

MONTHLY LITIGATION NEWSLETTER

MARCH 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.

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.

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PART A: COURT RULINGS

1. SUPREME COURT BAR ASSOCIATION AND ANR. v. STATE OF UTTAR PRADESH AND ORS., MA 3-4/2025 in CrI.A. No. 3883-3884/2024

Issue: - Whether an advocate who is not an Advocate-on-Record (AOR) can appear, plead, or address the Supreme Court without being instructed by an AOR or permitted by the Court?

The Supreme Court has ruled that no advocate, except the Advocate-on-Record (AOR) for a party, can appear, plead, or address the Court unless instructed by the AOR or permitted by the Court. Further, a Senior Advocate cannot appear in the Supreme Court without an AOR. While any advocate enrolled under the Advocates Act, 1961 may appear before the Supreme Court, such appearances are subject to the 2013 Supreme Court Rules. As per Rule 1(b) of Order IV, only an AOR can appear for a party, and Rule 20 bars an AOR from authorizing anyone other than another AOR to act on their behalf. Rule 2(b) mandates that a Senior Advocate cannot appear without an AOR in the Supreme Court or without a junior in other courts. Additionally, the Court specified that only advocates physically present and arguing in court, along with one assisting advocate, will be recorded.

Lexport Comment: - *The Supreme Court of India, upholds the exclusive role of Advocates-on-Record in Supreme Court proceedings, ensuring procedural integrity while restricting independent appearances by non-AOR advocates.*

2. SHRI KRISHAN VS. H.S OBEROI BUILDTECH PRIVATE LTD., COMPANY APPEAL (AT) (INSOLVENCY) NO. 128 OF 2025

Issue: - Whether claims filed with a significant delay (1700 days) after the initiation of the Corporate Insolvency Resolution Process (CIRP) can be admitted, particularly when the Resolution Plan has already been approved?

The Hon'ble NCLAT dismissed four appeals, ruling that the appellants filed claims after an excessive delay of 1700 days despite the ongoing CIRP. It held that allowing such delayed claims would create uncertainty for the Successful Resolution Applicant (SRA). The Tribunal rejected the appellants' reliance on the Puneet Kaur Vs. KV Developers Ltd. (2022) judgment, stating the cases were factually different. It cited Ghanshyam Mishra & Sons Pvt. Ltd. Vs. Edelweiss ARC (2021), affirming that claims outside an approved resolution plan are extinguished. It also referred to M/s RP Infrastructure Ltd. vs. Mukul Kumar & Anr., (2021) reinforcing that new claims cannot be imposed post-CoC approval. Finding no fault with the Adjudicating Authority's decision, the appeals were dismissed.

***Lexport Comment:** The NCLAT's ruling underscores the importance of adhering to CIRP timelines, reinforcing the finality of an approved resolution plan and preventing uncertainty for the SRA.*

3. RAM KISHORE ARORA DIRECTORS (POWERS SUSPENDED) OF SUPERTECH TOWNSHIP PROJECTS LTD. VS. PUNJAB AND SIND BANK & ANR., COMPANY APPEAL (AT) (INSOLVENCY) NO.1441 OF 2024

Issue: - Whether the initiation of the Corporate Insolvency Resolution Process (CIRP) against Supertech Township Projects Ltd. was justified under the Insolvency and Bankruptcy Code (IBC), 2016, despite efforts by the suspended directors to secure investors and complete the project?

The Hon'ble NCLAT, dismissed the appeal of suspended directors of Supertech Township Projects Ltd., upholding the Tribunal's order citing existing debt and default, which was admitted by the corporate debtor. Despite securing three investors, all proposals were rejected by lenders, and YEIDA joined the proceedings with a debt claim of ₹741.20 crores. The appellant relied on Anand Murti vs. Soni Infratech Pvt. Ltd., arguing promoters should complete the project, but the Tribunal rejected this, noting divided interests of lenders and homebuyers. The Tribunal ruled that CIRP must proceed per the IBC, 2016, ensuring corporate debtor resolution.

***Lexport Comment:** The NCLAT's ruling reinforces the primacy of IBC in insolvency resolution, prioritizing structured CIRP over promoter-led project completion amid conflicting stakeholder interests.*

4. M/S JSW STEEL LIMITED VS. PRATISHTHA THAKUR HARITWAL & ORS., CONTEMPT PETITION (CIVIL) NO. 629 OF 2023

Issue: - Whether statutory dues that were not raised before the Committee of Creditors (CoC) during the corporate insolvency resolution process (CIRP) could be enforced against the successful

resolution applicant after the resolution plan was approved by the National Company Law Tribunal (NCLT)?

The Hon'ble Supreme Court of India noted that neither the state nor its authorities raised claims before the Committee of Creditors, making the petitioner's case covered by Ghanshyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited. Referring to this precedent, the Court held that all statutory dues not included in the resolution plan stood extinguished upon its approval. It cited Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta, emphasizing that resolution applicants should not face undecided claims post-approval. Justices Gavai and Masih found the respondent-authorities' demand notices contemptuous, as they ignored clear legal precedent. However, the Court granted them the benefit of doubt since this was the first case post-Ghanshyam Mishra. Ultimately, the demand notices and related proceedings were quashed.

***Lexport Comment:** The judgment reaffirms the principle that statutory dues not submitted during the CIRP stand extinguished upon approval of the resolution plan, ensuring finality and legal certainty for resolution applicants.*

5. AMW AUTO COMPONENT LIMITED VS. PRINCIPAL COMMISSIONER OF INCOME TAX RAJKOT-1, R/SPECIAL CIVIL APPLICATION NO. 1593 OF 2025

Issue: - Whether tax liabilities under the Income Tax Act, 1961, that are not included in a resolution plan approved under Section 31 of the Insolvency and Bankruptcy Code (IBC), 2016, can be enforced against the successful resolution applicant?

The Division Bench of Hon'ble Gujrat High Court noted that the Resolution Plan approved under Section 31 of the Code extinguished all tax liabilities under the Income Tax Act, 1961. Citing The Committee of Creditors of Essar Steel Ltd. Vs. Satishkumar Gupta (2020), it reiterated that a successful resolution applicant cannot face undecided claims post-approval. Similarly, in Ghanshyam Mishra and Sons Pvt. Ltd. Vs. Edelweiss Asset Reconstruction Company Ltd. (2021), the Supreme Court held that claims not included in the resolution plan are extinguished. It also emphasized that the 2019 amendment to Section 31 applies retrospectively, ensuring all statutory dues not in the plan are waived. Since tax liabilities were extinguished with the plan's approval on 12 October 2023, the notice under Section 263 of the Income Tax Act issued on 13 January 2025 was invalid. The Court set aside the notice and allowed the petition.

***Lexport Comment:** The Gujarat High Court reaffirms that all tax liabilities not included in an approved resolution plan under Section 31 of the IBC stand extinguished, rendering subsequent tax notices invalid.*

6. SAMTOLA DEVI VERSUS STATE OF UTTAR PRADESH & ORS. (Arising out of S.L.P. (C) No. 26651 of 2023)

Issue: - Whether an elderly parent can seek the eviction of their son under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, and whether eviction is an automatic right under the Act?

The Supreme Court dismissed an elderly mother's plea to evict her son, clarifying that the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, ensures maintenance but does not mandate eviction. While tribunals may order eviction in exceptional cases, it is not automatic. The parents, already granted maintenance, sought eviction due to alleged ill-treatment. The Tribunal restricted the son's use of the property but did not evict him. The Appellate Tribunal ordered eviction, which the High Court overturned, maintaining other restrictions. The Supreme Court upheld this decision, emphasizing that eviction under the Act is discretionary. The judgment also lamented the decline of traditional family unity in India.

***Lexport Comment:** This case reaffirms that eviction under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 is discretionary and not an automatic right, balancing parental welfare with legal principles.*

END OF THE NEWSLETTER
