

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

NCLT Mumbai Judgement

– Asis Global Ltd. V. Dy. Commissioner of State Tax.

The National Company Law Tribunal at Mumbai has ruled that an attachment by the Tax Authorities during the pendency of a Corporate Insolvency Resolution Process (CIRP) is violative of Section 14 (Moratorium) of the Insolvency and Bankruptcy Code. NCLT noted that section 178 of the Income-tax Act, 1961 has been amended to allow the Code to have overriding effect and accordingly directed to unfreeze the bank account of the Corporate Debtor and allow the applicant to manage its operations

NCLAT Judgement

– Digambar Anandrao Pingle Vs. Shrikant Madanlal Zaware, Erstwhile RP of M/s. Pingle Builders Pvt. Ltd. & Ors.

The ex-director/promoter of the Corporate Debtor filed the appeal against liquidation order passed by Adjudicating Authority claiming that the Corporate Debtor was an MSME and that he could file a resolution plan. NCLAT observed that as the application for MSME certificate was made after commencement of CIRP, such unauthorized application, after the CIRP had started, could not have been made. It further observed that after CIRP was initiated former Promoter/ Director cannot suppress from IRP/RP and apply for MSME Certificate and tide over ineligibility under Section 29A.