

## **Insolvency Law Committee's Directives**

### **What is the issue?**

\n\n

\n

- The Insolvency Law Committee was appointed to look into contentious issues plaguing the NPA resolution process.

\n

- The Committee has addressed many contentious issues, but some disagreements have been flagged by NCLT.

\n

\n\n

### **What are the differing views?**

\n\n

\n

- Under the Insolvency & Bankruptcy Code (IBC) - Insolvency Law Committee was tasked to assess the operational and interpretational issues in the Code.

\n

- Subsequently, conflicting rulings were given out by National Company Law Tribunal (NCLT) and the Law Committee on numerous appeals.

\n

- NCLT through section 29 has restricted eligibility criterion for bidders to keep out errant and wilful defaulters from buying back stressed assets.

\n

- But the law committee's recommendations to streamline 'Section 29A' and widen the pool of eligible bidders have been a majorly contested aspect.

\n

- The law committee has now narrowed the list of debarred entities to only those closely related to defaulting promoters.

\n

- Also, the committee has sought to enable "pure-play financial entities like asset reconstruction companies, alternate investment funds" for bidding.

\n

- Additionally, only a time bound 3-year restriction has been placed for bidders who've acquired an NPA, in order to not allow well intentioned buyers.

\n

\n\n

## **What are the other significant rulings of the committee?**

\n\n

- \n
  - In most cases, the money given by home buyers as advance to the defaulting firms is much higher than the money lent by banks.
  - \n
    - The committee has hence recommending that home buyers be treated as financial creditors in order to grant them more say in the resolution process.
  - \n
    - Also, the approval threshold for a resolution plan has been reduced from 75% of the home buyers to 66%, which will thereby enhance speedy resolutions.
    - \n
      - The committee has also clarified that all assets of guarantors to the corporate debtor will be outside the scope of freeze.
      - \n
        - This will thwart promoter's efforts to delay recovery by lenders against their personal assets.
  - \n

\n\n

## **What is the way ahead?**

\n\n

- \n
  - The tussle between operational and financial creditors warrants more attention.
  - \n
    - Poor recovery for operational creditors (money or good supplied in advance) can snowball into fresh NPA for banks from the SME space.
    - \n
      - Hence, like in the "Sick Industrial Companies Act", we can mandate the acquirer to issue a public notice inviting objections to the resolution plan.
    - \n
      - Also, Indian companies filing bankruptcy in the foreign destinations with nefarious intention needs to be plugged through a cross border insolvency law.
      - \n
        - While the Committee recognizes this, it has not laid down suggestions.
  - \n

\n\n

\n\n

**Source: Business Line**

\n

