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Resolution Plan once approved by CoC leaves no Scope For Negotiation: NCLAT

The NCLAT set aside the order of the NCLT-Mumbai bench, which directed the administrator of the debt-ridden DHFL to put the second settlement proposal before its lenders for consideration by erstwhile promoter Kapil Wadhwan.

NCLAT stated that the direction of the NCLT was passed even after the CoC of DHFL had by an overwhelming majority approved resolution plan.

"Once the requirements of the IBC have been fulfilled, the NCLT and the NCLAT are duty-bound to abide by the discipline of the statutory provisions. Neither of them has an unchartered jurisdiction in equity," said the NCLAT.

For More Details, Please Visit:

https://www.business-standard.com/article/companies/dhfl-nclat-sets-aside-order-that-directed-to-consider-wadhwan-s-2nd-offer-122013000351_1.html

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

Budget 2022-23: FM promised amendments in the IBC for more efficient dispute resolution and enabling Cross Border Insolvency

"Necessary amendments will be made in the IBC for more efficient dispute resolution and enable cross-border insolvency resolution," said Smt. Nirmala Sitharaman in her budget speech in the Lok Sabha on February 01, 2022. She further said that this much-needed step will pave the way for the faster resolution of debt-ridden companies. The budget also proposed to speed up voluntary winding up of companies.

The latest report of the IBBI, since the inception of the IBC, claims that a total of 4,708 Corporate Insolvency Resolution Process (CIRP) have commenced by the end of September 2021. Out of these, 421 cases were closed with resolution plans. Further, as per the latest economic survey, the corporate debtors (CDs) rescued had assets valued at Rs 1.48 lakh crore, while the CDs referred for liquidation had assets valued at Rs 0.52 lakh crore when they were admitted to CIRP.

The cross-border insolvency framework, once made operational, will allow lenders to recover dues from defaulting borrowers disposing of foreign assets and promoters' personal assets parked in offshore locations. These rules are expected to be framed on the United Nations Commission on International Trade Law (UNCITRAL) lines. Thus, the Union Budget 2022-23 is said to have paved the way for faster resolution of bankrupt companies by proposing amendments to enhance the resolution process's efficiency and cross-border insolvency resolution.

For More Details, Please Visit:

<https://economictimes.indiatimes.com/news/economy/policy/budget-2022-proposes-a-faster-resolution-and-cross-border-insolvency/articleshow/89269106.cms>

News Roundup

Sintex Industries Receives Revised Resolution Plans

Textile firm Sintex Industries Ltd has informed that the resolution professional has received revised resolution plans from all four prospective resolution applicants which include Mukesh Ambani's Reliance Industries Ltd., Easygo Textiles, GHCL, and Himatsingka Ventures. The CIRP of Sintex Industries was admitted in April 2021 by the Ahmedabad bench of National Company Law Tribunal (NCLT) after an insolvency process plea was filed by Invesco Asset Management (India).

For More Details, Please Visit:

<https://www.livemint.com/companies/company-results/bidders-revise-resolution-plans-for-bankrupt-textile-firm-sintex-industries-11643800638721.html>

NCLT Kochi initiates insolvency process against CMD of KIMS Healthcare for being Personal Guarantor

The NCLT-Kochi has initiated insolvency proceedings against Sahadulla MI, the Chairman and MD of KIMS Healthcare Management Ltd for extending personal guarantee of over Rs 72 crore to Green Gateway Leisure Ltd., as the lender also sought to hold Sahadulla responsible for the guarantee furnished by him.

However, Sahadulla sought to clarify that KIMS Healthcare Management Ltd is not involved or related to the insolvency case stating that "This financial matter is being disputed in the NCLAT court, and the court has given six months' time to pay off the debts incurred by the founders," The KIMS Healthcare group has a prominent presence not only in India but also in GCC countries such as Oman and Bahrain.

For more details, please visit:

<https://www.moneycontrol.com/news/trends/legal-trends/nclt-initiates-bankruptcy-proceedings-against-kerala-entrepreneur-8010371.html>

Increase in Insolvency numbers in U.K. by 20% than last year

The latest insolvency figures for February 2022 have shown a 20% increase in corporate insolvencies compared to February last year in U.K. Further the figures released for December 2021 by the U.K. government's Insolvency Service also showed that it was 33% higher than the number registered in December 2019.

In December 2021, there were 1,486 insolvencies, compared to 1,237 in December 2020, and 1,120 in December 2019.

For more details, please visit:

<https://www.recruiter.co.uk/news/2022/02/insolvency-numbers-20-higher-last-year>



Even if Notice U/S 8 was Issued Pre-Amendment Insolvency, the Application must Meet Threshold As Per Amended S.4 of IBC

The High Court of Kerala in the matter of M/s Tharakan Web Innovations Pvt. Ltd. v. National Company Law Tribunal & Ors. held that the litmus test is whether the default exists as defined in amended Section 4 of the IBC w.e.f. 24.3.2020, increasing the default amount from Rs. 1 Lakh to Rs. 1 Crore, on the date of the application, and not on the date when the notice was sent to the Corporate Debtor u/s 8 of the Code.

The High Court observed that "From the date of the amendment, Part II of the IBC can apply only to matters relating to insolvency and liquidation of corporate debtors, where the minimum amount of default is Rs.1 Crore. Once that is the position, the application of Part II itself is taken away with effect from 24.03.2020 as far as defaults less than Rs.1 Crore are concerned and hence no application can be filed after 24.03.2020 regarding an amount where the default is less than Rs.1 Crore."

For More Details, Please Visit:

<https://www.livelaw.in/ibc-cases/iinsolvency-application-must-meet-threshold-as-per-amended-s4-ibc-though-notice-u/s-8-was-issued-pre-amendment-kerala-high-cour-190906>

Event Photograph



Shri Santosh Shukla (IBBI -ED) held inaugural session and Adv. Ashish Makhija & Adv. Madhusudhan Sharma spoke during the Webinar held by IIPI on 04th February 2022 on Analysis of Recent IBC Case Laws.

Dr. Anuradha Guru appointed as Ex-officio member in the Insolvency and Bankruptcy Board of India.

The Central Government in exercise of its powers conferred by clause (b) of sub-section (1) of section 189 of the Insolvency and Bankruptcy Code, 2016 appointed Dr. Anuradha Guru, Economic Adviser, Ministry of Corporate Affairs 'MCA' as ex-officio member in the Insolvency and Bankruptcy Board of India 'IBBI' to represent the MCA in the IBBI.

For More Details, Please Visit:

<https://ibbi.gov.in/uploads/whatsnew/9a2a104e02a36d1ed79b6630b9fc814d.pdf>