

## LEGAL UPDATES

### **DESPITE "EXCEPTIONAL CIRCUMSTANCES" BEING SHOWN, NCLAT OVERTURNED NCLT-ORDER FOR NOT SUFFICIENTLY EXTENDING CIRP PERIOD**

The Hon'ble NCLAT held that since it has been significantly proven that there are exceptional circumstances, such as the ongoing legal proceedings, the imposition of a nationwide lockdown, a change in RP, the calling of fresh expressions of interest, and the nature of the corporate debtor's business, which admittedly is spread across many regions of the country, the corporate debtor cannot be compelled into liquidation, and the CIRP period is therefore further extended;

Relying on its decision in the case of Ravi Sankar Deverakonda, which held that, in general, the CIRP of the Corporate Debtor must be completed within 330 days of the commencement of insolvency; however, the Adjudicating Authority may choose to exercise its authority to extend the period in defiance of the IBC's statutory provision in exceptional/extraordinary circumstances.

NCLAT rejected an NCLT ruling that extended the Corporate Debtor's CIRP timeframe by 83 days in this particular case; NCLAT noted that *"...the Adjudicating Authority, if satisfied that the CIR Process cannot be completed within 180 days, it may by order extend the duration of the such process beyond 180 days, but not exceeding 90 days."*

Based on the Hon'ble Supreme Court's decision in Essar Steel CoC vs. Satish Kumar Gupta, the Hon'ble NCLAT claimed that the Apex Court eliminated the word "mandatorily" from the proviso to Section 12(3) of the IBC that required completion of the CIR Process within 330 days and held that the Tribunal might extend the time beyond 330 days in exceptional cases; it also notes that the Appellants have demonstrated exceptional circumstances in not completing the CIRP within the time.

As a final point, Hon'ble NCLAT emphasised that the SC ruling is binding on this Appellate Tribunal and all other Tribunals and that the NCLT judgment merits being overturned to prevent liquidation and conform with the Code's goal of maximising the value of the Corporate Debtor's assets.