

## **INSOLVENCY AND BANKRUPTCY CODE**

**CA. Pravin Navandar, CA. Mukund Mall**

NCLT –Kolkata order dated 01.03.2023 Trimurti Associates Private Limited vs BKM Industries Limited. Applicant ICICI Bank Limited – dissenting creditors for Resolution Plan. – Plan approved

ICICI seeking directions on the RP to take into account the priority of distribution of plan realizations taking into account the priority assigned to the dissenting financial creditors who are also secured.

ICICI contended that while determining the calculation methodology of the creditor's proportional share the interest of the dissenting Creditor having a security interest have not been taken into consideration and they have been treated at par with the other creditors who are eligible to get the realizations from the plan in terms of Sec. 53 of the Code.

It was held, just because of the fact that a creditor enjoys the protection of a security interest he cannot be treated any higher than the other creditors. If accepted then then all creditors would like to give dissenting view in the Coc, which will not lead to the maximization of the value of the CD and thus defeating the very purpose of resolution envisaged in the Code. In view of above, we do not find any reason to interfere in the commercial wisdom of the CoC and accordingly reject the prayer of the applicant.