

# INDIA JURIS

## Examining the Question of Enforcement of Personal Guarantees Under the Insolvency and Bankruptcy Code, 2016.

Hon'ble Supreme court on 16<sup>th</sup> April 2018 admitted the matter filed by SBI for examining the invocation of personal guarantees during moratorium under the Insolvency and Bankruptcy Code, 2016 'IBC' in (State Bank of India vs V Ramakrishnan & Anr.) . After several inconsistent views on the issue, the Supreme Court is now examining the question of enforcement of personal guarantee(s) provided to companies facing moratorium under the Insolvency and Bankruptcy Code, 2016 (IBC).

The IBC Committee Report which was published earlier this month suggested that the assets of a such a guarantor should fall outside the scope of the moratorium and be allowed to be proceeded against independently. The Report recommended insertion of an explanation to Section 14, which clarifies that section 14 does not intend to bar actions against assets of guarantors to the debts of the corporate debtor.

The present appeal to the Supreme Court has been filed by the State Bank of India, against an NCLAT judgment in the case of Veasons Energy Private Ltd. The NCLAT ruled that personal guarantees cannot be invoked when the company in favors of whom the guarantee was extended, is under moratorium.

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## Real Estate and its Insolvency Proceedings in India.

Part -III

During a hearing on 16<sup>th</sup> April,2018 in Supreme Court Jaypee Infratech (JIL) had said that its valuation has been slashed drastically and had put forth an affidavit to the Supreme Court (SC) stating that with the help of interim funds, it can finish the flats. However, this proposal has been rejected by the apex court as the statute bars an ailing company to bid. JIL says that its representation should have been considered given that it had been completing 500 units every month.

Homebuyers are constantly puzzled as complexities of the case keep deepening even after seven months when the National Company Law Tribunal (NCLT) admitted IDBI Bank's plea against Jaypee Infratech under the Section 7 of the Insolvency and Bankruptcy Code,

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