



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

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HDIL gets 16 Resolution Plans from nine bidders

Resolution Professional of real estate giant Housing Development and Infrastructure Ltd. (HDIL) has received 16 Resolution Plans for the company which is undergoing through insolvency via an order of the NCLT Mumbai Bench on August 20, 2019. The CIRP was initiated by the Bank of India, claiming default of a loan of Rs 522 crore by the realty firm.

“The RP is in the process of examining the resolution plans in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016, and Regulations framed thereunder,” submitted the company in a statutory filing.

For More Details, Please Visit:

<https://www.moneycontrol.com/news/business/real-estate/hdil-insolvency-rp-gets-16-resolution-plans-from-9-bidders-8135311.html>

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

Session Court Judges Don't Have Jurisdiction to Try Offences under the IBC: Bombay High Court

The Bombay High Court has stated that the Session Court Judges are not empowered to try offences under the IBC 2016 but only the special courts constituted under the Companies Act. In this case the petitions had filed a plea, heard by Justice SK Shinde, assailing an order of the Mumbai Sessions Court according to which summons were issued to them in a complaint of the Insolvency and Bankruptcy Board of India (IBBI).

The petition stated that the Sessions Judge did not have the jurisdiction to entertain the complaint filed by the IBBI and added further that as per Section 236 of IBC, the Special Courts under the Companies Act were empowered to try offences under the IBC as Court of Sessions. It was further submitted before the High Court, that the objective behind Section 236 was speedy trial of offences under the IBC.

Relying on the intent of the legislators to ensure speedy trial of offences under IBC, Justice Shinde noted, “If trials in offences under IB Code were also to be tried by the Special Court comprising of Sessions Judge or Additional Sessions Judge, it would frustrate to object of the speedy trial, for which the Special Courts have been established.”. The court further stated that the courts of Sessions Judges are to try offences under the Companies Act and the ones of Magistrates to try offences under the acts other than the Companies Act. The order issued against the petitioners was reckoned as being without jurisdiction and unsustainable and was hence quashed.

For More Details, Please Visit: <https://www.indiatoday.in/law/story/court-of-sessions-judge-not-empowered-to-try-ibc-offences-bombay-hc-1914407-2022-02-17>

News Roundup

Owners Fined INR 1 Crore for Manipulating Insolvency Plea to Stop Creditors from Recovering Dues

NCLT bench in Hyderabad has imposed a penalty of Rs 1 crore on T Lakshmikantha Rao in a fabricated insolvency case pertaining to Iris Electro-Optics Pvt Ltd. for conniving with the Insolvency Professional to get an insolvency order to shield his company from creditors. In the order, the court stated that they would not allow mischievous borrowers to go scot-free by misusing provisions of the IBC, further adding that the penalty of Rs 1 crore should be paid to *Bharat Kosh*, a non-tax receipt platform, maintained by the central government, with 30 days.

For More Details, Please Visit:

<https://timesofindia.indiatimes.com/city/hyderabad/1-cr-fine-slapped-for-manipulating-insolvency-plea/articleshow/89602482.cms>

NCLT Kolkata Approves Group Insolvency Proceedings for Two SREI Firms

The Kolkata bench of the NCLT has allowed consolidated Insolvency Proceedings for two non-bank lenders SREI Equipment Finance and SREI Infrastructure Finance. The two NBFCs had approved a business transfer agreement without plausible consent from the lenders, thenceforth, the creditors reckoned with the group insolvency proceeding. While there is no provision in the IBC for a group insolvency proceeding, the NCLT can approve such proposals by the creditors, for quicker resolution.

The RBI appointed an administrator for the company due to its weak financial position and had announced that it would supersede the boards of the two SREI firms in October 2021. The regulator also directed the lenders to instigate insolvency proceedings against the two companies.

For More Details, Please Visit: <https://www.bloomberquint.com/business/srei-group-nclt-approves-consolidated-insolvency-for-two-nbfc>

Chinese Businessman, Guo Wengui, Approached US Bankruptcy Court for Individual Bankruptcy Protection

Guo Wengui, a Chinese Businessman, has filed for individual bankruptcy protection in a U.S. bankruptcy court in Bridgeport. He had listed assets in the range of \$50,001 to \$100,000, and liabilities between \$100 million and \$500 million. The list of creditors who have claims against Guo includes Pacific Alliance Asia Opportunity Fund's largest claim of around \$254 million. The fund had been engaged in a legal battle with him for four years. As per media reports, he has liability of about \$88 million unpaid loans borrowed between 2008 to 2011.

For More Details, Please Visit: <https://www.reuters.com/markets/us/chinese-businessman-guo-wengui-files-bankruptcy-us-court-2022-02-16/>



Ireland's Property Developer Gets His Savings in 'Irish Pension Scheme' through UK's Bankruptcy Law

Property Businessman Bernard McNamara and his wife had set up a property developing company 'Simcoe Industries' in Ireland. In 2012, on his bankruptcy application, the UK High Court declared him bankrupt. However, the matter of his pension became a contentious issue as it was allowed as per the UK law but not as per the Ireland's bankruptcy law. Accordingly, the joint trustees of McNamara's bankruptcy also had tried to claim his pension investments to use in the bankruptcy proceedings, arguing that these were part of his estate.

The UK court referred the matter to the European Court of Justice (ECJ) due to the conflict between the laws of both the countries. In its judgement, ECJ held that the outcome depended on there being no public interest in McNamara's pension funds being handed over to creditors. Subsequently, the UK High Court confirmed its ruling on February 15, 2022, paving the way for McNamara to access his €8.4 million (~\$11.4 million). An LCP response to the ruling noted, "Once the ECJ had supported the original ruling it seemed unlikely the High Court would need to change the original decision."

For More Details, Please Visit:

<https://www.pensions-expert.com/Law-Regulation/High-Court-confirms-Irish-pension->

Event Photograph



Dr. Ashok Haldia, Chairman-IIPI Board and CA. Rahul Madan, MD-IIPI paid a courtesy visit to the newly appointed IBBI Chairperson Shri Ravi Mittal on 15th February 2022.

IBBI and IIPI in Association with the British High Commission are Organizing a Session on “Cross Border Insolvency” on 23rd February 2022

A session on “Cross Border Insolvency” is being organized by the IBBI and IIPI in association with the British High Commission from 3:00 p.m. – 5:00 p.m. on 23rd February 2022.

The session will focus on the need of cross border insolvency, recommendations of cross border working group committee and its implementation, role of IPs during cross border insolvency, issues in cross border insolvency – Singapore perspective, recognition of foreign insolvency proceedings in Singapore, working of UNCITRAL model law, and foreign company commencing restructuring in Singapore. The participants will be provided CPE-1 hour.

Further details related to registration and fees may be obtained from the IIPI website.

For More Details, Please Visit:

https://www.iiipicai.in/wp-content/uploads/2022/02/FCDO_IBBI_IIPI_Draft-Flyer-for-Cross-Border-Insolvency_v2.pdf