



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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Latest updates On Insolvency & Bankruptcy

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“The journey of a thousand miles begins with a single step.”

➤ **Sebi can't initiate proceedings against companies under IBC, says panel**

The Insolvency Law Committee has recommended against giving any special dispensation to the Securities and Exchange Board of India (Sebi) from the moratorium clause under the Insolvency and Bankruptcy Code (IBC).

According to the rules, once a company is admitted into insolvency under the code, a blanket moratorium kicks in barring regulators from initiating any fresh proceedings against the company. Sebi has made representations to the central government, seeking an exemption from this rule and the matter was referred to the Insolvency Law Committee, said people with direct knowledge of the matter.

In its report to the government, the committee opined that any exemptions on moratorium could hinder the IBC process. Under the law, the central government has powers to exempt any regulator or financial arrangement from the ambit of moratorium.

"The exemption under Section 14(3)(a) (exemption from moratorium) should be exercised only in exceptional circumstances, which may not hinder the smooth conduct of the CIRP and hence, should not be relaxed until found necessary from the implementation experience of the code," said the report, submitted to the finance ministry last week. An email sent to Sebi remained unanswered.

The markets regulator had sought the exemption since in several cases, the interests of public shareholders were being put at risk by these companies, said people cited above. There have been multiple cases where the companies continued to be listed on the stock exchanges during the resolution process

and did not comply with the listing rules. For instance, in some cases, the promoter shareholding reached 98-99%, shrinking the free-float shares available in market for trading. Such situations were exploited by certain market traders to manipulate the stock prices.

"Many firms continued to be listed on stock exchanges while going through resolution process and, at the same time, such companies might not be fully compliant with securities laws. Hence, Sebi wanted the exemption from moratorium to protect the interests of public investors," said Manoj Kumar, partner, Corporate Professionals.

"However, the idea of IBC itself is to preserve the value of business during CIRP and provide a clean slate to the new buyer, and any pending regulatory action may hamper the interest of potential buyers. Typically, these proceedings take years to conclude along with uncertainty to the new management about extent of liability," said Kumar.

To be sure, the moratorium only applies to proceedings against the company under resolution. However, regulators have powers to take action against the individuals of the company such as promoters or key executives for any lapses.

In its report, the Insolvency Law Committee said that an effective insolvency law must protect "the value of the insolvency estate against diminution by the actions of multiple stakeholders to insolvency proceedings".

It further added that moratorium helps in achieving this purpose and ensures that assets of debtor are kept together to facilitate maximisation of value.

However, in some cases, Sebi went ahead and initiated action against companies under IBC. However, the Securities and Appellate Tribunal (SAT) has time and again upheld that the moratorium clause in the IBC overrides all the other laws including securities law.

Another key contention of Sebi is that sometimes it initiates investigation against a company prior to IBC process but by the time the regulator issues a show-cause notice, the company may be under IBC. Even in such cases, SAT has opined that the moratorium prevails.

Source: The Economic Times

Full news at: <https://economictimes.indiatimes.com/news/economy/policy/sebi-cant-initiate-proceedings-against-companies-under-ibc-says-panel/articleshow/92396507.cms>

➤ **Supertech Plans To Raise Around Rs 300 Crore To Expedite Construction At Its Ongoing Projects**

Realty firm Supertech Ltd on Wednesday said it plans to raise about Rs 300 crore to expedite construction activities at its ongoing projects across the Delhi-NCR market.

In a statement, Supertech said it has "resumed construction in full swing" at all its projects after the orders of the National Company Law Appellate Tribunal (NCLAT) dated June 10, allowing the company to continue project execution at all projects and limiting the scope of corporate insolvency resolution process ordered by NCLT earlier.

"The company has tied up with investors to accelerate construction. The company has in hand investment offers of approximately Rs 300 crore which would help them to augment construction and delivery," Supertech said.

A two-member NCLAT bench limited the Corporate Insolvency Resolution Process (CIRP) to only 'Eco Village II' project located at Greater Noida (west).

R K Arora, Chairman of Supertech, said the company would comply with the orders of the NCLAT by delivering homes to allottees while clearing the bank debt.

Arora said the construction works which were halted due to the uncertainty after the previous NCLT Order, has now started in full swing.

As on date, 1,156 labourers are working at all 16 projects and the company's priority is to concentrate on flats which can be delivered in next three months, he added.

Earlier, on a petition filed by Union Bank of India, the NCLT had ordered commencement of Corporate Insolvency Resolution Process (CIRP) on the company along with all its projects.

Aggrieved by the orders and to address the concerns of the home buyers, Arora said the company appealed before NCLAT along with a Resolution-cum-Settlement Plan, seeking to allow them to complete construction

On June 10, the NCLAT ordered starting of insolvency proceedings in only one of the housing projects of realty firm Supertech and not the entire company,

and directed constitution of the Committee of Creditors (CoC) for the said project only.

Source: Outlook

Full news at: <https://www.outlookindia.com/business/supertech-plans-to-raise-around-rs-300-crore-to-expedite-construction-at-its-ongoing-projects-news-203941>



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