

LEGAL UPDATES

DELHI NCLAT: NCLAT QUASHED NCLT ORDER FOR THE ADDITION OF CLAIM TO THE TIME-BARRED DEBT WHICH CANNOT BE ENTERTAINED

An appeal was filed by the suspended Director of the Corporate Debtor in the matter of commercial wisdom of CoC. The issue was whether the additional claims with respect to the time-barred debt can be entertained or not. The case was decided by Justice Ashok Bhushan, Chairperson, Justice Jarat Kumar Jain, Judicial Member and Dr. Alok Srivastava, Technical Member. The appellant complained that the Financial Creditor had made the addition of certain claims inferred from the assignment by Union Bank of India, which is already time-barred. It was submitted by the Appellant that (i) as a result of the admitted assignment by the Union Bank of India, there has been a spurt in the voting shares of the Financial Creditor by more than 8.4% ii) the account of Corporate Debtor was declared NPA by the Union Bank of India in 2015- and three-years limitation of which came to an end in 2018, thus the raised claim stands time-barred. On the other hand, NCLT contended that in accordance with the CoC ruling of SC in Essar Steel India Ltd, there can be no interference with the commercial wisdom of the CoC. NCLAT found that the Application was rejected by the Adjudicating Authority on the mislaid ground and maintained that all the NCLAT underscores have to abide by the ruling of the SC but the same does not apply to the facts of the current case. The Application herein complains about the additional claims by the Financial Creditor as inferred from the assignment by Union Bank of India which is already time-barred. It was further held by NCLAT that if an application for a debt cannot be entertained u/s 7 of IBC as it has become time-barred and thus is liable to be rejected, then any additional claim at the head of the time-barred debt cannot be entertained as well. Thus, the order of NCLT was set aside and directions were issued to NCLT to scrutinise the application over again, depending on the condition that the Resolution Plan has not been approved yet.