

GoFirst saga: Will the crisis-hit airline fly again?

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On May 10, 2023, the National Company Law Tribunal (NCLT) admitted an application filed by GoFirst and declared a moratorium under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC).

Till 2022, GoFirst was India's third largest airline by passenger market share. When filing for insolvency under Section 10 of IBC, it had a workforce of 7,000 direct employees and 10,000 indirect employees. Clearly, the airline was doing well at least until the pandemic.

But its problems began when the Pratt & Whitney (P&W) engines it was using developed defects causing a third of its aircraft to be grounded. It initiated emergency

arbitration against P&W before the Singapore International Arbitration Centre (SIAC) saying P&W refused to honour its commitments. The arbitral tribunal directed P&W to supply GoFirst with 10 serviceable engines by April 2023 and another 10 each month until December 2023. GoFirst alleged that P&W failed to comply, and initiated enforcement proceedings.

SHORT-LIVED RELIEF

Due to the defective P&W engines, the aircraft major said it had to cancel 4,118 flights in a month, and pleaded before the NCLT that its insolvency petition may be admitted and a moratorium under Section 14(1) of IBC may be granted to protect the company's existing assets. But, GoFirst's insolvency application came to be resisted by some of its operational creditors



who wished to present their objections, for which they contended that a notice of the application ought to have been issued by GoFirst. The NCLT held that there is no express provision in law that

necessitates issuing a notice or service of a copy of the application to the creditors. The tribunal opined that it would not be feasible to issue notices to multiple creditors, especially when the creditors would anyway not lose their rights. Following this, GoFirst's application for commencement of insolvency was admitted, and an interim resolution professional (IRP) was appointed to take charge of the corporate insolvency resolution process with immediate effect. Further, the IRP was directed to take necessary steps for the execution of SIAC's arbitral award and not resort to the retrenchment of employees without informing the NCLT. Despite this instruction, the future of GoFirst is full of uncertainties. As per reports, salaries have been delayed, forcing staff to seek work in other airlines. Many

pilots have also urged the Central government to reduce the notice period of 12 months for resigning as per DGCA norms.

REVIVAL IN SIGHT?

GoFirst has submitted, at DGCA's behest, a 6-month revival plan, intending to resume operations on the Pune, Bagdogra and Goa routes. It has also offered to immediately deploy two aircraft to start operations on the Delhi-Srinagar and Delhi-Leh routes. On June 26, 2023, it was reported that GoFirst's lenders approved an interim funding of ₹4.5 billion for the resumption of operations. Now that the company has secured the funding, the decision lies with DGCA to permit GoFirst to resume operations.

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