



Resolution Plan under IBC

WORKSHOP ON INSOLVENCY RESOLUTION PLAN

SECTION 30 & 31

Submission and Approval of
Resolution Plan

Relevant Legal Provisions

S.No.	Stage of Resolution Plan	Relevant Provisions
1	Submission of Resolution Plan by RA to RP	S 30(1) + R 39(1)
2	Contents of Resolution Plan	S 30(2) + R 38
3	Measures for Resolution of CD	R 37
4	Submission of Resolution Plan by RP to COC	S 30(3) + R 39(2)
5	Rejection of Resolution Plan by COC	R 39 (1B)
6	Approval of Resolution Plan by COC	S 30(4+5) + R39(3+3A+3B)
7	Submission of Resolution Plan to AA	S 30(6) + R39(4)
8	Approval of Resolution Plan by AA	S 31 (1+2+3)
9	Approvals for implementation of Resolution Plan	S 31(4) + R 39(6)

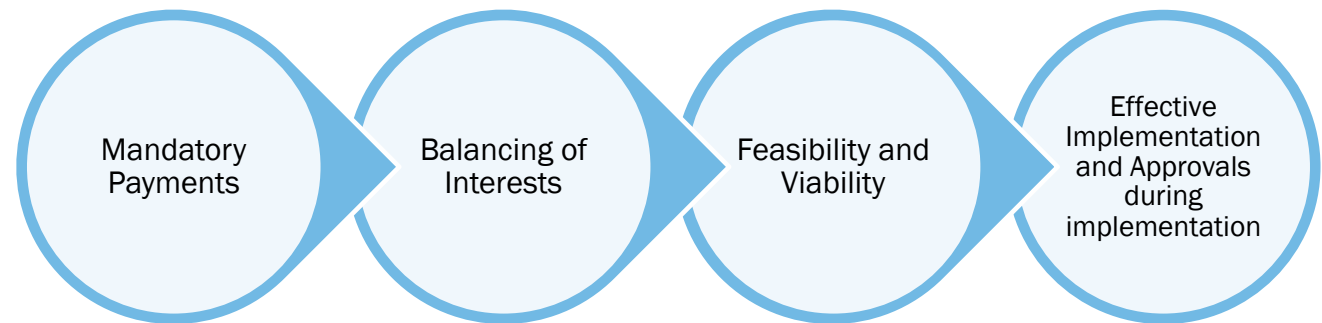
SUBMISSION OF RESOLUTION PLANS GETS DEFINED BY RFRP

- RFRP shall allow prospective resolution applicants (PRA) a **minimum of 30 days** for submission of the resolution plan.
- RFRP shall not require any **non-refundable deposit** for submission of or along with resolution plan.
- RFRP shall require RA to provide a **performance security**, in case its resolution plan is approved under section 30(4).
- RFRP may be **reissued with the approval of COC**, if the resolution plans received are not satisfactory
 - Provided request is made to all PRA's in the final list for submission of resolution plan.
- RFRP may allow **modification** of the resolution plan received, which shall **not be more than once**.
- RFRP may allow for **use of challenge mechanism** to enable resolution applicants to improve their plans.

SUBMISSION OF RESOLUTION PLANS

- A resolution applicant (“RA”) may submit a resolution plan to the resolution professional (“RP”) prepared on the basis of the information memorandum **along with**
 - **an affidavit** stating that he is eligible under section 29A.
 - **an undertaking** about true and correctness of every information and records provided in connection with or in the resolution plan, ineligible for participation in CRIP process, forfeiture of refundable deposit, and attract penal action, in case of discovery of false information and record at any time.
- Where resolution plan has a provision for combination within the meaning of section 5 of Competition Act, 2002, PRA shall obtain prior approval of Competition Commission of India.

EXAMINATION OF RESOLUTION PLANS BY THE RP



MANDATORY PAYMENTS -1

- Provides for payment of **insolvency resolution process costs** in priority to the payment of other debts of the corporate debtor (“CD”)
- Provides for payment of **dissenting financial creditors**, which shall not be less than the amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53.
- Provides for payment to dissenting financial creditors in **priority** over assenting financial creditors.

MANDATORY PAYMENTS - 2

- Provides for payment of minimum amount to **operational creditors**, which will be higher of the followings:
 - The amount to be paid to such creditors in the event of a liquidation of the corporate debtor under section 53; or
 - That amount that would have been paid to such creditors, if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority in section 53(1).
- Provides for payment to operational creditors in priority over financial creditors.

BALANCING OF INTERESTS

- Includes a statement as to how it has dealt with the **interests of all stakeholders**, including financial creditors and operational creditors of the corporate debtor.
- Includes a statement giving details if the resolution applicant or any of its related parties has **failed to implement** or contributed to the failure of implementation of any other resolution plan approved by the Adjudicating Authority at any time in the past.

FEASIBILITY AND VIABILITY

- Demonstrates that it addresses the cause of default and it is feasible and viable.
- Provides for the **measures**, as may be necessary, for insolvency resolution of the CD for maximization of value of its assets, including but not limited to measures listed in Regulation 37.
- Demonstrates that the resolution applicant has the capability to implement the resolution plan.

EFFECTIVE IMPLEMENTATION

- Provides for the management of the affairs of the Corporate debtor after approval of the resolution plan.
- Provides for effective **implementation and supervision** of the resolution plan.
 - Provides for the term of the plan and its implementation schedule.
 - Provides for the management and control of the business of the corporate debtor during its term.
 - Provides for adequate means for supervising its implementation.

APPROVALS NEEDED FOR IMPLEMENTATION

- Provides for approvals required and the timeline for the same.
- Approval of shareholders required under Companies Act or any other law shall be deemed to have been given.
- Approvals of members or partners of CD required under the terms of the constitutional documents of the CD, shareholders' agreement, joint venture agreement or other document of a similar nature shall be deemed to have been obtained.
- Approvals other than deemed approvals and CCI approval, if any required shall be obtained by RA within a **period of one year** from the date of approval of resolution plan by Adjudicating Authority or within such period as provided for in such law, which ever is later.

OTHER REQUIREMENTS

- Provides for the manner in which proceedings in respect of **avoidance transactions**, if any,
 - will be pursued after the approval of the resolution plan and
 - the manner in which the proceeds, if any, from such proceedings shall be distributed.
- Does not contravene any of the provisions of the law for the time being in force.

APPROVAL OF RESOLUTION PLAN BY THE COC

- RP shall submit to COC all resolution plans, which complies with Code and Regulations.
- COC shall not consider any resolution plan
 - received after the timeline provided in Request for resolution plan (“RFRP”)
 - received from a person who does not appear in the final list of prospective resolution applicants or
 - does not comply with the provisions of section 30(1) and 30(2).

CONSIDERATION OF THE RESOLUTION PLAN BY THE COC

- COC shall evaluate the resolution plans as per **evaluation matrix**.
- COC shall record its deliberations on the **feasibility and viability** of each resolution plan.
- COC shall consider for manner of proposed distribution.
 - **Manner of proposed distribution** may take into account the order of priority amongst creditors as laid down in section 53(1) including the **priority and value of the security interest** of a secured creditor.

VOTING ON THE RESOLUTION PLAN(S) BY THE COC

- Where only one resolution plan is put to vote,
 - It shall be considered approved if it receives vote of **not less than 66% of voting share** of the financial creditors.
- Where **MORE THAN ONE** Resolution Plan are presented then the COC shall vote on all resolution plans simultaneously.

METHODOLOGY FOR APPROVAL BY THE COC

Voting Outcome	% of Vote in Favor of		Status of Approval
	Plan A	Plan B	
1	55	60	No Plan is approved, as neither of the Plans received not less than sixty six percent votes. The Committee shall vote again on Plan B, which received the higher votes, subject to the timelines under the Code.
2	70	75	Plan B is approved, as it received higher votes, which is not less than sixty six percent votes requisite votes.
3	75	75	The committee shall approve either Plan A or Plan B, as per the tie-breaker formula announced before voting

CASE LAWS AND JUDICIAL PRONOUNCEMENTS



DELAYED SUBMISSION OF RESOLUTION PLAN

[Supreme Court Kalpraj
Dharamshi & anr. v. Kotak
Investment Advisors Ltd. & anr]

KEY HIGHLIGHTS

- As per Form G, the last date for submission of Res Plan was , **08.01.2019**
- Resolution plans was submitted by four Resolution Applicants.
 - Kotak Investment (RA 1) and Karvy Data (RA2) submitted resolution plan on **08-01-2019**.
 - WeP solution (RA3) submitted resolution plan on **13-01-2019**. Kalpraj (RA4) submitted on **27-01-2019**.
- COC requested RA's for submission of revised Resolution Plans. Revised resolution plan was submitted.. Kotak (RA1) objected for consideration of delayed submitted Res Plan of RA4
- COC approved Kalpraj (RA4) Resolution plan. [**13-02-2019**]
- NCLT rejected objection by Kotak (RA1) and approved Kalpraj (RA4) resolution plan [**28-11-2019**]

DELAYED SUBMISSION OF RESOLUTION PLAN

[Supreme Court Kalpraj
Dharamshi & anr. v. Kotak
Investment Advisors Ltd. & anr] -
CONTINUED

KEY HIGHLIGHTS (Continued)

- Kotak (RA1) filed Writ in Bombay High Court which was rejected vide order dated 28.01.2020 on the ground that there is alternative remedy available for appeal in NCLAT.
- Kotak (RA1) filed appeal in NCLAT. NCLAT set aside order of NCLT and directed COC and RP to take decision afresh for consideration of resolution plans submitted prior to the last date for submission of resolution. [05-082020]
- Kalpraj (RA4) filed appeal in SC. SC decided that even if RP had accepted the resolution plans submitted by others after the timelines had expired but within the overall CIRP period, it was quite alright since such actions had the blessings of the CoC.[10-03-2021]

Regulation 39 (1B) amended effective 30-09-2021. COC shall not consider any resolution plan received after the timeline provided in Request for resolution plan.

AVOIDABLE TRANSACTIONS

[Delhi High Court *Venus Recruiters Private Limited v. Union of India & ors.* Dated 26-09-2020]

KEY HIGHLIGHTS

- Avoidable transactions application was filed (under Section 43) by RP on **09-04-2018** against Venus Recruiter for payment of 10% service charge by Bhushan Steels Limited.
- NCLT approved the resolution plan on **18-05-2018**.
- Avoidable transactions application was heard for the first time in **July 2018**.
- Former RP and Venus Recruiter filed memo for impleadment.
- Memo for impleadment of Former RP was challenged in Delhi High Court.
- High Court held that NCLT have no jurisdiction to adjudicate except on issues relating to resolution plan after approval of resolution plan.

AVOIDABLE TRANSACTIONS

[Delhi High Court *Venus Recruiters Private Limited v. Union of India & ors.* Dated 26-09-2020]

KEY HIGHLIGHTS - Continued

- High Court observed that if there are any objectionable transactions, the order in respect thereof will have to be passed prior to the approval of the resolution plan.

Regulation 38(2)(d) amended effective 14-06-2022. Suitable provision in the resolution plan has to be made for perusal of application after the approval of the resolution plan and the manner for distribution of proceeds.

PRIORITY OF CHARGE (LIQUIDATION STAGE)

[NCLAT - *Technology Development Board v. Anil Goel & Ors., 2021, Company Appeal (AT) (Insolvency) No.731 of 2020 in the matter of Gujarat Oleo Chem Limited*]

- NCLAT held that a secured creditor holding first charge or second charge is material only if it elects to realize its security interest. [05-04-2021]
- If it opts to relinquish its security interest, the distribution of assets would be governed by section 53(1)(b)(ii), whereunder all secured creditors having relinquished security interest rank equally.
- NCLAT directed **the Liquidator** to treat the secured creditors relinquishing security interest as one class irrespective of priority charge.

The matter is currently pending before Hon'ble SC, Operation of NCLAT order has been stayed vide its order dated 29-06-2021.

PRIORITY OF CHARGE (LIQUIDATION STAGE)

[NCLAT - Oriental Bank of Commerce v. Anil Anchalia, Liquidator of M/s. Bala Techno Industries Ltd., 2022, CA (AT) (Ins.) No. 547 of 2022

- NCLAT held that creditor having first charge over the assets **cannot claim priority** over other secured creditors in the distribution of the proceeds from the sale of a secured asset, **once they have relinquished their security interest over the assets of the CD.** [26-05-2021]
- Section 53 of the Code requires that after relinquishing the security. Secured FCs have to share sale proceeds with other secured creditors on a pro-rata basis.

PRIORITY OF CHARGE (CIRP STAGE)

*[[NCLT Kolkatta, Adhunik Alloys
and Powers Limited dated 07-
12-2018*

- COC approved the resolution for distribution up to security interest to be made to first charge holder, followed by second charge holder, followed by unsecured lenders. Remaining amount to be shared as per voting share.[Para 27]
- NCLT held that for balancing the interests of financial creditors, the CoC can **take appropriate decisions to classify creditors** on the strength of security interest, as it is not contrary to law or against the settled proposition.[07-12-2018]

INSOLVENCY COMMITTEE REPORT

FEB 2020 (Page 80)

- The Committee was of the opinion that it is sufficiently clear from a plain reading of section 53(1)(b) that it intended to rank workmen's dues equally with debts owed to secured creditors who have relinquished their security.
- Section 53(1)(b) does not talk about priority inter se secured creditors. Thus valid inter-creditor / subordination agreements would continue to govern their relationship.
- Applying section 53(2) in the context of 53(1)(b), any agreements between workmen and secured creditors, which disrupts their pari passu rights will be disregarded by the liquidator.

DISSENTING CREDITOR

*[SC India Resurgence ARC Pvt.
Ltd. v. Amit Metaliks Ltd. & Anr.,
2021, CA No. 1700 of 2021]*

- Resolution plan of VSP Udyog Private Limited was approved by COC with 95.35% vote share. NCLT approved the resolution plan on 20-10-2020.
- India resurgence was dissenting creditor with vote share of 3.94%. Proposed share of India Resurgence was about Rs. 2 crores. Value of security held was about Rs. 12 crores and admitted claim was Rs. 13.38 crores.
- Proposed share was in the same proportion and percentage as provided to the other secured financial creditors with reference to their respective admitted claims.
- Key ground, on which the Appellant challenged the resolution plan was that the valuation of security held by it which amounted to more than Rs. 12 crores, was not considered while giving effect to its proposed share in the resolution plan.

DISSENTING CREDITOR

[SC India Resurgence ARC Pvt. Ltd. v. Amit Metaliks Ltd. & Anr., 2021, CA No. 1700 of 2021]

CONTINUED

- Effective 16-08-2019, section 30(2)(a)(b) provides for payment of dissenting financial creditors, which shall not be less than the amount to be paid to such creditors in the event of a liquidation of CD under section 53. Process for consideration and approval of resolution plan is the commercial wisdom of CoC. (Para 10).
- Supreme Court held that as per section 30(2)(b) dissenting financial creditors are to be paid a certain minimum amount. Order of priority of payment of creditors mentioned in Section 53 is not embedded in the said section.
- The amendment in no way makes it binding for CoC to take into account the priority of secured interest and value of the security, unless creditors belonging to the same class are treated inequitably.

DISSENTING CREDITOR

NCLAT [Indian Bank v. Charu Desai, Erstwhile Resolution Professional & Chairman of Monitoring Committee of GB Global Ltd. & Anr., 2022, NCLAT]

- NCLAT vide its order dated 06-05-2022 has held that when the distribution is ultimately approved by e-voting by the CoC, the approved distribution value to each lender's including the dissenting Financial Creditors, is taken by the CoC in its commercial wisdom, which cannot be interfered with by the Adjudicating Authority or by this Appellate Tribunal.
- We are satisfied that the allocation to the Appellant, a dissenting Financial Creditor, is not in contravention of Section 30(2)(b) (ii) r/w Section 53

Regulation 38(1)(b) amended effective 27-11-2019
Dissenting financial creditors shall be paid in priority over assenting financial creditors.

GOVT DUES CLAIMING PRIORITY

[Supreme Court: State Tax Officer v. Rainbow Papers Limited, 2022, Civil Appeal No.1661 of 2020]

2022, NCLAT]

- CIRP of Rainbow Paper Limited started from 22-09-2017.
- Sales tax officer filed claim for Rs. 47.36 crores after the last date for submission of claims. Recovery proceedings were initiated on 08-07-2016 in respect of dues for 2011-12.
- Resolution plan was approved by COC and STO was informed vide e mail dated 06-11-2018 that their entire claim has been waived off.

GOVT DUES CLAIMING PRIORITY

[Supreme Court: State Tax Officer v. Rainbow Papers Limited, 2022, Civil Appeal No.1661 of 2020]

2022, NCLAT]

CONTINUED...1

- STO filed IA on the ground that Government dues can not be waived off because STO is a secured creditor having first charge on assets of CD.
- Section 48 of the Gujarat Value Added Tax, 2003, provides for first charge on the property of a dealer in respect of any amount payable by the dealer on account of tax, interest, penalty etc. under the said GVAT Act,
- NCLT, Ahmedabad rejected IA vide order dated 27-02-2019.NCLAT dismissed appeal vide order dated 19-11-2019.

GOVT DUES CLAIMING PRIORITY

[Supreme Court: State Tax Officer v. Rainbow Papers Limited, 2022, Civil Appeal No.1661 of 2020]

2022, NCLAT]

CONTINUED...2

- Supreme Court decided that statutory charge in terms of Section 48 of the GVAT Act, the claim of the Tax Department of the State, squarely falls within the definition of “Security Interest” under Section 3(30) / 3(31).
- Section 48 of the GVAT Act is not contrary to or inconsistent with Section 53 or any other provisions of the IBC. Under Section 53(1)(b)(ii), the Debts owed to a secured creditor referred under Section 53(1)(b)(ii) includes the State under the GVAT Act.

GOVT DUES CLAIMING PRIORITY

[Supreme Court: State Tax Officer v. Rainbow Papers Limited, 2022, Civil Appeal No.1661 of 2020]

2022, NCLAT]

CONTINUED...3

- Resolution plan which does not meet the requirements of section 30(2) would be invalid and would not bind the State when there are outstanding statutory dues of a CD.
- Impugned orders and COC approved resolution plan was set aside. RA was allowed to submit resolution plan making provision for dues of statutory creditors.

APPROVAL BY ADJUDICATING AUTHORITY

2022, NCLAT]

- RP shall endeavor to submit the resolution plan approved by COC to the Adjudicating Authority at least 15 days before the maximum period for CIRP.
- Application will be filed along with a compliance certificate in Form H and the evidence of receipt of performance security required under section 36B(4).
- Adjudicating Authority by an order shall approve the resolution plan provided:
 - Resolution plan meets the requirements specified in section 30(2).
 - Resolution plan has provisions for its effective implementation.
- Adjudicating Authority may reject the resolution plan, in case it does not confirm to above mentioned requirements.

THEORY OF CLEAN STATE

[SC Ghanashyam Mishra and Sons Private Limited through the Authorized Signatory Vs. Edelweiss Asset Reconstruction Company Limited through the Director & Ors. [Civil Appeal No. 8129 of 2019 with WP (Civil) No. 1177 of 2020]

- CIRP of Orissa Manganese Minerals Limited (“CD”) commenced on 03-08-2017. COC approved the resolution plan on 25-04-2018. AA approved the resolution plan on 22-06-2018.
- Edelweiss Asset Reconstruction Company Limited (EARC), mining department and workers filed IA for non admission of their claim.
- NCLAT rejected appeals and held vide order dated 23-04-2019 that EARC have continued right to invoke bank guarantee against CD. It also held that workers have a right to move appropriate forum for appropriate relief.

THEORY OF CLEAN STATE

[Ghanashyam Mishra and Sons Private Limited through the Authorized Signatory Vs. Edelweiss Asset Reconstruction Company Limited through the Director & Ors. [Civil Appeal No. 8129 of 2019 with WP (Civil) No. 1177 of 2020]

CONTINUED...1

- Scheme of Code is to attempt by divesting management of its powers, vesting in a professional agency, to continue the business of CD as a going concern and handover the management to successful resolution applicant so that CD can pay back its debts and get back on feet.
- All the dues including statutory dues owed to the Central Government, any state Government or any local authority shall stand extinguished and no proceedings in respect of such dues for the period prior to AA approval could be continued.
- 2019 amendment adding words Central Government, state Government or local authority in section 31(1) is clarificatory in nature.

THEORY OF CLEAN STATE

[Ghanashyam Mishra and Sons Private Limited through the Authorized Signatory Vs. Edelweiss Asset Reconstruction Company Limited through the Director & Ors. [Civil Appeal No. 8129 of 2019 with WP (Civil) No. 1177 of 2020]

CONTINUED...2

- Claims of parties, which are not included in the resolution plan could be agitated by them before other fora, as observed by NCLAT is not permissible.
- The respondents are not entitled to recover any claim or claim any debts owed to them from the CD accruing prior to the transfer to resolution applicant

NOTICE BY INCOME TAX DEPTT

[Bombay High Court Murli Industries Limited vs. Assistant Commissioner of Income Tax & ors. [W.P. No. 2948 of 2021 and W.P. No. 2965 of 2021]

- NCLT approved the resolution plan vide order dated 03-03-2019 and 22-07-2019, which was upheld by NCLAT on 24-01-2020. Resolution plan was made effective from 25-08-2020.
- Assessing Officer issued the Notice dated 25-03-2021 under Section 148 of seeking to reopen the concluded assessment of the CD for assessment year 2014 – 15.
- Hon’ble Bombay High Court quashed and set aside notices on 23-12-2021 on the ground that claim was raised after approval of resolution plan.

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix
Singapore Pvt. Ltd. v.
Committee of Creditors of
Educomp Solutions Ltd. and
Anr., Civil Appeal No. 3224 of
2020]

BACKGROUND

SC dealt with a batch of 3 appeals filed by successful resolution applicants in 3 CIRPs, namely:

- Ebix Corporation Singapore Pvt. Ltd. - the successful resolution applicant of Educomp Solutions Ltd, Civil Appeal No. 3224 of 2020,
- Kundan Care- the successful resolution applicant of Astonfield (Kundan Care Appeal) in *Kundan Care Products Limited vs Mr Amit Gupta and Ors*, Civil Appeal No. 3560 of 2020, and
- Seroco- the successful resolution applicant of Arya Filament in *Seroco Lighting Industries Private Limited vs. Ravi Kapoor RP for Arya Filaments Private Limited & Ors.*, Civil Appeal No. 295 of 2021.

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix
Singapore Pvt. Ltd. v.
Committee of Creditors of
Educomp Solutions Ltd. and
Anr., Civil Appeal No. 3224 of
2020] - Continued

WITHDRAWAL OF RESOLUTION PLAN

The successful Resolution Applicants sought to withdraw their Resolution Plans after they had been submitted to NCLT for its approval on various grounds, viz:

- Financial Hardship
- Material change in position of the corporate debtor due to Covid-19
- Impact of ongoing investigations on the resolution process, and delay in approval of resolution plan.

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd. and Anr., Civil Appeal No. 3224 of 2020] - Continued

KEY QUESTIONS FOR THE SC

1. Whether a resolution plan is a contract?
2. Whether the fate of all stakeholders is decided once the COC approves a resolution plan, which distinguishes a resolution plan from a bi-lateral contract.
3. Can resolution plans contain clauses giving walk-away rights in view of material adverse effect or condition precedent not being fulfilled?
4. Can NCLTs/NCLATs compel COC to re-negotiate with a successful resolution applicants?

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd. and Anr., Civil Appeal No. 3224 of 2020] - Continued

Q1: WHETHER RESOLUTION PLAN IS A CONTRACT ?

- Resolution plans are neither simpliciter contracts nor statutory contracts. Resolution plans are finalised on the basis of commercial negotiations which are completely governed by the Code.
- Once a resolution plan is approved by the COC, it becomes binding on the COC and the resolution applicant.
- The fate of all stakeholders is decided once the COC approves a resolution plan, which distinguishes a resolution plan from a bi-lateral contract.

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd. and Anr., Civil Appeal No. 3224 of 2020] - Continued

Q2: WHETHER THE FATE OF ALL STAKEHOLDERS IS DECIDED ONCE THE COC APPROVES A RESOLUTION PLAN, WHICH DISTINGUISHES A RESOLUTION PLAN FROM A BI-LATERAL CONTRACT?

- The framework under the Code does not enable withdrawals or modifications of resolution plans, once they have been submitted by the resolution professional to the NCLT after their approval by the CoC.
- The framework, as it stands, only enables withdrawal of insolvency proceedings by following the procedure detailed in Section 12A of the Code and Regulation 30A of the CIRP Regulations and in the situations recognized therein.
- While resolution applicants cannot unilaterally withdraw or modify resolution plan, however, in the Kundan Care Appeal, the SC, as a one-off instance, exercising powers under Article 142 permitted negotiations between the COC and the resolution applicant to modify the resolution plan. It is noteworthy that this was possible only because the COC opted for a re-negotiation.

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix
Singapore Pvt. Ltd. v.
Committee of Creditors of
Educomp Solutions Ltd. and
Anr., Civil Appeal No. 3224 of
2020] - Continued

Q3: CAN RESOLUTION PLANS CONTAIN CLAUSES GIVING WALK-AWAY RIGHTS IN VIEW OF MATERIAL ADVERSE EFFECT OR CONDITION PRECEDENT NOT BEING FULFILLED?

- The Code does not recognize walk-away rights under clauses of resolution plans.
- Plans containing conditions for withdrawal or re-negotiation (including material adverse event (MAE) clauses, frustration, impossibility and delay clauses) may be viewed as not being feasible or viable.

WITHDRAWAL OF RESOLUTION PLAN

[Supreme Court: Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd. and Anr., Civil Appeal No. 3224 of 2020] - Continued

Q4: CAN NCLTS/NCLATS COMPEL COC TO RE-NEGOTIATE WITH A SUCCESSFUL RESOLUTION APPLICANTS?

- NCLT cannot compel COC to negotiate further with a successful resolution applicant.
- The residual powers of the NCLT under the Code cannot be exercised to create procedural remedies which have substantive outcomes on the process of insolvency.

THANK YOU

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31 CIRP/Liquidation Cases |

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Resolutions and Asset Sales