

## **INSOLVENCY AND BANKRUPTCY CODE**

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

### **Gaurav Jain Vs.Sanjay Gupta – Liquidator**

#### **Topworth Pipes & Tubes Pvt. Ltd. NCLT, Mumbai bench**

#### **Liquidation as Going Concern:**

Gaurav Jain is the successful bidder for the sale of assets of the CD. Under Liquidation.

The Liquidator invited bids for the sale of the CD as a 'going concern' on "as is where is basis", "as is what is basis", "whatever there is basis" and "no recourse basis" sale of the Company on going concern basis. CD along with the business, assets and liabilities, including all contracts, licenses, concessions, agreements, benefits, privileges, rights or interests be transferred to the acquirer.

The Applicant submits that the mere purchase of the CD as a 'going concern' as per Liquidation Process Regulations will not suffice. In order to ensure smooth running of the business of the CD, it is imperative that certain additional reliefs / concessions / relaxations / and permissions are allowed which would be essential and necessary to run the business of the CD as a "going concern"

The bench allowed the following to Applicant :

- 1) Bring in funds in the form of share capital and unsecured debts;
- 2) All the rights, title and interest over whole and every part of the CD, All the liabilities of the Corporate Debtor as on date stand extinguished.
- 3) Applicant shall not be held responsible / liable for any of the past liabilities of the CD in inquiries, investigations, assessments, notices.
- 4) All directions, notifications, circular issued prior to the date of prior to liquidation shall be extinguished;
- 5) Can apply for reliefs under any various state government reliefs schemes;
- 6) CD is entitled to get the benefits of brought forward losses, if any, subject to permission of the appropriate authority if so entitled under the relevant provisions of the Income Tax Act, 1961.