

INDIA JURIS

INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ORDINANCE, 2018

The President on 07th June, 2018 gave assent to promulgate the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2018. As recommended by the IBC Committee, homebuyers have been recognised as financial creditors. This gives them due representation in the Committee of Creditors (CoC) and makes them an integral part of the decision making process, said a government statement detailing the ordinance-led changes.

It will also enable home buyers to invoke Section 7 of the Insolvency and Bankruptcy Code (IBC), 2016 against errant developers. Another major beneficiary would be Micro, Small and Medium Sector Enterprises (MSME), which form the backbone of the Indian economy as the biggest employer, next only to the agriculture sector. Recognizing the importance of MSME Sector in terms of employment generation and economic growth, the Ordinance empowers the Government to provide them with a special dispensation under the Code. The immediate benefit it provides is that, it does not disqualify the promoter to bid for his enterprise undergoing Corporate Insolvency Resolution Process (CIRP) provided he is not a willful defaulter and does not attract other disqualifications not related to default. It also empowers the Central Government to allow further exemptions or modifications with respect to the MSME Sector, if required, in public interest.

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COMPETITION COMMISSION OF INDIA FLIPKART-WALMART DEAL

In a representation on May 24, 2018 Swadeshi Jagran Manch (SJM) had asked the Department of Industrial Policy and Promotion (DIPP), Ministry of Commerce, to look into the alleged irregularities in various aspects including Foreign Direct Investment (FDI) policy norms, competition and taxation issues in the deal that saw Walmart acquiring home grown e-commerce company Flipkart. The Confederation of All India Traders (CAIT), one of the largest traders' bodies in the country, filed a petition with anti-trust regulator Competition Commission of India (CCI), objecting to the Walmart - Flipkart deal on the ground that the buyout creates an uneven playing field for sellers.

The merger of Walmart and Flipkart will give rise to unfair practices like predatory pricing, deep discounts, and loss funding, said CAIT, which claims to represent around 70 million traders across the country. Earlier this month, All India Online Vendors Association

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(AIOVA), which represents more than 3,000 online sellers, approached CCI with a similar objection alleging that Flipkart is using its dominant position to provide “preferential treatment” to a few sellers.

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