



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IIPI Newsletter

November 23, 2021

Volume 06, Number 46



CONTENTS

News Update
News Roundup
Event Photos
Upcoming Events

SC directs NCLT Delhi to decide Jaypee Infratech's CIRP within 2 months

The Supreme Court on November 22 directed the NCLT Delhi to complete the insolvency process of Jaypee Infratech within two months. This order came on appeal of the homebuyers in the Jaypee Kensington Boulevard project.

The homebuyers, through their counsel, argued that repeated delays in the insolvency process are adversely affecting their rights. They alleged that the NCLT is acting in a casual manner. It was further contended that all their hopes and dreams of getting a house will be destroyed if the insolvency process is not completed on time and work is resumed in full force.

For More Details, Please Visit:

<https://www.timesnownews.com/business-economy/companies/article/sc-orders-swift-completion-of-jaypee-infratechs-insolvency-proceedings/834117>

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

Govt to put out for consultation the draft legal framework for Cross-Border Insolvency

The Central Government may soon put out a draft legal framework on Cross-Border Insolvency on public platform for consultation. According to a report published in *The Economic Times* on November 19, 2021, the Ministry of Corporate Affairs (MCA) and the Insolvency and Bankruptcy Board of India (IBBI) had a meeting on November 18 to finalize the contour of the cross-border insolvency framework to settle bankruptcy cases of companies that have business or operations in more than one country.

Quoting a senior official, the newspaper has reported that a final draft paper would be floated by the end of this month, outlining the legal framework for the cross-border insolvency. "Based on the feedback, the government will try to move a Bill for amendment in the Insolvency and Bankruptcy Code (IBC) during upcoming winter session of the Parliament," reported the newspaper. The amended Code would empower Insolvency Professionals (IPs) and creditors to access assets of the Corporate Debtor outside India for value maximization. Similarly, foreign creditors to an Indian entity become party to bankruptcy proceedings if the borrower goes bankrupt.

According to the media report, there were discussions on the details of adopting a law based on the UNCITRAL Model Law on Cross-border Insolvency, 1997 and how it would be beneficial to Indian creditors.

For More Details, Please Visit:

<https://economictimes.indiatimes.com/news/economy/policy/cross-border-insolvency-cases-government-will-soon-put-out-for-consultation-the-draft-legal-framework/articleshow/87792048.cms>

News Roundup

Bombay High Court discharged DHFL's Kapil and Dhiraj Wadhawans from CBI case

The Court held, "Immunities under the Insolvency and Bankruptcy Code cannot be denied to DHFL" and discharged DHFL under the IBC, 2016 in a CBI case against its former directors Kapil and Dhiraj Wadhawans. The court was hearing DHFL's plea challenging an order by the special CBI court declining to discharge the company under IBC in a case filed by CBI against its erstwhile directors.

The court held, "Subsequent events indisputably caused change in management and control of Corporate Debtor. The immunities sought by the Corporate Debtor though conditional; have been fulfilled and satisfied. Thus, in my view, immunities under IBC cannot be denied to Corporate Debtor."

For More Details, Please Visit:

<https://www.thehindu.com/business/hc-exempts-dhfl-from-cbi-case/article37548973.ece>

Mehul Choksi's Nakshatra Brands gets liquidation order

NCLT, Mumbai on November 15, 2021, has ordered the winding up of one of the group companies promoted by fugitive businessman Mehul Choksi. The order came after 70% lenders voted in favour of liquidation in the CoC meeting.

According to media reports, recoveries through liquidation are likely to be less than 5% of the total exposure, estimated at about Rs 1,500 crore. The insolvency process of the company was started in 2018 on an insolvency petition filed by ICICI Bank. According to media reports, the company was involved in money laundering case reported by the Punjab National Bank (PNB). However, the insolvency petition of parent company Gitanjali Gems is pending before the NCLT.

For more details, please visit:

<https://economictimes.indiatimes.com/industry/cons-products/fashion/-/cosmetics/-/jewellery/nclt-orders-liquidation-of-mehul-choksi-owned-nakshatra-brands/articleshow/87720202.cms>

Portugal's brings Recovery and Resilience Plan under insolvency regime

The Portuguese Recovery and Resilience Plan (PRR) is a program with an execution period until 2026 that aims to implement a set of reforms and investments that is expected to enable Portugal to resume sustained economic growth, reinforcing the objective of convergence with Europe throughout the next decade.

For more details, please visit:

<https://www.iflr.com/article/b1vhcqvm5m350q/portugal-amends-insolvency-route-through-recovery-plan>



No Income Tax NOC/NDC required for Voluntary liquidations: IBBI

"The process of applying and obtaining of such NOC/NDC from the Income Tax Department consumes substantial time and thus militates against the express provisions of the Code, and also defeats the objective of time-bound completion of process under the Code," clarified IBBI in a circular dated November 15, 2021.

This move of IBBI will ease some compliance burden of the Insolvency Professionals (IPs) as they will not be required to obtain NOC/NDC while handling voluntary liquidation process. Section 178 of the Income-tax Act, 1961 obligates a liquidator to fulfil certain income tax related requirements. The section explicitly also states that its provisions "shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force" except the provisions of the Code. Regarding this IBBI clarified that liquidators were seeking these certificates even though the Code or the Regulations did not ask for such a requirement. Regulation 14 of the IBBI voluntary liquidation process mandates the liquidator to make the public announcement within five days of his appointment, calling for submission of claims by stakeholders within thirty days from the liquidation commencement date.

For More Details, Please Visit:

https://www.business-standard.com/article/economy-policy/no-income-tax-noc-ndc-required-for-voluntary-liquidations-says-ibbi-121111700534_1.html

Event Photograph



IIPI to celebrate 05th Foundation Day on November 25, 2021

Shri Piyush Goyal, Hon'ble Minister, Ministry of Commerce & Industry, Textiles, Consumer Affairs, Food & Public Distribution has provided his consent to grace the Inaugural Session as Chief Guest which is scheduled to be held from 03.00 PM to 04.00 PM. Dr. Navrang Saini, Chairperson, IBBI and CA. Nihar N. Jambusaria, President, ICAI will be the Guest of Honor.

After the Inaugural Session, there will be a two-hour session on "Special Address-Contemporary Thoughts" from 04.00 PM to 6.00 PM. In this session eminent personalities such as Sh. Sudhakar Shukla, WTM, IBBI; Shri Swaminathan J., MD -Risk, Compliance & SARG, State Bank of India; Mr. Paul Bannister Head-Policy, Insolvency Service, Govt. of UK; Prof. Pryor C. Scott, Campbell University, USA; Shri A K Bhattacharya, Executive Director - Business Standard; and Dr. Ashok Haldia, Chairman, IIIPI Board will share their views.

For More Details, Please Visit:

<https://www.iipicai.in/wp-content/uploads/2021/11/IIPIs-5th-Foundation-Day-invitation.pdf>



Shri Amit Pradhan, Executive Director, IBBI, addressing the seminar physically on "Individual Insolvency: Preparing for Future" organized by IIIPI in Hybrid Mode on 18th Nov.2021.



Shri David Kerr, Insolvency Professional, UK, addressing the seminar through video conferencing on "Individual Insolvency: Preparing for Future" organized by IIIPI in Hybrid Mode on 18th November 2021.