



INDO LEGAL SERVICES
ADVOCATES & SOLICITORS


..... *Redefining Legal Assistance*

LEGAL '*KISSE*' OF LAST WEEK

48th Edition



Authored By:
Indo Legal Services, LLP

 +91- 9871433339

 www.indolegalservices.com

 info@indolegalservices.com

 Mayur Vihar Phase 1

INSOLVENCY AND BANKRUPTCY CODE, 2016

- ✚ **Breach of settlement agreement gives a fresh cause of action to the Operational Creditor to approach NCLT u/s 9 : NCLAT New Delhi**
 - ◆ **Citation:** *M/s Ahluwalia Contracts (India) Ltd Vs. M/s Jasmine Buildmart Pvt. Ltd* // *Company Appeal (AT) (Ins) No.345 of 2023 & I.A. No. 1164 of 2023* // *NCLAT New Delhi* // 01.09.2023 // Para 7&11.

- ✚ **The Adjudicating Authority had the jurisdiction to recall its own order which has been obtained by playing fraud upon it: NCLAT New Delhi**
 - ◆ **Citation:** *Rakesh Kumar Gupta Vs. Straight Edge Contracts Pvt. Ltd* // *Company Appeal (AT) (Ins) No. 444, 651, 370, 602 & 1379 of 2022* // *NCLAT New Delhi* // 28.08.2023 // Para 24.

- ✚ **The concept of the time value of money would necessarily culminate to interest but can include money that has been loaned having commercial effect of borrowing or profit as the aim is discernible: NCLAT New Delhi**
 - ◆ **Citation:** *SAJ Housing Pvt. Ltd Vs. Ms. Priyanka Chauhan & Anr.* // *Company Appeal (AT) (Ins) No. 1093, 1273, 377 of 2022 & 967 of 2021* // *NCLAT New Delhi* // 01.09.2023 // Para 34.

- ✚ **The decision of CoC whether Corporate Debtor is to be revived or not is a business Decision and the primacy of the commercial wisdom of the CoC comes into play: NCLAT New Delhi**
 - ◆ **Citation:** *SAJ Housing Pvt. Ltd (Supra)* // Para 45.

- ✚ **It is settled law that the litigation in the SARFAESI and DRT does not preclude the Bank to take specific remedy provided under Section 7: NCLAT New Delhi**
 - ◆ **Citation:** *Laxmi Engineering Industries (Bhopal) Pvt. Ltd. Vs. Canara Bank* // *Company Appeal (AT) (Ins) No. 1125 of 2023* // *NCLAT New Delhi* // 31.08.2023 // Para 6.

- ✚ **An Agreement to Sell or being in Possession, in respect of an Immovable Property in Law, will not confer any Ownership Right, upon a Person: NCLAT Chennai**
 - ◆ **Citation:** *Mr. K. Jayant Prabhu & Anr. Vs. Mr. Pankaj Srivastava* // *Company Appeal (AT) (CH) (Ins) No. 254 of 2023* // *NCLAT Chennai* // 28.08.2023 // Para 37.

- ✚ **Consolidation of CIRP of two companies is based on the principle that the Holding and the Subsidiary Units would be regarded as a 'Single Unit' owing to the nature of business activity: NCLAT Chennai**
 - ◆ **Citation:** *Giriraj Enterprises Vs. Regen Powertech Pvt. Ltd. & Anr.* // *Company Appeal (AT) (Ch) (Ins.) No. 323 of 2021* // *NCLAT Chennai* // 31.08.2023 // Para 76-79.



Legal 'Kisse' of Last Week

✦ **Performance Bank Guarantee does not fall under Moratorium in terms of Section 14 of the I & B Code, 2016: NCLAT Chennai**

◆ **Citation:** *Mr. Vijay Kumar Garg Vs. Power Grid Corporation & Ors. // Company Appeal (AT) (Ch)(Ins) (No.) 260 of 2023 // NCLAT Chennai // 01.09.2023 // Para 39.*

COMPANIES ACT, 2013

✦ **Petitioner while filing a petition under Section 241-242, has to first establish his right as a member of the Company: NCLAT New Delhi**

◆ **Citation:** *Mr. Sudhir John Horo Vs. Ideaworks Design & Strategy Pvt. Ltd. & Ors // Company Appeal (At) (Ins) No. 98 of 2021 // NCLAT New Delhi // 28.08.2023 // Para 18.*

DISCLAIMER:

The accuracy of the information presented here has been carefully checked. While every effort is made to avoid any mistake or omission, the information contained in this note ("Legal Kisse") is being circulated on the condition and understanding that the Indo Legal Services LLP or its partner or its associate would not be liable in any manner by reason of any mistake or omission or for any action taken or omitted to be taken or advice rendered or accepted on the basis of this note ("Legal Kisse"). The authenticity of this text must be verified from the original source.



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, 3rd Floor, Tricity Plaza
Peer Muchalla Road, Zirakpur,
Chandigarh 140603.

📍 BANGALORE:

Japna Choudhary No.14,
2nd 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.

