

Suppliers too can file for insolvency

A default of just over ₹1 lakh can trigger insolvency under the bankruptcy code

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Financial creditors or banks who have lent thousands of crores to corporates have no doubt great bargaining power under the Insolvency and Bankruptcy Code (IBC).

But the code also empowers an operational creditor to proceed against a corporate that has failed to pay its dues. These creditors that include suppliers, employees and workmen can initiate insolvency proceedings on a default of just more than ₹1 lakh.

But while such creditors can trigger the process, they do not have a say in the approval of the resolution plan.

No voting rights

The unique feature of the IBC is that it can be initiated by various parties—financial creditors, operational creditors and borrowers themselves.

According to a report published jointly by Assocham and KSR & Co., most of the cases dealt with under the NCLT across regions, appear to have been filed by operational creditors.

But while the IBC has given more teeth to operational creditors in as far as initiating the process is concerned, they do

not enjoy voting rights in the resolution process.

While all the parties—financial creditor, operational creditor and the corporate debtor—are invited to all the meetings held to decide on the resolution plan, only financial creditors or lenders have the right to vote.

If 75 per cent (by value) of the financial creditors approve the resolution, then it becomes binding on all other parties, including the borrowers and operational creditors.

In everyone's interest

While this may appear as unfair to some, according to bankers and market players, interests of operational creditors will most

likely be taken care of. The IBC aims at maximising value for each of the stakeholders, including operational creditors. Also, it is in the interest of all, including lenders, to get everyone on the same page.

There are two kinds of operational creditors—critical and non-critical. "A steel plant requires iron ore, coal, oxygen, etc., in order to produce steel. If the resolution plan does not address the interests of these critical creditors, there will be no steel produced and as a result no cash flows. It is imperative that you have them on board," says Nikhil Shah, Managing Director at Alvarez and Marsal, an expert in turnaround management.

Not so desired

There are others that feel that al-

lowing an operational creditor to initiate insolvency for a default of just over ₹1 lakh could thwart efforts of lenders who may be trying to resolve the issue with the borrower.

"When an operational creditor is triggering the code, he could possibly be looking at it only as a 'recovery' tool to achieve a quick settlement (rather than revival or turnaround of the corporate debtor). But banks, as financial creditors, should ideally be more focussed on 'resolution' and better value creation," says Damini Marwah, Senior Vice-President, General Counsel, Axis Bank.

"An operational creditor sees the provisions under the IBC providing a moratorium on mere admission of his petition as an advantage. Once he triggers the insolvency, he knows that the pressure is now on the lenders or the corporate debtor to prevent liquidation," says V Srinivasa Raghavan, Partner, IndusLaw.

He adds that a reason for a corporate debtor to trigger the proceedings is to play up creditors against each other. "If there is one creditor who is sympathetic and another is not, you initiate insolvency and make all lenders resolve the issue. Earlier, it was the debtor's onus to get all the creditors on board," says Srinivasa Raghavan.



The unique feature of the Insolvency and Bankruptcy Code is that it can be initiated by various parties—financial creditors, operational creditors and borrowers themselves SHUTTERSTOCK.COM

वर्ष 2022 तक हर साल 15,000 मैगावाट से अधिक क्षमता जोड़ने की जरूरत

मुम्बई, 31 जुलाई (एजेंसी): देश को 2022 तक 1,00,000 मैगावाट सौर क्षमता का लक्ष्य हासिल करने के लिए हर साल में 15,000 मैगावाट से अधिक सौर क्षमता जोड़नी होगी। एक अध्ययन में यह कहा गया है।

एन.ई.सी. टैक्नोलाजीज और उद्योग मंडल एसोचैम के संयुक्त अध्ययन के मुताबिक वित्त वर्ष 2016-17 के अंत में देश की स्थापित सौर क्षमता 17,000 मैगावाट के लक्ष्य से कम रही। अध्ययन के मुताबिक सौर के संदर्भ में बड़ा प्रौद्योगिकी मुद्दा सौर सेल की क्षमता है।

इसके अलावा वस्तु एवं सेवा कर ढांचे में कर की दर शून्य से बढ़ाकर 5 प्रतिशत किए जाने के साथ कोयले पर कर की दर 11.69 प्रतिशत से कम कर 5 प्रतिशत होने से देश के ऊर्जा क्षेत्र में सौर ऊर्जा अपनाने की गति धीमी हो सकती है। अध्ययन के मुताबिक विभिन्न क्षेत्रों के लिए समान नीतियों का अभाव तथा क्रियान्वयन मुद्दे भी चिंता का विषय हैं।