

News

Can NCLT determine a company's trademark ownership under CIRP? The Supreme Court responds



The Court reaffirmed that the NCLT does not have the general authority to resolve all disputes involving corporate debtors under Section 60(5) of the IBC.

The National Company Law Tribunal (NCLT) cannot decide or declare title to a trademark just because the matter comes up during a corporate insolvency resolution process (CIRP), according to a recent ruling by the Supreme Court, unless the dispute has a direct and inherent connection to bankruptcy. [Gloster Cables v. Gloster Limited]

The decision was made by a bench of Justices JB Pardiwala and KV Viswanathan while deciding cross-appeals resulting from Fort Gloster Industries Limited's (FGIL) insolvency

resolution. These appeals involved competing claims to the trademark "Gloster" made by Gloster Limited, the successful resolution applicant, and Gloster Cables Limited (GCL).

The Court decided, The appellant SRA could not have been granted title to the trademark "Gloster" by the adjudicating authority. Under the circumstances of this case, the trademark title dispute was not "in relation to the insolvency proceedings."

In August 2018, FGIL was accepted into CIRP following a former employee's application. Gloster Limited was the victorious resolution applicant during the process, with the committee of creditors approving its plan by more than 72%.

However, Gloster Cables Limited filed an application under Section 60(5) of the Insolvency and Bankruptcy Code (IBC) while the plan approval was pending, requesting a directive to exclude the trademark "Gloster" from the corporate debtor's assets. Based on a number of agreements, GCL asserted ownership.

In addition to rejecting GCL's application, the NCLT (Kolkata Bench) also noted that the trademark belonged to the corporate debtor, giving the winning resolution applicant ownership of it.

The National Company Law Appellate Tribunal (NCLAT) decided in favor of GCL on ownership but acknowledged that the NCLT had jurisdiction to investigate the matter under Section 60(5). The Supreme Court was contacted by both sides.

The Supreme Court emphasized in its interpretation of Section 60(5)(c) of the IBC that the NCLT is not granted a general authority to resolve all matters pertaining to the corporate debtor.

The Court reaffirmed, citing precedents, that issues that do not arise exclusively due to insolvency cannot be brought under insolvency jurisdiction. This Court determined that the Adjudicating Authority has the authority to resolve disputes arising only from or pertaining to the Corporate Debtors' insolvency under 60(5)(c). This Court issued a warning, noting that in doing so, the authorities under the IBC should make sure they do not usurp the rightful jurisdiction of other courts, tribunals, and forums when the dispute is not directly related to or arises from the Corporate Debtor's insolvency. Since de hors the insolvency processes are beyond the purview of the IBC,

NCLT is unable to exercise its authority over them.

It further held that no declaration of ownership could be made at the time of plan approval because the approved resolution plan itself did not grant the successful resolution applicant any clear or undisputed control over the trademark **"Gloster."**

The Court emphasized that the resolution applicant assumed control of the corporate debtor with this understanding and without starting legal action under the IBC's avoidance provisions.

"There is no conclusive statement on any uncontested claim to the trademark name "Gloster." Conversely, it acknowledges competing claims.

The Supreme Court also overturned the NCLAT's conclusion that Gloster Cables had ownership to the "Gloster" trademark under the terms of the 2008 supplemental agreement, ruling that insolvency forums could not investigate trademark title vesting based on the case's facts and circumstances.

The Court decided the appeals as a result.

Senior Advocate Shyam Divan represented the appellants alongside Khaitan & Co. attorneys Diwakar Maheshwari, Pratiksha Mishra, Rongon Choudhary, and Karan Bhootra.

Senior Advocates Ranjit Kumar and Chander Lall, along with Advocates Alok Dhir, Maneesha Dhir, Varsha Banerjee, Ayushi Misra, Nancy Roy, Prakriti Varshney, Annanya Mehan, Akash Dikshit, Adwait Sharma, and Karan Batura, represented Gloster Cables Limited.

Advocates Anand Varma, Ayush Gupta, Vipin Gupta, Krishna Kumar, and Nandani Gupta represented the other respondents.