



17th June 2023 – Issue 410

Ministry of Corporate Affairs vide notification dated June 14, 2023, has notified that the provisions of sub-section (1) of section 14 of the Insolvency and Bankruptcy Code, 2016

- MCA vide notification dated June 14, 2023, has notified that the provisions of sub-section (1) of section 14 of the Insolvency and Bankruptcy Code, 2016.
- The provisions of sub-section (1) of section 14 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), shall not apply where the corporate debtor has entered into any of the following transactions, arrangements or agreements, namely: -
 - (i) the Production Sharing Contracts, Revenue Sharing Contracts, Exploration Licenses and Mining Leases made under the Oilfields (Regulation and Development) Act, 1948 (53 of 1948) and rules made thereunder; and
 - (ii) any transactions, arrangements or agreements, including Joint Operating Agreement, connected or ancillary to the transactions, arrangements or agreements referred to in clause (i).
- Notification is herein attached.

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Securities Exchange Board of India vide notification dated June 16, 2023, has issued Adherence to provisions of regulation 51A of SEBI (Issue and Listing of Non-Convertible Securities) Regulations, 2021 by Online Bond Platform Providers on product offerings on Online Bond Platforms

- SEBI vide notification dated June 16, 2023, has issued Adherence to provisions of regulation 51A of SEBI (Issue and Listing of Non-Convertible Securities)



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Regulations,2021 by Online Bond Platform Providers on product offerings on Online Bond Platforms.

- Regulation 51A of SEBI (Issue and Listing of Non-Convertible Securities) Regulations,2021(NCS Regulations),inter-alia, defines “online bond platform provider” as ‘any person operating or providing an online bond platform’ and “online bond platform” as ‘any electronic system, other than a recognised stock exchange or an electronic book provider platform, on which the debt securities which are listed or proposed to be listed, are offered and transacted.’
- Notification is herein attached.

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NCLAT CAN RECALL ITS ORDER: FIVE MEMBER BENCH LAYS DOWN GROUNDS FOR RECALL OF JUDGMENT

The Hon’ble National Company Law Appellate Tribunal, Principal Bench (NCLAT) comprising of members Justice Ashok Bhushan (Chairperson), Justice Rakesh Kumar (Judicial Member), Justice Rakesh Kumar Jain (Judicial Member), Dr. Alok Srivastava (Technical Member) and Mr. Barun Mitra (Technical Member) has laid down guidelines to be followed for recall of order by NCLAT.

BRIEF FACTS OF THE CASE

The Union Bank of India (“Financial Creditor”) had filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process (“CIRP”) against Amtek Auto Ltd. (“Corporate Debtor”). The NCLT initiated CIRP against the Corporate Debtor. Mr. Himanshu Gupta and Deccan Value Investors L.P. (“Successful Resolution Applicants/SRA”) submitted a Resolution



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Plan for the Corporate Debtor, which was approved by the Committee of Creditors ("CoC") with majority vote. The Financial Creditor had filed an interlocutory application seeking certain reliefs.

On 09.07.2020, the NCLT approved the Resolution Plan and rejected the application filed by the Financial Creditor. Consequently, the Financial Creditor filed an appeal before the NCLAT against the order dated 09.07.2020. the CoC was not impleaded as a party in the appeal.

On 27.01.2022, the NCLAT partly allowed the appeal. Being dissatisfied with the NCLAT order, the Financial Creditor filed an appeal before the Supreme Court. The said appeal was dismissed as withdrawn, with the liberty to file a review application before the Hon'ble NCLAT.

The Financial Creditor's review application was dismissed by the NCLAT citing that the IBC does not contain any provision of review. The Financial Creditor filed an application for recall or order dated 27.01.2022, which was opposed on the ground that the NCLAT does not have any power to review or recall its judgment.

NCLAT'S DECISION

The Hon'ble NCLAT observed that Power of recall of a judgment can be exercised by the NCLAT when any procedural error is committed in delivering the earlier judgment; for example; necessary party has not been served or necessary party was not before the Tribunal when judgment was delivered adverse to a party. There may be other grounds for recall of a judgment. Well known ground on which a judgment can always be recalled by a Court is ground of fraud played on the Court in



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obtaining judgment from the Court.

NCLAt further held that the law laid down in Agarwal Coal Corporation Private Limited v. Sun Paper Mill Limited & Anr. and Rajendra Mulchand Varma & Ors. v. K.L.J Resources Ltd. & Anr., which observes that NCLAT cannot recall its judgment, does not lay down the correct law.

Case Title: Union Bank of India (Ersthwile Corporation Bank) v. Dinkar T. Venkatasubramanian & Ors.

Case No: Comp. App. (AT) (Ins) No. 729 of 2020

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