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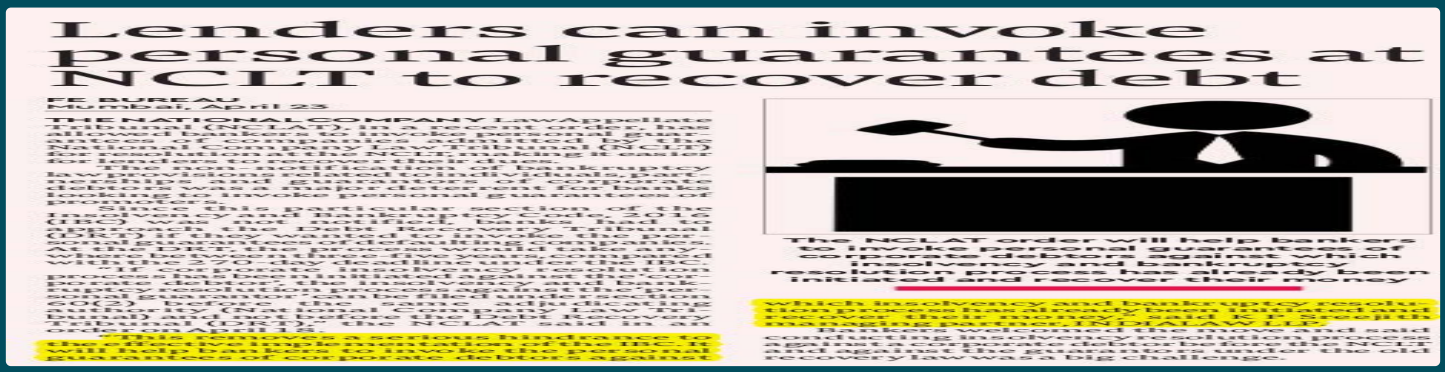

Lenders can invoke personal guarantees at NCLT to recover debt

FE BUREAU
MUMBAI, April 23

THE NATIONAL COMPANY LawAppellate Tribunal (NCLAT) in a recent order has held that lenders can file petitions against corporate debtors' guarantors before the National Company Law Tribunal (NCLT), making it easier for creditors to recover their money.

The non-application of bankruptcy law's moratorium (which prevents lawsuits and suppresses of corporate debtors' assets) for guarantors is looking to invoke personal guarantees of promoters.

Since this particular section of the Insolvency and Bankruptcy Code (IBC) was not implemented, banks had to approach the high courts (under Article 226 of the Constitution) or the debt recovery tribunals (DRTs) if they wanted to invoke the personal guarantees of promoters. At the DRTs, the process would take anywhere between 2 and 10 years. Now, with the 270-day deadline under the IBC, the process has become quicker. In fact, in the recent case of Lalit Kumar Jain vs Union of India & Others, the NCLAT has directed the lenders to file their claims against the personal guarantors of Jaypee Infratech (JIL) before the NCLT, Allahabad bench, which is dealing with the insolvency resolution process of JIL. The NCLAT has also