

IBC's Primacy Over the Electricity Act and the Extinguishment of Pre-CIRP Claims

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I. Introduction

THERE is a question that haunts every successful insolvency resolution: once a corporate debtor has been revived through the rigours of the Corporate Insolvency Resolution Process ("CIRP") under the Insolvency and Bankruptcy Code, 2016 ("IBC"), can a statutory authority that stayed silent throughout the process reappear with demands for pre-CIRP dues the moment the resolution applicant takes over? The answer, under the settled framework of the IBC, has always been an emphatic no. The Hon'ble Allahabad High Court, in *South East UP Power Transmission Company Ltd. & Ors. v. Prescribed Authority and Others* ([2026-TIOLCORP-15-HC-ALL-IBC](#)), has reaffirmed this with welcome clarity - while also resolving a conflict of statutory supremacy that practitioners have long debated: what happens when both the IBC and the Electricity Act, 2003 carry overriding clauses? The Court's answer draws on one of the oldest maxims of statutory interpretation: ***leges posteriores priores contrarias abrogant*** - later laws abrogate earlier, contrary ones. Since the IBC is the subsequent legislation, it prevails.

II. Background Facts

The petitioners were companies that had undergone CIRP and been successfully resolved. The dispute arose from an inspection conducted by the respondents subsequently wherein discrepancies were pointed out following which demands were raised. The petitioners opposed these demands insofar as they pertained to the pre-resolution period citing the provisions of IBC law.

III. Submissions of the Parties

A. For the Petitioners

The petitioners' case rested on a single, powerful premise: neither any claim was filed by the respondent authorities in respect of electricity dues, nor was any representation or objection made by them during the pendency of CIRP proceedings. In these circumstances, they submitted, the impugned demands were ex facie illegal, being in direct contravention of the approved resolution plans and the statutory scheme under the IBC.

Reliance was placed on Section 31 of the IBC, which makes the approved resolution plan binding on all stakeholders - including governmental and statutory authorities - and extinguishes all claims not forming part of it upon approval. It was emphasised that CIRP proceedings are in rem in nature and bind all stakeholders without requiring individual intimation. The public announcement under Section 15 of the IBC read with Regulation 6 of the IBBI (CIRP) Regulations published in widely circulated newspapers constituted sufficient notice in law. The respondents could not plead ignorance; and even if they did, that plea was legally inconsequential.

The petitioners relied on previous Supreme Court decisions to submit that upon approval of the resolution plan, all prior claims stand extinguished. On the question of statutory conflict, Section 238 of the IBC - containing a clear non obstante clause conferring overriding effect upon the Code over any other law in force - was invoked to assert primacy of the IBC over the Electricity Act, 2003. The respondents, as holders of electricity dues against the corporate debtor, were characterised as operational creditors under Section 5(20) of the IBC, bound by the approved resolution plan.

B. For the Respondents

The respondents contended that the "clean slate" doctrine was wholly misplaced where statutory dues and electricity charges owed to public authorities were concerned. They argued that statutory dues created by operation of law constitute secured debts that cannot be extinguished by the IBC framework. A resolution plan ignoring such dues payable to governmental authorities was, they submitted, contrary to law.

It was further argued that the failure of the Resolution Professional to properly disclose electricity due liabilities cannot operate to extinguish the lawful dues of statutory authorities, and that CIRP cannot be weaponised to defeat actual consumption-based liabilities.

IV. Discussion and Findings

A. Overriding Effect of the IBC Over Electricity Laws

(i) The Legislative Design of the IBC

The Court situated the IBC as a landmark in India's economic law reforms which consolidated, time-bound framework that replaced a fragmented regime of multiple forums and inconsistent laws. Its legislative design prioritises resolution and treats liquidation as a last resort; its primary objective is to protect the economic value of the company and maintain the corporate debtor as a going concern during CIRP. The finality of an approved resolution plan is the cornerstone of this design: once approved, it binds all stakeholders - including governmental and statutory authorities - so that the successful resolution applicant is not burdened with unforeseen or belated claims from the pre-resolution period.

The "*clean slate*" principle, as the Court explained, is not a judicial gloss but flows directly from the statutory architecture. All claims arising prior to approval of the resolution plan must be submitted within the insolvency framework; failing this, they stand extinguished upon approval. This ensures the certainty, predictability, and viability that the resolution process demands.

(ii) Section 238 IBC versus Sections 173-174 of the Electricity Act

The respondents had relied upon Section 174 of the Electricity Act, 2003, which confers overriding effect on that Act over any inconsistent provision in any other law in force (subject only to the carve-out in Section 173 for three specified enactments). The petitioners countered with Section 238 of the IBC.

The Court held that a bare reading of Section 238 demonstrates a legislative mandate that the provisions of the IBC shall prevail over any other law in force. Read alongside Section 31 - which makes the approved plan binding on all stakeholders - the statutory scheme of the IBC is designed to confer finality upon the resolution process while ensuring, through the overriding clause, that nothing can unsettle matters concluded therein.

(iii) Leges Posteriores Prioris Contrarias Abrogant

Where two statutes each claim overriding effect and harmonious construction is impossible, the maxim ***leges posteriores prioris contrarias abrogant*** operates to give primacy to the later enactment. The Court applied this maxim to resolve the conflict squarely in favour of the IBC: as the subsequent, comprehensive legislation enacted specifically to consolidate insolvency law, the IBC prevails over the Electricity Act, 2003 including its overriding provisions under Sections 173 and 174 to the extent of any inconsistency.

The Court was emphatic that the scheme of the Code would be rendered unworkable if past liabilities, not forming part of the resolution plan, could be revived by creditors relying on any other statute.

The intent of Parliament was to ensure that a successful resolution applicant is not burdened with past liabilities not forming part of the resolution plan, as the same would deter prospective applicants and undermine the efficacy of the insolvency regime, leaving the sword of uncertain, unquantified dues hanging over the revived entity.

B. Notice of CIRP and Non-Submission of Claims

(i) Electricity Dues as "Claims" Under the IBC

The Court noted that the definition of "*claim*" in Section 3(6) of the IBC is intentionally broad, encompassing diverse liabilities including statutory dues. The statutory character of electricity dues does not, by itself, place them outside the ambit of the IBC. Once a resolution plan is approved, all claims pertaining to the period prior thereto, whether or not earlier quantified, are extinguished if not incorporated in the plan.

Permitting such liabilities to resurface after conclusion of CIRP merely because they were not earlier quantified would defeat the finality of the resolution plan and expose the revived entity to uncertain and indeterminate liabilities. Once the resolution plan attains finality, a new entity is born and the scope for judicial review over that plan is also extinguished. Even claims detected only after the CIRP are barred by the clean slate doctrine.

(ii) Sufficiency of Public Announcement

The Court reiterated the settled position that individual notice to each creditor is not contemplated under the IBC, and that the public announcement constitutes sufficient notice in law. Statutory authorities no less than private creditors are expected to act with necessary diligence and file their claims within the prescribed period during CIRP. Having failed to do so, they cannot later claim that the process did not bind them.

V. The Court's Conclusion

The High Court quashed the impugned demand notices. It held as undisputed that the respondent authorities had neither filed any claim during the CIRP nor challenged the resolution plan at any stage - notwithstanding that the plan had been upheld at every tier of the hierarchy, from the NCLT to the Supreme Court. **The law is settled: once a resolution plan is approved, it binds all stakeholders, including those who chose not to participate.** Claims not forming part of the CIRP or the approved plan cannot survive once the CIRP is concluded.

On the statutory conflict, the Court held that while Section 174 of the Electricity Act confers overriding effect on that Act, this clause is itself overridden by Section 238 of the IBC a **subsequent legislation** containing a clear and unambiguous non obstante provision. In matters of insolvency, the provisions of the IBC shall prevail notwithstanding any inconsistency with the Electricity Act, including Sections 173 and 174 thereof.

VI. Significance of the Decision

The judgment carries weight that extends well beyond disputes over electricity dues. It is a pointed reminder that the clean slate principle is not a convenient legal fiction but a structural imperative of the IBC without which no resolution applicant would bid, and no insolvent company would ever be revived. The tendency of statutory authorities to stand by during CIRP and then present demands after the resolution applicant has invested in the revived entity strikes at the very foundation of the insolvency framework.

The Court's invocation of *leges posteriores priores contrarias abrogant* to resolve the contest between two competing non obstante clauses is equally significant. It provides a principled and transportable methodology for resolving such conflicts; one that will be of immediate relevance to practitioners dealing with post-CIRP demands by tax authorities, GST, Customs, Income tax and Excise departments, and other regulatory bodies that carry their own overriding provisions. The decision also forecloses the argument that the RP's failure to account for certain liabilities in the resolution plan creates a separate cause of action for passive creditors: the RP's obligations do not breathe life into claims that the statutory framework has extinguished.

To conclude, at its core, insolvency law is a law of second chances for companies, their employees, and the broader economy. That promise is hollow if every statutory authority retains the licence to reclaim the past at will, armed with a sectoral overriding clause and a plea of ignorance. The decision in **South East UP Power Transmission Company** is a timely affirmation that the clean slate is not a metaphor but a legal reality, and that the gate to the CIRP has a closing time. Statutory creditors who chose not to enter before it shuts cannot complain of being left outside.

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