



IIPI Newsletter

August 21, 2020

| Volume 5, Number 34

*For Restricted Circulation Only

*Knowledge SBU Initiative

Bankruptcy stick helps seal 9650 cases with 3.7 lakh crore claim

The fear of the bankruptcy action has helped settle over 9,650 cases involving claims of around Rs 3.7 lakh crore, with companies and their promoters settling the dues before the case was admitted in the NCLT. Up to December 2019, this debt had been settled as operational creditors, such as suppliers, or financial creditors, like banks, threatened to initiate action, data with the IBBI showed.

DHFL bankruptcy raises questions over securitisation

The resolution of Dewan Housing Finance Company (DHFL) has raised questions over securitisation deals in bankrupt non-banking finance companies.

What happens in case of receivables or loans securitised that were subject to a charge (fixed or floating)? How can the investor/lender (who has purchased the loans via securitisation agreements) claim to have predominant rights over the receivables despite the pre-existing charge? Further, can the investor initiate recovery efforts against defaulting loans, in case the original lender (DHFL) is under insolvency proceedings?

Home- buyers cannot invoke insolvency process to recover RERA awards: NCLAT

The National Company Law Appellate Tribunal has ruled that home-buyers cannot drag realty companies through the insolvency process for recovering monies awarded to them by a real estate regulator.

The NCLAT ruled that a home- buyer cannot be treated as a financial creditor when the real estate company is unable to honour a decree awarded by the State-level Real Estate Regulatory Authority (RERA).

POINT TO PONDER

*"We cannot solve our problems with the same level of thinking that created them."
-- Albert Einstein*

NCLAT sets aside order against former PNB official in Nirav Modi case

The National Company Law Appellate Tribunal has set aside an order to implead a former Executive Director of the Punjab National Bank in a matter related to Rs 14,000 crore scam involving diamond merchant Nirav Modi.

In January 2019, the National Company Law Tribunal directed impleading 19 people, including the bank's former Executive Director K V Brahmaji Rao, in the case. There was also a direction to freeze their assets. The tribunal's ruling had come on a petition filed by the corporate affairs ministry.

NCLAT sets aside insolvency proceedings against Ansal Properties and Infrastructure

The National Company Law Appellate Tribunal set aside the insolvency proceedings against Ansal Properties and Infrastructure Ltd and ruled that the management of the company be handed over back to its board.

IDBI Bank rejects Mauritius-based Royal Partner's discounted offer for Essar arm

IDBI Bank rejected a revised offer from Mauritius-based Royal Partner for Essar group arm EPC Constructions, after the investor sought a 10% discount on its previous offer of Rs 1,150 crore citing the company's "value erosion" during insolvency proceedings.

AGR dues case: Supreme Court wants dues paid, IBC may take a hit

The Supreme Court brushed aside technicalities related to the Insolvency and Bankruptcy Code and observed that the adjusted gross revenue (AGR) dues of insolvent companies amount to Rs 45,000 crore and someone needs to pay this. Continuing the hearing for the second consecutive day, a bench led by Justice Arun Mishra observed, "How can we leave it (dues) like that... You may be entering into so many arrangements but finally someone will have to pay... We will decide it finally," the bench observed, as counsel for State Bank of India and Reliance Jio Harish Salve presented arguments detailing that IBC provides for spectrum to be used as an asset and Jio does not need to pay the dues of Reliance Communications.

Feedback requested at ipa@icai.in