

MONTHLY LITIGATION NEWSLETTER

JULY 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.

OUR LITIGATION TEAM

Rohit Dutta
Shyam Kishor Maurya
Shanti Jyoti
Ananya Jain

DISCLAIMER

The information contained in this Newsletter is for general purposes only and Lexport is not, by means of this newsletter, rendering legal, tax, accounting, business, financial, investment or any other professional advice or services. This material is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your business. Further, before making any decision or taking any action that may affect your business, you should consult a qualified professional advisor. Lexport shall not be responsible for any loss sustained by any person who relies on this newsletter. Hyperlinks to third party websites provided herein are for *bona fide* information purposes only and must not be construed to be indicative of any formal relationship between Lexport and such third parties.

INDEX

PANDURANGAN V. T. JAYARAMA CHETTIAR AND ANOTHER [CIVIL APPEAL NO. 7743 OF 2025 ARISING OUT OF SLP (C) NO. 18230 OF 2025]	...2
INNOVATORS CLEANTECH PRIVATE LIMITED VS. PASARI MULTI PROJECTS PRIVATE LIMITED, COMPANY APPEAL (AT) (INSOLVENCY) NO. 115 OF 2024	...3
MRS. LEENA SALOT VS. RIDHAM SYNTHETICS PRIVATE LIMITED, COMP. APP (INS) NO. 375 OF 2024 & I.A. NO. 1278 OF 2024	...3
MR. ANIL KOHLI RESOLUTION PROFESSIONAL VS. DIRECTORATE OF ENFORCEMENT, COMPANY APPEAL (AT) (INS.) NO. 389 OF 2018	...3-4
AFTAB Versus THE STATE OF UTTAR PRADESH, MA 1086/2025 in CrI.A. No. 2295/2025	...4
DEVIKA RESOURCES PVT. LTD. VS. MAA MANASHA DEVI ALLOYS PVT. LTD., COMP. APP. (AT) (INS) NO.938 OF 2024 & I.A. NO. 3418, 3419 OF 2024	...4

PART A: COURT RULINGS

1. PANDURANGAN V. T. JAYARAMA CHETTIAR AND ANOTHER [CIVIL APPEAL NO. 7743 OF 2025 ARISING OUT OF SLP (C) NO. 18230 OF 2025]

Issue: Whether the plea of res judicata can be a ground for rejection of a plaint under Order VII Rule 11 of the Code of Civil Procedure (CPC)?

The Supreme Court held that the plea of res judicata cannot be decided in an application under Order VII Rule 11 of the Code of Civil Procedure for rejection of a plaint, as it is an issue to be determined at trial. Setting aside the Madras High Court's order that rejected a plaint on the ground of res judicata, the bench of Justices PS Narasimha and Joymalya Bagchi ruled that such objections must be examined during trial based on the pleadings and documents, and not summarily at the stage of Order VII Rule 11. The Court referred to Keshav Sood v. Kirti Pradeep Sood (2023) and V. Rajeshwari v. T.C. Saravanabava (2004), emphasizing that similarity in causes of action and the applicability of res judicata require detailed scrutiny. It clarified that no opinion was expressed on whether the ex parte decree in O.S. No. 298/96 would operate as res judicata but held that such determination could not be made under Order VII Rule 11 in light of the specific pleadings in the plaint.

Lexport Comment:- The Supreme Court rightly clarified that res judicata, involving factual analysis, cannot be a basis for rejecting a plaint under Order VII Rule 11 CPC at the threshold stage

2. INNOVATORS CLEANTECH PRIVATE LIMITED VS. PASARI MULTI PROJECTS PRIVATE LIMITED, COMPANY APPEAL (AT) (INSOLVENCY) NO. 115 OF 2024

Issue: Whether the application under Section 9 of the IBC was barred due to a pre-existing dispute arising from a prior civil suit and ongoing contractual disagreements?

The Hon'ble NCLAT held that although the first demand notice was issued before the civil suit, it was later withdrawn, and the second notice being significantly different in claim amount, date of default, and last payment constituted a fresh demand, not a continuation. As the civil suit was filed prior to this second notice, the Adjudicating Authority rightly found the application barred by a pre-existing dispute under Section 8 of the IBC. The Tribunal further noted that termination of contract, filing of the suit, and consistent objections over quality, delay, and financial terms through emails established the existence of such a dispute. Accordingly, the appeal was dismissed.

Lexport Comment:- The NCLAT rightly emphasized that the presence of a pre-existing dispute, evidenced by prior litigation and contractual objections, bars initiation of insolvency proceedings under the IBC.

3. MRS. LEENA SALOT VS. RIDHAM SYNTHETICS PRIVATE LIMITED, COMP. APP (INS) NO. 375 OF 2024 & I.A. NO. 1278 OF 2024

Issue: Whether there existed a genuine pre-existing dispute that could bar initiation of insolvency proceedings under Section 9 of the IBC?

The Hon'ble NCLAT allowed the appeal and set aside the impugned order, holding that the operational debt of Rs. 1.36 crore (excluding 24% interest) and default were clearly established through ledger accounts, tax invoices, and a confirmation email. The corporate debtor's reply to the demand notice was vague and did not contest specific invoices, and the Tribunal rejected the claim of a pre-existing dispute based merely on arbitration and a 2018 WhatsApp message, which lacked reference to any disputed amount or invoice. The Tribunal noted the improper application of the Supreme Court's ruling in Vidarbha Industries Power Ltd. v. Axis Bank Ltd., which allows consideration of solvency in insolvency proceedings. It also relied on Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd., affirming that only genuine disputes, not illusory defences, bar admission of a petition. The GST treatment by both parties further evidenced acknowledgment of debt. Consequently, the Tribunal found no merit in the respondent's defence and ruled in favour of the appellant.

Lexport Comments:- The NCLAT rightly prioritized documentary evidence and dismissed vague, unsupported defenses to uphold the integrity of insolvency proceedings under the IBC.

4. MR. ANIL KOHLI RESOLUTION PROFESSIONAL VS. DIRECTORATE OF ENFORCEMENT, COMPANY APPEAL (AT) (INS.) NO. 389 OF 2018

Issue: Whether a Provisional Attachment Order under the PMLA, issued after initiation of CIRP, is barred by the IBC moratorium under Section 14?

The Hon'ble NCLAT dismissed the appeal, holding that although the Provisional Attachment Order (PAO) under Section 5 of the PMLA was passed post-CIRP initiation, the ED's investigation had begun in 2013,

indicating a pre-existing criminal process. It held that assets categorized as “proceeds of crime” under PMLA fall outside the resolution estate protected by Section 14 of the IBC, and the issuance of PAO does not violate the moratorium. The Tribunal emphasized that the objectives of the PMLA and IBC are not inherently inconsistent and do not operate in the same legislative field. Referring to Embassy Property and Kalyani Transco v. Bhushan Power & Steel Ltd., it reaffirmed that NCLT/NCLAT cannot interfere with valid attachment orders under PMLA, especially once confirmed under Section 8(3). Since Section 32A of the IBC was not attracted, the appropriate remedy lay under Section 26 of the PMLA. The appeal was thus rightly dismissed.

Lexport Comments:- *The NCLAT rightly upheld that PMLA proceedings and attachments, being part of a prior criminal process, are not barred by IBC's moratorium under Section 14.*

5. AFTAB Versus THE STATE OF UTTAR PRADESH, MA 1086/2025 in CrI.A. No. 2295/2025

Issue: Whether illegal detention of a prisoner for 28 days due to a clerical error despite a valid bail order, violating the fundamental right to personal liberty?

The Supreme Court strongly criticized the Uttar Pradesh government for unjustly detaining a prisoner in Ghaziabad Jail for 28 days despite a clear bail order, terming the delay a violation of personal liberty over a minor clerical error. A bench of Justices KV Viswanathan and NK Singh directed the State to pay ₹5 lakhs as provisional compensation and ordered a judicial inquiry by the Principal District Judge, Ghaziabad, to probe the delay and assess possible negligence or misconduct. The Court rejected the State's justification regarding the omission of a sub-section in the bail order, emphasizing that such technicalities cannot override a citizen's fundamental right to liberty.

Lexport Comments:- *The Supreme Court rightly condemned the State's disregard for personal liberty, underscoring that bureaucratic lapses cannot justify unlawful detention.*

6. DEVIKA RESOURCES PVT. LTD. VS. MAA MANASHA DEVI ALLOYS PVT. LTD., COMP. APP. (AT) (INS) NO.938 OF 2024 & I.A. NO. 3418, 3419 OF 2024

Issue: Whether the ₹1 crore threshold under Section 4 of the IBC must be met at the time of filing or at the time of admission of a Section 9 application.

The Hon'ble NCLAT allowed an appeal filed by an operational creditor, addressing the core issue of whether the threshold under Section 4 of the IBC must be assessed at the time of filing or at the time of admission of a Section 9 application. The appellant argued that under Section 5(11) of the IBC, the initiation date is the date of application, while Section 5(12) defines the admission date as the insolvency commencement date. Relying on Rajamundry Electric Supply Corp. Ltd. v. A. Nageshwara Rao (1995) 2 SCR 1066, Manish Kumar v. Union of India (2021) 5 SCC 1, and Hyline Medoconz Pvt. Ltd. v. Anandaloke Medical Centre Pvt. Ltd., CA (AT) (Ins) No. 1036/2022, the appellant contended that reduction of dues post-filing is irrelevant. The application had originally crossed the Rs. 1 crore threshold, and a later payment of Rs. 20 lakhs by the respondent could not invalidate the filing. The bench concurred, holding that the adjudicating authority erred in dismissing the application, and accordingly set aside the impugned order. The Section 9 application was restored and remanded for reconsideration on merits.

Lexport Comments:- *The NCLAT rightly clarified that the IBC threshold must be assessed at the time of filing, protecting the creditor's right despite subsequent payments.*

END OF THE NEWSLETTER
