

LEGAL UPDATES

NCLAT PERMITTED APPLICANTS FOR RESOLUTION TO SUBMIT REVISED BIDS, AND COC TO RE-VOTE, HARPS ON IBC'S INTENT

The NCLAT permitted Resolution Applicants to submit their updated resolution plan, and ordered the CoC to deliberate and consider all those plans in order to prevent the Corporate Debtor from entering liquidation. The Tribunal further stated that *"The intent of 'I &B' is to maximise the assets of the Corporate Debtor and efforts of Resolution Professional ought to have been to give the opportunity to all the Prospective Resolution Applicants to get their plans considered and voted upon"*.

It was noted that there have been three rounds of voting on the resolution plans following numerous CoC meetings and discussions with prospective resolution applicants, where –

- (i) The Plan of "Sattva" received the highest vote in the first round, receiving 64.64%, but was unable to obtain the necessary vote;
- (ii) ("Experion Developers Pvt. Ltd." did not participate in the voting in the second round because it had made changes to its plan; and
- (iii) Following NCLT's approval of Experion's application to submit the amended Resolution Plan, CoC was instructed to vote on the updated plan along with three other proposals.

Despite the fact that 330 days have passed, the NCLAT notes that *"...this is a case where, as per direction of the Adjudicating Authority, only re-voting has to be conducted to ascertain whether any Resolution Plan could get the necessary number of votes failing which liquidation order is to be passed for which Application has already been submitted by the Resolution Professional which is pending consideration..."*

In addition to this, the Tribunal stated that resolution process has gone so far, it should be brought to its logical conclusion. As such it observed that *"...before the Application filed by the Resolution Professional praying for liquidation is taken by the Adjudicating Authority, we*

may give one more opportunity to all the four Resolution Applicants to submit their revised plan and thereafter the CoC may deliberate and vote on all the four plans,"

The NCLAT in furtherance of this granted all four Resolution Applicants 15 days from the date of the judgment to submit their revised plan, thereby, giving those Resolution Applicants who have withdrawn their Bid Bond Guarantee (or "BBG") the chance to submit a new BBG of Rs. 20 Cr.