

Economy

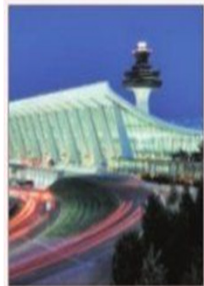
FRIDAY, JULY 28, 2017



The passage of this Bill will help in increasing the size of the country's economy. The amendments would strengthen corporate governance standards and improve transparency.

—Arjun Ram Meghwal, MoS for corporate affairs, on passage of a Bill in LS to amend the companies law

Quick View



AAI hikes fine for violators at airports

INDIVIDUALS WHO violate regulations at airports will now face higher penalties, with state-owned AAI putting in place revised fine amount. The Airports Authority of India (AAI)

● COURT ON CODE

Corporate debtors, creditors can settle disputes after insolvency proceedings begin: Apex court

SC added NCLAT doesn't have power to allow recording of consent terms between parties after the case is admitted in NCLT

INDU BHAN
New Delhi, July 27

THE SUPREME COURT has held that corporate debtors and financial creditors can settle their

dispute even after corporate insolvency resolution proceedings are initiated by the National Company Law Tribunal (NCLT) under the Insolvency and Bankruptcy Code, 2016.

However, it said the National Company Law Appellate Tribunal (NCLAT) does not have the powers to allow recording of consent terms between parties after the case is admitted in the NCLT, but the parties desirous of going ahead with the settlement can approach the apex court for any such relief. This means that whenever such a situation crops up, the parties to the consent terms will have to approach the



Supreme Court for the relief.

Under the code, it is not open to the financial creditor to withdraw the application once it is admitted and the matter can't be

closed till claim of all the creditors is satisfied by the corporate debtor.

In the case, Lokhandwala Kataria Construction vs Nisus Fi-

nance & Investment Manager LLP, a bench comprising justices Rohinton Nariman and Sanjay Kishan Kaul, while exercising powers under Article 142 of the Constitution, recorded the consent terms between the parties after the NCLT, Mumbai, had on June 15 passed an order initiating corporate insolvency resolution process against corporate debtor Lokhandwala Kataria under Section 7 of the new Code.

Nisus Finance, the financial creditor, had moved the tribunal after the first cheque issued by Lokhandwala for redemption of the part of the debenture was dishonoured. The tribunal had

noted that "default has occurred and the corporate debtor is under obligation to make repayment to the debenture holders, the same not being made, this application (filed by creditor for initiating corporate insolvency resolution process) is fit for initiating corporate insolvency resolution process. Accordingly, this application is hereby admitted".

However, both the parties resolved the issue between themselves and moved the NCLAT, asking it to record consent terms between them. But their plea was refused by the appellate tribunal on the ground that it does not have powers to do so as Rule

8 of the Insolvency & Bankruptcy (Application to Adjudicating Authority) Rules, 2016, allowed withdrawal of application only before its admission.

On appeal, the Supreme Court, while upholding the NCLAT's July 13 decision said that the appellate tribunal was bound by the Rules.

Senior counsel Krishnan Venugopal and counsel Shikhil Suri, appearing for the financial creditor, argued that the parties had settled the dispute and part amount had already been paid. Senior advocate Mukul Rohatgi represented the corporate debtor.

