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IIPI Newsletter



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Time taken for CIRP depends on several factors: Minister

In a written reply to the Lok Sabha on Monday, Union Minister of State for Corporate Affairs Shri Rao Inderjit Singh has said that the time taken for CIRP depends on several factors including the nature of business, business cycles, market sentiments and marketing efforts.

He also informed that during Covid-19 pandemic period, there has been a general slowdown in the distressed asset market. Responding to another query, the Minister said realization by creditors through CIRP is dependent on quality assets at the time of its resolution.

For More Details, Please Visit:

<https://timesofindia.indiatimes.com/business/india-business/total-1999-insolvency-cases-were-going-on-as-of-june-2022-9343736>

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News Update

Stock market regulator ordered financial audit of Future Retail

Securities and Exchange Board of India (SEBI) has ordered forensic audit of the financial statements of Future Retail Limited to investigate into the Related-Party Transactions made in past three previous financial years starting FY 21-22. The audit of company's Related Party Transactions will be conducted in relation to the three entities -- Future Supply Chain Solutions Ltd., Future Enterprises Ltd., and Future Consumer.

“SEBI has reasonable grounds to believe that the disclosure of financial information and the business transactions in the matter of Future Retail, have been dealt with in a manner which may be detrimental to the interest of the investors or the securities markets and/or an intermediary or a person associated with the securities market may have violated the provisions of the SEBI Act,” the regulator said in a letter addressed to the Company. The regulator has also informed the Interim Resolution Professional (IRP) of Future Retail about the appointment of Chokshi & Chokshi, Chartered Accountants as forensic auditor to verify the financial statements of the Company for the Financial Years 2019-20, 2020-21 and 2021-22. It is pertinent to mention that e-commerce giant Amazon, which has been sparring with Future Retail for a few years now, had earlier requested the Reserve Bank of India to conduct a forensic audit of Future Retail for the past three fiscals. Last month, NCLT, Mumbai had ordered to initiate CIRP of Future Retail Limited on a petition of the Bank of India.

For More Details, Please Visit: <https://www.timesnownews.com/business-economy/companies/sebi-orders-forensic-audit-of-future-retails-financial-statements-article-93360432>

News Roundup

IBC not to be used as a pressure tactic against solvent companies: NCLAT

Ordering to stop insolvency process against *M/s Jindal Buildtech Private Limited*, NCLAT New Delhi Bench held that the scope, objective and spirit of the Insolvency and Bankruptcy Code, 2016 is 'Resolution' and not 'Recovery'. In this case NCLT had admitted a Section 7 petition and initiated CIRP against the Company when out of the two cheques given as security for the amount lent by the Company, one cheque bounced. NCLAT overruled the order of the NCLT and iterated that in addition to 'debt' and 'default' what should also be examined is the intent for initiation of CIRP. The Code should never be used for debt recovery procedures.

For More Details, Please Visit:

https://efiling.nclat.gov.in/nclat/order_view.php?path=L05DTEFUX0RvY3VtZW50cy9DSVNfRG9jdW1lbnRzL2Nhc2Vkb2Mvb3JkZXJzL0RFTEhJLzIwMjltMDgtMDQvY291cnRzLzZlMvZGFpbHkvMTY1OTU5NjYzOTMzNTI5MjYyMDYyZWl2ZjVmYzU3YjQucGRm

If both OC and CD are Co-Applicants for loan, then the OC cannot claim payment of fee for procuring the loan: NCLAT

NCLAT New Delhi, in the case of *Zoom Communications Pvt Ltd. Vs. M/s Par Excellence Real Estate Pvt Ltd.*, has upheld that CIRP cannot be initiated on sham transactions entered between related parties. In the present case, the Bench observed that since both the Operational Creditor (OC) and the Corporate Debtor (CD) were Co-applicants for a loan, the OC could not have claimed the payment fee for procuring the loan and initiated insolvency process. The Bench noticed collusion between OC and CD and issued a show cause notice to the Appellant to explain as to why a penalty under Section. 65(1) not be imposed.

For More Details, Please Visit: <https://www.livelaw.in/news-updates/national-company-law-appellate-tribunal-nclat-insolvency-and-bankruptcy-code-cirp-show-cause-notice-205690>

USA Court allows \$1.4 billion bankruptcy loan to Revlon Inc. and more time propose a restructuring plan

U.S. Bankruptcy Judge David Jones in Manhattan ordered modifications to the loan in response to the junior creditors' concerns but said Revlon must be allowed to borrow the cash it needs to continue its operations in bankruptcy. Revlon filed for Chapter 11 in June, saying its \$3.5 billion debt load left it too cash-poor to make timely payments to critical vendors in its cosmetics supply chain.

For More Details, Please Visit:

<https://www.reuters.com/business/retail-consumer/revlon-gets-court-approval-14-billion-bankruptcy-loan-2022-08-01/>



Developer can't use 'separate legal entity' doctrine to defraud homebuyers in connivance with Marketing Agent: NCLT Delhi

NCLT Delhi, in the case of *Yadubir Singh Sajwan & Ors. Vs. Som Resorts Private Limited* has held that the homebuyers should not be defrauded in the name of 'separate legal entity' doctrine. The Court emphasized that the Corporate Veil can be pierced in matters involving public interest.

Som Resorts Pvt. Ltd., the Developer, has used Cosmic Buildings to enter builder-buyer settlement and gather the cash from house consumers with an ulterior motive to hide the true transaction. The Bench observed that both the companies were being indirectly controlled by the same person. It was opined that the lifting of Corporate Veil though an exception, could be invoked if public interest so requires or law has been violated.

In 2012, *Som Resorts* launched a project in Ghaziabad. It could neither complete the project nor refunded money to homebuyers.

For More Details, Please Visit:

<https://www.livelaw.in/news-updates/nclt-delhi-som-resorts-homebuyers-cirp-corporate-debtor-builder-buyer-agreement-205677>

Event Photograph



A Snapshot of the session on “Role of Mediation in Insolvency and Bankruptcy Processes” organized by IIIPI in association with British High Commission on August 06, 2022.

57th Batch of PREC (Online) from August 22, 2022, to August 28, 2022

The 57th Batch of Pre-Registration Educational Course (PREC) 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. The mandatory 50 Hour training of Pre-Registration Educational Course will be in an online mode. The fee for the course is ₹15,000/-. Last date for the receipt of fees is August 21, 2022, till 04.00. P.M.

For More Details, Please Visit:
<https://www.iiipicai.in/wp-content/uploads/2022/08/Mailer-for-57th-Batch-PREC.pdf>