Essar Steel Case Part – II

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Why in news?

The Gujarat High Court has dismissed Essar Steel India Ltd's appeal against RBI order that has asked the creditor banks to start insolvency proceedings against the steelmaker.

What is the case about?

- RBI had recently identified 12 accounts including Essar Steel, that were to be referred by banks to the National Company Law Tribunal (NCLT).
- RBI made this decision because lenders had exhausted all other options to recover their dues.
- Essar had challenged RBI's direction and argued that it was not given an opportunity by the central bank to present its case before its name was included for commencement of insolvency proceedings.
- The company also argued that initiation of insolvency proceedings would disrupt operations and threaten the livelihoods of workers.

What did the Gujarat High Court say?

- The Gujarat HC has clearly spelt out the rights of lenders under the IBC and has criticized the Essar's attempt to delay the insolvency process.
- The court saidthe NCLT would give Essar Steel the chance to explain its position before deciding on the insolvency petition of the lenders.
- It further instructed NCLT to consider the ongoing process of the restructuring plan of the company before deciding on insolvency.
- During the process, it highlighted that the RBI has powers to issue certain instructions to banks to ensure proper recovery of public money.
- The court also held that a bank is entitled to launch insolvency proceedings **even without the directions of the RBI** under section 35 AA of the Banking Regulation Act.

What does the ruling mean?

- The ruling throws judicial weight behind RBI's 13 June directive asking

lenders to initiate action against the steelmaker and 11 other companies that account for a quarter of bad loans in the banking system.

- The ruling is a boost to the government, which empowered the RBI to tackle India's bad debt issue by allowing the RBI to **direct lenders to force defaulters into insolvency courts.**
- So, it means Essar Steel creditors such as SBI and Standard Chartered can proceed against the company in the National Company Law Tribunal (NCLT) under the Insolvency and Bankruptcy Code (IBC).
- The ruling by justice S.G. Shah is **likely to deter companies** that may have been contemplating similar legal challenges.

Source: Business Line

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