

NATIONAL LAW UNIVERSITY, DELHI
LL.M. Degree Programme, I-Semester (Batch of 2019)
End-Semester Examination, December - 2019
Paper: Corporate Insolvency Law and Practice

Time: 3:00 Hours

Total Marks: 50

Instructions:

1. All questions are compulsory. Open Book Exam, Participants may refer to Study Material, Bare Act, Recent Amendments & Ordinance
2. No clarification shall be sought on the question paper.

Q.1 Write a note upon ANY TWO of the following: - **(2x10= 20 Marks)**

Cite Decided cases from NCLT/NCLAT/SC in support wherever applicable.

- i. Time value of money
- ii. Avoidable, Preferential, Extortionate, fraudulent transactions u/IBC
- iii. Outline A Brief Overview of The Bankruptcy Process u/IBC applicable to Personal Guarantors of a Corporate Debtor.

Q.2 Describe the norms regarding eligibility of Resolution Applicants u/s 29A of IBC 2016. Kindly discuss the relevant cases. **(10 Marks)**

Q.3 Write a short note upon ANY ONE the following: - **(5 Marks)**

- (i) Waterfall Mechanism u/IBC 2016
- (ii) Issue Analysis of an Indian case on Cross-border Insolvency

Q.4 Application/ Case Study. Cite Decided cases from NCLT/NCLAT/SC in support wherever applicable (1000-2000-word limit) **(15 Marks)**

SR Pvt. Ltd. Co., hereinafter “SR” is a prominent Aluminium products company in India. It owes dues to: (i) 10 creditors out of which 4 are banks which are secured creditors holding 70% of debt in value, (ii) 4 unsecured creditors including Hindalium Limited which is supplier of raw material and coal; (iii) 2 bondholders. Total dues are 50 crore, advances availed of during January 2013 to December 2016, and materials supplied during January 2016 to February 2017. The registered office of SR is in Cuttack, Odisha, but its manufacturing unit is in Bhilai, Chhattisgarh. The promoters had also provided personal guarantee to the banks.

In April 2018, Hindalium makes a demand on SR of Rs. 5 crore. SR disputes it on the ground of deficiency in quality of raw material. Nevertheless, Hindalium goes ahead and files an application for commencement of insolvency proceedings in respect of SR under IBC at the NCLT Bench at Bhilai as its head office is located at Bhilai. Mr. Satish is proposed for appointment as Interim Resolution Professional. Satish is a well-known accountant and has audited the accounts of many companies including one of the creditors of SR.

(a) 1st Issue

(4 Marks)

On 1st April 2018, Hindalium serves a demand note upon SR for balance amount due on bottles supplied for Rs. 5 crore. On 5th April, 2018, SR files a notice of arbitration, as provided in their agreement for dispute resolution, citing deficiency in quality of material supplied and its intent to return around 15% of the material supplied by Hindalium.

Argue upon the CIRP Application on behalf of either Hindalium or SR in the NCLT, identify the relevant issues at this stage; which is the relevant Adjudicatory Authority?

(b) 2nd Issue

(4 Marks)

On appointment, Satish invites claims from creditors. He rejects the claim of one unsecured creditor, rejects the claim of one bondholder and reduces the claim of one secured creditor. A creditors' committee is constituted comprising of financial creditors. In the first meeting, Satish is appointed as Resolution Professional.

After one week, Satish requests to convene a meeting of creditors' committee to consider the agenda of continuation of services by Indra Gas Ltd "IGL" for supply of Gas as essential services. Some creditors oppose this agenda item, one ground among others being that two large smelters out of the four smelters at the factory were already working on electricity.

Present relevant arguments, both for and against the issue(s).

(c) (3rd issue)

(7 Marks)

Satish prepares Information Memorandum. Notice is published inviting Resolution Plan from interested parties. Sterline is a company involved in manufacturing and trading alloys. Mr. Manav, a promoter of SR, is also a Promoter of Sterline. Edel Fund is an Asset Management Fund which had purchased claims from one bondholder and one secured creditor of SR amounting to 10% of claims. Sterline and Edel file Resolution Plans with Satish for consideration and placements before the committee of creditors.

Creditors committee meets to consider the Resolution Plan. Promoters of SR, representative of Hindalium, representative of Sterline, Edel are also invited to the meeting. The Plan of Edel had a clause to extinguish the subrogation rights SR's promoters. The plan of Edel is approved by the creditors committee. Satish places it before the NCLT for sanction. Sterline opposes the Plan of Edel.

Outline and argue all relevant issues in Proceeding before the NCLT:

- (i) on behalf of Edel
- (ii) on behalf of Satish and CoC