



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IIPI Newsletter

NCLT Approves GAIL's Resolution Plan for JBF Petrochemicals

NCLT, Mumbai has approved GAIL India's Resolution Plan worth ₹2,079 crore for JBF Petrochemicals, which owed ₹7,918 crore to a consortium of creditors led by IDBI Bank. The Resolution Plan offers a 43.23% recovery to secured lenders and a recovery of 5.7% and 6.9% for unsecured creditors and operational creditors, respectively. With this deal, GAIL became the second PSU after Indian Oil Corporation (IOC) to take over a bankrupt private sector company through the IBC. JBF Petrochemicals' plant in Karnataka, which was commissioned in 2017, stopped operations after the company defaulted on its loans in the same year.

For More Details, Please Visit:

<https://rb.gy/at1l6i>



March 20, 2023

Volume 08, Number 12

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**For Internal Circulation Only*

**Knowledge SBU Initiative*

Initiation of CIRP to recover debt would not absolve accused from criminal liability in cheque dishonour cases: Supreme Court

The Supreme Court of India has clarified that the proceedings under Section 138 of the Negotiable Instruments (NI) Act are not recovery or suit proceedings, but penal in character. The three judges' bench also rejected the argument that process under the IBC whether under Section 31 or Sections 38 to 41 which can extinguish the debt would *ipso facto* apply to the extinguishment of the criminal proceedings.

This means that the criminal liability and fines imposed on individuals who dishonour a negotiable instrument are intended not only to recover the debt owed but also to penalize the person for affecting trade by not honouring the instrument. The judgement came in the matter of *Ajay Kumar Radheshyam Goenka Vs. Tourism Finance Corporation of India Ltd. (2023)* wherein the Appellant (Promoter) argued that once the debt was extinguished under the IBC, the basis of Section 138 of the NI Act disappeared. The Apex Court denied intervening in the Delhi High Court's order that had refused to set aside a magistrate order rejecting the discharge application of the Appellant in a ₹30 crore default case.

The Apex Court observed that the scope of proceedings under the NI Act and IBC are different and do not intercede each other. It was further clarified that the clauses in the concerned resolution plan only extinguished the liability of the Corporate Debtor, and not the individual accused.

For More Details, Please Visit: <https://rb.gy/t4tqg9>

Hope you find this update helpful. Suggestions if any, may be mailed to iiipi.pub@icai.in

News Roundup

Welspun-led consortium gets NCLT nod to acquire Sintex BAPL through Resolution Plan

Welspun is acquiring Sintex-BAPL through a consortium of its subsidiary, Propel Plastic Products, and a related party Plastauto Pvt Ltd. Its resolution plan was approved by the committee of creditors in February with a 74.26% vote. The Company had an outstanding dues of about ₹3,266 crore. Sintex BAPL was declared insolvent and entered the insolvency resolution process under IBC in December 2020. Two bidders, JM Financial Asset Reconstruction Co. Ltd. and a consortium made up of Welspun's Propel Plastic Products Pvt. Ltd. and Plastauto Pvt Ltd had submitted resolution plans.

For More Details, Please Visit: <https://www.thehindubusinessline.com/companies/nclt-approves-welspun-corps-resolution-plan-for-sintex-bapl/article66631561.ece>

Pre-pack resolution framework for slightly bigger companies on the anvil

According to media reports the Central Government working to iron out a Pre-Pack Resolution Framework for slightly larger companies under the IBC, with a proposed threshold default of ₹500 crore. Presently, the Pre-Pack Resolution Mechanism only applicable for Micro, Small and Medium Enterprises (MSMEs). The Pre-Pack Resolution Process aims to expedite the resolution process, with a deadline of 90 days for the submission of the Resolution Plan, and 30 days for the NCLT to approve it. This mechanism is aimed at providing an alternative to CIRP and is cost-effective, allow small corporations with limited resources to save time during the insolvency process. Additionally, the existing management will not be suspended under the proposed Pre-Pack Resolution Process.

For More Details, Please Visit: <https://rb.gy/h8clzj>

USA's Virgin Orbit Starts Preparing Contingency Plan for Insolvency

Virgin Orbit is reportedly working with restructuring firms Alvarez & Marsal and Ducera on fall back plans in case it fails to secure new funding. The company is 75%-owned by Sir Richard Branson's holding company, and its value has decreased significantly following the failure of its inaugural mission in January. According to media reports, after going public in 2021 through a merger with a special purpose acquisition company in a \$3.7bn (£3bn) deal, its listed shares are now valued at just \$217m (£177m).

For More Details, Please Visit: <https://news.sky.com/story/virgin-orbit-plans-for-insolvency-amid-rescue-talks-with-investors-12838347>



Kolkata based Simplex Infrastructures faces insolvency suit over dues of ₹9,600 Cr.

The CIRP application against Simplex Infrastructures, an engineering and construction company, has been filed by State Bank of India (SBI) after its attempts to restructure the loans turned unsuccessful. As per the media reports, Punjab National Bank (PNB) is the largest financial creditor of the company with an outstanding dues of ₹1,600 crore, followed by SBI (₹1,500 crore) and Indian Bank (Rs1,400 crore).

“The company, which has been ill for more than three years, has more than twenty lenders listed as creditors,” said a media report. Simplex Infrastructures' financial difficulties stem from missed government payments and the cancellation of large contracts, causing its cash flow problems. The company is facing losses due to declining revenue and rising costs. It has reported a loss of ₹137 crore in the Q3 of FY 2022-23. Bankers are not optimistic about the account's chances of being recovered due to the challenges of monetizing the company's assets. Founded in 1924, the company has constructed some iconic bridges and is active in urban transportation initiatives.

For More Details, Please Visit: <https://rb.gy/xg0pxo>

Event Photograph



Webinar on “Common Issues on Monitoring/Inspection & Peer Review” organized by IIPI on 17th March 2023



IIPI organizing International Conference on March 29

The International Conference (Virtual) on “Avoidance Transactions under IBC – Improving Outcomes” is scheduled to be organized from 3.00 PM to 6.00 PM on March 29, 2023. Shri Ravi Mital, Chairperson-IBBI, Mr. Paul Bannister, Head-Policy, Insolvency Services, Government of the UK, CA. Aniket Sunil Talati, President-ICAI, CA. Ranjeet Kumar Agarwal, Vice President-ICAI will be Guests of Honour.

Shri Patibandla Satyanarayana Prasad, Hon’ble Member (Judicial), NCLT, Delhi has been invited to deliver Special Address. Besides, there will be a panel discussion moderated by CA. Gyan Chand Misra, Insolvency Professional & Director, IIPI. The participant IPs will be eligible for 2 CPE hours.

For More Details, Please Visit: -
<https://www.iiipicai.in/wp-content/uploads/2023/03/Webinar-29-march.pdf>