
The Insolvency and Bankruptcy Code, 2016

Part-V Miscellaneous

Section 238: Provisions of this Code to override other laws.

***238.** The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.

Reference

*[Effective from](#) 01.12.2016.

Judicial Pronouncements:

J1. The non-obstante clause, in the widest terms possible, is contained in Section 238 of the Code, so that any right of the Corporate Debtor under any other law cannot come in the way of the Code. [*Innoventive Industries Ltd. v. ICICI Bank and Anr.* (2017) [ibclaw.in 02 SC](#), p56]

J2. The non-obstante clause contained in Section 238 of the Code will not override the Advocates Act, 1961 as there is no inconsistency between Section 9, read with the Adjudicating Authority Rules and Forms and the Advocates Act. [*Macquarie Bank Ltd. v. Shilpi Cable Technologies Ltd.* (2017) [ibclaw.in 14 SC](#), p36]

J3. Section 238 would apply in case there is an inconsistency between the Code and the Arbitration and Conciliation Act, 1996. [*K. Kishan v. Vijay Nirman Company Pvt. Ltd.* (2018) [ibclaw.in 01 SC](#), p22]

J4. The provisions of the IBC would have an overriding effect over the Tea Act, 1953 and that no prior consent of the Central Government before initiation of the proceedings under Section 7 or Section 9 of the IBC would be required. [*Duncans Industries Ltd. v. A. J. Agrochem* (2019) [ibclaw.in 18 SC](#)]

J5. The Customs Act, 1962 and the IBC in their own spheres. In case of any conflict, the IBC overrides the Customs Act. [*Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs* (2022) [ibclaw.in 103 SC](#), p40]

Access complete Bare Act [here](#). To research Section and sub-section wise judgments, [visit here](#).

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