

IV SURANA & SURANA AND UPES SCHOOL OF LAW
NATIONAL INSOLVENCY LAW MOOT COURT COMPETITION, 2022

CLARIFICATIONS

1. On page 10, in the table titled "Claims against BEPL",
 - a) Why are the employees' claims mentioned therein, when they have filed a Section 8 application against BTPL?
 - No clarification required.
 - b) Why is the RP of BTPL claiming a sum of Rs. 48 crores from BEPL?
 - No clarification required.
 - c) Why is BAMPL claiming a sum of Rs. 18 crores from BEPL?
 - No clarification required.
2. On page 10, in the table titled "Claims against BTPL",
 - a) Shouldn't it be "SAS Bank" instead of "BOD Bank"?
 - Paragraph 27 has been revised and stands as follows:

27. Claims against BTPL –

(Amount in Crores)

S.no.	Name of Creditors	Principle Amount along with Interest	Amount Due
1.	BOD Bank	240	150
2.	KKR lenders private limited	250	75
3.	IRP of BEPL	44	36

4.	ElectroChips Private Limited	--	44
5.	SMA Private Limited	--	28
6.	Employees & Workmen	--	17
7.	Other Operational Creditors		07

b) **Why is the IRP of BEPL claiming a sum of Rs. 36 crores?**

➤ No clarification required

3. **In paragraph 38 (d) of the moot proposition, the line reads "the US proceedings can be recognised as foreign non-main proceedings". Is this a typo or is it correct, since Ms. Wilson had applied for recognition of the US proceedings as either foreign main proceedings or foreign non-main proceedings.**

➤ No clarification required.

4. **In the Official Rulebook, under point IX titled "Memorials", sub-point 'f' specifies that the footnoting must conform to OSCOLA 14th edition. However, in sub-point 'i', it says that Bluebook 20th edition, or any uniform method of citation must be adhered to. Can you please clarify this point?**

➤ Kindly refer to Bluebook 20th edition.

5. **Para 31, Page 12- Bank as a financial institution comes under the definition of the financial creditor. But in this para of the moot proposition, the SAS Bank has been mentioned as the 'operational creditor' as per the order of NCLT Delhi. We wanted a clarification on whether this term is a typo and the SAS Bank should be 'financial creditor'?**



- No clarification required.

6. In para 33 of page 13, the first line mentions ‘IZBI Bank’ and the last line mentions ‘YBI Bank’. Kindly clarify on this issue of different bank names.

- Paragraph 33 has been revised and stands as follows:

“33. Aggrieved by this decision of NCLT Delhi, IZBI Bank has filed an appeal before the NCLAT for the inclusion of BAMPL. [COMPANY APPEAL (AT) (INSOLVENCY NO. 104/2021)]”

7. In para 39 of page 15, the appeal filed by the foreign representative is based on recognition of ‘foreign proceedings’. We wanted a clarification on whether the appeal should be based on recognition of the US as ‘foreign main proceedings’?

- No clarification required.

8. On 20th para first line of the preposition of the moot, there is written 13000 cr is invested by the BEPL in BAMPL and in 21st the using of 1300Cr by the BAMPL is described so how much BEPL invested in BAMPL 13000cr or 1300cr, should we consider 1300 Cr is invested?

- The paragraph 20 has been revised and stands as follows:

“20. Consequently, BEPL decided to invest INR 1300 Crores for incorporating another wholly owned subsidiary in Pune, Maharashtra named as Blender Automated Machine Private Limited (“BAMPL”). Out of these INR 1300 Crores, BEPL took a loan of 800 Crores from IZBI Bank. BEPL and IZBI Bank entered into a Loan Agreement dated 01st January 2019 and agreed that BEPL shall make payment in four instalments as per the below given schedule”

9. On 20th para 6th line there is written payment in 3 instalments, in that para itself in the box there are details given of the 4 instalments so should we consider 4 instalments written on 6th line of 20th para?
- Please refer to clarification 8.
10. Paragraph no. 33- Whether to consider YBI bank as IZBI bank or not, for the purpose of further forming the issue.
- Please refer to clarification 6.
11. In paragraph 39, does the foreign representative want the proceedings to be recognised as 'foreign proceedings' or 'foreign main proceedings'?
- No clarification required.
12. In paragraph 38(c), has the NCLT denied to recognise the proceedings as foreign non main proceedings or has stated a possibility? The words here are "cannot be" or "is not"? Same clarification is sought for 38(d), the words are "can be" or "is"?
- No clarification required.
13. Did BEPL had 100% control also over the Stocks of its subsidiaries?
- No clarification required.
14. Were all the members of the BOD same for each of the subsidiary and the holding company or just a few were common?
- No clarification required. The participants are expected to rely upon the moot problem and work accordingly.
15. Can SAS bank be considered as a personal guarantor of BTPL?
- No clarification required. Substantive questions will not be answered by the organizers.

16. Is KKR Pvt. Ltd a financial creditor or an operational creditor?

- No clarification required. Substantive questions will not be answered by the organizers.

17. Point no 20 in the moot prop says 13000 Crores and the next few lines talk about 1300 crores. What is the exact figure being referred to here?

- Please refer to clarification 8.

18. Point no 20, Pg 7 last line talks about 3 instalments whereas the table in the next page mentions 4 instalments, Please clarify the exact instalments.

- Please refer to clarification 8.

19. No claims are provided by KKR Pvt. Ltd. Or SAS bank in the claim table, what is their claim amount. Please clarify.

- Please refer to clarification 2(a).

20. Pg. no 13, Point no 33 of moot prop says YBI bank. Please clarify.

- Please refer to clarification 6.

21. What is the default amount that has not been paid to the employs of BTPL?

- Please refer to clarification 2(a).

22. When was the Bank Guarantee invoked and honoured by KKR (para 31)?

- The paragraph 31 has been revised and stands as follows:

“ 31. In September 2020 KKR approached the SAS Bank for invocation of bank guarantee. SAS Bank honoured its obligation under the said guarantee, and approached the RP for its right to subrogation in respect of said amount. RP rejected the claim of SAS Bank. Aggrieved by the decision, SAS Bank filed an application under Section 60(5) of the I&B Code. NCLT Delhi vide order dated 28th July 2021, directed the RP to

accept claim of SAS Bank as operational creditor. Aggrieved by the same RP filed an appeal before NCLAT.”

23. In paragraph no. 37 of Moot Problem, the relief sought by the foreign representative is to consider US Proceeding as Foreign Main Proceeding or Foreign Non-Main Proceeding. In Para no 38, part d NCLT declared US Proceeding as Foreign Non-Main proceeding as relief granted. In Para no. 39 Ms Wilson filed appeal in NCLAT against the order. Why an appeal is filed if relief is already granted as sought by appellant.

➤ The paragraph 39 has been revised and stands as follows:

“ **39.** Aggrieved by the decision of NCLT Delhi, the foreign representative has filed an appeal before the NCLAT for recognition of foreign proceedings as foreign main proceedings.”

24. What is the actual amount that BEPL decided to invest for incorporating BAMPL? Is it INR 13000 Crores or 1300 Crores?

➤ Please refer to clarification 8.

25. As there was no loan agreement between BOD bank and BTPL, why BOD bank is named as creditor against BTPL?

➤ Please refer to clarification 2(a).