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2.	Qurath-ul-Ain, Radhesh R. Bhat, Rajashri Bhat and Ravilal VR, “Project Report on NCLT & NCLAT-Opportunities & Challenges; Provisions under NCLT for Oppression & Mismanagement” <i>The Institute Of Company Secretaries of India Bengaluru Chapter</i>
3.	Vallal RCK v. M/s. Siva Industries And Holdings Limited <i>Civil Appeal Nos. 1811-1812 of 2022 (Supreme Court)</i> <i>[NCLT/NCLAT should not sit in appeal over commercial wisdom of CoC to allow withdrawal of CIRP]</i>
4.	Ashok G. Rajani v. Beacon Trusteeship Ltd. <i>Civil Appeal No. 4911 of 2021 (Supreme Court)</i> <i>[Order of NCLAT refusing to exercise inherent powers was only an interim order and as such the NCLT has the power to allow withdrawal under Section 12A, IBC]</i>
5.	Tata Consultancy Services Limited v. SK Wheels Private Ltd. <i>(2022) 2 SCC 583</i> <i>[The jurisdiction of NCLT under IBC cannot be invoked by the corporate debtor if the termination of a contract by a third party takes place on grounds unrelated to the insolvency of the corporate debtor and hence the NCLT did not have any residuary jurisdiction to entertain the dispute. Therefore, the Supreme Court set aside of the judgments of the NCLT and NCLAT. The Court further clarified that even where the termination of a contract by a third party was in relation to the insolvency of the corporate debtor, the NCLT should restrain the third party from terminating the contract only if it is central to the success of the insolvency proceedings or to keep the corporate debtor as a going concern]</i>
6.	Gujarat Urja Vikas Nigam Limited v. Amit Gupta <i>(2021) 7 SCC 209</i> <i>[NCLT cannot derive its powers from the “spirit” or “object” of IBC. Section 60(5)(c) vests NCLT with wide powers since it can entertain and dispose of any question of fact or law arising out or in relation to the insolvency resolution process. However, that NCLT’s residuary jurisdiction though wide, is nonetheless defined by the text of IBC. Specifically, NCLT cannot do what IBC consciously did not provide it the power to do. The Court observed that lack of a legislative voice on the issue of validity/invalidity of ipso facto clauses relating to insolvency will lead to confusion and reduced commercial clarity]</i>
7.	M/s R.K. Industries (Unit-II) LLP v. M/s H.R. Commercials Private Limited <i>Civil Appeal Nos. 7722/2021 and 7731/2021 (Supreme Court)</i> <i>[The powers vested in and the duties cast upon the Liquidator have been made subject to the directions of the Adjudication Authority (NCLT) under Section 35 of the IBC. Once the Liquidator</i>

	<p><i>applies to the Adjudicating Authority (NCLT) for appropriate orders/directions, including the decision to sell the movable and immovable assets of the corporate debtor in liquidation by adopting a particular mode of sale and the Adjudicating Authority (NCLT) grants approval to such a decision, there is no provision in the IBC that empowers the Appellate Authority (NCLAT) to suo motu conduct a judicial review of the said decision. The jurisdiction bestowed upon the Adjudicating Authority (NCLT) and the Appellate Authority (NCLAT) are circumscribed by the provisions of the IBC]</i></p>	
8.	<p>Embassy Property Developments (Private) Limited v. State of Karnataka (2020) 13 SCC 308 <i>[The Court held that only provision that could help outline the scope of jurisdiction of the NCLT in respect of decisions taken under the Mines and Minerals (Development and Regulation) Act, 1957 was section 60(5) of the IBC. Section 60(5), was recognized to be very broad in its sweep, conferring jurisdiction upon the NCLT in respect of any question of law or fact, arising out of or in relation to insolvency resolution. However, any decision taken by a government or statutory authority in relation to a matter which was in the realm of public law, cannot by any stretch of imagination be brought within the fold of the phrase "arising out of or in relation to the insolvency resolution". NCLT being a creation of a special statute to discharge certain specific functions cannot be elevated to the status of a superior court having power of judicial review over administrative action]</i></p>	
9.	<p>Invesco Developing Markets Fund v. Zee Entertainment Enterprises 2022 SCC OnLine Bom 630 <i>[Section 430 of the Companies Act bars the High Court from adjudicating matters arising under the Act. It further observed that under section 100 of the Act, the High Court does not have the authority to decide upon the validity of a requisition notice to call for the extraordinary general meeting]</i></p>	
10.	<p>Securities and Exchange Board of India v. Mega Corporation Ltd. Civil Appeal No. 2104 of 2009 (Supreme Court) <i>[The Supreme Court will exercise jurisdiction only when there is a question of law arising for consideration from the decision of the Tribunal. A question of law may arise when there is an erroneous construction of the legal provisions of the statute or the general principles of law. In such cases, the Supreme Court in exercise of its jurisdiction of Section 15Z may substitute its decision on any question of law that it considers appropriate]</i></p>	
11.	<p>Printland Digital (India) Pvt. Ltd. v Nirmal Trading Company Order Delivered on 03.02.2021 (NCLAT, New Delhi) <i>[NCLT has the power to recall its order of closing the right to file reply. It will not be considered as recalling an order and review of an order where an issue is decided on merit by the Tribunal]</i></p>	
12.	<p>Adish Jain v. Sumit Bansal and Worldwide Metals Pvt. Ltd. Order Delivered on 03.02.2021 (NCLAT, New Delhi) <i>[NCLAT does not have the inherent power to review its own orders, the power to review cannot be exercised under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016, which spell out the inherent powers of the NCLAT, and that the power to review can only be conferred upon the NCLAT by a statute or by necessary implication. The error assailed in a review application must be patent, manifest, and self-evident, and a re-appraisal of the evidence and finding of facts in the garb of a review application was not permissible]</i></p>	

SESSION 5

Regulatory Action in Case of Companies Facing Liquidation and Insolvency

1.	Akaant Kumar Mittal, “Issues under the Insolvency and Bankruptcy Code post Admission of Insolvency Application” <i>(2018) 8 SCC J-5</i>	
2.	Sara Jain, “Analysing the Overriding Effect of the Insolvency and Bankruptcy Code, 2016” <i>13(1) NUJS Law Review 39-62 (2020)</i>	
3.	Sunil Gupta, “Personal Guarantors of Corporate Debtors Finally in the Net of IBC” <i>(2021) 7 SCC J-1</i>	
4.	Lohit K. Bimal and Sujit Jain, “SEBI v. IBC: The Case for SEBI” Retrieved from – https://www.anilbimal.com/pdf/Opinion-%20SEBI%20vs%20IBC.pdf	
5.	Abhishek Bhardwaj, “A Disquisition of Section 32 of Insolvency and Bankruptcy Code, 2016” <i>(2)(1) Jus Corpus Law Journal 156-175 (2021)</i>	
6.	Adity Chaudhury and Deeya Ray, “SEBI Regulations amended for listed companies undergoing insolvency resolution process under the Insolvency and Bankruptcy Code” Retrieved from – https://www.argus-p.com/uploads/blog_article/download/1528462113_SEBI_Regulations_and_IBC_-_June_6_2018.pdf	
7.	Asset Reconstruction Company (India) Ltd. v. Tulip Star Hotels Ltd. Civil Appeal Nos. 84-85 of 2020 (Supreme Court) <i>[Entries in book of accounts/balance sheet of corporate debtor can be treated as acknowledgment of liability of debt payable to financial creditor]</i>	
8.	Maitreya Doshi v. Anand Rathi Global Finance Ltd. Civil Appeal No. 6613 of 2021 (Supreme Court) <i>[The Court held that just like the resolution of principle borrower doesn't discharge the liability of a surety, in the same manner resolution in respect of one borrower cannot certainly discharge a co-borrower]</i>	
9.	EBIX Singapore Private Ltd. v. Committee of Creditors of Educomp Solutions Ltd. (2022) 2 SCC 401 <i>[A resolution plan, once approved by the CoC of the corporate debtor, cannot be withdrawn from consideration. In absence of any provision under IBC, allowing for withdrawal of the resolution plan by a successful resolution applicant, vesting the resolution applicant with such a relief through a process of judicial interpretation would be impermissible]</i>	
10.	K. Parmasivam v. The Karur Vyasya Bank Ltd. Civil Appeal No. 9826 of 2019 (Supreme Court)	

	<i>[CIRP can be initiated against corporate guarantor without proceeding against principal borrower]</i>	
11.	State Tax Officer (1) v. Rainbow Papers Limited <i>Civil Appeal No. 1661 of 2020 (Supreme Court)</i> <i>[Resolution plan which ignores statutory dues payable to state government/legal authority liable to be rejected]</i>	
12.	Manish Kumar v. Union of India <i>(2021) 5 SCC 1</i> <i>[The Court upheld the constitutional validity of Sections 3, 4 & 10 of IBC Amendment Act, 2020. The Provisos to Section 7(1) and Section 32A inserted were also upheld. It was iterated that wider latitude is given to legislature in economic matters]</i>	
13.	P. Mohanraj v. Shah Brother Ispat Private Ltd. <i>(2021) 6 SCC 258</i> <i>[The Court held that cases brought under Section 138 of the Negotiable Instruments Act cannot be initiated or continued against corporations subject to the moratorium imposed by Section 14 (1) (a) of the IBC. The Bench held that these proceedings are in nature of a "civil sheep" dressed as a "criminal wolf". An order of moratorium passed by the NCLT, would apply with equal force vis-à-vis proceedings initiated under Chapter XVII, Section 138 of the Act, qua the corporate debtor alone. The proceedings may continue after the moratorium period (330 days) comes to an end. Irrespective of the moratorium in force against the corporate debtor, the proceedings under Section 138 of the Negotiable Instruments Act, 1881, against the directors/persons in management of the corporate debtor can be continued or initiated and they will be statutorily liable]</i>	
14.	Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta <i>(2020) 8 SCC 531</i> <i>[The court upheld the constitutional validity of amended Section 12(3) except the word 'madatorily'. It was considered excessive, arbitrary and unreasonable restriction being violative of Article 14 and 19(1) (g) of the Constitution. The Court propounded the "clean slate" theory for the first time under the IBC, wherein a successful resolution applicant cannot suddenly be faced with "undecided" claims after the resolution plan is approved. The Court gave primacy to the commercial wisdom of the Committee of Creditors and held that only a limited judicial review is available to interfere with this wisdom]</i>	
15.	Orator Marketing Pvt. Ltd. v. Samtex Desinz Pvt. Ltd. <i>Civil Appeal No. 4633 of 2021 (Supreme Court)</i> <i>[A term loan to meet the financial requirements of a Corporate Debtor for its operation has the commercial effect of borrowing & would be covered under section 5(8) as a financial debt]</i>	
16.	Anuj Jain v. Axis Bank Ltd. <i>Civil Appeal Nos. 8512-8527 of 2019 (Supreme Court)</i> <i>[Essential element of disbursal, that too against the consideration for time value of money, needs to be found in the genesis of any debt before it may be treated as "financial debt"]</i>	
17.	Sesh Nath Singh v. Baidyabati Sheoraphuli Co-Operative Bank Ltd. <i>(2021) 7 SCC 313</i> <i>[There is no bar to exercise by the tribunal of its discretion to condone delay, in the absence of a formal application under section 5 of the Limitation Act, 1963]</i>	
18.	B.K Educational Service Private Ltd. v. Parag Gupta and Associates <i>(2019) 11 SCC 633</i>	

	<i>[The Limitation Act, 1963 is applicable to applications filed under the IBC from its inception]</i>	
19.	Vidarbha Industries Power Ltd. v. Axis Bank Ltd. Civil Appeal No. 4633 of 2021 (Supreme Court) <i>[The Adjudicating Authority has been conferred the discretion to admit the application of the Financial Creditor. If facts and circumstances so warrant, the Adjudicating Authority can keep the admission in abeyance or even reject the application]</i>	
20.	Swiss Ribbons Private Ltd. v. Union of India (2019) 4 SCC 17 <i>[The Court held that the classification between 'Financial Creditor' and 'Operational Creditor' is not discriminatory. An amendment which prescribed a mandatory outer limit of 330 days for completion of the CIRP was read down. The term "mandatorily" is struck down as being manifestly arbitrary and the time can be extended in certain circumstances]</i>	
21.	Innoventive Industries Ltd. v. ICICI Bank (2018) 1 SCC 407 <i>[No appeal can be maintained on behalf of the petitioner company itself as the directors are suspended and no longer in management. Non-obstante clause in the widest terms possible is contained in Section 238, IBC so that any right of corporate debtor under any other law cannot come in the way of IBC]</i>	
22.	Principal Commissioner of Income Tax v. Monnet Ispat and Energy Ltd. (2018) 18 SCC 786 <i>[Section 238, IBC will override the Income Tax Act. Income tax dues, being in the nature of Crown debts, do not take precedence even over secured creditors]</i>	
23.	K. Sashidhar v. Indian Overseas Bank (2018) 18 SCC 786 <i>[NCLT has no jurisdiction to enquire into justness of rejection of the resolution plan]</i>	
24.	Harshad Govardhan Sondagar v. International Aseets Reconstruction Company Ltd. (2014) 6 SCC 1 <i>[The lawful possession of the secured asset with the lessee under a valid lease and the secured creditor cannot take over possession until the lawful possession of the lessee gets determined]</i>	
25.	Bhanu Ram v. M/s. HBN Dairies and Allied Ltd. Order Delivered on 14.08.2018 (NCLT, New Delhi) <i>[A group of 36 investors approached the NCLT preferring an insolvency application under Section 7 of the IBC. On The NCLT admitted the application and declared a moratorium under Section 14 of IBC on the basis that the investors could be considered as financial creditors of the Company. Further, it was held that, the provisions of Section 14 of IBC would, by virtue of the non-obstante clause present in Section 238 of IBC, prevail over Section 28A of the SEBI Act which provides for recovery of money from a Company by selling movable or immovable property]</i>	
26.	Bhanu Ram v. M/s. HBN Dairies and Allied Ltd. Order Delivered on 30.04.2019 (NCLT, New Delhi) <i>[Post the coming into force of Moratorium, SEBI was directed to detach the property of Corporate Debtor attached prior to the commencement of CIRP. It was held that due to the non-obstante clause in the IBC, provisions of IBC would prevail over the provisions of SEBI]</i>	
27.	Bohar Singh Dhillon v. Rohit Sehgal Order Delivered on 09.05.2019 (NCLAT, New Delhi) <i>[Till the period of Moratorium continues SEBI cannot recover any amount nor can sell the assets of the corporate debtor]</i>	

28.	Binani Industries Ltd. v. Bank of Baroda Order Delivered on 14.11.2018 (NCLAT, New Delhi) <i>[The Tribunal observed that the objective of the Code is to rescue a failing but viable business]</i>	
29.	Bharat Hotels Ltd. v. Tapan Chakraborty Order Delivered on 05.09.2022 (NCLAT, New Delhi) <i>[Issue of CIRP cost to be decided in CoC meeting, not by Adjudicating Authority]</i>	
30.	Rakesh Kumar Jain v. Jagdish Singh Nain Order Delivered on 04.08.2022 (NCLAT, New Delhi) <i>[Moratorium under section 14 of IBC, 2016 is no bar for initiation of proceedings under section 66 of the code]</i>	
31.	Sudhir Kumar Goel v. M/s Shashi Oils and Fats Pvt. Ltd. Order Delivered on 04.08.2022 (NCLAT, New Delhi) <i>[Once dissolution application is filed after liquidation, Adjudicating Authority has no discretion]</i>	
32.	Sumat Kumar Gupta v. Committee of Creditors of M/S Vallabh Textiles Company Ltd. Order Delivered on 02.09.2022 (NCLAT, New Delhi) <i>[Erstwhile Resolution Professional has no right to be heard before being replaced under Section 27]</i>	
33.	Wadhwa Rubber v. Bandex Packaging Pvt. Ltd. Order Delivered on 24.08.2022 (NCLAT, New Delhi) <i>[The Tribunal dismissed the appeal for being time barred while observing that limitation is to be counted from the date of preparation of the certified copy and not from the date of delivery of the certified copy]</i>	
34.	JSW Steel Limited v. Mahender Kumar Khandelwal Order Delivered on 14.10.2019 (NCLAT, New Delhi) <i>[The erstwhile management of a company would be held responsible for the crimes, if any, committed under their regime and the new management taking over the company after going through the IBC process cannot be held responsible for the acts of omission and commission of the previous management. Post the completion of the CIRP, there cannot be any attachment or confiscation of the assets of the Corporate Debtor by any enforcement agencies after approval of the Resolution Plan]</i>	
35.	Dewan Housing Finance Corporation Ltd v. Securities and Exchange Board of India Order Delivered on 09.10.2020 (SAT, Mumbai) <i>[The Adjudicating Officer could not have considered the report of the insolvency committee to come to the conclusion that he had the power to proceed under SEBI law inspite of a moratorium having come into effect under section 14 of the IBC]</i>	
SESSION 6		
Imposition of Penalties: Exercise of Discretion by Adjudicating Officers		
1.	Securities Law Enforcement: Calibrating the Discipline of Penalty Imposition Retrieved from – https://corporate.cyrilamarchandblogs.com/2019/09/securities-law-enforcement-calibrating-the-discipline-of-penalty-imposition/	

2.	<p>Ambika Mehrotra, “SAT orders ‘technical breaches’ an insufficient ground for imposing penalty for violation of law” Retrieved from – https://vinodkothari.com/wp-content/uploads/2019/08/SAT-orders-%e2%80%98technical%e2%80%99-breaches-an-insufficient-ground-for-imposing-penalty-for-violation-of-law.pdf</p>	
3.	<p>Securities and Exchange Board of India v. Bharti Goyal Etc. Civil Appeal Nos. 3596-97 of 2020 (Supreme Court) <i>[Prima facie, the direction of substituting the fine, which has been imposed for indulging in fraudulent and unfair trading practices with a warning is contrary to the statutory provisions]</i></p>	
4.	<p>DKG Buildcon Pvt. Ltd. Vs. The Adjudicating & Enquiry Officer, S.E.B.I. Civil Appeal No. 1742 of 2009 (Supreme Court) <i>[The Court held that taking into consideration the severity of offences found to have been committed by the appellants and other entities, and the non-cooperative attitude of the appellants during the course of the investigation in attempting to obstruct the same, the quantum of penalty imposed under Section 15A(a) is justified and with effective consideration of the factors listed in Section 15J of the 1992 Act]</i></p>	
5.	<p>MBL and Company Ltd. v. Securities and Exchange Board of India (2022 8 SCC 273) <i>[The Court refused to interfere with order debaring MBL from dealing in securities in its proprietary account for a period of 4 years]</i></p>	
6.	<p>Securities and Exchange Board of India v. Sunil Krishnan Khaitan Civil Appeal No. 8249 of 2013 (Supreme Court) <i>[The object of the wide definitions in the Takeover Regulations, 1997 is to ensure that no one is able to dribble past and defeat its objects by resorting to camouflage and subterfuge. The principle of doubtful penalisation is a well settled rule of construction of penal statutes which means that if two views and reasonable constructions can be put on a provision, the court must lean in favour of construction which exempts the subject from penalty rather than one which imposes penalty]</i></p>	
7.	<p>Adjudicating Officer, Securities and Exchange Board of India v. Bhavesh Pabari (2019) 5 SCC 90 <i>[Section 15 continued to apply to the defaults under section 15A(a) as it stood subsequent to the amendment in 2002 until the amendment in 2014. Sections 15A(a) to 15HA have to be harmoniously read along with section 15J in such a manner as to avoid any inconsistency; the provision of one section cannot nullify the another unless it is impossible to reconcile the two. the insertion of an ‘explanation’ in section 15J would reflect that the legislative intent was not to curtail the discretion of AO by prescribing the minimum mandatory penalty in section 15A(a). It was clarified that conditions specified in Section 15J are not exhaustive and are merely illustrative in nature, and, hence, are not required to be mandatorily fulfilled for the imposition of a penalty by the Adjudicating Officer]</i> <i>(Siddharth Chaturvedi v. Securities and Exchange Board of India was confirmed; SEBI v. Roofit Industries Ltd. was overruled)</i></p>	
8.	<p>Siddharth Chaturvedi v. Securities and Exchange Board of India (2016) 12 SCC 119</p>	

	<i>[The Court observed that the interpretation of sections 15A(a) and 15J adopted by the Court in SEBI v. Roofit Industries Ltd. (2016) 12 SCC 125 was incorrect and referred the matter to larger bench]</i>	
9.	P.G. Electroplast v. Securities and Exchange Board of India Order Delivered on 30.08.2016 (SAT, Mumbai) <i>[The penalty imposed by SEBI of debarment from the market for a long period of one decade is highly disproportionate]</i>	
10.	Samrat Holdings Ltd. v. Securities and Exchange Board of India Order Delivered on 01.01.2001 (SAT, Mumbai) <i>[The findings should serve as the basis for penalty. It should not serve only to absolve the entity from the reach of penalty]</i>	
11.	Excel Crop Care Ltd. v. Competition Commission of India (2017) 8 SCC 47 <i>[The punishment to be enforced on enterprises engaged in anti-competitive methods should be assessed on the base of 'relevant turnover' of the business and not the 'total turnover']</i>	
12.	State of Himachal Pradesh v. Nirmala Devi (2017) 7 SCC 262 <i>[The cardinal principle of sentencing policy is that the sentence imposed on the offender should reflect the crime committed and be proportional to the gravity of the offence]</i>	
13.	Bharjatiya Steel Industries v. Commissioner, Sales Tax, Uttar Pradesh (2008) 11 SCC 617 <i>[Levy of Penalty, ordinarily, requires proof of mens rea unless there exist any statutory interdict]</i>	
14.	Chairman, SEBI v. Shriram Mutual Fund (2006) 5 SCC 361 <i>[Penalty is attracted as soon as contravention of the statutory obligation as contemplated by the Act and the Regulation is established" and that "intention of the parties committing such violation" i.e. mens rea was wholly irrelevant]</i>	
15.	Swedish Match AB v. Securities and Exchange Board of India (2004) 11 SCC 641 <i>[Failure to comply with a statute may attract penalty but only because a statute attracts penalty for failure to comply with statutory provisions, the same in all situation would not call for a strict construction. A statute ordinarily must be literally construed. Such a literal construction would not be denied only because the consequence to comply with the same may lead to a penalty]</i>	
16.	Supintendent and Remembrancer of Legal Affairs to Government of West Bengal v. Abani Maity (1989) 4 SCC 85 <i>[Ordinarily the word "liable" has been held as conveying not an absolute obligation or penalty but as merely importing a possibility of attracting such obligation or penalty even where it is used with the words "shall be." But a statute is not to be interpreted merely from the lexicographer's angle. Exposition ex visceribus actus is a long recognized rule of construction. Words in a statute often take their meaning from the context of the statute as a whole; they are not to be construed in isolation]</i>	
17.	Hindustan Steel Ltd. v. State of Orissa (1969) 2 SCC 627	

	<p><i>[Even if a minimum penalty is prescribed, the authority can refuse to impose penalty in cases wherein there is a technical or venial breach of provisions, after considering the specific circumstances]</i></p>	
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