



## IIPI Newsletter

February 7, 2019

Volume 2, Number 3

\*For Internal Circulation Only\*

Knowledge SBU Initiative

### **NCLT orders Reid & Taylor liquidation**

NCLT has ordered the liquidation of the apparel maker Reid & Taylor after none of the suitors to the company were able to provide for the required funding guarantees to validate their interest in the company.

Liquidation of the company is in line with the suggestion by the resolution professional and creditors of the company after they failed to find a buyer for the company more than nine months after dragging it to NCLT.

### **Corporate Guarantors Of A Non-Corporate Debtor: NCLAT Lays Down Ground Rules**

A financial creditor is at liberty to initiate 'Corporate Insolvency Resolution Process' against a corporate guarantor under Section 7 of the Code without first initiating a Section 7 application against the principal borrower with regard to the same debt/claim or default.

Also, a financial creditor can file multiple applications under Section 7 of the Code for initiation of 'Corporate Insolvency Resolution Process' in respect of the same debt and default. However, upon admission of any one of such applications by the adjudicating authority, the other applications cannot be admitted and are liable to be set aside. Hence, multiple applications for initiation of a 'Corporate Insolvency Resolution Process' in respect of the same claim/debt cannot be proceeded with.

### **NCLT Chennai approves Bafna Pharmaceuticals corporate insolvency resolution plan**

City-based Pharmaceuticals announced that Chennai bench of NCLT has approved the resolution plan submitted by the company under corporate insolvency resolution process.

The resolution plan submitted by Bafna at the sixth meeting of CoCs held on January 4 was approved with 74.84 per cent financial creditors voting in favour of the resolution plan.

## POINT TO PONDER

**"Bankruptcy and repudiation are the spring board from which much of our civilization vaults and turns its somersets, but the savage stands on the unelastic plant of famine."  
-Henry David Thoreau**

### **NCLT Has No Jurisdiction To Enquire Into Justness Of Rejection Of The Resolution Plan: SC**

The Supreme Court bench comprising of Justice AM Khanwilkar and Justice Ajay Rastogi has observed that the adjudicating authority, NCLT, has no jurisdiction and authority to analyse or evaluate the commercial decision of the Committee of Creditors to enquire into the justness of the rejection of the resolution plan by the dissenting financial creditors. The bench observed the same upon receipt of a "rejected" resolution plan, the adjudicating authority is obligated to initiate liquidation process under Section 33(1) of the Insolvency and Bankruptcy Code.

### **NCLT Cannot Decide Inter-Se Claims By Parties Over Assets of Corporate Debtor: NCLAT**

The NCLAT in the present matter was dealing with appeals by two companies, who contended that the Resolution Professional had wrongly treated the articles handed over by them to the corporate debtor as its assets. To this, NCLAT held that the claims are not against the Corporate Debtor or its subsidiaries but includes inter-se claims for the very same material, such dispute cannot be decided by the Adjudication Authority under Section 60(5) of IBC.

### **Setback for Tata Steel as NCLAT upholds creditors decision on Bhushan Power**

The National Company Law Appellate Tribunal (NCLAT) on Monday upheld the Committee of Creditors' (CoC) decision to approve JSW Steel Limited's resolution plan for Bhushan Power and Steel Limited, saying the committee had the right to negotiate better terms with the resolution applicants.

The appellate tribunal has remitted the matter back to principal bench of the National Company Law Tribunal (NCLT) in Delhi and asked the Resolution Professional (RP) of Bhushan Power to place JSW Steel's bid before it for approval.

**\*Feedback requested at [ipa@icai.in](mailto:ipa@icai.in)**