



## IIPI Newsletter

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Knowledge SBU Initiative

### **Mediation, not bankruptcy, to be key in individual cases**

The government is expected to bring in amendments to the IBC in individual and crossborder cases, seeking to ensure strict implementation of resolution plans and hasten recovery of cash stuck in bad loans. The concept of "mediation" is likely to be introduced while raising the bar in terms of cases that could be filed, two people familiar with the matter said. A threshold may be fixed for individual loan default cases going into mediation instead of bankruptcy administration.

Also, there could be a benchmark for total debt of up to a particular level below which cases would first go through "mediation".

### **Homebuyers given status of financial creditor under IBC to protect their interest: Centre to SC**

The Supreme Court asked the central government if it had a "uniform proposal" outside of the Insolvency and Bankruptcy Code framework to resolve the problems being faced by millions of homebuyers who had not got the possession of their flats despite having paid for these properties to the real estate builders.

"This issue will be bothering lakhs of homebuyers. Within the IBC (Insolvency and Bankruptcy Code), we cannot do anything. But outside it, you (Centre) can suggest something. We can consider that," said a two-judge Bench of Justice A M Khanwilkar and Justice Dinesh Maheshwari, adding that such policy issues have to be resolved by the Centre.

### **NCLAT ruling on Essar Steel matters**

The resolution plan proposed by Arcelor Mittal was questioned by both operational creditors, who alleged that they were not treated on par with financial creditors, as well as some financial creditors such as Standard Chartered Bank that alleged that its claims were not honoured adequately. The NCLAT order stated: "... we hold that the 'Committee of Creditors' has no role to play in the matter of distribution of amount amongst the Creditors including the 'Financial Creditors' or the 'Operational Creditors'..." As such, the NCLAT amended the resolution plan in a way that both financial and operational creditors would receive roughly 61 per cent of their claim

## POINT TO PONDER

**“Leadership is about vision and responsibility, not power.”  
-Seth Berkley**

### **NCLT Cuttack orders liquidation of Adhunik Metaliks, group co Zion**

With the UK-based Liberty House Group failing to implement its resolution plan, the Cuttack Bench of the National Company Law Tribunal (NCLT) on Monday passed order for liquidation of Adhunik Metaliks Ltd and group company Zion Steel.

The Bench, comprising Justice M B Gosavi, Member (Judicial), cancelled the resolution plan of Liberty House and ordered that Adhunik Metaliks, which has more than 1,500 workers and employees, would be liquidated as a “going concern”. Sumit Binani, the interim resolution professional, has been appointed as the liquidator.

### **Bankruptcy Code: Needs an Indian Solution to Issues**

The Mumbai bench of the National Company Law Tribunal (NCLT) said that it will hear the insolvency case against Jet Airways (India) Ltd. and next progress report by the insolvency resolution professional (IRP), who have been approved by the court to oversee the insolvency proceedings of the airline, on 23 July.

The tribunal said it will issue notice to one of Jet Airways’ lessors and regulator Directorate General of Civil Aviation (DGCA) to appear before it on 19 July. The lessors had sought deregistration of a Boeing 777 aircraft belonging to the airline due to non-payment of dues.

The court-appointed IRP for Jet Airways, Ashish Chhawchharia of Grant Thornton India, through his counsel, asked the tribunal to stall deregistration of the Boeing 777 aircraft since the airline is under moratorium.

### **International insolvency in India has a long way to go**

The discourse over cross border or international insolvency framework has significantly gained traction with the turmoil at Jet Airways. Any airline having international operations will naturally have assets and businesses in multiple jurisdictions. If it goes bankrupt, then questions pertaining to the relevant country will naturally arise.

To address such situations, the United Nations Commission on International Trade Law (UNCITRAL) has formulated a model law, which recognises litigation transgressing international boundaries, especially in cases of multinational corporations. India has initiated steps to adopt a Law on Cross-Border Insolvency based on the UNCITRAL Model. A draft Bill has been placed in the public domain for discussion.

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