

IBC- NCLAT FORTNIGHTLY SUMMARY (March 1, 2025 – March 15, 2025)

INTRODUCTION

The following is a snapshot of the important orders passed by the National Company Law Appellate Tribunal (“**NCLAT**”), under the Insolvency and Bankruptcy Code, 2016 (“**Code**”), during the period between March 1, 2025, to March 15, 2025. For ease of reference, the orders have been categorized and dealt with in the following categories *i.e.*, Pre-admission stage, Corporate Insolvency Resolution Process (“**CIRP**”) stage, Post CIRP stage, Liquidation and Miscellaneous.

A. PRE-ADMISSION STAGE

1. The NCLAT, in [Rakesh Arora v. Acute Daily Media Private Limited](#), held that section 65 of the Code, being a penal provision, must be strictly construed according to its literal meaning without stretching its interpretation. It observed that penalties can only be imposed on persons who directly initiate insolvency proceedings fraudulently or maliciously, and not on colluding parties like promoters. It was further observed that, on the basis of materials on record, it was open for the Adjudicating Authority to impose penalty under section 65, without issuing any prior notice to the Financial Creditor.
2. In [Manish Mukim v. Ms. Rakhi \(Company Appeal \(AT\) \(Insolvency\) No. 617 of 2023\)](#), the NCLAT held that a section 9 insolvency application cannot proceed if it is based on a breach of settlement agreement where the original default happened before section 10A of the Code came into effect, but the payment deadlines in the settlement agreement fell during the section 10A suspension period. Additionally, the NCLAT condemned the pursuit of the Operational Creditor to initiate insolvency proceedings despite receiving the full settlement amount, noting that the Code is meant for insolvency resolution and cannot be misused as a debt recovery mechanism.
3. In [Debarata Ray Choudhuri v. The State Trading Corporation of India Limited \(Company Appeal \(AT\) \(Insolvency\) No. 1985 of 2024\)](#), the NCLAT held that a reduction in the claim amount by the Operational Creditor was suggestive of existence of a genuine pre-existing dispute which barred the admission of the section 9 application. The NCLAT also went onto state that it would not express any opinion on non-IBC issues of defamation, ethics and morality raised which were not relevant to decide on the appeal.
4. In [Santoshi Finlease Private Limited v. State Bank of India \(Company Appeal \(AT\) \(Insolvency\) No. 974 of 2023\)](#), the NCLAT had an occasion to examine whether a fund infused as an investment in equity to acquire control and directorship in the Corporate Debtor constitute a financial debt. It upheld the Adjudicating Authority's decision to dismiss the Section 7 petition by observing that the transaction was orchestrated by the Mittal family members who controlled both companies during the relevant period, making it essentially a self-serving ‘Mittal-to-Mittal’ arrangement designed to obstruct the legitimate recovery efforts of State Bank of India under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

Interestingly, in a stray observation, the NCLAT went onto observe that payments which were made on behalf of the Corporate Debtor but were not directly disbursed to the Corporate Debtor would not qualify as financial debt. In our view, the same represents an unreasonably narrow construct of what amounts to a financial debt and in fact ignores its own earlier decision in [Mukesh Kumar Aggarwal v. Anurag Gupta \(Company Appeal \(AT\) \(Insolvency\) No. 1264 of 2019 dated June 8, 2020\)](#) where the NCLAT had considered that monies advanced

on behalf of the Corporate Debtor would also qualify as financial debt for having the commercial effect of borrowing.

B. CIRP STAGE

1. In [*Himanshu Singh v. HDFC Bank Limited \(Company Appeal \(AT\) \(Insolvency\) No. 336 of 2025*](#)), the NCLAT held that when an application under section 12A of the Code for withdrawal of CIRP is filed before the constitution of the Committee of Creditors (“CoC”), the Adjudicating Authority is not required to act merely as a ‘post office’ to mechanically approve such applications. Rather, it must conduct a proper adjudicatory exercise after hearing all concerned parties and considering all relevant factors. The NCLAT affirmed that once CIRP is admitted, proceedings become *in rem*, and all creditors become necessary stakeholders with legitimate interests, not just the original applicant creditor. The NCLAT emphasized that creditors who file claims within the prescribed timeline have *locus standi* to object to a withdrawal application, especially when their claims are substantial compared to the settled amount. While no straight-jacket formula exists for adjudicating section 12A applications, the Adjudicating Authority must evaluate the nature and quantum of all stakeholders' claims and cannot disregard the interests of other creditors merely because a settlement has been reached with the original applicant creditor.

C. POST CIRP STAGE

1. In [*Shree Rajasthan Syntex Limited v. Chief Engineer \(Commercial\), Ajmer \(Company Appeal \(AT\) \(Ins\) No. 1411 of 2024*](#)), the NCLAT, in an interplay between the Code and the Electricity Act, 2003, established that a Resolution Plan's approval cannot extinguish prospective claims, particularly those arising from statutory obligations. The NCLAT specifically held that fuel surcharges and special fuel surcharges constitute statutory charges under the Electricity Act, 2003 rather than ordinary business debts. Furthermore, the judgment clarified that under Section 56(2) of the Electricity Act, 2003, electricity charges become due upon issuance of the bill rather than at the time of consumption. Consequently, the "clean slate principle" commonly applied in insolvency proceedings cannot eliminate future statutory obligations that will crystallize upon the subsequent issuance of bills.

In our view, although the decision tried why the clean slate would be not applicable in the instant case, it is doubtful if the entire purpose of extinguishing the pre-CIRP dues could be avoided by simply raising a bill for such dues on a date which is post the approval of the Plan.

2. In [*J.K. Paper Fibre Resources v. Sunit Jagdishchandra Shah \(Company Appeal \(AT\) \(Insolvency\) No. 76 of 2025*](#)), the NCLAT observed that an Operational Creditor lacks standing to challenge the extension of CIRP timelines before the Appellate Authority without having first raised the issue before the Adjudicating Authority. The NCLAT further clarified that a resolution plan approved beyond the 330-day statutory period remains valid when the Adjudicating Authority has formally extended this timeline prior to such approval. On matters of transparency, the NCLAT held that the CoC maintains discretion to disclose only fair and liquidation values without sharing comprehensive valuation reports, and operational creditors who possess no voting rights in CoC meetings, cannot claim prejudice based on non-disclosure of complete valuation details. Additionally, the NCLAT determined that the validity of a resolution plan cannot be contested on the grounds that Form G of the Corporate Debtor was not published on the websites of the Insolvency and Bankruptcy Board of India and Corporate Debtor.

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3. In [*Darwin Platform Infrastructure Limited v. Union Bank of India \(Company Appeal \(AT\) \(Insolvency\) No. 2012-2013 of 2024*](#)), the NCLAT held that the failure of a successful resolution applicant to implement an approved resolution plan within the stipulated timelines, particularly regarding the infusion of upfront payments, can result in the forfeiture of their performance bank guarantee and restoration of the CIRP. It was further observed that the successful resolution applicant cannot subsequently claim entitlement to implement the plan when an application for restarting the CIRP has been filed. The NCLAT emphasized that the pendency of litigations initiated by any person or stakeholder challenging the plan's approval is not a justifiable ground for non-implementation of the plan, unless the implementation is stayed by a court or tribunal. The NCLAT went on to observe that consequences of not adhering to resolution plan timelines cannot be reversed after considerable time has passed, especially when not even the first tranche of payment was made.

D. LIQUIDATION STAGE

1. In [*Ketan C Bagadia v. Nexus Electro Steel Limited \(Company Appeal \(AT\) \(CH\) \(Ins\) No. 36/2025*](#)), the NCLAT held that when an auction process during liquidation has already been completed with sale certificates issued to the successful bidder and proceeds distributed, a belated challenge to the auction proceedings cannot be entertained, particularly when the ex-managing director's own delay contributed to the finalization of the process. The NCLAT determined that a proposal under section 230 of the Companies Act, 2013 filed at a significantly delayed stage, especially after it had already been rejected by the stakeholders' committee, cannot obstruct the liquidator from discharging statutory functions to complete the liquidation process. The NCLAT also established that when subsequent developments have rendered the sought remedy ineffective, the Adjudicating Authority is not required to provide an elaborate reasoned order as it would be futile to justify a decision that requires no interference due to crystallized rights of third parties. It concluded that absent any demonstrated procedural flaw in the auction process conducted in accordance with the Code and Regulations, a belated challenge to such proceedings lacks merit.

E. MISCELLANEOUS

1. In [*Atul Babulal Prajapati v. Suhas Dinkar Bhattbhatt \(Company Appeal \(AT\) \(Insolvency\) No. 2273 of 2024*](#)), the NCLAT held that the day the order is pronounced must be excluded when calculating the 30-day limitation period under section 61(2) of the Code. It further held that under rule 3 of the NCLAT Rules, 2016, if the 30th day expires on day when the office of NCLAT is closed, that day and any succeeding day on which the office remains closed, shall be excluded. The NCLAT also went on to observe that the relevant date for calculating the commencement of the limitation period is the date of pronouncement of the order, regardless of when the appellant gained knowledge of it.

Contributed by:



Arka Majumdar
Partner



Vikram Chaudhuri
Senior Associate



Aakriti Garodia
Associate

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knowledgecentre@argus-p.com

Mumbai | Delhi | Bengaluru | Kolkata

www.argus-p.com

MUMBAI

11, Free Press House
215, Nariman Point
Mumbai 400021
T: +91 22 67362222

DELHI

7A, 7th Floor, Tower C,
Max House,
Okhla Industrial Area, Phase 3,
New Delhi 110020
T: +91 11 69044200

KOLKATA

Binoy Bhavan
3rd Floor, 27B Camac Street
Kolkata 700016
T: +91 33 40650155/56

BENGALURU

20th Floor, SKAV 909,
Lavelle Road
Bengaluru – 560001
T: +91 80 46462300