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Class DU IT(B2)

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* Bankruptcy laws for Companies in india:

Introduction:- India has often been in the limelight for archaic laws in relation to bankruptcy and the processes involved in the same. The special legislation entitled Sick Industrial companies (special provisions) Act. 1985 ('SICA') was enacted to take preventive or remedial measures for sick companies.

The Board for industrial and financial Reconstruction (BIFR) was set up under SICA to deal with revival and rehabilitation of sick industrial companies. However, the whole process was lengthy with poor enforcement mechanism. SICA was increasingly used as a shelter by defaulting borrowers who did not want to pay the legitimate dues of the creditors. This had a great impact on the economy, credit processes, rates of interest and credibility of companies.

Bankruptcy laws outside india focus on the revival of a business. The idea is to provide the debtor with various mechanisms to restructure and revive its business, be it acquiring finance on favorable terms or providing a stay on litigation.

* The Companies Bill:

The provisions relating to revival and rehabilitation of sick companies have been reviewed and an attempt to modify them has been made by the companies Bill, 2009 which will amend the indian companies Act 1956. There are numerous amendments proposed in the Bill but the key changes in relation to bankruptcy laws are listed as:

(i) Definition of a Sick Company: To Qualify as sick, the company would previously have to be registered for a minimum period of 5 years in which at the end of any financial year, the accumulated losses had to be equal to or exceed its entire net worth.

(iii) Power & jurisdiction of the tribunal:
All powers of SICA would be transferred to the tribunal, which will have the powers of the Company Law Board. the (BIFR / AAIFR) and the high court relating to company law matters including winding up.

(iv) Process of Revival:
(i) The tribunal shall determine whether or not a company is a sick company within 60 days of the date of reference.
(ii) Once the Tribunal determines the ~~com~~ company is sick, the secured creditor or the company itself can apply for the determination of the measures that may be adopted with respect to revival and rehabilitation of the company.

* Strategy During Re-organization
Re-organization is a process designed to revive a financially troubled or bankrupt firm. A re-organization involves the restatement of assests and liabilities, as well as holding talks with creditors in order to make arrangements for maintaining re-payments. Re-organization is an attempt to extend the life of a company facing bankruptcy through special arrangements and re-structuring in order to minimize the possibility of past situation re-occuring.

2. A change in the structure or ownership of a company through a merger or consolidation, acquisition transfer, recapitalization or change in identity.

Define the problem 5
Determine whether existing jobs

1. Start with a Strategy: It's critical to know where the organization or team is going. e.g. what's important, what's not, &

. what are the specific goals

2. Develop you criteria: List the problems you are trying to solve and opportunities you are seeking.

3. Develop and evaluate design alternatives: Come up with 3-4 ideas and rank those against your criteria. Select the best one & come up with an action plan to mitigate risks.

4. Test the final design with scenarios: Spend time testing the design by discussing how various business processes would work within the new structure.