

Swiss Ribbons Private Limited & Anr vs Union of India & Ors – Case Analysis

Petitioners: Swiss Ribbons Private Limited & Anr

Respondents: Union of India & Ors

Case No.: Writ Petition (Civil) No. 99 Of 2018

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For Judgement: [Click Here](#)

Legislation:

- Section 3, 5, 7, 9, 10, 12A, 14, 18, 21, 24, 28, 29A, 30, 31, 40, 42, 60, 65, 75, 210, 214 of Insolvency and Bankruptcy Code 2016
- Article 14, 19(1)(g), 31, 77(3), 142 of Constitution Of India 1949
- Section 164, 412, 420, 433(e) of Companies Act 2013
- Section 5(2) of National Tax Tribunal Act 2005

Facts:

- Swiss Ribbons Private Limited, a non-banking financial company providing consultancy services and financial assistance to MSMEs, defaulted on its loan repayments.
- Insolvency proceedings were initiated against Swiss Ribbons under the Insolvency and Bankruptcy Code, 2016 (IBC).
- Swiss Ribbons challenged the constitutional validity of certain provisions of the IBC, alleging violations of

natural justice, arbitrariness, and the right to carry on business.

- The Union of India defended the IBC's constitutionality, highlighting its role in addressing insolvency concerns, promoting entrepreneurship, and protecting creditors' interests.
- The Supreme Court examined the constitutional validity of the challenged IBC provisions and considered the fairness, transparency, and non-discriminatory nature of the legislation.
- The Supreme Court upheld the constitutionality of the IBC's provisions, stating that it provided a time-bound and efficient resolution process for insolvency cases.
- The Court ruled that the IBC did not violate principles of natural justice or the fundamental right to carry on business.
- The Supreme Court recognised the IBC as beneficial legislation necessary for promoting entrepreneurship, protecting creditors' interests, and facilitating transparent resolution of financial distress.
- The Court affirmed the application of the IBC to MSMEs, emphasising its aim of providing an effective resolution process for entities of all sizes.

Issues:

- Whether the provisions of the IBC contravened the Constitution of India, specifically the principles of natural justice, arbitrariness, and the right to carry on business.
- Whether the IBC's applicability to MSMEs was constitutionally valid.

Arguments from the Petitioners:

- Swiss Ribbons Private Limited argued that the provisions of the IBC violated the principles of natural justice as they did not provide a fair and equitable resolution process.
- The petitioner contended that the provisions were arbitrary and did not differentiate between viable and non-viable companies.
- Additionally, Swiss Ribbons claimed that the IBC infringed upon the fundamental right to carry on business as guaranteed by the Constitution.

Arguments from the Respondents:

- The Union of India defended the constitutionality of the IBC, asserting that the legislation aimed to provide a time-bound and efficient process for resolving insolvency.
- The government contended that the IBC was a fair and transparent mechanism, emphasising its role in promoting entrepreneurship and investment.
- The Union argued that the IBC did not discriminate against any specific class of persons or entities and was enacted within the legislature's constitutional powers.

Ratio Decidendi:

The Supreme Court, after careful consideration, ruled in favour of the Union of India and upheld the constitutionality of the IBC's provisions. The Court held that the IBC constituted comprehensive and cohesive legislation designed to establish a time-bound and efficient process for insolvency resolution. It further stated that the IBC did not contravene the principles of natural justice and provided a fair and transparent mechanism for resolving insolvency.

The Court also rejected the argument that the IBC failed to differentiate between viable and non-viable companies, emphasising that the classification was unnecessary for achieving the legislation's objectives. The Supreme Court concluded that the IBC did not violate the fundamental right to carry on business and deemed it a valid exercise of legislative power.

Obiter Dictum:

The Supreme Court made an important pronouncement regarding the applicability of the IBC to MSMEs. It held that the IBC's provisions were to be extended to all entities, irrespective of their size, emphasising the legislation's intent to provide an efficient and time-bound process for insolvency resolution. The Court recognised the IBC as beneficial legislation necessitating its application to MSMEs to ensure a holistic and effective resolution process.

Final Judgment:

- The Supreme Court upheld the constitutionality of the IBC provisions and affirmed their application to MSMEs.
- The Court recognized the IBC as comprehensive legislation aimed at establishing a time-bound and efficient process for resolving insolvency cases.
- It concluded that the IBC's procedures and mechanisms did not violate the principles of natural justice.
- The Court rejected claims that the IBC was arbitrary or discriminatory and stated that the legislation provided a fair and transparent resolution process for all stakeholders.
- It ruled that the IBC did not infringe on the fundamental right to carry on business guaranteed by the Constitution of India.

- The Supreme Court recommended extending the IBC's provisions to all entities, including MSMEs, to ensure a uniform and effective resolution process.
- The judgment upheld the importance of the IBC in promoting a robust insolvency resolution framework in India.