

7<sup>TH</sup> Edition

# Arun Jaitley International Insolvency and Bankruptcy Moot Competition

**CORPORATE INSOLVENCY INCLUDING  
CROSS-BORDER INSOLVENCY**

**NATIONAL LAW UNIVERSITY DELHI**  
SECTOR-14 DWARKA, NEW DELHI-110078

SUPPORTED BY  
UNCITRAL REGIONAL CENTRE FOR ASIA AND THE PACIFIC  
INSOLVENCY AND BANKRUPTCY BOARD OF INDIA  
INSOL India | INSOLVENCY LAW ACADEMY

**27<sup>th</sup> -29<sup>th</sup>**  
.....  
**SEPTEMBER**  
**2024**

Sponsors



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## **INTRODUCTION**

The Centre for Transnational Commercial Law at The National Law University, Delhi, supported by the Insolvency and Bankruptcy Board of India (IBBI) and the UNCITRAL Regional Centre for Asia and the Pacific, in collaboration with INSOL India are happy to announce the 2024-25 International Moot Competition on Insolvency and Bankruptcy. The inaugural edition of the competition was held during 28th -29th October 2017 at the National Law University, Delhi, India.

The theme of the 2024-25 edition is 'Corporate Insolvency including Cross- Border Insolvency'. Out of all the memorials submitted, 16 teams were shortlisted based on the quality of submissions. In the oral rounds, teams will make the arguments on merits to industry experts acting as judges.

## **OBJECTIVE**

The principal objective of the Arun Jaitley International Insolvency and Bankruptcy Moot 2024-25 [7th Edition] is to introduce and develop skills of mooting amongst the law students. It also provides training to speakers and researchers for, it also provides opportunities to represent their University/ College in this competition.

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# ARUN JAITLEY INTERNATIONAL INSOLVENCY AND BANKRUPTCY MOOT COMPETITION

The Arun Jaitley International Moot Competition on Insolvency and Bankruptcy is a landmark event dedicated to insolvency law. Launched in 2017, it was the first competition to focus exclusively on insolvency and bankruptcy issues, with the inaugural edition centered on the theme of the 'Corporate Insolvency Resolution Process.'

Over the years, the competition has gained widespread acclaim and has featured the participation of numerous distinguished dignitaries, including:

**Justice Ashok Bhushan**, *Chairperson of the National Company Law Appellate Tribunal*

**Dr. M. S. Sahoo**, *Advocate and former Chairperson of the Insolvency and Bankruptcy Board of India (IBBI)*

**Ms. Athita Komindr**, *Head of the UNCITRAL Regional Centre for Asia*

**Mr. Sudhaker Shukla**, *Whole Time Member of Insolvency and Bankruptcy Board of India*

**Mr. L. N. Gupta**, *Former Member (T) of the National Company Law Tribunal*

**Mr. A.S. Chandhiok**, *Senior Advocate & President of Maadhyam, International Council For Conflict Resolution*

**Mr. Sumant Batra**, *Insolvency Lawyer & President of the Insolvency Law Academy*

**Mr. Dinkar Venkatasubramanian**, *Partner of EY India Restructuring*

Their involvement highlights the competition's pivotal role in promoting the study and practice of insolvency law.

## ABOUT THE SUPPORTERS



### UNCITRAL REGIONAL CENTRE FOR ASIA AND THE PACIFIC

The United Nations Commission on International Trade Law (UNCITRAL) is the core legal body of the United Nations system in the field of international trade law. A legal body with universal membership specializing in commercial law reform worldwide for over 50 years, UNCITRAL's business is the modernization and harmonization of rules on international business. The UNCITRAL Regional Centre for Asia and the Pacific (UNCITRAL RCAP) is part of the Secretariat of the UNCITRAL and was established in 2012 in Incheon, Republic of Korea, with the support from both the Korean Government and the Hong Kong SAR Government of the People's Republic of China. With its objective to support public, private and civil society initiatives to enhance international trade and development by through capacity building in the Asia-Pacific, the UNCITRAL RCAP has continued to support the International Insolvency Bankruptcy Moot through the years.

For more information, please visit [www.uncitral.un.org/en/TA/regionalcentre\\_asia\\_pacific](http://www.uncitral.un.org/en/TA/regionalcentre_asia_pacific)



### INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

The Insolvency and Bankruptcy Board of India (IBBI) established under the Insolvency and Bankruptcy Code, 2016 (Code), is a key pillar of the ecosystem responsible for the implementation of the Code that Consolidates and amends the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner for maximization of the value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders. It is a unique regulator: regulates a profession as well as processes. It has regulatory oversight over the Insolvency Professionals, Insolvency Professional Agencies, Insolvency Professional Entities and Information Utilities. IBBI writes and enforces rules for processes, namely, corporate insolvency resolution, corporate liquidation, individual insolvency resolution and individual bankruptcy under the Code and has recently been tasked to promote the development of and regulate, the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of the Code.

For more information, please visit [www.ibbi.gov.in/en](http://www.ibbi.gov.in/en)



## INSOL India

INSOL India is an independent leadership body representing professionals specializing in restructuring, insolvency, turnaround and related areas. Established in 1997, INSOL India has completed 25 years as thought leader in the stressed assets ecosystem. The organization went through a major restructuring in June 2016 just after the Insolvency and Bankruptcy Code came into being in May 2016. Its vision, mission and goals were re-chalked. With a new governing structure, and membership criteria redefined to widen the horizon of insolvency practice in the country, INSOL India is well positioned as a thought leader. Its Special Interest Group (SIG 24) is one of a kind in playing a very proactive role in establishing a robust insolvency regime.

INSOL India has assisted and is assisting future reforms/amendments in insolvency law and practice in relation to cross-border insolvency and personal insolvencies. Many developments have taken place since the new Insolvency and Bankruptcy Code came into existence and members of INSOL India are well abreast of the same through active interaction and appropriate information sharing. INSOL India's members being established practitioners, have assisted courts in bringing out new interpretations of the insolvency laws thereby setting the foundation for an 'insolvency jurisprudence' which also paved way for policy changes. Since 2017, it is having an annual insolvency moot court competition in association with the National Law University, Delhi.

For more information, please visit [www.insolindia.com](http://www.insolindia.com)



## INSOLVENCY LAW ACADEMY

Insolvency Law Academy (ILA) is an independent think tank contributing to robust policy making and enhancement of standards in the insolvency industry through cutting edge research, innovation and development of best practices through various initiatives. ILA is developing a community in pursuit of education, research and scholarship in the field of insolvency in India.

For more information, please visit [www.insolvencylawacademy.com](http://www.insolvencylawacademy.com)



## CENTRE FOR TRANSNATIONAL COMMERCIAL LAW, NLU DELHI

Centre for Transnational Commercial Law (CTCL) at NLU Delhi was established in 2016 with the aim of promoting an academic and policy interface for this emerging area of law. In pursuance of nurturing researchers in this legal field, CTCL conducts several workshops, academic conferences, and symposiums as well as publishes numerous research and policy works. The Centre also actively engages with other organisations/institutions like UNCITRAL, UNIDROIT etc., and international Insolvency and Bankruptcy Moot Competition is a result of such a collaboration initiated by CTCL.

For more information, please visit [www.ctclnlu-delhi.in](http://www.ctclnlu-delhi.in)

# LIST OF EVENTS

Monday <b>15</b> JULY	<b>Commencement of Registration</b>
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Saturday <b>10</b> AUGUST	<b>Release of Moot Proposition and Rules</b>
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Thursday <b>29</b> AUGUST	<b>Last Date for Seeking Clarifications on Moot Proposition</b>
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Sunday <b>01</b> SEPTEMBER	<b>Release of Clarifications</b>
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Sunday <b>15</b> SEPTEMBER	<b>Last Date for Registration (Rs. 5,000/)</b>
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Friday <b>20</b> SEPTEMBER	<b>Submission of Memorandum</b>
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Saturday <b>21</b> SEPTEMBER	<b>Penalty Appeal</b>
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Sunday <b>22</b> SEPTEMBER	<b>Announcement of shortlisted teams</b>
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Wednesday <b>25</b> SEPTEMBER	<b>Registration fee by shortlisted teams for oral rounds</b>
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Thursday <b>26</b> SEPTEMBER	<b>Memorial Exchange</b>
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Friday <b>27</b> SEPTEMBER	<b>Inaugural and Opening ceremony</b>
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Saturday <b>28</b> SEPTEMBER	<b>Preliminary Rounds and Social Night (Announcement of Breaks)</b>
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Sunday <b>29</b> SEPTEMBER	<b>Semi-Finals, Finals, awards and valedictory</b>
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# MOOT COMPETITION SCHEDULE

**27th September, 2024**

**4:00 PM - 4:30 PM**

**Registration and High Tea**

**Venue** - Academic Block, National Law University Delhi

**5:00 PM**

**Inaugural Session**

**Venue** - Room 406, Academic Block, National Law University Delhi

**7:30 PM**

**Dinner**

**28th September, 2024**

**10:00 AM**

**Breakfast**

**10:45 AM - 11:15 AM**

**Judges Briefing**

**Venue** - Old Meeting Room, Academic Block, National Law University, Delhi

**11:30 AM - 1:00 PM**

**Preliminary Round 1 - Team A vs Team B**

**1:00 PM - 2:00 PM**

**Lunch - Auditorium, National Law University, Delhi**

**2:30 PM - 4:00 PM**

**Preliminary Round 2 - Team C vs Team D**

**TIME- (TBD)**

**Social Night** – Declaration of Semi-finalists

**Venue-** (TBD)



# MOOT COMPETITION SCHEDULE

29th September, 2024	
9:00 AM - 10:00 AM	<b>Breakfast</b>
10:00 AM - 10:30 AM	<b>Judges Briefing</b> <b>Venue</b> - Old Meeting Room, Academic Block, National Law University Delhi
10:30 AM - 12:00 PM	<b>SEMI FINALS</b> <b>Rank 1 vs Rank 3 (Room 506)</b> <b>Rank 2 vs Rank 4 (Room 406)</b>
1:00 PM TO 02:00 PM	<b>Lunch</b> <b>Venue</b> - Auditorium, National Law University, Delhi
02:00 PM - 3:30 PM	<b>FINAL ROUND</b> <b>Winner of Semi Final 1 vs Winner of Semi Final 2</b> <b>Venue</b> - Moot Court Hall
04:00 PM- 05:00 PM	<b>VALEDICTORY CEREMONY</b> <b>Valedictory &amp; Prizes; Vote of Thanks</b>
5:00 PM	<b>High Tea</b> <b>Venue</b> - Academic Block, National Law University, Delhi

# AWARDS

## WINNER

Cash Prize of INR 25000/-

Trophy and one team member will be entitled for one month internship at Insolvency Law Academy

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## RUNNER-UP

Cash Prize of INR 15000/-

One team member entitled for one month internship at INSOL India

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## BEST SPEAKER

(OVER ALL) & (PRELIMINARY ROUNDS)

Certificate of Excellence

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## BEST MEMORIAL

Certificate of Excellence



## GENERAL

1. The Seventh Edition of the Arun Jaitley International Insolvency and Bankruptcy Moot Competition will be held at National Law University, Delhi (NLUD) during 27<sup>th</sup>-29<sup>th</sup> September, 2024.
2. The Competition aims at providing an opportunity to law and management students from top universities – domestic and international – to practice and expand their knowledge in Insolvency and Bankruptcy Law. It provides a platform for students to compete in a simulated insolvency & bankruptcy proceeding, where teams represent different stakeholders. The competition is carefully structured to judge not only theoretical knowledge but also practical skills of the participating teams, competing as various stakeholders.
3. Format of the moot: Memorandum is to be prepared and submitted on the moot proposition. The top 16 teams based on memoranda scores are to appear for the oral rounds. Each team will participate in two preliminary rounds. The preliminary rounds will be scored in the following manner:
  - a. 30% weightage given to the Memorandum scores
  - b. 70% weightage given to the Oral Round scores

The **four highest scoring teams** will qualify to the Semi-Final round.

## ORGANIZING BODY

1. The Centre for Transnational Commercial Law at National Law University, Delhi (“CTCL”) acting under the Moot Court Steering Committee (“MSC”) shall be the Organising Body for the NLUD-IBBI-UNCITRAL RCAP Arun Jaitley International Insolvency and Bankruptcy Moot Court Competition, 2024-25 (“Competition”).
2. The Moot Court Steering Committee (“MSC”) shall comprise of representatives of the organising & supporting organisations, viz, The Insolvency & Bankruptcy Board of India (IBBI), INSOL India, UNCITRAL RCAP, and the organising committee at National Law University Delhi.
3. CTCL shall not be affiliated with nor assist any team registered to take part in the competition.
4. MSC/CTCL:
  - a. Has the sole discretion to:
    - i. enforce all rules;
    - ii. interpret the Rules;
    - iii. resolve any disputes that may arise during the Competition; and
    - iv. answer questions about, and clarify, the problem.

- b. Has the power to change/supplement the Rules, if any changes or supplements are necessary. The Rules will be posted on the competition website, and change or supplements will be communicated to participating teams as quickly as possible.
  - c. Has the power to modify the moot problem at any stage with prior notice to the teams.
5. CTCL/MSCL may, at its discretion, disqualify a team if they consider that there has been any behaviour that is considered a serious violation of these Rules or of the spirit of the Competition.
6. The Organizing Committee will not evaluate any memorandum/pleadings submitted by the participating teams or the Oral Rounds in the moot.
7. The Student Coordinators of the Organizing Committee shall solely be involved in the handling, exchange of memorials, scoresheets and other similar transactions to ensure utmost discretion. However, the entire Organizing Committee will be involved in the organisation of oral rounds.
8. Materials relevant to the administration of the Competition will be posted on the official website of National Law University, Delhi, IBBI and INSOL India.
9. Any questions or enquiries about the Competition shall be made in writing (email is satisfactory) to CTCL at [insolvency@nludelhi.ac.in](mailto:insolvency@nludelhi.ac.in). If a question or enquiry affects participating teams, the question or enquiry and its answer will be e-mailed to participating teams. This does not include clarifications sought upon the Moot Proposition.
10. Each participating team shall provide one valid e-mail address at the time of registration. All communications with CTCL that a participating team undertakes shall be through this e-mail address only. All correspondence and service of documents will be through this e-mail address only.
11. CTCL can be reached at the following address:

## **Dr. Risham Garg**

*Associate Professor of Law,*

*Director,*

*Centre for Transnational Commercial Law,*

*National Law University Delhi.*

Sector 14, Dwarka, New Delhi - 110078, India

Email: [insolvency@nludelhi.ac.in](mailto:insolvency@nludelhi.ac.in)

## TEAM COMPOSITION

1. The competition is conducted in the English language. It is open to teams from professionally accredited law schools/colleges and management schools/colleges. Each eligible college may register only one team in the Competition.
2. A team can consist of no less than two and no more than four students, who shall be enrolled as full-time or part-time students of any degree in law or business, in the college/university they represent at the time of the Competition. However, no team member may have already been admitted or licensed to practice Law/CA/CS/CMA in any jurisdiction at the time of oral pleadings.
3. Teams shall not alter composition or members after submission of the list of team members at the time of registration, except upon written permission of CTCL based on a showing of extraordinary circumstances. In the Oral Rounds, no substitution will be permitted after the commencement of the first argument unless the number of team members drops below two.
4. The written submissions made by teams shall be the work of the student team members only.
5. Each team will be assigned a team code by the organising committee. Teams shall identify themselves within their memorials only by use of this anonymous identifier. During the Oral rounds, team members shall avoid identifying their college or University to the judges.

## REGISTRATION

1. Registration fee for the Moot is **INR 5000** per team for national teams. The registration fee for international teams is **US \$100**. This fee is required to be paid by all the participating teams.
2. The top 16 teams based on memoranda scores appearing for the oral rounds shall make their own arrangements for accommodation and travel. The organizing Committee may suggest suitable accommodations in the vicinity of the University on receipt of a request in this regards by a particular team.
3. The registration fee for the Moot is to be paid through an Online Payment Portal which shall be specified to the teams in due course. Such notified teams are required to email a screenshot of the online payment confirmation to [insolvency@nludelhi.ac.in](mailto:insolvency@nludelhi.ac.in) latest by **30th August 2024**.

# SUBMISSION OF MEMORANDUM

1. The memorial shall consist of following mandatory heads:

**A. Cover Page:** The Cover Page of the Memorandum should contain only the following information, which should be in the following order:

- a. In the top right-hand corner of the page, the team number allocated to the team followed by “A” if an Applicant Memorial or “R” if a Respondent Memorial (e.g., Team No. 12 would put “12A” in the top right-hand corner)
- b. The name of the Competition and Year (i.e., “The 7th Arun Jaitley International Insolvency and Bankruptcy Moot Competition, 2024-25”)
- c. The title of the matter,
- d. The title of the document (i.e., “Memorial for Respondent” or “Memorial for Applicant”)

**B. Table of Contents**

**C. List of Abbreviations**

**D. Index of Authorities**

**E. Statement of Facts:** (Not exceeding 2 pages) – Briefly point out the relevant facts from the moot proposition.

**F. Issued Raised:** (Not exceeding 1 page)

**G. Summary of Arguments:** (Not exceeding 2 pages)

**H. Argument Advanced:** (Not exceeding 20 pages) Participants are required to include a thorough analysis of all issues taking into consideration all the parties as per the moot proposition.

**I. Prayer/Final Relief** (Not exceeding 1 page)

2. ANONYMITY

To facilitate anonymous grading, names of the team members and the institution they represent **must not** appear on the memorial. Additionally, the teams must ensure that the names of the team members, their institutions or any such marking that reasonably represents the identity of the team must not appear in the **meta-details** of the memorial. Breach of anonymity will lead to levy of penalty.

3. OTHER CLARIFICATIONS:

- i The teams may add other issues in addition to the ‘key issues identified’ if they think it is necessary.
- ii The memoranda shall not contain any annexure, photographs, graphs, diagrams or any other representation of like nature.
- iii The memorial also includes the headers, footers, page numbers and headings.
- iv Plagiarism in the analysis of the issues will lead to immediate disqualification.

Plagiarism refers to (but may not be limited to) cases of using another person's words without attributing credit to that person, such as copying or paraphrasing text and/or using the same string of views laid down in the works of another person without proper attribution and citation to the author of the source. This is left to the determination of the memo judges who may make use of Turnitin apart from their judgement. A passage in the answer may be deemed plagiarised regardless of intent of the team, whether it was just overlooked, whether someone forgot to check, or whether it was done with complete innocence.

4. Soft Copies of the Memorial must be submitted by all teams in .pdf and .docx format (Office 2013 or Office 2016) on or before the last date of submission as decided and notified by the MSC, to [insolvency@nludelhi.ac.in](mailto:insolvency@nludelhi.ac.in). The attachments shall be named according to the team code and the party for which the memorial is proposed. It should also contain headers, footers, page number and headings.

Hard Copies of the Written Submission/ Memorial must be deposited by the participating teams before the preliminary rounds begin.

#### 5. FORMATTING RULES:

*All parts of the memorial shall be typed on A4 sized paper/format, with the following mandatory formatting specifications:*

- a. Font Type: Times New Roman
- b. Font Size: 12
- c. Line Spacing: 1.5
- d. Margins: 1 inch on each side
- e. Paragraph Spacing – 6 pts (in total)
- f. Headings and sub-headings throughout the Memorandums may be underlined and/ or highlighted

#### **FOOTNOTES**

*The formatting specifications are:*

- a. Font Type: Times New Roman
- b. Font Size: 10
- c. Single Spacing between lines; double spacing between two footnotes (6 points before and after)
- d. Line Spacing: 1.0

#### *CITATION/ FOOTNOTING STYLE*

- a. Each source or authority must be supported by bibliographical information using the Oxford Standard for Citation of Legal Authorities (OSCOLA, 4<sup>th</sup> edition).
- b. It is not permitted to provide any information in the footnotes that is not related to the identification of an authority or source. Footnotes may not include additional legal arguments.
- c. Endnotes are not permitted.
- d. Footnotes should be limited to only citations or any other information relevant to the arguments. In

no vent shall footnotes contain extra or irrelevant information and in no case shall footnotes contain arguments.

6. PENALTIES:

- a. Late submission of the memorials after the last date of submission as prescribed: **(-) 3 mark** each exceeding hour.
  - b. Exceeding page limit of any section with a prescribed limit: **(-) 1 mark** per page.
  - c. Non-compliance with the proper font size, font type, line spacing [memoranda and/or footnotes]: **(-) 3 marks** one-time penalty for each specification.
  - d. Non-compliance with prescribed page margin, page size, etc.: **(-3) marks** one-time penalty.
  - e. Omitting any stipulated part in the cover page as mentioned in Clause 1(A) of Section E: **(-) 1 mark** per part included extra/not included.
  - f. Omitting any specified part in the memorial as mentioned: **(-) 2 marks** per specification.
  - g. Adding any extra information or arguments other than the citations: **(-) 2 marks** per violation.
  - h. Failure to remove metadata or any other identification mark from the memorandum in violation of Clause 2 of Section E : **(-) 5 marks** one-time penalty.
  - i. Provided that that the total penalties levied on a memorial shall not exceed **20 marks**.
7. The memoranda shall not contain any annexure, photographs, graphs, diagrams or any other representation of like nature.
8. Footnotes should be limited to only citations or any other information relevant to the arguments. In no event shall footnotes contain extra or irrelevant information and in no case shall footnotes contain arguments
9. Plagiarism- All Memorials will be put through a plagiarism check. Any Memorial found to be plagiarized will be subject to immediate disqualification.
10. Appeals – All appeals from any penalty levied will be resolved by a Committee appointed by the MSC, whose decision shall be final and binding.

**NOTE** - The MSC/CTCL reserve the right to interpret/amend/modify the rules and the format with due notice. Decision of the committee shall be final and binding for any issue arising.



# ORAL ROUNDS

1. Teams shall identify themselves in the memorial as well as in all the oral rounds only by use of the anonymous identifier (team code) given to them in advance by the Organizing Committee. Participants shall avoid letting judges know from which law schools their teams appear.
2. The language to be used during the rounds is English.
3. The Competition shall consist of the following rounds:
  - a. Two Preliminary Rounds.
  - b. Semi- Finals.
  - c. Finals.
4. During the course of oral rounds, no communication is permitted between the speaker at the Bar Table and other members of the team.
5. The Researcher shall not be permitted to address the Court during the Oral Rounds. The Researcher may however, be permitted to pass notes to the Speakers at the discretion of the Judges.
6. Every team can speak for maximum of 35 minutes. A speaker can speak for maximum of 20 minutes. The division of time per speaker is left to the discretion of the team subject to a minimum of 10 minutes per speaker. Teams are allowed to set aside sometime for rebuttals and sur-rebuttals, however that time is to be incorporated within the allocated 35 minutes itself.
7. The use of mobile phones, laptops, or any other electronic gadgets other than that necessary for the conduct of the rounds is strictly prohibited during the Oral Rounds.
8. Participants may use their own bare acts, printouts and commentaries provided that anonymity is not violated during the Rounds. The decision of the Judges as to the marks allotted to each team shall be final and binding.
9. The Organising Committee may photograph the oral rounds for documentation purposes, and it is expected from the participants that they have given their consent and permission to the organising committee for doing the same.
10. The decision of the Judges as to the marks allotted to each team shall be final and binding.
11. The Competition is an educational event and it is necessary that personal data is collected for the operation of the event and that the Organizing Committee will not disclose any personal data to third parties unless specific permission has been obtained from the participants. In case of any participants concerns or queries about the usage of their data, they may contact the Organizing Committee.
12. So as to ensure uniformity in the marking system all Judges will be provided with a scoring guideline.

## JUDGES

The Moot Steering Committee will be responsible for selecting the Judges for the Competition.

## MISCELLANEOUS

- A. **Language:** The official and only language of the Competition is English.
- B. **Access to Score Sheets:** At the end of Semi-Final Round each Participating Team that does not advance to the Finals will get access to its Score Sheets on request.
- C. **Notification to the Competition Administrator:** The submission of the Memorandum, queries, clarification and any other questions/requests must be submitted to [insolvency@nludelhi.ac.in](mailto:insolvency@nludelhi.ac.in).
- D. **Notification to the Participating Team:** If any one of the members of a Participating Team is notified or informed of any detail or information concerning the Competition, it will be deemed that the said Participating Team as a whole has been duly notified or informed.
- E. **Time:** Any reference to time in the Competition Rules will be construed as a reference to Indian Standard Time.
- F. **Dress Code:** Members of Participating Teams should be dressed in formal dress for the duration of the Competition, including for the welcome address and the valedictory.
- G. **Code of Conduct:** Kindly refer to the document attached which provides the Code of Conduct to be followed by the Participating Teams.

## PRIZES

- A. The prizes in the form of certificates and trophies to be awarded are as follows:
  - I.. **Winner**
  - ii. **Runners Up**
  - iii. **Best Speaker (Advanced Rounds)**
  - iv. **Best Speaker (Preliminary Rounds)**
  - v. **Best Memorial**
- B. Participation certificate will be provided to all teams who successfully submit their memoranda.

# CODE OF CONDUCT

During the entirety of the competition, the IIBMC OC expects you to:

- Refrain from consuming intoxicating substances (alcohol and narcotics) in and around the campus premises.
- Refrain from smoking in and around the campus premises.
- Not cause physical hurt to anyone participating in the competition/campus residents.
- Refrain from photographing others or procuring the photographs of others without their consent.
- Be accountable for your actions and respectful of the personal space of those around you.
- We encourage you to refer to the ICC rules to modify/regulate your behavior accordingly. We strongly condemn either instances or even an attempt of sexual harassment, assault, molestation, rape, hurt, etc.
- Harassment in any form is strictly prohibited. Harassment includes inappropriate conduct, comment, display, action, or gesture, based on another person's sex, caste, color, race, religion, national origin, age, disability, sexual orientation, gender identity, and any other protected characteristics.
- Any kind of indulgence in any such activity would result in an immediate communication of the same to the Organizing Committee and other necessary authorities. Our role would be limited to requesting the indulgence of the concerned people so that they can take care of the situation thereon.
- If found in violation, you shall be immediately disbarred from participating in the competition.

## MENTORS AND ORGANISERS

**Professor G. S. Bajpai**, *Vice-Chancellor, National Law University, Delhi*

**Professor Ruhi Paul**, *Registrar, National Law University, Delhi*

**Dr. M. S. Sahoo**, *Advocate Former, NLU; Former Chairperson, Insolvency and Bankruptcy Board of India*

**Ms. Athita Komindr**, *Head, UNCITRAL RCAP*

**Mr. Dinkar Venkatsubramanian**, *President, INSOL India*

**Mr. Sumant Batra**, *Insolvency lawyer; President, Insolvency Law Academy*

## MOOT DIRECTOR

**Dr. Risham Garg**, *Associate Professor of law;*

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# MOOT PROPOSITION

1. Wheel Rush Group Auto Limited is a public limited company (Wheel Rush) incorporated on 17th March 1995, under the provisions of the Companies Act 1956 (Act 1956), and is registered with the Registrar of Companies, Delhi. Wheel Rush has manufacturing plants in various states of India. Wheel Rush is one of the largest manufacturers of Auto Mobile spare parts. It supplies spare parts units to the major players in the automobile sector in India as well as overseas through its subsidiaries having direct as well as indirect shareholdings in these subsidiaries.
2. Wheel Rush under its direct and indirect holding is also operating multiple operational units across the globe including Japan, Thailand, Spain, United Kingdom and Germany amongst others. One of the major subsidiary companies namely MNPPLC (MNP) is a public limited company, incorporated under the British Companies Act 1985 in the United Kingdom on 9th December 2000 and got listed on the London stock exchange on 8th January 2001.
3. MNP is engaged in the business of manufacturing gearboxes. As per the business arrangement dated 7th March 2005 (Business Arrangement), it was agreed between the Wheel Rush and MNP that MNP would cater to the clients of Wheel Rush in UK and Europe. As per the covenants of the agreement, MNP would ship the final products i.e. gearboxes directly to the end customers of Wheel Rush. Once the payments are received by MNP from the customers, it would deduct its referral commission of 10% from the sale proceeds and transfer the balance amount to Wheel Rush.
4. Wheel Rush's business was going as usual until the financial year (FY) 2019-20, when due to slow down in the automobile market in India as well as overseas and also the advent of COVID, it started facing trouble in serving the debt due to various financial institution, which became unsustainable as the international operations started stagnating and at the same time the domestic operations suffered from the major slowdown in the industry.
5. The onset of Covid-19 Pandemic in January 2020 caused a major economic crisis resulting in a massive decrease in demand and production related issues. This led to a massive loss of business for Wheel Rush. The financials of the company (Wheel Rush) also got affected as on many instances MNP made payments to M/s. Imiq Technologies Ltd, one of its service providers directly from the total amount received from the customers of Wheel Rush and breaching the terms of business arrangement as MNP did not transfer the amount from 2019 to Wheel Rush after deducting its commission. Thereby starting a spiral of distress. Wheel Rush's sales had been declining from FY 2020 due to many macroeconomic factors. Wheel Rush regardless of losses had access to a large amount of debt finance due to its market share and position.
6. The Annual General Meeting (AGM) of Wheel Rush in terms of Companies Act 2013 (Act 2013), was held on 17th December 2020, wherein it was observed that the cash flows had fallen at an alarming rate. During the AGM, two of the independent directors also flagged the issue of passing some accommodation entries in the books by one of the members of the promoter family and demanded for a forensic audit. Accordingly, a resolution was passed to appoint the forensic auditors for alleged misconduct and financial irregularities. It was also agreed that the efforts would be made to create more business opportunities and at the same time negotiation would happen with the bankers to have some flexible terms and conditions for serving the loan.

7. On 3rd February 2021, a notice was issued to the directors of the company with a specific agenda to discuss the report as submitted by the forensic auditors. An Extra Ordinary General Meeting (EGM) was held on 12th March 2021, to discuss the findings of the report of the external auditors. The external auditor's report red-flagged certain payments to the tune of INR 20 Crores (Rupees Twenty Crore Only) that were initiated by the promoters of Wheel Rush to a certain pertinent supplier of raw materials, who had refused to supply further materials until their dues had been cleared - Carbon Black Pvt. Ltd. – towards settlement of debts in preference over other sundry creditors and lenders, it was also mentioned by the auditors that certain accommodation entries were passed in the books showing bogus transactions between Wheel Rush and one of the subsidiary based out of Kolkata which is a shell company without any substance.
8. In the EGM held on 12th March 2021, the report of the forensic auditors was placed for discussion and suitable action. Apart from the report, the financial position of the company was also discussed. As per the details, it transpired that there are two major creditors of Wheel Rush namely, M/s. ZET Financial Pvt. Ltd and XYZ Bank of India which had provided working capital loan for the expansion of business of Wheel Rush in FY 2018-2020. It was discussed that the company was finding it difficult to serve the debt of the aforementioned two banks & the bankers have already issued notices for timely payment of the loan amount.
9. As per the minutes of the meeting, the amount of loan due to both M/s. ZET Financial Pvt. Ltd and the XYZ Bank of India was to the tune of INR 150 crore (Indian Rupees One Hundred Fifty Crores Only) i.e., INR. 75 crore each (Indian Rupee Seventy Five Crore Only) Accordingly, a resolution was passed by the Board that the officials of the banks should be approached for a formal negotiation to avoid the further default by Wheel Rush and to avoid probable initiation of the corporate insolvency resolution process (CIRP) against it. The Board of Wheel Rush met with the officials of M/s. ZET Financial Pvt. Ltd and drew up a one-time settlement agreement on 22nd April 2021.
10. At the same time, due to the adverse economic conditions and post Brexit, the UK subsidiary MNP ran into financial troubles. The loan agreement for £1,50,000 (One hundred and Fifty Thousand Pounds) was executed between MNP and ART Bank based out of London on 1st May 2008, wherein Wheel Rush was one of the guarantors for MNP being parent company, vide corporate guarantee agreement dated 1st May 2008. MNP pledged and granted to the ART Bank, a first priority floating charge on all of its right, title and interest (Floating Charge), in all its present and future tangible and intangible assets and rights of any kind, whether contingent or absolute.

The collateral consists of Pledger's rights, titles and interests in and to all assets of the Pledger. The relevant clauses of the Guarantee Agreement, reads as under:

*"This Guarantee shall be enforceable against the Guarantor notwithstanding that any security, or securities comprised in any instrument(s) executed or to be executed by the Borrower in favour of the Lenders shall, at the time when the proceedings are taken against the Guarantor on this Guarantee, be outstanding or unrealized or lost.*

***Right of Set-off.*** Upon the occurrence and during the continuance of any Event of Default, each Guarantor hereby irrevocably authorizes the Lender at any time and from time to time without notice to the Guarantors, any such notice being expressly waived by each Guarantor, to set-off and appropriate and apply any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other

*credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by the Lender to or for the credit or the account of the Guarantors, or any part thereof in such amounts as the Lender may elect, against and on account of the obligations and liabilities of the Guarantors to the Lender hereunder and claims of every nature and description of the Lender against any Guarantor, in any currency, whether arising hereunder, under the Credit Agreement, any Note, any Loan Documents or otherwise, as the Lender may elect, whether or not the Lender has made any demand for payment and although such obligations, liabilities and claims may be contingent or unmatured. The Lender shall notify the Guarantors promptly of any such set-off and the application made by the Lender, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of the Lender under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) which the Lender may have.*

**Not Affected by Bankruptcy.** *Notwithstanding any modification, discharge or extension of the Obligations or any amendment, modification, stay or cure of the Lender's rights which may occur in any bankruptcy or reorganization case or proceeding against either Borrower, whether permanent or temporary, and whether or not assented to by the Lender, each of the Guarantors hereby agrees that the Guarantors shall be obligated hereunder to pay and perform the Obligations and discharge their other obligations in accordance with the terms of the Obligations and the terms of this Guarantee. Each Guarantor understands and acknowledges that, by virtue of this Guarantee, it has specifically assumed any and all risks of a bankruptcy or reorganization case or proceeding with respect to either Borrower."*

11. MNP shifted its registered office from London to Italy on 10th January 2021. The management of MNP as per its financial conditions predicted that there would be an action by the ART Bank due to default in payment of loan.
12. Upon a petition for compulsory winding up by His Majesty's Revenue and Customs (**HMRC**) winding up proceedings were initiated by the London High Court under the Insolvency Act 1986, against MNP in the UK on April 15, 2021, as it defaulted on defraying payment against a tax demand to the tune of £20,000 (Twenty Thousand Pounds) and appointed Mr. Zen as the Liquidator.
13. Whereas MNP contested the proceedings on the basis that the UK Court does not have any jurisdiction since the registered office, was no longer in UK and accordingly center of main interest (**COMI**), lies in Italy alone, the UK Court admitted the proceedings on the basis that the business interest, the perception of creditors & the financial interest resided in the UK. The proceedings are subject matter of further challenge by MNP before the UK Court of Appeal.
14. One of the sundry creditor M/s. AZD Private Limited of Wheel Rush had file a winding up petition before Hon'ble High Court of Delhi under Section 272 of the Companies Act 2013. The notice was issued, and the Provisional Liquidator was appointed vide Order dated 15th November 2015.
15. In the meantime, XYZ Bank of India resorted to filing an application against Wheel Rush (**Corporate Debtor**) under Section 7 of the Insolvency & Bankruptcy Code 2016 (**I&B Code**) before the adjudicating authority (**adjudicating authority/NCLT**) for initiating Corporate Insolvency Resolution Process (**CIRP**) on 1st June 2021. The adjudicating authority allowed the application and appointed Mr. Ravish Kumar as the interim resolution professional (**IRP**) by an Order dated 14th June 2021. Subsequently, Mr. Ravish Kumar was also appointed as the Resolution Professional of the Corporate Debtor.

16. An appeal against the order of the NCLT was filed by one of the Directors Mr. A. K Shingal before the appellate authority (**NCLAT**) which had stayed the proceedings vide an order dated 25th June 2021. However, the order of adjudicating authority was upheld by the NCLAT, and the appeal was dismissed with costs imposed on the appellant vide order dated 22nd August 2021. Costs were imposed on the account of NCLAT's observations that the appellants had made material misrepresentations within the appeal.
17. The RP being in control of the management of Wheel Rush, sent email dated 9th September 2022, to Pen Bank Ltd (**Pen Bank**) and Hamdi Bank where the current account of the Corporate Debtor is maintained for registering change in the signatory of all the accounts maintained by it and to operate the bank accounts in accordance with the instructions contained therein. He also requested the Pen Bank to transfer all the funds from the bank account of the corporate debtor lying with it by making a daily sweep of the funds to the operative account with Hamdi Bank by leaving an amount of 40,000/- (Indian Rupee Forty Thousand Only) in the account maintained with the Pen bank. It was further directed not to allow presentation of any cheque (s) without instruction/direction of the RP. The RP sent another letter to Pen Bank on 18th September 2022 with referring to the previous letter with same instructions as no action was taken by Pen Bank.
18. The Pen Bank., being one of the financial creditors of Wheel Rush, constituted almost 6% of the total value of the financial debt, along with others which were also part of the committee of creditors. The Pen Bank for the first time informed the RP on 20th September 2022 that the amount available in the current account of the corporate debtor is not an asset of the corporate debtor inasmuch as the dues of the corporate debtor in the books of respondent bank exceeds the amount available in the current account and therefore, proceeded to exercise its the rights of set off and appropriated the amount available in the current account of Wheel Rush towards the dues payable to the bank.
19. The resolution professional (RP) [erstwhile IRP confirmed as RP by the committee of creditors and vide order dated 15th September 2022, passed by the adjudicating authority.] filed an application before the adjudicating authority against the action of the Pen bank in setting off the dues from the operational collections as it violated the moratorium issued by the Adjudicating Authority. The RP discovered that the suspended directors (Suspended KMP) of Wheel Rush had issued cheques dated 11th July 2021 in favour of M/s. FMG Private Limited inconsideration for acquisition of development rights over a leased property allotted under the private purpose acquisition in Noida against an account held by the corporate debtor with the Pen bank for an amount of INR 3,00,00,000 (Rupees Three Crore Only) on behalf of Wheel Rush during the enforcement of moratorium and during the pendency of CIRP, without the prior approval of the CoC and RP. The RP has also discovered that Noida authority has cancelled the allotment to FMG Private Limited due to non-payment of premium. The cheques were encashed by M/s. FMG Private Limited on 15th July 2021.
20. It also came to light that Wheel Rush had routed approximately INR 27.07 crores (Indian Rupees Twenty seven crores seven lakhs only) through its current bank account in Hamdi Bank to MNP, after which the account became non- performing asset (NPA) from 29th May 2020.
21. It also came to the knowledge of RP that out of the suspended KMP, Mr. Verma, the Managing Director of Wheel Rush, had issued two cheques dated 6th January 2019 and 14th February 2019, amounting to INR. 2,89,00,000 (Rupees Two crores eighty-nine lakhs) (INR 1,44,50,000 each) (Rupees One crore forty four lakhs and fifty thousand only) to one of its related parties of Wheel Rush two years before the implementation of moratorium and before initiation of CIRP. The RP also filed application of fraudulent



transaction against the erstwhile promoters on the basis of the earlier forensic auditor's report as well as against the suspended KMP's.

22. Meanwhile, Mr. Zen, the Liquidator as appointed by the UK Court discovered that MNP had made a number of gifts to Wheel Rush, the total value of the gifts is in the region of £15,000 and has since received a judgement for avoidance of the said transfers – as undervalued– from the London High Court under section 238 of the English Insolvency Act 1986.
23. Mr. Zen has since filed an application before the NCLT Delhi for recognition as the Liquidator appointed in the Liquidation proceedings of MNP, and also for recognition of the aforesaid insolvency related judgement, as a debt in the pending insolvency resolution proceedings against Wheel Rush. The request was opposed by the creditors of Wheel Rush, and the request has been turned down by the NCLT, in view of the challenge in UK before the appellate court on the issue of COMI, and also on the basis that the liquidation proceedings have been brought by HMRC, and the ultimate beneficiary of any payments being made in respect of the judgement debt would be HMRC – given that there is a policy against recognition and enforcement of judgements relating to foreign tax debts in India. An appeal has been preferred by Mr. Zen before the NCLAT.
24. Post initiation of insolvency proceedings in India, the RP received two resolution plans, one submitted by M/s. RSP Investors Pvt. Ltd and the other by M/s. Run Castex Pvt Ltd. Subsequently after the meeting of the committee of creditors (CoC), M/s. Run Castex Pvt. Ltd was declared as the successful resolution applicant (SRA) in the 16th CoC meeting held on 6th November 2022 and The SRA was instructed to submit a revised resolution plan on or before 30 days of the said CoC meeting. The revised resolution plan was approved by the CoC with 78.05% voting share on 7th December 2022.
25. The application for approval of the resolution plan was filed by the RP before the adjudicating authority on 11th December 2022, which was approved by the NCLT on 25th January 2023.
26. Subsequently, the RP on behalf of the implementing committee filed an application before the adjudicating authority against M/s. Run Castex Pvt. Ltd, for not implementing the resolution plan, as per the agreed terms as the SRA failed to pay the upfront amount which was 10% of the Resolution Plan within the stipulated time of 30 days; the SRA had also started placing advance orders with dealers requesting advance amounts against these orders. The SRA filed an Interim Application seeking an extension of the timelines for the Implementation of the Resolution Plan citing delays caused due to internal money appropriation amongst the Financial Creditors.
27. The RP took necessary steps to ensure that the Corporate Debtor remained as a going concern during the pendency of the application for implementation of the resolution plan. The adjudicating authority by a divided order dated 8th March 2023, did not accede to the request made by the RP and dismissed the application. The RP filed an appeal against the order of the adjudicating authority.

## ISSUES

**Issue 1:** Whether the NCLT has the jurisdiction to initiate CIRP proceedings given that a winding up petition is pending before Hon'ble High Court who is already in session?

**Issue 2:** Whether the NCLT erred in refusing Mr. Zen's request for recognition?

**Issue 3:** Whether the cheques issued by the Director to M/s. FMG Private Limited in tantamount to breach of moratorium?

**Issue 4:** Whether the RP of Wheel Rush can approach the UK Court for the purpose of recognition of Indian insolvency proceedings and to participate in the liquidation proceeding of MNP for violation of the terms of Business Arrangement and the credit of the amount which is otherwise due to Wheel Rush?

**Issue 5:** Whether the application by RP against the SRA for non-implementation of the Resolution Plan should be admitted by the Adjudicating Authority?

## NOTES

1. The teams are requested to prepare a memorandum of arguments on behalf of:
  - a. Applicant/RP before the adjudicating authority as per the issues.
  - b. Respondents/SRA before adjudicating authority as per the issues.
2. Part Z (Cross-Border Insolvency along with the Rules and Regulations) of the IBC has been notified since 2021.
3. Arguments on the issues are to be taken up in the Memorandum of Pleadings.
4. For oral rounds, issues are likely to be identified separately (but not vastly different from those in the memorandum).
5. Some further information may be provided prior to a suitable stage of oral rounds that could be utilized for arguments.
6. The Counsels for the parties are free to cite precedents from foreign jurisdictions to support their cases.
7. In addition to the issues mentioned herein above, the counsels are free to frame sub-issues and make other arguments including on the grounds of jurisdiction and maintainability that they deem fit.

# GLIMPSES OF THE PAST EVENT



