

## LEGAL UPDATES

### **NCLT: DISMISSES THE DEFENCE OF CORPORATE DEBTOR CITING IT AS AN "ATTEMPT TO DELAY CIRP", ADMITS INSOLVENCY PETITION**

The Mumbai NCLT bench presided by Learned Ashok Kumar Borah and Learned Shyam Babu Gautam allowed the insolvency petition as filed by the financial creditor ('Petitioner') which sought the initiation of CIRP of the debtors ('Respondent'). The bench on finding that the respondents have defaulted to honour the loan amount rejected all the defences raised by them and stated that the actions of the respondent are merely an attempt to impede and delay the initiation of CIRP. The Adjudicatory tribunal observed that (i) The respondent had approached the petitioner in order to raise varied fund-based and non-fund-based credit facilities, (ii) However, due to their continuous failure to repay the amount so advanced their account was declared as NPA. The bench cited the landmark judgment of the apex court in the matter of Swiss Ribbons wherein the SC had observed that as soon as the prerequisites of 'debt' and 'default' have been established, the adjudicatory forum is bound to allow the petition. Concerning the contentions raised by the respondent relating to the documents relied upon by the petitioner which were not annexed by the petitioner with their petition, the adjudicatory tribunal relied on the SC judgment of Dena Bank wherein it has been highlighted that in lack of any explicit provision which either fixes a time bar or prohibits from filing additional documents, it cannot be termed as illegality or error committed on the part of the adjudicatory authority in allowing the appellant bank to file additional documents. Further, noting that the respondents have defaulted to repay the debt as due and payable, and the outstanding amount is more than the minimum threshold limit as per sec.4(1) of IBC, the adjudicatory tribunal remarked that the prerequisites i.e., the 'debt' and the 'default' have been clearly established and hence, the petition stands admitted.