

# **Dear Members Situation After Edelweiss Moved To NCLT Against Adel Landmarks Ltd**

**NCLT ISSUE--- Edelweiss moved NCLT Against Adel Landmarks for his  
debt recovery**

## **Few FAQ**

**Q.1** now the question is can we stop this to be happen ???

**Ans 1** : No, we can not stop this Process the creditors has full right under this law to take debtor to IBC for its loan recovery.

**Q.2** Can we take this matter to SC like Amrapali where home buyers did against BOB

**Ans.2** : In my Finding now it is difficult, because in case of Amrapali, during that time in IBC home buyers had no status whatsoever , and the quantum was so big of sufferer , therefore SC took that case, but since there is a clear law and Provision in IBC for home buyers , SC may ask us to follow the procedure as per our status of financial creditors , and if we are not satisfied with NCLT order , then ask us to go to NCLAT (Appellate) then after come to SC ( this is my observation it can be confirmed with senior Lawyer , because S.C has enormous Discretionary power he can do anything in legal frame, but seeing JP case which is again sent back to NCLT by SC, therefore I am presuming this will happens to our case also )

**Q.3** What will happen to ongoing Civil cases, NCDRC Order, RERA order, RERA proceeding , New Rera Case Filing

**Ans 3--** Once this case admitted to NCLT , and IRP appointed then under

section 14(1) of IBC ,the debtor will get moratorium till the Insolvency proceeding ends, under this section debtor get breathing from all civil case orders , for refund, any type monetary relief and decree from the civil court will be hold .

*Read the below for section 14(1) of IBC*

*"The Adjudicating Authority shall by order, declare moratorium for prohibiting all of the following, namely:*

- a. *“the institution of suits or continuation of pending suits or proceedings against the corporate debtor including execution of any judgment, decree or order in any court of law, tribunal, arbitration panel or any other authority”*

**Q.4** What will happen to criminal Cases

**Ans.4** All criminal Proceeding , orders, will continue as per the law, the criminal cases will not be effected at all.

**Q.5** --What type of Creditors home buyers are ??? are we Secure or Unsecured

**Ans5**-- Home buyers are financial creditor , but are we secure is not very much clear under the IBC, still this matter is to be clear

## **PROCESS Of NCLT**

Process- after admission of case filed by creditor in this case is EDELWEISS

1. One IRP will be appointed by Creditor ( Edelweiss) , which will be as per his choice , within 14 days of case admission
2. Next Immediate step will be a public information for all the creditors to file their claim, in News paper along with IRP details Phone number , contact person and E mail ID of IRP
3. IRP will Receive Claims till another 30 days with all the stake holder (**therefore all the buyers are requested to Keep their Allotment Letter, total payment made and add 8% of Prescribe interest as per IBC law and keep in xcell sheet, and if Statement of account of Adel they have, keep Ready Scan with you**)
4. IRP will give you the simple format for filling your details, and you can send scan copy along with supporting document of you flat mentioned on point no 3 along with your ID Adhar or PAN to IRP mail ID and also Post the Original with Registered Post
5. IRP will prepare asset and Liabilities of Adel after receiving the Claim from Creditors and asset documents from ADEL,
6. Then IRP will constitute the COC ( Committee of Creditors), which Including, Edelweiss, other Financial Creditors like banks, Flat Buyers , Operational creditors which includes workman and employee)
7. Now in this COC all the creditors will depute their representative, we all flat buyers association will have to appoint their representative in COC like, Sector 86, Sector 103 Phase-1 , Sector 103 Phase-3, Sector

76 Faridabad, Meerut Housing Project /Mall

8. The same IRP can continue and become RP ( Final Resolution Professional or COC can replace and appoint new RP of his choice, in this situation there will be voting by the COC members the **voting % will be calculated as per the Value of the claim not the number of claimant**)
9. RP will make resolution for example he may go project wise valuation and their viability he will make detailed inflow/outflow, and liabilities of the said project , time frame required to complete the Project , government dues pending, and initial capital required to pay the corporate debtor to start the construction or to settle the debt of banks to takeover the debt  
then after making this Proposal RP will search for bidder to bid for takeover the Asset along with all the liability of the said Project.
10. if Any interested party found or any bidder comes and then that bidder will calculate the viability of the Offer and then he may accept/ reject or Renegotiate and gives his final offers
11. If the Offer is Amicable and suitable for all the stake holder and 68% **( as per Value not As per Numbers of Claimant)** of COC agree to that resolution then RP will make the Final Resolution Draft and Submit to the NCLT and then NCLT accept the resolution and pronounce the order on this resolution, this complete Process is to be finished in 180 plus 90 days max as per the IBC law.
12. In case no bidder found or COC is not satisfied with any of resolution and offer from the bidder , then , RP will inform to NCLT that no resolution could be found, then NCLT will order for liquidation

of the Assets and pay the Creditors as per the Priority list , which is as below

- a) Financial Creditors ( bank and Flat Buyers)
- b) Any other Secure Creditor
- c) Operational Creditor
- d) Unsecured Creditors

**But the Point no 12 is worst case scenario as after liquidation the Receivable amount will be much lesser then the outstanding because in distress asset sale, fetching even 50% of the asset value becomes very difficult , further no one knows at this time what exactly the table of Asset and liabilities**

**Lets Also Understand the main Creditor Edelweiss ,who took Adel to NCLT**

It is a one of the big financial market company as a group appx 20,000 is the size ,and also is a ARC ( Asset restructuring company) who buys bad Debts and distress projects and after finding solution make them Profitable and earn by selling them, it also works as PE company.

So there is one question arises in my mind, does this Edelweiss company has come for the liquidation of ADEL and recover his money , my observation seeing Edelweiss details and history they are not that stupid company , because they also know very well if company goes for liquidation they will

have to loose anywhere between 30 to 50% of capital leave the interest part, this company works for buying the distress assets not here to sell his loan for distress , therefore I assume Edelweiss must have done all the calculations of Asset and Liabilities , he must be aware and inside information that there is more assets or incoming then liabilities and he can get a better resolutions for himself ( ***THIS ASSET AND LIABILITIES SUBJECT IS MY ASSUMPTION BASED ON EDELWEISS INITIATIVE FOR NCLT BUT IT HAS TO BE SEARCHED VERY DEEPLY , BUT IN ANYWAYS IT WILL BE IN BALACK AND WHITE IN NCLT*** ) , including buyers , because as per my understanding the banks act differently than ARC company , Banks are more focus to end their NPA and clean their books, even if they have to take good amount of haircut , hence, there are chances that, they may sell their Loans ( Including ICICI bank , yes bank) to Edelweiss at discount and leave, then possibly this collateral issue may end ( **this is again Assumption of mine but seems likely because in anyways if bank do not agree for this arrangement and Adel go for liquidation, these banks will never be able to recover more than 50% after so much of trouble of auctioning of Adel properties** ) only issue is that , in this subject I need to check with some competent IBC firms because ICICI and Yes Bank Collateral is not directly related to ADEL they are related to Era Infrastructure India Limited but I believe our project is related to this collateral , therefore ICICI will come to NCLT for his claim on mortgage or not is the question

Further one technical issues which I am still not clear is that our all the license owning company(LOC) Such as in case of Cosmo 3 LOC is M/s

Desert moon Realtor and Cosmo 1 LOC is M/s Head way Buildcon , in Sector 86 LOC is M/s Resolve estate but all the payment collected by ADEL, because adel has done a selling and marketing right with these LOC as per the DTCP Provision for these kind of arrangement.

now being these LOC are independent companies they should not be touched by the NCLT because in NCLT Edelweiss has brought ADEL not these companies, answer on this subject I am consulting and Update in later stage.

## **What Association is doing**

### Criminal Cases

a) One of the Biggest Savior still we have in our hands is Ongoing Criminal Proceeding which is in HC which is not affected with IBC law, if nothing comes in our favor From Chandigarh or any order Pronounce by HC association will file a SLP in supreme court asking for Forensic Audit of Adel account to unearth the money diversion , which I am sure he has done it , either we will get relief in SC or Adel directors will go to jail

b) The main Trial which is going on Gurgaon court we will be impleading through association and similarly ask for a forensic Audit , I have already done the Arrangement

c) there is case going on in Saket court , I will try to implead through some individuals members who have not given any statement in Gurgaon EOW, therefore we can appoint our lawyer to fight tooth and nail to apprehend him in that case also

- d) Association has also filed two separate case for phase 1 and phase 3 in H-RERA for project takeover , though after NCLT it may delayed or stand still but also chances are , that Proceeding may move forward and if we get any resolution/Order from H-RERA we can use it in NCLT
- e) After NCLT Association will appoint their own best of the CA/NCLT firm as consultant till the final resolution to check and Balance the IRP role and for valuable suggestion

**What All the buyers need to do, regardless they are  
member of association or not**

- a) First they should be united and be informed on current situation
- b) they Must file the claim to the IRP, because if they do not file their Claim, then as per the value wise our weight in COC will get reduce and then all buyers may get a very raw deal, they should not have any apprehension to file the claim or not, they must file the claim otherwise if any resolution comes they may be out from that Process
- c) All the buyers must come to a group , no matter in association or form a separate, because it is too complicated now and alone they can not fight, only unity can save us

Regards

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