

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

Supreme Court Judgment:

Phoenix ARC Private Limited Vs. Spade Financial Services Limited –

Recently, in a three bench judgment of the Supreme Court in has clarified its view on the exclusion of related parties of the Corporate Debtor and their active involvements in forming a part of the CoC, as under section 21 of the Insolvency Bankruptcy Code (IBC). The court on examination of the legislative intent behind first proviso of Section 21(2) concluded that the realm of the code was structured to limit the approaches from the Corporate Debtor perspectives. As Corporate Insolvency Resolution Process shall be accelerated only after the collation of "Outstanding Claims "of the Financial Creditor to whom the debt is owned or has been legally transferred as defined under section 5(7). Consequently, the Code sets aside the claim of those financial creditors befitting the term of "Related Parties", eradicating their right from participation, voting and proposition of the resolution plan.

Karnataka High Court Judgment:

Dreamz Infra India Private Ltd. Vs. Competent Authority –

The Insolvency and Bankruptcy Code, 2016 (IBC) would have an overriding effect over the Karnataka Protection of Interest of Depositors in Financial Establishments Act, 2004 (Act), the Karnataka High Court recently ruled, quashing parallel proceedings initiated by the State government against Dreamz Infra India Private Limited ruled that the Insolvency and Bankruptcy Code, (2016 (IBC) will have an overriding effect on State Act.