

# Even 3 years after JSW Steel acquired Bhushan Power, uncertainty looms

**Suresh P. Iyengar**  
Mumbai

Nearly three years after the acquisition of Bhushan Power and Steel (BPSL) by JSW Steel, uncertainty still looms over complete transfer of asset on a clean slate as assured under Insolvency and Bankruptcy Code (IBC).

The National Company Law Tribunal (NCLT) approved the ₹19,350-crore bid of JSW Steel in September 2019. However, the Enforcement Directorate had issued a provisional order of attachment of BPSL's assets in October 2019 and objected to

the applicability of Section 32A of the insolvency law to the JSW-BPSL deal.

Section 32A of IBC provides immunity to Corporate Debtor for the offence committed prior to insolvency proceedings.

## **NCLAT APPROVAL**

However, NCLAT gave its final approval, including the immunity sought by JSW Steel against the investigation being carried against BPSL's erstwhile promoters, in February 2020.

The ED and BPSL's erstwhile promoters moved the Supreme Court against NCLAT order. Accepting the petitions, the

Apex Court allowed the lenders to implement the approved resolution plan with a condition that the assets will be transferred back to the lenders if the verdict goes against them.

In March 2021, JSW Steel paid ₹19,350 crore and took control of the asset. Despite the looming uncertainty, BPSL has registered a net profit of ₹260 crore on a turnover of ₹5,030 crore in the December quarter.

A JSW Group spokesperson said the company implemented the resolution plan in line with the terms of the approved resolution plan and has taken over control of BPSL and there is no legal impediment as on date.

Given the favourable judgment by the NCLAT and certain other judgments of the Supreme Court, JSW Steel firmly believes that it has a good case on merits, he added.

Durgesh Khanapurkar, Partner, Desai & Diwanji, said

the NCLT, NCLAT and the Supreme Court have acted swiftly in protecting the interests of the resolution applicant (JSW Steel) and have ensured that the plan is implemented. Even the legislature has introduced Section 32A of the IBC in an attempt to provide assets on a clean slate to resolution applicants, he added.