

NCLAT Exempts IL&FS Companies from CSR

NCLAT grants CSR exemption to 50 IL&FS red & amber companies due to interest expenses. Order benefits debt-ridden group.

New Delhi, Mar 22 (PTI) Insolvency appellate tribunal NCLAT has exempted IL&FS Group companies - categorised as 'red' and 'amber' -- from corporate social responsibility (CSR) on account of interest expenses accrued on their loan amount.

The order will benefit around 50 'amber' and 'red' companies of the debt-ridden IL&FS Group, which are protected under the moratorium granted by the NCLAT from its order dated October 15, 2018.

These 'red' and 'amber' entities have not been accruing interest on their outstanding debts, resulting in such companies showing notional profits in their books of accounts under Section 198 of the Companies Act.

Such notional profits have led to such companies liable to comply with CSR obligations under Section 135 of the Act. IL&FS Group moved an application last year before NCLAT to correct this, seeking exemption for entities from compliance with CSR obligations.

A notice was issued to the government on the application by IL&FS.

A two-member bench, which also comprised Chairperson Justice Ashok Bhushan, granted the waiver using its discretionary power under Sections 241(2) and 242(2) (m) of the Companies Act in its order passed earlier this month.

"We find that sufficient cause has been shown in the application for allowing the prayer made by the Applicant to dispense with the requirement to undertake spending the necessary amount on CSR activities under Section 135(5) of the Companies Act, 2013 from Red/Amber Companies," said NCLAT.

Section 135(5) of the Companies Act mandates that the board of every company shall ensure that the company spends, in every financial year, at least 2 per cent of the average net profits of the company made during the three immediately preceding financial years.

The section applies to every company having a net worth of Rs 500 crore or more, or turnover of Rs 1,000 crore or more, or a net profit of Rs 5 crore.

As per the roadmap, IL&FS Group companies have been divided into three categories -- green, amber and red -- based on their respective financial positions.

Companies under the green category are those that continue to meet their payment obligations.

Red entities are those failing to meet debt obligations even to senior secured creditors, while amber entities can only meet operational expenses and senior secured debt payments, lacking capacity for others.

At the time of the crisis, IL&FS Group comprised 302 entities as of October 15, 2018, in which 169 entities are/were domestic group entities, and the remaining 133 are/were offshore group entities.

According to the latest status report affidavit filed before NCLAT, IL&FS Group has discharged Rs 48,463 crore to its creditors as of September 2025.

At the time of the crisis, IL&FS Group's total external debt outstanding was Rs 99,355 crore. It is paring debts through asset resolution, interim distribution, which includes cash & InviT units among others.

In this, IL&FS has fully resolved 202 companies in which 76 are domestic firms and 126 are offshore firms, the affidavit had said.