

4 November 2019

IBC 2016 in Motion

Creditors Resolve Rs 30,000 crores of Cases in Jul-Sep 2019

IBC resolutions exceed new time limit of 330 days prescribed by govt

The average time taken for completion of 156 CIRPs that have yielded resolution plans has overshoot the government's revised deadline of 330 days for completion of the process.

According to the Insolvency and Bankruptcy Board of India (IBBI) data, till September 2019, 156 CIRPs have yielded resolutions and the average time taken for resolution, including the time excluded by the adjudicating authority (AA) is 374 days; if the time excluded by the AA is considered then the average time taken would stand at 347 days. Either way, the time taken for resolution is more than the government's revised deadline of 330 days.

For extension up to 330 days, which would include all matters pertaining to litigation, would have to be approved by NCLT. The questions of course remains, is what happens if CIRP exceeds 330 days, which it seems that if CoC feels that resolution and revival is commercially viable may be acceded to by NCLT. We will have to wait for time to elapse on this, to see what the outcomes are.

Compromise & Arrangement under Sec 230-232 Companies Act during IBC Liquidation: What the NCLAT has held

The National Company Law Appellate Tribunal has held that an application under Section 230 to 232 of the Companies Act, 2013 for Compromise and Arrangement with creditors is maintainable during the pendency of the liquidation proceedings under the Insolvency and Bankruptcy Code, 2016 (IBC). **However, the Promoters who are ineligible under Section 29A IBC are not entitled to file an application for Compromise and Arrangement in their favour under Section 230 to 232 of the Companies Act, it has clarified.** The Judgment was passed by a two-member Bench of Chairperson, Justice SJ Mukhopadhyay and Justice Bansi Lal Bhatt.

Cauvery Power to face insolvency proceedings

The Chennai bench of the National Company Law Tribunal (NCLT) has ordered corporate insolvency proceedings against Cauvery Power Generation, which has defaulted on payments of Rs 13.71 crore to Punjab National Bank. The company has a coal-based captive power plant of 63 MW capacity at Gummudipoondi near Chennai.

The plant, which started generating power from November 2012, uses coal imported from Indonesia. The account was classified as a non-performing asset by PNB in January 2019. The Bank then initiated the insolvency resolution process under the Insolvency and Bankruptcy Code.

Creditors resolve nearly ₹30,000 Cr claims in Jul-Sep

Financial creditors have been able to resolve insolvency claims of ₹29,849.28 crore during July-September 2019, data from the Insolvency and Bankruptcy Board of India (IBBI) showed. The total resolution amount in the given period was 11% less than the preceding three months, when creditors, primarily comprising banks and asset reconstruction companies, had resolved claims of ₹33,573 crore. Like previous months, most admitted cases led to liquidation as a viable resolution plan could not be arrived at. As on 30 September, 23% of the admitted cases were ordered to be dissolved. In fact, only 6%, or 156 cases, were resolved under the bankruptcy law since December 2016. Interestingly, more cases (186) were closed on the basis of appeal, review or settlements. The number of ongoing corporate insolvency resolution process (CIRP) cases stood at 1,497 as on 30 September.

NCLAT rejects Saregama India plea to initiate insolvency against Chennai based movie producer

NCLAT (New Delhi) has dismissed a plea filed by Saregama India Ltd to initiate insolvency proceedings against Chennai based Home Movie makers observing that it is not a financial creditor under the Insolvency and Bankruptcy Code (IBC). The appellate tribunal held that the advance money paid by the RP-Sanjeev Goenka Group company to film producers Home Movie Makers for using the free commercial time (FCT) while telecasting of Tamil Commercial serial titled Ganga on Sun TV channel was not a financial debt under the definition given in IBC.

Voluntary liquidation rises under Insolvency and Bankruptcy

Voluntary liquidation of Indian companies under Insolvency and Bankruptcy code (IBC) has gone up 14x with final reports submitted standing at 30 cases in the June-September quarter, compared to just two cases in the same quarter last year. Among various reasons, voluntary liquidation for not carrying business operations stands the highest at 259 cases (of 426 cases) since January 2019. In their quarterly newsletter, insolvency regulator IBBI has recorded a total of 498 cases of Voluntary Liquidation admitted till September 30, 2019. With the IBC Amendment in 2018, Section 59 of the Code gives provisions for companies to voluntarily initiate a liquidation process. According to Section 59(1) of the IBC Act, voluntary Liquidation can be initiated by a Corporate Person who has not committed any default.

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