

NEWSLETTER



NEWS UPDATES FOR JANUARY, 2026

NCLAT New Delhi: EPFO Proceedings Now Covered Under Moratorium Scope

January 9, 2026 The National Company Law Appellate Tribunal (NCLAT), New Delhi, has reaffirmed the primacy of the IBC moratorium over statutory recovery actions in the case of “Employees Provident Fund Organisation v. Subhlaxmi Investment Advisory Pvt. Ltd. and Anr.” The Tribunal ruled that any proceedings initiated by the Employees’ Provident Fund Organisation (EPFO)—including inspections, assessments, and demand generation under the EPF Act—are barred if they occur during the moratorium period defined under Section 14 of the IBC.

KEY LEGAL PRINCIPLES ESTABLISHED:

- **Statutory Freeze under Section 14:** The NCLAT held that Section 14 prohibits the initiation or continuation of assessment proceedings by the EPFO once the Corporate Insolvency Resolution Process (CIRP) has commenced.
- **Invalidity of Post-CIRP Assessments:** Any investigation or assessment order passed by the EPFO after the imposition of the moratorium is considered void and unenforceable.
- **Rejection of Belated Claims:** Claims based on assessments conducted post-moratorium cannot be admitted in the insolvency proceedings, even if the underlying dues relate to a period prior to the CIRP.
- **Empowerment of Resolution Professionals:** This ruling provides Resolution Professionals (RPs) with the legal standing to challenge and set aside EPFO demands that bypass the IBC’s collective settlement process.



NEWSLETTER



NEWS UPDATES FOR JANUARY, 2026

NCLT Kochi: Non-Maintenance of Books During CIRP Attracts Fraud Provisions

January 8, 2026 The NCLT Kochi bench ruled in the "Liquidator of Thesaurus Projects Pvt. Ltd. Vs. Mukeshbhavan Mukesh Karthikeyan and Ors". that failing to maintain books or hiding them during the Corporate Insolvency Resolution Process (CIRP) triggers fraud provisions (Section 66 of the IBC), holding directors personally liable for diverting funds and assets, even with delays, reinforcing that such opacity in insolvency invites personal accountability and contribution to the liquidation estate, as seen with the suspended directors ordered to pay ₹11.95 crore.

January 9, 2026 The NCLAT ruled in "Anuj Goyal vs. Atul Kumar Kinra" (Jan 2026) primarily dealt with a homebuyer's (Anuj Goyal) challenge to the replacement of the Resolution Professional (RP) in a Corporate Insolvency Resolution Process (CIRP), affirming that a minority homebuyer (0.25% share) cannot override the Committee of Creditors' (CoC) decision under IBC Section 27, dismissing his appeal and directing lower authorities to decide pending applications, highlighting that majority decisions of CoC, even on RP changes, generally bind smaller stakeholders.



KEY POINTS OF THE JUDGMENT:

- **Minority Rights:** The ruling reinforced that while homebuyers are financial creditors, a single minority homebuyer's vote (0.25% in this case) holds limited sway against the collective decision of the CoC.
- **CoC's Authority:** It upheld the CoC's power under Section 27 of the Insolvency and Bankruptcy Code (IBC) to decide on replacing the RP.
- **Appeal Dismissed:** The NCLAT dismissed Anuj Goyal's appeal, finding no error in the Adjudicating Authority's stance, emphasizing that such appeals by minority members against CoC decisions are generally not entertained.

- **Related Party Issue (Contextual):** While the core ruling was about the RP, related cases often involve classifying stakeholders, such as a 2023 NCLAT order where a firm was deemed a related party due to director overlap, affecting its voting rights, though this seems separate from the Goyal case.



NEWSLETTER



NEWS UPDATES FOR JANUARY, 2026

Delhi High Court: NCLT Holds Exclusive Jurisdiction over CIRP Challenges

On January 5, 2026 in the case of "Roseland Buildtech Pvt Ltd vs Vihaan 43 Reality Pvt Ltd", Justice Purushaindra Kumar Kaurav dismissed a commercial civil suit filed by Roseland Buildtech which sought to challenge a Section 7 IBC application filed by Vihaan 43 Realty. The plaintiff argued that the debt was discharged and the assignment agreement was fraudulent; however, the Court ruled that the suit was expressly barred by Sections 63 and 231 of the IBC.

The Court affirmed that the NCLT has exclusive jurisdiction to adjudicate all questions of law and fact, including complex claims of forgery or fraud, through its robust fact-finding mechanisms. Holding that parallel civil suits undermine the IBC's mandate for time-bound resolution, the Court imposed costs of ₹2,00,000 on the plaintiff for engaging in "luxury litigation" intended to stall the insolvency process.

NCLT Mumbai: Valid Service of Notice for Personal Guarantors

January 12, 2026 NCLT Mumbai recently held that a demand notice under Section 95 of the IBC sent to a personal guarantor, even if returned as "unclaimed" constitutes valid service, meaning the guarantor is deemed to have received it, allowing insolvency proceedings to continue against them, a key ruling for lenders in personal guarantor insolvency cases.

This decision, as seen in "Abhyudaya Co-Operative Bank Ltd. Vs. Sunil Laxman Somvanshi", reinforces that lenders must diligently serve notices but can proceed even if guarantors avoid actual receipt, emphasizing the strict nature of guarantee enforcement under the Insolvency and Bankruptcy Code (IBC).

