

LEGAL UPDATES

NCLAT REJECTED BSE'S APPEAL, SAID IBC IS NOT MEANT TO RECOVER "LISTING FEE" DUES

The Appellant BSE Ltd., had filed an appeal against a decision by the NCLT that rejected its request to begin an insolvency resolution process against the Corporate Debtor, but the NCLAT dismissed the appeal and concluded that the Appellant had only started the insolvency proceedings as a means of recouping unpaid "listing fees".

The Appellate Tribunal observed that *"If it is held that all types of dues, including regulatory dues, can initiate the insolvency resolution process, then the entire objective of the IB Code's object will be lost and insolvency proceedings will convert into recovery processes"*

The Insolvency Law Committee had expressly stated in its Report that regulatory dues' need not be included in the definition of 'operational debt,' hence the aforementioned experts' opinions could not be disregarded.

In addition, the Tribunal noted that the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations' statutory provisions stated that the Regulatory Department was responsible for listing and that the "listing charge" is only a "regulatory fee".

As such, the NCLAT disagreed with the Appellant's contention that SEBI had not provided a mechanism for the recovery of regulatory dues, stating that SEBI had the authority to punish defaulters for the recovery of regulatory dues and that there are numerous provisions for recovery under the SEBI Act as well as the circulars that SEBI periodically issued.