SC upholds IBC's Section 32A

Why in news?

In its judgment, the Supreme Court (SC) upheld the validity of Section 32 A of Insolvency and Bankruptcy Code (IBC).

What did the judgment specify?

- Section 32A of the IBC offers protection to successful bidders and the assets of a corporate debtor.
- The court said that the successful bidders for a corporate debtor under the IBC would be immune from any investigations being conducted.
    - This applies to investigations either by any investigating agencies such as the Enforcement Directorate (ED) or other statutory bodies such as the SEBI.
- SC also said it was important for the IBC to attract bidders who would offer reasonable and fair value for the corporate debtor.
- This is to ensure the timely completion of corporate insolvency resolution process (CIRP).
- Such bidders, however, must also be granted protection from any misdeeds of the past since they had nothing to do with it.
- Such protection must also extend to the assets of a corporate debtor.
- The court has, however, said that the immunity would be applicable only if there is an approved resolution plan, and a change in the management control of the corporate debtor.
- The new management cannot be the disguised version of the old management. It cannot even be the related party of the corporate debtor.

How does this help?

- The protection forms a crucial attraction for potential bidders.
- It helps them in assessing and placing a fair bid for the company.
- This, in turn, will help banks clean up their books of bad loans.
- The extinguishment of the criminal liability of the corporate debtor is apparently important to the new management.
- This will help make a clean break with the past and start on a clean slate.

Why is the SC upholding Section 32A important?

- Since the IBC came into being in 2016, the implementation of resolution plan of several big ticket cases has been delayed.
- This was because of various challenges mounted by its own agencies and regulators.
- With the Supreme Court upholding the validity of Section 32 A, the cases delayed are expected to be completed soon.
- This is also expected to give confidence to other bidders to proceed with confidence while bidding on such disputed companies and their assets.

Source: The Indian Express

SHANKAR IAS PARLIAMENT
Information is Empowering