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**ANM GLOBAL**

Advocates & Legal Consultants

# ANM GLOBAL'S FINANCIAL FORUM

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**IBC NEWSLETTER  
SEPTEMBER, 2025**

**AUTHORS:**

**GAURAV SURYAVANSHI, PRINCIPAL ASSOCIATE**

**SIMRAN KASAT, SENIOR ASSOCIATE**

## **1. SUPREME COURT REVERSES ITS' EARLIER DECISION IN BHUSHAN STEEL, AND UPHOLDS COMMERCIAL WISDOM OF CoC IN APPROVING A RESOLUTION PLAN <sup>1</sup>**

A three-judge bench of the Hon'ble Supreme Court led by the Hon'ble Chief Justice Mr. B.R.Gavai overruled the previous decision of a two-judge bench passed in May. Previously, the acquisition of Bhushan Power and Steel ("Bhushan Steel") by JSW Steel Limited ("JSW") had been derailed when the two-judge bench ordered for Bhushan Steel's liquidation, despite a resolution plan of approximately 19,700 crores being obtained.

The previous decision of setting aside the approved resolution plan, was based on several lapses by the resolution professional (RP), including failure to adhere to timelines, and non-filing of mandatory disclosures under 29A, compliance certificate with respect to the Resolution Plan, etc.

The court had while emphasizing the 330-day outer limit for completion of the resolution process, also questioned the delays by the RP and the amendments and delayed payments by JSW. This judgment was widely criticized for overriding the commercial wisdom of the CoC and ignoring complexities of the resolution, while looking solely at technicalities.

The recent decision of the three-judge bench is a welcome reversal, upholding the approved resolution plan, and restoring the NCLAT decision of February 2020. The Hon'ble Apex Court held that CoC's commercial judgment must prevail. The Court observed that the takeover by JSW Steel had turned Bushan Steel from a loss-making entity to a profit-making one. Moreover, by continuing the company as a going concern, thousands of jobs were saved. The Hon'ble Court noted that erstwhile promoters lacked locus standi to appeal, as could not be considered a "person aggrieved" under Section 62 of the Code.

With respect to the delays and irregularities, the Hon'ble

Court considered all aspects and concluded that the CoC had the ability to extend time for implementation of the plan as it did.

## **2. HOUSING AS A FUNDAMENTAL RIGHT UNDER ARTICLE 21 OF THE CONSTITUTION OF INDIA HAS BEEN REAFFIRMED BY THE SUPREME COURT WITH RESPECT TO HOMEBUYERS UNDER IBC<sup>2</sup>**

In this matter two homebuyers challenged NCLAT decisions setting aside their respective admission orders under Section 7 of the Code. The petitions were challenged as not maintainable, owing to the 2019 Ordinance that mandated the threshold of 100 allottees or 10% allottees in a real estate project. A key question before the Hon'ble Apex Court was also whether the homebuyers fell under "speculative investors" disentitling them from reliefs under the Code.

The Hon'ble Court drew a distinction between genuine homebuyers and speculative investors, highlighting that a genuine homebuyer is defined by the intent to take possession of the unit rather than an investor looking for a quick refund / exit. The Hon'ble Court has expressed the need to curb the menace of speculative investors, while ensuring that the constitutional right to shelter is upheld by way of timely completion of projects.

In the present case, the Hon'ble Court upheld the speculative nature of the investment by the homebuyers, considering the buyback option in favour of the builder in the Memorandum of Understanding.

The Hon'ble Court laid down guidelines to reform the real estate sector to ensure more accountability and safeguard rights of genuine homebuyers. The Hon'ble Apex Court also linked stability in the real estate sector to the State's obligations to uphold the constitutional right to shelter of genuine homebuyers.

[1] Kalyani Transco v. Bhushan Power and Steel Limited and Ors. 2025 SCC OnLine SC 2093 decided by the Supreme Court on 26.09.2025

[2] Mansi Brar Fernandes v. Shubha Sharma & Ors. 2025 SCC OnLine SC 1972 decided by the Supreme Court on 12.09.2025

### **3. DISBURSEMENT OF PROPERTY CANNOT REPLACE DISBURSEMENT OF MONIES TO QUALIFY AS A FINANCIAL DEBT UNDER THE CODE<sup>3</sup>**

The Hon'ble NCLAT in this matter considered whether nonpayment of money towards auctioned assets could be considered as financial debt. The Corporate Debtor Shree Industries Limited made part payment towards assets acquired in a bank sale.

The Tribunal while examining the issue, emphasized that in order for a debt to qualify as a financial debt, there must be disbursement of money against the consideration for time value of money. The transaction in question being a sale of assets, and not a loan or financial assistance, did not involve any disbursement of money by the financial creditor.

The Tribunal concluded the transaction between the parties was not in the nature of a borrowing and was deferred payment for sale of assets. The document executed between the parties was also a sale agreement, and not a financing document.

Thus, it was held that proceedings under Section 7 of the Code cannot be initiated when only land has been disbursed without disbursement of any monies, as the same does not qualify as a "financial debt".

### **4. TECHNICALITY OF FILING THE WRONG CLAIM FORM CANNOT BE GROUND FOR REJECTION OF CLAIM<sup>4</sup>**

The Appellants had filed their claim under Form C classifying the amount of INR 40 lacs paid to the Corporate Debtor by them as a "financial debt". The Resolution Professional called upon the Appellants to file their claim in the appropriate form format.

The Appellants had shared with the resolution professional the bank entries, agreements, police complaints, and refiled their claim in Form CA. Another Form CA was subsequently filed with additional

documents. The amount was transferred by Appellant No.2 whereas the MOU between the parties mentioned Appellant No.1 as an allottee.

The RP rejected the claim of the Appellants despite not having denied the receipt of INR 40 lacs, based on the fact that the previously submitted Form C was not correct.

The Hon'ble Appellate Tribunal reiterated the well settled principle that merely the format of the claim is not a decisive factor in admitting claims. Since there was no dispute on the amount received by the Corporate Debtor, and there were supporting documents such as the MOU, to indicate the transaction between the parties, the claim ought to have been admitted.

### **5. DOCUMENTS NOT PRODUCED BEFORE NCLT CANNOT BE INTRODUCED BEFORE NCLAT<sup>5</sup>**

The Hon'ble NCLAT upheld the decision of NCLT Kochi declaring certain transactions as fraudulent and seeking recovery of amounts from the suspended directors of the Corporate Debtor.

The directors had failed to explain withdrawals, vehicle sales, unauthorized accounts worth INR1,20,81,752/-. Their fraudulent intent was further concluded by several diverted payments, attempt to break the office lock and misleading information provided to the Resolution professional.

The NCLAT firstly clarified that a liquidator had powers to identify Preferential, Undervalued, Fraudulent, and Extortionate (PUFE) transactions based on available records, and a forensic audit was not mandatory under the Code or its' regulations.

Further, the Hon'ble NCLAT held that additional evidence, which was not produced before the NCLT, could not at appeal stage be produced before the NCLAT. The NCLAT in a rare holding, referred to Order XLI Rule 27 of the Code of Civil Procedure, 1908

[3] Sandeep Mittal v. M/s ASREC (India) Limited & Ors Comp (AT) 37 of 2024 decided by NCLAT New Delhi on 09.09.2025

[4] Paresh Govindbhai Hirpara v. Prabhat Jain RP of Vikas Procon Pvt Ltd. Comp (AT) 362 of 2024 decided by NCLAT New Delhi on 05.09.2025

[5] Anish Lawrence & Anr. v. Renahan Vamakesan, Liquidator of Axiomata Elevators Pvt. Ltd., Company Appeal (AT) (CH) (Ins) No. 377 of 2023, decided by NCLAT Chennai on 23.09.2025

along with the judgment in *Union of India v. Ibrahim Uddin* (2012) 8 SCC 148, reiterating that additional evidence can only be admitted if:

1. It was wrongly excluded by the lower court;
2. It was unavailable despite due diligence; or
3. The appellate court requires it to pronounce judgment.

In the present instance, the documents were available earlier but were not produced and could therefore not be admitted.

## **6. IF A RESOLUTION PLAN IS REMANDED FOR RECONSIDERATION ON SPECIFIC DEFICIENCIES, THE COC CANNOT RECONSIDER THE ENTIRE PLAN**<sup>6</sup>

The plan of the Appellant SRA had been approved by the Committee of Creditors of M K Overseas, and while considering the same the NCLT, New Delhi found certain deficiencies. The NCLT remanded the plan for reconsideration of certain deficiencies such as lack of equitable treatment for same class of creditors, lack of performance security, conditional plan, etc.

The NCLT had remanded the plan back to the CoC to reconsider these deficiencies. Over time the composition of the CoC had changed, and several larger debts were reassigned to reconstruction companies. The new CoC reconsidered proceeded to reconsider the entire Resolution Plan of the Appellant SRA afresh, instead of looking to rectify the specific deficiencies pointed out by NCLT.

The Hon'ble NCLAT held that reconsideration of the entire plan was beyond the authority of the CoC. The Hon'ble Tribunal observed that even though the faces on the CoC had changed, their rights and obligations remained the same as those of CoC at the time of approval of the plan.

## **7. CIRP COSTS ARE TO BE DETERMINED BY THE COMMITTEE OF CREDITORS AND NOT BY THE TRIBUNAL**<sup>7</sup>

The dispute pertained to payments made by the suspended director from the account of the Corporate Debtor in the few days after commencement of CIRP. The Resolution Professional sought for declaring these amounts as violative of the moratorium under CIRP.

The suspended directors however urged that the payments were made in due course of business, prior to the communication of CIRP order, and were for ongoing construction.

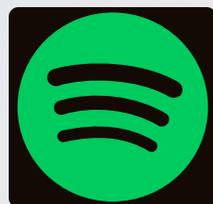
Pertinently, the Committee of Creditors had ratified these payments with a voting majority of 82.6%. The suspended directors relied on the argument that once a payment had been made for operational costs during CIRP and had been ratified by the CoC, the same could not be rechallenge under Section 14 of the Code.

The NCLT relied on the *Bharat Hotels Limited vs. Tapan Chakraborty*<sup>8</sup> decision by the Hon'ble NCLAT wherein it was held that the question of cost and its' approval lie squarely in the domain of the CoC. The CoC may ratify, modify or set aside the cost claimed. These issues may be decided in the meeting of the CoC and cannot be decided by the adjudicating authority before the CoC had applied its' mind to such decisions.

[6] *Exclusive Motors Pvt. Ltd. v. Sapan Mohan Garg (RP) and Anr* decided by NCLAT Delhi on 24.09.2025

[7] *Manish Lalji Dawda v. Ankit Wadhwa* decided by NCLT Mumbai on 04.09.2025

[8] *Company Appeal (AT) (Insolvency) No. 1074/2022* decided by NCLAT Delhi on 05.09.2022



**ANM ThinkPod**

# FIRM HIGHLIGHTS

ANM Global announced promotions of colleagues: Anisha Shetty as Partner, Shwetank Tripathi as Partner Designate, Gaurav Suryavanshi as Principal Associate, and Raashi Vaishya, Dishita Shah, Jinal Doshi as Senior Associate. Their legal acumen, client service, and excellence reflect the firm's philosophy of nurturing talent and recognising merit.

**ANM GLOBAL**  
Advocates & Legal Consultants  
**PROMOTION ANNOUNCEMENT**

  
ANISHA SHETTY  
PARTNER

  
SHWETANK TRIPATHI  
PARTNER DESIGNATE

  
GAURAV SURYAVANSHI  
PRINCIPAL ASSOCIATE

  
JINAL DOSHI  
SENIOR ASSOCIATE

  
RAASHI VAISHYA  
SENIOR ASSOCIATE

  
DISHITA SHAH  
SENIOR ASSOCIATE

From The Economic Times

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**QUOTED BY ET LEGAL - "GAME ON: CAN INDIA'S NEW SPORTS LAW FUEL A LUCRATIVE LEGAL PRACTICE?"**



*"Compliance will become systematic. The bigger clubs and federations will go to law firms. The smaller ones might rely on independent lawyers. Either way, this creates a stream of legal work that simply didn't exist before.*

*This will open doors for a lot of young sports lawyers. But the ecosystem itself has to mature. Otherwise, it risks being an opportunity without longevity."*

**NIDHISH MEHROTRA**  
MANAGING PARTNER

ANM Global Managing Partner Nidhish Mehrotra was quoted in ETLegalWorld's feature "Game On: Can India's New Sports Law Fuel a Lucrative Legal Practice?" sharing perspectives on regulatory compliance in Indian sports law, as the evolving sports and gaming landscape creates new waves of legal work.

# FIRM HIGHLIGHTS

Partner Designate Shwetank Tripathi was quoted in ETLegalWorld's feature "Bollywood vs. Algorithm: Courts Step In to Safeguard Personality Rights." The recognition reflects the firm's commitment to discussions on emerging legal issues and conversations at the intersection of law, technology, and society.



From The Economic Times  
Advocates & Legal Consultants

**QUOTED BY ET LEGAL WORLD: "BOLLYWOOD VS. ALGORITHM: COURTS STEP IN TO SAFEGUARD PERSONALITY RIGHTS"**



*"Indian courts have taken progressive and strict stance against modern forms of personality rights violations by way of AI-generated content and deepfakes.*

*The courts have restrained circulation of such content by way of directions to intermediary platform to immediately take down such content and disclose the subscriber information of the person who uploaded such content.*

*Celebrities should be vigilant and take legal action at slightest of violation of their personality rights, and not wait for largescale misuse.*

*The first and foremost legal remedy that the celebrity should adopt is to file a commercial suit for seeking dynamic injunction against the infringing content so that one order can protect violations not only which are challenged in the proceedings but also future such violations."*

**SHWETANK TRIPATHI**  
PARTNER DESIGNATE

ANM Global's Partner Designate Shwetank Tripathi was quoted in Outlook Business feature "Why Celebrities Take Legal Action over Names, Images & Phrases — Personality Rights Issue Explained," highlighting growing relevance of this area of law with digital media and influencer culture.



THINK BEYOND. STAY AHEAD.  
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**QUOTED BY OUTLOOK BUSINESS - "WHY CELEBRITIES TAKE LEGAL ACTION OVER NAMES, IMAGES & PHRASES — PERSONALITY RIGHTS ISSUE EXPLAINED"**



*"As per the 2021 Intermediary Guidelines, the online platforms like Google and YouTube have greater responsibility to do a thorough diligence of content uploaded on their portals. They are mandated to publish the rules & regulations, privacy policy, and user agreement on their platforms.*

*They are also required to make efforts to prevent uploading of infringing content on their platforms. They need to promptly take down infringing content and disclose information of the uploader, upon service of a court order or a direction from the appropriate government authority"*

**SHWETANK TRIPATHI**  
PARTNER DESIGNATE

# FIRM HIGHLIGHTS

ANM Global–Scriboard hosted a Roundtable on Data Privacy, Cybersecurity & AI, chaired by Mr. Rodney D. Ryder. The session explored the intersection of technology, regulation, and law, fostering meaningful dialogue on the evolving landscape of digital law and policy.



**ANM-SCRIBOARD**  
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**DATA PRIVACY,  
CYBERSECURITY & AI  
ROUNDTABLE**

**Friday**  
26 September, 2025

**Start At**  
03:30 PM Onwards

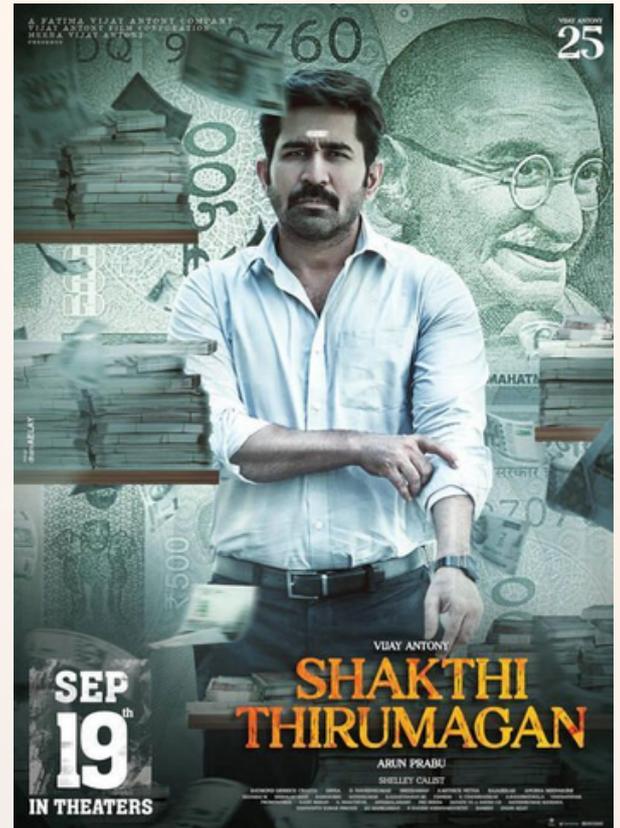
**Location**  
MCA, BKC

ANM Global's Partner Sneha Nanandkar represented the firm at INDIA ADR WEEK 2025 by MCIA and IPBA Arbitration Day, Mumbai, engaging with global practitioners on issues from arbitration regime lacunas to ESG, treaties, enforceability of arbitral awards, and climate change, reinforcing ANM Global's commitment to international arbitration discourse and stronger dispute resolution frameworks.



# FIRM HIGHLIGHTS

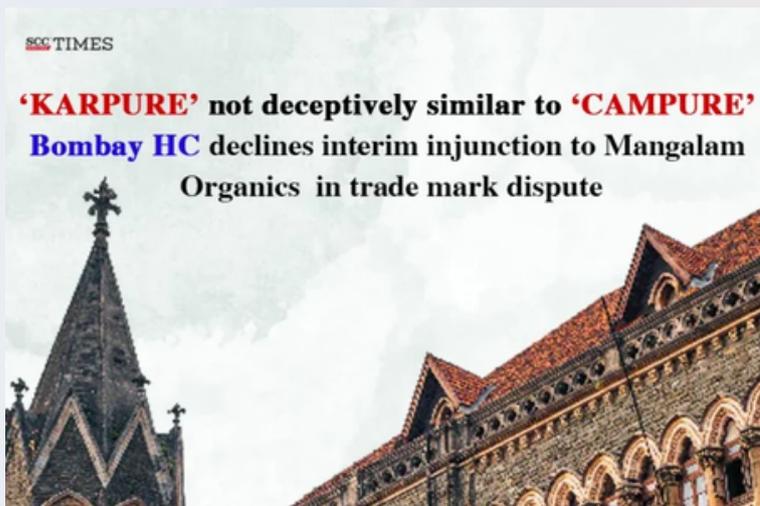
ANM Global represented RKD Studios in acquiring and exploiting dubbing rights of Shakthi Thirumagan, directed by Arun Prabhu Purushottaman with Vijay Antony and cast, released on 19th September 2025, enabling wider reach in all world languages except South Indian through its Hindi dubbed version.



ANM Global provided legal support to I AM Buddha Entertainment & Media LLP for Hindi film “The Bengal Files”, directed by Vivek Ranjan Agnihotri and released on 5th September 2025, handling production-related legal matters, contractual engagements, and distribution deals across mediums, while extending best wishes to the team.

# FIRM HIGHLIGHTS

ANM Global represented Tips Music Limited in drafting, negotiating, and executing the exploitation agreement for Mirai's music rights. Directed by Karthik Gattamneni. The epic tale features Teja Sajja, Ritika Nayak, Manoj Kumar Manchu, and cast.



ANM Global successfully represented N. Ranga Rao & Sons Private Limited in the matter of Mangalam Organics Ltd. v. N. Ranga Rao & Sons Pvt. Ltd., where the Hon'ble Bombay High Court refused to grant an interim injunction against the use of the marks "KARPURE" / "AIR KARPURE."

# DISCLAIMER

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[contact@anmglobal.net](mailto:contact@anmglobal.net)



[ANM Global](#)



[+91 22 2287 3499](tel:+912222873499); [+91 22 4971 1084](tel:+912249711084)

# OFFICES

## MUMBAI

1. 7, floor 2nd, Nagin Mahal,  
Plot-82, Veer Nariman Road,  
Churchgate,  
Mumbai 400020.  
Ph: [022-2287 3499](tel:022-22873499)
2. 411/413, Dilkap Chambers, Off.  
Veera Desai Road, Fun Republic  
Lane, Andheri West, Mumbai -  
400053  
Ph: [022-4971 1084](tel:022-49711084)

## NEW DELHI

Awfis L29 - L34, 1st Floor,  
Connaught Place  
New Delhi, 110001

## BENGALURU

21/2, 1st Main Road, Opp Indian  
Overseas Bank, Gandhinagar,  
Bengaluru - 560009  
Ph: [080-2350 9909](tel:080-23509909)

## CHENNAI

715-A, 7th Floor, Spencer Plaza  
Suit No.1056, Mount Road, Anna  
Salai,  
Chennai - 600002

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