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**STANDING COMMITTEE ON FINANCE
(2019-2020)**

SEVENTEENTH LOK SABHA

THE INSOLVENCY AND BANKRUPTCY (SECOND AMENDMENT) BILL, 2019

(MINISTRY OF CORPORATE AFFAIRS)

SIXTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2020 / Phalguna, 1941 (Saka)

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THE INSOLVENCY AND BANKRUPTCY (SECOND AMENDMENT) BILL, 2019

(MINISTRY OF CORPORATE AFFAIRS)

Presented to Lok Sabha on 4 March, 2020

Laid in Rajya Sabha on 4 March 2020



**LOK SABHA SECRETARIAT
NEW DELHI**

March, 2020 / Phalguna, 1941 (Saka)

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Shri Manish Tewari, MP(LS)
Shri Rajeev Chandrashekhar, MP(RS)

**to be appended at printing stage.*

COMPOSITION OF STANDING COMMITTEE ON FINANCE (2019-2020)

Shri Jayant Sinha - Chairperson

MEMBERS

LOK SABHA

2. Shri S.S. Ahluwalia
3. Shri Subhash Chandra Baheria
4. Shri Vallabhaneni Balashowry
5. Shri Shrirang Appa Barne
6. Dr. Subhash Ramrao Bhamre
7. Smt. Sunita Duggal
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9. Shri Sudheer Gupta
10. Smt. Darshana Vikram Jardosh
11. Shri Manoj Kishorbhai Kotak
12. Shri Pinaki Misra
13. Shri P.V Midhun Reddy
14. Prof. Saugata Roy
15. Shri Gopal Chinayya Shetty
16. Dr. (Prof.) Kirit Premjibhai Solanki
17. Shri Manish Tewari
18. Shri P. Velusamy
19. Shri Parvesh Sahib Singh Verma
20. Shri Rajesh Verma
21. Shri Giridhari Yadav

RAJYA SABHA

22. Shri Rajeev Chandrasekhar
23. Shri A. Navaneethakrishnan
24. Shri Praful Patel
25. Shri Amar Patnaik
26. Shri Mahesh Poddar
27. Shri C.M. Ramesh
28. Shri T.K. Rangarajan
29. Shri G.V.L Narasimha Rao
30. Dr. Manmohan Singh
31. Smt. Ambika Soni

SECRETARIAT

1. Shri V.K. Tripathi - Joint Secretary
2. Shri Ramkumar Suryanarayanan - Director
3. Shri Kulmohan Singh Arora - Additional Director
4. Ms. Yugma Malik - Committee Officer

INTRODUCTION

I, the Chairperson of the Standing Committee on Finance having been authorised by the Committee present this Sixth Report on the Insolvency and Bankruptcy (Second Amendment) Bill, 2019.

2. The Insolvency and Bankruptcy (Second Amendment) Bill, 2019, introduced in Lok Sabha on 12 December, 2019 was referred to the Committee on 23 December, 2019 for examination and report thereon, by the Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee took evidence of the representatives of Ministry of Corporate Affairs and Insolvency and Bankruptcy Board of India (IBBI) at their Sittings held on 15 January, 2020 and 24 February, 2020.

4. The Committee at their Sitting held on 11 February, 2020 heard the views of the representatives of the Indian Banks' Association (IBA) and PRS Legislative Research. At the sitting held on 24 February, 2020 representatives of Forum For People's Collective Efforts (FPCE) and Wishtown Homebuyers Welfare Society presented their views before the Committee.

5. The Committee considered and adopted this report at their Sitting held on 3rd March, 2020.

6. The Committee wish to express their appreciation to the officials of the Ministry of Corporate Affairs concerned with the Bill for their co-operation and all the organisations for their valuable suggestions on the Bill. The Committee would like to also thank Shri Shardul Shroff, Executive Chairman, Shardul Amarchand Mangaldas & Co. and CA Subodh Kumar Agarwal for their views and suggestions on the Bill.

7. For facility of reference, observation/ recommendations of the Committee have been pointed in thick type in the body of the Report.

New Delhi
03 March, 2020
13 Phalgun, 1941(Saka)

Shri Jayant Sinha
Chairperson,
Standing Committee on Finance

Report

1. Background

To deal effectively with insolvency and bankruptcy, the Insolvency and Bankruptcy Code was enacted on May 28, 2016, to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of the Government dues.

1.2 The Code envisages a sound insolvency regime for companies and Limited Liability Partnerships as well as for individuals and unlimited liability partnership under its different parts. The ecosystem for implementation of the provisions of the Code consists of four pillars, viz., the Adjudicating Authorities (the National Company Law Tribunals and Debts Recovery Tribunals), Insolvency Professional Agencies, Insolvency Professionals and Information Utilities, and the Insolvency and Bankruptcy Board of India (IBBI) to exercise regulatory oversight over insolvency professional agencies, insolvency professionals and information utilities.

1.3 Insolvency and Bankruptcy Code is a new legislation which is still evolving. As and when problems arise in smooth functioning of the Code necessary steps have been taken to resolve them including amendments to the Code as required to attain the objectives of the Code. Till date, the Code has been amended four times. The brief of the amendments to the Code are as following:

I. **Insolvency and Bankruptcy Code (Amendment) Act, 2018**

1.4 The Insolvency and Bankruptcy Code (Amendment) Bill, 2017 sought to replace the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2017, inter alia, provided for the following, namely: —

- a) facilitate phased implementation of the provisions of the Code to corporate persons, individuals and partnership firms;

- b) provide clarity as to the persons who can submit a resolution plan in response to an invitation made by the resolution professional (RP);
- c) enable the resolution professional, with the approval of the Committee of Creditors (CoC), to specify the eligibility conditions (including such conditions as may be specified by the Board) while inviting resolution plans from prospective resolution applicants keeping in view the scale and complexity of operations of business of the corporate debtor (CD) to avoid frivolous applicants;
- d) provide for making certain persons ineligible for being a resolution applicant;
- e) provide that the Committee of Creditors shall approve the resolution plan by a vote of not less than seventy-five percent of voting share of the financial creditors (FC) after considering the feasibility and viability of the resolution plan in addition to such requirements as may be specified by the Board, before according its approval;
- f) disallow the sale of property to a person who is ineligible to be a resolution applicant in case of liquidation of corporate debtor;
- g) provide punishment for contravention of the provisions where no specific penalty or punishment is mentioned;
- h) consequential amendments conferring power upon the Board to make regulations.

II. Insolvency and Bankruptcy Code (Second Amendment) Act, 2018

1.5 The Insolvency and Bankruptcy Code (Second Amendment) Act, 2018 replaced the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018, inter alia, provided for the following, namely :-

- a) Insertion of Section 240A by which the applicability of section 29A (c) and (h) is exempted for the resolution applicants in respect of corporate insolvency resolution process (CIRP) of MSMEs. Further, Central Government may in public interest direct that MSMEs may be exempted from application of any of the provisions of the Code.

- b) Section 29A amended to the extent that clause (c) relating to Non-performing Asset (NPA) will not be applicable to pure play financial entities. The same exemption also extended to a resolution applicant who acquired a distressed asset with an NPA account under the Code, for a period of three years from the date of such acquisition. Disqualifications under Section 29A (d) and (e) of the Code that are personal i.e., conviction and disqualification as a director, respectively, shall not apply in relation to a “connected person” as defined in the Code. Further, the disqualification relating to conviction shall not be applicable to a person after expiry of two years from the date of his release from imprisonment. A carve out also given to a person who acquired a corporate debtor under the Code in which preferential, undervalued, fraudulent or extortionate credit transactions had taken place prior to such acquisition provided such person has not contributed to such violations. A separate explanation inserted to define financial entity for the purpose of Section 29A.
- c) An explanation has been inserted to Section 5 to clarify that home buyers shall be treated, as amounts raised under the contracts of homebuyers are a means of raising finance and carry the commercial effect of borrowing. Therefore, fall within the category of FC.
- d) Section 14 amended to clarify that the moratorium shall not apply to a personal guarantor or a corporate guarantor to a corporate debtor.
- e) Voting threshold for various decisions of the Committee of Creditors (CoC) reduced from 75% to 66% for important decisions and from 75% to 51% for routine decisions.
- f) Section 12A inserted for permitting withdrawal of application post admission on an application made to National Company Law Tribunal (NCLT) by the applicant who triggered the CIRP, with the approval of 90 per cent of voting share of CoC in manner as may be specified.
- g) In section 31(4) a new proviso proposed to be added to ensure that the approval for the combinations be obtained from Competition Commission of India prior to the approval of resolution plan by the Committee of Creditors;

- h) For the corporate debtor to initiate CIRP under Section 10 of the Code, it has to obtain special resolution of the shareholders or resolution passed by at least three-fourth of the total number of partners of the corporate debtor, as the case may be.
- i) Section 238 A inserted to clarify that the Limitation Act, 1963 shall apply to the Code. The intention is to not give a new lease of life to debts that are time barred.
- j) Related party in relation to an individual is defined by inserting a new section, 5(24A).
- k) Section 196 amended to give developmental role to IBBI besides widening its scope to levy fee or other charges for carrying out the purposes of the Code.
- l) A new section, Section 25A has been inserted on the rights and duties of authorized representative. This will apply wherever there are a very large number of creditors under a particular class such as depositors, homebuyers, etc., and it becomes necessary to appoint an authorized representative for which a specific provision has been made in Section 21 (6A) and (6B).

III. Insolvency and Bankruptcy Code (Amendment) Act, 2019

1.6 The Insolvency and Bankruptcy Code (Amendment) Act, 2019 was passed by Parliament and came into effect from 16.8.2019. This amendment bill, inter alia, provided for the following, namely:-

- a) Clarity on allowing comprehensive corporate restructuring schemes such as mergers, demergers, amalgamations etc. as part of the resolution plan.
- b) Greater emphasis on the need for time bound disposal at application stage.
- c) A deadline for completion of CIRP within an overall limit of 330 days, including litigation and other judicial processes.
- d) Votes of all financial creditors covered under section 21(6A) to be cast in accordance with the decision approved by the highest voting share (more than 50%) of financial creditors on present and voting basis.
- e) A specific provision that financial creditors who have not voted in favor of the resolution plan and operational creditors shall receive at least the amount that would have been received by them if the amount to be distributed under the resolution plan had been distributed in accordance with section 53 of the Code or

the amount that would have been received if the liquidation value of the corporate debtor had been distributed in accordance with section 53 of the Code, whichever is higher. This to have retrospective effect where the resolution plan has not attained finality or has been appealed against.

- f) Inclusion of commercial consideration in the manner of distribution proposed in resolution plan, within the powers of the Committee of Creditors.
- g) Clarity that the plan shall be binding on all the stakeholders including the Central Government, any State Government or local authority to whom a debt in respect of the payment of the dues may be owed.
- h) Clarity that the Committee of Creditors may take the decision to liquidate the corporate debtor, any time after constitution of the Committee of Creditors and before preparation of Information Memorandum.

IV. Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019

1.7 The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 was promulgated on 28th December, 2019, and inter alia, provides for the following, namely:

- a) clarify that the insolvency commencement date is the date of admission of an application for initiating corporate insolvency resolution process;
- b) give the Central Government the power to include other debts within the definition of interim finance
- c) specifying a minimum threshold for certain classes of financial creditors for initiating insolvency resolution proceedings;
- d) clarify that a corporate debtor should not be prevented from filing an application for initiation of corporation insolvency resolution proceedings against other corporate debtors;
- e) clarify that the licenses, permits etc. Cannot be terminated or suspended during Moratorium period and ensuring supply of critical services for its continuation as a going concern;
- f) an insolvency resolution profession should be appointed on the date of admission of the application for initiation of insolvency resolution process;

- g) enable the resolution professional to manage the affairs of the corporate debtor in the interim period between the expiry of corporate insolvency resolution process till the appointment of a liquidator;
- h) ring-fencing corporate debtor resolved under the IBC in favour of a successful resolution applicant from criminal proceedings against offences committed by previous management /promoters.

1.8 Now to further address the difficulties faced during the course of implementation of the Code and to facilitate the ease of doing business, the present Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 has been introduced on 12th December, 2019 and has been referred to the Committee on 23rd December, 2019. The amendments proposed are based on the recommendations of the Insolvency Law Committee (ILC) under the chairmanship of Secretary (Corporate Affairs) with representatives from industries, professional institutes, law firms, Insolvency and Bankruptcy Board of India (IBBI), Securities and Exchange Board of India (SEBI), Reserve Bank of India (RBI) and concerned Ministries.

1.9 The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 seeks to amend sections 5(12), 5(15), 7, 11, 14, 16(1), 21(2), 23(1), 29A, 227, 239, 240 and insert section 32A in the Insolvency and Bankruptcy Code 2016, in order to remove certain difficulties during corporate insolvency resolution process (CIRP) and further to strengthen the Code to realise the objectives of the Code.

1.10 Salient Features of the Insolvency and Bankruptcy Code (Second Amendment), Bill 2019:

The Insolvency and Bankruptcy (Second Amendment) Bill, 2019 proposes:

- i. to amend section 5 of the Code–
 - (a) to omit the proviso to clause 12 so as to clarify that the insolvency commencement date is the date of admission of an application for initiating corporate insolvency resolution process; and
 - (b) to amend clause 15 in order to give the Central Government the power to include other debts within the definition of interim finance;

- ii. to amend section 7 of the Code so as to insert certain provisos specifying a minimum threshold for certain classes of financial creditors for initiating insolvency resolution proceedings;
- iii. to amend section 11 of the Code so as to insert an Explanation to clarify that a corporate debtor should not be prevented from filing an application for initiation of corporation insolvency resolution proceedings against other corporate debtors;
- iv. to amend section 14 of the Code to clarify that the licences, permits etc. and critical supplies cannot be terminated or suspended during Moratorium period;
- v. to amend section 16 of the Code relating to appointment and tenure of interim resolution professional so as to provide that an insolvency resolution profession should be appointed on the date of admission of the application for initiation of insolvency resolution process and the said amendment is of consequential in nature;
- vi. to amend section 23 to enable the resolution professional to manage the affairs of the corporate debtor in the interim period between the expiry of corporate insolvency resolution process till the appointment of a liquidator;
- vii. to insert the new section 32A relating to liability of corporate debtor for prior offences under certain circumstances;
- viii. to amend section 227 of the Code so as to clarify that the insolvency and liquidation proceedings for financial service providers may be conducted with such modifications to the provisions of the Code and in such manner as may be prescribed;
- ix. other amendments which are of consequential in nature.

2. The Working of Insolvency and Bankruptcy Code (IBC): Experience So Far

2.1 IBC is a transformational piece of legislation. It has brought about a paradigm shift in the existing insolvency laws as it moves away from *debtor-in-possession* to *creditor-in-possession*. It instils a significantly better sense of credit discipline and has brought about desired behavioural change in the attitude of both borrowers and creditors. The jurisprudence of the Code has evolved in a manner that has made it predominantly clear that the objective of the Code is resolution of the corporate debtor

and to not merely work as a recovery mechanism for creditors. Revival should be the preferred route than recovery. Recovery is a one-time affair, after that there is no value but rescuing the company will protect employment, provide future cashflows, contribute to the economic growth, lead to entrepreneurship by competition, and thus have a long term impact.

2.2 The Code has proved to be a game changer in facilitating the revival of failing companies and addressing the problem of Non-Performing Assets (NPAs). As per RBI's Report on *Trend and Progress of Banking in India 2018-19*, the gross NPA (GNPA) ratio of all Schedule Commercial Banks (SCBs) declined in 2018-19 after rising for seven consecutive years, as recognition of bad loans neared completion. Gross NPAs as per cent of Gross Advances for all SCBs declined from 11.2% in 2017-18 to 9.1% in 2018-19. The Report informs that the recovery of stressed assets improved during 2018-19 propelled by resolutions under the IBC, which contributed more than half of the total amount recovered.

2.3 As per the written post evidence replies submitted by the Ministry of Corporate Affairs, "as on 30th November 2019 around 13,210 cases have been disposed under IBC. Around 190 cases involving claims around ₹3.67 lakh crore were resolved with a realizable amount of around ₹1.57 lakh crore. Around 11,366 cases involving claims around ₹4.74 lakh crore were disposed prior to admission. The realizable amount with respect to ₹4.74 lakh crore is not available but even if we make a conservative estimate it would be around ₹2 lakh crore. In other words, out of claims of around ₹8.4 lakh crore (₹4.74 lakh crore + ₹3.67 lakh crore), the realizable amount is around ₹3.57 lakh crore (around 43%)". Also, the average time taken for resolution has now come to about 394 days, closer to the timeline of 330 days prescribed in the Code, down from 4.3 years under the previous regime.

2.4 Further, the Ministry of Corporate Affairs has informed that to bring further improvement in the Code, elaborate work has been done in Cross-Border Insolvency. ILC was seized of the matter and based on ILC's report of October, 2018 a draft bill has been prepared and would be put up for consideration of the Cabinet.

2.5 The Committee note that the Insolvency and Bankruptcy Code, 2016 (IBC) was promulgated on concepts such as promoting maximisation of value of assets, transparent and predictable insolvency resolution framework, avoiding destruction of value of the debtor, and recognising the difference between malfeasance and business failure. The Committee further note that even though the IBC has been globally recognized as a paradigm shift in India's insolvency resolution process, many areas have required judicial and legislative interventions to enable the process to achieve the desired results. The Committee understand that the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 seeks to remove some of these bottlenecks and streamline the corporate insolvency resolution process further.

2.6 While acknowledging the role played by IBC in arresting the growth of NPAs, it is expected that effective measures within the ambit of IBC would be taken to realize better results from the process. The Committee note that out of claims of around Rs 8.4 lakh crore, the realizable amount is around Rs. 3.57 lakh crore i.e. around 43% from the IBC process so far. Also, the average time taken for resolution has come down to 394 days. The Committee hope that the recovery percentage increases significantly in the near future and the time taken for resolution conforms to the timeline prescribed in the Code. The Committee would like to reiterate its recommendation made in previous reports about increasing the number of benches in National Company Law Tribunal (NCLT) and establishing e-courts for faster disposal of cases and speedy resolution. The Committee understand that a draft Bill on Cross Border Insolvency is in the pipeline. These types of cases have already resulted in uncertain recoveries for creditors. The Committee would like this Bill to be introduced in Parliament as soon as possible in order to further strengthen the insolvency framework.

3. Clause-by-Clause examination of the Bill

3.1 In view of the detailed examination of the Insolvency and Bankruptcy Code (Second) Amendment Bill, 2019 and suggestions received from the stakeholders the

Committee have commented upon on some of the important clauses of the Bill, which are as under:-

Clause 5 (b)

3.2 Clause 5(b) reads as under:

In section 14 of the principal Act,—

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) The supply of goods or services that the interim resolution professional or resolution professional, as the case may be, considers critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or services shall not be terminated, suspended or interrupted during the period of moratorium, except if such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.";

3.3 The stakeholders on the above clause during the sitting held on 11th February, 2020 stated:-

“This implies that a supplier may be obliged to provide goods and services even when he senses a higher default risk.”

3.4 The stakeholders on the above clause furnished the following suggestion:-

“Micro, Small, and Medium Enterprises (MSMEs) may require special consideration under this provision. MSMEs are usually the operational creditors to large businesses.”

3.5 The Ministry have furnished their following comments on the above suggestions:

“While the resolution professional can negotiate the continuation of critical supplies, not considered essential supplies under the Code, it is relevant to note that there is a risk that suppliers may choose to demand ‘ransom payments’ since their supplies are critical to the corporate debtor....

...It would not be feasible to exhaustively list all the potential safeguards that may be necessary to protect the interests of a critical supplier. Therefore, with a view to adequately protect their interests, Section 14(2A) empowers IBBI to specify any additional grounds (apart from non-payment of current dues) for termination, suspension or interruption of critical supplies during the period of moratorium. Further, if a need is felt, specific exemptions may be provided for MSME suppliers under Section 240A.”

3.6 The Committee are concerned that the intent behind this proposed amendment may turn into a case of over-regulation of suppliers, particularly MSME suppliers. The Committee feel that just to make the IBC process smoother and in hope of a probable revival, suppliers cannot be burdened with overly restrictive conditions. The Committee recommend that market forces should resolve whether a supplier decides to supply to a corporate debtor, as there are limited resources available and each supplier has a limited capacity, which needs to be channelized and allocated in the best interest of the economy and not directed solely towards keeping the corporate debtor alive. The Committee believe that over-legislation through the Bill must be avoided and the process of delegated legislation through formulation of rules by Insolvency and Bankruptcy Board of India (IBBI) be followed to strike a harmonious balance between the needs and concerns of stakeholders in question, namely the corporate debtor/ insolvency resolution professional trying to revive the company and the supplier of critical/essential goods. In this context, the Committee would like to emphasise that the payments due to MSMEs, who are operational creditors not included in the Committee of Creditors (CoC), should be ensured on priority in the course of the resolution process itself before the liquidation stage kicks in. The Committee would therefore recommend that the Clause 5(b) (2A) should accordingly be deleted.

Clause 10

3.7 Clause 10 reads as under:

After section 32 of the principal Act, the following section shall be inserted, namely:—

"32A. (1) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority under section 31, if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not—

(a) a promoter or in the management or control of the corporate debtor or a related party of such a person; or

(b) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court:

Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having been fulfilled:

Provided further that every person who was a "designated partner" as defined in clause (j) of section 2 of the Limited Liability Partnership Act, 2008, an "officer who is in default", as defined in clause (60) of section 2 of the Companies Act, 2013, or was in any manner in charge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor's liability has ceased under this sub-section.

(2) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not—

(i) a promoter or in the management or control of the corporate debtor or a related party of such a person; or

(ii) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

"Explanation.—For the purposes of this sub-section, it is hereby clarified that,—

(i) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;

(ii) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.

(3) Subject to the provisions contained in sub-sections (1) and (2), and notwithstanding the immunity given in this section, the corporate debtor and any

person who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process."

3.8 The stakeholders on the above clause furnished the following suggestion:-

"Though the Bill gives immunity to the corporate debtor (company as a legal entity) from prior offences, the individuals responsible for committing such offences on behalf of the debtor will still be held liable. The question is whether the debtor should be absolved of all kinds of prior offences with such a blanket immunity."

3.9 The Secretary, Ministry of Corporate Affairs during the sitting held on 15th January, 2020 remarked:-

"If the bidder, who is coming and participating under the court-supervised competitive process, does not get security and is not indemnified, there may be a problem"

3.10 Further, the Ministry furnished the following comment on the above suggestion:

"...this provision would only apply where the CIRP culminates in a change in control to a completely unconnected resolution applicant. As such, a resolution applicant has nothing to do with the commission of any pre-CIRP offence whatsoever, and the corporate debtor is now fundamentally not the same entity as the one that committed the crime."

3.11 The Committee are in agreement with the intent of this amendment to safeguard the position of the Resolution Applicant(s) by ring-fencing them from prosecution and liabilities under offences committed by erstwhile promoters etc. The Committee understand the need for treating the company or the Corporate Debtor as a cleansed entity for cases which result in change in the management or control of the corporate debtor to a person who was not a promotor or in the management control of the corporate debtor or related party of such person, or to a person against whom there are material evidence and pending complaint or report by the investigating authority filed in relation to the criminal offence. The Committee agree that this provision is essential to provide the Resolution Applicant(s) a fair chance to revive the unit which otherwise would directly go into liquidation, which may not be as beneficial to the economy. The Committee believe that this ring-fencing is essential to achieve revival or resolution without

imposing additional liabilities on the Resolution Applicant, arising from malafide acts of the previous promoter or management.

3.12 The Insolvency and Bankruptcy Code represents a transformational framework not only for the resolution of defaulting corporate debtors, but more importantly in establishing powerful incentives to avoid default altogether. Such incentives are already having a salutary impact on ensuring timely payments across the economic system, thus lowering risk, and eventually the cost of credit for all stakeholders. This is certainly very positive for economic growth. Nonetheless, a much more strategic approach to strengthening the insolvency framework is required. Developing such a strategic approach requires detailed analysis along three dimensions. First, empirical evidence should be collected on the performance of the insolvency framework to date. This should include *inter alia* cases admitted across various benches, cases by industry/sector, experiences of various stakeholders, time for resolution, type of resolution, eventual recovery by resolution type, and impact on employment and other output indicators. This empirical evidence should be updated every quarter and published in the public domain. Second, the Indian insolvency framework should now be carefully benchmarked against other jurisdictions to evaluate outcomes and assess resolution efficiency against competitor nations. Empirical evidence and benchmarking analysis should identify which major gaps still need to be addressed and the extent to which Indian case law needs to be further refined. Finally, the interdependent roles of legislation, rule-making, adjudication, and informal norms need to be evaluated to close these identified gaps. The Committee notes that there is considerable ambiguity on which policy lever is most appropriate to address which issue. Further legislation needs to be informed by such comprehensive analysis. Accordingly, the Committee intends to conduct further hearings on this matter so that a more strategic approach can be evolved to strengthen the insolvency framework for India.

3.13 The Committee thus endorse the proposed amendments in the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 with the modifications suggested above.

**New Delhi
03 March 2020
13 Phalgun, 1941 (Saka)**

**Shri Jayant Sinha
Chairperson
Standing Committee on Finance**

Minutes of the Sixth sitting of the Standing Committee on Finance (2019-20)
The Committee sat on Wednesday, the 15 January, 2020 from 1330 hrs. to 1515
hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Jayant Sinha - Chairperson

LOK SABHA

2. Shri S.S. Ahluwalia
3. Smt. Sunita Duggal
4. Shri Gaurav Gogoi
5. Shri Manoj Kishorbhai Kotak
6. Shri Pinaki Misra
7. Prof. Saugata Roy
8. Shri Gopal Chinayya Shetty
9. Shri Manish Tewari

RAJYA SABHA

10. Shri Rajeev Chandrasekhar
11. **Shri C.M. Ramesh**
12. Shri G.V.L Narasimha Rao
13. Dr. Manmohan Singh
14. Smt. Ambika Soni

SECRETARIAT

- | | | | |
|----|------------------------------|---|---------------------|
| 1. | Shri V.K Tripathi | - | Joint Secretary |
| 2. | Shri Ramkumar Suryanarayanan | - | Director |
| 3. | Shri Kulmohan Singh Arora | - | Additional Director |
| 4. | Shri Tenzin Gyaltzen | - | Under Secretary |
| 5. | Shri Kh. Ginlal Chung | - | Under Secretary |

WITNESSES

Ministry of Corporate Affairs

1. Shri Injeti Srinivas, Secretary
2. Shri Gyaneshwar Kumar Singh, Joint Secretary

Insolvency and Bankruptcy Board of India (IBBI)

1. Dr. Mukulita Vijayawargiya, Whole Time Member
2. Shri Sudhakar Shukla, Whole Time Member

2. At the outset, the Chairperson welcomed the Members and the witnesses to the sitting of the Committee. Thereafter, the Secretary, Ministry of Corporate Affairs made a power point presentation highlighting key amendments to be made through the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019. The major issues discussed during the sitting included the evolution of the Code in the last three years, distinguishing features of the Code such as the primacy of revival over recovery and possession remaining with creditor instead of debtor, the importance of evaluation of the Code, its efficacy, its impact on different players in the financial sector and business community including small and medium enterprises, the process of disposal and settlement of cases including the total number of cases and time taken for resolution, its impact on reducing NPAs, the importance of a comprehensive study including global best practices for bringing in amendments etc. The witnesses responded to the queries raised by the Members on the subject. The Committee directed the witnesses to furnish written replies to the queries which could not be readily replied by them during the sitting.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Minutes of the Eighth sitting of the Standing Committee on Finance (2019-20)
The Committee sat on Tuesday, the 11 February, 2020 from 1500 hrs. to 1630 hrs.
in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Jayant Sinha - Chairperson

LOK SABHA

2. Shri S.S. Ahluwalia
3. Shri Subhash Chandra Baheria
4. Shri Vallabhaneni Balashowry
5. Shri Shrirang Appa Barne
6. Dr. Subhash Ramrao Bhamre
7. Shri Gaurav Gogoi
8. Smt. Darshana Vikram Jardosh
9. Shri Manoj Kishorbhai Kotak
10. Shri Pinaki Misra
11. Shri Gopal Chinayya Shetty
12. Shri Manish Tewari
13. Shri P. Velusamy
14. Shri Rajesh Verma

RAJYA SABHA

15. Shri Rajeev Chandrasekhar
16. Shri A. Navaneethakrishnan
17. Shri Amar Patnaik
18. Shri Mahesh Poddar
19. Shri T.K. Rangarajan
20. Shri G.V.L Narasimha Rao
21. Dr. Manmohan Singh

SECRETARIAT

- | | | | |
|----|------------------------------|---|---------------------|
| 1. | Shri V.K Tripathi | - | Joint Secretary |
| 2. | Shri Ramkumar Suryanarayanan | - | Director |
| 3. | Shri Kulmohan Singh Arora | - | Additional Director |
| 4. | Shri Tenzin Gyaltsen | - | Under Secretary |

WITNESSES

Indian Banks' Association

1. C.S. Setty, Managing Director, State Bank of India
2. Rajeev Dewal, Senior Advisor- Legal, Indian Banks' Association (IBA)
3. Atul Gautam, Senior Advisor- Delhi, Indian Banks' Association (IBA)
4. Shri Sunil Mehta, Chief Executive, Indian Banks' Association (IBA)
5. Shri Sandeep Batra, President – Corporate Centre, ICICI Bank
6. Sanjay Nambiar, General Counsel, Yes Bank
7. Ashish Singh, Senior Vice President (Head Structured Assets), Axis Bank

PRS Legislative Research

1. Dr. M.R. Madhavan, President
2. At the outset, the Chairperson welcomed the Members and the witnesses to the sitting of the Committee. After the customary introduction of the witnesses, the Chairman initiated the discussion on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019. The major issues discussed include the practicality and rationale behind initiation of resolution process by certain class of creditors (like homebuyers), only if either 100 of them or 10% of the total number of allottees, whichever is less jointly file an application; provision of immunity and whitewashing to a corporate debtor for offences committed before the commencement of the insolvency process; obligation on the supplier to provide goods and services during the moratorium period even when he senses a higher default risk and its impact on MSMEs; the need for defining various classes of creditors; making the liquidator accountable to the Committee of Creditors with regard to valuation decisions of assets being disposed so as to achieve a higher recovery; ambit of rule making and the general role and impact of IBC on the economy. The witnesses responded to the queries raised by the Members on the subject. The Committee directed the witnesses to furnish written replies to the queries which could not be readily replied by them during the sitting.

A verbatim record of the proceedings has been kept

The Committee then adjourned.

Minutes of the Ninth sitting of the Standing Committee on Finance (2019-20)
The Committee sat on Monday, the 24 February, 2020 from 1130 hrs. to 1545 hrs
in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Jayant Sinha - Chairperson

LOK SABHA

2. Shri S.S. Ahluwalia
3. Shri Subhash Chandra Baheria
4. Dr. Subhash Ramrao Bhamre
5. Smt. Sunita Duggal
6. Shri Gaurav Gogoi
7. Shri Manoj Kishorbhai Kotak
8. Prof. Saugata Roy
9. Shri Gopal Chinayya Shetty
10. Shri Manish Tewari
11. Shri Parvesh Sahib Singh Verma
12. Shri Rajesh Verma

RAJYA SABHA

13. Shri Rajeev Chandrasekhar
14. Shri A. Navaneethakrishnan
15. Shri Praful Patel
16. Shri Amar Patnaik
17. Shri Mahesh Poddar
18. Shri T.K. Rangarajan
19. Shri G.V.L. Narasimha Rao
20. Dr. Manmohan Singh
21. Smt. Ambika Soni

SECRETARIAT

1. Shri V.K. Tripathi - Joint Secretary
2. Shri Ramkumar Suryanarayanan - Director
3. Shri Kulmohan Singh Arora - Additional Director
4. Shri Tenzin Gyaltzen - Under Secretary

PART I
(1130 hrs - 1230 hrs)

WITNESSES

Forum For People's Collective Efforts

1. Mr Abhay Upadhyay, President

Wishtown Homebuyers Welfare Society

1. Sqn Ldr. S.D. Mitroo (Retd), Vice-President

2. At the outset, the Chairperson welcomed the Members and the witnesses to the sitting of the Committee. After the customary introduction of the witnesses, the Chairperson initiated the discussion on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 focusing primarily on Clause 3 i.e amendment in section 7 of the Code to insert certain provisions specifying a minimum threshold for certain classes of financial creditors for initiating insolvency resolution proceedings. The major issues discussed include proposal for dropping of Clause 3 by the stakeholders, differentiation between speculative investor and genuine buyer, making the homebuyer a primary secured creditor, bringing the homebuyers at par with all financial creditors in the waterfall of liquidation, impact of initiating insolvency by single homebuyer when no other financial creditor desires so, need for strengthening RERA Act and Consumer Protection Act enabling them to be efficient medium for the homebuyer to address their issues instead of taking recourse in IBC. The witnesses responded to the queries raised by the Members on the subject. The Committee directed the witnesses to furnish written replies to the queries which could not be readily replied by them during the sitting.

The witnesses then withdrew.

PART II
(1230 hrs – 1400 hrs)

WITNESSES

Ministry of Corporate Affairs

1. Shri Injeti Srinivas, Secretary
2. Smt. Anjali Bhawra, Additional Secretary
3. Shri Rajesh Aggarwal, Additional Secretary & Financial Advisor
4. Shri K.V.R. Murty, Joint Secretary

Insolvency and Bankruptcy Board of India (IBBI)

1. Dr. M.S. Sahoo, Chairperson
2. Dr. Mukulita Vijayawargiya, Whole Time Member
3. Shri Navrang Saini, Whole Time Member
4. Shri Ritesh Kavdia, Executive Director
5. Smt. Geeta Singh Rathore, DDG

Serious Fraud Investigation Office (SFIO)

1. Shri Amardeep Singh Bhatia, Director

Competition Commission of India (CCI)

1. Shri K.P. Singh, Secretary

Investor Education and Protection Fund Authority (IEPFA)

1. Shri Navneet Chauhan, G.M

Indian Institute of Corporate Affairs (IICA)

1. Shri Sunil Sahu, CFO

National Financial Reporting Authority (NFRA)

1. Shri Vivek Narayan, Secretary

National Company Law Tribunal (NCLT)

1. Shri Shiv Ram Bairwa, Registrar

3. Thereafter, the Committee took concluding evidence of the representatives of Ministry of Corporate Affairs and Insolvency and Bankruptcy Board of India (IBBI) on the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019. The major issues discussed during the sitting included the rationale behind introduction of Clause 3 in the Bill i.e amendment in Section 7 of the Code to insert certain provisions specifying a

minimum threshold for certain classes of financial creditors for initiating insolvency resolution proceedings, reason for suppliers of essential and critical goods to supply during the moratorium period despite disrupting market functioning, rationale behind mandating the continuation of licences, permits etc by government authorities like in case of Jet Airways during the moratorium period, parallel working of RERA Act and IBC and the need to strengthen the former.

The Committee then adjourned for Lunch

PART III
(1430 hrs - 1545 hrs)

4. After lunch the Committee reassembled and took oral evidence of the representatives of Ministry of Corporate Affairs in connection with the examination of Demands for Grants (2020-21) of the Ministry and issues connected therewith. The major issues discussed included non-operational status of GST Assistant sector under the Champion sector scheme, huge case load on Serious Fraud Investigation Office (SFIO) and its high vacancy rate, the draft Amendment Bill on the Competition Act and functioning of Competition Commission of India (CCI), staffing and disposal of case in National Company Law Tribunal (NCLT) etc. The witnesses responded to the queries raised by the Members on the subjects. The Committee directed the witnesses to furnish written replies to the queries which could not be readily replied by them during the sitting.

The witnesses then withdrew.

The Committee then adjourned.

A verbatim record of the proceedings has been kept.

Minutes of the Eleventh sitting of the Standing Committee on Finance (2019-20)The Committee sat on Tuesday, the 3rd March, 2020 from 1500hrs. to 1830 hrs in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

Shri Jayant Sinha - Chairperson

LOK SABHA

2. Shri S.S. Ahluwalia
3. Shri Subhash Chandra Baheria
4. Shri Shrirang Appa Barne
5. Dr. Subhash Ramrao Bhamre
6. Smt. Sunita Duggal
7. Shri Gaurav Gogoi
8. Shri Sudheer Gupta
9. Smt. Darshana Vikram Jardosh
10. Shri Manoj Kishorbhai Kotak
11. Shri Gopal Chinayya Shetty
12. Dr. (Prof.) Kirit Premjibhai Solanki
13. Shri Manish Tewari
14. Shri P. Velusamy
15. Shri Parvesh Sahib Singh Verma
16. Shri Rajesh Verma

RAJYA SABHA

17. Shri Rajeev Chandrasekhar
18. Shri A. Navaneethakrishnan
19. Shri Praful Patel
20. Shri Amar Patnaik
21. Shri Mahesh Poddar
22. Shri C.M. Ramesh
23. Shri T.K. Rangarajan
24. Shri G.V.L Narasimha Rao
25. Dr. Manmohan Singh

SECRETARIAT

1. Shri V.K Tripathi - Joint Secretary
2. Shri Ramkumar Suryanarayanan - Director
3. Shri Kulmohan Singh Arora - Additional Director
4. Shri Tenzin Gyaltsen - Under Secretary
5. Kh. Ginlal Chung - Under Secretary

WITNESSES

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(The witnesses then withdrew)

3. The Committee, thereafter, took up the draft Report on 'Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019' for consideration and adoption. After some deliberations, the Committee adopted the above draft Report with some modifications and authorised the Chairperson to finalise them and present the Report to Parliament. The Chairperson observed that in case some Members desire to submit a dissent note he or she may do so and the same will be appended to the Report.

The Committee then adjourned.

T.K. RANGARAJAN

MEMBER OF PARLIAMENT
(RAJYA SABHA)

MEMBER :

- Standing Committee on Defence
- Consultative Committee on Commerce & Industry

Answer

Finance matters



सत्यमेव जयते

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27, Vaidhayaram Street,
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Tel. : 044-24341205
Fax : 044-24341294

3rd March 2020

To
The Chairman
Standing Committee on Finance

Sub: Dissenting Note on Amendment to the Insolvency and Bankruptcy Code 2019

Insolvency Code and Home buyers

Background

There is a new amendment to the Insolvency and Bankruptcy Code 2016 that now states a threshold of minimum 100 homebuyers or 10% of total homebuyers in a project, whichever is less, is required to take the builder to an insolvency court. This means that an individual home buyer who is a financial creditor cannot file an Insolvency Application under Section 7 of the Code. This is against the basic principles of the Code and denies the home buyer the relevant rights. The entire amendment is completely illogical and is against the very principle of the Insolvency Code to treat incipient sickness.

Reasons for Objection

1. At the outset, it is evident and obvious that this amendment has been proposed based on the strong lobby of the builders without even exposing the draft to the relevant stakeholders
2. The fact of home buyers being acknowledged as financial creditors has been well settled after protracted hearings by the Supreme Court in the case of Union Of India Vs Chitra Sharma and others
3. Any operational creditor who has an outstanding of more than Rs 1 lakh and in default can still drag the Housing Company to insolvency. In fact many of the home buyers would be defaulted by much more than one lakh. Denying the home buyers the chance denies a level playing field to a much more deserving set of stakeholders
4. It is also pertinent to note that no reliefs from the repayment of bank loans have been proposed for home buyers. So they have a double problem due to these erratic builders. One, they do not get their homes and two they have to service their bank loans failing which they are regarded as defaulters
5. The law is to treat incipient sickness, the first warning is available to the home buyers in terms of the delay in giving their houses. Denying them the right to apply to the insolvency

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Answer 1

2

court postpones the problem. If the government is willing to guarantee all home loans without recourse to the home buyers, it will be acceptable

6. If we make a law stating that 10% of the home buyers need to come together, then we also need to make a law stating that the entire financial transactions of every builder has to be displayed in a public website in a transparent manner. Will the government be willing to do this. Else how will a home buyer know who the others are to calculate this 10% threshold
7. If the 10% threshold is proposed and let us say, the application is filed, there is also a possibility of a cash compromise with some members of the 10% threshold by the builders and this will cause the case of the deserving home buyers to be set at naught
8. Also, why 10% was proposed as a threshold is not explained anywhere. If 10% is proposed in this case, then it is absolutely contrarian to the case of financial creditors in a Joint lenders forum who do not even need the consent of the other members of the JLF to apply to the insolvency court. This principle has been well enunciated in the Supreme Court decision in the very first Insolvency Case of Innoventive Industries Vs ICICI Bank
9. The home buyers today have absolutely no visibility to the cash transactions, diversion of funds by the builders who unscrupulously have used specific funds to buy other lands etc for future projects. The so-called Financial creditors have been negligent, collusive in sanctioning loans to these real estate companies and have turned a blind eye to the financials. The builders even report cash pay-outs which are prohibited by law to the various financial institutions and private lenders and there are many cases in NCLT on the same
10. Banks evade forensic audit in most cases. Even the basic financial statements have not been filed by many companies. Auditors have turned a blind eye to related party transactions. The Credit rating agencies have failed miserably and the results are the enormous number of defaults in handing over homes to home buyers. Why has the MCA not called for forensic audit records by the banks so that you would be able to appreciate how shallow these audits are
11. First the builders tried to hide under the garb of RERA. This was promptly dismissed by the Supreme Court in the case of Pioneer Urban Land and Infrastructure Limited & Anr. v. Union of India (W.P.(C) No. 43 of 2019 decided on 09.08.2019). This amendment now has rendered the said judgment ineffective.

Further, the retrospective effect of the amendment has made all the petitions infructuous as in absence of any public data being available, such a threshold is almost impossible to meet.

In its judgment dated August 9, 2019 of Pioneer Urban Land and Infrastructure Limited and Ors. Vs. Union of India and Ors. ("Pioneer Judgment"), the Supreme Court upheld the amendments made to the IBC. The Supreme Court observed that legislations such as the IBC

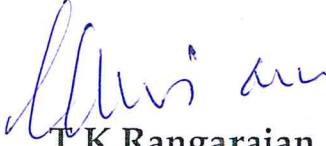
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and Real Estate (Regulation and Development) Act, 2016 ("RERA") would run concurrent to each other, and in case of a conflict, the IBC would prevail over RERA.

Does the MCA have data on the total number of NCLT petitions filed in the case of home buyers. There are 1000's of cases which would now be rendered infructuous

12. It is also pertinent to note that the home buyers have approached the Supreme Court recently in January 2020. The Court after hearing the petition has rightly said that till further hearing the NCLT cannot reject the applications of the home buyers for non-compliance of the new amendment brought in by the government introducing a minimum threshold for filing application under the Insolvency and Bankruptcy Code (2016)
13. In conclusion, the whole eco system has turned against the home buyers who are the most victimised, least exposed to the financial mis management of the builders and now trying to curb them of their fundamental rights is an example of how the government is participating in gaming the system against the home buyers

add this Party of the Report


T K Rangarajan
DND 134



MANISH TEWARI

MEMBER OF PARLIAMENT – SRI ANANDPUR SAHIB (PUNJAB)
FORMER UNION MINISTER OF INFORMATION AND BROADCASTING, GOVT. OF INDIA
NATIONAL SPOKESPERSON – INDIAN NATIONAL CONGRESS (INC)
ADVOCATE – SUPREME COURT OF INDIA

3rd March, 2020

To
Shri Jayant Sinha
Hon'ble Chairman,
Standing Committee of Finance,
Parliament House Annexe,
Parliament House,
New Delhi-110001.

Respected Chairman sir,

The Supreme Court of India in the Re-Pioneer Case had brought the home buyers at Par with Financial & Operational Creditors for triggering the Insolvency and Bankruptcy Code (Act). The Government obviously under pressure/ duress/ lobbying from the powerful builder and real estate developer lobby in the country has tinkered with the said Supreme Court Judgment by introducing discriminatory thresholds in the IBC process through the IBC Amendment Ordinance 2019. The said Ordinance states that unlike Financial and Operational Creditors , home buyers will have to mobilise 100 other home buyers or 5% of the number of people who have subscribed to a ^{project} process to trigger the IBC process. This and other amendments in the IBC Process were introduced vide the said amendment ordinance. The ordinance undermines the Supreme Court given right to home buyers by turning an individual remedy into a class action. It ignores the ticket size of a home buyers investment into a real estate project and reduces him to a numerical as opposed to a creditor. The amendment is patently discriminatory as a Financial or Operational Creditor can trigger the IBC Process at a threshold of Rs. One Lakh outstanding while a home buyer has to collect 99 more aggrieved or 5% of the Subscribers to a real estate project to initiate the IBC Mechanism.

cont.-page 2



MANISH TEWARI

MEMBER OF PARLIAMENT – SRI ANANDPUR SAHIB (PUNJAB)
FORMER UNION MINISTER OF INFORMATION AND BROADCASTING, GOVT. OF INDIA
NATIONAL SPOKESPERSON – INDIAN NATIONAL CONGRESS (INC)
ADVOCATE – SUPREME COURT OF INDIA

This amendment violative of Article -14 (Equality) , Article 21 (Right to life that includes- Right to Shelter). It obviously has been inserted by the Government to cater to the interests of the Real Estate Developers and Builders who are a powerful special interest Group in the Country. This amendment is violative of the rights of millions and millions of voiceless Home buyers who find there life savings ripped and misappropriated by unscrupulous builders and real estate Developers. This proposed amendment that introduces the 100 or 10% threshold should be dropped from the proposed ordinance. The draft report of the Standing Committee had proposed the same but due to opposition from within it is being now deleted from the Final Report. I record my strong, unequivocal, unrestrained and whole hearted disapproval with the decision of Standing Committee not to strongly advocate the said amendment that serves the interests of real estate oligarchs should be dropped from the proposed amendments to the Insolvency and Bankruptcy Code.

Regards

Yours sincerely

Manish Tewari

Manish Tewari
Member Standing Committee Finance.

DC - 312



सत्यमेव जयते

RAJEEV CHANDRASEKHAR
MEMBER OF PARLIAMENT
RAJYA SABHA

4th March 2020

Dear Jayant

Subject: IBC Act Amendments deliberations by the Finance Committee

As you are aware, during the considerations and discussions within our Committee, several witnesses have deposed about the need for home buyers to have equal rights as other financial creditors

This is particularly justified request, given that Supreme Court has ruled that homebuyers are also to be treated as financial creditors.

It is in this context, that proposed IBC Act of having threshold of 100 homebuyers and / or 10% home buyers seems clearly to be a case of distortion of principle of equal rights guaranteed under Constitution.

Therefore, I had argued that clause restricting the rights of home buyers (creditors) be dropped which majority of members did not agree with and hence the report. I wish to place my views on record and hence this letter.

I thank you for your Chairmanship of the deliberations.

Yours sincerely,

Rajeev Chandrasekhar

RAJEEV CHANDRASEKHAR

Shri Jayant Sinha

Hon'ble Member of Parliament and
Chairman – Committee on Finance
Government of India
New Delhi

Copy to : Smt. Nirmla Sitharaman, Hon'ble Finance Minister
✓ Committee Secretariat