



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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

IIPI Newsletter

NCLT, New Delhi approved Resolution Plan for Rukmini Iron Pvt. Ltd.

Corporate Insolvency Resolution Process of Rukmini Iron Private Limited (Corporate Debtor) was initiated by an order of the NCLT, New Delhi on May 11, 2022. The average fair value and liquidation value of Corporate Debtor are ₹22.80 Crores and ₹17.65, respectively.

The CoC, in its 7th Meeting held on September 21, 2022, approved the Resolution Plan submitted by Mr. Sanjay Kejriwal and Ors., amounting ₹29 crores. As per the Plan the lone Financial Creditor – Indian Overseas Bank, will get ₹20.75 crores.

For More Details, Please Visit:

<https://ibbi.gov.in/uploads/order/f429aa7d677d25224a24d043ee6a5c9a.pdf>



Nov. 20, 2023

Volume 08, Number 47

CONTENTS

News Update
News Roundup
Event Photograph

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

Kerala High Court Upholds Tax Assessment during Insolvency Proceedings

The Kerala High Court has said that tax assessment and adjudication proceedings can proceed concurrently during insolvency proceedings as moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 (IBC) provides no restriction.

The CIRP process against a BMW Car Dealer (Corporate Debtor) was initiated by Federal Bank of India (FBI) under Section 7(4) of the IBC. After no Resolution Plan could be approved, the NCLT issued a liquidation order against the CD. During the liquidation process, the Liquidator received claims encompassing five items from the Deputy Commissioner of Central Tax and Central Excise (Commissioner). Subsequently, an appeal was filed in the Kerala High Court.

“From perusal of Section 14 of the IBC and several judgments of the other High Courts as well as the Supreme Court, it is well settled that Section 14 of the IBC does not create a bar for finalization of the assessment and adjudication proceedings in respect of the taxes,” said the High Court. It further added, “On the resolution once the reference has been admitted, there is moratorium for recovery of the tax dues but, there is no bar for finalization of the assessment and adjudication proceedings”. Thus, the Court concluded that Section 14 of the IBC does not prevent the completion of assessment and adjudication procedures for tax dues. Consequently, the Court dismissed the writ petition challenging the tribunal's decision.

For More Details, Please Visit: <https://www.verdictum.in/court-updates/high-courts/kerala-hc-section-14-ibc-does-not-impede-finalization-of-tax-assessment-and-adjudication-proceedings-1504628?infinitescroll=1>

News Roundup

NCLT dismissed Piramal's CIRP petition against Township Developers India on technical grounds

The NCLT has rejected an insolvency petition against Township Developers India, filed by Piramal Capital and Housing Finance on behalf of DHFL. The petition, based on Township Developers' failure to repay mortgage loans about ₹58.55 billion, was dismissed due to timing constraints. Amendments to the IBC in March 2020, amid COVID-19, included Section 10A, barring insolvency petitions for defaults after March 25, 2020. The court ruled that the default date should be calculated from the first invocation notice, which informs the corporate debtor that the corporate guarantee has been invoked and demands payment of the outstanding amount on behalf of the borrower.

For More Details, Please Visit: <https://www.constructionworld.in/latest-construction-news/real-estate-news/nclt-dismisses-insolvency-petition-against-township-developers/46820>

Adani, Mittal and JSW Groups bid for Vadraj Cement amid Insolvency Proceedings

Adani Group, JSW Cement, and ArcelorMittal have submitted bids to takeover Vadraj Cement, which is undergoing CIRP. The Bombay High Court had ordered winding up of the company in 2018 after a trade creditor, Beumer Technology India, sought recovery of its dues. Dissatisfied with slow progress, the court transferred the process to the IBC. With a ₹7,000 crore debt, potential buyers are expected to offer ₹2,000-2,500 crore. The Gujarat cement facility is non-operational, and Adani Group and JSW Cement are planning for capacity expansion. Adani has a target for capacity increase to 140 mt, and JSW Cement aims for 60 mt in five years.

For More Details, Please Visit: <https://economictimes.indiatimes.com/industry/indl-goods/svs/cement/adani-unit-arcelormittal-jsw-in-race-to-buy-vadraj-cement/articleshow/105270888.cms>

Guitar Center, largest U.S. retailer of music instruments and equipment files for bankruptcy

Guitar Center Inc. has reportedly filed for Chapter 11 bankruptcy on Saturday, as music lovers moved their shopping online during the Covid-19 pandemic. The company has negotiated to have a total of \$375 million debtor-in-possession financing from its existing lenders and intends to raise \$335 million in new senior secured notes. Earlier this month, it reached a restructuring agreement with key stakeholders that includes debt reduction by nearly \$800 million and new equity investments of up to \$165 million for recapitalization.

For More Details, Please Visit: <https://www.reuters.com/article/us-guitar-center-bankruptcy-idUSKBN282058/>



Doctrine of 'Promissory Estoppel' can't be applied against an Approved Resolution Plan: NCLAT

NCLAT, New Delhi has held that if a Resolution Plan is compliant with the provision of Section 30 (2) of the IBC and the provisions of the Regulations, 2016, it cannot be faulted on the ground of the 'promissory estoppel'. The Court dismissed the appeal of Fervent Synergies Ltd. (Appellant) in which it has alleged 'differential treatment' by the RP in the Plan.

The Appellant had entered into 10 separate agreements to buy 10 flats in a real estate project 'Samriddhi Garden' which was being developed by Sivana Reality Pvt. Ltd. (CD) and funded by LIC Housing Finance Limited (LICHFL). As the project was mortgaged to LICHFL, its prior consent/NOC was mandatory for any sale by the CD. Since, the Appellant had not obtained the NOC, his matter was put under – 'Affected Homebuyers' and treated differently from the 'Unaffected Homebuyers'.

For More Details, Please Visit: <https://www.livewlaw.in/ibc-cases/nclat-delhi-doctrine-of-promissory-estoppel-cant-be-applied-against-an-approved-resolution-plan-242596>

Event Photograph



08th Batch Executive Development Program (EDP) “Mastering Avoidance/PUE Forensics under IBC” conducted by IIIPI from 20th to 22nd November 2023.

RBI approves Resolution Plan for Reliance Capital

The approval has paved the way for IndusInd International Holdings Ltd (IIHL), the Hinduja Group firm, to acquire the debt-ridden company. According to media reports the Reserve Bank of India (RBI) has approved the Plan vide a letter dated November 17, 2023.

IIHL had emerged as the highest bidder with an offer of ₹9,650 crore to take over Reliance Capital in the second round of auction concluded in April.

The Reserve Bank of India (RBI) on November 29, 2021, superseded the board of Reliance Capital in view of payment defaults and serious governance issues.

For More Details, Please Visit:

<https://www.ndtv.com/india-news/rbi-clears-resolution-plan-for-debt-ridden-reliance-capital-4584184>