

# MONTHLY LITIGATION NEWSLETTER

## JANUARY 2025

Dear Readers,

We bring you a concise analysis of important developments, recent publications and judgements and noteworthy regulatory amendments in the corporate and financial sectors on a monthly basis.

Our newsletter will cover updates on latest verdicts from the Supreme Court of India and various High Courts.

Perceiving the significance of these updates and the need to keep track of the same, we have prepared this newsletter providing a concise overview of the various changes brought in by our proactive regulatory authorities and the Courts!

Feedback and suggestions from our readers would be appreciated. Please feel free to write to us at [mail@lexport.in](mailto:mail@lexport.in).

Regards,  
Team Lexport



### ABOUT US

Lexport is a full-service Indian law firm offering Consultation, litigation, and representation services to a range of clients.

The core competencies of our firm's practice *inter alia* are Trade Laws (Customs, GST & Foreign Trade Policy), Corporate and Commercial Laws and Intellectual Property Rights.

The firm also provides Transaction, Regulatory and Compliance Services. Our detailed profile can be seen at our website [www.lexport.in](http://www.lexport.in).

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**PART A: COURT RULINGS**

**1. MOHAMMED ENTERPRISES (TANZANIA) LTD. VS. FAROOQ ALI KHAN & ORS., CIVIL APPEAL NO. 48/2025 (AND CONNECTED CASES)**

**Issue:** - Whether a High Court can intervene in and halt a Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC), despite the IBC being a self-contained code with specific mechanisms for redressal and time-bound resolution?

The Supreme Court disapproved of a High Court's order interdicting a Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC), emphasizing that the IBC is a self-contained code with adequate checks, balances, and remedial avenues. It criticized the High Court for entertaining the writ petition despite delays and laches, especially when the respondent had previously sought similar relief under the IBC. The Court stressed that High Courts must exercise their supervisory and judicial review powers with rigorous scrutiny and judicious application to maintain legal discipline and balance justice with procedural order. It directed the Adjudicating Authority to resume and expedite the CIRP proceedings from the stage at which they were halted by the High Court.

**Lexport Comment:** - *The Supreme Court underscored the primacy of the IBC as a comprehensive and self-contained code, emphasizing the need for High Courts to exercise judicial restraint and rigorous scrutiny when intervening in CIRP proceedings.*

**2. MR. TAJINDER SINGH BHATHAL VS. MRF LIMITED & ORS., COMPANY APPEAL (AT) (CH) NO. 94/2023 (IA NO.1191/2023)**

**Issue:** - Whether the Appellant's right to judicial remedies under Section 59 of the Companies Act was unjustly denied by the dismissal of their company petition without adjudication on merits.

The Hon'ble NCLAT emphasized the protection of the right to judicial remedies under Article 21 of the Constitution, which includes the right to seek redressal under Section 59 of the Companies Act. It held that the Appellant should be allowed to pursue grievance redressal through a company petition. The tribunal quashed the impugned order, which dismissed the petition, and revived the proceedings for a decision on merits. The Appellant was directed to pay Rs. 5000/- each to the three respondents as compensation for procedural discrepancies, and upon such payment, the petition would proceed for adjudication on merits.

*Lexport Comment: - The NCLAT upheld the Appellant's right to judicial remedies under Article 21, reviving the petition for adjudication on merits while balancing procedural fairness with compensation to respondents.*

**3. SUPER FLOORINGS PVT. LTD. VS. NAPIN IMPEX LTD., COMPANY APPEAL (AT) (INSOLVENCY) NO. 1928 OF 2024 & I.A. NO.7115 OF 2024**

**Issue:** - Whether the operational creditor is entitled to an extended limitation period for filing a Section 9 application under the Insolvency and Bankruptcy Code, based on the fulfillment of the conditions under Section 19 of the Limitation Act.

The Hon'ble NCLAT outlined two conditions for extending the benefit under Section 19 of the Limitation Act: (i) payment on account of debt or interest made before the expiration of the limitation period, and (ii) acknowledgment of payment in the handwriting or signature of the person making the payment. It noted no dispute on the fulfillment of the first condition, as the last payment was made on 26.08.2019 within three years of the invoices' due dates. Applying precedents, the tribunal held that limitation for filing a Section 9 application begins from the last payment date, rejecting the appellant's claim of running accounts under Article 1 of the Limitation Act. It concluded that both conditions under Section 19 were met and dismissed the appeal, granting the operational creditor the benefit of an extended limitation period.

*Lexport Comment: - The NCLAT's decision reinforces the applicability of Section 19 of the Limitation Act, emphasizing the importance of timely payment and acknowledgment for extending the limitation period in Section 9 applications.*

**4. ATUL TIWARI V. REGIONAL MANAGER, ORIENTAL INSURANCE COMPANY LIMITED (CIVIL APPEAL NO. 151 OF 2025)**

**Issues:** - Whether the compensation awarded sufficiently accounted for medical expenses, therapy costs, and non-pecuniary damages in light of the petitioner's permanent disability?

The Supreme Court revised the compensation awarded to a B.Tech student, who suffered 60% permanent disability, increasing it from ₹35.48 lakhs as granted by the Madhya Pradesh High Court to ₹48 lakhs. The Court observed that while the High Court had appropriately enhanced the "Loss

of Income" component, it had inadequately addressed other heads such as medical expenses and non-pecuniary damages. Criticizing the MACT's reliance on unrealistic recovery timelines, the Court highlighted that therapy and attendant costs had been undervalued, disregarding medical recommendations. The enhanced compensation now accounted for future medical needs, therapy expenses, lifelong dependency, and insufficient non-pecuniary damages, in line with the petitioner's original claim before the MACT.

***Lexport Comment:** - The Supreme Court's ruling highlights the critical need for a thorough and realistic evaluation of all compensation components, particularly medical expenses and non-pecuniary damages.*

#### **5. ADROIT PHARMACEUTICALS PVT. LTD. THROUGH ITS DIRECTOR SANJAY KUKREJA VS. AMIT PODDAR RESOLUTION PROFESSIONAL & ORS., COMPANY APPEAL (AT) (INSOLVENCY) NO. 1274 OF 2024**

**Issue:** - Whether the Appellant can claim rights based on its earlier Resolution Plan after the dismissal of its application and the initiation of a new Resolution Process?

The Hon'ble NCLT noted that the order dated 11.03.2024, dismissing the application for approval of the Appellant's Resolution Plan and directing the issuance of Form G, was not challenged by any stakeholders and has attained finality. It held that the Appellant cannot now claim rights based on its earlier Resolution Plan. The Appellant was given the liberty to participate in the new Resolution Process initiated by the issuance of Form G. The tribunal observed that the Appellant's grievance was adequately addressed as it could partake in the process. It found no error in the impugned order granting such liberty to the Appellant. Thus, the tribunal concluded that the order was legal and required no interference.

***Lexport Comment:** - The NCLT's order reinforces the finality of the dismissal of the Appellant's Resolution Plan, affording it the opportunity to participate in the fresh Resolution Process initiated through Form G, and affirms the legality of the impugned order, thereby negating the need for any interference.*

#### **6. B. N. JOHN v. STATE OF U.P. & ANR., [SLP (CRL.) NO. 2184 OF 2024]**

**Issue:** - Whether a complaint under the Criminal Procedure Code (CrPC) must be filed before a Judicial Magistrate, and the consequences of filing it before an Executive Magistrate, in relation to cognizance of offences under Sections 186 and 353 IPC?

The Supreme Court held that a "complaint" under the Criminal Procedure Code (CrPC) must be filed before a Judicial Magistrate, not an Executive Magistrate. Relying on Section 2(d) CrPC and *Gulam Abbas v. State of U.P. (1982)*, the Court stressed that complaints before an Executive Magistrate are invalid under Section 195 CrPC. In a case involving offences under Sections 186 and 353 IPC, the Court found that no written complaint was filed by a public servant before a Judicial Magistrate as required by Section 195(1)(a) CrPC, rendering the cognizance by the Chief Judicial Magistrate (CJM), Varanasi, illegal. Additionally, the FIR lacked essential elements for Section 353 IPC, and the Court quashed the proceedings due to non-compliance with legal requirements and absence of prima facie evidence.

*Lexport Comment: - The Supreme Court's ruling reinforces the critical importance of strict adherence to procedural requirements under the CrPC for ensuring the validity of complaints and the proper taking of cognizance in criminal matters.*

**PART B: Article**

**1. E-GAMING LANDSCAPE IN INDIA – A CRITIQUE ON REGULATORY AND TAX ISSUES PLAGUING THE INDUSTRY**

In this article, Mr. Rohit Dutta, Mr. Sorokhaibam Shantijyoti Singh and Mr. Parthak Awasthi are highlighting the immense potential of India's e-gaming industry but emphasizes regulatory and tax challenges.

Click on the below link to read the article:

<https://shorturl.at/8ugl2>

**END OF THE NEWSLETTER**

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