

## **MEASURES ADOPTED BY CORPORATE DEBTORS TO SAFEGUARD AGAINST THE TRAP OF BOGUS/FRAUDULENT CLAIMS UNDER INSOLVENCY & BANKRUPTCY CODE**

### **IBC, big turmoil for Corporate Debtors**

A corporate debtor under IBC is the “Corporate Person” who owes a debt to any person.

Whereas, “Corporate person” is defined u/s 3(7) of IBC which includes:

- Companies defined the Companies Act, 2013
- LLP defined under LLP Act, 2008
- Any other person incorporated with limited liability under any law for time being in force but does not include financial services provider i.e. banks or NBFCs.

### **Small default in payments leading to Proceedings under Insolvency and Bankruptcy Code, 2016**

For Corporate Debtors, nowadays under IBC, a default of minimum amount of Rs. 1 Lac, is sparking an unintended situation where the company goes out of hands; and under the veil of the strict provisions of IBC, some creditors are recovering debts from the distressed company, whereas some creditors are abusing the provisions of Insolvency & Bankruptcy Code, 2016 by threatening and harassing the corporate debtor’s for recovering the fraudulent/bogus claims.

A Corporate Debtor can defend the Insolvency petition filed against it by proving that creditor is not genuine or the claim has been raised to harass such Corporate Debtor.

### **Implementing a few suggested notions can elude Fraudulent/Bogus claims:**

- The practice of executing Purchase Order/Proforma Invoice, including details vis-à-vis PO/PI Number, Date of PO/PI, Product description along with the Quality and Rates of the material, Arbitration clause in Proforma Invoice;
- Invoice must contain the Delivery date, detail of material supplied and due date of payment along with payment terms;
- Written communications regarding discrepancies in terms of quality, rate or any other issue, if any& reminders for the delay in delivery of material;
- Maintenance of Monthly/Quarterly/Half- Yearly account reconciliation statement;
- Claims communicated clearly either via email or any other authentic mode should be entertained and to be settled against specific invoices;
- Issuance of Credit Notes as and when the claim arises.

Please note that, the above-mentioned contents are laid as general guidance, and which can only help in reducing the risk of bogus/undue claims but it will not prevent in safeguarding against the willful neglected Defaults.

### ***Why LMCPL?***

*Our well-qualified team of professionals can help you in effectively handling the bogus claims.*