

De Jure

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**Singapore Recognises The Indian Corporate
Insolvency Resolution Process Under IBC, 2016**



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Introduction

Recently, the Singapore High Court ("**SHC**") in the judgement of *Re Compuage Infocom Ltd and another*¹ has recognised Corporate Insolvency Resolution Process ("**CIRP**") under Insolvency and Bankruptcy Code, 2016 ("**Code**"), applying the UNCITRAL Model Law on Cross-Border Insolvency, 1997.

Before getting into the details of the judgment and discussing its impact on India, let us have a brief understanding of the UNCITRAL Model Law on Cross-Border Insolvency, 1997.

UNCITRAL Model Law on Cross-Border Insolvency, 1997 ("*Model Law*")

In this era of globalisation, international trade has significantly increased, where companies have business in multiple jurisdictions. One of the aspects of globalisation is companies falling into insolvency, which leads to overlapping and conflicts of law between countries, creating chaos for the stakeholders.

The purpose of the Model Law is to eradicate the impediments and provide effective mechanisms for dealing with cases of cross-border insolvency.



United Nations
UNCITRAL

¹ [2025] SGHC 49

Considering the growing significance of cross-border insolvencies, the International Monetary Fund encourages States to adopt the Model Law as it provides an effective mechanism for the recognition of foreign proceedings and cooperation among different courts and administrators.²

The Model Law has already been adopted by more than 60 jurisdictions; however, India has only acknowledged the benefits of the Model Law on cross-border insolvency and proposed its adoption, but it has not yet formally adopted the Model Law. India's current approach is primarily through bilateral agreements.

Brief Factual Matrix

The case concerned Compuage Infocom Limited ("**CIL**"), an Indian IT distributor facing financial distress, which led to defaults. This triggered the CIRP under the Code, thereby appointing a Resolution Professional ("**RP**") to oversee the process.

As part of the insolvency proceedings, the RP sought recognition of the CIRP in Singapore under the Model Law, incorporated into Singapore law through the Insolvency, Restructuring and Dissolution Act 2018. This was required to be done by the RP to seek recognition and access CIL's Singapore bank statements and facilitate the repatriation of its assets to India.

² IMF (Aug. 2, 1999), <https://www.elibrary.imf.org/display/book/9781557758200/ch06.xml>.

Findings by the SHC

a) **Whether CIRP qualifies as a collective proceeding**

One of the primary issues before SHC was whether the CIRP qualified as a collective proceeding. .

For the CIRP to be recognised as a collective foreign proceeding under the Model Law, it had to involve multiple creditors and a structured reorganisation process.

The Court determined that CIRP met this requirement, as it engages a committee of creditors to oversee the restructuring process, through statutory safeguards, and prioritises reorganisation over liquidation unless no viable resolution plan emerges. Based on the above, the SHC held that CIRP constituted a structured and collective process read with the Model Law.

b) **Whether CIRP under the Code is a 'Foreign Proceeding'**³

The SHC applied the test laid down in one of its earlier judgments in *Ascentra Holdings, Inc and others v SPGK Pte Ltd* ⁴. The test stated five requirements- i) the proceedings must be collective in nature ii) the proceedings must be judicial or administrative in a foreign state, iii) the proceeding must be conducted under a law relating to insolvency or adjustment of debt iv) the control and supervision in the proceeding should be by a foreign court and v) the

³ Art 2(h) of the Model Law defines "foreign proceeding" as -a collective judicial or administrative proceeding in a foreign State, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the property and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganisation or liquidation.

⁴ [2023] 2 SLR 421

proceeding must be for purpose of reorganisation or liquidation. Applying the test, the SHC recognised CIRP as foreign proceedings.

c) **Whether the National Company Law Tribunal ('NCLT') is a 'Foreign Court'**⁵

The SHC noted that although the NCLT is a quasi-judicial body, it is competent to control or supervise proceedings and exercises several judicial powers in relation to controlling or supervising the CIRP. Hence, the SHC recognised NCLT as a Foreign Court.

d) **Whether RP is a 'Foreign Representative'**⁶

The SHC also held that RP appointed in the Indian proceedings could be recognised as a foreign representative in Singapore. Under the Model Law, a foreign representative must be authorised to manage the debtor's affairs or act as a representative in insolvency proceedings.

The SHC held that the RP, having been appointed to oversee CIL's restructuring, satisfied this requirement and was duly recognised as a foreign representative in Singapore.

⁵ Art 2(h) of the Model Law defines "foreign court" as -judicial or other authority competent to control or supervise a foreign proceeding

⁶ Art 2(d) of the Model Law defines "foreign representative" as a person or body, including one appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding.

e) **Whether CIL's centre of main interest (COMI) is India**

For a foreign proceeding to be recognised, one of the key factors is the jurisdiction where the debtor has its centre of main interest. COMI is the place where the company has its registered office, here, CIL's registered office is in India.

The SHC while determining COMI also considered other factors such as- i) The directors are based in India and the operational decisions are also made here; ii) CIL's main assets, operations and substantial business are in India; and iii) India hosts the majority of CIL's creditors, with only one Singapore creditor's claim filed. Hence, India was recognised as COMI by the SHC.

f) **Whether the Repatriation of Assets is allowed**

This case also had another important aspect, which involved the repatriation of CIL's assets in Singapore.

The RP sought court orders to facilitate the transfer of these assets to India as part of the insolvency process.

The SHC declined to grant this relief at the current stage of the proceedings and directed that Singapore-based creditors be given prior notice before any transfer, ensuring that their rights were properly considered. The SHC directed that any such repatriation or return must be done only with the leave of the SHC.

Closing Thoughts

The judgment is one of a kind coming from the Singapore jurisdiction, wherein the SHC has recognised the CIRP. By affirming the CIRP as a foreign proceeding and recognising the NCLT's authority, the decision sets an important precedent for future cases involving Indian companies undergoing insolvency.

The Ministry of Corporate Affairs, India published a Report of the Insolvency Law Committee on Cross Border Insolvency in October 2018 ("**2018 Report**"). Subsequently, the Cross Border Insolvency rules/ regulations committee published in June 2020, provided comprehensive rules and a regulatory framework to enable the implementation of these recommendations as suggested in the 2018 Report. However, no further measures have been taken by India to implement the 2018 Report and the rules.

There have been enough big-ticket cases that highlighted the need to adapt to Model Law, Jet Airways⁷ case being one of them. The Jet Airways case, being the first of it emphasised the need to adapt to the Model Law, which is globally acceptable.

Due to a lack of being signatory to the Model Law, the National Company Law Appellate Tribunal, New Delhi had to come up with a groundbreaking solution to sign the 'Cross Border Insolvency Protocol' with the Dutch Administrator for the smooth facilitation of the insolvency process in Jet Airways case.

⁷ 2019 SCC OnLine NCLAT 385

This present ruling by the SHC is an aid to now expedite the introduction of cross border insolvency laws in India and will surely encourage RPs to approach foreign jurisdictions and take control (*to the extent permissible under various jurisdictions*) of foreign assets for the benefit of all stakeholders.



As stated above, the Model Law has been adopted in more than 60 jurisdictions. The above judgment will be helpful in getting CIRP proceedings recognised in all such jurisdictions.

One may have to wait and watch and see that other challenges RPs may face in each such jurisdiction to bring uniformity and standardization to the cross-border insolvency process, till India adopts the Model Law.

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