



IIPI Newsletter

October 18, 2019

Volume 3, Number 29

For Internal Circulation Only

Knowledge SBU Initiative

NCLT initiates insolvency proceedings against Vigneshwara Developers

The National Company Law Tribunal (NCLT) has initiated corporate insolvency resolution process against Delhi-based Vigneshwara Developers under Section 7 of the Insolvency and Bankruptcy Code 2016.

The court has appointed Sunder Khatri as the interim resolution professional (IRP) for the case. The court directed the IRP to make public announcement within three days of the order.

Release Of Third-Party Assets Permitted During Moratorium Under The Bankruptcy Code

Many entities who supplied raw materials or unfinished products to companies for contract manufacturing/processing complained of their raw materials being stuck whenever any of such manufacturing companies fell under the purview of the (Indian) Insolvency and Bankruptcy Code, 2016 ("Code"). In terms of the Code, the moment an insolvency petition is admitted with respect to a company (called "corporate debtor"), a Resolution Professional is appointed suspending the board of directors of the corporate debtor and a moratorium is declared on *inter alia* all claims and demands against the corporate debtor. The NCLT has recently resolved this crucial and practical problem, and has clarified that the materials owned by a third party, kept in possession of a corporate debtor under trust or under well-structured contractual arrangement including bailment, do not form part of the assets of the corporate debtor. Resultantly, such assets can be released by the Resolution Professional.

Essar Steel insolvency case: Supreme Court starts hearing final arguments

The Supreme Court on Tuesday started hearing the arguments in the Essar Steel insolvency case after Committee of Creditors (CoC) had sought quashing of the National Company Law Appellate Tribunal (NCLAT) order which had given financial creditors equal status with operational creditors in the distribution of the ArcelorMittal's bid amount. On July 22, the Court had put on hold the sale of Essar Steel to Arcelor Mittal as it agreed to hear the appeal filed by lenders against the NCLAT order, saying it would like to settle the issue.

Point to ponder

“Breach of promise is no less an act of insolvency than a refusal to pay one's debt.”

Mahatma Gandhi

IBBI for statutory recognition of valuation professionals

The Insolvency and Bankruptcy Board of India (IBBI) Chairman M.S. Sahoo has said that there should be a statutory nod given to valuation professionals in India to further streamline the profession. Speaking at an event here, Sahoo said: "IBBI is looking for valuers who are part of a setup which has accountability, responsibility and necessary skillset to manage their mandates. This is an important aspect of IBBI, to have fair valuation of businesses and assets. I feel a statutory body should be established for valuers in India." The Ministry of Corporate Affairs (MCA) has already mandated an institutional framework for regulation and development of valuation professionals. The panel is headed by the IBBI Chairman.

Mauritius-based co files insolvency petition against Dalmia Cement arm

Mauritius based GuarantCo has filed a petition for insolvency against Calcom Cement India, a subsidiary of Dalmia Cement (Bharat), over alleged non payment of around Rs 100 Crore. GuarantCO, a financial creditor of the Cement manufacturer, filed the insolvency petition against the company at Guwahati bench of the National Company Law tribunal. Under Section 7 of the Insolvency and Bankruptcy Code (IBC). According to the petition there was a total default of around 100 Crore by Calcom cement on September 27, 2019. Dalmia cement however said "Calcom cement had not committed any default in making payments to GuarantCo.

Ministry mulling threshold for homebuyers to trigger insolvency against realtors

In a move to limit the abuse of the Insolvency and Bankruptcy Code (IBC), the Corporate Affairs Ministry is mulling the setting of a threshold for homebuyers for starting insolvency proceedings against real estate developers, Corporate Affairs Secretary Injeti Srinivas said on Monday. Speaking to reporters, Srinivas said the ministry is also looking at a distribution formula for financial and operational creditors to create a hybrid system of auction of properties with a rigorous examination of resolution applicants to make the system more transparent and legal hassle free.

***Feedback requested at ipa@icai.in**