of Institute of Cost Accountants of India  
(A Section 8 Company registered under Companies Act, 2013)  
CMA Bhawan, 3, Institutional Area, Lodhi Road  
New Delhi - 110003**