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Year of Call: 2016

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PRACTICE AREAS

Insolvency & Restructuring
Public & Constitutional
Banking and Finance
Company
Commercial

PROFILE

Pulkit specialises in civil litigation with a particular interest in contentious insolvency, fraud and asset tracing, avoidance, corporate restructuring, minority oppression, mergers and amalgamations, commercial and property disputes, banking, and public law. He regularly represents litigants before courts, quasi-judicial, and arbitral tribunals in India.

Pulkit is also a qualified Chartered Accountant (ACA, ICAEW), and before receiving his call to the bar,

practiced with the dispute resolution, forensic investigation and contentious insolvency teams at Grant Thornton. During this time he was involved in some of the most complicated commercial litigations – investigating and prosecuting, on behalf of the Government, in matters involving charges of political corruption against a former head of state; assisting expert witness to Court in a US\$8 billion claim involving exotic forex derivatives; investigating, on behalf of an Insolvency Practitioner, missing trader fraud involving carbon credit trades.

Pulkit is the chairman of the INSOL India Young Practitioners' Committee, and a member of the ICAEW Forensic and Expert Witness Group.

PRACTICE AREAS

Insolvency & Restructuring

A significant portion of Pulkit's engagements includes representing debtors, lenders, and resolution professionals in petitions for initiation of insolvency proceedings, procuring cooperation from suspended directors, seeking avoidance of proscribed transactions, equitable reliefs for maintaining the debtor company as a going concern, approval of resolution plans, seeking liquidation, and punitive orders for various breaches under the Insolvency & Bankruptcy Code, 2016.

Pulkit has acted in the insolvency resolution of debtor companies across a number of industry sectors, including garments manufacturers, retailers, real estate holding and development companies, civil engineering companies, steel manufacturers, and auto parts manufacturers.

Recent cases include acting for:

- Hero Fincorp Ltd. (a Non-banking Financial Company), successfully challenging an illegal resolution plan, in the CIRP of Rave Scans Ltd. (the first case initiated under the new Insolvency and Bankruptcy Code, 2016).
- The Appellant / Insolvency Professional, before the Hon'ble NCLAT, in the case of an EPC company, seeking an interim injunction against *en-masse* encashment of bank guarantees, as issued on behalf of the debtor to various customers upon initiation of insolvency resolution proceedings.
- The Appellant (petitioning operational creditor), before the Hon'ble NCLAT, on whether a counterclaim as to delay in delivery was a relevant dispute – to be used as a defence against initiation of insolvency proceedings.
- The State Bank of India, in the CIRP of Magma Autolinks Ltd., successfully challenging, and receiving, a permanent injunction against a corporate guarantor (guarantee issued in favour of SBI) from being entertained as a Financial Creditor, without first discharging its liability, in full towards SBI.
- The Applicant / Insolvency Professional, in an application under section 74 of the Insolvency and Bankruptcy Code, 2016, securing prosecution against an offence of breach of moratorium.
- The Petitioner / Financial Creditors, before the Hon'ble NCLT, in initiation of insolvency proceedings in respect of a real estate development company, and withdrawal of such proceedings upon entering a settlement, after constitution of a committee of creditors but before holding its first meeting, in a slight deviation from the procedural requirements of section 12A of the Insolvency and Bankruptcy Code, 2016: *Sunaini Gupta v. Southend Infrastructures Pvt. Ltd.*
- Advised the Respondent, before the Hon'ble Supreme Court of Singapore, in an appeal against an order from the High Court of Singapore, on the extent of judicial discretion available in an insolvency petition: *Exim Bank Pte. Ltd. v. Surya Pharmaceuticals (Singapore) Pte. Ltd.*

Public & Constitutional

Pulkit has had the privilege of representing petitioners before the Hon'ble High Courts and the Supreme Court of India, exercising extraordinary writ jurisdiction, in economic matters involving fundamental rights and state policy.

Recent cases include acting for:

- The Petitioner, before the Hon'ble Supreme Court of India, as to the constitutional validity of the amendments made to the Insolvency and Bankruptcy Code, 2016, deeming allottees of real estate projects to be "financial creditors" so that they may trigger the Code, under Section 7 thereof, against the real estate developer: Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India & Ors.
- The Petitioner, before the Hon'ble Supreme Court of India, as to the constitutional validity of Sections 35AA and 35AB of the Banking Regulation Act, 1949 and a Reserve Bank of India Circular, issued on 12.02.2018, by which it promulgated a revised framework for resolution of stressed assets: Dharani Sugars and Chemicals Ltd. v. Union Of India & Ors.
- The Petitioner, before the Hon'ble Supreme Court of India, as to the constitutional validity of the Insolvency and Bankruptcy Code, 2016: Swiss Ribbons v. Union of India & Ors.
- The Petitioner, before the Hon'ble High Court at Delhi, in a judicial review of a restructuring scheme sanctioned by the Hon'ble Board for Industrial Financial Reconstruction, as to cross-category clampdown between creditors: GMB Ceramics Ltd v. Union of India & Ors.
- The Petitioner, before the Hon'ble High Court at Delhi, in a judicial review against declaration of fraud and consequent non-assignment of debt: Tirupati Building & Offices Pvt. Ltd. v. Reserve Bank of India & Ors.

Banking and Finance

Pulkit has given advice to debtor companies in a number of restructuring situations, and acted for debtors and guarantors, raising counterclaims, in a number of debt recovery proceedings before the Hon'ble Debt Recovery Tribunal.

Recent cases include acting for:

- Advising the corporate debtor, in Corporate Debt Restructuring, under the aegis of the Reserve Bank of India, a steel mill with an exposure in excess of US\$6.5 billion.
- The debtor and donors of personal guarantees, before the Hon'ble Debt Recovery Tribunal, a spinning mill, in a claim in excess of USD\$ 700 mn.
- The Personal Guarantors, in appeal before the Hon'ble Debt Recovery Appellate Tribunal, in a challenge against prohibition against international travel imposed by the Hon'ble Debt Recovery Tribunal.
- The Petitioner, in a suit for determination of losses, before the District and Sessions Court, due to missold exotic foreign exchange derivatives by a bank, in breach of the policies laid down by the Reserve Bank of India.

Company

Pulkit has reasonable experience representing various parties in proceedings instituted pursuant to the Companies Act, including Oppression and mismanagement, mergers and amalgamations, schemes of arrangement, director disqualification, etc.

Recent Cases include acting for:

- The Respondents in a petition for oppression and mismanagement, in originating and appellate proceedings before the Hon'ble NCLT and NCLAT, in the case of real estate development company, involving a number of very well-known players in the Indian market: Vikrant Puri v. Southend Infrastructure Pvt. Ltd. & Ors.
- The Petitioner, a disqualified director, before the Hon'ble High Court of Delhi, who had been disqualified due to non-compliance by the company with statutory requirements, without appreciating that he had demitted office by operation of law prior to the relevant period.
- The Petitioner, a disqualified director, before the Hon'ble High Court of Delhi, who had been disqualified due to non-compliance by the company with statutory requirements, and received equitable relief – directions to the Registrar of Companies to entertain an application by the Petitioner for voluntarily striking off the company: Ramesh Kumar Saxena v. Union of India & Ors.
- The Applicant companies, before the Hon'ble NCLT, in proceedings for amalgamation between a Publically Listed Company and its promoter company.

Commercial

Pulkit has acted for plaintiffs and respondents, before the Hon'ble High Court of Delhi, in petitions under the Arbitration and Conciliation Act, 1996 – seeking initiation of proceedings, challenges to arbitral awards and enforcement of such awards – in addition to representing before Arbitral Tribunals.

Recent Cases include acting for:

- The Respondent, in an *ad-hoc* Arbitration, LCIA Rules, seat in London, involving a shareholder dispute pursuant to delisting of Global Depository Receipts at the Luxembourg Stock Exchange.
- The foreign Joint Venture partner, in a dispute involving mismanagement / contentious insolvency of a multinational manufacturer of compressed gas cylinders.
- The Decree Holder, before the Hon'ble High Court of Delhi, in a challenge to an Arbitral Award, under section 34 of the Arbitration Act, and consequent Enforcement Petition: Today Homes & Infrastructure Pvt. Ltd. v. JDS Apparels Ltd. & Anr.
- The Respondent, before the Hon'ble High Court of Delhi, judgement upheld by the Hon'ble Supreme Court of India, in a petition for initiation of Arbitration proceedings, on whether the Court may consider, *prima-facie*, whether the arbitration agreement covers the dispute in question – when does the principle of kompetenz-kompetenz supplant a court's jurisdiction: Brightstar Telecommunications India Ltd. v. Iworld Digital Solutions Pvt. Ltd.
- Provided an expert witness statement, on the capacity of a contracting party to perform, given the liquid / illiquid nature of his assets, in a suit for specific performance against an agreement for sale and purchase of property, before the Hon'ble High Court of Delhi.
- Provided an expert witness statement, on the value of publically traded shares of a well-known newspaper publisher, foreclosed by its lenders upon default, in Arbitration proceedings.
- Advised the intervenor, with a *quantum meruit* claim, in a suit for recovery by an Indian supplier of guar gum against an American chemicals manufacturer, before the Federal Court of Texas, Houston: Vikas WSP Limited v. Economy Mud Products Company

Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India & Ors. [2019 SCC OnLine SC 1005]

Writ Petition before the Hon'ble Supreme Court of India, as to the constitutional validity of the amendments made to the Insolvency and Bankruptcy Code, 2016, deeming allottees of real estate projects to be "financial creditors" so that they may trigger the Code, under Section 7, against the real estate developer.

Dharani Sugars and Chemicals Ltd. v. Union Of India & Ors. (2019)

5 SCC 480

a Writ Petition, before the Hon'ble Supreme Court of India, as to the constitutional validity of Sections 35AA and 35AB of the Banking Regulation Act, 1949 and a Reserve Bank of India Circular, issued on 12.02.2018, by which it promulgated a revised framework for resolution of stressed assets.

Swiss Ribbons v. Union of India & Ors. (2019)

4 SCC 17

A Writ Petition, before the Hon'ble Supreme Court of India, as to the constitutional validity of the Insolvency and Bankruptcy Code, 2016.

Brightstar Telecommunications India Ltd. v. Iworld Digital Solutions Pvt. Ltd. [2018]

SCC OnLine Del 13071

A petition, before the Hon'ble High Court of Delhi, judgement upheld by the Hon'ble Supreme Court of India, on whether the Hon'ble Court may consider, prima-facie, if there exists an arbitration agreement with respect to the particular dispute before initiating arbitration proceedings – when does the principle of kompetenz-kompetenz supplant a court's jurisdiction.

Tirupati Buildings and Offices Pvt. Ltd. v. Reserve Bank of India & Ors. [2019]

SCC OnLine Del 8990

A judicial review, before the Hon'ble High Court of Delhi, against declaration of fraud and consequent non-assignment of debt.

Today Homes & Infrastructure Pvt. Ltd. v. JDS Apparels Ltd. & Anr [2018]

SCC OnLine Del 11916 : (2018) 254 DLT 300

A challenge to an Arbitral Award, under section 34 of the Arbitration Act, and consequent Enforcement Petition on behalf of the Decree Holders before the Hon'ble High Court of Delhi.

Hero Fincorp Ltd. v. Rave Scans Pvt. Ltd. & Ors [2019]

SCC OnLine NCLAT 584

A Company Appeal, before the Hon'ble NCLAT, on whether it would be permissible to give unequal treatment to similarly placed creditors, in a resolution plan proposed under the Insolvency and Bankruptcy Code, 2016.

Renaissance Steel India Pvt. Ltd. v. Electrosteel Steels India Ltd. & Ors. [2018]

SCC OnLine NCLAT 301

A Company Appeal, before the Hon'ble NCLAT, in the insolvency resolution of one of the largest steel companies in India with a debt exposure of c. US\$1.7 billion, as to whether a juristic person may be disqualified from participating as a resolution applicant by virtue of their conviction in an offence punishable by imprisonment.

Pr. DGIT (Admn. And TPS & Anr. v. Spartek Ceramics India Ltd. & Anr [2018]

SCC OnLine NCLAT 289 : (2018) 209 CompCas 0001

A Company Appeal, before the Hon'ble NCLAT, upheld by the Hon'ble Supreme Court of India, as to a whether a restructuring scheme sanctioned by the competent tribunal, under the repealed Sick Industrial Companies (Special Provisions) Act, 1985, may be subject matter of review under the Insolvency and Bankruptcy Code, 2016.

Union Bank of India v. Era Infra Engineering Ltd. [2018]

SCC OnLine NCLT 813

Before a special bench of the Hon'ble NCLT, on whether it would be open to initiate Insolvency Resolution Process under the Insolvency & Bankruptcy Code, 2016, pending proceedings for initiation of Winding Up under the Companies Act, 1956.

CAREER AND ASSOCIATIONS

Member of the ICAEW Forensic and Expert Witness Group

Chairman of the INSOL India Youth Practitioners' Committee

Called to the Bar (Bar Council of Delhi)

University of London (LL.B. (Hons.))

Institute of Chartered Accountants in England and Wales (Associate Member Chartered Accountant)

University of Liverpool (BA (Hons.) Accounting)

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