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# LEGAL '*KISSE*' OF LAST WEEK

36th Edition



**Authored By:**

Indo Legal Services, LLP

☎ +91- 9871433339

✉ [info@indolegalservices.com](mailto:info@indolegalservices.com)

📍 Mayur Vihar Phase 1

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## INSOLVENCY BANKRUPTCY CODE, 2016

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- ✚ **An existence of a Pre-existing Dispute, is a bar to the initiation of the Corporate Insolvency Resolution Process, at the instance of an Operational Creditor: NCLAT Chennai.**
  - ◆ **Citation:** *M/s SFO Technologies Pvt. Ltd. Vs. M/s Vanu India Private Limited* // *Company Appeal (AT) (CH) (INS.) No. 436 of 2022* // *NCLAT Chennai* // 07.06.2023 // *Para 39.*
  
- ✚ **If the order passed by the AA is a non-speaking order which does not disclose the reasons for dismissal of the pleadings then an opportunity may be accorded to the Appellant to be heard on merits: NCLAT Chennai.**
  - ◆ **Citation:** *K. Narayansamy Vs. J. Karthiga & Ors.* // *Company Appeal (AT) (CH) (INS.) No. 61 of 2023* // *NCLAT Chennai* // 08.06.2023 // *Para 4.*
  
- ✚ **Any latches on behalf of the Appellant in filing, the Claim under a wrong category cannot be a substantial ground for condoning the delay: NCLAT Chennai.**
  - ◆ **Citation:** *Mr. Shyam Rathod Vs. Mr. Gopalsamy Ganesh Babu* // *Company Appeal (AT) (CH) (INS.) No. 137 of 2023* // *NCLAT Chennai* // 08.06.2023 // *Para 9.*
  
- ✚ **Transaction of transfer of Assets among / within the Group Companies, ex-facie, will not come within the umbrage of the Fraudulent Trading, as per Section 66 (1) of the Code: NCLAT Chennai.**
  - ◆ **Citation:** *Renuka Devi Rangaswamy Vs. Mr. Madhusudan Khemka & Ors.* // *Company Appeal (AT) (CH) (INS.) No. 356 of 2022* // *NCLAT Chennai* // 05.06.2023 // *Para 41.*
  
- ✚ **Compulsory Convertible Debentures are in the nature of Equity Instruments and do not fall within the definition of Financial Debt as defined under Section 5(8) of the Code.**
  - ◆ **Citation:** *M/s IFCI Limited Vs. Sutanu Sinha & Anr.* // *Company Appeal (AT) (CH) (INS.) No. 108/2023* // *NCLAT Chennai* // 05.06.2023 // *Para 33.*



Legal 'Kisse' of Last Week

✚ **If any party is willing to fund any settlement even during the Liquidation Process then AA shall give 14 days' time for settlement: NCLAT Chennai.**

◆ **Citation:** *Arun Agarwal Vs. Mr. Ram Ratan Kanoongo & Anr. // Company Appeal (AT) (CH) (INS.) No. 109 of 2023 // NCLAT Chennai // 07.06.2023 // Para 15.*

✚ **If the Application for MSME Certificate was made by the Corporate Debtor after the commencement of CIRP, such certificate cannot tide over the ineligibility under Section 29A: NCLAT Chennai.**

◆ **Citation:** *Hari Babu Thota Vs. NA // Company Appeal (AT) (CH) (INS.) No. 110 of 2023 // NCLAT Chennai // 02.06.2023 // Para 8.*

✚ **NCLAT is not vested with any power to review the judgment, however, it can entertain an application for recall of judgment on sufficient grounds: NCLAT New Delhi.**

◆ **Citation:** *Union Bank of India Vs. Dinkar T. Venkatasubramaniam & Ors. // Company Appeal (At) (ins.) No. 729 of 2020 // NCLAT New Delhi // 25.05.2023 // Para 27.*

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**CONTACT US:**

**📍 DELHI:**

121, Tower 11, Supreme Enclave,  
Mayur Vihar Phase-1,  
New Delhi- 110091.

**📍 DELHI:**

S 137, Lower Ground Floor,  
GK-2, New Delhi – 110091.

**📍 CHANDIGARH:**

345, 3<sup>rd</sup> Floor, Tricity Plaza  
Peer Muchalla Road, Zirakpur,  
Chandigarh 140603.

**📍 BANGALORE:**

Japna Choudhary No.14,  
2<sup>nd</sup> Floor , "Arihant" Shanti Road,  
Shantinagar,  
Bangalore – 560027.

**📍 KOLKATA:**

**A.S & CO**

Lords Building, 8, Stand Road, 4th  
floor, Opposite to City Civil Court  
Kolkata- 700001.

**📍 PRAYAGRAJ:**

18, Patrika Marg, Civil Lines,  
Allahabad - 211001  
Uttar Pradesh.

**📍 MUMBAI:**

3 Neelkanth Arcade, Opp. Fine Arts  
Society Monorail Station, Chembur  
Mumbai – 400071.

**📍 AHMEDABAD:**

1, Silver Nine Apartment,  
Nr. Gopi Complex, Bhaikaka  
Nagar, Thaltej, Ahmedabad.

