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Knowledge SBU Initiative

Success of Insolvency and Bankruptcy Code (IBC): Arun Jaitley

Arun Jaitley, the incumbent Minister of Finance and Corporate Affairs, penned his opinion on the effect and evolution of Insolvency and Bankruptcy Code (IBC) over two years of its enactment. He is of the view that that IBC has proved to be "extremely satisfactory".

He acknowledged the provision of Section 29 (A), provision for payment of dues at pre-admission state of petition and faster disposal of insolvency matters as contributing factors that makes the code successful. Further, he states that, "As per NCLT database, in 4452 cases disposed at pre-admission stage, the amount apparently settled was around Rs 2.02 lakh crores."

Bharti Defence Case: NCLT rejects resolution plan, orders liquidation

The adjudicating authority, after thorough analysis of the resolution plan, rejected the same u/s 31(2) of the IBC, 2016. The authority further directed that the Corporate Debtor be liquidated as per provisions of Regulation 32(b) & (e) of the IBBI (Liquidation Process) Regulations, 2016 which provides for assets in a slump sale, the corporate debtor as a going concern, in the manner as laid down in Chapter III under Part II of IBC, 2016.

The same is available at the link:

<https://nclt.gov.in/sites/default/files/Interim-order-pdf/Bharati%20Defence%20and%20Infrastructure%20Ltd.MA%20170%20OF2018%20IN%20CP%20292%20OF%202017%20NCLT%20ON%2014.01.2019%20FINAL.pdf>

Adjudicating Authority and the power to decide the legality and propriety of a foreign decree

The NCLAT, vide its judgment in Usha Holdings LL.C. & Anr v Francorp Advisors Pvt Ltd, held that the NCLT cannot determine whether a foreign decree is legal or enforceable in India while admitting or rejecting a claim as a debt under IBC, 2016. This NCLAT's decision reaffirms that the NCLT is a facilitator of the CIRP and not a court of law at this stage.

The same is available at the link:

<http://www.mondaq.com/india/x/771542/Insolvency+Bankruptcy/The+NC+LAT+Rules+That+The+Adjudicating+Authority+Has+No+>

POINT TO PONDER

"Bankruptcy is good. Unemployment is good. They are necessary evils. Unemployment makes workers available to industries that are rising. Bankruptcy makes resources available to the industries that are rising."
-William Strauss

NCLT admits insolvency plea against Parsvnath Landmark Developers, appoints Resolution Professional

The adjudicating authority under IBC, National Company Law Tribunal has approved the initiation of insolvency proceedings against Parsvnath Landmark Developers which is developing a housing project in NCR. The petition was filed by three home buyers for exorbitant delay in development of this project and non-refund of their payments.

The same is available at the link:

https://m.economictimes.com/industry/services/property/-/cstruction/nclt-admits-insolvency-plea-against-parsvnath-landmark-developers-appoints-resolution-professional/articleshow/67511827.cms?_gl=1*1iaflzx*_ga*dXUyRUZHQUpSUnlWaTFsbFpURUw1Y1YzZU4tc2piZUhnVTBUMDFONVhIYUN3NTVzRld3QVItZkh2dC1UOVdPeA

Bigger role for operational creditors in resolution process worries bankers

In the wake of recent updates on the jurisprudence being developed in the field of IBC that the Operational Creditors (OC) should have the voting rights proportional to their exposure like on the case of Committee of Creditors (CoC) in corporate insolvency resolution process (CIRP), the bankers fear that the CIRP may turn chaotic as the company promoters could manoeuvre OCs to delay the proceedings and defeat the cause of natural justice.

The same is available at the link:

<https://www.thehindubusinessline.com/money-and-banking/bigger-role-for-operational-creditors-in-resolution-process-worries-bankers/article25986702.ece>

Launch of Graduate Insolvency Programme

The government is set to launch a Graduate Insolvency Programme, a bespoke academic course to create a pool of 45 bankruptcy professionals annually. The 27-month programme is expected to set global benchmark for insolvency professionals, as India seeks to extricate about Rs 10 lakh crore in soured loans.

The same is available at the link:

https://m.economictimes.com/news/economy/finance/want-to-graduate-in-insolvency-heres-how-youcan/amp_articleshow/67531038.cms

***Feedback requested at ipa@icai.in**