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Knowledge SBU Initiative

Govt extends tenure of NCLT acting President BSV Prakash Kumar

The government has extended the tenure of acting President of National Company Law Tribunal BSV Prakash Kumar for another three months. "It has been decided to extend the tenure of Shri BSV Prakash Kumar as acting President for a period of another three months with effect from 5th April, 2020, or till joining of new President, or until further orders, whichever is earlier," the MCA said in an intimation issued to Registrar, NCLT.

The resolution can be taken even during the CIRP, if any Promoter as investor agrees to invest the money

NCLAT in the matter of *Rajesh Goyal Vs. Babita Gupta & Ors.* held that the procedure as followed in "Flat Buyers Association Winter Hills - 77, Gurgaon" shows curtailment of period of resolution without asking for resolution plan from the third party before finalisation of the resolution plan. The resolution can be taken even during the corporate insolvency resolution process, if any Promoter as investor agrees to invest the money for keeping the company as a going concern and complete the project within the time frame. In view of the fact that part of the infrastructure (Apartments/Flats) has already been completed, the allottees (Financial Creditors) who were the main beneficiaries of the infrastructure have already reached settlement with the Promoter and the fact that the Promoter as an outsider financial creditor has agreed to invest the amount, not from the account of the Corporate Debtor but from other sources to keep the infrastructure as a going concern.

Cash-strapped DHFL not to make any payment to lenders, bondholders

DHFL said it will not make any interest or principal payment to lenders as well as bond holders as the company is under resolution process as all the rated debt papers of the company are carrying default grade ratings and disclosures on the same have been made to the exchanges.

POINT TO PONDER

"Nobody cares how much you know, until they know how much you care.

-Theodore Roosevelt"

Jaypee judgment creates a conundrum for lenders

Supreme Court held that the lenders to JAL (Jaiprakash Associates Limited), holding the mortgages in question would fall into the category of secured creditors. However, as such mortgages did not represent any loan, facility or advance to the corporate debtor nor towards protecting any facility or security of the corporate debtor, it could not be said that the corporate debtor owed them any financial debt within the meaning of section 5(8) of the code. Hence, such lenders to JAL did not fall into the category of financial creditors of the corporate debtor of JIL (Jaypee Infratech Limited).

The decision of the SC in the present case may be treated as a seminal case in the jurisprudence of preferential transactions. Although in deciding whether the lenders to JAL can be categorized as financial creditors of JIL, the definition clauses of the code do support such an interpretation, it will be interesting to see what impact it has on financial creditors in situations where CIRPs start simultaneously against the principal borrowers and the third party security providers in respect of their existing claims filed with the resolution professional in those CIRPs.

Debt restructuring: Jain Irrigation to submit revised proposal to lenders by next week

In a last-ditch effort to save the company, Jain Irrigation is going to submit a revised proposal to lenders by next week for debt restructuring. Jain Irrigation was undergoing a debt-restructuring process after banks signed an inter-creditor agreement (ICA) to resolve the company, as per a June 7 circular of the Reserve Bank of India. The company is going to submit a proposal to restructure Rs. 4,000 crore of debt, in which the loan is likely to be split into sustainable and unsustainable portions.

Substantial recovery likely against IL&FS Rs 94k cr debt: Injeti Srinivas

With multi-pronged strategies in place for IL&FS resolution, the government expects "substantial recovery" against the group's Rs. 94,000 crore external debt and the recovered amount could be much more than the sum realised under the insolvency law so far. Apart from the exercise of recasting the financial statements, an SFIO probe report regarding an IL&FS subsidiary is nearing completion.

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