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Finance Ministry starts consultations to assess impact of second COVID-19 wave on businesses

According to media reports, the Union Finance Ministry has started consultations with the industrialists, industry representatives and other stakeholders to assess the impact of second wave of COVID-19 pandemic on businesses.

The media reports also suggest that the government is working on some proposals to provide relief to the businesses hit hard by the second wave of the pandemic.

For More Details, Please Visit:

<https://www.businesstoday.in/current/economy-politics/another-ibc-suspension-on-cards-finmin-begins-industry-consultations/story/437027.html>

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

Section 14 and 17 of IBC can't be overlooked by Section 482 of CrPC: Supreme Court

In an important judgement, the Supreme Court ruled out an attempt by a Corporate Debtor (CD) to escape the provisions of 'moratorium' of section 14 and 17 of IBC, 2016 by invoking section 482 of the Criminal Procedure Code (CrPC). The Apex court also cautioned High Court(s) from using inherent power under Section 482 of CrPC.

"The power under Section 482 may not be available to the Court to countenance the breach of a statutory provision. The words 'to secure the ends of justice' in Section 482 cannot mean to overlook the undermining of a statutory dictate, which in this case is the provisions of Section 14, and Section 17 of the IBC," held Supreme Court in the matter of *Sandeep Khaitan, RP v. JSVM Plywood Industries, OC* on April 22, 2021. In this case, the former MD of the CD in conspiracy with the respondent was found engaged in an illegal transaction to the tune of Rs. 32.50 lakh without authority from the appellant (RP) and in violation to Section 14 of the IBC. The Hon'ble High Court, Gauhati had allowed the OC to operate its bank account and to unfreeze the bank account of its creditors over which the lien was created and the accounts frozen pursuant to the lodging of an FIR by RP.

The SC further held that the impact of the moratorium under IBC includes prohibition of transferring, encumbering, alienating or disposing of by the CD of any of its asset.

For More Details, Please Visit:

<https://www.livelaw.in/top-stories/delhi-police-approaches-supreme-court-seeking-handcuffing-of-arrested-persons-undertrials-to-ensure-safe-transit-in-pandemic-172982?infinitemscroll=1>

News Roundup

NCLT Kolkata approved Resolution Plan of Transafe Services, a joint venture of state-run Balmer Lawrie & Co.

In its Resolution Plan Delhi based Om Logistics, the highest bidder (H1) has assured a sum of Rs 49 crore against the total admitted claim of Rs 533 crore. Thus the secured Financial Creditors will have to take a haircut of 87%.

The Syndicate Bank, now merged into Canara Bank from April 2020, which had initiated the CIRP alone had claimed a debt liability of Rs 83.68 crore against the Corporate Debtor. The other financial creditors include HDFC Bank, Axis Bank and Karur Vysya Bank.

For More Details, Please Visit:

<https://timesofindia.indiatimes.com/business/india-business/om-logistics-frontrunner-to-take-over-balmer-lawrie-jv-from-nclt/articleshow/82134449.cms>

Future Retail's Resolution Plan to be executed from April 26

The Resolution Plan, which was already approved by the Creditors, got the assent of the Board on April 17. It will now be presented for approval of the Kamath Committee. As per the Resolution Plan debt raised through Non-Convertible Debentures (NCD) issued by the company is proposed to be recast. In a Stock Exchange filing the company has submitted that all its Non-Convertible Debentures (NCD) have agreed to the amended terms as per the resolution plan.

For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/future-retail-debt-restructuring-board-approves-resolution-plan-sets-april-26-as-execution-deadline-6783791.html>

As Aircel steering Liquidation, CoC may appeal in Supreme Court against NCLAT order on Spectrum

If the order of NCLAT is implemented, the Resolution Plan of UV Asset Reconstruction Company Ltd. (UVARCL) for Aircel, which was approved in June 2020, will be unworkable and the company will be heading for liquidation, resulting in zero recovery for Rs 18,000 crore owed to the lenders, said media reports.

Besides the financial damage to creditors, the decision of NCLAT seems contradictory to the SC judgement in *Ghanashyam Mishra and Sons Private Ltd. Vs. Edelweiss Asset Reconstruction Company Ltd*, wherein the Apex Court has held that operational creditors can not claim any amount over and above the Resolution Plan as approved by Committee of Creditors (COC). The State Bank of India (SBI) is estimated to face a loss of Rs 5,000 crore followed by Bank of Baroda, Canara Bank, Punjab National Bank and China Development Bank.

For More Details, Please Visit:

<https://www.livemint.com/industry/telecom/aircel-rcom-lenders-may-challenge-nclat-order-on-spectrum-as-they-may-lose-rs-60k-crore-11618759791227.html>



Emergency Credit Line Guarantee Scheme (ECLGS) rescued several MSMEs in COVID-19 pandemic

ECLGS scheme, approved by Union on May 20, 2020, has been formulated as a specific response to the unprecedented situation caused by COVID-19 and the consequent lockdown. The Scheme was aimed at mitigating the economic distress faced by MSMEs by providing them additional funding of up to Rs. 3 lakh crore in the form of a fully guaranteed emergency credit line.

According to a report of the HIS Markit, India's manufacturing PMI had expanded for the first time in August 2020 to 52 after contracting for five months in 2020, compared to 46 in July 2020 largely on the back of greater client demand for Indian goods and the resumption of business operations. Besides, the GST collections grew 4 per cent to Rs 95,000 crore in September, after the preceding six months of decline, hinting at economic activity recovery.

"ECLGS has been helpful for MSMEs, which were shut or inactive, to resume their operations by clearing payments to suppliers, salaries to employees, etc," said Govind Lele, National General Secretary at MSME body Laghu Udyog Bharati which has around 30,000 members in the country.

For More Details, Please Visit:

<https://www.financialexpress.com/industry/sme/msme-fin-eclgs-how-modi-govts-rs-3-lakh-crore-credit-scheme-put-covid-hit-msmes-back-on-recovery-track/2237449/>