



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

(Company formed by ICAI under Section 8 of the Companies Act 2013)

IIPI Newsletter

May 14, 2021

Volume 06, Number 19

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MSME promoter allowed to submit resolution plan in Individual Capacity

NCLT Kochi has held that the promoter of an MSME can submit a Resolution Plan Application in his individual capacity, and that the Plan would be eligible to be along with those of other prospective Resolution applicants.

Earlier, the RP, citing the eligibility criterion had rejected promoter's plan. However, the counsel of the promoter submitted that as per Gazette Notification on 26.06.2020, the CD was an MSME, and promoter was eligible as per Section 240A of IBC because he was not a willful defaulter.

For More Details, Please Visit

<https://www.livelaw.in/news-updates/nclt-kochi-promoter-corporate-debtor-msme-resolution-plan-individual-capacity-173759>

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**Knowledge SBU Initiative*

News Update

Finance Minister handed over possession to 640 homebuyers of first Housing Project completed by SWAMIH Funding

Union Finance Minister Nirmala Sitharaman on 13th May handed over possession to 640 home buyers of Mumbai based *Rivali Park Wintergreens* in a virtual event. This is the first Real Estate Project in the country to receive investment under the SWAMIH Fund which has also become the first completed project of the scheme.

The Central Government in November 2019 had announced Rs 25,000 crore SWAMIH Investment Fund to help in completing over 1,500 housing projects stalled due to financial issues including those going through Corporate Insolvency Resolution Process (CIRP) under IBC and also those declared Non-Performing Assets (NPAs) by the creditor (s). The initiative was to help 4.58 lakh housing units across country constructed under RERA registered housing projects.

“SWAMIH Fund will benefit 1.16 lakh Indian families. All of them will get houses which got stuck because of so many different reasons and hindrances,” said Sitharaman addressing the online event. So far, 72 stalled projects have received funding throughout the country while 132 others have received preliminary approvals. The total cost of stalled projects is about Rs 54,520 crore.

For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/real-estate/swamih-fund-for-stuck-housing-projects-to-benefit-1-16-lakh-homebuyers-fm-6890101.html>

News Roundup

Creditors voted to withdraw ongoing CIRP of Siva Indus. & Holdings

IDBI Bank, one of the Financial Creditors, has said in a media statement that most of the creditors have voted for withdrawing the ongoing CIRP of Siva Industries & Holdings for out of the court settlement.

The insolvency proceedings of the company were initiated in 2019 due to bank dues of about Rs 5,000 cr. The decision to withdraw CIRP has become controversial as the founder C. Sivasankaran who was also founder of Aircel and Barista among others, has a history of legal disputes.

For More Details, Please Visit:

<https://economictimes.indiatimes.com/industry/banking/finance/creditors-to-scrap-bankruptcy-process-of-siva-industries/articleshow/82563723.cms>

Suraksha group offers more land to creditors than state owned NBCC, CoC to meet on May 15

Giving a tough competition to NBCC in acquiring the Jaypee Infra. through CIRP, the Suraksha Group has offered 2,600 acres of land to the creditors in its revised Resolution Plan in comparison to NBCC's 1,903 acre. Besides, Suraksha Group has earmarked 1,486 acres for dissenting lenders while NBCC has assured to provide 377 acres of land in case dissenting financial creditors are not satisfied with its original offer. The CoC is set to meet on May 15 to consider the offers.

For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/real-estate/jaypee-insolvency-revised-bids-by-nbcc-and-suraksha-group-to-be-discussed-at-coc-meeting-on-may-15-6885251.html>

AA rejected 2nd liquidation plan of HPCL's Paper Mills, Liquidator asked to ensure it remains a GC

The workers' unions of Nagaon and Cachar Paper Mills of Central Government owned Hindustan Paper Corporation Ltd. (HPCL) had challenged the NCLT Delhi's order dated 02.05. 2019 for liquidation of the Mills. Subsequently, the NCLT on 29.05. 2019 set aside its previous order and directed that the Central Govt. to release funds and liquidator to ensure it remains a Going Concern (GC). The same has been reiterated by NCLT, said the worker's unions in a media statement on May 11.

For More Details, Please Visit:

https://www.barakbulletin.com/en_US/nclt-delhi-branch-rejects-application-to-liquidate-the-assets-of-the-hpc-cachar-and-nagaon-paper-mills/



IBC Loophole: Termination Clause of Agreement between parties Vs. Ensuring the CD remains a GC under IBC

In the matter of *Gujarat Urja Vikas Nigam Ltd. vs. Mr. Amit Gupta & Ors.*, the Supreme Court while setting aside the notice of termination issued by the Gujarat Urja Vikas Nigam Ltd. as per the Termination Clause of its Power Purchase Agreement (PPA) with Astonfield Solar (Gujarat) Private Limited; has referred the matter to the Legislature for clarification on the issue which is known as 'Ipso Facto' Termination in legal circle.

The notice was issued as per the Termination Clause of the Agreement between both the parties, however, the SC ordered continuance of the Agreement by one party to ensure that the other party remains a Going Concern during CIRP under IBC.

However, the judgement has raised an issue of conflict between Termination Clause of an Agreement signed between the parties and objectives of the IBC. Furthermore, upto which extent one party (ies) will be made responsible to ensure that the other party remains a Going Concern?

For More Details, Please Visit:

<https://www.livelaw.in/law-firms/articles/ipso-facto-termination-in-india-174072>

Event Photos



CA. (Dr.) Debashis Mitra, Vice President, The Institute of Chartered Accountants of India (ICAI) addressing the Inaugural Session of 04th Batch of the Executive Development Program (EDP) of IIIPI on May 08, 2021.



Snapshot of the 04th Batch of Executive Development Program (EDP) conducted by IIIPI from 08th to 12th May 2021.



IIIPI to start 2nd Batch of “LIE Preparatory Classroom (Virtual) Program” from 21st May

IIIPI is going start 2nd Batch of the LIE Preparatory Classroom (Virtual) Program from May 21, 2021.

The program will be conducted 04 hours per day on each Friday and Saturday for 10 days. Thus, it will constitute a total of 40 hours online learning for LIE aspirants.

This program has been designed by the IIIPI to help the IP aspirants in their preparation for Limited Insolvency Examination (LIE). The 01st Batch of the program was launched on 23rd January 2021. After highly enthusiastic response of the IP aspirants, IIIPI has decided to conduct the 02nd Batch.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2021/05/LIE-Final-Flyer.pdf>