

INSOLVENCY AND BANKRUPTCY CODE

CA. Pravin Navandar, CA. Mukund Mall

ESSAR STEEL V. STATE OF GUJARAT

(Gujarat High Court)

Background:

SC in CoC of Essar Steel vs. Satish Kumar Gupta upheld the principles laid down in Sec. 31 of IBC that the resolution plan, once approved is binding on all the parties and the Successful Resolution Applicant (SRA) cannot be faced with new claims which were of the period prior to the commencement of the CIRP Clean Slate principle. Re-iterated the principle laid down. The HC ruled that the Resolution Plan(RP) is binding on all the stakeholders and extinguished the proceedings in light of approval of the resolution plan.

Facts:

The SRA applied for discharge and extinguishment of a Civil proceedings regarding water charges under the contention that, since the RP has approved by the SC. and the claim is of period prior to initiation of CIRP., and the settlement claim was eventually accepted by the respondents as full and final settlement of the outstanding claims.

Held:

Since the RP has mentioned that all the claims, whether contingent or crystallized, known or unknown, filed or not filed, shall stand irrevocably and unconditionally abated, settled, discharged and extinguished in perpetuity upon approval of RP. It also mentioned that all the related proceedings towards all the claims shall stand abated, settled, discharged and extinguished in perpetuity. Further, the RP also mentioned that no person shall be entitled to initiate any proceeding to enforce any claim or continue any proceeding in relation to any claim. By referring all these excerpts from the SC Judgment, the HC held that the RP submitted is "in-rem", i.e against the world. Hence, by upholding Section 31 and following the Supreme Court Judgment, the HC held that since the present proceedings arose prior to the commencement of CIRP stand extinguished.