Date: 18/11/19
Question No. Q.11.

UPSC

Topic

Remarks

Discuss the key provisions of the IBC. Present a case for its significance and how the recent judgment on Essar steel is important. (15 mks)

Insolvency and Bankruptcy Code (IBC) was introduced in 2016 to resolve claims involving insolvent companies. It aimed to promote entrepreneurship, availability of credit and balance the interest of all stakeholders. It was meant to tackle rising amount of Non Performing Assets.

Key Provisions:-

- **Insolvency Professional** - licensed professional of resolution process
- **National Companies Law Tribunal (NCLT)** - for companies
- **Debt Recovery Tribunal (DRT)** - for individuals and small firms
- **Insolvency Professional Agencies (IPA)** - professionals registered
- **National Companies Law Appellate Tribunal (NCLAT)** - NCLT decisions challenged here
- **Insolvency and Bankruptcy Board (IBB)** - regulates IPAs and Information utilities

Scanned with CamScanner

Date:

Question No.

UPSC

Topic

Remarks

Significance

1. More power to creditors
2. Easier exit
3. Speedier insolvency resolution
4. Enhanced ease of doing business
5. Reduced bad loans
6. Productive direction given to capital
7. Elaborate institutional infrastructure.
   Eg. NCLT, Debt Recovery Tribunal

Limitations

1. Time bound manner of disposal of cases couldn't be followed.

2. NCLAT had put financial and operational creditors on same footing. This made financial creditors apprehensive

Essar Judgement - Importance

Supreme Court upheld the supremacy of Committee of creditors comprising financial creditors of bankrupt firms over distribution of claims.

It is important because -

i) 330 days mandatory deadline for resolution of insolvency and

Scanned with CamScanner

bankruptcy cases removed. It was seen as unreasonable restriction on litigants' right to carry business under Art. 19(1)(g) and violation of Art. 14 (Right to equal treatment)

3. Secured creditors given priority over unsecured creditors.

Through SC's judgement, NCLAT's decision has been reversed. This long pending resolution of IBC process addresses a major area of concern. This will enable quick resolution of bad assets in the future.

Scanned with CamScanner