

Recognition of spectrum licensing rights as an intangible asset in the balance sheet is not determinative of recognition/transfer of ownership of the spectrum to Telecom Service Providers. Hence, the ownership and control of telecom spectrum cannot be determined by the Insolvency and Bankruptcy Code (IBC).

The **Supreme Court** in the case of **State Bank of India v. Union of India [Civil Appeal No. 1810/2021]** dated **February 13, 2026**, has held that the ownership and control of telecom spectrum cannot be determined by the Insolvency and Bankruptcy Code (IBC), since it is a common good. The Court explained that the spectrum is a material resource of the community in the Constitutional sense. Hence, the spectrum must benefit the common good, so its control has to be secured for the citizens.

The issue before the Court was whether telecom service providers, called upon to pay license dues by the Department of Telecommunications, can invoke a moratorium on the basis of a voluntary corporate insolvency resolution process under the IBC. Hence, while disposing the issue, the Court observed that IBC cannot be the guiding principle for restructuring the ownership and control of spectrum.

The Court went on to observe that Spectrum allocated to Telecom Service Providers (TSPs) and shown in their books of account as an “asset” cannot be subjected to proceedings under Insolvency and Bankruptcy Code, 2016. Interpreting Section 4 of the Indian Telegraph Act, 1885, the Court held that the Central Government has exclusive privilege to establish, maintain and work telegraphs and may grant licences on such terms and consideration as it thinks fit. It observed that a licence granted under Section 4 is contractual in form but emanates from sovereign statutory power and remains subject to constitutional limitations.

The Court noted that the grant of a telecom licence does not transfer ownership of spectrum. It confers only a limited, conditional and revocable right to use spectrum for a defined purpose and duration. The licence remains subject to strict compliance with statutory requirements, licence conditions and public interest considerations. The Court held that the insolvency framework cannot be used to rewrite the statutory regime governing natural resources.

As far as the argument that spectrum is treated as an intangible asset in company balance sheets, the Court observed that accounting recognition under Indian Accounting Standards is based on control over economic benefits and reliable measurement of cost. This recognition does not determine legal ownership of Spectrum. Essentially, recognition of spectrum licensing rights as an intangible asset in the balance sheet is not determinative of recognition/transfer of ownership of the spectrum to TSPs. It only indicates control over the future economic benefits flowing from the grant of the right to use the spectrum.

The Court further held that the resolution professional cannot assume control or custody over spectrum under Section 18 of the IBC, as spectrum is neither owned by the corporate debtor nor transferable as property. It rejected the contention that spectrum usage rights can be treated as a security interest in favour of lenders in view of the Tripartite Agreement and the statutory framework. The Court noted that while the agreement facilitates conditional transfer

or assignment in the event of default, such transfer remains subject to the licensor's approval and regulatory control. It emphasised that the licence remains a regulated privilege rather than freely alienable asset.