



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

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NCLT allowed Hotels' Body as FC in OYO insolvency

In a media statement Federation of Hotel & Restaurant Associations of India (FHRAI) has claimed that it has been allowed to intervene as Financial Creditor in OYO Hotels CIRP case.

The decision came on a petition filed by the FHRAI on behalf of its member hotels that are reportedly facing an outstanding of Rs 72 crores to the OYO Hotels. NCLT has also allowed FHRAI to make oral submission on June 02, 2021. The OYO Hotels is undergoing CIRP for dues of ~Rs 200 crores. The hotels' body has also alleged the OYO failed to honor the agreements it had made with various hotels and shut down its offices several offices across India.

For More Details, Please Visit:

<https://www.livemint.com/companies/news/fhrai-says-allowed-by-nclt-to-intervene-in-oyo-unit-insolvency-11621255006740.html>

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News Update

Supreme Court upheld Insolvency Resolution Process of Personal Guarantors to CD introduced by MCA in 2019

After this judgement, the creditors can now pursue parallel Insolvency Resolution Process of Personal Guarantors (PG) to Corporate Debtor (CD) and Corporate Insolvency Resolution Process (CIRP) against the CD. Thus, the IRP of PG to CD has become a new addition in the toolkit available to the creditors under the IBC regime. The judgement was delivered by a bench of Justices L Nageswara Rao and Ravindra Bhat on May 21, 2021.

Insolvency Resolution Process of PG to CD was introduced by the Ministry of Corporate Affairs (MCA), Central Government through a Notification titled - Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, dated Nov. 15, 2019. The Notification introduced amendments to various provisions of the IBC including Section 2 (e), Section 78 and 79, Section 94 to 187, Section 239, 240 and 249. Subsequently, it was challenged in different high courts of the country. Finally, the Supreme Court summoned all those petitions. The judgement has also set aside the demand of petitioners to declare Sections 95, 96, 99, 100, 101 of the IBC, 2016 as unconstitutional.

For More Details, Please Visit:

<https://www.barandbench.com/news/litigation/supreme-court-upholds-provisions-insolvency-and-bankruptcy-code-insolvency-personal-guarantors>

News Roundup

While Piramal Group planning takeover of DHFL, NCLT orders CoC to consider Promoter's Offer

The CIRP of the first ever FSP of India – DHFL, has seen many twists and turns but this came exactly at the eleventh hour. NCLT, Mumbai on May 20 ordered the CoC to consider a Resolution Plan of the DHFL promoter Kapil Wadhawan, within the next 10 days.

This order has come while the Resolution Plan of Piramal Group is in the final stage of approval and even the RBI has provided its approval. Besides, the Piramal Group has taken several initiatives for market borrowings to manage the financial requirements of the Creditors. Interestingly, Wadhawan group has proposed to pay over Rs 91,000 crore to the financial creditors, which is higher than the Rs 37, 250 crores offer by the Piramal Group.

For More Details, Please Visit:

<https://www.bloomberquint.com/business/nclt-ordered-for-wadhawan-offer-for-dhfl-to-be-considered-on-a-technicality>

London Insolvency Court allows Indian Bankers to amend their bankruptcy petition against Vijay Mallya

“The Petitioners (banks) having the right to enforce any security held are willing, in the event of a bankruptcy order being made, to give up any such security for the benefit of all the bankrupt's creditors,” said Judge Michael Briggs of Chief Insolvencies and Companies Court (ICC), London on May18. He further added, “There is nothing in the statutory provisions that prevent the Petitioners from giving up security.”. The judgement is being considered to have made the creditors a step closer towards the Mallya in recovering the dues.

For More Details, Please Visit:

<https://www.livemint.com/news/india/vijay-mallya-loses-bankruptcy-petition-amendment-high-court-battle-in-uk-11621345710812.html>

Row over Siva Group – IDBI Bank Deal amid CIRP

While dissenters argue that it will be a bad precedent for defaulting promoters to regain control of their companies by undermining the CIRP under IBC, IDBI Bank finds it better than liquidation. In this case the CD has a payable due to ~Rs 5,000 crore but most creditors agreed to the offer of Rs 500 by the promoter to avoid liquidation. Though this is only 10% of the payable amount.

For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/siva-group-idbi-bank-deal-divides-bankers-triggers-debate-on-weakening-bankruptcy-law-6911391.html>



IIPI's 2nd Training Program of IBC for Bank Officials on May 29

Indian Institute of Insolvency Professionals of ICAI (IIPI) has decided to conduct 2nd Training Program of IBC for Bank Officials on May 29 via virtual mode.

The program will include Introduction to IBC and CIRP, Liquidation Process, Role of CoC, Pre-Packaged Insolvency, Insolvency of Personal Guarantors to CD, Jurisprudence on CoC, among others. The first one day 'Training Program of IBC for Bank Officials' was conducted on February 20, 2021 which became quite popular among the banks for skill building of their representatives nominated to participate in the CoCs.

For More Details, Please Visit:

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

No increase in Insolvency Petitions after March 25

According to media reports, there has not been any significant increase in the filing of insolvency cases since March 25. However, speculations were made about huge increase in insolvency cases after the end of blanket ban on IBC on March 24.

For More Details, Please Visit:

<https://www.livemint.com/companies/news/no-surge-in-fresh-bankruptcy-filings-post-lifting-of-one-year-ibc-ban-11621365072069.html>