

## LEGAL UPDATES

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

In an appeal decided by a bench of Justice A.B. Singh and Ms Shreesha Merla, NCLAT rejected the appeal against the order of NCLT whereby the Adjudicating Authority excluded 87 days from the total duration of 180 days of the CIRP period. The Appellant claimed that IRP submitted the exclusion application entirely in contravention of the CoC's stated directive and violation of IBC's Sec.12(2) and thus IRP be removed. The Appellate further contended that the distinction between exclusion and extension is meritless and express approval of CoC is mandated as both seem to extend the CIRP timelines. NCLAT enunciated the literal interpretation of extension as an act of increasing the scope of something whereas exclusion is attributed to leaving something out, thereby decreasing the scope of something. Thus, the tribunal stated that an extension of 87 days would mean 180 plus 87 days, i.e., 267 days and an exclusion of 87 days would denote 180 minus 87 days, i.e., 93 days. Hence, the terms "extension" and "exclusion" have separate meanings. The appellate tribunal while considering the Appellant's contention to remove IRP, held that when an application to remove IRP or RP is rejected by the CoC members' majority, no mechanism in the Code allows one of the CoC members to approach this Tribunal and request a replacement. Lastly, NCLAT also considered the claim that IRP held the CoC meeting in flagrant defiance of the NCLAT order, which required that the status quo regarding the contested order be maintained. The appellate tribunal also observed that although notice for CoC was given, however, the meeting was postponed on account of several requests by creditors including the appellant and further as per the NCLAT order, none of the topics on the agenda for the CoC Meeting was "put to vote." Thus, the appellate tribunal found no non-compliance with the tribunal's order. Finally, the bench held that NCLT has rightfully excluded 87 days from the CIRP period under Sec.12 of IBC read with Reg. 42 of CIRP regulations and in the prevalent COVID-19 pandemic. Hence, the appeal stood dismissed.

