



**Press Release**  
**14.12.2024**

The Directorate of Enforcement [ED] restituted assets worth Rs 4025 Crore to JSW, which was a Successful Resolution Applicant [SRA] of erstwhile **Bhushan Power and Steel Ltd [BPSL]** under the Corporate Insolvency Resolution Process (CIRP) of Insolvency and Bankruptcy Code (IBC).

The assets were provisionally attached by ED under Section 5 of Prevention of Money Laundering Act (PMLA) as the erstwhile promoters had cheated the Banks and siphoned off the bank funds for private investments. The investigations under PMLA was initiated based on the FIR dated 05-04-2019 registered by CBI. The FIR consisted of scheduled offences of PMLA and alleged that erstwhile BPSL cheated banks to the tune of Rs. 47,204 Crore. Investigations under PMLA showed that BPSL and its promoters diverted bank funds to private investments in the form of shares and properties. The books of accounts were fudged to show fake expenses/ purchases/ capital assets and thereby bank funds were taken out in the form of cash. The cash was brought into the books of various beneficially owned companies [held through employees/ dummy directors] and the same was utilised for investments in the form of shares and immovable properties. ED had attached properties [land, building, machinery, etc] worth Rs. 4025 Crore on 10-10-2019 since investigations showed promoters of siphoned off bank funds. The main promoter Sanjay Singal was arrested by ED on 22-11-2019 and Prosecution Complaint (PC) has been filed against him and other key employees on 17-01-2020. The cognizance of the PC has been taken on the same date and trial is pending. Investigations continued and ED attached further assets worth Rs. 427 Crore [immovable properties, aircraft, etc.] held by various entities which were beneficially owned by Sanjay Singal. Prosecution complaint against such beneficially owned entities is pending to be filed and the said assets may also be restituted to the banks.

The creditor banks had initiated CIRP under IBC and JSW was the SRA for an amount of about Rs. 19,350 Crore [approx.]. As against the outstanding loans of Rs. 47,204 Crore, banks were getting merely about Rs. 19,350 Crore. The Resolution plan though was approved on 05-09-2019 by NCLT, the same was under challenged by JSW and others. ED had attached properties amounting to Rs. 4025 Crore on 10-10-2019 so as to retribute the same to the victims [which in the present case were Banks]. The resolution plan was finally approved by NCLAT on 17-02-2020. The committee of creditors [victim banks] challenged the attachment order of ED before the Supreme Court. ED had also challenged the NCLAT order before the Supreme Court on various issues. Since the Banks [who were the creditors and victims and for whose benefit/restitution the attachments were made by ED] challenged the attachment order of ED and wanted the properties to be restituted to JSW [the SRA under IBC], ED took a pragmatic view and decided to retribute the properties to the SRA.

ED filed an affidavit before the Hon'ble Supreme Court praying for the restitution of the attached properties [covered under the CIRP] to JSW under second proviso to Section 8(8) of PMLA (restitution pending trail) read with Rule 3A of PMLA Restoration of Property Rules.

It was submitted before the Hon'ble Supreme Court through an affidavit that in CIRP cases where assets are already attached by ED, the SRA can approach the Spl Court seeking restitution. This is because, where attachment orders are issued by ED and prosecution complaint are filed, such attached properties are court properties. The PMLA Special Court can order restitution under second proviso to Section 8(8) of PMLA (restitution pending trail) read with Rule 3A of PMLA Restoration of Property Rules. It was submitted that through the said provisions of PMLA, the SRA gets the custody of the attached assets and would also result in restitution of property to victims. This will also ensure compliance with the objectives of IBC and PMLA and prayed the Hon'ble Court to provide harmonious interpretation to IBC and PMLA as this would help in future cases.

The affidavit filed before the Hon'ble Supreme Court further stated that in the present case since the issue has already been heard at length at various forums, the Hon'ble Supreme Court may directly issue the order handing over the attached assets to JSW [SRA] and consider the same as restitution under PMLA. The Hon'ble Supreme Court accepted the affidavit filed by ED and ordered restitution of assets to JSW through the order dated 11-12-2024.

On the issues of the powers of ED to attach property of corporate debtors under CIRP, interpretation of Section 32A (2) of IBC or any other connected issues, the Hon'ble Supreme Court has not expressed any opinion and has left the issues open.