



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IIPI Newsletter

NCLT approved Resolution Plan for ENN TEE Int. Ltd. under PPIRP

The Resolution Plan of ₹17.19 crore has been submitted by 'Enn Tee International Limited' through its Promoter in respect of the 'Enn Tee International Limited' (CD) under Section 54 K of the IBC read with Regulation 44 and 45 of the IBBI (PPIRP) Regulations, 2021.

The CD is a registered MSME and engaged in the business of manufacturing and supplying of Polyester and Polypropylene Dope Dyed Yarn and narrow fabric. Its insolvency process was initiated on October 10, 2022. State Bank of India was sole creditor of the CD with an admitted claim of ~₹11.96 crore. The Liquidation Value of the CD was ₹10.20 crore while Fair Value was ₹14.57 crore.

For More Details, Please Visit:

<https://ibbi.gov.in/uploads/order/d8050b65c258ba3b5a74230e2d6709c8.pdf>



News Update

Fixing of EMD and its reasonableness in Expression of Interest comes within the scope of Commercial Wisdom of the CoC: NCLT

NCLT Bangalore has ruled that the issue of deciding Earnest Money Deposit (EMD) comes under the scope of Commercial Wisdom of the Committee of Creditors (CoC) and the Adjudicating Authority (AA) has no jurisdiction to sit in appeal. This judgment came on a petition filed by Atharv Intertrade Pvt. Ltd. (Applicant) against the Resolution Professional of the Corporate Debtor wherein the Appellant had challenged the 'exorbitant amount' of EMD fixed by the CoC.

"Fixing of ₹15 crore as EMD for submission of EOI is unreasonable and lacks application of mind on the part of the CoC," said the Applicant in the petition. He highlighted that the ₹15 crore amount of EMD was fixed against the net worth criterion of ₹25 crore. The Applicant also submitted that in accordance with Section 25 (2) (h) of the IBC, the criteria laid down with the approval of the CoC has to be with regard to the complexity and scale of operation of the CD's business. Responding to the allegations, the RP submitted that the EMD amount was duly approved by the CoC as per Regulation 36 A (4) and the EMD is refundable. Further, forfeiture Clause would not make it violative of the Regulations, as the forfeiture was provided only for a specific set of circumstances.

Considering the above facts and relying on the NCLAT judgement in the matter of *Kanan Tiruvengadam v. M.K. Shah Exports Ltd. and Ors.* (2018), the AA dismissed the petition.

For More Details, Please Visit:

<https://cdn.ibclaw.online/insolvency/nclt/2023/Oct/Atharv+Intertrade+Pvt.+Ltd.+Vs.+Mr.+Shivadutt+Bannanje%2C+RP+for+Dnyanyogi+Shri+Shivakumar+Swamji+Sugars+Ltd.+--+06.10.2023+NCLT+Bengaluru+Bench.pdf>

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**For Internal Circulation Only*

**Knowledge SBU Initiative*

News Roundup

If OC returns principal amount paid by CD during pendency of CIRP petition, Application u/s 9 is not maintainable: NCLT

The CD made an attempt to pay the principal amount twice -- once by sending demand draft and then by transferring the amount through RTGS but that was returned by the Operational Creditor (OC). The OC wanted to pursue application u/s 9 only for payment of interest also on the basis of invoices. The court observed that the provisions of the IBC are essentially intended to bring the CD to its feet and are not for money recovery proceedings. Relying upon the judgement of Hon'ble Principal Bench-NCLT in the matter of *Ms. Rita Malhotra and Ors. Vs. M/s. Orris Infrastructure Pvt. Ltd.* (2023), wherein it is said that IBC cannot be used as a tool of recovery, the AA dismissed the petition.

For More Details, Please Visit:

<https://cdn.ibclaw.online/insolvency/nclt/2023/Oct/Shah+Paper+Mills+Ltd.+Vs.+Shree+Rama+News+Print+%26+Papers+Ltd.+--+18.10.2023+NCLT+Ahmedabad+Bench.pdf>

Radio Mirchi led consortium and Sapphire FM bid for BIG FM under the IBC

Both the bidders - Radio Mirchi & Orange FM consortium and Sapphire FM - have offered to pay the bid amount of ₹251 crore within 30 days. According to media reports, the lenders are likely to ask both the bidders to revise their bids upward. After considering the cash at Big FM, the total recovery for lenders could be as high as 55 to 60 per cent against the total admitted claims of ₹578 crore. Reliance Broadcast Network Ltd (RBNL) owned by BIG FM is the country's largest radio network with 58 stations and reaches out to over 1,200 towns and over 50,000 villages. In February this year, RBNL, on the plea of IDBI Trusteeship Services Ltd, was admitted to insolvency.

For More Details, Please Visit:

https://www.business-standard.com/companies/news/radio-mirchi-orange-bid-rs-251-crore-in-race-to-acquire-insolvent-big-fm-123102900462_1.html

Come up deal with creditors within 5 weeks or face liquidation: Hong Kong Court tells Evergrande Group

The Court agreed to adjourn the case after Evergrande, China's real estate giant said it was working on a revised debt restructuring plan. However, it said that the next hearing would be the last before a decision is made on liquidating the company. China's real estate giant - Evergrande, which has more than \$300 billion of liabilities, defaulted on its offshore debt in late 2021 and became the poster child of a debt crisis in real estate in China.

For More Details, Please Visit: <https://www.reuters.com/world/china/china-evergrande-faces-winding-up-challenge-hong-kong-court-2023-10-29/>



Shri Sandip Garg takes charge as Whole Time Member (WTM) of IBBI

Before taking charge as WTM of Insolvency and Bankruptcy Board of India (IBBI) on October 27, 2023, Shri Garg has served as Executive Director in IBBI wherein he handled a diverse portfolio comprising of Corporate Insolvency, Corporate Liquidation, Individual Insolvency, Individual Bankruptcy and Data Dissemination. In addition, he looked after IT functions of IBBI and had been a member of the Steering Committee for Integrated Information Technology Platform for IBC Ecosystem etc.

At IBBI, he played an instrumental role in streamlining the corporate insolvency process and liquidation process through a series of policy and regulatory interventions, including framing regulations, along with technology upgrades.

Shri Garg has a multi-disciplinary educational background having degrees in civil engineering, management, law, finance, and taxation and allied laws. He has served the Indian Revenue Service (IRS) for 31 years in various capacities.

For More Details, Please Visit: <https://ibbi.gov.in/uploads/press/4dd689a4d083e12c12d234acd42713d9.pdf>

EVENT PHOTOGRAPHS



Upcoming webinar scheduled by IIPI

The first Webinar of the November month will be conducted by IIPI of ICAI on the topic “Issues faced by Real Estate Allottees under IBC” from 3 PM to 6 PM on November 03, 2023.

The second Webinar of November month will be conducted in association with NeSL on the topic “Office Infrastructure and Usage of Technology” from 3 PM to 6 PM on November 10, 2023.

Both the programs are of 2 CPE hours.

For More Details, Please Visit:

<https://www.iiipicai.in/wp-content/uploads/2023/10/November-webinars-3-and-10.pdf>



CA. Subodh Agrawal, Past President-ICAI addressing the 16th Batch of Executive Development Program (For IPs) on Managing CDs as going concern under CIRP from Oct. 30 to Nov. 03, 2023, through Online Mode.



Webinar on “Interface with Statutory Authorities/ Enforcement Agencies” conducted by IIPI on October 27, 2023.