

Insolvency and Bankruptcy Board of India

No. IBBI/PR/2019/22
17th August, 2019

Press Release

IBBI organises Seminar on “Insolvency and Bankruptcy Code, 2016” at Bhopal

Insolvency and Bankruptcy Board of India, in association with National Law Institute University, Bhopal organised a Seminar on “Insolvency and Bankruptcy Code, 2016” in the latter’s campus. The delegates included academics, insolvency professionals, registered valuers, chartered accountants, cost accountants, company secretaries, advocates, businessmen and students of higher education from leading institutions from across Madhya Pradesh.

2. Delivering the inaugural address, Hon’ble Mr. Justice S. J. Mukhopadhaya, Chairperson, National Company Law Appellate Tribunal stated that section 29A in the Code was necessitated to prevent people, who do not have a track record of credibility or may have contributed to the failure of the business, from taking control of the corporate debtor. He pointed out that a liquidator of the corporate debtor can also apply for compromise and arrangement under section 230 of the Companies Act, 2013. This may save the corporate debtor from liquidation as the process under the Code endeavours reorganisation or resolution of the corporate debtor in distress. The procedure before the NCLT is adjudicatory, which is not adversarial, he pointed out. He said that scope of strict interpretation of law and prolonged arguments before the Adjudicating Authority, therefore, should be avoided. Only determination of debt payable, in fact or in law, is to be determined by it on an application to trigger insolvency. Mr. Mukhopadhaya suggested that operational creditors are an important constituent of the insolvency ecosystem. If their interests are not protected, they would default in their debt obligations. This may push some of them into liquidation, causing loss to financial creditors.

3. In his address as Guest of Honour, Hon’ble Mr. Justice G. Raghuram, Director, National Judicial Academy, Bhopal said that the insolvency professionals are individuals who are tirelessly navigating the unruly ship of in the choppy waters in the insolvency process. He lauded the way the Government and the regulator are responding to market challenges quickly whenever need arises.

4. Dr. M. S. Sahoo, Chairperson, IBBI said that a dynamic law is one which is crafted in the context of life. Given that life is ever evolving, the Insolvency and Bankruptcy Code, 2016 underwent prompt course corrections, to address deficiencies arising from implementation of the Code, in sync with the emerging market realities, to further its objectives. It has witnessed three major legislative interventions in as many years and dozens of subordinate legislations. The Insolvency Law Committee continuously reviews the implementation of the Code to identify issues impacting the processes under the Code and make recommendations to address them. The Adjudicating Authority (AA), the National Company Law Appellate Tribunal (NCLAT) and the Supreme Court (SC) have delivered numerous landmark orders to explain several conceptual issues, settle contentious issues and resolve grey areas, with alacrity. These orders have imparted clarity to the roles of various stakeholders in the resolution process and as to what is permissible and what is not, thereby streamlining the process for future. Dr. Sahoo further stated that the insolvency journey has weathered several storms on the way. Besides the usual challenges of building institutional capacity and developing the markets and practices to implement the reform, there was scepticism if the Code can be implemented at all and if it

would meet the same fate as many such reforms had in the past. There was also reluctance to accept the reform and, at times, vigorous efforts were made, to cling on to the old order. The resistance came in different forms from different quarters and continues even today. Almost every provision in the Code in respect of corporate insolvency and the amendment Acts have challenged on grounds of constitutional validity. With every such challenge, the insolvency reforms have developed deeper and stronger roots.

5. The other dignitaries who addressed the Seminar and interacted with the delegates included: Hon'ble Mr. H. P. Chaturvedi, Member (J), NCLT; Dr. T. K. Viswanathan, Chairperson, Bankruptcy Law Reforms Committee; Dr. Mukulita Vijayawargiya, Whole Time Member, IBBI; Prof. (Dr.) V. Vijayakumar, Vice-Chancellor, National Law Institute University, Bhopal; Prof. (Dr.) Anoop Swarup, Vice Chancellor, Jagran Lakecity University, Bhopal, Mr. K. R. Saji Kumar, Executive Director, IBBI; Prof. (Dr.) V. K. Dixit, National Law Institute University, Bhopal; Dr. Vijay Kumar Choudhary, Advocate, Co-Chairman, State Bar Council of MP & President, District Bar Association, Bhopal; Ms. Swarupma Chaturvedi, Advocate; Mr. Piyush Mishra, Partner, AZB & Partners; Mr. Ramakant Rai, Partner, Trilegal; Mr. Vijaykumar V. Iyer, Partner, Deloitte, and Mr. Shailendra Ajmera, Partner, E&Y; Prof. Dr. Ghayur Alam, NLIU, Bhopal and Mr. Anil Chawla, Independent Director, Federation of Madhya Pradesh Chambers of Commerce and Industry.

6. Hon'ble NCLAT Chairperson, Justice Mukhopadhaya also felicitated four NLIU students, who won Ian Fletcher International Moot on Insolvency Law and two students who won the IBBI Essay Competition, respectively.