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Knowledge SBU Initiative

Cabinet clears amendments to IBC, bankruptcy resolution gets maximum 330 days

The government cleared amendments to the Insolvency and Bankruptcy Code (IBC) to enforce strict timelines for the rescue of companies and maximize the value of the insolvent company as a going concern.

The Cabinet approved seven amendments to the Code, which will now be taken to Parliament. An official statement said the amendments aim to fill the critical gaps in the corporate rescue framework specified in the Code.

Why NCLAT verdict on Essar Steel needs a review

The recent National Company Law Appellate Tribunal (NCLAT) order in the Essar Steel case — that has upheld ArcelorMittal's bid but put secured creditors on par with operational creditors — has rattled bankers and threatens to undermine the sanctity of the Insolvency and Bankruptcy Code (IBC).

Essentially all classes of creditors have been treated identically by the NCLAT for the purpose of distribution of recovery proceeds. Such a judgment has gone against the basic tenets of repayment hierarchy, which accords priority to secured creditors.

The NCLAT has failed to acknowledge the fundamental requirement of equitability — equitable treatment of similar creditors and not all categories of creditors.

Jet Airways case: NCLAT agrees to hear Dutch court's plea

The NCLAT agreed to hear a plea filed by a Dutch court seeking access to the financial details of Jet Airways. Staying an order by the NCLT, the NCLAT Bench headed by Chairman Justice SJ Mukhopadhyaya asked the lenders to the airline to file a response to the Dutch court's plea within two weeks.

Earlier, the NCLT had rejected the Dutch court's plea on the grounds that under the Insolvency and Bankruptcy Code, the debt resolution process of Jet can be undertaken only in India. In April, two vendors of Jet Airways from the Netherlands had filed a petition in a local Dutch court seeking recovery of about ₹280 crore.

POINT TO PONDER

“Becoming a leader is synonymous with becoming yourself. It is precisely that simple and it is also that difficult.” – Warren Bennis

Suzlon Energy may default on FCCBs worth Rs 1,200cr today; asks bondholders to hold on

Suzlon Energy may default on its Foreign Currency Convertible Bonds (FCCBs) worth Rs 1,200 crore. The company has asked bondholders to hold the fixed instrument even as it looks at a one-time settlement plan with banks and a deal with Brookfield.

The Canadian investor is interested in acquiring equity in the Tulsii Tanti-owned 25-year-old company that has net term debt (including FCCBs) of Rs 7,761 crore and working capital debt of Rs 3,380 crore.

Bondholders can expect a resolution only after a consensus is reached with the banks and Brookfield, the report stated.

NCLAT Asks IL&FS, Govt About Steps Taken For 55 Loss-Making Red Firms

The NCLAT has asked from the government and IL&FS about the steps being taken for the 55 loss making red entities of the debt-ridden group.

A two-member NCLAT bench headed by Chairman Justice SJ Mukhopadhaya has asked IL&FS and the Ministry of Corporate Affairs to file an affidavit within two weeks stating the time it would take to decide on it.

The appellate tribunal has also asked as whether any such red entities could be categorised into green or amber list of IL&FS companies.

RBI's creditor pact rule chokes lenders to sticky assets

RBI, in its revised framework, has given operational flexibility to the banks. If an agreement is not in place, they may continue to negotiate with the borrower and make provisions after six months. But the lenders are bound to sign an inter-creditor agreement (ICA) if a resolution plan is to be implemented. ICA will be binding on all creditors if approved by 75% of lenders in terms of outstanding value and 60% in the number of creditors. If a resolution plan is not in place within 180 days, then the lenders will have to make an additional provision of 20% that would step up to 35% if left unresolved beyond 365 days.

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