11 RMLNLUJ (2019) 52

Evolution of Law on Withdrawal of Application Under the Insolvency and Bankruptcy Code 2016

EVOLUTION OF LAW ON WITHDRAWAL OF APPLICATION UNDER THE INSOLVENCY AND BANKRUPTCY CODE 2016

by

Mangesh Krishna[*]

ABSTRACT

When the Insolvency and Bankruptcy Code 2016 was enacted there was no provision providing for the withdrawal of an application after it had been admitted under Section 7, Section 9 or Section 10 of the Insolvency and Bankruptcy Code 2016 by the Adjudicating Authority, leaving the ex-management/promoter of the corporate debtor with no remedy, seriously prejudicing their interests. However, the Hon'ble Supreme Court of India allowed the withdrawal of the insolvency applications on the basis of the settlement arrived between the parties under Article 142 of the Constitution of India, which resulted in the enactment the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 and thereafter the Insolvency and Bankruptcy (Second Amendment) Act 2018 with effect from 06 June 2018 which added Section 12A in the Insolvency and Bankruptcy Code 2016. Section 12A of the Insolvency and Bankruptcy Code 2016 provided the applicants with a mechanism to withdraw their insolvency application upon reaching a settlement with the corporate debtor, after it had been admitted earlier. This article, with the assistance of ordinances, amendments and judgments, attempts to collate the evolution of law with regard to the various stages of withdrawal of application/settlement after the admission of the application under Section 7, Section 9 or Section 10 of the Insolvency and Bankruptcy Code 2016 by the Adjudicating Authority and thereby bringing an end to the CIRP.

Keywords: Settlement, Withdrawal of application, The Insolvency and Bankruptcy Code 2016, Compromise under IBC, Application admitted under the IBC

I. INTRODUCTION

The Insolvency and Bankruptcy Code 2016 ("IBC") was notified on 28 May 2016 and came into force from 01 December 2016[1]. It has been enacted with an objective for reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximisation of value of assets of such persons to promote entrepreneurship, availability of credit, and balance the interests of all stakeholders.[2] In summary, IBC provides for a time bound specialised resolution mechanism while at the same time preserving the economic value of an entity.

Under the IBC, with the initiation of the Corporate Insolvency Resolution Process ("CIRP") i.e. the date on which an application under Section 7, Section 9 or Section 10 of the IBC is admitted by the Adjudicating Authority[3] ("Adjudicating Authority")/National Company Law Tribunal ("NCLT"), an Interim Resolution Professional ("IRP") is appointed. Consequently, upon which the management of the affairs of the corporate debtor along with its control gets vested with the IRP while the

powers of already existing management of the corporate debtor are suspended.[4]

The above scenario leads to adversely affecting the interests of the existing promoter(s)/ex management of the corporate debtor. Consequently, such promoter (s)/ex management to protect their interests then prefer to settle with the creditors of the corporate debtor before the admission of the application seeking to initiate the CIRP but sometimes such settlement comes after the admission of the application leading to a very peculiar situation leaving the ex-management/promoter(s) of the corporate debtor with no alternative remedy.

II. WITHDRAWAL OF APPLICATION/SETTLEMENT BEFORE ADMISSION OF APPLICATION

At the inception of the IBC, there was no provision for withdrawal of an application, before the Adjudicating Authority. An applicant, however, under Rule 8 of the Insolvency and Bankruptcy Code 2016 (Application to Adjudicating Authority) Rules 2016, had the liberty to withdraw its application, but only before its admission before the Adjudicating Authority.

However, there was no provision to seek withdrawal of an application after it had been admitted under Section 7, Section 9 or Section 10 of the IBC by the Adjudicating Authority and the CIRP being initiated, leaving the promoter(s)/ex management in a peculiar situation with no remedy. The rationale behind not keeping a provision for the withdrawal of an insolvency application that had been admitted was that once the CIRP has been initiated, it no longer remains a proceeding only between the applicant creditor and the corporate debtor but is envisaged to be a proceeding involving all creditors of the corporate debtor and the intent of the IBC is to discourage individual actions for enforcement and settlement to the exclusion of the general benefit of all creditors.[5]

In *Parker Hannifin India (P) Ltd.* v. *Prowess International (P) Ltd.*[6] the Adjudicating Authority while dealing with a proposal for settlement by the resolution professional observed that after the admission of the application, the nature of the admitted insolvency application changes to a representative suit and the *lis* does not remain only between a creditor applicant and the corporate debtor and therefore the admitted insolvency application cannot be dismissed on the basis of the compromise between them because after the publication of notice by the IRP, other creditors of the corporate debtor also have a right to file their claim before the IRP.

Thus, it can be said that after the admission of the application under the IBC and with the initiation of the CIRP, the proceeding that had been initiated in *personam* transforms into a proceeding in *rem*.

III. SETTLEMENT AFTER ADMISSION OF APPLICATION UNDER THE INSOLVENCY AND BANKRUPTCY CODE 2016

The first settlement post admission of an admitted insolvency application under the IBC was recorded in *Lokhandwala Kataria Construction (P) Ltd.* v. *Nisus Finance and*

Investment Managers LLP[7] by the Hon'ble Supreme Court of India ("Supreme Court") in its order dated 24 July 2017.

Nisus Finance and Investment Managers LLP had filed an application under Section 7 of the IBC before the Adjudicating Authority against Lokhandwala Kataria Construction Pvt. Ltd. for commencement of CIRP which was admitted by the Adjudicating Authority.[8] Subsequently, upon initiation of the CIRP and the moratorium under Section 14 of the IBC being imposed, Lokhandwala Kataria Construction Pvt. Ltd. approached the Hon'ble National Company Law Appellate Tribunal ("NCLAT") with the plea of setting aside of the order dated 15 June 2017 passed by the Adjudicating Authority on the basis of the settlement arrived between both the parties and the dues being paid by it to the creditor. The Hon'ble NCLAT dismissed the appeal stating that an application which has not yet been admitted can be withdrawn by the creditor. However, once an application has been admitted, then it cannot be allowed to be withdrawn. Upon the plea of exercising of inherent powers of the Hon'ble NCLAT as provided under Rule 11 of the National Company Law Appellate Tribunal Rules 2016, the Hon'ble NCLAT held that since Rule 11 has not been adopted by the IBC, the same cannot be invoked for allowing the withdrawal of the application.[9]

Consequently, both the parties approached the Hon'ble Supreme Court where it exercised its inherent power under Article 142 of the Constitution of India to allow the settlement between the parties and set aside the CIRP while observing that the view taken by the Hon'ble National Company Law Appellate Tribunal that the inherent powers under Rule 11 of the NCLAT Rules 2016 cannot be utilised appears to be the correct position in law[10]:

> "*2) The present appeal raises an interesting question as to whether, in view of Rule 8 of the I&B (Application to Adjudicating Authority) Rules, 2016, the National Company Law Appellate Tribunal could utilize the inherent power*

recognized by Rule 11 of the National Company Law Appellate Tribunal Rules, 2016 to allow a compromise before it by the parties after admission of the matter.

> *3) By the impugned order dated 13.07.2017, the National Company Law Appellate Tribunal was of the view that the inherent power could not be so utilized. According to us, prima facie this appears to be the correct position in law."*

The Hon'ble NCLAT in *Mother Pride Dairy India (P) Ltd.* v. *Portrait Advertising & Mktg. (P) Ltd.*[11] as well dismissed the appeal with the plea for withdrawal of application pursuant to the settlement arrived between the parties and observed that:

> *"In view of Rule 8 of Insolvency & Bankruptcy (Adjudicating Authority) Rules, 2016, it was open to the Operational Creditor to withdraw the application under Section 9 before its admission but once it was admitted, it cannot be withdrawn even by the Operational Creditor, as other creditors are entitled to raise claim pursuant to public announcement under Section 15 read with Section 18 of the I&B Code, 2016."*

Thereafter, the corporate debtor approached the Hon'ble Supreme Court with its proposal for settlement wherein the Hon'ble Supreme Court exercised its powers under Article 142 of the Constitution of India and allowed the settlement between the parties, disposing the proceedings under IBC.[12]

Consequently, parties started approaching the Hon'ble Supreme Court under Article 142 of the Constitution of India seeking withdrawal of the admitted applications under the IBC and setting aside of the CIRP, in the light of the settlement arrived at between

the creditor and the corporate debtor.

Subsequently, the Hon'ble Supreme Court in *Uttara Foods and Feeds (P) Ltd.* v. *Mona Pharmahcem*[13] in its order dated 13 November 2017 made a specific observation that in view of the number of appeals being filed before it for the orders of settlement after the admission of an insolvency petition, the relevant rules should be amended so as to include such inherent powers that can be exercised by the competent authority to allow the settlements under the IBC:

> *"In an earlier order dated 24.07.2017, this Bench had observed that in view of Rule 8 of the I & B (Application to Adjudicating Authority) Rules, 2016, the National Company Law Appellate Tribunal prima facie could not avail of the inherent powers recognised by Rule 11 of the National Law Appellate Tribunal Rules, 2016 to allow a compromise to take effect after admission of the insolvency petition. We are of the view that instead of all such orders coming to the Supreme Court as only the Supreme Court may utilise its powers under Article 142 of the Constitution of India, the relevant Rules be amended by the competent authority so as to include such inherent powers. This will obviate unnecessary appeals being filed before this Court in matters where such agreement has been reached. On the facts of the present case, we take on record the settlement between the parties and set aside the NCLAT order."*

IV. WITHDRAWAL OF APPLICATION/SETTLEMENT AFTER CONSTITUTION OF COMMITTEE OF CREDITORS PRIOR TO INVITATION OF EXPRESSION OF INTEREST

The Insolvency Law Committee in its Report published in March 2018 taking note of various judgments of the NCLT and the Hon'ble NCLAT and while referring to the observations made by the Hon'ble Supreme Court in its various judgments, observed that there emerged a consistent pattern that a settlement may be arrived at between all the creditors and the corporate debtor and not particularly between the applicant creditor and the corporate debtor. Accordingly, the Insolvency Law Committee unanimously agreed that the relevant rules may be amended to provide for the withdrawal of application for post admission if the committee of creditors ("COC") of the corporate debtor approves of such action by a voting share of ninety percent, since Rule 11 of the National Company Law Tribunal Rules, 2016 and NCLAT Rules 2016 (inherent powers) may not be adopted for this aspect at the stage of CIRP by the Adjudicating Authority or the Hon'ble NCLAT.[14]

Subsequently, the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018 ("Ordinance") was promulgated by the Ministry of Corporate Affairs which came into effect on 06 June 2018 wherein Section 12A was introduced in the IBC which provided that the Adjudicating Authority may allow the withdrawal of an application which had been admitted under Section 7, Section 9 or Section 10 of the IBC upon an application made by the

applicant before it but only with the approval of the ninety percent voting share of the committee of creditors and in such manner as may be specified by the Insolvency and

Bankruptcy Board of India ("IBBI").[15]

The newly introduced provision ensured that the insolvency proceeding remained a collective proceeding rather than being an individualistic action. Notedly, Section 12A incorporated the recommendation made by the Insolvency Law Committee in its report[16] and the observation made by the Supreme Court in *Uttara Foods and Feeds (P) Ltd.* v. *Mona Pharmachem*[17] regarding the powers of the Adjudicating Authority for allowing settlement under the IBC i.e. instead of amending the National Company Law Tribunal Rules 2016 to include the power of settlement within the inherent powers of the Adjudicating Authority, Section 12A of the IBC enabled the Adjudicating Authority to adjudicate on each application for settlement individually.

Further, The Ministry of Corporate Affairs in relation to the Ordinance released a press note dated 06 June 2018 stating rather clarifying that:[18]

> "*Such withdrawal will only be permissible before publication of notice inviting Expressions of Interest (EoI). In other words, there can be no withdrawal once the commercial process of EoIs and bids commences.*"

In line with the Ordinanceand the press note the IBBI also amended The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ("Corporate Persons Regulations") by adding Regulation 30A within effect from 07 July 2018. Regulation 30A prescribed the procedure for withdrawal of an admitted insolvency application stating that an application for withdrawal under Section 12A should be submitted to the IRP or the Resolution Professional ("RP") before issue of invitation for expression of interest under Regulation 36A of the Corporate Persons Regulations.[19]

Further, the Regulation 36A (1) of the Corporate Persons Regulations provides that the RP must publish the invitation for expression of interest not later than the 75th day from the insolvency commencement date from the interested

and eligible prospective resolution applicants to submit the resolution plans for resolution of the corporate debtor.[20]

Thus, the settlement/withdrawal procedure under Section 12A of the IBC read with Regulation 30A and Regulation 36A of the Corporate Persons Regulations gave a time period of 75 days from the date of commencement of the CIRP to the corporate debtor to submit an application for settlement to the IRP or the RP along with a bank guarantee towards the cost of the expenses incurred by the IPR or the RP, as the case maybe, who then would place the application before the COC for consideration of the application within seven days of constitution of the COC or seven days of receipt of the application by it, whichever is late. Then if the application is approved by the COC with ninety percent voting share, the RP or IRP shall submit the application to the Adjudicating Authority on behalf of the applicant within three days of such approval, which then shall be approved by the Adjudicating Authority resulting in withdrawal of application against the corporate debtor and thereby terminating the CIRP against the corporate debtor.[21]

Thereafter, the IBC was amended by the Insolvency and Bankruptcy (Second Amendment) Act 2018 on 17 August 2018 with effect from 06 June 2018 replacing the Ordinance to bring in the changes as brought in by the Ordinance in the IBC[22].

Pertinently, in *Francis John Kattukaran* v. *Federal Bank Ltd.* delivered on 12 November 2018 by the Hon'ble NCLAT, the RP moved an application under Section

12A of the IBC with a proposal for settlement that had been approved by 100% vote of the COC. The Hon'ble NCLAT clarified that as per Section 12A of the IBC it is the applicant who can only file such an application before the Adjudicating Authority which thereafter may pass an appropriate order and not the RP. It further observed that the condition prescribed by the Regulation 30A of the Corporate Persons Regulations that the RP has to submit the application to the Adjudicating Authority after the approval of the COC cannot override the substantive provision of Section 12A of the IBC according to which only the applicant can move an application for withdrawal of the application before the Adjudicating Authority.[23] Thus, this gave the applicant the right to move an application for withdrawal/settlement independently before the COC and thereafter the Adjudicating Authority.

With the insertion of Section 12A in the IBC with Regulation 30A and Regulation 36A in the Corporate Persons Regulations brought in some relief to the corporate debtors intending to settle with the creditors, after the admission of the application under Section 7, Section 9 or Section 10 of the IBC and initiation of the CIRP, by providing them a window to settle with the creditors, however only prior to the issuance of the expression of interest as per Regulation 30A of the Corporate Persons Regulations i.e. within 75 days from the date of commencement of the CIRP.

V. WITHDRAWAL OF APPLICATION/SETTLEMENT AFTER ISSUANCE OF EXPRESSION OF INTEREST

The small window provided to the corporate debtors to settle with its creditors was widened when, notably, the Hon'ble Supreme Court in *Brilliant Alloys (P) Ltd.* v. *S. Rajagopal*[24] allowed settlement between the corporate debtor and its creditors even after the invitation of expression of interest by the RP. The Hon'ble Supreme Court held that the Regulation 30A of the Corporate Persons Regulation which stipulates the condition that an application for withdrawal under Section 12A of the IBC has to be made before the initiation of expression of interest, has to be read along with the main provision i.e. Section 12A of the IBC which contains no such stipulation and the stipulation under Regulation 30A of the Corporate Persons Regulation can only be construed as directory, depending on the facts of each case. In this case the application for withdrawal under Section 12A of the IBC was not allowed by the Adjudicating Authority even when it was agreed between the corporate debtor and its creditors for settlement, for the sole reason that Regulation 30A stated that withdrawal cannot be permitted after issue of invitation of expression of interest.[25]

Following *Brilliant Alloys (P) Ltd.* v. *S. Rajagopal*[26], the Hon'ble NCLAT in *Navin Heavy Lifter* v. *Canbuild Precast Solutions (P) Ltd.*[27] delivered on 12 July 2019, wherein the application for withdrawal under Section 12A of the IBC was dismissed by the Adjudicating Authority for the reason that the CIRP was initiated prior to the insertion of Section 12A in the IBC, allowed the settlement between the corporate debtor and its creditor and set aside the CIRP against the corporate debtor.

Thus, application for withdrawal/settlement came to be allowed by the courts even after the invitation of expression of interest by the RP enabling the corporate debtor to settle with its creditors and terminating the CIRP initiated against it. Therefore, the condition stipulated by Regulation 30A of the Corporate Persons Regulation and the press note dated 06 June 2018 issued

by the Ministry of Corporate Affairs that an application for withdrawal under Section 12A of the IBC can only be allowed if it has been filed before the issuance of invitation of expression of interest was made directory in nature.

VI. WITHDRAWAL OF APPLICATION/SETTLEMENT AFTER ADMISSION BUT PRIOR TO CONSTITUTION OF COMMITTEE OF CREDITORS

As per the new settlement mechanism brought in by the Ordinance and then the Insolvency and Bankruptcy (Second Amendment) Act 2018, the COC has been entrusted with the task to deal with the applications for withdrawal or settlement, after the admission of an insolvency petition against the corporate debtor. However, the new provisions raised a new concern for the corporate debtors intending to settle with their creditors.

As per Section 12A of the IBC, the withdrawal of an application against the corporate debtor could only be allowed by the Adjudicating Authority when an application for settlement by the corporate debtor has been considered and approved by ninety percent of the COC. Pertinently, after the admission of an application under the IBC, the appointed IRP has to constitute a COC comprising of the creditors of the corporate debtors anytime within 30 days as per the timelines specified under the IBC which is inclusive of time of the public announcement for inviting the claims against the corporate debtor[28], the time for the submission of proof claims by the creditors[29] and verification of claims by the IRP[30]. Accordingly, the corporate debtors had to wait for the IRP to make a public announcement and then collate the claims and then verify the claims to constitute the COC of the corporate debtor, to enable the corporate debtor to submit an application for settlement before the IRP for to be considered by the COC. This lengthy procedure resulted in derailing the settlement process and the corporate debtors were left with no choice.

Further, the settlement procedure put in by the Insolvency and Bankruptcy (Second Amendment) Act 2018 which gave the COC the power to consider the application for settlement or withdrawal by the corporate debtor, also gave the COC an unbridled and uncanalised power to able to reject legitimate settlement offers suggested by the corporate debtor to the creditors.

Both these situations posed a threat to the settlement procedure under the IBC.

The resolution to the abovementioned situation came from the judgment of the Hon'ble Supreme Court in *Swiss Ribbons (P) Ltd.* v. *Union of India*[31] delivered on 25 January 2019, where the Hon'ble Supreme Court upheld the constitutional validity of the IBC in its entirety.

Hon'ble Supreme Court took note of the pertinent issues raised regarding the lengthy process of application for withdrawal/settlement after the admission of the insolvency application initiating the CIRP against the corporate debtor and held that if at any stage when the COC has not yet been constituted, a party can approach the Adjudicating Authority directly and the Adjudicating Authority in exercise of its inherent powers under Rule 11 of the NCLT Rules 2016 can allow or disallow the application for settlement or withdrawal after hearing all the concerned parties and

considering all the relevant factors on the facts of each case:

> *"52. It is clear that once the Code gets triggered by admission of a creditor's petition under Sections 7 to 9, the proceeding that is before the Adjudicating Authority, being a collective proceeding, is a proceeding in rem. Being a proceeding in rem, it is necessary that the body which is to oversee the resolution process must be consulted before any individual corporate debtor is allowed to settle its claim. A question arises as to what is to happen before a committee of creditors is constituted (as per the timelines that are specified, a committee of creditors can be appointed at any time within 30 days from the date of appointment of the interim resolution professional). We make it clear that at any stage where the committee of creditors is not yet constituted, a party can approach the NCLT directly, which Tribunal may, in exercise of its inherent powers under Rule 11 of the NCLT Rules, 2016, allow or disallow an application for withdrawal or settlement. This will be decided after hearing all the concerned parties and considering all relevant factors on the facts of each case."*
>
> *(emphasis supplied)*

Hon'ble Supreme Court also took into consideration the issue of the unchecked power of the COC to consider and approve the application for withdrawal or settlement by the corporate debtor. It took note of the observation of the Insolvency Law Committee Report and clarified that the high threshold of approval of the ninety percent of the COC has been put in place to ensure that all the financial creditors allow only such applications for withdrawal/

settlement which ordinarily provides for such a settlement that involves all creditors and no one is left behind.

Nevertheless, the Hon'ble Supreme Court charted a solution to the unchecked power of the COC by stating that the COC does not have the last word on the subject of application for withdrawal/settlement by the corporate debtor and if the COC arbitrarily rejects a just settlement and/or an application for withdrawal, the Adjudicating Authority and thereafter the Hon'ble NCLAT can always set aside such decision under Section 60 of the IBC:

> *"53. The main thrust against the provision of Section 12A is the fact that ninety per cent of the committee of creditors has to allow withdrawal. This high threshold has been explained in the ILC Report as all financial creditors have to put their heads together to allow such withdrawal as, ordinarily, an omnibus settlement involving all creditors ought, ideally, to be entered into. This explains why ninety per cent, which is substantially all the financial creditors, have to grant their approval to an individual withdrawal or settlement. In any case, the figure of ninety per cent, in the absence of anything further to show that it is arbitrary, must pertain to the domain of legislative policy, which has been explained by the Report (supra). Also, it is clear, that under Section 60 of the Code, the committee of creditors do not have the last word on the subject. If the committee of creditors arbitrarily rejects a just settlement and/or withdrawal claim, the NCLT, and thereafter, the NCLAT can always set aside such decision under Section 60 of the Code. For all these reasons, we are of the view that Section 12A also passes constitutional muster."*
>
> *(emphasis supplied)*

The Hon'ble NCLAT in *Arjun Puri* v. *Kunal Prasad*[32] delivered on 31 January 2019 following the law laid down by the Hon'ble Supreme Court of India in *Swiss Ribbons (P) Ltd.* v. *Union of India*[33] allowed the withdrawal of the insolvency application which was admitted under Section 7 of the IBC prior to the formation of the COC and consequently dismissed the CIRP initiated against the Corporate Debtor.

Therefore, by virtue of the amendments brought in by the Insolvency and Bankruptcy (Second Amendment) Act 2018 and the law laid down by the

Hon'ble Supreme Court of India in *Swiss Ribbons (P) Ltd.* v. *Union of India*[34], now allowed the corporate debtor to settle the matter with its creditors even after admission of an application under Section 7 or Section 9 at the stage of prior to the formation of the COC.

VII. CONCLUSION

Thus, the Insolvency and Bankruptcy (Second Amendment) Act 2018 and the various judgments of the Hon'ble Supreme Court of India as mentioned above brought in a paradigm shift in the IBC with regards to the introduction of a mechanism for the corporate debtor to settle with its creditors at any stage after the admission of an insolvency application under Section 7, Section 9 or Section 10 of the IBC i.e. i.) before the constitution of COC, ii) after constitution of COC but before invitation of expression of interest, or iii) after invitation of expression of interest, when there was no such provision provided when the IBC was enacted.

Within a year of the settlement mechanism being brought in the IBC has put to rest the scepticism behind there being a provision for settlement in the IBC. The IBBI Quarterly Report of April-June 2019 shows that till date 101 cases have been withdrawn under Section 12A of the IBC.[35]

The objective of the CIRP initiated under the CIRP is resolution for the settlement of the dues owed to the creditors and the settlement mechanism enables the same to be achieved without risking the company going into liquidation leading to significant value reduction thereby preventing the investors losing confidence and bringing certainty in their minds. Alternatively, it can be said that the settlement mechanism under the IBC provides for a more convenient and flexible method of settlement of the dues achieving the objective of the IBC which at the same time protects the debtor-creditor relationship and further encourages to rebuild confidence in each other.

---

* Advocate, High Court of Delhi, Delhi <krishna.mangesh@gmail.com>.

1 The Insolvency and Bankruptcy Code, 2016. Available at https://ibbi.gov.in//webadmin/pdf/legalframwork/2017/Jul/IBC%202016.pdf.

2 *Binani Industries Ltd.* v. *Bank of Baroda*, 2018 SCC OnLine NCLAT 565.

3 S. 60 of the Insolvency and Bankruptcy Code, 2016.

4 S. 17 of the Insolvency and Bankruptcy Code, 2016.

5 *See* Report of the Insolvency Law Committee, March 2018. Available at http://www.mca.gov.in/Ministry/pdf/ReportInsolvencyLawCommittee_12042019.pdf.

6 C.P. (IB) No. 150/KB/2017, before the National Company Law Tribunal Kolkata Bench, delivered on 25 May 2017.(not clear plz chk) The citation for this case is 2017 SCC OnLine NCLT 1724

7 (2018) 15 SCC 589.

[8] *Nisus Finance & Investment Managers LLP* v. *Lokhandwala Kataria Constructions (P) Ltd.*, 2017 SCC OnLine NCLT 2300.

[9] *Lokhandwala Kataria Construction (P) Ltd.* v. *Nisus Finance & Investment Manager LLP*. 2017 SCC OnLine NCLAT 406.

[10] *Lokhandwala Kataria Construction (P) Ltd.* v. *Nisus Finance and Investment Managers LLP*, (2018) 15 SCC 589.

[11] *Mother Pride Dairy India (P) Ltd.* v. *Portrait Advertising & Mktg. (P) Ltd.*, 2017 SCC OnLine NCLAT 411.

[12] *Mothers Pride Dairy India (P) Ltd.* v. *Portrait Advertising and Mktg. (P) Ltd.*, 2017 SCC OnLine SC 1789.

[13] (2018) 15 SCC 587.

[14] *See* Report of the Insolvency Law Committee, March 2018. Available at http://www.mca.gov.in/Ministry/pdf/ReportInsolvencyLawCommittee_12042019.pdf.

[15] *See* the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018. Available at https://ibbi.gov.in//webadmin/pdf/legalframwork/2018/Jun/186195_2018-06-06%2021:08:49.pdf.

[16] See Report of the Insolvency Law Committee, March 2018. Available at http://www.mca.gov.in/Ministry/pdf/ReportInsolvencyLawCommittee_12042019.pdf.

[17] .(2018) 15 SCC 587.

[18] *See* Press Information Bureau Government of India Ministry of Corporate Affairs, Promulgation of the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, 6 June 2008. Available at http://pib.nic.in/newsite/PrintRelease.aspx?relid=179805.

[19] Regn. 30-A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[20] Regn. 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[21] Regn. 30-A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[22] *See*, The Insolvency and Bankruptcy (Second Amendment) Act, 2018. Available at https://ibbi.gov.in/webadmin/pdf/whatsnew/2018/Aug/The%20Insolvency%20and%20Bankruptcy%20Code%20(Second%20Amendment)%20Act,%202018_2018-08-18%2018:42:09.pdf.

[23] *Francis John Kattukaran* v. *Federal Bank Ltd.*, 2018 SCC OnLine NCLAT 1022.

[24] 2018 SCC OnLine SC 3154.

[25] *Ibid.*

[26] *Ibid.*

[27] 2019 SCC OnLine NCLAT 403.

[28] Regn. 6 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[29] Regn. 12 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[30] Regn. 13 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.

[31] (2019) 4 SCC 17.

[32] 2019 SCC OnLine NCLAT 5.

[33] (2019) 4 SCC 17.

[34] *Ibid.*

[35] The Quarterly News Letter of the Insolvency and Bankruptcy Board of India, April-June 2019 Vol. 11

https://www.ibbi.gov.in/uploads/publication/FINAL_FINAL_NewsLeter_April-June,_2019-Rev.pdf.