



## **CASE: The National Law Company Tribunal (NCLT), Mumbai has allowed one of the very first applications under the newly notified Insolvency and Bankruptcy Code, 2016 (IBC, 2016)**

### ***Facts and Conclusion:***

The application was filed under Section 10 of **IBC, 2016** on behalf of a corporate debtor i.e. Rajeshwari Weaving Mills which has debts up to Rs. 16 crores. The matter was argued before the Mumbai bench of the Tribunal. The hearing involved proving debt on the applicant and showing bona fide that applicant's liabilities are far more than his assets.

The **IBC, 2016** under Section 10 provides for Corporate Debtor to initiate insolvency proceedings by appointing one qualified Professional. Various other sections of the **IBC, 2016** provide for a similar procedure for initiating insolvency proceedings on behalf of the Financial Operator and Operational Creditors.

As per **IBC, 2016**, once an application is allowed by NCLT, moratorium u/s 14 is declared and all pending proceedings are stayed. The **IBC, 2016** for the very first in India provides for a time bound manner for disposing of insolvency proceedings. The Code provides for a maximum period of 180 days to complete the proceedings which can be further extended by 90 days. The **IBC, 2016** provides for formulation of a committee of creditors which carries out the insolvency proceedings on its formulation by the insolvency professional. Interestingly the code also provides an opportunity to the operational creditors to initiate proceedings.

In a nutshell, all the insolvency proceedings under the newly notified **IBC, 2016** will have to be completed within the stipulated time or else the company will go into liquidation process. In case the step by step time bound procedure specified under the code is not followed then the insolvency proceedings will lapse and the moratorium granted under Section 14 **IBC, 2016** shall stand vacated.