

IBC suspended for a year, Covid-19 related debt exempted from default

The Corporate Affairs ministry will issue a special circular to define the time period which will cover "covid related debt" to be exempted from default, the finance minister said

Ruchika Chitravanshi | New Delhi May 17, 2020 Last Updated at 15:13 IST

The government has exempted all Covid-related debt from the definition of default under the insolvency and bankruptcy code (IBC) and suspended any fresh initiation of insolvency for up to a year, Finance Minister Nirmala Sitharaman said on Sunday.

Among other measures, the government will introduce an ordinance for decriminalising the Companies Act and move the majority of compoundable



offences to an internal adjudication mechanism.

The reforms announced as part of Prime Minister Narendra Modi's call for Atmanirbhar (self-reliant) India also include a special insolvency framework for micro, small, and medium enterprises (MSMEs) by introducing a new section in the IBC.

The corporate affairs ministry will issue a special circular to define the time period which will cover "Covid-related debt" to be exempted from default, the minister

Of the total 221 resolved cases under IBC, 44 per cent amount of debt has been recovered since the inception of the law in 2016

said.

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"We would need clarity on if the government is only trying to cover the debt that banks and other financial institutions will give under the MSME package announced by the finance minister in the first tranche of economic stimulus or is it the Covid line of working capital funding that was announced by SBI and some other banks in recent past," Anshul Jain, partner at PwC India, said.

The government had already announced the increase in the threshold limit for triggering insolvency to Rs 1

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- 58 sections to be dealt with under internal adjudication mechanism
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crore from Rs 1 lakh under IBC, more relief is likely for the MSMEs. According to experts, government could allow pre-packaged insolvency resolution plans, popular in the US and the UK, for MSMEs. Such a scheme involves an agreement by the stressed company and its creditors with a buyer before initiating insolvency proceedings.

Of the total 221 resolved cases under IBC, 44 per cent amount of debt has been recovered since the inception of the law in 2016. The total amount of claims admitted are over Rs 4.13 trillion, of which the total realisable amount is around Rs 1.84 trillion.

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IBC is considered one of the landmark reforms undertaken by the government as a measure for viable companies to regain its lost glory and survive as a going concern.

While the suspension of IBC for companies under stress due to Covid-19 might give them a new lease of life it could also have far reaching consequences.

“Suspending IBC in entirety, while it looks like a relief to corporates, could actually lead to the corporates being in a state of flux, as all creditors coming together without the sword of IBC on them has never really won the popularity vote,” said Veena Sivaramakrishnan, Partner, Shardul Amarchand Mangaldas & Co.

Till February, 13,566 cases involving a total amount of Rs 5.01 trillion were withdrawn before admission

under provisions of IBC.

Experts believe that the benefit of statutory moratorium would be lost to a company because of IBC suspension. “It may alternatively result in myriad recovery cases and enforcement of security cases being filed against the said company, thereby burdening the already overburdened courts in India,” said Diwakar Maheshwari, dispute resolution partner, Khaitan & Company.