

LEGAL UPDATES

SC: SC EXAMINES THE SCOPE OF GROUNDS FOR REJECTING THE ARBITRAL AWARD UNDER SEC. 37 OF THE ARBITRATION ACT

A bench consisting of Justice Ashok Bhushan, Justice J.K Jain and Dr Alok Srivastava upholds NCLT's order whereby the Financial Creditor/Appellant's application seeking dissolution of resolution plan and liquidation of the debtor was dismissed. The Appellate tribunal held that the Appellant's claim was already decided in the previous instance and upheld by NCLAT that 330 days provided under Sec.12 of IBC is not mandatory and can be extended in exceptional scenarios. The Appellant claimed that RP was not empowered to allow the resolution plan by Respondents as the plan was filed past the deadline fixed by NCLT. The Financial Creditor further claimed that timelines prescribed under proviso to Sec.12 of IBC are mandatory and a period of extension cannot be granted more than once. The Respondents, however, pointed out that the resolution plan's execution was already partially implemented and the RP and the adjudicatory authority were well within the provisions of IBC to exercise their discretion, in the greater interest of all stakeholders. The question before NCLAT was whether the deadline of 330 days delineated under Sec.12 is mandatory. The 3 member bench, while banking on the Supreme Court ruling in the CoC of Essar Steel, held that a timeline of 330 days is not mandatory in exceptional cases where it would be to all stakeholders' benefit that the corporate debtor is revived instead of going into liquidation. Thus, the tribunal was unsatisfied with the petitioner's contention that if CIRP is not completed within 330 days, then adjudicating authority shall order liquidation. Thus, NCLAT rejected the appeal.