

IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



VINAY KUMAR MITTAL & ORS VS. DEWAN HOUSING FINANCE CORPORATION LTD. & ORS (CIVIL APPEAL NO.654 -660 OF 2020)

Brief Facts

Reliance Nippon Life Asset Management Ltd. ("Reliance Nippon") and ("Respondent No.4") subscribed to the Non-Convertible Debentures of Dewan Housing Finance Corporation ("DHFL") and ("Respondent No. 1"). DHFL failed to pay the entire amount towards the early redemption to Reliance Nippon. Consequent to this High Court of Bombay restrained DHFL from making further payments disbursements to any unsecured creditors and secured creditors except in cases where payments are to be made on a pro-rata basis to all secured creditors out of its current and future receivables in preference to the payments owed to Reliance Nippon and also clarified that DHFL shall not be prevented from making any payments overdue or payable under the assignment agreements in favour of any or all such banks or assignees of loans.

Pursuant to this an Appeal was preferred against the order passed by the DRT-I, Mumbai and interim orders passed by the High Court of Bombay by the Appellants who are depositors who invested in fixed deposits with DHFL and aggrieved by the above mentioned order restraining DHFL from making any payments towards their fixed deposits. By placing reliance on Section 36 and 36 (A) of the National Housing Bank Act, 1987 and Section 45 (q) (a) of the Reserve Bank of India Act, 1934, Appellants submitted that the repayments of the deposits of the Appellants should be given preference over the contractual claims of the debenture holders.

Legal counsel on behalf of RBI submitted that CIRP has been initiated against DHFL on 03.12.2019 thereby imposing moratorium under Section 14 of the IBC,2016 prohibiting the institution of any suit or continuation of proceedings or execution of any decree against DHFL and transferring, alienating or disposing of any asset of DHFL and any action to foreclose, recover or enforce any security interest created by DHFL in respect of its property with effect from the date of filing the application i.e. 29.11.2019 till the completion of CIRP.



**INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)**

IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



VINAY KUMAR MITTAL & ORS VS. DEWAN HOUSING FINANCE CORPORATION LTD. & ORS (CIVIL APPEAL NO.654 -660 OF 2020)

Decision

Hon'ble Supreme Court held that the claims made by the depositors (including the claims of Appellants) shall be considered by the Committee of Creditors and the Administrator for DHFL without being influenced by the previous orders passed by the High Court of Bombay and DRT-I, Mumbai. Apex Court further added that the depositors are being represented by the Authorised Representative before the Committee of Creditors and Appellants are free to raise all points and contentions before the same and also reiterated that the tribunal and courts are not inclined to interfere with the decision of the Committee of Creditors .

Link to the Order (Dated 31.01.2020)

<https://ibbi.gov.in/uploads/order/6deec48b4499e05ef6a6d9831cf2330f.pdf>

We wish insolvency Professionals all the success in their professional endeavours.

Thanks & Regards

Team IPA ICAI (Cost)



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA (IPA ICAI)