

Insolvency and Bankruptcy Hotline

August 25, 2022

RESOLUTION PLANS UNDER INSOLVENCY CODE: HOOKED, BOOKED AND COOKED!

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INTRODUCTION

The COVID-19-induced economic recession has disrupted Indian businesses forcing many of them to shut down their operations. In times of economic uncertainties posed by the pandemic, one of the revival mechanisms for Indian companies is under the Insolvency and Bankruptcy Code, 2016 ("IBC"). However, pandemic-related disruptions have also had an impact on pending insolvency resolution processes under the IBC. Successful resolution applicants are facing immense difficulties to abide by the scheme proposed by them in their own resolution plans, owing to a multitude of reasons such as financial hardships, substantial changes in the position of the corporate debtor, gross amendments in the valuation of the business. In light of these factors and the changed economic scenario, the resolution applicants are forced to either reconsider their plan, or in certain situations withdraw the resolution plan altogether. This factual scenario led the adjudicating authority to consider a novel issue pertaining to the finality of a resolution plan which has been approved by the Committee of Creditors ("CoC") but is pending approval of the National Company Law Tribunal ("NCLT"). While determining the situation the Hon'ble Supreme Court in the matter of *Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp Solutions Ltd. and Anr.*, observed that the NCLT cannot allow modifications and/or withdrawals of CoC-approved resolution plans once the plan has been submitted to the NCLT. This determination by the Apex Court affirming the finality of the resolution plan even when it is pending approval of the adjudicating authority, is bound to have far reaching implications on the insolvency regime in India.

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– Arjun Gupta & Sahil Kanuga

You can direct your queries or comments to the authors

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