

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

NCLT Delhi Go Airlines (India) Limited - order delivered on 10.05.2023.

In month of May'2023, Go Airlines (India) Limited ("Go Air") made headlines by announcing that they have filed an Application u/s. 10 of the Insolvency Bankruptcy Code, 2016 ("Code") being Company Petition No. 264 of 2023 (said CP) before National Company Law Tribunal, New Delhi (NCLT).

Section 10 Application provides a way-out to a defaulting company who shall have right to approach the Adjudicating Authority ("AA") by filing an application under Form 6 of the Code. This affords an opportunity to the defaulting company to resolve its debt and revive the company through the resolution process. And Go Air has strategized to do the same.

Pursuant to the aforesaid provision of the Code, Go Air filed Form 6 wherein they cited the reasons being failure by Pratt and Whitney to supply engines that have grounded about half of Go Air's 54 Airbus A320neos, further they also envisaged that no account of Go Air has been turned NPA by any Financial Creditors.

On satisfaction of submission of complete set as per Section 10 (3) of the Code and Go Air not being disqualified u/s. 11 of the Code, the AA admitted the said CP. AA appointed Mr. Abhilash Lal as an IRP vide its Order dated 10.05.2023.

Thereafter, the lessors of the Go Air challenged the moratorium imposed on them being a third-party. As the moratorium ceased them from taking back their aircraft which were leased to the carrier. However, the appeal before NCLAT was dismissed vide its Order dated 22.05.2023 and the lessors were directed to raise their claims before the IRP. Further, Mr. Lal was affirmed as RP by NCLAT and was directed to maintain the status of the airlines as a "going concern".