

NCLAT clears new distribution plan, directs completion of IL&FS resolution in 90 days

ENSECONOMIC BUREAU

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THE NATIONAL Company Law Appellate Tribunal (NCLAT) Thursday accepted a fresh distribution framework for Infrastructure Leasing & Financial Services (IL&FS) suggested by the central government and SBI, which had proposed that there should be "fair and equitable" distribution of funds to all creditors.

This plan was opposed by other creditors who had suggested that Section 53 of the Insolvency and Bankruptcy Code (IBC), which gives preference to financial creditors over operational and all other kinds of creditors, be used for the resolution.

Rejecting the objections raised by creditors who wanted the NCLAT to follow Section 53 for distribution of funds, the appellate

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■ Rejecting the objections, the NCLAT said it would be against public interest as the money invested by public funds belonged to the share and unit holders

tribunal said it would be against the public interest as the money invested by public funds, in fact, belonged to the share and unit holders. The NCLAT also said that the resolution plan, according to the revised framework suggested by the central government and SBI, be completed within 90 days from Thursday.

In the revised distribution framework, the Centre had suggested that all the public fund creditors — such as pension and provident funds, army welfare,

employee provident, gratuity and superannuation funds — be repaid at least a part of their dues.

If these public funds were not paid their hard earned dues, the Centre had said in the revised distribution framework, it could result in a "debt contagion" from which the financial markets of the nation would not be able to recover. Further, for the lenders of IL&FS' holding companies, the resolution plan should consider paying the interest component.

State Bank of India (SBI) had,

on the other hand, suggested a resolution framework for companies under the 'Red' and 'Amber' category, which has also been accepted by the NCLAT. The bank had suggested that in companies where no Committee of Creditors (CoC) had been formed until now, a CoC be immediately formed.

For companies in these categories where a CoC had been formed, the resolution consultant should contact the committee with latest fair market and liquidation value reports, the audit reports obtained, the bids received, as well as the recommendations of the consultant. "A central coordinating team under the supervision of a former Judge or senior advocate comprising 7 to 8 representative of IL&FS, senior lender banks, resolution consultant may further be constituted for monitoring and supervising the developments," SBI had suggested.