

## INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

In the case of *Taguda Pvt Ltd vs. Subodh Kumar Agrawal, RP of Ushdev International Ltd*, the Resolution Applicant (RA) sought numerous specific waivers from Income Tax, Stamp Duty, Non-compliances etc for implementation of Resolution Plan submitted before NCLT Mumbai Bench.

The Adjudicating Authority (AA) granted the following waivers sought:

### i. INCOME TAX & GST

- a. RA sought for the waiver of Past Liability accrued from commencement of CIRP till approval to Closing Date (defined in Resolution Plan), arising out of any levied/tax dues to any Government Authority which are not form part of Resolution Plan shall stand extinguished from the date of approval of Resolution Plan and the same was granted. Further, AA also mooted that RA couldn't be burdened with the liabilities arisen before the approval of Resolution Plan.
- b. RA also sought waiver for Income Tax liability on notional income arising on implementation of the Resolution Plan due to writing back of the unpaid dues to the creditors in the books of the CD and the same granted.

### ii. EXTENSION OF TIME PERIOD

RA sought extension of 6 months from the closing date to assess the status of the requisite approvals, licenses and non-compliances thereunder. The same was granted wherein it was stated that until the Closing date there would be no initiation of any investigation, actions or proceedings by the Government Authority in relation to the non-compliances.

### iii. STAMP DUTY

Stamp duty payable for assignment of debt from FC, transfer of immovable properties, fee & filing Form SH-7 etc, the AA opined that the RA may approach the ROC for consideration of stamp duty arisen from filing of Form SH-7 wherein ROC can decide by keeping in view of the spirit of IBC Legislature.

The RA also sought waiver of any tax liability, valuation, acquisition of the sale shares etc from **Central Board of Direct Taxes, Reserve Bank of India & Foreign Exchange Management (Transfer or Issue of any Foreign Security) Regulation, 2004**, respectively, which may arise out of transfer of equity shares. These specific exemptions were not granted by AA. However, no inimical observations were passed in this judgement against these waivers/exemptions.