

LEGAL UPDATES

"RP NOT AN ADJUDICATING AUTHORITY," CAN NOT ESTIMATE THE QUANTUM OF CLAIMS, OR THE PARTIES' RIGHTS, STATED NCLT

Without identifying the nature of the debt, NCLT decided that the RP could not deny a claim that financial debt originating from a term loan arrangement made between parties is combined with the amount resolved under a settlement document. It added that the Resolution Professional is not an adjudicating authority and is not required to enquire into the factual scenario between parties and determine their rights and liabilities.

The Tribunal further explained that the Resolution Professionals have a responsibility to confine themselves to confirm that the claims they had received are real and correct and that verification is a process of determining whether the claim is truthful, accurate, or legitimate and is not intended to determine the amount of the claim.

It was also noted that the Term Loan Agreement between the Applicant and the Corporate Debtor was novated by a Settlement Deed, and the Applicant, as a financial lender to the Corporate Debtor, filed its claim as a Financial Creditor via Form C. Referring to Sections 18 and 25 of the Code, the RP rejected the claim, stating that the Applicant is not a Financial Creditor.

The Tribunal emphasised that neither Sections 18 nor 25 specifically impose a responsibility on the IRP/RP to check claims and admit or reject them, and asserts that the IRP/RP has a duty to do so under Regulation 13 of the Insolvency Resolution Process for Corporate Persons Regulations.

Lastly, with regard to the problem relating to the creation of the CoC, NCLT held that "Without verification and admission of claim, the IRP cannot assign the voting share to a creditor, and without that, there cannot be a meeting of the Committee of Creditors," and instructed IRP to reassemble the CoC with the applicant hereunder after identifying the applicant as a financial creditor.