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27th October 2023 – Issue 418

Ministry of Corporate Affairs vide notification dated October 20, 2023, has issued Companies Incorporation Third Amendment Rules, 2023

- MCA vide notification dated October 03, 2023, has issued Notification under Section 14(3)(a) of IBC for transactions, arrangements or agreements, under the Convention and the Protocol, relating to aircraft, aircraft engines, airframes and helicopters.
- Where the management of the company has been taken over by new management under a resolution plan approved under section 31 of the Insolvency Bankruptcy Code, 2016 (31 of 2016) and no appeal against the resolution plan is pending in any Court or Tribunal and no inquiry, inspection, investigation is pending or initiated after the approval of the said resolution plan, the shifting of the registered office may be allowed.
- It shall come into force with effect from 21st October, 2023.
- The notification is herein attached.

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Reserve Bank of India vide notification dated October 19, 2023 has issued Master Direction Reserve Bank of India (Non-Banking Financial Company– Scale Based Regulation) Directions, 2023

- RBI vide notification dated October 19, 2023 has issued Master Direction Reserve Bank of India (Non-Banking Financial Company– Scale Based Regulation) Directions, 2023.
- Reserve Bank of India, having considered it necessary in the public interest, and being satisfied that, for the purpose of enabling the Reserve Bank to regulate the financial system to the advantage of the country and to prevent the affairs of any



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Non-Banking Financial Company from being conducted in a manner detrimental to the interest of investors and depositors or in any manner prejudicial to the interest of such NBFCs, and in exercise of the powers conferred under sections 45JA, 45K, 45L and 45M of the Reserve Bank of India Act, 1934 (Act 2 of 1934) and section 3 read with section 31A and section 6 of the Factoring Regulation Act, 2011 (Act 12 of 2012), hereby issues to every NBFC, in supersession of the Non-Banking Financial Company–Non-Systemically Important Non-Deposit taking (Reserve Bank) Directions, 2016 and Non-Banking Financial Company–Systemically Important Non-Deposit taking Company and Deposit taking Company (Reserve Bank) Directions, 2016, Master Direction – Reserve Bank of India (Non-Banking Financial Company – Scale Based Regulation) Directions, 2023 (the Directions), hereinafter specified.

- The Master Direction is herein attached.

[Click Here](#)

IDBI Bank Ltd. vs. Jalesh Kumar Grover RP of GPI Textiles Ltd.

Date: 15th September 2023

The Corporate Insolvency Resolution process was initiated against the Corporate Debtor on 06.07.2018, and following the procedure for CIRP, claims were invited by Mr. Jalesh Kumar Grover, the Resolution Professional of GPI Textiles Ltd, until 26th July 2018, a deadline that the Appellant in this instant matter failed to adhere to. As per Regulation 12(2) of the IBBI (CIRP) Regulations 2016, the additional 90-day period also had lapsed to file claims. Subsequently, a resolution plan was approved by the Committee of Creditors on 27th March 2019b without the claims of the IDBI Bank, the Appellant in this present case.

After a delay of approximately 502 days, the Appellant filed its claim before the Resolution Professional on 20th November 2019, and exercising its powers, the



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Resolution Professional rejected the claim of the Appellant on account of inordinate delay. Aggrieved by this rejection, the Appellant approached the National Company Law Tribunal, challenging the rejection of claims on grounds of delay. However, the National Company Law Tribunal Chandigarh upheld the decision of the Resolution Professional. Though, the decision was not challenged by the Appellant, the Hon'ble Supreme Court intervened in an ongoing dispute involving the Successful Resolution Applicant and allowed fresh Expressions of Inters based on higher offers of the Committee of Creditors, which resulted in the Appellant getting an opportunity to submit a resolution plan and Expressions of Interest within 30 days. The timeline to submit the same was extended by 60 days, and the Resolution Professional was instructed to file a fresh application for the approval of the resolution plan before the NCLT. However, the claim of the Appellant was again rejected by the Resolution Professional on the grounds of delay & the Appellant filed an appeal before NCLAT and contended that fresh claims were necessitated by the reopening of litigation by the Hon'ble Supreme Court.

National Company Law Tribunal Principal Bench, New Delhi, dismissed the appeal while relying on the Supreme Court's decision in ***RPS Infrastructure vs. Mukul Kumar & Anr.***, wherein it was held that re-opening the CIRP process for seeking improved resolution plans should not be used as a backdoor entry for delayed claims. Further, the Hon'ble Tribunal held that even if NCLT Chandigarh has not approved a Resolution Plan, it should not lead to a situation where the Resolution Plan can go back and forth, potentially turning the CIRP into an indefinite and never-ending process. The Hon'ble Tribunal relied on the ground that a fresh round of Expression of Interest is not a valid ground to file a delayed claim.



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