

JSW's conditional acquisition plan gets the nod of Bhushan Steel lenders

COC will refund ₹19,350 crore to JSW if the ED plea to attach Bhushan assets is upheld by SC

SURESH P VENCAR
Sources said that in a first of its kind deal, the Committee of Creditors of Bhushan Power and Steel has cleared the JSW Steel proposal to pay the bid amount of ₹19,350 crore to acquire the company even as the Supreme Court is seized of the matter.

The apex court is yet to dispose of an appeal filed by the Enforcement Directorate seeking to attach the stressed assets as part of its investigation against Bhushan Power and Steel's former owners.

Under the agreement now between the lenders of Bhushan Power and JSW Steel, the banks will refund the bid amount if the Supreme Court upholds ED's right to attach the assets.

Earlier, JSW had said that it would pay the bid amount only after it gets clarity from the Supreme Court on the appeal filed by the investigating agency. Subsequently, JSW agreed to deposit the money in an escrow account to be created with Punjab National Bank within 30 days of approval of its plan on the condition that the amount should be returned to it within two months if the Supreme Court judgment goes against the sale of Bhushan Power.

Sources said that on Friday nearly 97 per cent of the lenders voted in favour of JSW Steel's plan in what is seen as a bid to shore up their balance-sheets before the financial year ends.

Year-end imperatives
Besides shoring up their balance-sheets, banks are concerned that for the last four years they have been funding Bhushan to keep it as a going concern while the profit generating capacity will accrue to the successful bidder, JSW Steel, as per the approved resolution plan.

For JSW, despite the uncertainty over the Supreme Court ruling, the deal speeds up its plans to acquire additional capacity at a time when the steel market is picking up.

When contacted, a senior JSW Steel official said that the company is not in a position to comment now but is constantly in touch with the COC.

Vaibhav Gargar, Managing Partner, Gargar & Associates, said the entire transaction could be rather risky both judicially and practically for all parties concerned. It seems to be based on a contingency and that too the decision of the Supreme Court, he added.



A file photo of the Bhushan Steel plant in Odisha sources

Interestingly, the ED has refused to lift the attachment of Bhushan's assets despite NCLAT ruling that the attachment is illegal.

Shiju P.V. Partner, IndiaLaw LLP, said that for the time being approval of the plan seems to be a way out for all the stakeholders but in the long run, it could make the whole resolution process murkier.

Nadiya Sarguroh, Senior Associate, MZM Legal, said indemnity is the key to bringing a closure to the four-year-old BPSL insolvency resolution. The JSW decision is subject to a proposal of full indemnity and immunity from any adverse decision of the Supreme Court.

Believe, JSW would have covered all corners to protect any repercussions and seek a full refund of the resolution amount in a bid to safeguard its interests and secure the indemnity by a full vote of the COC, which will be filed before the Supreme Court," said Sarguroh.

41% recovery

The creditors stand to recover over 41 per cent with JSW Steel's offer against admitted claims of ₹ 48,000 crore.

SBI is the largest lender to Bhushan and stands to recover over ₹4,000 crore against its admitted claim of ₹9,825 crore, while PNB will get ₹8s 4,400 crore, ABCI ABG and Canara Bank will receive ₹5,250 crore and ₹2,244 crore, respectively.

Bhushan was in the first list of a dozen defaulters identified by the RBI and sent to NCLT for resolution. The NCLT had cleared JSW Steel's resolution plan for Bhushan in September 2019, but the case has been stuck in courts.

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