Legal Updates

CERC resolves long pending payment dispute between Solitaire Powertech and Andhra–Telangana DISCOMs

The Central Electricity Regulatory Commission ("**CERC**") vide order dated 01.07.2025 in Petition No. 71/MP/2021 has settled a long-running payment dispute involving Solitaire Powertech, which operates a 2 MW wind project in Anantapur, Andhra Pradesh. The issue began in 2011 when the DISCOMs started paying only half the tariff of ₹3.37 per unit, claiming that a tariff revision was pending. Although the Appellate Tribunal for Electricity ("**APTEL**") ruled in 2013 that the full tariff should continue until further orders, the unpaid balance for August 2011 to December 2012 remained outstanding.

After the bifurcation of Andhra Pradesh, confusion arose over whether Andhra Pradesh State Power Distribution Company Limited ("**APSPDCL**") or Telangana State Power Distribution Company Limited ("**TSSPDCL**") was responsible for these dues. Solitaire Powertech approached CERC seeking payment of the withheld amounts, 10% annual interest for the delay, and reimbursement of maintenance charges that had been deducted earlier.

In its order dated 01.07.2025, CERC ruled that the liability should be split between the two DISCOMs based on power consumption in the regions. APSPDCL was held liable for 17.45% of the dues, while TSSPDCL must pay the remaining share. Both DISCOMs were directed to clear the pending payments within 30 days, along with interest.

The Commission also examined Solitaire's claim for maintenance charges already paid to APTRANSCO. While all receipts were not on record, supporting documents were filed. CERC allowed Solitaire to provide additional proof to the DISCOMs, who must then verify and reimburse the amount within 60 days, with interest as per the Power Purchase Agreement.

This order clarifies how liabilities are to be allocated when states are reorganized and confirms that long-term renewable energy dues must be settled as per contract terms.

Ministry of Power notifies Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Amendment Rules, 2025

The Ministry of Power ("**MoP**") vide its Notification dated 23.06.2025 in exercise of powers conferred by sub-section (1) and clause (z) of sub-section (2) of Section 176 of the Electricity Act, 2003 ("EA, 2003") has issued the Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Amendment Rules, 2025 ("Amendment Rules, 2025") to amend the Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Rules, 2021 ("Principal Rules").

Vide the Amendment Rules, 2025, a proviso has been inserted after the first proviso in rule 3, in sub-rule (5) of the Principal Regulations stating that the Central Government may delegate powers to the National Committee on Transmission and Central Transmission Utility for approving Inter-State Transmission System projects subject to the cost limits specified by the Central Government from time to time.

This Amendment has come into force from 26.07.2025. The Electricity (Transmission System Planning, Development and Recovery of Inter-State Transmission Charges) Amendment Rules, 2025 can be accessed from the following *link*.

MCA notifies the Companies (Listing of equity shares in permissible jurisdictions) Amendment Rules, 2025 substituting the existing LEAP – 1 Form for unlisted companies

The Ministry of Corporate Affairs ("**MCA**"), vide notification dated 03.07.2025, has notified the Companies (Listing of equity shares in permissible jurisdictions) Amendment Rules, 2025 ("Amendment Rules") to amend the Companies (Listing of equity shares in permissible jurisdictions) Rules, 2024 ("**2024 Rules**").

In October 2023, the Companies Act, 2013 was amended to allow certain public companies to list securities on recognised stock exchanges in approved foreign territories or as designated by the authorities. Subsequently, in January 2024, MCA notified the 2024 Rules which extend to unlisted and listed public companies that seek to issue securities for listing on sanctioned stock exchanges within approved foreign jurisdictions, including the International Financial Services Centre (IFSC). The rules specify the India International Exchange and NSE International Exchanges as permitted platforms for such listings.

As per the 2024 Rules, unlisted public companies are required to file their prospectus electronically using the LEAP – 1 Form (Second Schedule) within 7 days of the prospectus being finalised and submitted to the designated international stock exchange. By way of the Amendment Rules, the existing LEAP – 1 Form has been substituted. The Companies (Listing of equity shares in permissible jurisdictions) Amendment Rules, 2025 can be accessed from the following *link*.

NCLAT holds that neither NCLT nor NCLAT has jurisdiction to interfere with confirmed attachments under the Prevention of Money Laundering Act, 2002

The National Company Law Appellate Tribunal ("**NCLAT**"), vide judgment dated 03.07.2025 in ***Anil Kohli v. Directorate of Enforcement***, *Company Appeal (AT) (Ins.) No. 389/2018*, has held that neither the National Company Law Tribunal nor the NCLAT has jurisdiction to interfere with attachments confirmed under the Prevention of Money Laundering Act, 2002 ("**PMLA**").

The Resolution Professional of Dunar Foods Ltd. filed an appeal seeking release of provisionally attached assets by the Directorate of Enforcement ("**ED**"), invoking the moratorium under Section 14 and the overriding effect of Section 238 of the Insolvency and Bankruptcy Code, 2016 ("**IBC**").

NCLAT dismissed the appeal and reiterated that attachments under the PMLA, particularly those involving alleged proceeds of crime, lie outside the purview of the IBC. NCLAT placed its reliance upon the landmark judgment dated 02.05.2025 passed by the Supreme Court in *Kalyani Transco v. Bhushan Power & Steel Ltd.*, *Civil Appeal No. 1808 of 2020*, wherein it was held that neither the NCLT nor the NCLAT can exercise judicial review over actions taken by statutory authorities under the PMLA.

NCLAT holds that a fresh application under Section 7 of the Insolvency and Bankruptcy Code, 2016 can be filed if there is a default under restructured terms

NCLAT, vide order dated 09.07.2025 in ***Gangadhar A. v. Catalyst Trusteeship Ltd. and Ors.***, *Company Appeal (AT) (Insolvency) No. 698/2025*, has held that that a fresh insolvency application under Section 7 of the IBC can be filed if there is a default under restructured terms.

An appeal was filed by a suspended director of the corporate debtor against the order of the NCLT admitting the second application filed by Catalyst Trusteeship Ltd. under Section 7 of the IBC seeking initiation of CIRP of the principal borrower.

In this case, it was the Appellant's contention that the first default notice was issued in the Section 10A period i.e., no insolvency proceedings can be instituted for any default arising on or after 25.03.2020 till one year from such date. The date of guarantee invocation also fell in this period. Thus, the first Section 7 application stood barred. The second Section 7 application could not have been filed with a different date of default.

NCLAT observed that the principal borrower's breach in November 2019 led to his account being declared NPA on 16.06.2020, which then led to issue of recall cum invocation of guarantee notice by the financial creditor on the corporate debtor and filing of the first application under Section 7. Meanwhile, the dues were restructured. The financial creditor agreed to withdraw the first application with liberty to file afresh in case of default. The principal borrower's default led to the filing of a second application under Section 7. In view of the same, NCLT correctly held that the cause of action for initiating legal action arose both from the default of the restructuring terms or from withdrawal / termination of the restructuring agreement. The default under the restructured agreement allowed the guarantee to be invoked.

NCLAT also agreed with the view of NLCT that there is no provision under Section 10A of the IBC that prohibits parties from entering into a valid debt restructuring arrangement during or after the Section 10A suspension period. Section 10A was introduced to provide temporary relief during the COVID-19 pandemic which did not curtail the substantive contractual rights of parties to restructure their debts. This was not a case of invocation of debt during Section 10A period. In the present case, the relevant default occurred on 25.03.2023, which was well beyond the outer limit of Section 10A, which squarely brings the claim within the permissible scope of Section 7 of the IBC.

NCLAT holds that an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 cannot be filed if there is a pre-existing dispute and the NCLT's role in Section 9 applications is of a limited summary nature

NCLAT, vide order dated 09.07.2025 in ***Innovators Cleantech Private Limited v. Pasari Multi Projects Private Limited***, *Company Appeal (AT) (Insolvency) No. 115/2024*, dismissed the appeal filed by the Appellant against the order of NCLT rejecting its application under Section 9 of the IBC. It held that significant pre-existing disputes existed between the parties, including a civil suit filed by the corporate debtor prior to a fresh demand notice, termination of the contract, and a long history of documented disputes via emails.

Operational creditor was engaged by corporate debtor for design-built services for its project. Operational creditor issued a Section 8 demand notice in February 2019, which was later withdrawn due to an alleged clerical error in computation. The corporate debtor terminated the contract and filed a civil suit in April 2019. Thereafter, another demand notice was raised stating it was a fresh demand notice correcting an inadvertent error in the previous notice, after which

the operational creditor filed the Section 9 application under IBC. This application was dismissed by NCLT on the ground of pre-existing disputes.

The Appellant contended that the civil suit could not be a pre-existing dispute because the first demand notice was issued before the civil suit and the second demand notice was merely a continuation of the first, relating back to its original date. It was also contended that the disputes were frivolous. The Respondent contended that the civil suit predated the second demand notice which was explicitly stated as a fresh notice. The termination of the contract also predated the second demand notice, indicating a pre-existing dispute. Other disputes also existed with respect to delays, inflated bills, etc. with respect to which there were extensive email correspondences.

While affirming the order passed by NLCT, NCLAT observed that the second demand notice was a fresh notice and not a continuation of the first notice. There were substantial changes in the second demand notice from the first demand notice with regard to amounts of default, date of default, date on which last payments were received etc. Further, since the second demand notice was considered fresh, the civil suit clearly predated the fresh demand notice and it was thus a pre-existing dispute. The contract was also terminated before the second demand notice. The string of emails sent from time to time also established ongoing disputes.

NCLAT also reiterated the limited summary nature of NLCT's role in Section 9 applications. Once plausibility of a pre-existing dispute is noticed, it is not required to make further detailed investigation. Its role is not to enter into final adjudication with regard to existence of dispute.

MoEFCC notifies revised SO_2 norms and compliance framework for Thermal Power Plants

The Ministry of Environment, Forest and Climate Change ("**MoEFCC**"), vide notification dated 11.07.2025, notified the Environment (Protection) Fourth Amendment Rules, 2025, revising the sulphur dioxide ("**SO_2**") emission standards and compliance timelines for coal and lignite-based thermal power plants ("**TPPs**").

The Central Government had published the SO_2 emission standards on 07.12.2015 for coal and lignite-based TPPs and prescribed certain timelines, which were subsequently amended from time to time. Thereafter, many representations were received seeking exemption or relaxation in the prescribed timelines due to various reasons.

The amendment introduces a three-tier classification of TPPs based on their geographical location and sensitivity of the area. It provides for formation of a task force to categorise the TPPs on the basis of their location to comply with the emission standards.

a. Category A – within 10km radius of NCR or cities having million plus population.
b. Category B – within 10km radius of Critically Polluted Areas or Non-attainment cities.
c. Category C – other than those included in category A and B.

The applicability of emissions standards for SO_2 in TPPs are as follows:

a. Existing Category A TPPs – by 31.12.2027.
b. Category A TPPs under commissioning – by 31.12.2027.
c. Category A TPPs to be commissioned after 31.12.2027 – will operate only after ensuring compliance.
d. Category B TPPs (existing or upcoming) – will be decided on a case-to-case basis by the Central Government.
e. Category C TPPs – not applicable subject to ensuring compliance of stack height criteria notified vide notification number GSR 742 (E) dated 30.08.1990. The timeline for ensuring compliance of stack height criteria is 31.12.2029.

TPPs declared to retire before 31.12.2030 shall not be required to meet the standards if an undertaking is submitted for exemption on this ground. The revised SO_2 norms can be accessed from the following *link*.

APERC issues draft Andhra Pradesh Electricity Regulatory Commission [Planning, Procurement, Deployment, and Utilisation of Battery Energy Storage Systems (BESS)] Regulations, 2025

Andhra Pradesh Electricity Regulatory Commission, on 30.06.2025, has released the draft "Planning, Procurement, Deployment, and Utilisation of Battery Energy Storage Systems (BESS) Regulations, 2025." These Regulations aim to help BESS become a part of power generation, transmission, and distribution systems. BESS will support grid stability, manage frequency, and help use more renewable energy like solar and wind. They can be used on their own or along with other systems, such as solar power at homes or industries. BESS can be owned and operated by power companies, consumers, or independent service providers. Aggregators can combine several BESS units to offer services to the power grid or market.

Some important points include a minimum size of 1 MW for BESS projects (with some exceptions), and BESS can offer services like frequency control, voltage support, and backup power (black start). These services will be paid for based on market rates or other methods approved by the Commission. All BESS units must follow technical and cybersecurity standards. Distribution companies must publish possible locations for BESS every year, and the state load dispatch center (SLDC) will handle monitoring and scheduling. Consumers can also set up behind-the-meter BESS systems without needing permission if they follow technical rules. Open access and related charges will follow the 2024 Green Energy Open Access Regulations. The Regulations can be accessed from the following *link*.

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