



Insolvency and Bankruptcy Law Journal

Thought Leadership • September 7, 2022

'First published on [LEXOLOGY](#)' By: [Safir Anand](#) **The Insolvency and Bankruptcy Code 2016 has been evolving immensely since its inception. Through this Quarterly Journal the firm aims to share recent updates and landmark Judgements pertaining to the Code. Recovery Certificate Holder Can Initiate CIRP As Financial Creditor Under IBC: Supreme Court**

The Supreme court in Kotak Mahindra Bank Limited versus A. Balakrishnan & Anr on 30.05.2022 held that a liability in respect of a claim arising out of a Recovery Certificate under the Recovery of Debts and Bankruptcy Act, 1993 would be a "financial debt" within the meaning of Section 5(8) of the Insolvency and Bankruptcy Code, 2016 and a holder of such Recovery Certificate would be a "financial creditor" under Section 5(7) of the IBC. Read full judgement [here](#)

NCLT Has Discretion to Not Admit Financial Creditor's CIRP Application Even If Corporate Debtor Is in Default: Supreme Court The Supreme Court on 12.07.2022 in Vidarbha Industries Power Limited V. Axis Bank Power Limited observed that it is not mandatory for the Adjudicating Authority to admit an application to initiate a Corporate Insolvency Resolution process, even if the Corporate Debtor is in default. Read full judgement [here](#)

NCLT Not a Debt Collection Forum; Operational Creditor's Application to Initiate CIRP Must Be Dismissed If the Debt Is Disputed: Supreme Court The Supreme Court on 15.07.2022 in S.S. Engineers & ors. Versus Hindustan petroleum corporation ltd held that if the debt is disputed, the application of the Operational Creditor for initiation of CIRP must be dismissed. Read full judgement [here](#)

Entries In Book of Accounts/Balance Sheet of Corporate Debtor Can Be Treated as Acknowledgment of Liability of Debt Payable to Financial Creditor: Supreme Court

The Supreme Court in Asset Reconstruction Company (India) Limited vs Tulip Star Hotels Limited on 15.07.2022 overturned the decision of the NCLAT and observed the entries in Books of Account/Balance sheet of a company can be treated as acknowledgement of liability of debt. Read full judgement [here](#)

Claims Arising Out of Grant of Licence/Permission for Use of Intellectual Property Rights Is an Operational Debt: NCLAT Delhi on 18.08.2022 On 18.08.2022, in M/S Global Fragrances V. Knight Riders Sports Private Limited, the Principal Bench of National Company Law Appellate Tribunal New Delhi threw light on the position of claims arising out of grant of License/ permission to use Intellectual property and brought it within the ambit of Operational Debt as defined under Section 5(21) of the Insolvency and Bankruptcy Code, 2016

KEY AMENDMENTS On 4-7-2022, Insolvency and Bankruptcy Board of India (IBBI), notified Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2022 which brought significant amendments in the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016. Through these regulations, the IBBI have imposed obligations of impartiality on the Insolvency Professionals. Read amendment [here](#).



KEY CONTACT



Safir Anand

Senior Partner

[View Bio of Safir Anand](#)