

NEWSLETTER



Supreme Court: Mere Subsistence of Underlying Contract Cannot Revive a Time-Barred IBC Debt

The Supreme Court (Srinivasa Reddy Velagala v. Sravanthi Infratech Pvt Ltd, August 12, 2026) held that the mere subsistence of an underlying contract does not give a creditor a continuing cause of action for an IBC default that has already occurred, and that a time-barred debt cannot be revived through insolvency proceedings. The Bench of Justice J.B. Pardiwala and Justice Manoj Misra held that the operational creditor's claims had crystallised in 2012 but were not pursued within the three-year limitation period, rendering the 2018 insolvency application time-barred.

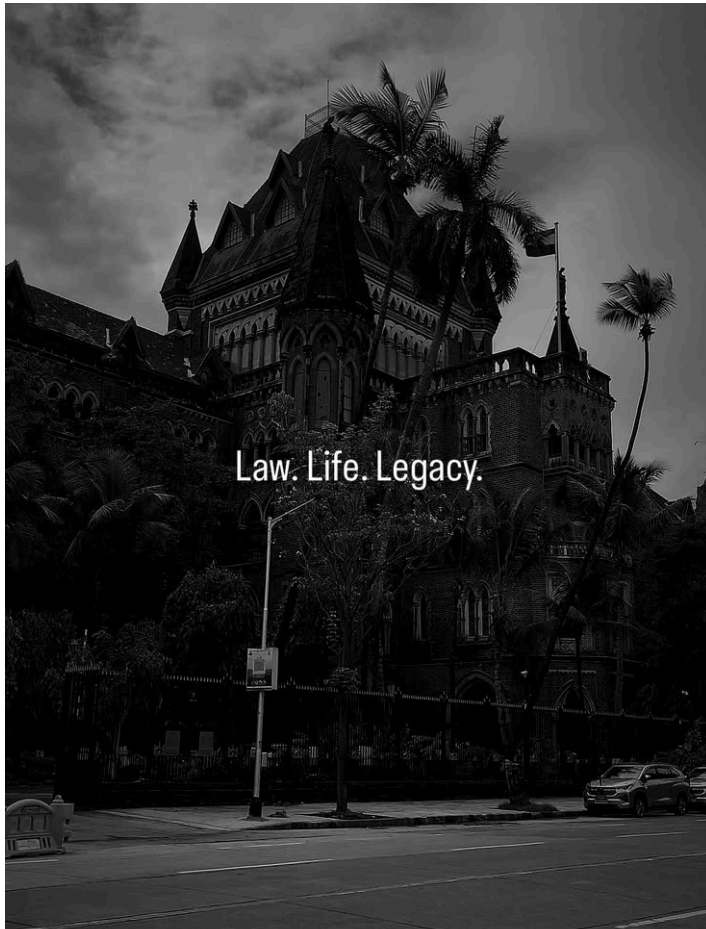
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Key Points

- The Court traced the cause of action to 2012, when the operational creditor's dues first became due and payable, and held that limitation began running from that date regardless of the contract's continued existence.
- The Bench clarified that IBC proceedings cannot be used to give a stale, time-barred claim a fresh cause of action merely because the underlying commercial contract between the parties had not been formally terminated.
- Finding the 2018 Section 9 application filed well beyond the three-year limitation period, the Supreme Court set aside the admission of the insolvency petition.



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Bombay High Court Sentences Insolvent to Jail for Concealing Bank Accounts, Rejects Limitation Defence

The Bombay High Court (Canbank Financial Services Ltd v. Pallav Sheth, August 7, 2026) held insolvent Pallav Sheth guilty of contempt under Section 33(4) of the Presidency Towns Insolvency Act, 1909 for wilfully concealing his assets and bank accounts from the Official Assignee, sentencing him to one month's simple imprisonment and a fine of ₹2,000, with a week's further imprisonment in default. Justice N.J. Jamadar delivered the ruling.



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Key Points

- The Court held that an insolvent who makes positive statements on oath concealing assets and bank accounts cannot later invoke a limitation defence to escape contempt proceedings arising from such concealment.
- The judgment reaffirmed the insolvent's continuing statutory obligation to make full and honest disclosure of assets to the Official Assignee under the 1909 Act.
- The Court signalled that concealment of assets during insolvency proceedings will attract custodial consequences and cannot be treated as a mere procedural lapse.

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Delhi High Court: Advocates Acting as Insolvency Professionals Must Register Under GST, Pay Under Forward Charge

The Delhi High Court (Kanwal Chaudhary v. Insolvency and Bankruptcy Board of India & Ors., August 2026) held that advocates rendering services as insolvency professionals must obtain GST registration, and that such services fall under the forward charge mechanism rather than the reverse charge mechanism applicable to legal services rendered by advocates. The Bench of Justice Pratibha M. Singh and Justice Shail Jain delivered the ruling on a petition challenging an IBBI order.

Key Points

- The Court held that when an advocate acts as an insolvency professional, that role is functionally and statutorily distinct from the practice of law, and GST treatment must follow the capacity actually being exercised.
- Because insolvency professional services do not fall within the reverse-charge exemption carved out for legal services, the Court held that GST liability and registration obligations rest on the professional directly.
- The petition challenging the IBBI's stance was dismissed, with the Court affirming the requirement of GST registration for insolvency professionals, including those who are also enrolled advocates.



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NCLAT: Ex Facie Time-Barred Personal Insolvency Plea Can Be Rejected Without Appointing a Resolution Professional

The NCLAT, New Delhi (Prabhaben Ravjibhai Harkani v. Bank of Baroda & Axis Bank, August 7, 2026) held that the NCLT can reject a personal guarantor's insolvency application at the threshold where it is ex facie barred by limitation, without first appointing a Resolution Professional under Section 97 of the IBC. The Bench of Judicial Member Justice Mohd Faiz Alam Khan with Technical Members Arun Baroka and Indavar Pandey dismissed the appeal.

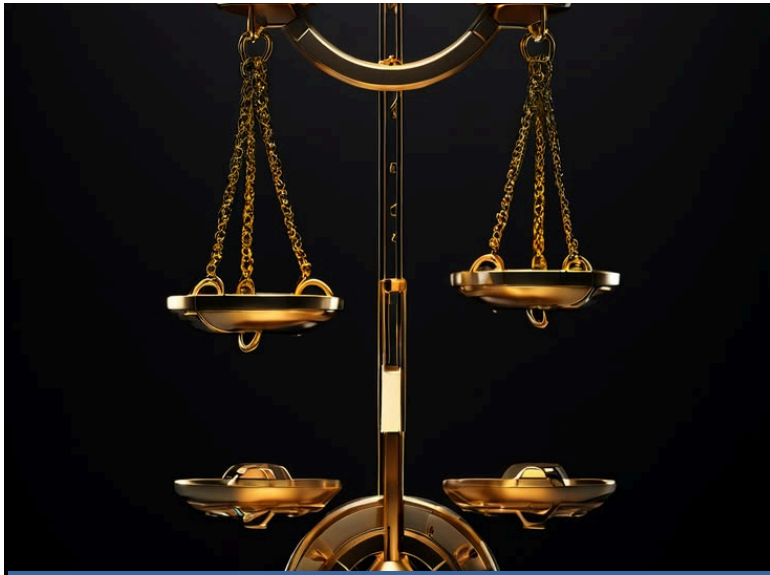
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Key Points

- The Tribunal held that Section 97's mandate to appoint an RP does not oust the NCLT's power to dismiss a personal insolvency petition outright where limitation is evident from the record itself.
- The appeal arose from the Ahmedabad Bench's rejection of a Section 94 insolvency petition filed by a personal guarantor of Shubham Ginning Pressing Pvt. Ltd. as time-barred.
- Finding no error in the NCLT's threshold rejection, the NCLAT dismissed the appeal and upheld the personal insolvency petition's dismissal.



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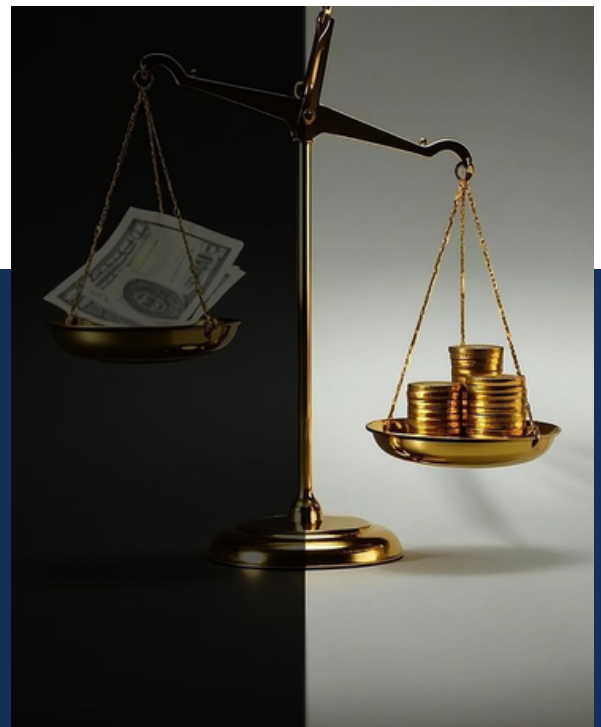
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Key Points

- The Tribunal distinguished the rehabilitative approach applicable to individual debtors from the more rigid, time-bound framework governing corporate insolvency resolution.
- Despite an earlier lapse in submitting a repayment plan, the guarantors were permitted to make a renewed attempt at repayment before harsher consequences under the personal insolvency framework were imposed.
- The ruling signals that tribunals may exercise greater flexibility and leniency where the debtor is a natural person facing genuine financial distress, rather than a corporate entity.

NCLAT Chennai: Law Shows Greater Sympathy to Debt-Trapped Individuals, Gives Guarantors Fresh Chance for Relief

The NCLAT, Chennai (Nuzhat Aisha Naseer & Ors v. Canara Bank & 3 Ors, August 2026) observed that the law shows greater sympathy towards debt-trapped individuals than debt-trapped companies, giving tribunals greater flexibility to consider relief from bankruptcy. The Tribunal granted a family of personal guarantors a fresh opportunity to work towards repayment despite their earlier failure to submit a repayment plan.



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Bombay High Court: IBC Amendment Removing Interim Moratorium for Personal Guarantors Applies to Pending Cases

The Bombay High Court (Tata Capital Financial Services Limited v. Neel Motors LLP and Ors, August 2026) ruled that a recent amendment removing the automatic interim moratorium available to personal guarantors of corporate debtors under the IBC applies even to proceedings that were already pending when the amendment took effect. Justice Somasekhar Sundaresan delivered the ruling.

Key Points

- The Court held that the amendment, effective May 26, 2026, operates retroactively on pending proceedings rather than retrospectively reopening concluded ones, and therefore governs cases already underway.
- Personal guarantors in pending proceedings can no longer rely on an automatic interim moratorium shielding them from parallel recovery action once the amendment applies to their case.
- The ruling narrows a protection personal guarantors had previously relied upon during the pendency of Section 95/96 proceedings, and clarifies the amendment's application across the docket of ongoing matters.

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