

ABSTRACT

LEGAL ISSUES INVOLVED IN CROSS-BORDER INSOLVENCY IN INDIA

***MOULIKA PRASAD**

Cross-border insolvency is an insolvency process which occurs due to financial distress in a company related to assets, unable to pay debts and creditors who are there in more than one country. As India doesn't have any particular enactment for cross-border insolvency it becomes very difficult to deal with the cases having a foreign creditor. In India the cross-border insolvency proceedings is done with the help of judicial system, where judges gives the decision with the reference of English common law and they use their own ideas to deal with these cases. This method is not a successful process as this has not solved the issues of cross-border insolvency proceedings.

In India the cross-border insolvency proceedings are dealt under section 44A of code of civil procedure 1908, which allows Indian courts to enforce the orders passed by foreign court and foreign judgement in "Reciprocating Territories." With the limitation of section 13 and under section 234 and 235 of insolvency and bankruptcy, which is a complete failure.

Eradi committee and N.L. Mitra committee both suggested the UNCITRAL Model Law, as this model law cooperates and coordinates the procedural framework. It gives access, recognition and relief to the foreign creditors. This model is accepted by almost 41 countries and it is beneficial for India to adopt this model law for the betterment of cross-border insolvency proceedings.