



# LEGAL *'KISSE'* OF THE WEEK

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**19<sup>TH</sup> EDITION**

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## Legal 'Kisse' of Last Week

### INSOLVENCY BANKRUPTCY CODE, 2016

✚ **NCLAT New Delhi reiterates Government Dues fall under the ambit of Secured Creditors.**

◆ Citation: *Principal Commissioner of Income Tax & Anr. VS M/s Assam India Pvt. Ltd. //Company Appeal (AT) (Ins.) No. 243 of 2022// NCLAT New Delhi// Para 19.*

✚ **Erstwhile promoter of a corporate debtor has no vested right to bid for the property in liquidation: NCLAT New Delhi.**

◆ Citation: *Kanti Mohan Rustagi Vs Redbrick Consulting Pvt. Ltd. & Anr. //Company Appeal (AT) (Ins.) No. 1176 & 1177 of 2022// NCLAT New Delhi// Para 24 & 25.*

✚ **If Interim Moratorium has commenced against Personal Guarantor, no fresh proceedings U/s 95 can be initiated against that personal Guarantor: NCLAT New Delhi.**

◆ Citation: *Bhavesh Gandhi Vs Central Bank of India //Company Appeal (AT) (Ins.) No. 923 of 2022// NCLAT New Delhi // Para21.*

✚ **Claim has to be filed and proved as on Liquidation date, no claim thereafter can be entertained by the Liquidator: NCLAT New Delhi.**

◆ Citation: *DBS Bank India Limited Vs Kuldeep Verma //Company Appeal (AT) (Ins.) No. 1048 of 2022// NCLAT New Delhi// Para 20.*

✚ **Claimant in liquidation proceedings cannot be allowed to increase its claim on any ground: NCLAT New Delhi.**

◆ Citation: *DBS Bank India Limited (Supra) // Para 19.*

### ARBITRATION AND CONCILATION ACT, 1996

✚ **More liberal view has to be adopted by the Court while considering whether filing should be treated as 'non-est': Delhi High Court.**

◆ Citation: *Kidde India Limited Vs. National Thermal Power corporation Limited // FAO (OS) (COMM) 361/2019 // Neutral Citation: 2023/DHC/000875 // Delhi High Court // Para 18.*



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◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/VIB/judgement/07-02-2023/VIB07022023FAC3612019\\_190223.pdf](http://164.100.69.66/jupload/dhc/VIB/judgement/07-02-2023/VIB07022023FAC3612019_190223.pdf)

✚ **Section 4 of the Limitation Act is not applicable on the extended period of '30 days' provided under Section 34 beyond three months: Delhi High Court.**

◆ **Citation:** *My Preferred Transformation and hospitality Private Limited & Anr. Vs. Faridabad Implements Private Limited || O.M.P. (COMM) 316/2022 || Neutral Citation: 2023/DHC/000847 || Delhi High Court || Para 58.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/VKR/judgement/08-02-2023/VKR07022023OMPCOMM3162022\\_163801.pdf](http://164.100.69.66/jupload/dhc/VKR/judgement/08-02-2023/VKR07022023OMPCOMM3162022_163801.pdf)

✚ **Section 4 of the Limitation Act is inapplicable once the 'prescribed period' of limitation of three months has expired: Delhi High Court.**

◆ **Citation:** *My Preferred Transformation and hospitality Private Limited & Anr. (Supra)|| Para 62.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/VKR/judgement/08-02-2023/VKR07022023OMPCOMM3162022\\_163801.pdf](http://164.100.69.66/jupload/dhc/VKR/judgement/08-02-2023/VKR07022023OMPCOMM3162022_163801.pdf)

✚ **In case of urgency, arbitral proceedings can be initiated even when conciliation proceedings are pending: Delhi High Court.**

◆ **Citation:** *M/s Oasis Projects limited Vs. Managing Director, National highway and Infrastructure Development Corporation Limited || ARB.P. 1364/2022 || Neutral Citation: 2023/DHC/000828 || Delhi High Court || Para 16.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/NAC/judgement/08-02-2023/NAC07022023AA13642022\\_182951.pdf](http://164.100.69.66/jupload/dhc/NAC/judgement/08-02-2023/NAC07022023AA13642022_182951.pdf)

✚ **In proceedings under Section 11 of the Act, the Court is to be guided by the principle, "when in doubt, do refer": Delhi High Court.**

◆ **Citation:** *M/s KBG Engineers Vs. Delhi state Industrial & Infrastructure Development Corporation Limited || ARB.P 26/2023 || Neutral Citation: 2023/DHC/000888 || Delhi High Court || Para 9.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/PRJ/judgement/09-02-2023/PRJ07022023AA262023\\_114728.pdf](http://164.100.69.66/jupload/dhc/PRJ/judgement/09-02-2023/PRJ07022023AA262023_114728.pdf)



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## PREVENTION OF MONEY LAUNDERING ACT, 2002

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✚ If the scheduled offence is taken cognizance of by any other Court, that Court shall commit the same to the Special Court under PMLA: Supreme Court.

◆ **Citation:** *Rana Ayyub Vs Directorate of Enforcement through its Assistant Director // Writ Petition (Criminal) No. 12 of 2023 // Supreme Court // Para 36.*

◆ **Link to Citation:**

[https://main.sci.gov.in/supremecourt/2023/1847/1847\\_2023\\_15\\_1501\\_41710\\_Judgement\\_07-Feb-2023.pdf](https://main.sci.gov.in/supremecourt/2023/1847/1847_2023_15_1501_41710_Judgement_07-Feb-2023.pdf)

✚ Issue of territorial jurisdiction cannot be decided in a writ petition especially when there is a serious factual dispute about the place/places of commission of the offence: Supreme Court.

◆ **Citation:** *Rana Ayyub (Supra)// Para 46.*

◆ **Link to Citation:**

[https://main.sci.gov.in/supremecourt/2023/1847/1847\\_2023\\_15\\_1501\\_41710\\_Judgement\\_07-Feb-2023.pdf](https://main.sci.gov.in/supremecourt/2023/1847/1847_2023_15_1501_41710_Judgement_07-Feb-2023.pdf)

✚ Bail granted, as accused have been serving pre-trial incarceration from 17 months and investigation is not completed: Delhi High Court.

◆ **Citation:** *Raman Bhuraria Vs Directorate of Enforcement // Bail Appln. 4330/2021 & CRL.M.(BAIL) 1514/2021 // Neutral Citation No. 2023/DHC/000887 // Delhi High Court // Para 66.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/JSM/judgement/08-02-2023/JSM08022023BA43302021\\_121518.pdf](http://164.100.69.66/jupload/dhc/JSM/judgement/08-02-2023/JSM08022023BA43302021_121518.pdf)

✚ Bail granted, as *prima facie* there are reasonable grounds to believe that the Accused is not guilty of scheduled offences: Delhi High Court.

◆ **Citation:** *Chitra Ramkrishna Vs Assistant Director, Enforcement Directorate // BAIL APPL. 2919/2022 // Neutral Citation No. 2023/DHC/000906 // Delhi High Court // Para 56.*

◆ **Link to Citation:** [http://164.100.69.66/jupload/dhc/JSM/judgement/09-02-2023/JSM09022023BA29192022\\_122218.pdf](http://164.100.69.66/jupload/dhc/JSM/judgement/09-02-2023/JSM09022023BA29192022_122218.pdf)

