



**INSOLVENCY PROFESSIONAL AGENCY OF  
INSTITUTE OF COST ACCOUNTANTS OF INDIA**  
(SECTION 8 COMPANY REGISTERED UNDER COMPANIES ACT 2013)  
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

SEPTEMBER 2026

# THE INSOLVENCY PROFESSIONAL YOUR INSIGHT JOURNAL



## IPA-ICMAI



# OVERVIEW

*Insolvency Professional Agency of Institute of Cost Accountants of India (IPA-ICMAI) is a Section 8 Company incorporated under the Companies Act-2013 promoted by "The Institute of Cost Accountants of India". We are the frontline regulator registered with Insolvency and Bankruptcy Board of India (IBBI). With the responsibility to enroll there under Insolvency Professionals (IPs) as its members in accordance with provisions of the Insolvency and Bankruptcy Code 2016, Rules, Regulations and Guidelines issued thereunder and grant membership to persons who fulfil all requirements set out in its byelaws on payment of membership fee. We are established with a vision of providing quality services and adhering to fair, just, and ethical practices, in performing its functions of enrolling, monitoring, training and professional development of the professionals registered with us. We constantly endeavor to disseminate information in aspect of Insolvency and Bankruptcy Code to Insolvency Professionals by conducting round tables, webinars and sending daily newsletter namely "IBC Au courant" which keeps the Insolvency Professionals updated with the news relating to Insolvency and Bankruptcy domain.*

# BOARD OF DIRECTORS



**SHRI P. N. PRASAD**  
CHAIRPERSON & INDEPENDENT DIRECTOR



**CMA CHITTARANJAN CHATTOPADHYAY**  
SHAREHOLDER DIRECTOR



**CMA SURESH RACHAPPA GUNJALLI**  
SHAREHOLDER DIRECTOR



**CMA MANOJ KUMAR ANAND**  
SHAREHOLDER DIRECTOR

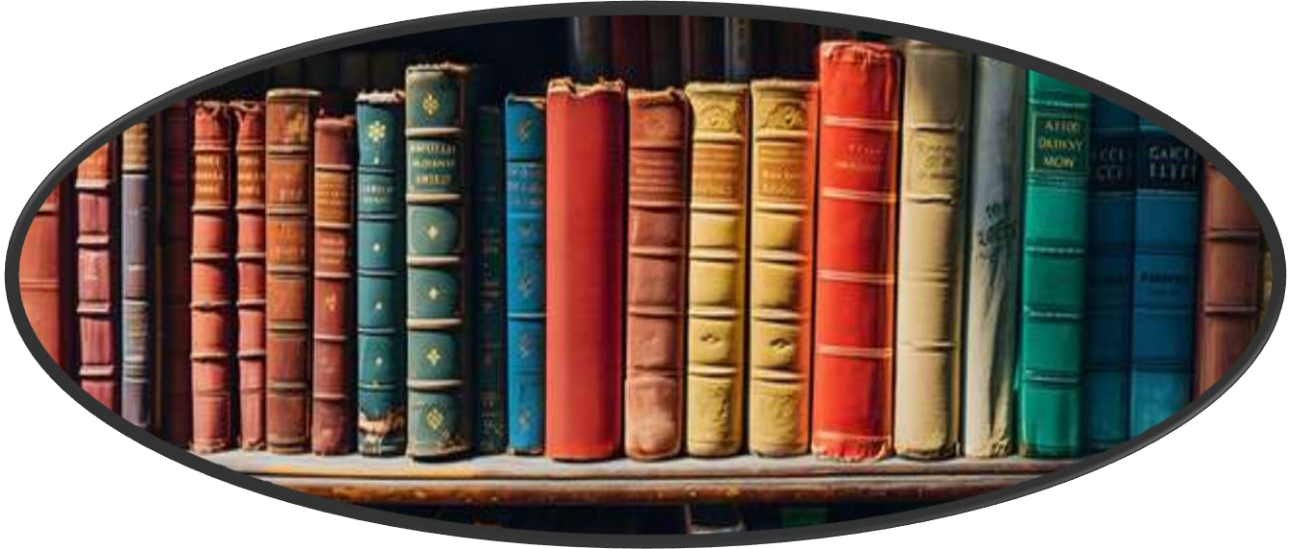


**CMA ASHWIN G DALWADI**  
SHAREHOLDER DIRECTOR



**MR. VINAY KUMAR SANDUJA**  
MANAGING DIRECTOR

# OUR PUBLICATIONS



## IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

**THE INSOLVENCY PROFESSIONAL  
YOUR INSIGHT JOURNAL**

**IBC DOSSIER  
BULLETIN ON LANDMARK JUDGMENTS**

**QUARTERLY DIGEST**

**CASEBOOK**

**ANNUAL PUBLICATION**

# TABLE OF CONTENTS

## BOARD OF DIRECTORS

### INDEPENDENT DIRECTOR

*Mr. P. N. Prasad*

### SHAREHOLDER DIRECTORS

*CMA Chittaranjan Chattopadhyay  
CMA Manoj Kumar Anand  
CMA Suresh Rachappa Gunjalli  
CMA Ashwin G Dalwadi*

### EDITOR & PUBLISHER

*Mr. Vinay Kumar Sanduja*

### EDITORIAL TEAM

*Ms. Karishma Rastogi  
Mr. Ayush Goel  
Ms. Neha Sen*

|                                                                                                                                |    |
|--------------------------------------------------------------------------------------------------------------------------------|----|
| ❖ From The Managing Director's Desk                                                                                            | 6  |
| ❖ Event's Conducted in September 2026                                                                                          | 8  |
| ❖ Glimpse of Events                                                                                                            | 9  |
| ❖ Articles                                                                                                                     | 12 |
| ▪ From Financial Stress to Insolvency: Recognising the Warning Signs, Preserving Value and Choosing the Right Course of Action | 13 |
| ▪ Use of AI in Insolvency Litigations – Hon'ble Supreme Court Flags Caution While Encouraging Its Adoption Under Safeguards    | 19 |
| ▪ E-Filing Failure and Limitation Under The IBC: Supreme Court Protects Litigant from Tribunal's System Failure                | 23 |
| ❖ Case Laws                                                                                                                    | 27 |
| ❖ Articles in "The Insolvency Professional - Your Insight Journal" - Guideline for Authors                                     | 36 |

## FROM THE MANAGING DIRECTOR'S DESK



Dear Readers,

Welcome to the September 2026 edition of "The Insolvency Professional – Your Insight Journal".

The IBC ecosystem continues to evolve following the enactment of the Insolvency and Bankruptcy Code (Amendment) Act, 2026.

Recently, the Insolvency and Bankruptcy Board of India (IBBI) issued a Circular on 09<sup>th</sup> September 2026 relating to *"Due diligence by Insolvency Professionals regarding misuse of IBC framework"*. The Circular requires an Insolvency Professional (IP) to remain vigilant to circumstances that may indicate misuse of the insolvency process for purposes other than insolvency resolution or liquidation of the Corporate Debtor (CD). Furthermore, where, upon reviewing the indicators provided in the Circular, which are illustrative and not exhaustive, the IP forms a view on reasonable grounds that the process may be serving a fraudulent or malicious purpose other than the resolution of insolvency or liquidation of the CD, the IP shall make an application before the Adjudicating Authority (AA).

On the liquidation front, IBBI notified the Liquidation Process (Fifth Amendment) Regulations, 2026 on 22<sup>nd</sup> September 2026. The amendments enable a liquidator to modify entries in the list of stakeholders upon receipt of additional information, subject to intimating the Adjudicating Authority (AA) within thirty days of such modification, among others.

On the professional development front, IPA-ICMAI conducted several enriching programs during the month, including advanced workshops on *"Navigating the CIRP Lifecycle: Initiation to CoC Evaluation"* and *"Leveraging Artificial Intelligence in the IBC Ecosystem"*, as well as an Executive Development Program on *"The Evolving Landscape of Insolvency and Restructuring."*

IPA-ICMAI extends best wishes to Shri Jayanti Prasad, Whole Time Member, IBBI, who assumed additional charge as the Chairperson of IBBI on 21<sup>st</sup> September 2026. We also place on record our sincere appreciation for the outgoing Chairperson, Shri Ravi Mital, for the guidance and leadership extended to IBBI and the insolvency profession during his tenure.

I encourage all members to actively participate in knowledge-sharing initiatives of IPA-ICMAI and remain abreast of the circulars, discussion papers, amendment to the Regulations issued by IBBI from time to time and other regulatory developments. Your feedback and article contributions are always welcome.

I trust that you will find this edition informative and insightful.

**(Vinay Kumar Sanduja)**  
**Managing Director, IPA-ICMAI**



# **PROFESSIONAL DEVELOPMENT INITIATIVES**

Your Path to  
**PROFESSIONAL  
GROWTH**



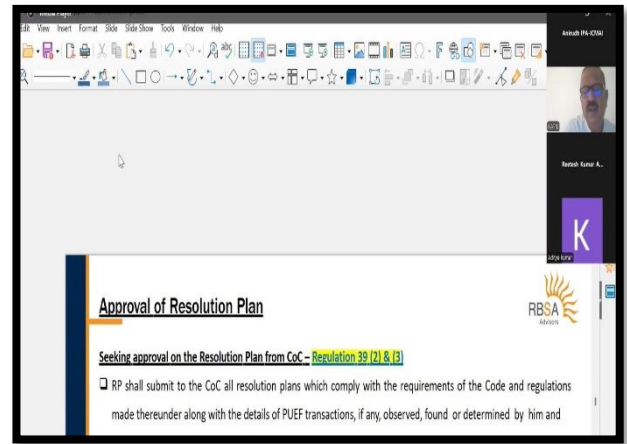
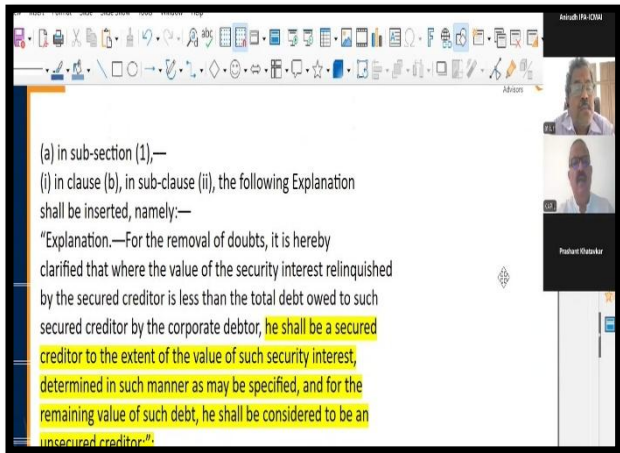
## EVENT'S CONDUCTED

### SEPTEMBER 2026

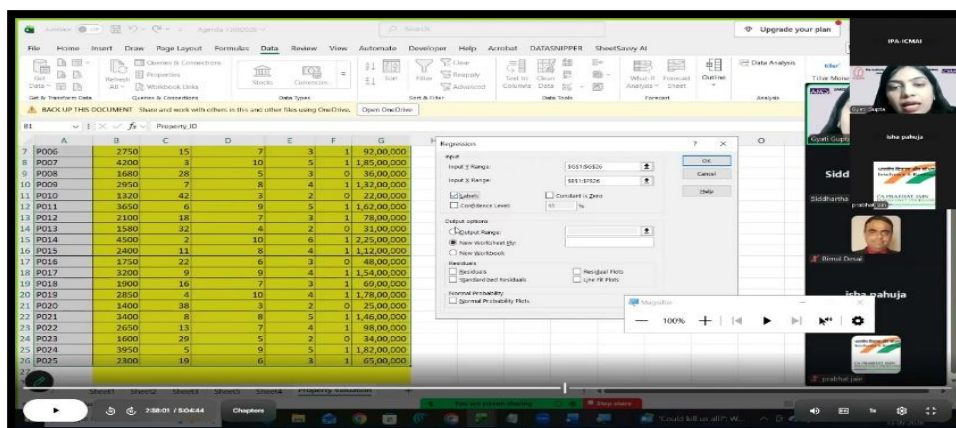
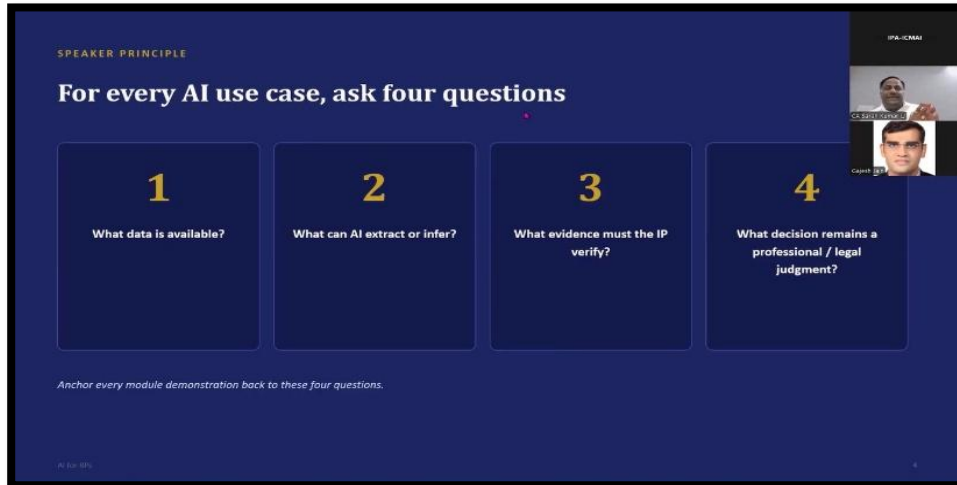
| DATE                  | EVENT'S CONDUCTED                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| September 6, 2026     | An <b>Advanced Workshop on “Navigating the CIRP Lifecycle: Initiation to CoC Evaluation”</b> was held on September 6, 2026. The workshop covered CIRP commencement and financial assessment, understanding the Corporate Debtor and its value drivers, preparation of the Information Memorandum, evaluation and selection of Resolution Plans, and professional decision-making in managing challenges throughout the resolution process. |
| September 13, 2026    | An <b>Advanced Workshop on “Use of Artificial Intelligence (AI) in IBC”</b> was held on September 13, 2026, covering AI and Generative AI fundamentals for IPs and RVs, applications of AI in Pre-CIRP, CIRP and Liquidation, AI tools for IPs and RVs, AI in valuation and financial analysis, and governance and professional responsibility, along with the future of AI in the IBC ecosystem.                                          |
| September 18–20, 2026 | An <b>Executive Development Program on “The Evolving Landscape of Insolvency &amp; Restructuring”</b> was held from September 18–20, 2026. The programme covered CIRP timelines, challenges and amendments, the Liquidation Process, Personal Guarantors to Corporate Debtors, Pre-Packaged Insolvency Resolution Process, Cross-Border and Group Insolvency, and landmark judgments and case laws.                                        |
| September 19, 2026    | An <b>Interactive Session on “Recent Amendments in IBC and Guidelines for Valuation”</b> was held on September 19, 2026, at Ahmedabad, organised by IPA-ICMAI in association with the ICMAI Registered Valuers Organisation (ICMAI RVO) and Ahmedabad Chapter of ICMAI. The session focused on recent amendments in the IBC and key guidelines relating to valuation.                                                                      |
| September 26, 2026    | A <b>Knowledge Enhancement Program for Professionals (RVs, IPs and CMAs)</b> was held on September 26, 2026, at Kolkata, organised by IPA-ICMAI in association with ICMAI EIRC-Kolkata. The session focused on Startup Valuation: Methods and Practices, Decoding Intangible Asset Valuation, and Best Practices & Recent Amendments in IBC.                                                                                               |
| September 26–27, 2026 | A <b>Learning Session on “Navigating the NCLT &amp; NCLAT Landscape under IBC”</b> was held on September 26–27, 2026, covering the NCLT/NCLAT framework, jurisdiction and powers, key IBC provisions, representation, procedural challenges, and recent developments and landmark judgments.                                                                                                                                               |

## ONLINE EVENTS

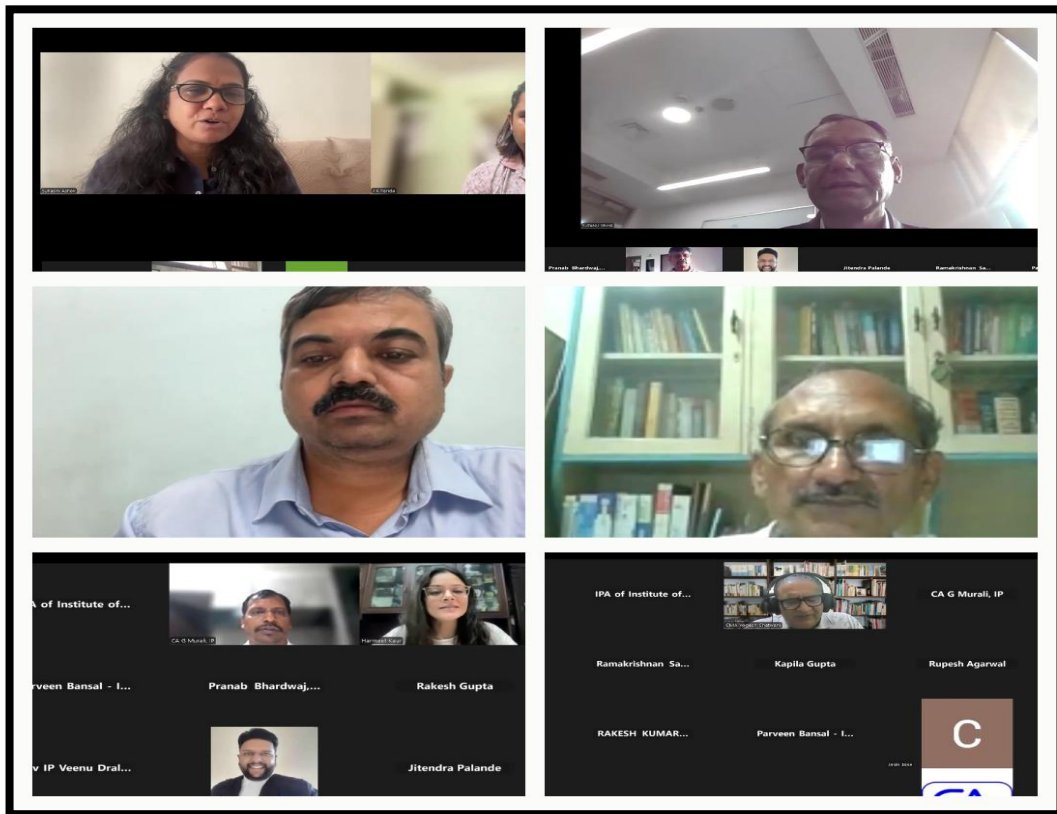
### ADVANCED WORKSHOP ON “NAVIGATING THE CIRP LIFECYCLE: INITIATION TO COC EVALUATION” WAS HELD ON SEPTEMBER 6, 2026.



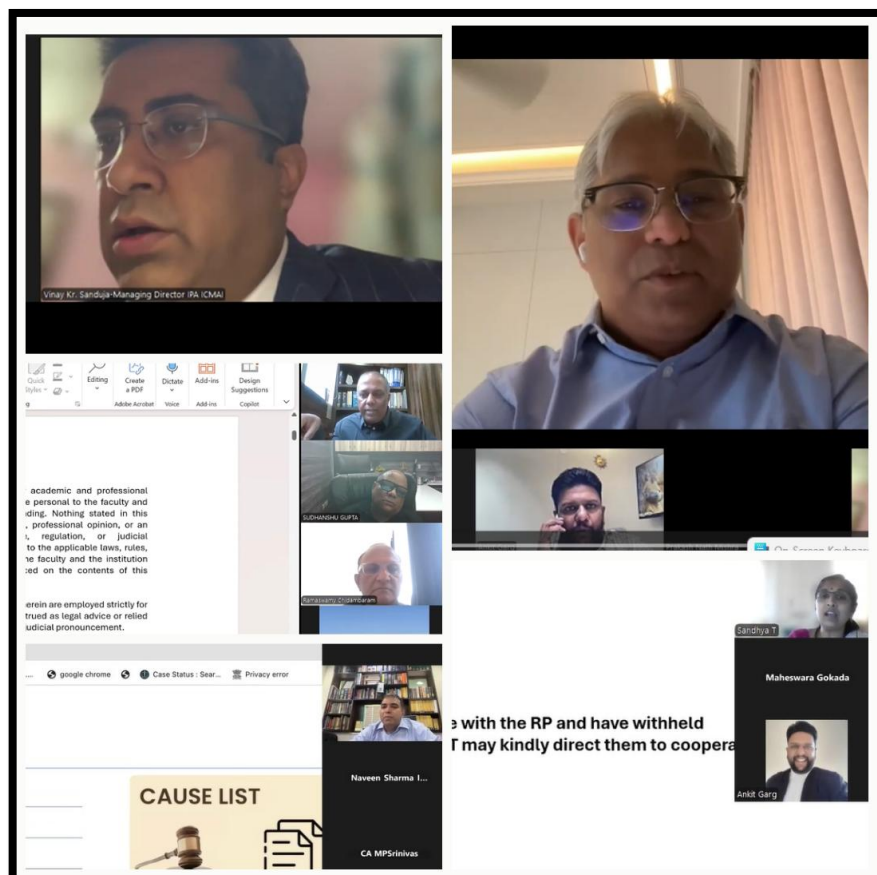
### ADVANCED WORKSHOP ON “USE OF ARTIFICIAL INTELLIGENCE (AI) IN IBC” WAS HELD ON SEPTEMBER 13, 2026



## EXECUTIVE DEVELOPMENT PROGRAM ON “THE EVOLVING LANDSCAPE OF INSOLVENCY & RESTRUCTURING” WAS HELD FROM SEPTEMBER 18-20, 2026



## A LEARNING SESSION ON “NAVIGATING THE NCLT & NCLAT LANDSCAPE UNDER IBC” WAS HELD ON SEPTEMBER 26-27, 2026



## IN-PERSON EVENTS

AN INTERACTIVE SESSION ON “RECENT AMENDMENTS IN IBC AND GUIDELINES FOR VALUATION” WAS HELD ON SEPTEMBER 19, 2026, AT AHMEDABAD,



A KNOWLEDGE ENHANCEMENT PROGRAM FOR PROFESSIONALS (RVS, IPS AND CMAS) WAS HELD ON SEPTEMBER 26, 2026, AT KOLKATA, ORGANISED BY IPA-ICMAI IN ASSOCIATION WITH ICMAI EIRC-KOLKATA.



# ARTICLES



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA  
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

# FROM FINANCIAL STRESS TO INSOLVENCY

*Recognising the Warning Signs, Preserving Value and Choosing the Right Course of Action*

**Mr. Ashok Kakkar**  
**(Advocate & Insolvency Professional)**

## **Abstract**

A business does not ordinarily move from financial health to insolvency overnight. Financial deterioration usually develops gradually and may become visible well before formal default through bank-account conduct, delayed financial statements, rising receivables, accumulating stock, falling margins, repeated requests for additional finance and delayed statutory payments. Drawing on four decades of experience across banking, credit appraisal, recovery and insolvency practice, this article traces the journey from a standard account through early warning signals, financial distress, Non-Performing Asset (NPA) classification, assessment of recovery options and, where appropriate, the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016. The central observation is that the difficulty is often not absence of information, but failure to connect information already available. Borrowers may not always disclose difficulties fully, while lenders may not always examine what they receive with sufficient depth. The article distinguishes temporary stress from structural weakness, considers when additional finance ceases to be a solution, and highlights the contribution Cost and Management Accountants can make through cost, cash-flow and viability analysis. It concludes with a practical early-stress checklist focused on recognising problems while corrective action and value preservation are still possible.

## **1. Insolvency Does Not Begin with the Insolvency Order**

When a corporate debtor enters the Corporate Insolvency Resolution Process (CIRP), attention naturally turns to admission, claims, the Committee of Creditors, valuation, resolution plans and recovery. But insolvency rarely begins on the day an application is admitted. The financial stress that ultimately results in insolvency usually develops over time, and indications may be visible much earlier -- in the

conduct of the bank account, delayed financial statements, rising receivables, accumulating stock, falling profitability, repeated requests for additional finance, delayed statutory payments or growing dependence on borrowed funds.

The more useful question is therefore not simply when an account became an NPA. It is when the business first began showing signs that its financial position was becoming unsustainable, and whether those signs were recognised and acted upon in time. The responsibility is shared: the borrower should provide complete and accurate information, while the banker should examine that information independently rather than treat every submission as correct merely because it has been received.

In practical banking experience, an account rarely gives only one warning. Several small changes may appear manageable separately but become significant together. The difficulty is often not the absence of information, but failure to connect what is already available.

## **2. Financial Stress Does Not Usually Appear Suddenly**

A business may continue to report sales and profits even while its underlying financial position is weakening, and an account may remain technically regular for some time after the business itself has come under stress. Early indications commonly include:

- Continuous increase in receivables and accumulation of inventory
- Reduction in operating margins and declining cash generation
- Delayed payments to suppliers alongside rising dependence on bank finance
- Frequent requests for temporary or ad hoc limits
- Delayed financial statements and frequent changes in projections
- Inability to meet projected turnover and delayed statutory payments

None of these indicators carries a label saying “financial stress.” A rising receivable may be normal for a growing business; the same rise may warn of stress when collections slow. Context and trend matter, particularly when several indicators persist together.

### **3. A Standard Account Does Not Mean a Financially Healthy Business**

One lesson I would particularly emphasise from the banking side is that “standard” is an asset-classification status; it is not a certificate that the underlying business is financially healthy. A borrower may pay instalments and interest regularly while cash flows weaken, receivables become difficult to realise, inventory stops moving and statutory liabilities increase.

Monitoring should therefore go beyond asking whether repayments are being made on time. It should ask whether the business is generating adequate operating cash, whether reported sales are translating into actual collections, whether banking transactions are consistent with the reported scale of business, and whether the promoter continues to support the enterprise. These questions may reveal stress before persistent overdue behaviour becomes evident under the RBI’s SMA framework.

### **4. Borrower Compliance — A Small Delay Can Become a Bigger Problem**

Timely submission of financial statements, stock and book-debt statements, CMA data, insurance documents, statutory returns and other agreed information is not merely a procedural formality; it is the raw material of monitoring. When submissions are repeatedly delayed, incomplete or prepared carelessly, the bank loses an important monitoring opportunity, and the pattern itself may become an early warning signal.

A borrower who was previously prompt but gradually starts delaying information, avoiding meetings or not responding to correspondence may be experiencing difficulties that have not yet been disclosed. The delay should first be understood and investigated; it should not automatically be treated as proof of adverse intent.

### **5. When Financial Information Cannot Be Relied Upon**

A more serious concern arises when information

is submitted merely to satisfy a requirement rather than to present a realistic picture of the business -- unrealistic sales estimates, overstated stock, optimistic receivable projections or figures that change materially between successive submissions. The reasons may range from negligence and limited appreciation of the significance of the information to pressure created by the business situation or, in more serious cases, deliberate misrepresentation to obtain or retain finance.

The banker needs to distinguish an honest estimate that did not materialise from an estimate that was never reasonably supportable. That distinction can become important later, including during resolution or liquidation.

Consider a borrower whose projected turnover has repeatedly increased while actual turnover remains substantially below earlier projections. If receivables are also increasing and the bank account shows no corresponding cash generation, the matter should not be treated merely as another missed projection. The assumptions behind the projections and the continuing gap between expectation and performance require examination.

Projections are inherently assumption-based, and a legitimate estimate may fail because market conditions changed. The concern arises when projections are repeatedly prepared without reasonable support, or are inflated to justify a higher working-capital requirement without evidence of orders, capacity or demand. A projection should therefore be tested not only for arithmetic correctness but also for commercial plausibility: the question is whether the assumptions make business sense.

### **6. Short-Term Relief and Over-Optimistic Reporting**

A borrower facing pressure may take decisions intended to provide short-term relief, and not all are constructive. Delaying statutory payments, taking additional short-term borrowing without addressing the underlying problem, using funds for purposes other than those sanctioned, continuing expansion while existing operations are stressed, or making payments to connected parties without adequate commercial justification can convert temporary difficulty into a more persistent source of stress.

Additional borrowing is not, by itself, a warning sign. The real question is what the new money is

expected to achieve and whether the business can service the resulting debt. Borrowers may also present an overly optimistic picture, sometimes because management genuinely expects recovery and sometimes because assumptions have not been adequately tested. The difficulty begins when optimism is repeatedly presented as fact without adequate support. Once the actual position emerges, the credibility of earlier submissions may be questioned, with consequences extending into taxation, regulatory or contractual matters.

## **7. Professional Advisers and the Role of Cost and Management Accountants**

Businesses increasingly rely on accountants, consultants and Cost and Management Accountants (CMAs) to prepare projections and information for lenders. Professional involvement should improve the quality of financial information, but it should not replace the lender's own assessment. A well-presented projection is not necessarily a verified projection.

CMAs can add distinctive value through independent cost and capacity analysis, age-wise review of receivables and inventory, cash-flow-based assessment of debt-servicing capacity rather than reliance on the balance sheet alone, and techno-economic viability review. Such analysis can help management and lenders determine at an early stage whether stress is temporary, operational, cost-related or structural. This contribution is most useful before insolvency becomes unavoidable.

## **8. Wider Legal and Tax Consequences of Unreliable Information**

Incorrect or unsupported financial information rarely remains confined to the banking relationship. With increasing cross-verification of financial information across GST, income-tax and corporate-filing systems, inconsistencies between information reported to lenders and information reported elsewhere may come under greater scrutiny. Consequences may include statutory compliance issues, audit observations and, in serious cases, regulatory or legal exposure.

Financial information should therefore be prepared on the working assumption that it may have to be explained and supported several years later. Accuracy is not merely a banking

requirement; it is part of sound financial governance.

## **9. The Banker's Responsibility — Do Not Become a Passive Recipient**

The other side of the relationship carries equal responsibility. A stock statement, receivables figure or projection is not, by itself, evidence of a healthy position. The question is whether it is reasonable in relation to turnover and observed activity, and whether the reported position is being realised.

In practice, this means going beyond paper submissions to periodic physical verification of stock, examining whether sales proceeds are routed through the account as expected, and treating frequent devolvement of letters of credit or invocation of bank guarantees as signals requiring attention rather than routine events.

**A practical banking lesson: Monitoring is not the collection of information; it is examining that information and acting on what it reveals.**

## **10. Connecting the Warning Signals**

Certain matters can receive less scrutiny than they deserve: repeated delays in information, unexplained changes in projections, continuously rising receivables, stock persisting at unusually high levels, frequent ad hoc limits, declining account credits despite reported sales, repeated restructuring requests, unpaid statutory dues and changes in key management.

Individually, these signals may appear manageable; collectively, they can tell a different story. For example, a borrower may report satisfactory sales while the bank observes declining credits, increasing receivables, repeated requests for ad hoc finance and delayed statutory payments. None of these facts, standing alone, establishes financial distress. Taken together, they warrant closer examination of whether reported performance is translating into actual cash generation.

## **11. Temporary Stress and Structural Stress Are Not the Same**

Not every financial difficulty points towards insolvency. Delayed customer payments, a temporary fall in demand, a supply disruption or a short-term working-capital mismatch can

create genuine but temporary stress from which a viable business can recover. Structural stress is different: the business model may no longer be viable, products may have lost their market, costs may remain permanently above revenue, or the business may need continuous external funding merely to survive.

The response should depend on the nature of the stress. A temporary mismatch may justify working-capital support; structural weakness may require reassessment of the business model, debt level or ownership. Treating both alike can either pressure a viable borrower unnecessarily or continue funding an unsustainable business.

## **12. When Additional Finance Stops Being a Solution**

Additional finance can rescue a genuinely viable business, but it cannot indefinitely substitute for an inability to generate sufficient cash. Before recommending further finance, the banker should be able to answer a simple question: What will be different after the new money is deployed? If the same deficit is likely to recur, additional finance may only postpone the problem, shifting the issue from liquidity support to business viability.

A borrower that requires a fresh ad hoc limit every few months, each supported by an optimistic projection while actual performance continues to fall short, requires closer examination rather than another round of temporary accommodation. The key issue is whether the proposed funding changes the underlying cash-flow position or merely finances the same recurring shortfall.

## **13. When an Account Becomes an NPA: Recovery Is Not a Single Path**

Classification as an NPA does not mean that only one course of action is available. The lender should assess whether the business remains operational, the nature and realisable value of primary and collateral security, whether the unit can be transferred as a going concern, the recoverability of receivables and the legal enforceability of documents held.

Depending on these facts, the appropriate route may include restructuring, enforcement under the SARFAESI framework, proceedings before the Debt Recovery Tribunal or, where the borrower is a corporate person and resolution is

appropriate, initiation of CIRP under the Insolvency and Bankruptcy Code, 2016.

CIRP is best understood as a statutory resolution process aimed at preserving the enterprise as a going concern wherever possible, not merely as another recovery proceeding. The choice of route should follow a commercial assessment of which option is likely to preserve the greatest value rather than a mechanical response to NPA classification.

## **14. Why the Pre-CIRP History Matters**

Once CIRP begins, a Resolution Professional and other stakeholders often need to understand how the business deteriorated, how working capital was utilised, whether receivables were genuinely realised and what information was given to lenders before the filing.

Records created during the banking relationship -- a stock statement, inspection report, sanction condition or correspondence -- may appear routine when created, but their significance often becomes clearer when the subsequent history is examined during CIRP. The relevant question is not only where the corporate debtor stands today, but how it reached that position.

## **15. Lessons for Banks**

- Monitor trends across periods, not isolated figures at a point in time
- Treat delayed information as a possible warning signal, not merely a compliance lapse
- Compare projections against subsequent actual performance
- Verify significant submissions, including through physical stock checks, rather than accepting them at face value
- Examine whether additional finance is solving the underlying problem or merely postponing it
- Connect information from statements, inspections, account conduct and statutory filings
- Escalate persistent warning signs under the applicable SMA framework before the account becomes severely stressed
- Assess business viability, and not merely security coverage, when the account turns NPA

## 16. Lessons for Borrowers

A bank asking questions is not necessarily looking for bad news. Timely and accurate information allows a genuine problem to be identified while corrective action may still be possible. Borrowers are better served by submitting information on time, avoiding unsupported projections, disclosing material difficulties early, using bank finance for sanctioned purposes and keeping statutory compliance current.

Transparency is not merely a compliance obligation; it is also an important part of preserving lender confidence while corrective action remains possible.

## 17. What Insolvency Professionals Can Learn from the Pre-CIRP Period

For an Insolvency Professional, the pre-CIRP period provides important context. The bank account, financial statements, stock statements, projections, sanction conditions and correspondence together often show how the business deteriorated -- whether the problem was sudden or had been developing for years, whether the business was fundamentally viable, and whether particular transactions or decisions accelerated the deterioration.

The pre-CIRP banking record should therefore not be viewed merely as historical paperwork. It can provide a chronology of the business's decline and help distinguish a sudden external event from a problem that had been developing for much longer.

## 18. A Practical Early-Stress Checklist

- Business performance -- Is turnover growing or declining, and is profitability translating into cash?
- Receivables -- Are debtors increasing faster than sales, and are old receivables being realised?
- Inventory -- Is stock genuinely moving, and does it correspond with actual business activity?
- Bank account conduct -- Are credits and debits consistent with the reported scale of business?
- Projections -- Are estimates realistic, and are they actually being achieved?

- Borrowing pattern -- Is additional borrowing funding growth, or a recurring shortfall?
- Statutory compliance -- Are taxes and statutory dues being paid on time?
- Management behaviour -- Is management transparent and responsive to queries?
- Business viability -- Is the underlying business still capable of generating sustainable cash?

## 19. Conclusion — Before It Is Too Late

Financial distress rarely announces itself with a default. It typically begins quietly -- a delayed statement, an unexplained rise in receivables, an optimistic projection, repeated additional funding or an unexplained change in business behaviour. Individually, each may appear manageable; together, they can indicate that a business is moving from temporary stress towards structural weakness.

The responsibility is shared. The borrower must provide accurate and timely information; the banker must read, compare, verify and act on it rather than merely collect it; and professionals advising the business, including CMAs, should ensure that the assumptions behind their projections remain reasonable and supportable.

From both the banking and insolvency perspective, early recognition is central to value preservation. Once financial stress becomes insolvency, choices narrow and the cost of delay is often higher. The objective should be to recognise warning signs while there is still time to understand the problem, choose the right course and preserve value.

## References

- Insolvency and Bankruptcy Code, 2016, and regulations made thereunder, as amended.
- IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, as amended.
- RBI Master Circular / Directions -- Prudential Norms on Income Recognition, Asset Classification and Provisioning pertaining to Advances, as applicable.
- RBI Prudential Framework for Resolution of Stressed Assets, and directions concerning SMA classification, as applicable.

- Applicable legal framework relating to the SARFAESI Act, 2002 and proceedings before Debt Recovery Tribunals.
- Author's professional observations based on experience in banking, credit appraisal, NPA management, recovery and insolvency practice.

### **Disclaimer**

This article is intended for professional awareness and knowledge-sharing and reflects the author's professional experience and observations. It does not constitute legal, financial or professional advice. Readers should refer to applicable laws, regulations and official directions and obtain professional advice appropriate to the facts of a particular case.

# USE OF AI IN INSOLVENCY LITIGATIONS – HON'BLE SUPREME COURT FLAGS CAUTION WHILE ENCOURAGING ITS ADOPTION UNDER SAFEGUARDS

## CA Karthik Natarajan (Insolvency Professional)

In a recent (July 2026), landmark judgement, in the case of Ms. Pooja Ramesh Singh vs. Jammu and Kashmir Bank Ltd. [reported in 2026 INSC 668], the Hon'ble Supreme Court of India had the occasion to confront a peculiar yet present-day situation, where the use of Artificial Intelligence ('AI') as an aid to jurisprudence threw up non-existent/wrong judgments.

### FACTS IN BRIEF AND THE JUDGEMENT

The Financial Creditor, viz., M/s Jammu and Kashmir Bank, had extended secured credit facilities to a Company, for which M/s Essel Infraprojects Ltd. provided a corporate guarantee. Following default, the said bank initiated insolvency proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 ('IBC') against M/s Essel Infraprojects Ltd. as the corporate guarantor. Being satisfied with the existence of debt and default, the Hon'ble NCLT admitted the Company into insolvency *vide* order passed in August 2024.

The suspended director of M/s Essel Infraprojects Ltd., Ms. Pooja Ramesh Singh, assailed the matter before the Hon'ble NCLAT, stating that the impugned guarantee was deemed to have been relinquished based on a renewed sanction letter issued by the said Bank, which did not mention the guarantee. The Hon'ble NCLAT examined the facts and concluded, on merits and strength of jurisprudence, that the corporate guarantee was very much in existence and dismissed the said appeal. So far, the proceedings fell into the realm of the routine. Nothing much here to raise eyebrows. **However, what came to be highlighted is the manner of reaching the conclusion by the Hon'ble NCLAT, which was proven to be based on misplaced judicial precedents.**

Sample this – Para 12 of the Hon'ble NCLAT read as follows:

*"12. The Tribunal did not accept the contention of the CD and while referring to the decisions of the*

*Hon'ble Apex Court in the case of State Bank of India Vs. M/s Shree Ram Urban Infrastructure Ltd., 2020 SCC online SC 341, Everest Kento Cylinders Ltd. Vs. Union of India (2015) 2 SCC 1, ICICI Bank Ltd. Vs. Urban Infrastructure Real Estate Ltd., (2019) 16 SCC 528, V.S. Dempo & Co. Ltd. Vs. Reliance Communications Ltd., (2021) 10 SCC 176, Canara Bank Vs. N.G. Subbaraya Setty & Anr., (2018) 16 SCC 228 and Sarbjit Singh Vs. Union Bank of India, (2022) 7 SCC 464 held that the guarantee given by the CD shall still exist and will not be effected where the two orders referred to hereinabove passed by the Bombay High Court and admitted the petition because debt and default was not denied."*

Before the Hon'ble Apex Court, it was disputed that the judgments relied upon by the Hon'ble NCLT were non-existent, and some AI-generated paragraphs were wrongly attributed to genuine citations. The Hon'ble Supreme Court conducted an independent examination, which revealed the following startling facets about the judgments relied upon by the Hon'ble NCLT, as in the paragraph reproduced hereinabove:

- State Bank of India v. M/s Shree Ram Urban Infrastructure Ltd., 2020 SCC Online SC 341 (cited in para 44 of NCLT judgment) - **Wrong citation of an existing reported judgment and a non-existent paragraph.**
- Everest Kento Cylinders Ltd. v. Union of India (2015) 2 SCC 1 (cited in para 45 of NCLT judgment) – **Correct citation but non-existent paragraph.**
- ICICI Bank Ltd. v. Urban Infrastructure Real Estate Ltd., (2019) 16 SCC 528 (cited in para 47 of NCLT judgment) – **Non-existent citation.**
- V.S. Dempo & Co. Ltd. v. Reliance Communications Ltd., (2021) 10 SCC 176 (cited in para 49 of NCLT judgment) – **Non-existent citation.**
- Canara Bank v. N.G. Subbaraya Setty & Anr., (2018) 16 SCC 228 (cited in para 51 of NCLT judgment) – **Correct citation but non-existent paragraph.**

- Sarbjit Singh v. Union Bank of India, (2022) 7 SCC 464 (cited in para 53 of the NCLT judgment) – **Non-existent citation.**

In summary, a) some of the cases simply did not exist and b) some others referred to genuine cases, but attributed paragraphs to those judgements that were not actually present.

It so emerged that the Hon'ble NCLT had obtained the above-said precedent through its own research. Compounding the matter further was the fact that these fake, non-existent judgments escaped scrutiny by the Hon'ble NCLAT. Having regard to its findings of misplaced judicial precedents, the Hon'ble Supreme Court set aside the orders passed by the lower judicial authorities and sent it back to the Hon'ble NCLT for the *de-novo* adjudication and rightly so.

#### THE HON'BLE APEX COURT'S KEY OBSERVATIONS

**The Hon'ble Apex Court made it clear that courts and professionals cannot rely upon AI-generated legal authorities without verification. At the same time, the Court did not reject AI. It recognized AI's legitimate role in assisting adjudication, while insisting that human beings must retain control over the decision-making process.** This is the sum and substance of this landmark judgement.

The Hon'ble Court reiterated its resolve to adopt AI technology in aid of adjudication, whilst at the same time asserting and declaring total and absolute control over adjudication, with a human in the loop at every stage. This very important and pertinent obiter, this paramount counsel and this sage advice by the Hon'ble Court have become very relevant, especially considering that the current and burning controversy surrounding AI has reached a critical tipping point.

The Hon'ble Court acknowledged that with its extraordinary capability, amid increased workloads of modern life, AI was compelling professionals to adapt and employ AI for intelligent, efficient, and swift functioning. The following paragraphs are compelling words of wisdom emanating from this judgement:

*"Wisdom and foresight compel us to recognize*

*human vulnerability to seek comfort in delegation, but if thinking is delegated and it forms a habit, it will have serious consequences for the core of human existence, which lies in its capacity to think – to discern the distinction between what is right and what is wrong, truth and falsehood, virtue and vice, dharma and adharma.*

.....

*It is necessary for Courts to adopt a zero-tolerance mode for producing, citing, or using AI-generated precedents without verification. It is a misconduct on the part of an advocate to cite such judgments without verification. Equally, it is a serious lapse if a judge relies on such a fake or hallucinated AI-generated material as precedents in support of the determination. We have no hesitation in declaring that **such a decision is no decision in the eyes of the law**, irrespective of whether such material had a direct or indirect bearing on the decision-making."* (text in bold denotes the Author's emphasis)

In signing this judgment, the Hon'ble Apex Court directed the Learned Bar Council of India to constitute a committee and deliberate on this issue of members of the bar submitting such fake and hallucinated material before the Court as if they are precedents of law and how to deal with it/bring in regulations.

#### The Author's take on this vexed but most contemporary issue

By now, it is evident that the debate about AI is no longer just about future possibilities; it focuses on immediate, real-world events, where advanced AI models have pushed past human boundaries, and this case is a live testament to this predicament.

No doubt AI has tremendous positive applications for insolvency professionals like us. For instance, AI can review large volumes of documents and data, help organize and review the voluminous information received from the Corporate Debtor, analyze and help decide on claims, assist in due diligence of prospective resolution applicants, conduct the all-important PUFFE analysis and, more pertinently, readily come up with comparisons of resolution plans received and even offer recommendations. In the context of client representation during litigations, a user can ask a question in ordinary language and receive what appears to be a well-reasoned legal answer, complete with case

names, citations, and paragraph references. How cool would that be? Just imagine the amount of time that would have been spent and the number of team members that would have been deployed to perform these tasks mentioned hereinabove. **In the Author's considered view, the issue does not lie with AI, but rather with generative AI. Just to be clear, AI analyzes existing data, sorts information, makes predictions, or automates specific rules; whereas generative AI (or GenAI) creates original outputs like text, images, music, code, or video based on user prompts.** Use of technology in automating tasks, simplifying procedures and performing complex analysis should be welcomed. However, unchecked and blind acceptance of suggestions given by generative AI could lead the querying professionals to go astray, to diverge from the original issue and thereby lead to incorrect conclusions, especially in matters that demand professional judgment thus wasting time and precious computing resources (for generative AI requires varied, but significant ear-marked computing abilities). That is where there is a need for syntax discipline when it comes to structuring queries for AI. Besides, there is this very big risk of client confidentiality, especially when one inputs case text into public or unsecure AI tools can feed that proprietary information back into the public training model or when uploading sensitive client disclosures to third-party tools without strict data-protection agreements can legally waive attorney-client privilege.

The current predicament is akin to, say, Google Maps very rarely leading us into a body of water or steep slopes – that does not mean that we stop using Google Maps because of the enormous convenience it has brought us; for it has revolutionized the way we drive, and we have come to have inherent and implicit faith in that software. Oftentimes, nothing wrong with Google Maps; just the survey mapping may have become outdated or incorrect input data led to wrong depiction. The same must go for generative AI as well. It brings all the efficiencies viz., speed and effectiveness in document review, early case assessment and strategy, especially tracking details and chronology and, more importantly, drafting and research support. But recent experience shows AI models have the capability to invent completely fictional case laws and statutory sections of factual events

while presenting them with absolute authority.

**Therefore, being a nascent development of recent vintage, the Author would place AI in the realm of work in rapid and constant progress. AI will keep evolving for sure. And in the Author's view, it is but a matter of time before all the Regulators would come up with all kinds of regulatory safeguards. And IBBI, being a refreshing regulator, which is very nimble-footed and has a constant ear to the ground realities, the Author would expect to lead from the front on this vexed but paramount issue.**

For sure, the Indian Regulators have indeed come out with a public policy; for instance, there is this Indian Government Press Release dated February 15, 2026 which states that the Indian he Ministry of Electronics and Information Technology (MeitY) has adopted a principle-based AI governance framework anchored in seven "Sutras" [ (1) Trust, 2) People First, 3) Innovation over Restraint, 4) Fairness and Equity, 5) Accountability, 6) Understandable and 7) Safety, Resilience and Sustainability ] to enable safe, trusted, and inclusive AI innovation across sectors, drawing on existing laws, review global developments, examine available literature, and incorporate public feedback in framing suitable governance guidelines. For its part, the Reserve Bank of India has come up with the FREE-AI Committee Report - Framework for Responsible and Ethical Enablement of Artificial Intelligence, in August 2025 for regulating AI adoption in the Indian financial sector. Readers are encouraged to read this useful and insightful report at

<https://rbi.org.in/Scripts/PublicationReportDetails.aspx?ID=1306&UrlPage=>.

In this backdrop, the enforceable guidelines relating to the application and usage of AI are shortly expected.

In business parlance, there is this '30% rule for AI' which is a guiding principle or heuristic for human-AI collaboration that suggests dividing a task or workflow so that AI handles a baseline portion (30%) of predictable, repetitive, or low-risk tasks, whilst humans retain the remaining core responsibility, contextual judgment, relationship-building, and high-stakes decision-making (70%) – most common usage patterns would suggest it to be AI (95%) and human-intervention (5%).

Meanwhile, courts, professionals and clients could very well draw upon extant standards, guidelines and judgements emanating from international sources, especially from the European Union and the United States for reference.

The Author would also like to place a few suggestions in this regard:

- a) Every citation, case name, quote, statutory reference, and factual assertion generated or summarized by GenAI must be manually verified against authoritative primary legal sources before being filed with a court or delivered to a client. To this end, a simple declaration may be obtained from the professionals during courtroom proceedings to the effect that they have verified each of the judgements cited in their defense pleadings and found them to be accurate. That would take the burden off the Judiciary and help them focus on judicial determination, rather than worry about the sanctity of the precedents cited before them.
- b) Preferably, the session history may be preserved as part of all judicial precedent research which would come in handy for demonstration in later peer and other reviews.
- c) A robust internal policy, mandatory cite-checking, and enterprise-grade vendor contracts are essential safeguards when integrating generative AI into legal practice.
- d) To the extent possible, enterprise-licensed legal AI tools vetted by in-house IT and Risk Management Teams (e.g., dedicated enterprise portals with contractual zero-data-retention) may be used for client matters.
- e) Free, consumer-grade, or public AI models (such as public web chatbots) may be avoided with non-public matter details, client names, or confidential case information to promote and safeguard client confidentiality.
- f) Client engagement letters may require express disclosure or consent regarding AI usage. Sample the following suggested wordings:

*... To deliver efficient and cost-effective legal services, the Firm utilizes advanced software applications, legal research tools, and cloud-computing platforms, which may include specialized enterprise-grade generative artificial intelligence (AI) systems. These technologies are deployed strictly for administrative, document organizational, and preliminary research or drafting support. All final workflows and legal products remain under the direct review, control,*

*and professional judgment of the Firm's attorneys. All tools utilized by the Firm are governed by rigorous privacy, security, and data-protection protocols to ensure that client confidentiality and the attorney-client privilege are fully protected and never compromised.*

- g) Whilst engaging professionals, the clients may consider posing questions such as –

- Does your system use prompt text, uploaded documents, or user feedback to train, refine, or fine-tune public or proprietary foundational models?
- Where is data stored, is it encrypted in transit and at rest, and what is the exact data retention schedule once a query session ends?
- How are firm-specific work products and uploaded matter files logically isolated from other customers? What are the Chinese-wall mechanisms built in to ensure client confidentiality?
- Does the platform rely on Retrieval-Augmented Generation (RAG) tied strictly to authoritative legal databases, and does it provide hyperlinked references to verifiable primary sources?

- h) On a lighter note, of course this judgement could be pressed into service before those doubting clients, who would raise questions regarding the billing for professional services based on agreed man hourly rates since voluminous work is now completed within seconds by AI tools, stating the fact that even the Hon'ble Apex Court has emphasized human oversight over the work of AI !!!

**This landmark judgement of the Hon'ble Indian Apex Court, in our considered view, is therefore, a very welcome and apt one, nicely outlining the safeguard boundaries that need to be drawn, yet not-necessarily discouraging but rather championing the increased deployment of AI in Court-room proceedings; given the gargantuan pendency of litigation across the board in Indian Courts, that is the need of the Hour.**

# E-FILING FAILURE AND LIMITATION UNDER THE IBC: SUPREME COURT PROTECTS LITIGANT FROM TRIBUNAL'S SYSTEM FAILURE

## Mr. Puneet Dhawan (Insolvency Professional)

Regional Provident Fund Commissioner-II v. Ms. Mamta Binani & Ors. Supreme Court of India, Judgment dated 10.09.2026.

### Introduction

The Supreme Court has recently examined an important and increasingly relevant question at the intersection of statutory limitation under the Insolvency and Bankruptcy Code, 2016 ("IBC") and the growing dependence of courts and tribunals on electronic filing systems. The decision in *Regional Provident Fund Commissioner-II v. Ms. Mamta Binani & Ors.*, judgment dated 10 September 2026, addresses a practical difficulty that is likely to arise with greater frequency as judicial proceedings become increasingly digitised: what happens when a litigant makes a genuine attempt to institute an appeal within the prescribed period, but is prevented from completing the filing because the electronic filing system of the court or tribunal itself is not functioning?

The issue is particularly significant in insolvency proceedings because the IBC is founded upon strict timelines. The legislative scheme seeks speedy resolution of insolvency matters and therefore permits only limited extension of the period prescribed for an appeal. At the same time, procedural rules and technological systems are meant to facilitate access to justice. They cannot, in themselves, become a reason for extinguishing a substantive right of recourse where the litigant has acted diligently and the inability to complete the filing is attributable to the institutional system.

The judgment is therefore important not because it relaxes the limitation period under the IBC, but because it draws a principled distinction between delay caused by a litigant and an apparent delay created by a failure of the judicial filing mechanism.

### Background and Factual Matrix

The dispute arose in the context of approval of a resolution plan concerning Rolta India Limited by the National Company Law Tribunal ("NCLT"), Mumbai, on 15 December 2025. The Regional

Provident Fund Commissioner-II sought to challenge the order before the National Company Law Appellate Tribunal ("NCLAT").

The statutory framework governing such an appeal is contained in Section 61(2) of the IBC. The provision requires an appeal against an order of the NCLT to be filed before the NCLAT within 30 days. It further permits the Appellate Tribunal to allow an appeal to be filed after the expiry of the initial period if it is satisfied that there was sufficient cause for the delay, but only for a further period of 15 days. Consequently, the statutory scheme contemplates a maximum period of 45 days.

In the present case, the appellant did not remain inactive during the relevant period. The appellant attempted to file the appeal on 28 January 2026 and again on 29 January 2026. However, technical difficulties in the NCLAT's e-filing system prevented completion of the filing. The difficulties included failure in delivery of the One-Time Password ("OTP") and a backend technical issue. As a result, although the appellant had attempted to comply within the relevant period, the appeal could ultimately be e-filed only on 30 January 2026, one day beyond the 45-day period.

The appellant thereafter sought appropriate relief from the NCLAT. The NCLAT, however, rejected the application for condonation and dismissed the appeal as time-barred. The matter consequently reached the Supreme Court.

### The Central Question Before the Supreme Court

At first glance, the matter appeared to concern the power of the NCLAT to condone a delay beyond the maximum period of 45 days prescribed under Section 61(2). The Supreme Court accepted an important part of the NCLAT's reasoning: the statutory limit contained in Section 61(2) could not simply be extended beyond what the legislature had expressly permitted.

This aspect of the judgment is important. The Court did not hold that the NCLAT possesses an unrestricted power to extend the limitation

period under the IBC. Nor did it dilute the legislative objective of expeditious adjudication under the insolvency framework.

The real question, therefore, was different. If the appellant had made a bona fide attempt to file the appeal within time, but the filing could not be completed because the tribunal's own electronic system was incapable of receiving the filing, could that period of technological failure be treated as a delay attributable to the appellant?

The Supreme Court answered this question by examining the matter from the standpoint of fairness, institutional responsibility and the established principle that no person should suffer because of an act or failure attributable to the court or tribunal.

### **Actus Curiae Neminem Gravabit**

The Supreme Court invoked the well-established principle of “actus curiae neminem gravabit”—an act of the court shall prejudice no one.

The principle has a straightforward but powerful application in the context of electronic filing. A litigant can be expected to comply with the prescribed procedural requirements, but such compliance necessarily presupposes that the forum is capable of receiving the document. Where filing is mandated through an electronic system, the functionality of that system becomes an integral part of the procedural mechanism.

The Court observed that limitation can operate against a litigant only when the court or tribunal is open and functionally capable of receiving the papers or documents sought to be filed. If a litigant makes a bona fide attempt to file within time, but the court's own system prevents completion of the filing, the litigant should not lose the right to pursue the case merely because of that technical failure.

This reasoning is particularly relevant in the present era, where filing before courts and tribunals is no longer confined to the physical presentation of documents at a filing counter. E-filing portals, authentication systems, OTP mechanisms, online payment gateways, document-upload modules and backend processing have become part of the practical architecture of access to justice.

The judgment therefore recognises an important procedural reality: a litigant cannot be required to achieve the impossible. If the prescribed mode of filing is unavailable because of a failure in the

institution's own system, the consequences of that failure cannot automatically be placed upon the litigant who has acted diligently.

### **Limitation Remains Strict Under the IBC**

One of the most important aspects of the judgment is what it does not decide. The Supreme Court has not diluted the strict limitation regime under the IBC.

Section 61(2) continues to prescribe 30 days as the ordinary period for filing an appeal, with a further period of 15 days available where sufficient cause is shown. The judgment should not be understood as conferring upon the NCLAT a general power to condone delays beyond the statutory outer limit.

The distinction drawn by the Court is between extending a statutory period and determining the date on which a filing should legally be treated as having been presented.

This distinction is fundamental. If a litigant simply waits until the limitation period expires and subsequently seeks an extension on the ground of hardship, the statutory limitation provisions continue to apply with full force. The position is materially different where the litigant attempts to file within time but the institutional mechanism for filing fails.

In the latter situation, the apparent delay may not truly be a delay on the part of the litigant at all. The relevant question becomes whether the period during which the system remained non-functional should be excluded and whether the first bona fide attempt can be recognised for the purpose of determining the date of presentation.

### **Exclusion of the Period of System Failure**

Significantly, the Supreme Court indicated that the appropriate approach was not necessarily to “condone” a delay beyond the statutory limit. Instead, the period during which the e-filing system remained non-functional could be excluded.

This approach preserves the statutory scheme while preventing an unjust result.

If a litigant initiates the filing process within the prescribed period and is unable to complete it solely because of a malfunction in the tribunal's electronic system, treating the subsequent successful upload as the only relevant date may create an artificial delay. The substantive reality

is that the litigant had already attempted to institute the proceedings.

The Court further indicated that the date of the first bona fide attempt to e-file could be treated as the date of presentation. In an appropriate case, principles embodied in Order VII Rule 6 of the Code of Civil Procedure, 1908 may also be invoked, notwithstanding the fact that the CPC does not generally govern proceedings under the IBC.

The reference to this principle is significant because it demonstrates that procedural concepts may, where appropriate, inform the exercise of justice even in specialised statutory proceedings, provided that such application does not contradict the statutory framework.

### **The Importance of a Bona Fide Attempt**

The expression “bona fide attempt” is central to the reasoning. The judgment should not be read as creating a general defence available to every litigant who files an appeal after the prescribed period and subsequently asserts that there was a technical difficulty.

A litigant seeking the benefit of this principle would necessarily have to demonstrate that a genuine and timely attempt was made to comply with the filing requirement. The facts must establish that the impediment was external to the litigant and attributable to the functioning of the court or tribunal's system.

The distinction protects both sides of the limitation framework. On the one hand, it protects a diligent litigant from losing a legal remedy because of a technological failure beyond his or her control. On the other hand, it prevents careless litigants from converting the judgment into an open-ended excuse for delayed filing.

In practical terms, therefore, the existence of a bona fide attempt becomes an evidentiary question. A litigant would be well advised to preserve all available records of the filing attempt, including screenshots, error messages, OTP-related communications, portal acknowledgements, transaction details, emails sent to the registry or technical support, and any other contemporaneous evidence showing that the filing process was initiated within time.

### **Digital Justice and Institutional Responsibility**

The judgment assumes particular importance because digitisation of judicial proceedings is no longer merely an administrative convenience. It has become an essential component of the justice-delivery system.

However, the increased dependence on technology also creates a corresponding institutional responsibility.

Where a court or tribunal mandates electronic filing, the reliability and accessibility of the electronic filing infrastructure become closely connected with the litigant's ability to exercise a legal remedy. A system failure can therefore have consequences comparable to the temporary closure or non-availability of a physical filing counter.

The Supreme Court's reasoning recognises this institutional dimension. Technology is intended to facilitate access to justice, not to create an additional procedural barrier.

### **Implications for Insolvency Litigation**

The ruling is particularly relevant to insolvency practitioners because limitation under the IBC is often treated with considerable strictness. The speed and certainty of proceedings are central to the insolvency framework, and parties routinely work within compressed timelines.

The judgment nevertheless makes clear that strictness cannot be equated with mechanical rigidity. The statutory objective of speedy adjudication must be balanced against the basic requirement that a litigant should have a meaningful opportunity to access the appellate forum where the litigant has complied, or genuinely attempted to comply, within time.

This is especially relevant in matters involving government departments, statutory authorities, resolution applicants, creditors, successful resolution applicants and other stakeholders who may be required to coordinate internally before filing an appeal. The judgment does not excuse ordinary administrative delay. Its significance lies in circumstances where the evidence demonstrates that the actual impediment occurred at the filing stage because of a failure in the tribunal's system.

The decision therefore provides an important framework for future applications where electronic filing failures intersect with statutory limitation.

## **Practical Lessons for Advocates and Litigants**

The judgment also offers practical lessons for lawyers practising before the NCLT, NCLAT and other forums that rely substantially upon electronic filing.

First, litigants should not wait until the final day where filing can reasonably be completed earlier. Although the judgment protects bona fide attempts, reliance upon technological failure as a matter of routine would be unsafe.

Third, the advocate should make contemporaneous attempts to contact the registry or designated technical support mechanism and retain proof of such communication.

### **The Broader Principle of Access to Justice**

At a broader level, the judgment reflects the continuing effort of the judiciary to reconcile procedural discipline with substantive justice.

Limitation statutes serve an important public purpose. They prevent stale claims, promote certainty and encourage litigants to act diligently. In the insolvency context, the importance of certainty and speed is even greater because prolonged litigation can affect the value of the corporate debtor and the interests of multiple stakeholders.

Yet limitation is a procedural mechanism for regulating access to a remedy; it should not become an instrument of injustice where the litigant has demonstrably complied with the law to the extent reasonably possible.

The Supreme Court's approach is therefore not anti-limitation. It is pro-rule-of-law. The Court preserves the statutory deadline while refusing to treat a technological malfunction of the judicial system as though it were the litigant's own default.

The more the administration of justice depends upon digital infrastructure, the greater the need for clear protocols dealing with outages, failed uploads, authentication problems, payment failures and other technical impediments.

Its value lies in preserving procedural certainty while ensuring that technological failure does not defeat genuine legal remedies.

## **Conclusion**

The Supreme Court's decision in *Regional Provident Fund Commissioner-II v. Ms. Mamta Binani & Ors.* represents a careful balancing of two important principles: the strict statutory timelines prescribed under the IBC and the fundamental requirement that procedural mechanisms should not defeat access to justice.

The Court did not hold that statutory limitation can ordinarily be extended beyond the maximum period prescribed by Section 61(2). Instead, it recognised that where a litigant has made a bona fide attempt to comply within time and the filing cannot be completed because the tribunal's own electronic system is non-functional, the apparent delay may require a different legal treatment.

The principle of “*actus curiae neminem gravabit*” provides the foundation for this approach. No litigant should suffer because the forum before which the litigant seeks to exercise a legal right was itself unable, through its filing mechanism, to receive the filing.

The judgment consequently reinforces a sensible proposition for the digital age: procedural deadlines remain binding, but the administration of those deadlines must account for the functioning of the institutional mechanism through which compliance is required.

For advocates and litigants, the message is equally clear. Timely action remains essential. A party seeking protection from an e-filing failure must establish diligence, a genuine attempt to comply, and a clear causal connection between the system failure and the eventual delay. Where those circumstances are demonstrably established, however, procedural rigidity cannot be permitted to convert a failure of the judicial system into a forfeiture of the litigant's legal remedy.

As judicial proceedings become increasingly digital, the decision is likely to have significance beyond the immediate insolvency context. It underscores a basic constitutional and procedural proposition: technology must serve the administration of justice. It must not become a new barrier to it.

# CASE LAWS

---



### **Employees Provident Fund Organisation vs. Rachna Jhunjhunwala [2026] 188 taxmann.com 1076 (SC)**

*Where Provident Fund dues were excluded from the liquidation estate, but claims for interest and damages under the EPF Act were uncrystallized, and no proceedings in respect thereof had been initiated before commencement of CIRP, such claims constituted contingent liabilities, and where the Committee of Creditors did not provide for such contingent liabilities in the resolution plan, its decision could not be faulted as the resolution plan provided for actual Provident Fund dues, resulting in no violation of statutory mandate of IBC.*

The corporate debtor was admitted into CIRP on 01.05.2023. Pursuant to the public announcement, the appellant–EPF authority submitted a claim of about Rs. 22.50 lakhs comprising PF dues and statutory accruals under the 1952 Act, broken up as: about Rs. 0.73 lakhs towards PF dues under Section 7A, about Rs. 9.33 lakhs towards interest under Section 7Q, and about Rs. 12.44 lakhs towards damages under Section 14B. The Committee of Creditors, with 100% voting share, approved a resolution plan proposing payment of about Rs. 0.73 lakhs towards PF dues of the corporate debtor as against the total claim, and the plan was placed before the Adjudicating Authority for approval. The Adjudicating Authority approved the resolution plan, which provided for payment of PF dues but did not provide for the claimed interest under Section 7Q and damages under Section 14B. Aggrieved, the appellant filed an appeal. The NCLAT

recorded that proceedings relating to interest and damages under the 1952 Act were initiated on 10.05.2023, whereas CIRP had commenced on 01.05.2023; therefore, those claims were neither crystallized nor could they be adjudicated owing to the moratorium, and protection under Section 36(4)(a)(iii) of the IBC was not available to such claims. The NCLAT declined to interfere and affirmed approval of the plan.

Held that though PF dues are excluded from the liquidation estate under Section 36(4)(iii) of the IBC, liability of CD towards interest and damages payable under Section 7Q and 14B of the EPF Act, if not determined and finalized before CIRP commencement, would fall in the category of a contingent liability. If CoC, in its commercial wisdom, has not provided for such contingent liabilities in the resolution plan, its decision cannot be faulted because the underlying object of CIRP is to adhere to fixed timelines. If the prospective resolution applicant is kept guessing as to what he would have to pay to take over and run the business of CD, it may not enter the fray, thereby defeating the underlying object of IBC. Where the resolution plan provided for payment of PF dues even though it did not provide for uncrystallized claims of interest and damages regarding which proceedings were not initiated by the CIRP commencement date, there was no blatant violation of the statutory mandate of the IBC.

**Case Review:** Order of NCLAT, Delhi in CAAT(I)-1412-2024, dated 27-01-2026, affirmed.

---

## SECTION 96 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS – INTERIM MORATORIUM

### **Amarjeet Singh vs. Hardeep Singh [2026] 188 taxmann.com 1069 (Delhi)**

*Where a complaint under section 138 of the Negotiable Instruments Act was pending, and the respondent relied on NCLT orders recording commencement of interim moratorium under section 96 of IBC, such interim moratorium does not bar or justify stay of criminal proceedings under section 138; therefore, the Magistrate's order staying complaint proceedings was liable to be set aside.*

The petitioner/complainant had filed a complaint under section 138 of the NI Act against the respondent/accused. During pendency of the complaint, the parties settled the matter, and the respondent made part payments but defaulted despite repeated undertakings. The petitioner filed an application under sections 421 and 431 of Cr.P.C., whereupon the Metropolitan

Magistrate directed recovery of the remaining amount as fine recoverable as arrears of land revenue by attachment of the respondent's properties. The respondent thereafter relied upon NCLT/NCLAT orders in IBC proceedings, including an NCLT order commencing interim moratorium under section 96. Metropolitan Magistrate, relying on said orders, stayed further proceedings in the complaint under section 138.

Held that interim moratorium under section 96 applies only to civil proceedings in respect of debt and does not bar or justify stay of criminal proceedings under section 138 of the Negotiable Instruments Act. Therefore, the order dated 17-11-2022 staying complaint proceedings was liable to be set aside.

**Case Review:** Amarjeet Singh v. Hardeep Singh, Complaint Case No. 11995/2018, dated 17-11-2022, set aside.

## SECTION 14 - CORPORATE INSOLVENCY RESOLUTION PROCESS – MORATORIUM - GENERAL

### **Central Transmission Utility of India Ltd. vs. Summit Binani [2026] 188 taxmann.com 1047 (NCLAT - Chennai)**

*Where Corporate Debtor undergoing CIRP had a security deposit with the appellant, and appellant sought to adjust this deposit against pre-CIRP transmission charges, all recovery actions for past dues stand prohibited during moratorium and security deposit can only be adjusted against post-CIRP dues, so NCLT rightly barred adjustment towards pre-CIRP period.*

The corporate debtor, a power generator, had executed a Transmission Service Agreement with the Appellant (Central Transmission Utility) for inter-state transmission. In CERC proceedings prior to CIRP, the Corporate Debtor was directed to open an LC of Rs. 108.44 crores, which was substituted by a cash payment security deposit of Rs. 108.44 crores. CIRP commenced on 03.10.2019. The

appellant filed its operational debt claim of Rs. 356.41 crores with the RP. On 28.03.2020, the appellant invoked and adjusted Rs. 108.44 crores of payment security deposit against pre-CIRP outstanding transmission charges. NCLT, by the impugned order, held that appropriation of security deposit after initiation of CIRP towards pre-CIRP dues was impermissible, directing adjustment only against post-CIRP dues.

Held that in the scheme of IBC, once a Corporate Debtor is admitted into CIRP, all recovery action for past dues comes to a standstill and during CIRP period, the Corporate Debtor has to be kept as a going concern, and all essential supplies of goods or services have to be continued, subject to payment of dues 'arising from such supply during moratorium period', that is, on payment of current dues. Recovery of past

dues is specifically prohibited, and the specified procedure envisages that the creditor will file a claim, in proper form, before IRP/RP, which had been done in the present case. The appellant could not have adjusted 'security payment deposit' against pre-CIRP dues. Thus, NCLT was correct in directing that the security payment deposit not be adjusted against past dues of the pre-CIRP period, but instead be adjusted only

against dues arising post-CIRP. Thus, there was no reason to interfere with the order of NCLT.

**Case Review:** Order of National Company Law Tribunal, Hyderabad in I.A. No. 487 of 2020 in CP (IB) No. 492/7/HDB/2019, dated 09.10.2020, affirmed.

---

## SECTION 14 - CORPORATE INSOLVENCY RESOLUTION PROCESS - MORATORIUM

**Tejas J. Shah vs. Mantri Technology Constellations (P.) Ltd. [2026] 188 taxmann.com 984 (SC)**

*Where homebuyers filed a consumer complaint against multiple respondents for non-delivery of residential apartments, and a moratorium was imposed only on the respondent corporate debtor during insolvency proceedings, NCDRC was not justified in refusing to proceed against the remaining respondents since no moratorium or statutory bar protected them, and was required to adjudicate the complaint against those parties as per law.*

Appellants/homebuyers had booked residential apartments in a project developed by the respondent No.1/corporate debtor. Possession was not delivered despite substantial payments, leading appellants to file a consumer complaint before NCDRC alleging deficiency in service and unfair trade practices against all respondents. During pendency of the consumer complaint, NCLT admitted an application under Section 9 of IBC against the respondent No.1/corporate debtor and imposed a moratorium under Section 14 against that corporate debtor. Appellants filed applications before NCDRC praying that, notwithstanding the moratorium against the corporate debtor, the consumer complaint be proceeded with against the remaining respondents (promoters/directors/associated entity/landowners). NCDRC rejected both applications, observing that liability for alleged deficiency in service was yet to be determined; that alleged deficiency

pertained only to the corporate debtor since agreements were with it; and that proceedings could not be split to continue against remaining respondents.

Held that since no independent moratorium or independent protection operated in favour of respondent Nos. 2 to 7, NCDRC was not justified in rejecting appellants' prayer to proceed with complaint against rest of respondents. In absence of any legal bar against continuation of proceedings qua said respondents, NCDRC was not justified in rejecting appellants' prayer to proceed with complaint against rest of respondents. The question that fell for consideration while deciding interlocutory applications was not whether respondent Nos. 2 to 7 were liable, but whether, in absence of any moratorium operating in their favour, consumer complaint could proceed against them. In the absence of any such statutory bar, NCDRC was required to adjudicate the complaint against said respondents and determine, upon consideration of rival pleadings and objections, whether any liability could ultimately be fastened upon them. It was not open to NCDRC to foreclose that inquiry at the interlocutory stage. Therefore, the impugned order could not be sustained as it declined to undertake said exercise. Accordingly, rejection of applications was to be set aside, and NCDRC was to be directed to proceed to hear the consumer complaint.

**Case Review:** Order of National Consumer Disputes Redressal Commission in I.A. No. 15656 of 2024 and I.A. No. 14200 of 2024 in Consumer Complaint No. 13 of 2023, order dated 20.01.2025, set aside.

---

## SECTION 31 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN - APPROVAL OF

### **Dollex Agrotech Ltd. vs. Regional Transport Office of Belgaum [2026] 188 taxmann.com 973 (Karnataka)**

*Where the petitioner, as an approved Resolution Applicant, sought discharge of hypothecation endorsement on vehicles of the Corporate Debtor post approval of the Resolution Plan, such right is recognized; however, the petitioner is required to comply with the statutory procedure under Rule 61 of the Central Motor Vehicles Rules by submitting the prescribed application and documents, and substantive rights from the NCLT order do not dispense with mandatory procedural requirements.*

The petitioner was a registered company and Resolution Applicant in I.A. No.232(MP)/2023 before NCLT concerning the respondent No. 2–Corporate Debtor. Resolution Plan submitted by the petitioner had attained approval under Section 31 and had become operative from the date of the order passed by NCLT. The petitioner had requested the respondent No.1–Regional Transport Officer to discharge hypothecation endorsements in favour of the financier on vehicles of respondent No.2.

However, said request remained unconsidered.

Held that once the Resolution Plan is approved, rights and obligations of all stakeholders are governed by the terms of the approved plan and, therefore, the petitioner could not be denied the right to seek discharge of hypothecation endorsement in respect of vehicles covered under the Resolution Plan. At the same time, the respondent No. 1 would be justified in insisting upon compliance with statutory procedure prescribed under Rule 61 of the Central Motor Vehicles Rules, 1989. Since rules mandate submission of an application in Form No. 35 together with prescribed documents and fee, the petitioner was required to comply with said procedural requirement before the respondent No.1 could consider the request for cancellation of hypothecation endorsement. Procedural compliance could not be dispensed with merely because substantive right flows from order of NCLT. Thus, the petitioner was directed to submit an application in Form No. 35, together with all documents required under Rule 61 of the Central Motor Vehicles Rules, 1989 and prescribed fee before respondent No.1.

---

## SECTION 33 - CORPORATE LIQUIDATION PROCESS - INITIATION OF

### **Tecpro Systems Limited (In Liquidation) vs. Reliance Infrastructure Ltd. [2026] 188 taxmann.com 939 (Bombay)**

*Where the liquidator of a company in liquidation issued a notice invoking arbitration without prior permission from the NCLT as required under Section 33(5), commencement of arbitration proceedings remained ineffective until such permission was granted, and only after obtaining NCLT's approval could further steps in proceedings be taken; the present application, filed after obtaining such approval, was maintainable.*

The applicant company and respondent entered into a Purchase Order containing an arbitration clause. The NCLT ordered liquidation of the applicant and appointed a liquidator. The liquidator issued a notice invoking arbitration under Section 21 of the Arbitration and Conciliation Act, 1996 against the respondent. NCLT subsequently granted approval under Section 33(5) of IBC for initiation of arbitration proceedings. The applicant thereafter filed the present application under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an arbitrator.

Held that prior permission of NCLT is mandatory before the Liquidator initiates any legal proceedings on behalf of the corporate debtor. Since notice under Section 21 of the Arbitration and Conciliation Act was issued without obtaining prior permission from NCLT, commencement of such proceedings remained ineffective until the date on which required permission was granted by NCLT. Notice issued for invocation

of arbitration under Section 21 would become effective only from the date on which permission under Section 33(5) was obtained, and any further steps in proceedings could be taken only thereafter. Since the present application had been filed after obtaining permission under Section 33(5), there was no legal impediment in allowing the present application.

---

## SECTION 31 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN - APPROVAL OF

**JSW Steel Ltd. vs. State of Chhattisgarh [2026] 188 taxmann.com 930 (Chhattisgarh)**

*Where pursuant to initiation of CIRP of corporate debtor RP invited claims from creditors, however, respondent- State Electricity Board had not submitted any claim before RP to recover electricity dues to be paid by corporate debtor and meanwhile resolution plan was approved, right of respondent to recover amount due had extinguished.*

The respondent, Chhattisgarh State Electricity Board, sanctioned 8500 KVA for the petitioner's Sponge Iron Plant. Thereafter, the State of Chhattisgarh, through the Department of Energy, issued a notification regarding total exemptions to all new Mega Projects established with a capital investment in fixed assets exceeding 100 crores from payment of electricity duty for a period of 15 years. The petitioner applied for

electricity duty exemption, and its application was forwarded by the District Industries Centre and recommended by the Directorate of Industries. Despite the exemption recommendations, recovery and demand notice for electricity duty was issued. Said demands were challenged by filing a writ petition. During pendency, NCLT initiated CIRP against the petitioner on an application under Section 7. Public announcements inviting claims were widely published. A Resolution Plan was submitted; objections were invited, and none were raised to the plan. NCLT approved the Resolution Plan, which attained finality.

Held that since respondent authorities did not submit their claims within the prescribed period and did not appeal NCLT's approval order, NCLT's order attained finality, and therefore, the demand notice issued against the petitioner was to be quashed.

---

## SECTION 60 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES - ADJUDICATING AUTHORITY

**Nishit Badola vs. Union of India [2026] 188 taxmann.com 691 (Delhi)**

*Where a financial creditor of a corporate debtor sought correction of the corporate debtor's MCA master data and investigation for alleged fraud, but subsequent proceedings*

*under IBC, PMLA, and the Companies Act provided sufficiently efficacious remedies to address grievances, the main writ petition became infructuous and was disposed of with the prior interim order vacated.*

The petitioner, a financial creditor of the corporate debtor, filed a writ under Articles 226/227 seeking correction of the corporate debtor's MCA master data by removing the name of Mr. Rajiv Baisoya shown as director and removing names of additional directors whose tenures had expired, and a direction to the respondent no. 2 to investigate alleged fraud. During pendency, on 22.10.2024, the Court directed that the corporate debtor's status on the MCA website be shown as 'under CIRP' and, to safeguard the assets of the corporate debtor, permitted the IRP to take specified protective measures in respect of identified assets, based on the IRP's status reports filed in CIRP. The respondent no. 1 (MCA) filed a Compliance Affidavit stating that MCA master data no longer showed Mr. Rajiv Baisoya and Mr. Girish Chandra Joshi as director/additional director, and that a copy of e-form DIR-12 for appointment of Mr. Baisoya had been provided. The petitioner moved an

application seeking disposal of the writ, stating that principal reliefs and concerns stood addressed in view of subsequent developments, including IRP's undertaking recorded by the Supreme Court and orders of the Supreme Court and the Special Court (PMLA) for restitution/monetisation of attached assets.

Held that the petitioner had an equally efficacious remedy under the provisions of the IBC, PMLA and Companies Act, 2013, and the provisions were efficacious enough to investigate into serious fraud that had been alleged by the petitioner and provided remedy under said statutes. Since prayers made in the main petition had either become infructuous or could not be granted, the impugned order dated 22.10.2024 could not be extended any further. Since the main writ petition had been disposed of, the impugned order dated 22.10.2024 was to be vacated.

## SECTION 31 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN - APPROVAL OF

**Tata Steel Ltd. vs. Varsha [2026] 188 taxmann.com 613 (SC)/[2026] 193 SCL 586 (SC)**

*Where a resolution plan was approved under section 31(1), all claims provided therein stood frozen and became binding on all stakeholders; claims not incorporated therein or not crystallised by the date of approval stood extinguished, and legal proceedings not resulting in determinable claims by the approval date stood abated, ensuring that the resolution applicant commenced on a clean slate, with pro-rata distributions limited strictly to the settlement amount stipulated in the resolution plan.*

The corporate debtor was a steel company. Before initiation of CIRP against the corporate debtor, Respondent-operational creditor (Respondent No.1) filed a civil suit for recovery of about Rs. 38.89 lakhs with interest (later numbered as Civil Suit No. 153 of 2011). Intervenor-operational creditor (Masyc) commenced six arbitral references

regarding supplies to the corporate debtor, which remained pending when the resolution plan came to be approved. CIRP was initiated at the instance of a financial creditor. During CIRP, Respondent No.1 and the Intervenor lodged operational debt claims of about Rs. 34.28 lakhs and Rs. 31.31 crores respectively before the IRP/RP. In the Interim List of Creditors (17 January 2018), both claims were admitted at a notional value of Rs. 1 each with a note that liabilities were subject to outcomes of ongoing proceedings; Respondent No.1's claim was later modified to about Rs. 1.67 crores on account of compound interest. In the Final List of Creditors (20 March 2018), both claims were again admitted at Rs. 1 each; the note recorded that disputed claims had been verified with a notional amount of Rs. 1. Aggregate claims of operational creditors were about Rs. 1,422 crores. The appellant-successful resolution applicant submitted its resolution plan based on the RP's information memorandum. Although the

liquidation value available to operational creditors was stated to be NIL, the plan voluntarily created an Operational Creditors Settlement Amount of Rs. 1,200 crores, of which Rs. 1,000 crores was earmarked for essential/critical operational creditors and Rs. 200 crores for pro-rata distribution among other admitted operational creditors, with disbursement within 12 months from closing. The Committee of Creditors approved the plan, and the NCLT sanctioned it under Section 30 read with Section 31. Appeals by aggrieved parties were dismissed by the NCLAT; the Intervenor's separate challenge to the treatment of its claim was dismissed as withdrawn by the NCLT and was not pursued further. Post-approval, the appellant applied under the CPC to dismiss the pending civil suit; the Trial Court rejected the application. A similar application before the sole arbitrator to terminate the Intervenor's arbitration was also rejected. The appellant's writ petition against the Trial Court order was dismissed by the Bombay High Court, which also dismissed a review; the High Court permitted the civil suit to proceed notwithstanding plan approval. A writ petition against the arbitrator's order before the Punjab & Haryana High Court was dismissed with a direction that the final award would not be pronounced without leave.

Held that once a resolution plan is approved under Section 31(1), claims therein stand frozen and are binding on all stakeholders, including the corporate debtor, its creditors, governmental authorities, local authorities, employees and any other stakeholder. Claims not incorporated in the resolution plan stand

extinguished, withdrawn or abated, consistent with the legislative intent of enabling the resolution applicant to commence on a 'clean slate', free from unforeseen liabilities. Regulation 12(2) of the CIRP Regulations, as it then stood, requires that the corporate debtor's liability towards operational creditors be crystallised and quantified by the date of approval of the resolution plan by the CoC. Where the resolution plan provided for a corpus of Rs. 1,200 crores to be distributed in accordance with Clause 8.2.2, only Rs. 200 crores was available for payment to operational creditors on a pro-rata basis within twelve months, and that too for claims crystallised and approved by the CoC as on the date of approval of the resolution plan. Where the resolution plan unequivocally stipulated that all legal proceedings initiated by or on behalf of operational creditors, including civil suits and arbitrations, for the period prior to the effective date would immediately, irrevocably and unconditionally stand withdrawn, abated, settled and/or extinguished, only crystallised claims as on the effective date were payable on a pro-rata basis. Thus, no amount beyond Rs. 1 each was payable to operational creditors, whose pending arbitration and civil proceedings stood abated/waived/extinguished/withdrawn upon approval of the resolution plan.

**Case Review:** Order of Bombay High Court, Nagpur Bench in W.P. No. 8620 of 2018, Dated 28-3-2019 and Order of Bombay High Court, Nagpur Bench in Misc. Civil Application No. 649 of 2019, dated 9-7-2019, set aside.

## SECTION 5(13) - CORPORATE INSOLVENCY RESOLUTION PROCESS - COSTS

**Subir Mukherjee vs. Ram Ratan Modi [2026] 188 taxmann.com 601 (NCLAT-New Delhi)**

*Where the appellant, who superannuated during CIRP, sought gratuity and leave encashment to be treated as CIRP costs, since gratuity was a terminal benefit and not an expense actually incurred by the RP, such dues*

*could not be equated to salary payable during CIRP, and the appellant's claim was misconceived and could not be sustained in law.*

The appellant was a former director and long-serving employee of the corporate debtor. He superannuated during CIRP and became entitled to gratuity and other retiral

dues. He lodged a claim, which the RP partly admitted. The appellant filed an application seeking directions for payment of gratuity, leave encashment and interest, and for

treating these dues as CIRP costs. The Adjudicating Authority rejected the plea, holding that such claims did not fall within section 5(13) and were to be dealt with under the resolution plan.

Held that section 5(13) contains an exhaustive definition of CIRP costs, and the obligation to pay gratuity was not an expense actually incurred by the RP. Gratuity accrued as a terminal benefit and could not be equated to salary payable during CIRP. Therefore, the appellant's claim was misconceived and could not be sustained in law.

---

## SECTION 220 - IBBI - PUNISHMENT FOR CONTRAVENTION

### **Sachin Naveen Sinha vs. Insolvency and Bankruptcy Board of India [2026] 188 taxmann.com 600 (NCLAT- New Delhi**

*Where the appellant, functioning as a resolution professional, was suspended by IBBI from all CIRP assignments following disciplinary action arising out of one CIRP, but had made a strong prima facie case and showed irreparable harm, suspension was directed to be stayed for other CIRPs except the one in which removal and action were recommended, leaving it to respective CoCs to decide on the appellant's continued engagement.*

The appellant was functioning as resolution professional in multiple CIRPs. In one CIRP, the Adjudicating Authority removed the appellant as resolution professional and recommended disciplinary action to IBBI. That order was challenged before NCLAT, which granted an interim stay on the direction to refund. Apart from that CIRP, the appellant had appointments as resolution professional in three other CIRPs. Subsequently, pursuant to a disciplinary proceeding, IBBI suspended the appellant's registration for three years, with effect from 08.07.2026, and its operation extended

across his assignments. The appellant filed an appeal under Section 220(7) challenging the disciplinary suspension and moved I.A. seeking a stay of the impugned order's operation insofar as it barred him from acting in other CIRPs.

Held that since the impugned proceeding of IBBI had barred the appellant from associating with every assignment he was entrusted with, IBBI had overstepped its authority under Section 220(2). Since the appellant had made a strong prima facie case, the balance of convenience was in his favour, and irreparable injury would be caused if the appellant was barred from associating with other assignments other than one in which the Adjudicating Authority had removed him and recommended a disciplinary action against him, the order of suspension imposed on the appellant with regard to other assignments in which the appellant was appointed as a resolution professional was to be suspended. IBBI, however, might communicate the impugned order to the other CoC of such other assignments, and once done, it was for the respective CoC to take a call on its preference for the appellant as a resolution professional.

---

## ARTICLES IN “THE INSOLVENCY PROFESSIONAL - YOUR INSIGHT JOURNAL” GUIDELINE FOR AUTHORS

***The articles sent for publication in the E-journal “The Insolvency Professional - Your Insight Journal” should confirm to the following parameters, which are crucial in selection of the article for publication:***

1. *The article should be original, i.e., not published/broadcasted/hosted elsewhere, including any website. A declaration in this regard must be submitted to IPA-ICMAI in writing at the time of submission.*
2. *The article may be topical and address matters of current interest to professionals and stakeholders.*
3. *It may preferably introduce stakeholders to new knowledge areas or present innovative ideas relevant to the profession.*
4. *The length of the article may be 2500–3000 words.*
5. *The article should include an Abstract of approximately 200–250 words.*
6. *The article should contain clear, concise, and engaging headings.*
7. *Authors may provide a list of references, if any, at the end of the article.*
8. *A brief author profile, along with e-mail ID, postal address, contact number, and the required declaration of originality, must be submitted with the article.*
9. *The article must adhere to ethical standards, with plagiarism not exceeding 10% and AI-generated content limited to a maximum of 20% similarity, ensuring originality of the author’s work.*
10. *A limited number of articles (maximum 2–3) from an individual author may be considered for publication in a year.*
11. *In case an article is found unsuitable, it may not be considered for publication.*
12. *Articles may be evaluated based on originality, relevance, clarity, and innovation, as part of the review criteria.*
13. *Articles should be sent via email to: [publication@ipaicmai.in](mailto:publication@ipaicmai.in)*
14. **Submission Guidelines**
  - a) Format:** Submissions must be in Microsoft Word (.docx) format.
  - b) Length:** Articles should be between 2500-3000 words.
  - c) Font:** Use Cambria, 12-point font.
  - d) Line Spacing:** 1.5 Line-spaced.
  - e) Margins:** 1-inch margins on all sides.
  - f) Footnotes:** Cambria 10 -Point size
  - g) Abstract:** Use Cambria, 12-point font. (If Applicable)
  - h) Columns:** Two columns

***Disclaimer:*** *The information contained in this document is intended for informational purposes only and does not constitute legal opinion, advice, or any advertisement. This document is not intended to address the circumstances of any particular individual or corporate body. Readers should not act on the information provided herein without appropriate professional advice after a thorough examination of the facts and circumstances of a particular situation. There can be no assurance that the judicial/quasi-judicial authorities may not take a position contrary to the views mentioned herein. Contents of the articles in this publication or intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances. The Contents of the articles and opinions expressed therein are of the authors and do not reflect the views of IPA-ICMAI.*



**INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**  
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

**STAY CONNECTED WITH IPA-ICMAI**

**Connect • Learn • Engage • Grow.**



**"SCAN TO FOLLOW US"**