

GUIDANCE

INSOLVENCY AND BANKRUPTCY CODE INDIA

- Reorganization and insolvency resolution in a time bound manner
- Maximization of value of assets
- Promotion of entrepreneurship
- Availability of credit
- Balance the interests of all the stakeholders

← Insolvency Law objectives

FINANCIAL CREDITOR

Any person to whom a financial debt is owed. Includes a person to whom such debt has been legally assigned or transferred to Banks, Financial Institutions etc.

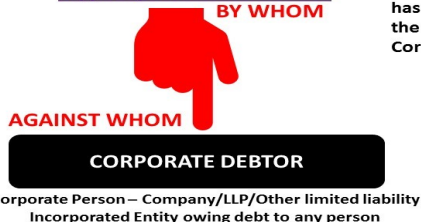
OPERATIONAL CREDITOR

Any person to whom an operational debt is owed. Includes a person to whom such debt has been legally assigned or transferred to Suppliers, Service Providers etc.

BY WHOM

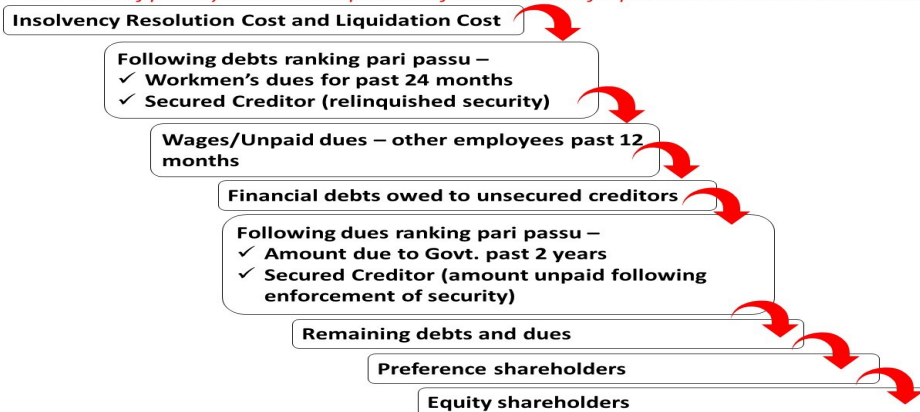
CORPORATE APPLICANT

Corporate Debtor/ A member or Partner of Corporate Debtor/ Individual in charge of managing the operations and resources of Corporate Debtor/ Person who has control & supervision over the financial affairs of the Corporate Debtor



Waterfall Mechanism

the order of priority in which the proceeds from the sale of liquidation assets are distributed



Over time, proceeding under Insolvency and Bankruptcy Code has become a favorite method for small operational creditors to recover their dues.

Here we enlist certain pointers for operational creditors before they take up this method of recovering dues and for corporate debtors to serve them as preventive measure.....

Proper documentation and record maintenance (Purchase Order, Service Agreements, Delivery Challan, Deliverable Acceptance, Invoices, Payment advice, Proof of payment of tax etc.)

Regular follow up (in writing) with acknowledgement of due amount and carry forward of the due in books of account is a mandatory requirement

Be vigilant, time barred debts/dues cannot be recovered

Closure documents releasing the parties from their respective obligations under a commercial transaction are important

Be wary of "Dispute" which includes a suit or arbitration proceedings relating to (a) the existence or the amount of debt; (b) the quality of goods or service; or (c) the breach of a representation or warranty. It has to be a plausible contention which requires further investigation and not a patently feeble legal argument or an assertion of fact unsupported by evidence

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