

LEGAL UPDATES

SC: APEX COURT TO CONSIDER APPEAL AGAINST THE ORDER OF NCLAT ON THE GOODS OF THE CORPORATE DEBTORS LYING IN THE CUSTOMS STORAGE

The 3-Judge Bench of the Apex Court presided by Chief Justice N. V. Ramana, Justice A. S. Bopanna and Justice Hima Kohli heard an appeal against the NCLAT order by the Liquidator of ABG Shipyard, on February 8, 2022. As per the earlier decision of NCLAT, it was pronounced that all the goods abandoned and lying with the customs warehouse shall not be considered as the asset of the Debtor. NCLAT further directed customs authorities to allow the Liquidator to remove the warehoused goods of the Corporate Debtor. Further, the legal point in question before the Hon'ble bench was if IBC would prevail over the Customs Act or vice versa. The Apex Court observed that Customs Act being an older act would not prevail and thus IBC would clearly override which can be construed by reading Sec.142A of the Customs Act. Hence, the Apex Court upheld that if the liquidation process has been initiated no action by the Customs Department to claim the title or sell the goods as per the Customs Act can be allowed to be undertaken as the said would be in contravention of IBC.