

KNOWLEDGE REPONERE
(A Weekly Bulletin)

“The ladder of success is best climbed by stepping on the rungs of the opportunity. - Ayn Rand”

Dear Professional Members,

The **Insolvency and Bankruptcy Code, 2016** (“Code”) is the bankruptcy law of India which seeks to consolidate the existing framework by creating a single law for insolvency and bankruptcy. The Code outlines separate insolvency resolution processes for individuals, companies and partnership firms.

After receiving the assent of the President on 28th May, 2016 and pursuant to the enforcement of the Code, following Rules and Regulations incidental to the Code have been notified till yet:

Rules	Date of Enforcement
Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016	15 th December, 2016
Companies (Transfer of Pending Proceedings) Rules, 2016	15 th December, 2016 (except Rule 4) & 1 st April, 2017 for Rule 4
Regulations	Date of Enforcement
Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016	21 st November, 2016
Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) Regulations, 2016	21 st November, 2016
Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016	29 th November, 2016
Insolvency and Bankruptcy Board of India (Insolvency resolution process for Corporate Persons) Regulations, 2016	1 st December, 2016
Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016	15 th December, 2016

With the notification of the Insolvency and Bankruptcy Code, 2016 and rules and regulations made thereunder, till now 41 cases have been registered with the different benches of NCLT across India. Out of which there are 11 cases that have been admitted by NCLT out of which:

- 3 cases have been admitted under Section 7 of the Code; which deals with ***Initiation of corporate insolvency resolution process by financial creditor.***
- 8 cases have been admitted under Section 10 of the Code; which deals with ***Initiation of corporate insolvency resolution process by operational debtor.***

A brief summary of the admitted cases is compiled below:

S. No	Creditor	Debtor	Relevant Section	Amount in Default (in Rupees)
1.	SREE Equipments Finance Limited	SREE Metaliks Limited	Section 7	108 Crores
2.	ICICI Bank Limited	Innoventive Industries Limited	Section 7	101 Crores
3.	VIP Finvest Consultancy Pvt. Ltd.	Bhupen Electronic Limited	Section 7	4.80 Crores
4.	Indian Overseas Bank, Bank of Baroda, Punjab National Bank, Religare Finvest Limited, Hero Fincorp Limited, Tata Capital Financial Services Pvt. Ltd.	Rave Scans Pvt. Ltd.	Section 10	13.60 Crores
5.	Alchemist Asset Reconstruction Company Limited, Edelweiss Asset Reconstruction Company Limited, Synergies Castings Limited, Millenium Financial Limited	Synergies-Dooray Automotive Limited	Section 10	741.33 Crores
6.	Financial and Operational Creditors of the company	NICCO Corporation Limited	Section 10	405 Crores
7.	Union Bank of India, ICICI Bank Limited, State Bank of India	Hind Motors Limited	Section 10	6.20 Crores
8.	Banks, Financial	VNR Infrastructure Limited	Section 10	1102.78 Crores

	Institutions and NBFCs			
9.	Indian Bank, Oriental Bank of Commerce, Allahabad Bank, Indian Overseas Bank, Central Bank of India, Andhra BANK, Bank of Maharashtra, KVB/JM Financial Asset Reconstruction	Kamineni Steel & Power India Private Limited	Section 10	1405.01 Crores
10.	Financial and Operational Creditors of the company	Keshav Sponge & Energy Pvt. Ltd.	Section 10	85.48 Crores
11.	Axis Bank, Corporation Bank, IDBI Bank, Lakshmi Vilas Bank, Yes Bank	UB Engineering Limited	Section 10	116 Crores

Out of the various cases filed with different NCLT Benches, various cases have been rejected and dismissed by the Tribunal. A brief summary of the rejected and dismissed cases is compiled below:

S. No	Case Title	Reason
1.	Nikhil Mehta V/s. AMR Infrastructures Limited	<ul style="list-style-type: none"> It was dismissed because the petitioner claiming to be the financial creditor was not covered under the definition of "Financial Creditors" as provided under Section 5(7) of the Code. Further the assured returns which are claimed to be the debt by the petitioner are not covered under the definition of "Financial Debt" under Section 5(8) of the Code.
2.	Arham Anmol Projects Private Limited	<ul style="list-style-type: none"> The matter was filed before the NCLT, Mumbai Bench. It was dismissed for default on the part of the applicant as no one was present from the applicant side at the time of scheduled hearings.
3.	Kirusa Software Private Limited V/s Mobilox Innovation private Limited	<ul style="list-style-type: none"> The matter was filed before the NCLT, Mumbai Bench by the Kirusa Software Private Limited (Operational Creditor) against the Mobilox Innovation private Limited (Corporate Debtor).

		<ul style="list-style-type: none"> • Under the said case the petitioner was required to attach details of transaction on which debt fall due and in default and copy of demand notice served to the debtor and other documents as provided under Section 9 of the Code along with the petition and copy of invoices in order to prove his debt. • After looking into the documents, Bench was of view that the amount claimed by the operational creditor has already been received by them from the corporate debtor. • Hence, the petition stands dismissed.
4.	Astra Offshore Sdn Bhd V/s. Swiber Offshore (India) Pvt. Ltd.	<ul style="list-style-type: none"> • The matter was filed before the NCLT, Mumbai Bench by the Astra Offshore Sdn Bhd (Operational Creditor) against the Swiber Offshore (India) Pvt. Ltd.(Corporate Debtor) . • Under the said case the petitioner was required to file certificate from the financial institution along with the petition regarding the accounts of Operational Creditor confirming that there is no payment of unpaid operational debt by corporate debtor as required under Section 9(2)(c) of the Code. • Further, Bench even provided time to the petitioner to furnish the aforesaid document before the bench. However petitioner failed to file the requisite document before the Bench within the stipulated time and hence the petition stands rejected.
5.	Smart Timing Steel Ltd. V/s. National Steel & Agro Industries Ltd.	<ul style="list-style-type: none"> • The matter was filed before the NCLT, Mumbai Bench by the Smart Timing Steel Ltd. (Operational Creditor) against the National Steel & Agro Industries Ltd. (Corporate Debtor). • Under the said case the petitioner was required to file certificate from the financial institution along with the petition regarding the accounts of Operational Creditor confirming that there is no payment of unpaid operational debt by corporate debtor as required under Section 9(2)(c) of the Code. • Further, Bench even provided time to the petitioner to furnish the aforesaid document before the bench. However petitioner failed to file the requisite document before the Bench within the stipulated time and hence the petition stands

		rejected.
6.	Arika Tours & Travels Pvt. Ltd. V/s. Swiber Offshore (I) Pvt. Ltd.	<ul style="list-style-type: none"> The matter was filed before the NCLT, Mumbai Bench. It was dismissed for default on the part of the petitioner (Operational Creditor) as no one was present from the petitioner side at the time of scheduled hearings.
7.	Master Voss International Projects Pvt. Ltd. V/s. HDO Technologies Pvt. Ltd.	<ul style="list-style-type: none"> The matter was filed before the NCLT, Mumbai Bench. It was dismissed because the petition was withdrawn by the petitioner on the grounds that the petitioner will file fresh petition on same fact and on the same cause of action.
8.	Mr. Jwahir Lal Dhar & anr. M/s. Ultra Home Construction Private Limited	<ul style="list-style-type: none"> The matter was filed before the NCLT, Principal Bench, New Delhi. It was dismissed because the petition was withdrawn by the petitioner on the grounds that the petitioner will file fresh petition on the same cause of action after duly complying with the provisions of the Code.
9.	State Bank of India V/s. Shree Ganesh Forgings Limited	<ul style="list-style-type: none"> The matter was filed before the NCLT, Mumbai Bench. It was dismissed because the petition was withdrawn by the petitioner on the grounds that the petitioner will take all the necessary steps as prescribed by the law.

With Best Wishes!!

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