

LEGAL UPDATES

NCLT: TO ACHIEVE THE THRESHOLD AMOUNT FOR IBC, INTEREST CAN NOT BE ADDED TO THE PRINCIPAL AMOUNT

New Delhi NCLT bench presided by Learned L. N. Gupta and Learned A.B.K. Sinha held that in order to arrive at the minimum limit amount of INR 1 Cr. the interest cannot be added with the principal amount to be in line with Sec.4 of Code. The bench observed that (i) The amount claimed by the Applicant herein was INR 1.39 Cr. as the operational debt, however, only INR 88.50 Lakh was the principal outstanding amount and the balance of INR 51.33 Lakh was interest charged, (ii) As per the threshold limit in accordance with Sec. 4 of the Act the principal outstanding amount was less than INR 1 Cr. hence, the bench questioned the Applicant that if the principal and interest can be added together in order to reach the minimum limit of INR 1 Cr. in compliance with Sec. 4 of Code. The Applicant stated that as the invoices raised for the debt had the interest levied hence, reasoned that the interest component is also a part of the 'operational debt' u/s 5(21) and 5(8) of the Code. The Adjudicatory tribunal ruled that, although interest forms a part of financial debt the Code does not prescribe a similar stance for interest as operational debt. Further, the bench stated with regard to the averments of the Applicant that as the default is of 2019, the minimum threshold would not be applicable. The bench relied on the NCLAT judgment of Jumbo Paper which upheld that the minimum limit would be applicable for all the petitions filed under Sec. 7 or 9 as on or after 24.03.2020 even though the debt may be of a date prior to 24.03.2020, concluded that the principal outstanding of the debt claimed is less than INR 1 Cr. and the application was filed in 2021. Hence, NCLT rejected the application.