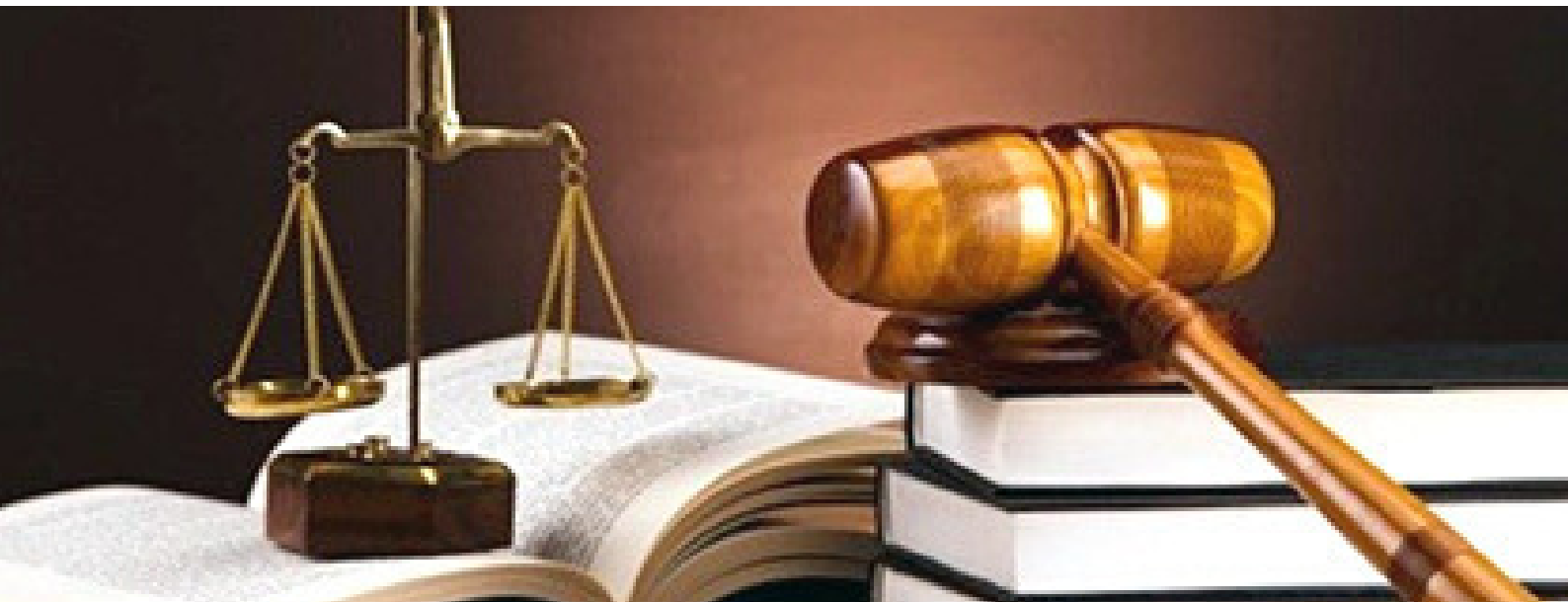


# IBC DOSSIER

A Bulletin on Landmark Judgements under IBC, 2016



## **TATA STEEL BSL LIMITED & ANR V/S. UNION OF INDIA W.P.(CRL) 3037/2019 AND CRL.M.A. 39126/2019**

### Brief Facts

State Bank of India initiated corporate insolvency resolution process against Bhushan Steel Limited (“Bhushan”) in July 2017. Thereafter, Tata Steel Limited became the successful resolution applicant for Bhushan after approval of its resolution plan by NCLT in May 2018 and acquire 72.65% of equity capital of Bhushan. The management of Bhushan was taken over by the new promoters who were not connected with the previous management. The petitioner has filed the present petition impugning an order dated 16.08.2019 in CC No. 770/2019 captioned ‘Serious Fraud Investigation Office v. Bhushan Steel Limited’, whereby the Trial Court had taken cognizance of the offences punishable under the Companies Act, 2013; offences punishable under the Companies Act, 1956 and; certain offences under the Indian Penal Code, 1860.

### Decision

Delhi High Court held that as per the Section 32A of IBC, 2016 ; a Corporate Debtor would not be liable for any offence committed prior to commencement of the corporate insolvency resolution process and the corporate debtor would not be prosecuted if a resolution plan has been approved by the Adjudicating Authority. In the present case, there was no dispute that a resolution plan has been duly approved by NCLT . Accordingly, Delhi High Court held that the Tata Steel BSL Limited cannot be prosecuted & is liable to be discharged u/s 32A of IBC, 2016 and that this order will not affect the prosecution of the erstwhile promoters or any of the officers who may be directly responsible for committing the offences in relation to the affairs of the petitioner company.

### Link to the Order

<https://ibbi.gov.in/uploads/order/9788b8a21170dc9a1a10309895394106.pdf>



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