




**INDO LEGAL SERVICES**  
ADVOCATES & SOLICITORS

# LEGAL '*KISSE*' OF LAST WEEK

25th Edition



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 Mayur Vihar Phase 1

## INSOLVENCY BANKRUPTCY CODE, 2016

- ✚ **Once Resolution Plan is approved by COC is not open to judicial review unless it is contrary to mandate of the Code: Supreme Court.**
  - ◆ **Citation:** *SREI Multiple Asset Investment Trust Vision India Fund Vs Deccan Chronicle Marketers & Ors. || Civil Appeal No(S). 1706 of 2023|| Supreme Court || 17.03.2023 || Para 22.*
  
- ✚ **Once Resolution Plan is approved no modification/ alteration are permissible: Supreme Court.**
  - ◆ **Citation:** *SREI Multiple Asset Investment Trust Vision India Fund (Supra) || Para 24.*
  
- ✚ **In order to qualify the debt to be a 'financial debt', it is necessary that the amount advanced to the Corporate Debtor is against the time value of money: NCLAT New Delhi.**
  - ◆ **Citation:** *M/s VRG Healthcare Pvt. Ltd. Vs M/s VRG Infrastructure Pvt. Ltd. || Company Appeal (AT) (Ins.) No. 778 of 2020 || NCLAT New Delhi || 22.03.2023 || Para 17.*
  
- ✚ **In Section 9 proceedings contractual disputes cannot be adjudicated: NCLAT New Delhi.**
  - ◆ **Citation:** *Jain Irrigation Systems Ltd. Vs Pragyawan Technologies Pvt. Ltd. || Company Appeal (AT) (Ins.) No. 311 of 2023 || NCLAT New Delhi || 21.03.2023 || Para 8.*
  
- ✚ **Replacement of RP as per Section 27 is complete when the resolution is passed by COC with 66% voting share: NCLT Allahabad.**
  - ◆ **Citation:** *M/s Mahajagdamba Tubes Private Limited Vs M/s Quality Steels Product Limited. || CP (IB) No. 174/ALD/2019 || NCLT Allahabad || 02.03.2023 || Para 11.*
  
- ✚ **Unsuccessful Resolution Applicant has no locus to challenge the approved Resolution Plan: NCLAT Chennai.**
  - ◆ **Citation:** *M.K. Rajagopalan Vs S. Rajendran & Anr. || Company Appeal (AT) (CH) (Ins.) No. 58 of 2023|| NCLAT Chennai || 17.3.2023 || Para 31.*



## Legal 'Kisse' of Last Week

- ✚ **If there is a pre-existence dispute between the parties before issuance of Demand Notice then CIRP against the Corporate Debtor is not permissible: NCLAT New Delhi.**
  - ◆ **Citation:** *Abdos Polymers Limited Vs Callina Care Overseas Pvt. Ltd. //Company Appeal (AT) (Ins.) No. 788 of 2021// NCLAT New Delhi // 20.03.2023// Para 12.*
- ✚ **Residuary Jurisdiction of NCLT U/S 60(5) (c) of IBC cannot be used to interpret terms of an agreement: NCLT Ahmedabad.**
  - ◆ **Citation:** *Sundresh Bhat Vs Manglore Refinery and Petrochemicals Limited// CP(IB) 232 of 2018// NCLT Ahmedabad // 09.03.2023 // Para 12.*
- ✚ **Jurisdiction of NCLT U/S 60(5) (c) of IBC can only be invoked to dispose questions relating to CIRP or Liquidation Process: NCLT Ahmedabad.**
  - ◆ **Citation:** *Sundresh Bhat (Supra) // Para 13.*

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## ARBITRATION AND CONCILATION ACT, 1996

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- ✚ **The Limitation Act, 1963 does not extinguish the obligation but merely the remedies for enforcing the same: Delhi High Court.**
  - ◆ **Citation:** *Nabinagar Power Generating Company Limited Vs. AMR India Limited // Neutral Citation: 2023:DHC:1976-DB // Delhi High Court // 20.03.2023 // Para 19-21.*
- ✚ **The scope of interference of Court under Section 37 of the Arbitration Act is narrow: Delhi High Court.**
  - ◆ **Citation:** *Pragya Electronics Private Limited & Ors. Vs. Cosmo Ferrites Limited // Neutral Citation: 2023:DHC:1987-DB // Delhi High Court // 21.03.2023 // Para 16.*
- ✚ **Unless there is a patent illegality or perversity interference by the Court under Section 37 is unwarranted: Delhi High Court.**
  - ◆ **Citation:** *Pragya Electronics Private Limited (Supra) // Para 16.*



Legal 'Kisse' of Last Week

- ✚ **The scope of interference of Court under Section 37 of the Arbitration Act is narrow: Delhi High Court.**
  - ◆ **Citation:** *Municipal Corporation of Delhi Vs. Natraj Construction Company* // *Neutral Citation:2023:DHC:2054* // *Delhi High Court* // 22.02.2023 // Para 8.
  
- ✚ **Court under Section 37 shall refrain from reassessment or re-examination of the merits of the case: Delhi High Court.**
  - ◆ **Citation:** *Municipal Corporation of Delhi (Supra)* // Para 8.
  
- ✚ **The MSMED Act's provisions cannot be invoked in cases of work contract: Bombay High Court.**
  - ◆ **Citation:** *National Textile Corporation Limited Vs. Elixir Engineering Private Limited & Anr.* // *Commercial Arbitration Petition No: 326 of 2018* // *Bombay High Court* // 21.03.2023 // Para 35.
  
- ✚ **Tribunal under Section 34(4) cannot render new finding which is not covered in the award: Delhi High Court**
  - ◆ **Citation:** *Inox Air Products Private Limited Vs. Air Liquide North India Private Limited* // *Neutral Citation: 2023:DHC:2092* // *Delhi High Court* // 24.03.2023 // Para 11(e).
  
- ✚ **Section 34(4) cannot be invoked to provide reasoning or fill a lacuna in the reasoning in support of finding in award to enable an arbitral tribunal to reopen the conclusion reached: Delhi High Court**
  - ◆ **Citation:** *Inox Air Products Private Limited (Supra)* // Para 11(e).
  
- ✚ **Section 34(4) cannot be invoked to enable an arbitral tribunal to reopen the conclusion reached: Delhi High Court**
  - ◆ **Citation:** *Inox Air Products Private Limited (Supra)* // Para 19.

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