



**NCLAT allows corporate debtor to settle with  
operational creditor after initiation of CIRP**

JULY 21, 2020

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## **NCLAT allows corporate debtor to settle with operational creditor after initiation of CIRP**

In a recent decision in the case of Vivek Bansal v. Burda Druck India Pvt. Ltd. (Company Appeal (AT) 552 of 2020) the National Company Law Appellate Tribunal (“NCLAT”) allowed the corporate debtor to exit the insolvency resolution process after the initiation order was passed by the NCLT, the moratorium was imposed, and an interim resolution professional had been appointed. The NCLAT recorded that the corporate debtor and the appellant- operational creditor had reached a settlement and set aside the CIRP initiation order and the consequent moratorium.

The Insolvency and Bankruptcy Code, 2016 (“Code”) does not have a provision in relation to permissibility of withdrawal post admission of a CIRP application. There have been instances in the past where on account of settlement between the applicant creditor and the corporate debtor, permission for the withdrawal of CIRP was granted (See Supreme Court Order in *Lokhandwala Kataria Construction Pvt. Ltd. v. Ninus Finance & Investment Manager LLP*). Following which there have been cases where promoters have settled with applicant creditors after the initiation of CIRP (NCLT, Ahmedabad Bench in *G. Holaram v. Manpasand Beverages Ltd.*), following the landmark decision of the Supreme Court in *Swiss Ribbons Pvt. Ltd. v. Union of India* which laid down that at any stage where the Committee of Creditors had not been constituted, a party could approach the NCLT directly and the Tribunal in exercise of its inherent powers could allow an application for withdrawal of the CIRP or settlement of debt. Of course, in such cases, the IRP appointed is required to be fairly compensated by the applicant-creditor.

These precedents are beneficial especially for operational creditors who look at filing insolvency cases as a mode of quick settlement with errant promoters.

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