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Assessment of the Position of Resolution Applicant amid Global Crisis

Resolution Applicants play a pivotal role in the new era of Insolvency. They are working as catalyst to achieve the intent of legislation behind the enactment of the Code, 2016. Their worthiness is that through Resolution Plan, they generally provide the stimulus package for revival of the business of Corporate Debtor. But during this Catastrophic Situation, there is apprehension that the revival of business of the Corporate Debtor through Resolution Plan is in grave danger within the four walls of Insolvency Laws.

Certain Relaxation: It is to be noted that certain relaxation has been provided through appropriate channels as exclusion of lockdown time in implementation of Resolution Plans by Resolution Applicant. But the question arises that only these relaxation are sufficient to implement resolution plan where there is no cash flow, uncertainty in market amid pandemic and there are even no chances to cope up with these situation in coming time. Even the various reports of experts deduced that the pandemic prevails in a long way. It is remarkable to assess the position of Resolution Applicants amid Global Crisis.

Should the Adjudicating Authority accept proactive approach-?

- i. To allow amending the resolution plan which has been partially implemented?
- ii. Through providing more relaxations to Resolution Applicant in implementation of resolution plan.
- iii. If Resolution Applicants fail to implement the resolution plan due to these prevailing situation, then another opportunity should be given or imposing of harsh penalties by Adjudicating Authority.

These questions are need to discuss here and trying to answer of the same.

Will the Adjudicating Authority allow amending the resolution plan which has been partially implemented?

As we all know that there is huge uncertainty in local as well as global market and crunch in financial sectors. The Resolution Applicants who generally try to revive the business of Corporate Debtor are in grave danger amid pandemic.

It is needless to say that the National Company Law Tribunal and Appellate Tribunal should apply new and proactive approach to protect the interest of Resolution Applicant and to achieve the intent and purpose of the code. As there is also concern of commercial viability of resolution plans which are approved without taking into consideration of such prevailing crisis amongst the financial sector. It is the obligation of the Adjudicating Authorities to find a new way to protect the corporate life and try to achieve the very purpose of Code and should also try to boom the financial sector through active judicial approach

Will Adjudicating Authority provide more relaxations to Resolution Applicant in implementation of resolution plan?

Now the wider concept should be followed by the tribunals for providing more relaxations and ease of doing business in implementation of resolution plans. As there are huge problems are being faced by the Resolution Applicants, only the exclusion of time of lockdown period is not sufficient enough to fight against such unprecedented crisis. The relaxations in the restricted four walls of Insolvency laws are not sufficient enough and we need the proactive judicial approach to cope up with these unprecedented situations.

However, there are certain measures taken by Govt. Of India under the umbrella of make in India, Ease of Doing Business and also stimulus packages are being announced but if the tribunals approach proactively and find a solutions in a new way then it will work as a catalyst for revival of business of Corporate Debtors.

The finding of answer of the above question number iii is that in the wake of unprecedented lockdown, the harsh and rigorous monetary penalties should be exempted and the opportunity should be given to those who are genuinely fails to implement the resolution plan amid financial crisis.

For Instance, the resolution plan in a real estate sector is hardly be implemented due to migration of labourers which leads to huge labour crisis and also clearances from various regulatory authorities are being postponed and sudden drop in the production of raw materials is another serious cause and all shows the impossibility of implementation of resolution plan due to unprecedented crisis.

Eventually, the conditions are in the favour of Resolution Applicants and if we trying to assess the conditions of the Resolution Applicants on the scale of Equity and Natural Justice, all are favouring them. However, if the legislature body does not form any law in coming time, the tribunals need to approach proactively and should be work as a catalyst to achieve the very intent of the Code, 2016. Otherwise, the Appellate Authorities will fill up by floodgate of cases seeking exclusions, relief and arguing the impossibility of implementation of resolution plans.

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