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Knowledge SBU Initiative

Consumer complaints should go to RERA before NCLT, say builders

With even individual homebuyers taking builders to bankruptcy court, rattled real-estate developers from Delhi-NCR are demanding that all consumer complaints first be heard by regulator RERA before insolvency proceedings are initiated. According to the realtors' apex body CREDAI, about 450 real estate companies/projects across the country are facing insolvency proceedings under the Insolvency and Bankruptcy Code (IBC) because of default in the delivery of projects to homebuyers as well as repayment of bank loans. About 80-85 per cent of these 450 cases admitted so far by the National Company Law Tribunal (NCLT) pertain to builders of the national capital region who have defaulted big time in handing over flats to homebuyers.

Only 15% of the cases resolved under bankruptcy laws

Ratings firm Ica NSE 0.30 % has made a case for strengthening the NCLT infrastructure as only 15% of the cases have been resolved under the new bankruptcy laws, while the rest have gone for liquidation. Timely completion of Corporate Insolvency Resolution Process initiated under the Insolvency and Bankruptcy Code (IBC) continues to remain a challenge, according to Ica. Of the 2,542 cases admitted under IBC till date, 1,497 CIRPs or 59% of total admitted cases are still on-going in the courts. Among the CIRPs that have been closed, only 15% CIRPs have yielded a resolution plan whereas 56% of the cases ended up going for liquidation, Ica said.

NCLT initiates insolvency proceedings against Flipkart for Rs 18 crore default

The Bengaluru bench of the National Company Law Tribunal (NCLT) has initiated insolvency proceedings against ecommerce giant Flipkart for defaulting on Rs 18 crore payment to one of its LED TV suppliers, Taxsutra reported. One of Flipkart's LED TV suppliers, CloudWalker Streaming Technologies, had filed a petition under the Insolvency and Bankruptcy Code (IBC) against the company for paying only Rs 85 crore as against admitted dues of Rs 103 crores. The petitioner alleged that Flipkart failed to collect all LED TVs after placing an order, citing a shortage of warehouse space. The supplier further alleged that the ecommerce giant also failed to pay excess charges and costs as promised, resulting in CloudWalker being forced to unload goods at a heavily marked down price just to stay afloat.

Point to Ponder

“BANKRUPTCY is a legal proceeding in which you put your money in your pant pocket and give your coat to creditors...” -Joey Adams

Insolvency of NBFCs: Potential room under Insolvency and Bankruptcy Code

The National Company Law Appellant Tribunal (NCLAT), in the recent case of HDFC v. RHC had held that NBFCs are “financial service providers” as per the IBC and are therefore excluded from the definition of “corporate persons”. Consequently, they cannot be brought under the ambit of the IBC. The NCLAT recognised that RHC is registered as an NBFC with the Reserve Bank of India (RBI). Although it is not permitted to accept deposits (which is a “financial service” under the IBC), the NCLAT highlighted that RHC was in the business of providing services of offering and managing assets consisting of financial products belonging to its group companies which is in the nature of a “financial service” under the IBC.

Essential goods may soon come under IBC regulations

A committee to review the insolvency and bankruptcy code (IBC) has proposed allowing companies undergoing insolvency to ask for the supply of more essential goods than are currently permitted under the law to make it a going concern. For this, the panel suggested expanding the definition of essential goods under IBC regulations. IBBI has invited public comments on the proposed amendment to the regulations. According to regulation 32 of IBC, four items — electricity, water, telecommunications, and information technology — are currently covered under essential goods. The insolvency law committee (ILC) has proposed “the list of essential supplies in the regulations be expanded to include supplies which are significant to, and have a direct relationship with, the production of goods or supply of services by the corporate debtor to remain as a going concern.”

Small businesses’ new weapon against big firms: IBC gives MSMEs the power to collect dues

To help MSMEs tide over their problem of delayed payments by large businesses, the Insolvency and Bankruptcy Board of India (IBBI) has now made it compulsory for the buyers of MSME products to confirm the pending invoices from their operational creditors based on the queries received by Information Utility (IU) companies, Vinod Kumar, President, India SME Forum, told Financial Express Online. This was primarily a part of the recommendation made by the UK Sinha Committee report on MSME growth to RBI in June this year.

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