

INITIATIVES

Programmes on Insolvency and Bankruptcy Code, 2016

Recently a Three Days Intensive Class Room Training in Chennai was organized which focused on preparation for Limited Insolvency Examination of IBBI. The second batch of the programme is scheduled to be conducted on 23rd to 25th June, 2017 in Chennai.

The programmes on Insolvency and Bankruptcy Code, 2016 will be held next at Guwahati, Siliguri, Allahabad, Ahmedabad and Ernakulam. Information about the forthcoming events is available at: <http://iiipicai.in/>

Learning Management System (LMS) for IBBI Limited Insolvency Examination

As per Regulation 9 (3) of IBBI (Insolvency Professionals) Regulations, 2016 the members who have registered under the scheme for limited period registration are required to pass the Limited Insolvency Examination of IBBI before 6 months from the date of registration.

The members may take the help of the Learning Management System (LMS) as developed by IIPI for the Examination. LMS is a comprehensive e learning platform which provides the study material as well as presentations and sample test questions. It also provides a mock test for the purpose of enabling the professionals to practice for the Examination. The Learning Management System is available at the link: <http://www.iiipicai.in/index.php/learning>

NEWS UPDATE

Insolvency Professionals to act as Interim Resolution Professionals (Recommendation) Guidelines, 2017.

Insolvency and Bankruptcy Board of India has issued guidelines for recommendation of Insolvency Professional (IP) by the Board under Section 16 (3) (a) of the Insolvency and Bankruptcy Code, 2016.

In case where an operational creditor has made an application for corporate insolvency resolution process and has not proposed name for an IP for appointment as an Interim Resolution Professional (IRP) the Board is required under section 16(4) of the Code to recommend the name of an IP to Adjudicating Authority (AA) against whom no disciplinary proceedings are pending, within ten days of the receipt of the reference from the AA. In this regard the Board has prescribed guidelines for recommendation of Insolvency Professionals to act as Interim Resolution Professionals. The guidelines may be accessed at: <http://iiipicai.in/latest-announcements/57-guidelines>

Interpretation of 'Dispute' By NCLAT

National Company Law Appellate Tribunal (NCLAT) in its recent judgment in the case of Kirusa Software Private Limited v. Mobilox Innovations Private Limited gave interpretation of the term “dispute” and “existence of dispute” for the purpose of determining the petition of the operational creditor under Section 9 of the Insolvency and Bankruptcy Code, 2016.

NCLAT held that, the definition of “dispute” is “inclusive” and not “exhaustive”. Further, it observed that the dispute under the Code must relate to the specified nature in Section 5 (6), i.e. existence of amount of debt or quality of goods or service or breach of representation or warranty and that a mere illusory dispute, raised for the first time while replying to a demand notice cannot be a tool to reject the application under Section 9 if the operational creditor otherwise satisfies the Adjudicating Authority that there is a debt and a default.

It was held that dispute as defined in Section 5 (6) of the Code cannot be limited to a pending proceeding or ‘lis’ within the limited ambit of suit or arbitration proceedings the word “includes” ought to be read as “means and includes” including proceedings initiated or pending before consumer court, tribunal, court or mediation, conciliation etc.

Nomination of India in Global Restructuring Review (GRR) Awards 2017 for “Most Improved Jurisdiction” under Insolvency and Bankruptcy Laws

London based Global Restructuring Review (GRR) has recently announced GRR Awards which will take place on 21 June at London.

GRR has nominated India under the category of “Most Improved Jurisdiction” for enactment and implementation of the new Indian Insolvency and Bankruptcy Code, 2016 which came into force in December 2016 – a month ahead of schedule. India has been recognized for bringing greater empowerment for creditors, dedicated insolvency regulators, registered professionals and company law tribunals, and a more streamlined insolvency process under its new Insolvency and Bankruptcy Law.

Other countries nominated along with India for the award for most improved jurisdiction are Bahamas, Germany, Singapore and UAE. Further information can be accessed at link: <http://globalrestructuringreview.com/article/1142112/grr-awards-2017-%E2%80%93-most-improved-jurisdiction>

Hope you find this Update helpful.

Suggestions if any, may be mailed to ipa@icai.in