

**LAW OF INSOLVENCY. By Avtar Singh, Fourth Edition. Eastern Book Company, 2004. Pp. 259, Rs. 195/-.**

The book under review, in its new edition endeavours to update the law of insolvency by incorporating all landmark judgments of Supreme Court and various High Courts of India. The previous edition of this book has had an enthusiastic response from lawyers and students alike. The updated edition of this widely commended work provides a comprehensive and exhaustive coverage of the subject with the help of decided cases, materials and background information on law of insolvency which is supplemented by commentary as well as cross references of cases detailed in footnotes.

Law of insolvency is an administrative law with the object of securing distribution of a debtor's estate among his creditors equitably and thereafter to release him under certain conditions from liability in respect of his debts and obligations. The jurisdiction of insolvency courts for getting the debtor adjudged insolvent commences on commission of any one of the acts of the insolvency by a debtor. Petition for insolvency can be filed at the behest of either the creditor or the debtor.

There is a common thread running through the various provisions of insolvency law that is liberation of the person of the debtor from the demands of his creditors while at the same time safeguarding the interests of the creditors. The author has, therefore, probably not divided the book into parts or chapters. It will be better if the book is divided into chapters to make it more comprehensible and understandable to the reader. The book, however, provides an indepth insight into its various provisions for thoroughly understanding the law of insolvency.

While starting with the objects of insolvency law, the author gives commentary on the sections which deal with the acts of insolvency. All the enumerated acts of insolvency have been explained elaborately by referring to statutory provisions and then discussing the case law on the topic. The authors grasp and understanding of the subject is reflected in the way the subject has been dealt with. But there is one important matter which the introductory portion of the book fails to mention. There are two major enactments which deal with the law of insolvency,

Provincial Insolvency Act, 1920 and The Presidency Towns Insolvency Act, 1909 which have been so enacted because of their different territorial jurisdiction. However, the author has nowhere mentioned about this fact and the commentary on the subject proceeds with this assumption that the reader is already aware of the same. Although a brief mention of the two enactments has been made in the preface to the fourth edition but that has also proceeded on the assumption of the readers being already aware of that.

Further the historical development and evolution of the law of insolvency has nowhere been mentioned. The factors which lead to the birth and growth of a law is equally important in understanding and appreciating any law to its fullest. It is hoped that this will be incorporated in the next edition of the book.

It was felt that the law of insolvency will become needless because of better sense of business responsibility of the traders, entrepreneurs and individuals. But in the course of time, more so because of the process of economic liberalization, individuals are facing competition from the foreign goods as well as the marketing strategies and products of multinational corporations. In this era of survival of the fittest, those who are unable to adjust to this new economic situation may fall in trap of indebtedness. Thus there is need to strengthen the law on this subject. The author also has expressed the same view in the preface but has not suggested any effective measures for strengthening the provisions of the law of insolvency so as to protect sinking businessman and safeguarding their lenders.

A thorough reading of the book signifies that though the book is not divided into chapters, it can be broadly classified into different topics: what are the acts of insolvency, who can be adjudged insolvents, the powers of the Court, on whose petition can a debtor be adjudged insolvent, the procedure of dealing with such petitions, effects of order of adjudication, subsequent proceedings till a debtor continues to be an insolvent as to how to control his person and property by annulment order or discharge, how to distribute his properties by receiver or Court, the effects of annulment and discharge, and the penalties and miscellaneous provisions of the two enactments.

The author has devoted a separate commentary on property which is covered under reputed ownership, a very significant aspect of the property of the insolvent. When a property is in the possession, order or disposal of a person, with the consent and knowledge of the true owner and under circumstances which create the impression that to all appearance and purposes he is the owner of that property then if such a person is adjudicated insolvent that property will vest in the receiver and will not revert to its true owner. This part of the book provides an exhaustive commentary and material on the subject elaborated by the case law of various High courts and Supreme Court.

The author has exhaustively dealt with all the aspects of the subject and has skillfully dealt with each aspect under both the enactments mentioned above by enumerating the corresponding section of the two enactments and then proceeding to give the case law under both enactments. The author deserves to be complemented for his remarkable coverage of the various aspects of the law of insolvency.

The book is also distinctive in its approach because of the way it has touched upon the other related laws which have a bearing or contradiction with its provisions. To illustrate: on page 68 after mentioning the provisions of Insolvency Act which place a bar and stay of suits and other legal proceedings by the creditors against an insolvent, the book on page 71 highlights that such bar does not operate against criminal proceedings under Indian Penal Code, 1860 or against criminal proceedings under section 138 of the Negotiable Instruments Act, 1881.

Written in a clear and lucid manner, the book is a reservoir of knowledge on the subject and has been formulated concisely. Much has been added in this edition to deal with the important developments on the law. Latest judicial decisions have been incorporated. The new addition, namely, appendices include Acts and Rules of various States and notifications. It provides a good treatise on the subject and is an invaluable source of reference for professionals and students alike.

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