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Rajya Sabha passes IBC amendment

NEW DELHI, DHNS: The Rajya Sabha on Monday passed the Insolvency and Bankruptcy Code (Amendment) Bill 2019, which aimed at restoring primacy of lenders in insolvency cases.

Finance Minister Nirmala Sitharaman said that the amended legislation also provides clarity about preference to secured lenders over operational creditors and giving lenders explicit authority over distribution of proceeds of auction of loan defaulting companies.

Highlighting the need for bringing the amendment, the Minister said Essar Steel insolvency case where the lenders and operational creditors have been treated at par by the bankruptcy court for distribution of auction proceeds.

It may be recalled that the National Company Law Appellate Tribunal (NCLAT) had recently ruled in the Essar Steel Ltd's case that the Committee of Creditors (CoC) had no role in distribution of claims and brought lenders (financial creditors) and vendors (operational creditors) on par.

Referring to this case, the Minister said the government proposed to amend the IBC as "very serious interpretative problems were coming."

The amendments give committee of creditors of a loan defaulting company explicit authority over the distribution of proceeds in the resolution process and fixes a firm timeline of 330 days for resolving cases referred to the IBC.

The Minister also said that some of the 12 big loans defaulting companies have been pending cases for more than 600 days since the insolvency proceedings started.

The creditors are on average getting 43% of dues as against getting nothing if defaulting companies were never taken up under IBC, she said.

Participating in the debate, Kapil Sibal from Congress demanded the government send the bill to select committee so that all issues related to the proposed amendment could be discussed in detail.