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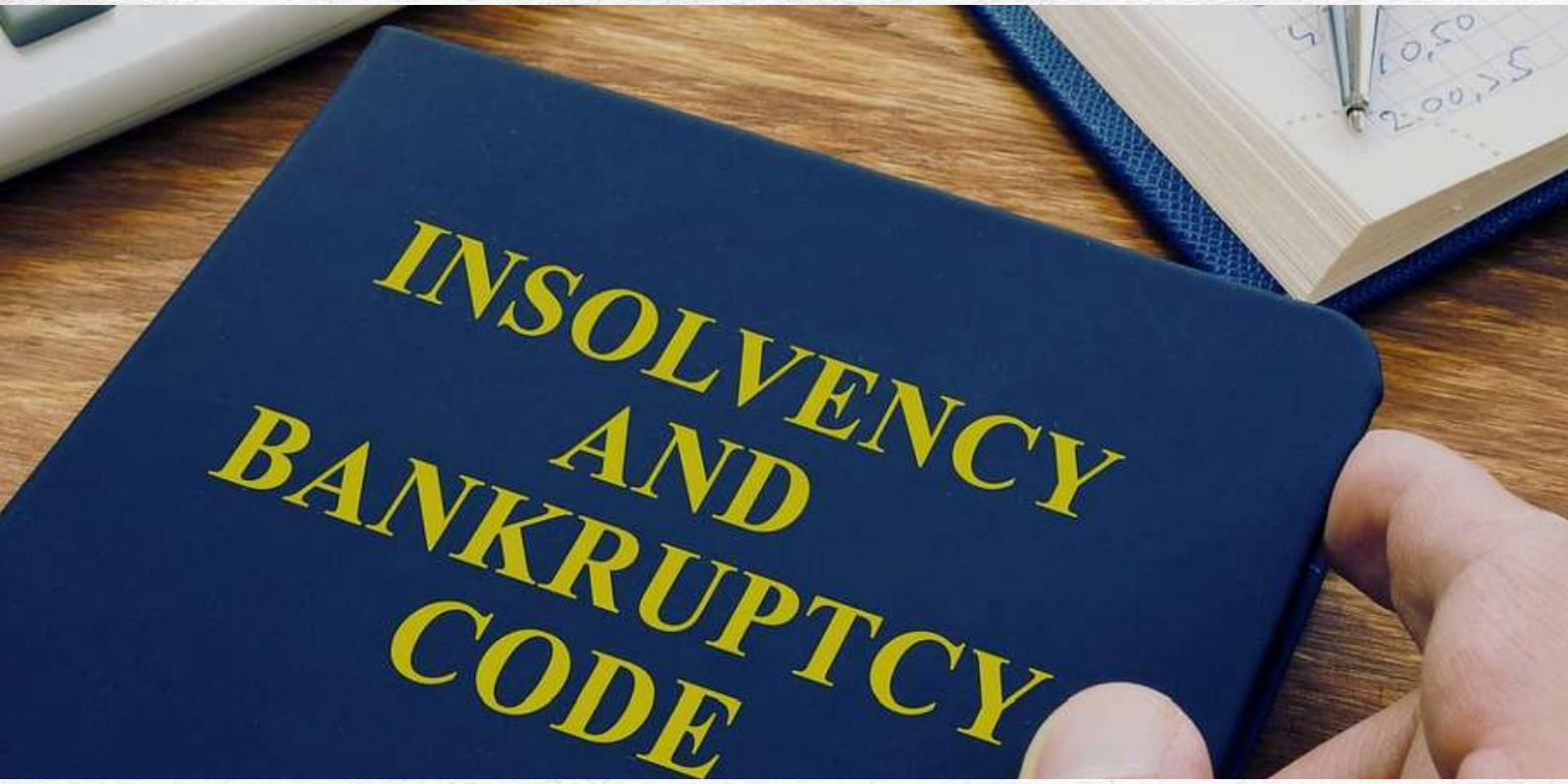

PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS IN A NUTSHELL

The process for Pre-packaged Insolvency Resolution ("Pre-packs") for MSME's under Insolvency & Bankruptcy Code, 2016 was introduced vide Insolvency & Bankruptcy Code (Amendment) Ordinance, 2021 on 4th April 2021. It is worthwhile to note that an MSME meaning Micro, Small and Medium Enterprise ("MSME") for the purposes of the Code is a Company/LLP which is duly classified as such under Section 7(1) of the MSME Act, 2006.

The Corporate Debtor which is an MSME can undergo pre-packaged Insolvency if:-

a. It has not undergone pre-packaged insolvency or Corporate Insolvency Resolution Process ("CIRP") for 3 years prior to initiation date;

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b. It is presently not undergoing Insolvency Process or Liquidation process; and

c. It is ineligible to submit Resolution Plan u/s 29A which means any of its account is not classified as NPA by banks etc.

The following conditions are required to be satisfied/requirements met for pre-packaged insolvency by the Corporate Debtor:-

a. Minimum amount of default is Rs. 10 Lakhs or more.

b. Company to pass Special Resolution or ¾ partners of LLP to pass resolution approving the same.

c. Declaration by Majority Partners/Directors stating that:- i. It is not to defraud creditors; ii. Application will be filed within 90 days; iii. Name of proposed Resolution Professional; and iv. Application is filed prior to or within 14 days of filing of application by any creditor for initiating CIRP.

d. An additional declaration with respect to transactions that may be within the scope of avoidance transactions under Chapter III or fraudulent or wrongful trading under Chapter VII.

e. Financial Creditors of with such number and 66 percent or more voting rights have approved proposal of CD for pre-packaged Insolvency and RP proposed to be appointed:

- Such Approval need to be sought by providing:-
- Providing declaration as above;
- Special Resolution;
- A base resolution Plan;
- Further information and documents specified; and f. Report of RP on base resolution plan.

How do Pre-Packs work?

- A Pre-packaged Insolvency Resolution Process (PPIRP) relates to the resolution of the debt of a distressed company.

- Pre-packs work through a direct agreement between secured creditors and the existing owners or outside investors.

- The agreement is an option instead of a public bidding process.

INSOLVENCY TRIVIA

1 An information utility holds financial information as a

a) Trustee
b) Regulator
c) Custodian
d) Fiduciary

2) As per the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, the resolution professional shall prepare a list of creditors within days from the date of public notice?

a) 07
b) 14
c) 30
d) 60

3) Which of the following is not included as a Creditor in the Code

a) Financial Creditor
b) Secured Creditor
c) Operational creditor
d) None of the above

4) The resolution plan shall be binding on

a) Shareholders
b) Corporate debtor, shareholders and Employees and Creditors
c) Corporate Debtor and Shareholders
d) Corporate Debtor, Shareholders and Employees

- Under it, financial creditors will agree to terms with the promoters or a potential investor.
- They then seek approval of the resolution plan from the National Company Law Tribunal (NCLT).
- The approval of at least 66% of financial creditors that are unrelated to the corporate debtor is required before a resolution plan is submitted to the NCLT.
- The NCLTs will be required to either accept or reject an application for a pre-pack insolvency proceeding before considering a petition for a CIRP.
- Corporate Insolvency Resolution Process (CIRP) is the existing mechanism.

Benefits of Pre-packs

- The pre-pack, is limited to a maximum of 120 days.
- It has only 90 days available to stakeholders to bring a resolution plan for approval before the NCLT.
- In the case of pre-packs, the existing management retains control.
- This would ensure minimal disruption of operations relative to a CIRP.
- Pre-packs are largely aimed at providing MSMEs with an opportunity to restructure their liabilities and start with a clean slate.
- The pre-pack mechanism, however, allows for a 'Swiss challenge' to any resolution plan that provides less than full recovery of dues for operational creditors.
- Under the Swiss challenge mechanism, any third party would be permitted to submit a resolution plan for the distressed company.
- The original applicant would have to either match the improved resolution plan or forego the investment.

Process of filling Pre-Packs

1.Special Resolution is passed, a declaration is provided by directors/partners,that it is not to defraud any creditor and base resolution plan is prepared by the Corporate Debtor from the Declaration date, within 90 days application for pre-packaged insolvency needs to be filed.
2.Such Resolution, Declaration, Base Resolution Plan and further information is to be shared with Financial Creditors of the Corporate Debtor, by Corporate Debtor.
3.Financial Creditors have to approve the proposal for pre-packaged insolvency and name of Insolvency Professional to act as Resolution Professional ("RP")by vote of 66% or more;

ANSWER KEY FOR THE PREVIOUS QUIZ

1.(d) Approval by COC & NCLT

2.(d) 02 Years

3.(d) continue as if he were alive

4.(a) IBBI

4. RP shall till expiry of 90 days as aforesaid or passing of order for admission/rejection, prepare a report on Corporate Debtor and whether base resolution plan conforms to the requirements of code.

5. A. Application, if it conforms to the requirements of the Code and complete shall be admitted within 14 days; or B. Application is defective, a 7 days period shall be provided to rectify the defect, failing which application shall be rejected by the Adjudicating Authority.

6. Resolution Plan shall be approved within 90 days by Committee of Creditors ("CoC") by vote of 66% or more, and total period for pre-packaged insolvency shall be 120 days.

7. If no plan is approved within 90 days of admission of application for pre-packaged insolvency, RP shall file application for termination of pre-packaged insolvency.

8. On admission of application, moratorium kicks in for pre-packaged insolvency period.

9. Within 2 days of admission, the Corporate Debtor shall submit list of updated claims security interest etc. and preliminary information memorandum.

10. While the Board of Directors/Partners continue to manage affairs and protect its assets, the RP shall maintain updated list of claims, monitor the affairs, prepare information memorandum, and constitute CoC etc.

11. During pre-packaged Insolvency, base resolution plan shall be considered shall be first considered subject to the condition that it does not impair claims of Operational Creditors.

I12. If base resolution plan impairs claims of Operational Creditor or is not approved, RP to invite prospective applicants to compete with base resolution plan submitted by Corporate Debtor.

13. Best plan from plans submitted by prospective resolution applicants shall compete with base resolution plan and if neither plan is approved by CoC, RP shall file application for termination.

If approved, RP shall be submitting plan to NCLT for its approval that after satisfying requirements' of the Code have been met, shall approve it.

If Corporate Debtor is not managed properly during pre-packaged insolvency period then promoters/directors cannot be in charge of Corporate Debtor even if their plan is approved by CoC.

14. On rejection of Plan, the Corporate Debtor shall continue to work as going concern unless:-

A. CoC passing resolution by vote of 66 percent or more to initiate CIRP process with respect to such corporate Debtor; or

B. There was mismanagement of affairs of Corporate Debtor during Pre-packaged Insolvency Period wherein liquidation order shall be passed.

LATEST JUDGEMENTS AND UPDATES

SUPREME COURT JUDGEMENTS

1. Asset Reconstruction Company (India) Limited v. Tulip Star Hotels Limited & Ors.

Supreme Court in the case of ***Asset Reconstruction Company (India) Limited v. Tulip Star Hotels Limited & Ors***. (Civil Appeal Nos. 84-85 of 2020) has held that the limitation period under IBC can be extended if acknowledgement of liability was made within three years from the last date of default.

In the present case, the Respondent has challenged the impugned order of the NCLT and the NCLAT admitting the insolvency application filed by the Respondent. The Respondent contended that there are no debts due and payable to the Respondent as the principal amount has already been repaid and the interest on the same is disputed. It further contended that the application filed under Section 7 was barred by limitation as the date of default was of the year 2008 and the acknowledgement made by the Corporate Debtor was till the year 2013, thus, the period of three years was expired as on the date of filing the application.

The Appellant, on the contrary, argued that since the year 2008 when the account of the CD was declared as NPA, a number of acknowledgements were made by the CD via OTS proposal or balance sheet till the year 2017. Thus, the filing of this application in the year 2018 is not barred by limitation as it has been filed within 3 years from the last acknowledgement fate which shall be the new date of default.

The Court referred to various judgements of the Supreme Court including Babulal Vardharji Gurjar and observed that Section 18 of the Limitation Act which provides for acknowledgement of liability shall be made applicable in the present case.

It further observed that the application under Section 7 shall not be barred by limitation if it has been filed within three years from the date of declaration of NPA, if there were an acknowledgement of the debt by the CD before this period.

Lastly, coming on to the facts of the present case, it held that since there were continuous acknowledgement from the CD will since the date of NPA till 2017, the application filed and admitted was well within the limitation period. Thus, the Court upheld the order of the NCLT and the NCLAT.

2. Kotak Mahindra Bank Limited v. Kew Precision Parts Private Limited & Ors.

The Supreme Court in the case of ***Kotak Mahindra Bank Limited v. Kew Precision Parts Private Limited & Ors.*** (Civil Appeal No. 2176 of 2020) has held that Section 25(3) of the Contract Act is applicable to the proceedings under IBC and default pursuant to acknowledgement under the said section may lead to insolvency petition against the defaulter.

The Appellant in the present case has challenged the impugned order of the NCLAT by which has dismissed the insolvency application admitted by the NCLT. The Appellant contended that the loan account was declared as NPA in September 2015 and

in December 2018, the CD had admitted its liability by offering an OTS proposal, thus, the application filed by Appellant is covered by Section 25(3) of the Indian Contract Act which provides for filing of application in case of time barred debts if there is an acknowledgement.

The Respondent, on the contrary, contended that the OTS proposal was made after three years from the date of declaration of NPA and hence, the application for insolvency should not be admitted.

The Court after hearing the parties made out the difference between Section 18 of the Limitation Act and Section 25(3) of the Contract Act and observed that the former is attracted when the acknowledgement is made within three years from the last date of default whereas the latter is attracted when there is an express promise to pay the time barred debt.

Further, the Court took into consideration the acknowledgement of liability as under Section 25(3) of the Contract Act which was left out by the NCLAT. Thus, the application for insolvency was approved and the order of NCLAT was rejected.

3. M/s SS Engineers vs. HPCL

Background and Contentions:-

SS Engineers filed Section 9 Application against the corporate debtor i.e., ***HPCL Biofuel Ltd.*** (HBL), a wholly owned subsidiary of HPCL. Various tenders were executed between the OC and CD for enhancing the capacity of the boiling houses of the HBL from 1750 TCD to 3500 TCD, for this four-purchase order were issued in relation to the tender work.

Thereafter, invoices were raised, however the HBL emailed to the appellant pointing out that the appellant had been violating the terms of the purchase order and backing out from its commitments thereunder, thereby causing huge losses to HBL. HBL contended that because of the failure of the appellant to honour its commitments in terms of the Tenders/Purchase Orders it had to procure materials from other vendors.

Further, a debit-note in respect of consumption by the appellant of spares and consumables from the warehouse of HBL. HBL made allegations with regard to the service rendered and/or goods supplied by the appellants and contended that there was no payment outstanding from HBL to the appellant. Also, HBL claimed that an amount of Rs.1.49 crores was due from the appellant, which amount excluded consequential losses.

HBL sent an email to the appellant stating that HBL would not release money to the appellant as the quality of work done by the Appellant was poor and the Appellant had breached the terms and conditions of the Purchase Orders. Further, C-forms were issued by Respondent CDto appellant OC under Section 8 of the Central Sales Tax Act read with Rules 12(1) of the Central Sales Tax (Registration and Turnover) Rules, 1957. The effect of issuance of C-forms under the Central Sales Tax, do not and cannot constitute acknowledgment of any liability of HBL to the appellant, to make payment. Thereafter, appellant OC demanded payment or alternative dispute resolution, subsequently, demand notice under Section 8 IBC, 2016 claiming amount tune to 18,12,21,452/- along with interest. A second demand notice was also sent by Appellant OC to Respondent CD.

In response, Respondent CD that from the records that there were pre-existing disputes between the parties, a request had been made by the Operational Creditor to HBL to refer the disputes to Arbitration.

Issue:
The question is, whether the application of the Operational Creditor under Section 9 of the IBC, should have been admitted by the Adjudicating Authority?

Held:
The Respondent CD/ HBL has been continuously raised serious allegations against the appellant of breach of its contractual commitments. Therefore, it is evident that Respondent CD/HBL has been contending inter alia that work of erection and commissioning of electric power had not been done, the dead line of 18 completion of the contract work had not been adhered to and the quality of the equipment supplied and/or work done was of poor quality.

Thus, there is a pre-existing dispute regard to the alleged claim of the appellant, and The Adjudicating Authority (NCLT) clearly fell in error in admitting the application.

"The NCLT, exercising powers under Section 7 or Section 9 of IBC, is not a debt collection forum. The IBC tackles and/or deals with insolvency and bankruptcy. It is not the object of the IBC that CIRP should be initiated to penalize solvent companies for non-payment of disputed dues claimed by an operational creditor."

There are noticeable differences in the IBC between the procedure of initiation of CIRP by a financial creditor and initiation of CIRP by an operational creditor

NCLAT ORDERS

1. CA Riya Gupta v. M.s Shilpi Cable Technolgies Ltd

NCLAT in the case of ***CA Riya Gupta v. M.s Shilpi Cable Technolgies Ltd.*** (Company Appeal (AT) (Insolvency) No. 10 of 2020) has held that the fees and expenses incurred by the RP shall form part of the CIRP cost and the Liquidator shall not have the right to adjudicate upon the same. It further held that the fees payable to the RP shall not form part of the claims and hence, cannot be determined or verified by the Liquidator.

The Appellant in the present case has challenged the impugned order of the AA by which the RP was directed to file her claim w.r.t. the CIRP fees before the Liquidator of the CD. The Appellant contended that the Liquidator does not have the power to decide upon the fees of the IRP and the RP. It was further contended that the Liquidator has the power only to verify the claims of the creditors of the CD and the Appellant was not the creditor.

Lastly, it was argued that the fees of the Appellant can only be adjudicated by the AA as the COC is no longer existent.

The Respondent, on the contrary, contended that the COC has decided to fix the fees of the Appellant in the COC meeting in which she was not present and thus, the determination made by the COC cannot be changed. It further argued that the Appellant should have filed her claim before the Liquidator as it is the latter which has the power to decide upon the Appellant's claim.

The NCLAT after listening to the parties observed that the Liquidator doesn't have the jurisdiction to decide the fees of the RP as the COC is no longer in existence. Further, it was held that the fees and expenses incurred by the RP falls under the ambit of CIRP cost upon which the Liquidator cannot adjudicate.

Lastly, it was observed that since the fees of the RP does not falls within the ambit of claims, the same cannot be determined or verified by the Liquidator.

2. Rakesh Kumar Jain v. Jagdish Singh Nanin & Ors.

NCLAT in the case of ***Rakesh Kumar Jain v. Jagdish Singh Nanin & Ors***. (Company Appeal (AT) (Ins.) No. 425 of 2022) has held that Section 14 of IBC nowhere prohibits application of Section 66 and the orders passed by the AA under it.

The Appellant in the present case has challenged the order passed by the AA under Section 66 of the IBC directing the Appellant & other Respondents to deposit the sum of Rs 2687.27 lacs into the account of the Respondent no. 1 on account of defrauding the creditors of CD in carrying out the business of the CD.

The Appellant contended that since the moratorium is in effect for the CD for which Appellant is the RP, any proceedings against this CD will be depreciating the value and thus, should not be continued.

It further contended that moratorium shall restrict the AA in passing the order under Section 66 against the CD for which the Appellant is the RP.

On the contrary, the Respondent contended that the Section 14 nowhere bars the AA to pass an appropriate order under Section 66 which can be passed by the AA during the pendency of the CIRP if the business of the CD has been carried on with the intent to defraud the creditors.

Further, it was also contended that Section 14 does not bars passing of nay order against the RP or the suspended directors.

The NCLAT after hearing the parties observed that the AA is competent to pass an order against the RP or the suspended directors as under Section 66. It further held that Section 14 is not applicable to Section 66 as the purpose of both the sections are different and thus have to be read independently.

Hence, the contentions of the Appellant that during moratorium, the AA shall not pass any order under Section 66 is unsustainable and without any merit.

3. Anita Jindal v. M/s Jindal Buildtech Pvt. Ltd.

NCLAT in the case of ***Anita Jindal v. M/s Jindal Buildtech Pvt. Ltd.*** (Company Appeal (AT) (Insolvency) No. 512 of 2021) has held that the provisions of the Code cannot be used for recovery of money and also cannot be used to initiate an insolvency proceedings against a solvent company.

The Appellant in the present case is the ex-director of the CD against which an application under Section 7 of IBC has been initiated. The Appellant has challenged the admission of insolvency against the CD and submitted that there was no contract with the

Respondent to disburse any amount to the Appellant but to someone else against which the CD has issued cheques only with the intention to provide security. The Appellant further stated that the CD has already paid to the Respondent more than half the default amount and for the rest has already issued the demand draft. Hence, the application should not be admitted against the CD.

The Respondent, on the contrary, argued that there exist a default on the part of the CD which they are liable to pay. It further submitted that the demand draft issued was by another company which is also facing insolvency, thus cannot be accepted.

The NCLAT after hearing the parties observed that since the CD was willing to repay the balance amount, the application for insolvency for the solvent company should stand the test of Section 7.

Further, it observed that the application was merely with the view to recover the dues and not for resolution. Thus, for these reasons, the NCLAT dismissed the admission of application by the AA and stayed the constitution of the COC.

4. Sudip Dutta v. State Bank of India

NCLAT in the case of ***Sudip Dutta v. State Bank of India*** (Company Appeal (AT) (Insolvency) No. 807 of 2021) has held that the provisions of IBC w.r.t personal guarantee can be invoked irrespective of the nationality of the personal guarantor.

The Appellant in the present case contended that since the Appellant has obtained the citizenship of Singapore, the provision as stipulated under Section 95(1) is not more applicable on him, as the IBC is not applicable on foreign national.

Thus, the decision of the AA of admitting an application under Section 95 should not be entertained as the AA does not have the jurisdiction.

On the contrary, the Respondent argued that the Appellant is fully bound by the deed of guarantee given by him and the fact that subsequently he obtained another country's citizenship is inconsequential.

It further contended that the definition of person under the IBC includes the person residing outside India also. Thus, the application has been rightly admitted by the AA.

The NCLAT observed that the Code has been specifically designed for the personal guarantors irrespective of the nationality to which they belong.

Thus, as per Section 60 (1) of the IBC, the AA shall have the jurisdiction to adjudicate upon the matters arising out of personal insolvency of the personal guarantors to the CD.

Further, it also o0bserved that as per Section 60 (1) the residence of the personal guarantor is not taken into consideration when proceedings against it are initiated.

Lastly, it observed that merely the personal guarantor is no longer the citizen of India and has acquired citizenship of another country shall not make the insolvency proceedings initiated under Section 95 irrelevant.

Thus, insolvency proceedings can be initiated against the personal guarantor even if he is a foreign national.

5. Vikas Dahiya (Ex-Director of Golden Tobacco Ltd.) Vs. Arrow Engineering Ltd.

NCLAT in the case of ***Vikas Dahiya (Ex-Director of Golden Tobacco Ltd.) Vs. Arrow Engineering Ltd.*** the Hon'ble Apex Court, recently held that doctrine of resjudicata is applicable to proceedings under IBC also in Ebix Singapore Pte Ltd. vs Committee Of Creditors Of Educomp (2021) ibclaw.in 153 SC held that the doctrine of resjudicata is applicable to the proceeding of IBC.

In view of the principle laid down in the above judgment strictly doctrine of resjudicata is applicable even to the proceedings under IBC and challenge to the findings in incidental or collateral proceedings amounts to an abuse of process of Court.

In any view of the matter, when the Appellant raised a specific ground before the Adjudicating Authority and before this Tribunal in the first round of litigation as narrated above, against the order passed by this Tribunal in judgment passed in Company Appeal (AT)(Ins) No. 183 of 2021, affirmed by the Hon'ble Apex Court in Civil Appeal No. 7715 of 2021 dated 05.05.2022, again raising such grounds in the second round of litigation in incidental proceedings is nothing but an abuse of process of Court.

It also held that judgment obtained by playing fraud on the Tribunal or judgment or order passed without inherent jurisdiction is non-est in the eye of law and the same can be challenged in a collateral or incidental proceeding, but it was not the case of the Appellants in these appeals.

Hence in any collateral or incidental proceeding, the judgment cannot be agitated which attained finality. If such course is permitted it would amount to exercise of power of review of its own judgment or sitting over the judgment in appeal against its own order or judgment which is impermissible under law.

5. Rakesh Kumar Jain RP HBN Homes Colonizers Pvt. Ltd. Vs. Jagdish Singh Nain & Ors. RP of HBN Foods Ltd.

NCLAT held that in the present facts of the case there is absolutely no inconsistency or repugnancy between Section 14(1)(a) and Section 66 of IBC. Section 14 of IBC is a bar against institution and prosecution of any suits or proceedings or execution of orders and decrees in other courts or Tribunals but not a bar to pass appropriate order in the pending proceedings against the resolution professional or suspended directors and related parties, before the Adjudicating Authority, during the insolvency resolution process or liquidation process. On the other hand, Section 66 of IBC empowered the Tribunal to pass appropriate orders when the suspended directors or insolvency professional of the Corporate Debtor carried on fraudulent trading or business during resolution process. Therefore, the Adjudicating Authority passed the impugned order only by exercising power that conferred on it by Section 66 of IBC. Hence, the contention that during moratorium, the Adjudicating authority shall not pass an order impugned in this appeal is unsustainable, without any merit. If such contention is accepted by this Tribunal, Section 66 of IBC would become otiose or redundant.

NCLT ORDERS

1.Sudhir Kumar Goel, Promoters of Shashi Oils and Fats Pvt. Ltd. v/s M/s Shashi Oils and Fats Pvt. Ltd

Background:

The Appellants who were the ex-promoters of the Corporate Debtor, filed an appeal against the order of dissolution u/s Section 54 IBC, of the Corporate Debtor.

Following the rejection of the Resolution Plan, Respondent No. 1 filed application seeking to liquidate the CD.

Meanwhile, the promoters revised a proposal plan for settlement to Respondent no. 2, but wasn't heard, thereafter, Liquidation order was pronounced and Liquidator was appointed.

Promoters, further submitted the revised plan for settlement and it was heard and accepted/approved by the Respondent 2, wherein a tripartite scheme of Compromise and Arrangement was approved and duly intimated to Liquidator.

Due to Imposition of Lockdown no application could be filed before NCLT. The Liquidator published a notice for auction of the land of the Company along with building, plant and machinery at a reserve price of Rs. 3,75,00,000/-.

The said auction was conducted successfully and assets were sold to the successful bidder.

Thereafter, Application of dissolution was filed by the liquidator and NCLT allowed the dissolution of the Company/CD.

Contentions:

The Appellants were of the view that since no such application was served to them, therefore the said order passed by NCLT is bad in law.

Further, the sale of assets of Corporate Debtor on the ground that the value at which the assets were sold were much less than the market price as also the valuation was not properly done which was less than the market rate/circle rate.

Further, the promoters have also provided counter guarantees for this loan against which Bank is going to issue auction notice to sell the houses in which they are staying.

They will be without any shelter to live in and needs sympathetic consideration as the increase in sale of auction price could have given the Appellant a breathing space & a better margin.

The Respondents were of the view that once dissolution order has been passed by the Adjudicating Authority there is no merit in the case and the case deserves to be dismissed.

Further, there is no equity in IBC and hence the applications must be dismissed

Held:

Once the Company is dissolved under Section 54 of the Code, nothing remains. The equity is not applicable under IBC.

Thus, the role of Appellate Tribunal is also restricted within the four walls of the 'Code' & passing of order under Section 54 of the Code brings the Corporate Debtor to a closed chapter.

2. Kuldeep Verma the Liquidator of Eastern Gases Ltd. Vs. DBS Bank Ltd.

In the matter of ***Kuldeep Verma, the Liquidator of Eastern Gases Ltd. Vs. DBS Bank Ltd.,*** the issue that arises out the respective contentions of the parties to see whether the plea of respondent, "neither does the Code regulate nor does the Code provide or delegate powers and/or authority to the liquidator to restrain or restrict the Creditor from charging interest for the period after filing of Form D and actually enforcing its security interest and realizing its debt due" is correct or not.

According to the applicant contention, it could only be till the commencement of liquidation whereas as per the respondent which could raise its claims in the form of interest etc. till actual realization.

For analysing submission on behalf of the Bank and to decide the issue in hand, it is relevant to refer Regulation 12 of the IBBI Liquidation Process Regulations which makes clear that it is the date of commencement of liquidation and 30 days thereafter which is time limit and stage for submission of the claims by stakeholders. Admittedly, respondent submitted his claims in form D.

It was concluded that

a. All claims including interest have to be raised in Form C or D as applicable.

b. Further for raising any such claims by stakeholders, Regulation 12 Insolvency and Bankruptcy Board of India Liquidation Process) Regulations, 2016, prescribes outer limit of thirty days from the date of commencement of Liquidation.

This is further evident from Form B wherein the claims are invited by the Liquidator wherein time for submission of these claims is thirty days.

c. Thus, plea of respondent neither does the Code regulate nor does the Code provide or delegate powers and/or authority to the liquidator to restrain or restrict the Creditor from charging interest for the period after filing of Form D and actually enforcing its security interest and realizing its debt due is in-correct, contrary to provisions/regulations of the Code, indicated above and the same is, therefore, rejected.

d. There are various stages of process of liquidation under the Regulations apart from inviting claims and for which time lines have been prescribed with a view to achieve objective of the Code.

Therefore, the NCLT allowed the IA and directed the respondent bank to pay an amount of Rs. 1.84 crores to the liquidation estate along with interest @ 6% on the said amount from 1st April, 2021, till the date of its actual payment by the respondent to the liquidation estate.

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