

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

Bank of Maharashtra (BOM) & IFCI Ltd. Vs.Videocon Industries Ltd. & Ors.

FC who did not assent to the R. plan in the CIRP of the 13 Videocon Group Entities filed appeals before NCLAT, challenging the Plan approved. The NCLAT has, stayed the operations of the R.Plan. Further the Res.Prof. has been directed to continue to manage the 13 Videocon Group Entities till next date.

The appeal was made on the grounds that Section 30(2)(b) was not complied with in respect of payments made to the dissenting FC wherein they need to be paid not less than the LV. The appellant were proposed to be paid only a part in cash and major proportion to be paid in the form of NCD to which the AA in its impugned order directed payment of cash which would be changing the plan.

The Plan provided meagre amount of Rs 2,962 crores for admitted liability of Rs 64,838.63 crores provided for almost 96% of haircut whereby public money has been lost. It was argued that no upfront payment has been provided in the approved R. plan to comply with the provisions of Section 30 read with Section 53 and that NCD has been used as modality to pay the appellant.

Operational Creditors would also get a very meagre amount of only 0.72%. The Successful Resolution Applicant is paying almost nothing and 99.28% hair cut is provided. (Hair cut or Tonsure, Total shave). In near future many of these OC may have to face insolvency Proceedings which may be inevitable.

The questions on breach of confidentiality was also raised as to the information containing the LV and FMV and also asked the IBBI to look in to the issue.

The contention was that since the CD already had Rs. 200 cr cash and SRA by paying only 262 cr will get possession of all the 13 companies.

Hence, the AA considering the exceptional facts the Impugned Order is stayed till the next date and status quo ante as before passing of the Order is directed to be maintained.