



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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CoCs Must Be Fair in Decision-Making: IBBI

IBBI emphasised the fair and transparent decision making by the CoCs (Company of Creditors) which shall decide the fate of companies ending up in bankruptcy tribunals. The manner of rescue must also ensure optimum utilisation of limited resources of the economy, and to promote the availability of credit and entrepreneurship.

“As long as the debt is serviced, the equity, represented by Board of Directors, has complete control of the firm. When the firm fails to service its debt, control of the firm shifts to the creditors, represented by a Committee of Creditors (CoC), for resolving stress,” it said.

For More Details, Please

Visit: <https://www.livemint.com/news/india/creditors-panel-must-be-above-board-in-insolvency-resolution-ibbi-11639304742444.html>

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

NCLT cannot compel Creditors to Settle with Defaulter: Supreme Court

NCLT has the power to either summarily reject or entertain pleas for initiation of insolvency proceedings. However, it has no authority to ask creditors to settle with a defaulter. This judgement was delivered on December 14, 2021 by a bench of Justices D Y Chandrachud and A S Bopanna in the matter of *E S Krishnamurthy Vs. M/s Bharath Hitech Builders*.

“The Adjudicating Authority must either admit the application under Clause (a) of sub-Section (5) or it must reject the application under clause (b) of sub-section 5. The statute does not provide for the Adjudicating Authority to undertake any other action, but for the two choices available,” said the judges. The court observed that while the NCLT and NCLAT can encourage settlements, they can not direct them by acting as courts of equity. In this case the NCLT declined to admit a petition filed under Section 7 of the IBC for initiating CIRP and instead directed the Corporate Debtor to settle the claims within three months. The NCLAT also upheld the order.

“The NCLT is empowered only to verify whether a default has occurred or if a default has not occurred. Based upon its decision, the Adjudicating Authority must then either admit or reject an application respectively,” observed the Bench. It further added, “What the Adjudicating Authority and Appellate Authority, however, have proceeded to do in the present case is to abdicate their jurisdiction to decide a petition under Section 7 by directing the respondent to settle the remaining claims within three months and leaving it open to the original petitioners, who are aggrieved by the settlement process, to move fresh proceedings in accordance with law”.

For More Details, Please Visit:

<https://www.livelaw.in/top-stories/supreme-court-sec-7-ibc-nclt-cannot-direct-settlement-187638>

News Roundup

EPFO has Invested Rs 2,500 crore in Reliance Capital, Parliament Informed

In a written response to a question in Rajya Sabha, Minister of State for Finance Bhagwat Karad has informed Parliament that the Employees Provident Fund Organisation (EPFO) has invested Rs 2,500 crore in financially strained Reliance Capital Ltd (RCL) and asked the government to initiate insolvency process.

The total interest default on the non-convertible debentures (NCDs) (secured) is Rs 534.64 crore as of November 30, 2021, he informed. "The matter for initiation of action under the provisions of the IBC, against Reliance Capital Ltd was taken up by EPFO," Mr Karad added. He also updated the House on the action of the Reserve Bank of India on RCL and ongoing insolvency proceedings.

For More Details, Please Visit:

<https://www.ndtv.com/business/epfo-invested-rs-2-500cr-in-reliance-capitals-bonds-asked-govt-to-initiate-insolvency-process-finmin-2651202>

Leading Textile Players submitted Resolution Plans to acquire Sintex Industries through CIRP

Mukesh Ambani's Reliance Industries, B K Goenka's Welspun, Sanjay Dalmia's GHCL, and Dinesh Kumar Himatsingka's Himatsingka placed bids for the bankrupt Sintex Industries, which weaves fabrics for fashion brands, viz. Armani, Burberry, Diesel.

NCLT, Ahmedabad, admitted Sintex into the bankruptcy process on April 6, 2021, on a plea by Invesco Asset Management over a Rs 15-crore default in payment of principal and interest of non-convertible bonds in September, 2019. The company owes about Rs 8,000 to financial and operational creditors. Sintex is the second company under the Indian bankruptcy code for which RIL has shown interest. It had previously bought Alok Industries in partnership with JM Financial Asset Reconstruction Company.

For More Details, Please Visit:

<https://timesofindia.indiatimes.com/business/india-business/ril-welspun-among-bidders-for-bankrupt-textile-co-sintex/articleshow/88244799.cms>

UK's central bank raised interest rates since the Covid-19 pandemic began

The UK's Central bank has hiked its benchmark interest rate in the face of troublesome levels of inflation for the first time since Covid-19 pandemic hit the country. The increase in its main rate to 0.25% from the record low of 0.1% seemed perplexing given the news around omicron's rapid spread across the UK hurting many businesses, particularly in the hospitality sector. Central banks raise rates to fight inflation and lower them when economies fall weak, as they were during the pandemic. After the rate increase, the pound soared in currency markets as it got trading 0.7% higher at \$1.3360.

For More Details, Please Visit:

<https://ca.finance.yahoo.com/news/inflation-vs-omicron-bank-england-093922856.html>



Government frames policy for insolvency of non-strategic PSUs

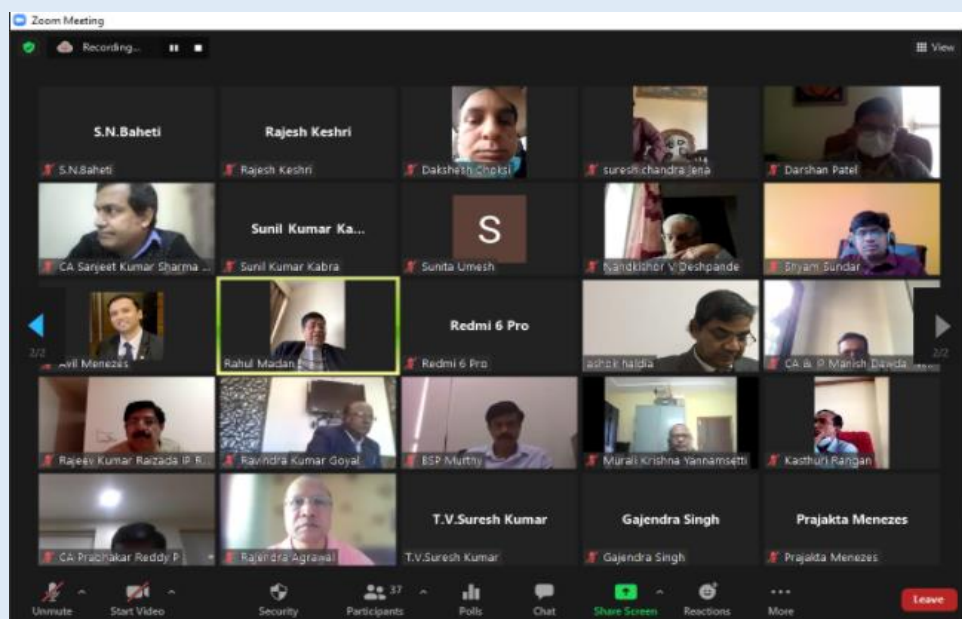
PSUs will be no longer immune from insolvency process. In the new public sector companies' policy, the Central Government has authorised Department of Public Enterprises (DPE) to drive the privatisation or closure of state-run firms in cases where liabilities are exorbitantly high. As per the norms, the entire process of closure should be completed within nine months of approval by the Cabinet Committee on Economic Affairs (CCEA).

The move is to be implemented for PSUs in sectors other than atomic energy, space, defence, transport, telecommunications, energy and minerals, and financial services. It is aimed at benefitting several companies which the government had proposed to sell and have not found buyers for the last several years. DPE in consultation with Niti Aayog, Department of Investment and Public Assets Management (DIPAM) and Expenditure Department will prepare the list of companies eligible for insolvency.

For More Details, Please Visit:

<https://timesofindia.indiatimes.com/business/india-business/psus-with-high-liabilities-may-face-ibc-based-closure/articleshow/88289170.cms>

Event Photograph



A snapshot of the Inaugural Session of the 5th Executive Development Program (EDP) on Managing Corporate Affairs as Going Concern under CIRP (for IPs) on 17th December 2021. The five days online EDP comprised of 40 hours and will have a credit of 20 CPE hours for participants.

51st Batch of PREC Course (online) to be organized from 23rd to 29th December 2021

The 51st Batch of Pre-Registration Education Course (PREC) will be jointly organized by IIIPI and two other IPAs from 23rd to 29th December 2021.

In Lieu of the current situation of COVID-19, and as per the IBBI Guidelines dated 03rd September 2021, which states that the mandatory 50-hour training of Pre-registration Educational Course will be to continue online delivery of education till 31st December 2021, these classes will be conducted online.

The Pre-Registration Educational Course will be conducted by expert faculties who would share their varied advice and experience. The Course will enhance the knowledge base; sharpen the management skills with efficiency in advocacy, code of conduct and handling insolvency effectively.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2021/12/Mailer-for-51th-Batch-PREC.pdf>