

# Restructuring & Insolvency

Monthly Newsletter

May 2024

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# STATUTORY UPDATES

## Discussion Paper on 'Strengthening the process of issuance of record of default by Information Utility' dated May 10, 2024

- The Insolvency and Bankruptcy Board of India (IBBI) has proposed amendments to the Insolvency and Bankruptcy Board of India (Information Utilities) (Amendment) Regulations, 2021 (IU Regulations) for the purposes of enhancing the effectiveness and acceptability of the Record of Default (RoD) issued by an Information Utility (IU).
- The discussion paper proposes the following 6 amendments in the existing IU Regulations to strengthen the process of issuance of RoD by the IU and enhance its credibility for the purposes of adjudication of the insolvency petition.
  - **Response time to debtor:** In order to provide reasonable and sufficient time to the debtors and prevent delays in the admission of a Petition for initiation of insolvency, the IBBI has proposed to allow a duration of 7 days (as against 3 days) to the debtor to respond to the information of default issued by the IU. The IBBI has further proposed that the IU shall issue reminder notices to the debtor at least 3 times, allowing a period of 7 days at each reminder, to respond to the information of default.
  - **Relevant e-mail ID for service of information of default:** On the premises that the e-mail address provided by the debtor/registered with MCA/CERSAI is more reliable than the email address shared by a creditor, IBBI proposes to restrict the service of information of default to the email address registered by the debtor with the IU and that registered with the MCA/CERSAI. However, the IBBI grants exemption to e-mail address shared by the banks included in the 2nd schedule of the RBI Act, 1934 as their information is based on audited books of accounts and certified copy of entries in the relevant account in the bankers' book as defined in Clause (3) of Section 2 of the Bankers' Books Evidence Act, 1891.
  - **Proof of debt/security, default, and acknowledgement of debt:** In order to warrant the conclusivity of the RoD issued by an IU, the IBBI proposes to make it mandatory for the creditors (except the banks included in second schedule of the RBI Act, 1934), to provide a proof of debt/security, default and latest acknowledge of debt by the debtor along with a declaration verifying the genuineness of the documents submitted.
  - Due diligence by IU – The primary function of an IU is to authenticate and verify the financial information submitted by a creditor and provide access to such information. It is therefore imperative that IU provides high quality authenticated information about debts and default. Accordingly, the IBBI has proposed to mandatorily conduct due diligence and verify all the financial information submitted with it before issuing the RoD.
  - **Categorization of RoD issued by the IU:** In order to minimize the frivolous disputes raised by the debtor to avoid initiation of insolvency proceedings, the IBBI proposes to make it mandatory for a debtor to upload the proof of dispute, if claimed so. The IBBI also proposes to make it mandatory for the IU to issue RoD under the authenticated category in case of availability of acknowledgement of debt by the debtor, provided by banks included in the 2nd schedule of the RBI Act, 1934. Further, in case a debtor disputes a part

of the debt, the RoD for the undisputed part of the debt shall be issued under the authenticated category.

- **Additional details in the RoD:** In order to assist the Adjudicating Authority to meet the timelines provided for under the IBC, the IBBI proposes to add the following additional fields in the RoD : (1) Type of Debt; (2) Schedule II Bank; (3) Date of latest acknowledgement of Debt; (4) Details of disputed remarks by debtor; (5) Date and Amount of last repayment by the debtor; (6) Date of issuance of demand notice by creditor; (7) Whether any response to the demand notice sent by the debtor; and (8) The date of invocation of guarantee, if applicable.



# RECENT JUDGMENTS

## **Vistra ITCL (India) Ltd & Ors v. IIFL Home Finance Ltd. & Anr. – NCLAT, New Delhi and Vistra ITCL (India) Ltd & Ors v. Asset Reconstruction Company India Ltd. & Anr**

National Company Law Appellate Tribunal (NCLAT) | Judgment dated April 15, 2024 | Comp App (AT)(INS) No. 1590 & 1592 of 2023

### **Background facts**

- Both the Appeals were preferred by members of Committee of Creditors (CoC) of Satra Properties India Ltd. (SPIL), undergoing insolvency in terms of the admission order dated August 03, 2020 passed by NCLT, Mumbai Bench (NCLT). The Appeals questioned the admission of claim of IIFL Finance Ltd (later assigned to ARCIL) and IIFL Home Finance Ltd., by the NCLT.
- Briefly, IIFL Finance Ltd (IIFL) and IIFL Home Finance Ltd (IIFHL) granted loan facilities to SPIL and its group company, Satra Property Developers Pvt Ltd (SPDPL). However, both the companies failed to repay the loan granted by IIFL and IIFHL and therefore, IIFL filed a Petition under Section 7 of the IBC seeking initiation of CIRP against SPIL and SPDPL.
- During the pendency of Section 7 Petition, the parties came to a settlement and executed Consent Terms recording the terms of settlement and revised repayment schedule. The Consent Terms envisaged execution of certain documents including an Amendment Agreement to amend the terms of financing documents to the extent provided therein.
- One of the terms of the Consent Terms and the Amendment Agreement was provisioning of additional security by way of mortgage in favor of IIFL and IIFHL by SPDPL for and on behalf of SPIL. For the purposes of creation of such additional security interest, a deed of security was executed between the parties. One of the recitals in the Deed of Security read that the security provided by SPDPL is sufficient to discharge the debt of SPIL owed to IIFL and IIFHL and as such SPIL shall henceforth not be liable for the dues of IIFL and IIFHL.
- However, before the obligations under the Amendment Agreement could be completed, an application filed by another financial creditor came to be admitted and CIRP in respect of SPIL was initiated. In terms of the IBC, IIFL and IIFHL filed their claims before the RP of SPIL.
- However, the claims were rejected by the RP on the ground that the deed of security discharged SPIL from its obligations, which was challenged by IIFL and IIFHL before the NCLT and the NCLT allowed the claims of IIFL and IIFHL. This was challenged by the Appellants before the NCLAT.
- The Appellants urged before the NCLAT that the deed of security novates the previous financing documents between the parties including the Consent Terms and the Amendment Agreement and by virtue of recital in the deed of security, SPIL stands discharged of its obligations. Therefore, IIFL and IIFHL do not have a valid claim in the CIRP of SPIL.
- On the other hand, the Respondent IIFL (assigned to ARCIL) and IIFHL argued that the deed of security was executed only in furtherance of the Amendment Agreement for creation of

additional and continuing security in favor of IIFL and IIFHL, for and on behalf of SPIL, and did not in any manner novate the existing financing documents or discharge SPIL of its obligation towards IIFL and IIFHL. It was further argued that under the financing documents, both IIFL and IIFHL always had recourse to recover its dues from SPIL, in the event its dues are not paid as per the Amendment Agreement.

### Issues at hand?

- Whether SPIL was discharged from its liabilities towards IIFL and IIFHL by virtue of execution of the Deed of Security?
- Whether the deed of security executed between the parties resulted in novation of previously executed financing documents?

### Decision of the Tribunal

- The Tribunal took note of the following provisions in the Consent Terms, Amendment Agreement, and the deed of security.
  - The Consent Terms acknowledged the debt owed by SPIL to IIFL and IIFHL and provided for repayment schedule in respect of those debts. It also provided for the creation of additional security by SPDPL in respect of loans extended by IIFL and IIFHL to SPIL. Further, in the event the Consent Terms were not complied with, IIFL and IIFHL had recourse and actions under applicable law.
  - The Amendment Agreement also acknowledged the debt owed to IIFL and IIFHL, provided for a repayment schedule which was first recoverable from the cash flows generated by the mortgaged property. It also provided that in the event the Consent Terms, or the Amendment Agreement or the other financing documents are not complied with, IIFL and IIFHL were at liberty to pursue all actions under available law.
  - The deed of security provided for additional and continuing security in favor of IIFL and IIFHL by SPDPL for an on behalf of SPIL. It also provided for recourse under applicable laws to the lenders in case of default. The deed of security also provided that the security of SPDPL is sufficient to discharge the debt of SPIL owed to IIFL and IIFHL and as such SPIL shall henceforth not be liable for the dues of IIFL and IIFHL.
- After a coherent reading of all the financing documents executed between the parties and taking into consideration the real intent of the parties behind executing the documents, the NCLAT came to the conclusion that the parties never intended to discharge SPIL of its obligation qua IIFL and IIFHL.
- The NCLAT observed that the discharge of SPIL was premised on the discharge of total debt of SPIL by cash flows of the property mortgaged by SPDPL. Since the transaction under the Amendment Agreement did not fructify, the liability of SPIL qua IIFL and IIFHL cannot be discharged.
- The NCLAT held that the deed of security did not novate the previously existing financing documents and was only executed in furtherance of the terms of the Amendment Agreement. The only intention of the parties by executing a deed of security was to create an additional security in favor of IIFL and IIFHL and secure the repayment in terms of the Amendment Agreement.
- The Appellants challenged the judgments before the Supreme Court. However, the Supreme Court dismissed the appeals and upheld the order of the NCLAT in favor of IIFL (Assigned to ARCIL) and IIFHL.

#### HSA **Viewpoint**

HSA Advocates represented IIFHL and ARCIL (Assignee of IIFL) before the NCLAT and the Supreme Court.

This judgement emphasizes on a composite reading of all the financing documents in order to understand the underlying intention of parties while executing the contract and deprecates selective reading of clauses and is in accord with the established principles by the Supreme Court.

## Reddy Veerraju Chowdary v. Resolution Professional, C.A. Sai Ramesh Kanuparthi & Anr

Allahabad High Court | Judgment dated April 08, 2024 | Writ Petition (Civil) No. 15614 of 2023

### Background facts

- The Petitioner preferred this Writ Petition seeking issuance of a writ of Mandamus directing the Respondents to consider acceptance of his letter of resignation from service and issue him a NOC, relieving letter, a final settlement of his service dues, including arrears of salary and gratuity.
- Briefly, the Petitioner was an employee of a Pvt Ltd company called Gayatri Projects Ltd, which was incorporated with the object of carrying out construction of Public Roads, State Highways and National Highways, undertaking these projects for Governments, that is to say, the State Governments and the Government of India. Vide Order dated November 15, 2022, the NCLT, Hyderabad Bench (NCLT) initiated CIRP qua Gayatri Projects Ltd pursuant to which, the Respondent RP was appointed to manage the affairs of the company.

- It is the case of the Petitioner that he resigned from his post at the Company in May, 2023 and served his notice period. However, the Company failed to issue a relieving certificate, a no-dues certificate, payment of the petitioner's gratuity and arrears of salary for the period May 01, 2024 to June 14, 2023.
- On the other hand, the Respondent RP argued that he left the Company after sending an email about his resignation without handing over charge. It is further said that despite repeat request that the petitioner should not leave the Company till completion of the project/audit, he has deserted post without completing the formalities required under the law before leaving charge of the position of an Assistant General Manager.
- The Respondent also raised a preliminary objection to the maintainability of the Writ Petition under Article 226 of the Constitution of India as the Company is a Pvt Ltd company and therefore, not a state within the meaning of Article 12 of the Constitution.

### Issue at hand?

- Whether the present writ petition against a Pvt Ltd company undergoing insolvency is amenable to the jurisdiction of the High Court under Article 226 of the Constitution of India?

### Decision of the Court

- The Court observed that the jurisdiction of a High Court under Article 226 of the Constitution, is not dependent upon the Article 12 test, as compared to the powers of the Supreme Court under Article 32 of the Constitution.
- The Court observed that a High Court under Article 226 of the Constitution has jurisdiction to issue writs, orders or directions of the kind mentioned or in their nature, or any one of them to any person or authority, including in appropriate cases, any Government, and therefore, a writ, order or direction under Article 226 of the Constitution may be issued even to a private person. The Court however cautioned that the person to whom direction under Article 226 is being issued must be engaged in the discharge of a public function and the breach complained of, in respect of which the relief is sought, must be related to the discharge of that public function.
- The Court took note that in the case at hand, the Company is a Pvt Ltd entity, however, is engaged in the discharge of the essentially public function of construction of National Highways, State Highways and Public Roads, however, the relief sought by the Petitioner is not arising from the discharge of company's public functions but arises out of contract of service between the petitioner and the Company.
- The Court relied on the judgement of the Supreme Court in *Binny Ltd and Anr v. V Sadasivan and Ors*<sup>1</sup> to observe while a writ of mandamus can be issued by a High Court under Article 226 of the Constitution against a private entity which is not a state under Article 12, such writ cannot be issued to enforce purely private contracts entered into between the parties, including the contract of employment. In view thereof, the High Court held the writ to be not maintainable

HSA

#### Viewpoint

This judgement elaborates on the wide jurisdiction of a High Court under Article 226 of the Constitution of India, however at the same time, it correctly clarifies that that purely private contractual rights cannot be enforced by a writ court, especially in view of the availability of an alternate and efficacious remedy.

## Global Credit Capital Ltd & Anr v. Sach Marketing Pvt Ltd & Anr

Supreme Court of India | Judgment dated April 25, 2024 | Civil Appeal No. 1143 of 2022

### Background facts

- This Appeal pertains to the classification of the Respondent as a Financial Creditor of the Corporate Debtor.
- Succinctly put, the Corporate Debtor appointed Sach Marketing Pvt Ltd, the Respondent as a Sale Promoter for 12 months for a consideration of INR 4000 per month. As per the agreement between the parties, the Respondent was to deposit a minimum-security deposit with the Corporate Debtor, on which, the Corporate Debtor was liable to pay interest at the rate of 21% per annum. This Agreement was renewed after a period of 12 months on identical terms.
- The Corporate Debtor was thereafter admitted into CIRP and the Respondent filed its claim qua the security deposit as a Financial Creditor of the Corporate Debtor. This was rejected by the RP of the Corporate Debtor claiming the debt to be an operational one. The Respondent challenged the decision of the RP before the NCLT, which was rejected. The Respondent challenged the decision by filing an appeal before the NCLAT and the NCLAT was pleased to allow the claim of the Respondent holding it to be a Financial Creditor of the Corporate Debtor.
- This judgement of the NCLAT came to be challenged before the Supreme Court wherein the Appellant argued that the contract between the parties was for supply of services and therefore, the debt owed to the Respondent ought to be categorized as an Operational Debt. The Appellant further argued that the intent of the agreement was limited to appointing the Respondent as the Sales Promoter and not to avail financial assistance from the Respondent. It was argued that a security deposit in terms of such an agreement will not fall under the category

<sup>1</sup>(2005) 6 SCC 657

of a Financial Debt as the payment of interest is not the only criterion for ascertaining the nature of debt owed to the Respondent.

- On the other hand, the Respondent submitted that the true nature of the agreement needs to be examined to ascertain the nature of the debt owed to the Respondent. It was argued that the criteria of Section 5(8) of IBC being disbursal, time value of money and commercial effect of borrowing were satisfied. The Respondent relied on the judgements passed by the Supreme Court in Anuj Jain, Interim Resolution Professional for Jaypee Infratech Limited v. Axis Bank Limited & Ors<sup>2</sup>, Phoenix ARC Private Limited v. Spade Financial Services Limited & Ors<sup>3</sup>, and judgements passed by the Supreme court prior to the promulgation of the IBC.

### Issue at hand?

- Whether the debt owed to the Respondent, by virtue of security deposit in terms of a contract for good and service, amounts to a Financial Debt under Section 5(8) of the IBC?

### Decision of the Court

- The Supreme Court took note of the definitions of Debt, Claim, Financial Debt and Operational Debt under the IBC and observed as under:
  - A Debt has to be a liability or obligation in respect of a claim that is due from any person.
  - A Financial Debt or Operational Debt must arise out of a liability or obligation in respect of a claim.
  - A liability or obligation is not covered by the definition of debt unless it is in respect of a claim covered by 3(6) of the IBC.
  - For a Financial Debt, there has to be a Debt along with interest, if any, and it must be disbursed against the consideration for the time value of money.
- The Supreme Court held that a document cannot be taken for its face value and the real nature of the transaction must be determined in order to ascertain the nature of the debt.
- The Supreme Court held that where one party owes a debt to another and when the creditor is claiming under a written agreement providing for rendering 'service', the debt is an operational debt only if the claim subject matter of the debt has some connection or co-relation with the 'service' subject matter of the transaction.
- In the facts of the present case, the Operational Debt of the Respondent was limited to the payment of sum of INR 4000 as consideration for services of the Respondent as the Sales Promoter as the security deposit under the Agreement had no co-relation whatsoever with the service being rendered in terms of the contract.
- The Supreme Court relied on Anuj Jain (Supra) and Phoenix ARC (Supra) to observe that for a financial debt, the following criterion needs to be satisfied:
  - Existence of debt along with interest which must be disbursed against time value of money.
  - Transaction must have the commercial effect of borrowing.
- The Supreme Court after noting that the security deposit did not have any relation with the agreement of service and that the Corporate Debtor acknowledge the amount owed to the Respondent as "Other long term borrowings" held that the amount raised by the Corporate Debtor by way of security deposit had the commercial effect of borrowing and was a financial debt of the Corporate Debtor.

#### HSA **Viewpoint**

This judgement further elaborates on the categorization of a debt as a financial or operational one and clarifies that a written document cannot be taken for its face value and the real nature of the transaction must be determined in order to ascertain the nature of the debt.

## Sanjay D Kakade v. HDFC Ventures Trustee Company Ltd and Ors

National Company Law Appellate Tribunal (NCLAT) | Judgement dated November 24, 2023 | Comp App (AT)(INS) No. 481 of 2023

### Background facts

- This Appeal was preferred by the suspended director/promoter of Kakade Estate Developers Pvt. Ltd. (CD) challenging the admission of CIRP against the CD.
- The Corporate Debtor is a company engaged in the construction of commercial and residential township. In 2008, a Share Subscription and Shareholders Agreement (Agreement) was executed between the Respondents/Financial creditors, the promoters of the Corporate Debtor and the Corporate Debtor to subscribe to the shares of the Corporate Debtor, which was amended by way of another Share Subscription and Shareholders Agreement for on the terms and condition and consideration, as mentioned therein. The amended Agreement clearly stipulated that the

<sup>2</sup> (2020) 8 SCC 401

<sup>3</sup> (2021) 3 SCC 475

CD required further funding to carry out objectives of the Business Plan i.e. approval of township, and actual execution of the township as per the designs prepared by the Company architects.

- However, the Project envisaged could not be developed and the Promoters offered the investors with proposal to develop and exit and a Binding Term Sheet was executed. The exit consideration was to carry an Internal Rate of Return (IRR) of 17%.
- Thereafter, certain disputes arose between the parties and reference to an Arbitral Tribunal was made. The parties executed Consent Terms agreeing to pay a fixed sum to the Respondent Financial Creditors and the Arbitration proceedings were disposed of in terms thereof. The CD undertook to indemnify the financial creditors in case of default and was jointly liable towards the debt of financial creditors. The promoter failed to abide by the Consent Terms and the Respondent issued Demand Notices to the Corporate Debtor as well as the Promoters.
- Thereafter, the Respondents filed Section 7 Petition before the NCLT seeking initiation of CIRP against the Corporate Debtor on account of default on the part of the Corporate Debtor to re-pay in terms of the Agreement, the Binding Term sheet and the Consent Award. The NCLT admitted the Company Petition and initiated CIRP in respect of the Corporate Debtor.
- The Appellant challenged the admission of Company Petition and the status of the Respondents as the Financial Creditors of the Corporate Debtor before the NCLAT. The Appellant alleged that the shareholders of the Corporate Debtor cannot be classified as Financial creditors of the Corporate Debtor and claim of such shareholders against transfer of their own share cannot be classified as a financial debt.
- The Appellant further argued that Consent Decree ipso facto does not constitute a Financial Debt. It is nature of the underlying transaction which is determinative of the fact that whether debt is a financial debt or not. There was no commercial borrowing for time value of money involved in the transaction. The underlying transaction is that the Respondent Investors will be paid money and in turn they will transfer shares which they own of the Corporate Debtor, to the Promoters or their nominees. The transaction is therefore one of consideration for exchange and sale/purchase of shares. Such a transaction does not constitute a financial debt under the IBC nor does it have a commercial effect of a borrowing nor is it disbursement for time value of money.
- On the other hand, the Respondents argued that on account of default to provide an exit under the Agreements, the Financial Creditor became entitled to an IRR to the extent of 15% per annum, compounded annually. Further, the Corporate Debtor has undertaken to indemnify the financial creditors for the liabilities arising from the breach of the agreements and is therefore, jointly liable with the promoters. As per the Respondent, the transaction had a commercial effect of borrowing and suffices the test under Section 5(8) of the IBC.

### Issue at hand?

- Whether the Respondent is a Financial Creditor of the Corporate Debtor by virtue of a Share Subscription-cum Shareholders Agreements, the Binding Term Sheet and the Consent Decree passed by the Arbitrator?

### Decision of the Tribunal

- The NCLAT after detailed examination of the facts and law, dismissed the Appeal filed by the suspended director upholding the order passed by the NCLT holding the Respondents to be Financial Creditors of the Corporate Debtor in terms of the Share Subscription cum Shareholders Agreement, Binding Term Sheet, and the Consent Terms.
- The NCLAT relied on the judgements passed by the Supreme Court in *Pioneer Urban Land and Infrastructure Ltd and Anr v. Union of India and Ors*<sup>4</sup>, *Kotak Mahindra Bank Ltd v. A. Balakrishnan and Anr*<sup>5</sup>, and *Anuj Jain v. Axis Bank*<sup>6</sup>, to conclude that the Respondents fall under the category of Financial Creditors under Section 5(8) of the IBC.
- The NCLAT observed that Section 5(8)(f) would subsume within it amounts raised under transactions which are not necessarily loan transactions so long as they have the commercial effect of a borrowing. The condition which is essentially required to be fulfilled is disbursement against the consideration for the time value of money.
- Raising of amount by the Company through Share Subscription-cum-Shareholders Agreement was a commercial borrowing, since the said transaction has direct effect with the business, which was carried out by the Corporate Debtor, i.e. construction of building and township. This was also evidence in the Supplementary Agreement executed between the parties.

<sup>4</sup> (2019) 8 SCC 416

<sup>5</sup> (2022) 9 SCC 186

<sup>6</sup> (2020) 8 SCC 401

### HSA Viewpoint

In our view, the NCLAT has, after considering the facts of the case and thorough examination of the petition, upheld the order of the NCLT in accordance with the objectives laid down by the legislature under the IBC and initiated CIRP against a stressed entity. It is pertinent to note here that the Appellants have filed an appeal before the Supreme Court, which is pending adjudication. In the meanwhile, on January 16, 2024, the Supreme Court has allowed continuation of the CIRP proceedings with directions that the implementation/execution of a resolution plan or alienation of assets of the CD will require permission from the Supreme Court.



- The NCLAT noted that the Petition filed by the Financial Creditor seeking initiation of insolvency against the CD was not based only on the Consent Award passed by the Arbitrator on 19.01.2021, but also based on all previous underlying transactions executed between the parties. Therefore, the NCLAT held that the Petition cannot be rejected to be an application for execution of the Consent Decree and was rather, filed on account of default committed by the Company in not honoring its obligation under different Agreements.
- The NCLAT further observed that if an Arbitration Award arises out of transactions, which are Financial Debt, the mere fact that Financial Debt has crystallized in Decree, cannot result in disentitling the Financial Creditor.
- In terms of the above findings, the NCLAT upheld the admission of the CD to CIRP.



## RECENT DEALS

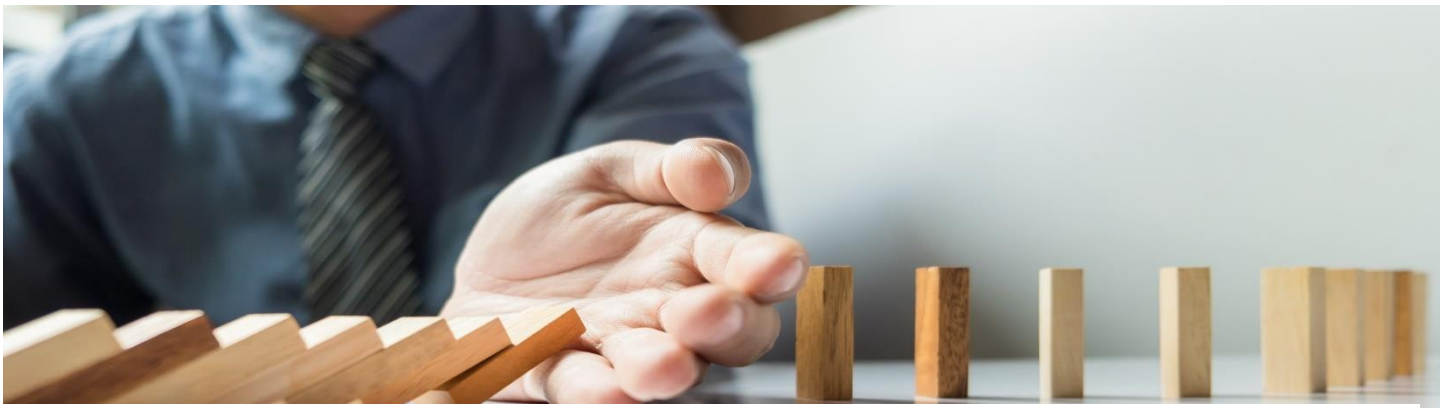
### Resolution of Reliance Broadcast Network Ltd

- The NCLT, Mumbai bench (NCLT) vide Order dated May 06, 2024 approved the resolution plan submitted by Sapphire Media Limited (SRA), in the CIRP of Reliance Broadcast Network Limited (CD).
- Pertinently, the CD was a part of the Anil Ambani led Reliance Group and operated FM radio broadcasting stations in multiple cities under the brand name BIG FM. In February, 2023, CIRP came to be initiated in respect of the CD.
- The IRP made public announcement inviting claims from the creditors of the CD and admitted claims aggregating to INR 947 Crores from the creditors of the CD. The RP thereafter constituted a committee of creditors (CoC) for the CD which comprised of HSBC Asset Management (India) Private Limited on behalf of HSBC Credit Risk Fund, L&T FMP - Series XIV A and HSBC Low Duration Fund, IndusInd Bank Ltd, IDBI Trusteeship Services Limited acting as Debenture Trustee for Franklin Templeton Mutual Fund and Reliance Commercial Finance Ltd.
- In accordance with Regulation 27 of the CIRP Regulations, the RP appointed valuers to determine the fair and liquidation value of the assets of the CD. The average fair value of the CD was INR 237.8 Crores and the average Liquidation Value of the CD was INR 189.4 Crores.
- The RP then published Form G inviting Expression of Interest (EoI) from the PRAs, in pursuance of which, six resolution plans were received from the following entities:
  - Cosmea Financial Holdings Private Limited;
  - Entertainment Network (India) Limited;
  - Sapphire Media Limited/SRA;
  - Abhijit Realtors and Infraventures Private Limited;
  - Creative Channel Advertising and Marketing Private Limited;
  - Authum Investment & Infrastructure Ltd
- Thereafter, pursuant to the 14th CoC meeting convened on November 11, 2023, the CoC approved the Resolution Plan submitted by the SRA by a voting share of 88.97%, which was put forth before the NCLT for its approval.
- The Resolution Plan proposes to pay a sum of INR 261 Crores as against the admitted debt of INR 947.59 Crores in the following manner:
  - A sum of INR 255 Crores against an admitted debt of INR 578.35 Crores to the Secured Financial Creditors.
  - A sum of INR 6 Crores to the Operation Creditors of the CD as against the admitted debt of INR 21.77 Crores.

- The CIRP Costs shall be paid out of the internal accruals of the CD and the SRA agrees to fund outstanding CIRP Costs, if any.
- From the approval date of the Resolution Plan by the NCLT until the transfer date, the Monitoring Committee will manage the CD's day-to-day operations, will have the powers of the Board of Directors and will comprise of 2 members on behalf of the Resolution Applicant, 2 representatives from the financial creditors, and the RP.
- The benefits accruing from the Avoidance Transactions shall be given to the CD and the CD shall bear all the cost of pursuing such transactions.
- On the Transfer Date, the promoter shareholders will lose their ownership and shareholding, with their shares being extinguished. New equity shares will be issued to the Resolution Applicant. The Resolution Applicant can use any implementation structure, including converting debt to equity and reducing equity to zero, as long as it adheres to the Resolution Plan's timelines and payment amounts to stakeholders.
- The NCLT observed that the Resolution Plan meets the requirements of Section 30(2)(a) to (f) of the IBC and Regulations 38(1)(a), 38 (1)(b), 38(2)(a), 38(2)(b), 38(2)(c) and 38(3) of the CIRP Regulations and accordingly approved the Resolution Plan submitted by the SRA.

## Resolution of Radius Infra Holdings Pvt Ltd

- The NCLT, Mumbai bench (NCLT) vide Order dated April 29, 2024 approved the resolution plan submitted by Shree Naman Developers Pvt Ltd. (SRA), in the CIRP of Radius Infra Holdings (CD). The CD was a company involved in construction and competition of buildings, and civil engineering.
- Yes Bank filed company petition seeking initiation of CIRP in respect of the CD, which was admitted by the NCLT vide its Order dated May 09, 2024, and a IRP was appointed to manage the affairs of the CD.
- The IRP made public announcement in Form-A inviting claims from the creditors of the CD, in pursuance of which, he admitted claims aggregating to INR 1049.10 Crores. Accordingly, the RP constituted CoC for the Corporate Debtor which comprised of JC Flowers Asset Reconstruction Private Limited and Suraksha ARC.
- The RP also published Form G on August 11, 2022 inviting EOI from Prospective Resolution Applicants (PRAs). Thereafter, two Resolution Plans were received for the Corporate Debtor from the following entities:
  - Shree Naman Developers Pvt Ltd/SRA;
  - Krishna Structures Pvt Ltd.
- Later, Krishna Structures Pvt Ltd. withdrew from the process and the Resolution Plan submitted by the SRA was put to vote by the CoC in its 13th CoC meeting held on July 17, 2023. The Resolution Plan submitted by the SRA was approved unanimously by the CoC.
- The SRA proposed a sum of INR 229.78 Crores as against the admitted claims of INR 1051.1 Crores in the following manner.
  - A sum of INR 1.98 Crores towards the CIRP Costs in full.
  - A sum of INR 160.54 Crores to the Secured Financial Creditors as against the admitted claim of INR 197.80 Crores.
  - A sum of INR 17 Crores to the Unsecured Financial Creditors as against their admitted claim of INR 850 Crores.
  - A sum of INR 0.25 Crores to the Operational Creditors as against admitted claim of INR 1.26 Crores.
  - A sum upto INR 50 Crores for Infusion for working capital and capex purpose, on need basis.
- Notably the Fair Value of the CD is INR 151.14 Crores and the Liquidation Value of the CD is 110.83 Crores.
- The NCLT observed that the Resolution Plan meets the requirements of Section 30(2)(a) to (f) of the IBC and Regulations 38(1)(a), 38 (1)(b), 38(2)(a), 38(2)(b), 38(2)(c) and 38(3) of the CIRP Regulations and accordingly approved the Resolution Plan submitted by the SRA.



# COMPANIES ADMITTED TO INSOLVENCY IN APRIL 2024

## Companies admitted to insolvency

#	Name of Corporate Debtor	NCLT Bench	Industry
1	M.S. Khurana Engineering Ltd.	Ahmedabad	Construction of residential buildings
2	Aqua Electronics & Solutions Private Limited	New Delhi	Manufacturing of electrical equipment
3	Parivartan Buildcon Private Limited	New Delhi	Real estate
4	Bostin Engineers Pvt. Ltd	Kolkata	Manufacturing of structural metal products, tanks, reservoirs and steam generators
5	Pacer Secure Services Limited	New Delhi	Security operations, facilities management, housekeeping & manpower management
6	Goodhealth Industries Private Limited	New Delhi	Manufacturing and wholesale supply of desi ghee & skimmed milk powder
7	Avni Yarns Private Ltd.	Ahmedabad	Spinning, weaving and finishing of textiles.
8	Maharashtra Bio Fertilisers (India) Pvt. Ltd.	Mumbai	Manufacturing of Agrochemicals, Plant Growth Regulators and Micro-nutrients
9	G.V. Meditech Private Limited	New Delhi	Providing healthcare services
10	Siddhi Agrofoods Pvt. Ltd.	Cuttack	Production, processing and preservation of meat, fish, fruit vegetables, oils and fats
11	Shaila Hospitality Private Limited	Mumbai	Managing hotels, camping sites and short-stay accommodation
12	BGR Energy Systems Limited	Amaravati	Manufacturing and supply of condenser tube cleaning systems, Debris Filters and Rubber Cleaning Balls used in Thermal and Nuclear Power Plants
13	Alumass Private Limited	Indore	Manufacturing of structural metal products, tanks, reservoirs and steam generators
14	Star Lamipacks Private Limited	Indore	Manufacturing of plastic products
15	Raftech Multitraders Private Limited	Kolkata	Selling home-care items, consumer goods, industrial goods, and engineering goods
16	Sun Petpack Jabalpur Private Limited	Indore	Supplying & trading of Plastic containers, pet preforms, bottles etc
17	Plumbers Choice Plastics Private Limited	Kochi	manufacturing of rubber and plastics products
18	Meeti Developers Private Limited	Mumbai	Real estate development and construction
19	West Face Hospitality and Management Pvt. Ltd.	New Delhi	Management & administration of various businesses in hospitality industry
20	UPSCALIO India Private Limited	Chandigarh	Acquiring e-commerce businesses (Consumer goods)
21	Suman Phosphates and Chemicals Limited	Indore	Production of Single Super Phosphate and Fertilizers
22	Ideal Real Estates Private Limited	Kolkata	Developing residential & commercial properties with property management services
23	Deccan Charters Private Limited	Bengaluru	Aircraft management, maintenance and technical services
24	SE Transstadia Private Limited	Ahmedabad	Sports infrastructure & sports entertainment
25	Amul Industries Pvt. Ltd.	Ahmedabad	Manufacturing of Automotive parts
26	Transstadia Holding Private Limited	Ahmedabad	Sports infrastructure sector
27	Sohanaa International Private Limited	New Delhi	Retail sale of blank CD, DVD, music records, audio tape
28	Trikalp Laminates India Pvt. Ltd.	New Delhi	Manufacturing of wood, cork, straw and plaiting materials
29	Anupam Port Cranes Corporation Limited	Ahmedabad	Manufacturing of commercial cranes
30	Alliance Embroidery Machine Pvt. Ltd.	Ahmedabad	Spinning, weaving and finishing of textiles

31	<b>Mangalnayak Shoppers Private Limited</b>	Kolkata	Trading industry
32	<b>Mahendra Commercial Limited</b>	Kolkata	Financial intermediation
33	<b>Rajminakshi Holdings Private Limited</b>	Mumbai	Finance and insurance industry
34	<b>JTPL Private Limited</b>	New Delhi	Building integrated townships & commercial complexes.
35	<b>Mahavir Industries Limited</b>	Mumbai	Manufacturing of plastic products,
36	<b>Ajnara Realtech Limited</b>	New Delhi	Real estate development
37	<b>Rudra Buildwell Construction Pvt Ltd</b>	New Delhi	Engineering and space planning
38	<b>Ravi Electronics Private Limited</b>	Hyderabad	Manufacturing of television & radio receivers, sound or video recording or reproducing apparatus, and associated goods
39	<b>Bee K Bee Prints Private Limited</b>	New Delhi	Dyers for all kinds of export quality fabric.
40	<b>Truevalue Engineering Private Limited</b>	Mumbai	Trading of iron & steel products such as HR coils, CR coils, TMT, Gal coils & GP coils.
41	<b>Cupid Estatecon Private Limited</b>	Ahmedabad	Construction of non-residential buildings
42	<b>Koshika Bioscience Private Limited</b>	Mumbai	Providing chemical solutions to pharmaceuticals, agriculture, and cosmetics
43	<b>SLR Techinfra Pvt. Ltd.</b>	New Delhi	Providing staffing solutions to other organizations
44	<b>India Circuits Limited</b>	Chandigarh	Manufacturing of Printed Circuit Board (PCB)
45	<b>Garodia Chemicals Limited</b>	Mumbai	Exports of chemicals fertilizers, dyes, pesticides, insecticides, fungicides, and herbicides
46	<b>Asian Alloys Limited</b>	Chandigarh	Manufacturing of iron & steel products
47	<b>Gurdas Agro Private Limited</b>	Chandigarh	Wholesale supply of agricultural raw material, food beverages and tobacco
48	<b>Madhav Ginning and Pressing Private Limited</b>	Ahmedabad	Manufacturing of organic cotton bales, cotton thread ginning service & raw cotton ginning service
49	<b>Replenish Realty Private Limited</b>	Mumbai	Estate agent, erector, and constructor
50	<b>Samvid Steels Private Limited</b>	Ahmedabad	Steel manufacturing and processing for auto components
51	<b>Hyflux Engineering (India) Private Limited</b>	Chennai	Water solutions- reverse osmosis desalination plants
52	<b>Ambro Asia Private Limited</b>	New Delhi	Legal, accounting, auditing, tax consultancy, market research and public opinion polling
53	<b>Mid-City Superstructures Private Limited</b>	Mumbai	Real estate construction activities
54	<b>PAE Limited</b>	Mumbai	Non-automotive businesses such as industrial batteries and power solutions
55	<b>Manglam Paper Private Limited</b>	Ahmedabad	Distribution of paper and packaging products
56	<b>RR Metalmakers India Limited</b>	Mumbai	Steel product manufacturing, infrastructure materials, cold storage, and warehousing
57	<b>Kejriwal Sugar Agencies Private Limited</b>	Kolkata	Trading of sugar products such as sugarcane, sugar candy, sugar cubes, jaggery, crystal sugar, sugar beet, and even fertilizers
58	<b>ATS Heights Private Limited</b>	New Delhi	Real estate developer
59	<b>Sadbhav Engineering Limited</b>	Ahmedabad	Civil engineering and construction company
60	<b>Dojahan Trading Private Limited</b>	Mumbai	Wholesale supply and trading of ferrous & non-ferrous metals
61	<b>Arshiya Limited</b>	Mumbai	Free Trade Warehousing Zones (FTWZs)
62	<b>Rajguru Developers Private Limited</b>	Mumbai	Real estate sector
63	<b>Karuturi Ceramics Private Limited</b>	Amaravati	Manufacturing of non-metallic mineral products
64	<b>Bihar E-Governance Services &amp; Technologies Limited</b>	Kolkata	Software publishing and consultancy
65	<b>Rosewood Projects Private Limited</b>	Kolkata	Supply of construction equipment
66	<b>Jaryal Motor Finance Company Limited</b>	Chandigarh	Providing general finance and hire purchase options for vehicles
67	<b>Electropath Services (India) Private Limited</b>	Mumbai	Providing Customized solutions & Services in Electrical Engineering & Power Industry
68	<b>RSI Private Limited</b>	Kolkata	Producing cast aluminium and grey cast iron products
69	<b>Nuway Organic Naturals (India) Ltd.</b>	Chandigarh	Producing spirits, Extra Neutral Alcohol (ENA) & IMFL(vodka , malted whiskies)
70	<b>Primcomm Media Distribution Ventures Private Limited</b>	Mumbai	Distribution of films and video productions
71	<b>AKM Foods Private Limited</b>	Chandigarh	Manufacturing of grain mill products, starch & prepared animal feeds.
72	<b>Essel Homes Private Limited</b>	Mumbai	Real estate development and construction services
73	<b>Anakkara Food Processing and Exports Pvt. Ltd.</b>	Kochi	Wholesale supply of agricultural raw material, food beverages and tobacco.
74	<b>Pushpanjali Realms and Infratech Limited</b>	Allahabad	Real estate activities with own or leased property
75	<b>RCC Infraventures Private Limited</b>	Chandigarh	Providing pre-engineered buildings, and undertakes civil or industrial construction
76	<b>Transportwale 5D Technologies LLP</b>	Chennai	The company is engaged transport and logistical services
77	<b>Avocado Realty Private Limited</b>	Mumbai	Real estate development projects
78	<b>Rajgaria Timber Private Limited</b>	Kolkata	Market gardening, horticulture and provides service of grooving tools

79	<b>Bharat Hitech (Cements) Private Limited</b>	Kolkata	Manufacturing of OPC, PSC grade cement
80	<b>Gemus Engineering Limited</b>	Kolkata	Manufacturing of ductile iron castings

## Companies directed to be liquidated

#	Name of Corporate Debtor	NCLT Bench	Industry
1	<b>Greater Arafat Tanners Pvt Ltd</b>	Allahabad	Tanning and dressing of leather, manufacture of luggage handbags, saddler & harness.
2	<b>Padam Motors Pvt. Ltd</b>	Chandigarh	Dealing (buying and selling) of cars
3	<b>Ariston Pharma Novatech Pvt Ltd</b>	Hyderabad	Manufacturing of pharmaceutical products.
4	<b>Zenil Traders Pvt. Ltd</b>	Mumbai	Trading of iron and steel items.
5	<b>Yescom India Softech Pvt Ltd</b>	Kolkata	IT Services and IT Consulting, Banking, Finance
6	<b>Vee Ess Jewellers Limited</b>	New Delhi	Manufacturing and trading of jewellery.
7	<b>Capital Electronics and Appliances Limited</b>	Kolkata	Manufacturing of electrical appliances.
8	<b>Manglam Apartments Limited</b>	New Delhi	Real estate
9	<b>Nami Steel Private Limited</b>	Ahmedabad	Manufacturing of basic iron and steel
10	<b>Kavan Cotton Pvt Ltd</b>	Ahmedabad	Manufacturing non-metallic mineral products
11	<b>AJS Impex Private Limited</b>	Mumbai	Manufacturing of stainless steel coil, roofing sheets & mild steel flats

## CONTRIBUTIONS BY:
















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 <b>INVESTIGATIONS</b>	 <b>LABOR &amp; EMPLOYMENT</b>	 <b>PROJECTS, ENERGY &amp; INFRASTRUCTURE</b>
 <b>PROJECT FINANCE</b>	 <b>REAL ESTATE</b>	 <b>REGULATORY &amp; POLICY</b>
 <b>RESTRUCTURING &amp; INSOLVENCY</b>	 <b>TAXATION</b>	 <b>TECHNOLOGY, MEDIA &amp; TELECOMMUNICATIONS</b>

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