

LEGAL UPDATES

NCLAT: REJECTS EX-IRP'S 'STALE' APPEAL CHALLENGING NCLT ORDER, GIVEN CORPORATE DEBTOR'S LIQUIDATION INITIATED

The appeal was filed by an ex-IRP of the Corporate Debtor challenging the order of NCLT which directed the Appellant to carry out a CoC meeting for calculating the issue of extending the CIRP Period of the Corporate Debtor. The bench comprised Justice Anant B Singh, Judicial Member, and Ms. S Merla, Technical Member. According to the petitioner, the contested order was unconstitutional. In addition, it was argued that although the appellant filed an application, no ruling was ultimately made regarding the liquidation of the corporate debtor. Furthermore, it was claimed that Respondent No. 1 had actually made an application to extend the CIR Process. The IRP was instructed by the Ld. Adjudicating Authority to "give short notice to all the members of the COC for scheduling the meeting for discussing the subject with reference to prolongation of the CIR Process. The above-mentioned application was brought by Respondent No. 1 and not the appellant, hence the impugned ruling should be revoked and the appeal should be granted. The respondent argued that because the appeal had been submitted beyond the deadline specified in Sec. 60 of the Code, it was barred by the statute of limitations. The NCLAT observed that: (i) The Corporate Debtor appointed the Appellant as its IRP; (ii) Respondent 1 (the only member of CoC) requested an extension of CIRP after the 180-day deadline had passed; (iii) The NCLT instructed the appellant to call a CoC meeting to discuss the matter of the CIRP extension. The NCLAT further noted that the CoC meeting decided to begin the liquidation of the Corporate Debtor, and as a result, the present RP applied an application under Sec. 33 of the Code to begin the liquidation of the Corporate Debtor. In light of the fact that the Corporate Debtor's liquidation has already begun and that the impugned order did not grant a stay, the Tribunal determines that the Appellant's claim has become "stale." The appeal was quashed.