New Liquidation Regulations

Why in news?

Insolvency and Bankruptcy Board of India (IBBI) has amended the regulations for liquidation under the Insolvency and Bankruptcy Code (IBC).

What is IBBI?

- The IBBI was established in 2016 under the IBC, 2016.
- It is responsible for implementation of the IBC.
- [IBC consolidates and amends the laws relating to reorganization and insolvency resolution of corporates, partnership firms and individuals.]
- It has regulatory oversight over the insolvency professionals and professional agencies, Insolvency Professional Entities and Information Utilities.
- It writes and enforces rules for processes, like, **corporate** and **individual** insolvency resolution and bankruptcy under the Code.

What are the new regulations?

- The liquidator for a company can assign or transfer a not readily realisable asset to any person in order to ensure quick liquidation of companies which are unable to find bidders under IBC.
- The said transfer or assignment of the asset must be done in consultation with the stakeholders committee.
- The definition of “not readily realisable asset” includes any assets of the corporate debtor, which couldn’t be sold through the available options.
- Any or all assets of the company under liquidation, which is facing some dispute or is involved in some fraudulent transaction, can be sold by the liquidator.

Do the changes in liquidation norms help?

- Among all, the changes to expedite the liquidation norms are likely to benefit **real estate companies** the most.
- One of the first changes to speed up the liquidation process is allowing the liquidator to assign or transfer any not readily realisable asset.
- This means that the liquidator can liquidate the entire assets of the company to different bidders as and when they come.
- The other change, which allows creditors to assign or transfer the debt to

other creditors of the company, would speed up the liquidation process.

What are the likely challenges?

- The new regulations will have to be tested in a court of law as its definition of a not readily realisable asset is contentious.
- Another amended regulation that may be challenged is about the IBBI allowing the liquidator to distribute the un-disposed of assets among stakeholders, with the approval of the adjudicating authority.
- This will lead to creditors challenging the distribution of the assets, and claiming that one or the other party has been favoured by the liquidator.
- One has to wait and see how the courts decide on these issues before applying them to liquidation cases.

Source: The Indian Express

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