

INSOLVENCY & RESTRUCTURING

Celebrating Partnerships

OVERVIEW

Khaitan Legal Associates has wide experience and a deep practical understanding of restructuring and insolvency with our focus on providing solutions to the client and understanding their stated as well as unstated objectives.

In our diverse experience in this field, we have advised various large corporations, banks, financial institutions, and high-net-worth individuals on all aspects of restructuring including strategizing, availing funding, mergers, acquisitions, setting up joint ventures, disputes, and other related aspects. This includes advising on structures, advising on, and closing documents pertaining to such structures as well as implementation.

With the onset of the insolvency era in India in late 2016, the team at Khaitan Legal Associates has become highly sought after for its insolvency & restructuring-related corporate, advisory, and litigation work. Being an active part of the insolvency regime in India from its very inception, we at Khaitan Legal Associates, have a very deep legal expertise and practical understanding of the subject.

The insolvency & restructuring team at Khaitan Legal Associates comprises lawyers having extensive experience in dealing with insolvency matters, including advising as well as representing various stakeholders.

On the litigation front, Khaitan Legal Associates has advised and represented creditors, borrowers, and various other stakeholders. In this journey, Khaitan Legal Associates has contributed significantly to the shaping of insolvency laws in India by being part of several landmark judgments on the subject. Khaitan Legal Associates also has significant experience in advising Resolution Professionals, Liquidators, and Resolution Applicants and has been part of market-leading cases in insolvency.

On the advisory front, Khaitan Legal Associates routinely advises domestic and international financial companies, and institutions, including non-banking financial companies, Resolution Professionals/Committees of Creditors, corporates, and banks.

With an experienced team that can partner with its clients to provide the entire gamut of advisory and disputes-related services for restructuring and insolvency, we are thought leaders in this area of practice and are a one-stop solution for all insolvency / restructuring related legal services.

SELECT EXPERIENCE

- Advised and represented prominent foreign and Indian creditors, borrowers, resolution professionals, liquidators, and committees of creditors of in respect of a wide range of issues arising out of the Insolvency and Bankruptcy Code, 2016 in significant insolvency resolutions across sectors such as steel, power, real estate, manufacturing, trading, and hospitality.
- Advised and represented Promoters of a leading steel manufacturing company before the National Company Law Appellate Tribunal where the issue of disqualification of a prospective resolution applicant under Section 29A(d) of the Insolvency & Bankruptcy Code, 2016 was decided. Reported at: (MANU/NL/0200/2018)
- Represented a leading Indian steel manufacturing company in one of the first cases by an Operational Creditor under the IBC. This case went on to become the landmark judgments on the interpretation of the word 'dispute' as used in the IBC. Reported at: (2017)204CompCas511)
- Represented a UK-based Company before the National Company Law Tribunal and National Company Law Appellate Tribunal where the issue regarding the requirement of shareholder's resolution for filing a Section 10 Application under the IBC. (Order dated 8.09.2017 passed by the National Company Law, Chandigarh Bench in Company Petition (IB) No.40/CHD/HRY/2017)
- Represented a large Indian steel manufacturing company in a landmark case before the Supreme Court on the issue of the requirement of Bank Certificate for an Operational Creditor under the provisions of IBC to sustain an Application of Section 9. By this order, the law was settled on the requirement of Bank Certificate not being mandatory. Reported at: AIR2018SC498
- Advised and represented a liquidator in a landmark case before the NCLT, NCLAT, and Supreme Court on the issue of realisation/relinquishment of assets by a secured creditor and priority of charge. Reported at: (2020)160SCL425
- Advised and represented a European steel manufacturing and trading company in an action before the Gujarat High Court in the enforcement of a foreign award involving an examination of the 'clean slate theory' after the corporate insolvency resolution process.
- Advised and represented a global agricultural commodities merchant before the NCLT, NCLAT, and Supreme Court in various applications arising out of the insolvency of their Indian investment.
- Advised and represented an Indian and UK-based sugar merchant before the NCLT, NCLAT, and Supreme Court where the issue of 'setting off' of claim and debt was decided.
- Advised and represented a liquidator before the NCLAT where the issue of whether a liquidator can decide a fee claim of a resolution professional was decided. Reported at: MANU/BB/0016/2022
- Advised and represented a liquidator before the NCLT in a case involving a question of law about the security interest of a port trust for unpaid dues.
- Advised a successful resolution applicant before the NCLAT as well as the Supreme Court of India, where the Court decided the issue of (i) the ability of a resolution applicant to withdraw an approved resolution plan on the grounds of commercial viability; (ii) transfer of a third-party guarantor's assets under a resolution plan.
- Advised and represented an asset reconstruction company before the NCLAT where the issue of continuing guarantee and limitation for filing insolvency action were decided.

SELECT EXPERIENCE

- Advised and represented leading asset reconstruction companies in various high stake insolvency actions against borrowers and corporate guarantors.
- Advised and represented a leading global steel trading company with a debt size of USD 6 billion in relation to inward funding options, re-organization of debt, corporate and debt restructuring pursuant to such funding, and implementation of the restructuring plan. One of the key highlights of the restructuring was the significant value that accrued to the global creditors.
- Advised and represented a leading steel trading conglomerate in its group reorganization, and financial restructuring including credit arrangements and advances.
- Advised and represented an Indian public listed company with a debt size of USD 1 billion on the restructuring of its debts, including strategy-related advice on the scheme of arrangement and compromise and implementation of the scheme with regard to the Indian creditors. We also played a significant role in assisting the company and the promoters to structure the promoter's contribution and obtaining regulatory approvals including exemption under the Takeover Code.
- Advised and represented corporates of a leading Indian power company on re-organization of its debt, takeover of debt by external investors and further assisting in the creation of an SPV and infusion of funds in the SPV to take over the debt. In this deal, Khaitan Legal Associates was central to providing advice on the commercial aspects of the loan and implementing the structuring in a tax-efficient manner.



Sakate Khaitan
Senior Partner
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Sakate is the managing partner of the firm with over 30 years of experience. A rare combination of lawyer and MBA.



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A highly skilled and dynamic litigator, Dhiraj leads the Disputes Resolution practice. An expert in commercial disputes, IP, insurance claims and insolvency.



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Smiti is a bright young litigator who co-leads the litigation practice with expertise in commercial disputes, insolvency and insurance claims.



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A highly proficient litigator based out of the Delhi office. An expert in commercial litigation, insolvency and regulatory disputes.



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Anisa is a Senior Associate based in the Mumbai office of Khaitan Legal Associates and is involved in the General Corporate practice of the firm.

OUR INSOLVENCY & RESTRUCTURING TEAM



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