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IIPI Newsletter



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CONTENTS

News Update
News Roundup
Upcoming Event
Event Photograph

CIRP proceedings quashed against DB Realty's BD&P Hotels

The insolvency proceedings against BD&P Hotels (India), a group entity of listed real estate developer DB Realty, was initiated by NCLT Mumbai on a petition from Bank of India wherein the Bank had claimed dues worth ₹111.61 crore from the company. As per the petition, the Bank had sanctioned a term loan of ₹65 crore against the future cash receivables of the hostel. However, the company could not pay the interest and instalments on time due to liquidity crunch.

The Company has now made the entire payment and submitted to the tribunal that no dues are pending. Accordingly, the CIRP was closed and matter was disposed of.

For More Details, Please Visit:

<https://economictimes.indiatimes.com/industry/services/property/-construction/nclat-quashes-insolvency-proceedings-against-db-realty-arm-bdp-hotels/articleshow/102435367.cms?from=mdr>

News Update

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NCLAT is empowered to recall its judgment but not to review them: Supreme Court

The Supreme Court has upheld the judgement of a five members' bench of NCLAT wherein it was held that the Rule 11 of the NCLAT Rules, 2016 empowers the Appellate Tribunal to recall its judgment but not to review them.

"We are in agreement with the view taken by the Five Judges Bench of the NCLAT and thus find no reason to interfere with the impugned judgment," said a two judges' Bench of the Supreme Court in the matter of *Union Bank of India Vs. Financial Creditors of M/s Amtek Auto Limited & Ors.* The Apex Court dismissed the appeal but allowed the appellant to approach appropriate Bench 'to urge on the facts of the case'.

In the incumbent case, a three Member bench of NCLAT had made a reference to a larger bench on three points – (a) Whether NCLAT not being vested with any power to review the judgment can entertain an application for recall of judgment on sufficient grounds? (b) Whether NCLAT judgment in *Agarwal Coal Corporation Private Limited Vs Sun Paper Mill Limited & Anr.*, (2019) and *Rajendra Mulchand Varma & Ors Vs K.L.J Resources Ltd & Anr.*, (2020), can be read to mean that there is no power vested in NCLAT to recall a judgment? (c) Whether the judgment in above two cases, lay down the correct law? Answering these questions in June 2023, a five-member Bench of NCLAT had ruled that by invoking inherent powers under Rule 11 of NCLAT Rules, 2016, the Appellate Tribunal can recall its judgement, but the power of recall would not include re-hearing of a case to find out any apparent error in the judgment. NCLAT also laid down the grounds on which power of recall can be exercised.

For More Details, Please Visit: <https://www.livelaw.in/supreme-court/supreme-court-ruling-nclat-judgement-review-recall-union-bank-of-india-v-amtek-auto-case-234172?infinitiescroll=1>

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

News Roundup

NCLAT Upheld CCI's nod to Greenpeace for acquiring Hindustan National Glass through Resolution Plan

AGI Greenpac's Resolution Plan for Hindustan National Glass (HNG), India's oldest glass manufacturer, was approved by 98% votes of the CoC. Subsequently, Competition Commission of India (CCI) approved the acquisition of HNG by AGI Greenpac. On 11 April, INSCO, a potential resolution applicant for HNG, filed an appeal before the NCLAT, alleging that the CCI was in a hurry to issue its order in favour of AGI. "The commission in its order has considered all relevant aspects and materials on record and has not committed any error in approving the combination in exercise of its power," said NCLAT while rejecting the appeal. The NCLAT also clarified that no grounds had been made out to interfere with CCI's order.

For More Details, Please Visit:

<https://www.livemint.com/companies/news/nclat-rejects-plea-against-cci-nod-to-agi-greenpac-11690827527199.html>

As SRA could not implement the Resolution Plan, NCLT orders liquidation of AMW Motors

USA based electric vehicle manufacturer 'Triton Electric Vehicle', the Successful Resolution Applicant (SRA) of AMW Motors, had reportedly offered ₹210 crore in cash to creditors of AMW Motors against total admitted claims of ₹4,195 crore. After examining the records, the AA noticed that the SRA has failed to fund and implement the Resolution Plan and has thus contravened the Resolution Plan. Accordingly, the company was admitted for liquidation. The Company was admitted into CIRP on September 01, 2020, on an application by Indian Overseas Bank. Interestingly, Triton Electric Vehicle had submitted the Resolution Plan through a special permission of the AA during pendency of the previous liquidation of process.

For More Details, Please Visit: <https://economictimes.indiatimes.com/industry/auto/lev-hcv/amw-motors-admitted-for-insolvency-as-triton-fails-to-implement-revival-plan/articleshow/102365038.cms?from=mdr>

USA's 100-year-old trucking giant 'Yellow Corp' files for Bankruptcy

The Company has filed for Chapter 11 bankruptcy protection as it is reportedly burdened with a heavy debt load after a series of mergers and following tense contract negotiations with the Teamsters Union. Reportedly, the estimated assets and liabilities of the company are \$1 billion to \$10 billion, with more than 100,000 creditors. Yellow, formerly called YRC Worldwide, is one of the largest U.S. trucking companies and a dominant player in the "less-than-truckload" segment that hauls cargo for multiple customers on a single truck. Its customers include large retailers such as Walmart, Home Depot, and Uber Freight etc.

For More Details, Please Visit: <https://www.reuters.com/business/autos-transportation/us-trucking-firm-yellow-files-bankruptcy-after-loading-up-debt-2023-08-07/>



SBI Files CIRP petition against Mumbai Metro One on ₹416.08 crore dues

India's largest bank, the State Bank of India (SBI) has filed a CIRP petition under Section 7 of the IBC-2016 in NCLT, Mumbai seeking to initiate insolvency proceedings against Reliance Infrastructure (RInfra) led Mumbai Metro One Private Limited (MMOPL), which operates Versova -- Andheri -- Ghatkopar Metro Rail in Mumbai. RInfra holds 74% of the equity share in MMOPL and the balance 26% is held by the MMRDA. As per the petition, the MMOPL owes about ₹416.08 crore dues to the SBI.

MMOPL is India's first metro project to be financed by Indian banks and also the first such metro project in the country to be awarded on Public Private Partnership (PPP) basis. In addition to the SBI, MMOPL has also borrowed from Canara Bank, IDBI Bank, Indian Bank, Bank of Maharashtra, IDBI Bank and India Infrastructure Finance Company (UK).

For More Details, Please Visit: <https://www.freepressjournal.in/mumbai/mumbai-news-sbifiles-insolvency-proceedings-against-rinfras-mmopl>

Event Photograph



Webinar on “Office Infrastructure and IT Solutions by IPs” conducted by IIPI on August 04, 2023.



Dr. M. S. Sahoo, Former Chairman, IBBI addressing 8th Batch of EDP (For IPs) on “Mastering Legal Skills, Pleading and Court Processes Under IBC” (Online) conducted by IIPI from 26th to 29th July 2023.

IIPI's 13th EDP on ‘Managing CD as GC under CIRP (For IPs) to start from 22nd August

The 13th Executive Development Program (EDP) on Managing Corporate Debtor as Going Concern under CIRP (For IPs) will be conducted by IIPI from 22nd to 26th August 2023. This program will of 30 hours in duration and has CPE credit of 20 hours.

The highlights of the program include Managerial Knowhow, Regulatory Framework, Inter-Disciplinary Approach, Developing Soft Skills, and Practical Exposure via Case Studies. Interested IPs can register by 4 pm on 21st August 2023. The seats to the program are limited.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2023/07/13th-EDP-corporate-debtors-flyer-1.pdf>