Insolvency and Bankruptcy Hotline

May 27, 2021

NO EQUALITY AMONGST EQUALS: TREATMENT OF SECURED CREDITORS UNDER IBC

This article was originally published in the 24th May 2021 edition of

SUMMARY

The question of whether senior secured creditors have primacy over junior secured lenders in the liquidation process under IBC has been a subject of much debate. The Insolvency Law Committee (ILC) was of the view that valid inter-creditor agreements are to be respected in the liquidation process, and therefore, recommended that a clarification be added to the Code to this effect. However, the government, in its legislative wisdom, did not accept such a recommendation and the question finally came to be settled by National Company Law Appellate Tribunal (NCLAT) in the case of *Technology Development Board v Mr. Anil Goel*. In the present case the NCLAT disagreed with the ILC and held that no preferential treatment to senior secured creditors can be allowed in the distribution of liquidation proceeds if such creditors have relinquished their security towards the liquidation estate.

For the complete article please click **here**.

– Mohammad Kamran & Arjun Gupta
You can direct your queries or comments to the authors

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