

NEWSLETTER



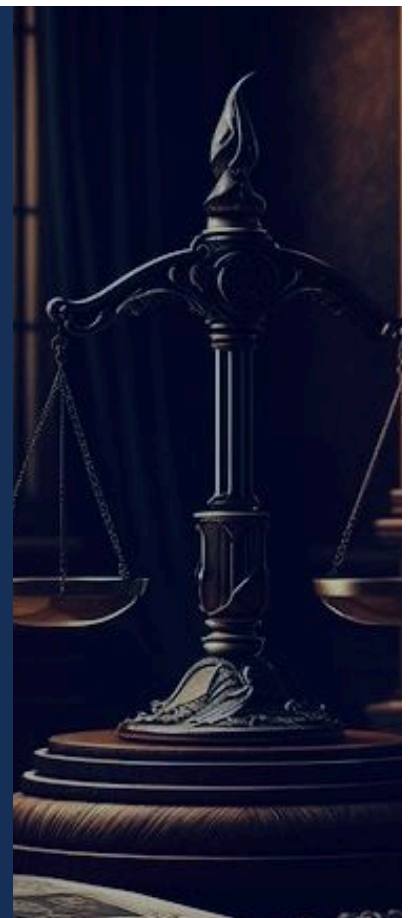
NEWS UPDATES FOR MARCH, 2026

NCLAT Delhi: Regulatory Breaches Do Not Bar Insolvency Proceedings

In a significant judgment delivered on February 3, 2026, the NCLAT (Principal Bench, New Delhi) ruled in *Vinita Agarwala and Ors. v. Power Pack Steel Industries Pvt. Ltd.* that internal non-compliance with the Companies Act cannot be used by a debtor to evade insolvency. Overturning an NCLT order, the Tribunal held that while violating deposit rules triggers penal action, it does not render a financial debt "void" or unenforceable under the Insolvency and Bankruptcy Code (IBC).

Key Points

- The Tribunal confirmed that loans backed by interest payments and TDS deductions strictly meet the definition of "financial debt" under Section 5(8) of the IBC.
- It was clarified that Section 73(1) of the Companies Act (prohibiting unauthorized deposits) carries its own penalties but does not invalidate the debt itself. In cases of conflict, the IBC—as a special statute—takes precedence.
- The Court reinforced that if debt and default are proven, a Section 7 application must be admitted. Technical irregularities in how the loan was processed do not provide a "get out of jail free" card to the debtor.
- While setting aside the NCLT's dismissal, the NCLAT granted the Corporate Debtor 30 days to discharge the debt before the formal commencement of the insolvency process (CIRP).



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NCLAT Delhi: Retrospective Ratification Validates Insolvency Filings

In a definitive ruling on February 9, 2026, the Principal Bench of the NCLAT (New Delhi) in *SREI Equipment Finance Ltd. v. Roadwings International Pvt. Ltd.* clarified the procedural requirements for filing insolvency applications. The Tribunal overturned an NCLT order that had dismissed a Section 7 application on technical grounds, ruling that subsequent ratification by a board or committee can retrospectively validate the authority of the person filing the petition.

Key Points

- The Tribunal held that a POA issued by an Administrator remains effective even after that Administrator is discharged, provided the action is supported by the succeeding management.
- The NCLAT emphasized that under the Insolvency and Bankruptcy Code (IBC), acts performed by an authorized representative can be ratified later by the Implementation and Monitoring Committee (IMC) or the new Board of Directors. This ratification effectively "cures" any initial lack of specific authorization.
- The Court reiterated that if the core elements—debt, default, and limitation—are established, an insolvency application should not be dismissed purely due to technical challenges regarding the signatory's authorization.
- Finding the only ground for dismissal (lack of valid authorization) unsustainable, the NCLAT directed the Adjudicating Authority to admit the Section 7 application within one month.



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NCLAT New Delhi: Tax Dept Cannot Set Off Refund Against Dues Without Filing Claim

In a major ruling on February 25, 2026, the NCLAT (Appellate Tribunal) affirmed that the Income Tax Department cannot unilaterally adjust a TDS refund against old tax demands once a company is in liquidation, unless a formal claim is filed.

The case, PCIT-3 Ahmedabad v. Kiran Shah (Liquidator), arose after the Department set off a refund due to the Corporate Debtor against an outstanding prior-year demand. The Liquidator challenged this, noting the Department had failed to submit a claim in the liquidation process.

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Key Highlights

- The Tribunal held that Section 238 of the IBC overrides the Income Tax Act. Tax refunds are part of the Liquidation Estate under Section 36.
- Under Regulation 29, a set-off is only permissible if mutual claims exist and have been officially filed. Since the Department failed to file a claim, it forfeited its right to set off.
- The Revenue cannot bypass the Section 53 waterfall mechanism to recover dues ahead of other creditors by withholding refunds.
- The NCLAT upheld the NCLT's direction, ordering the Department to refund the entire TDS amount to the Liquidator.

