



INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI

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IIPI Newsletter

Bidder seeks refund of Earnest Money deposited along with Reliance Capital's Resolution Plan

Torrent Investment, one of the Resolution Applicants in insolvency process of Reliance Capital, has reportedly initiated steps to retrieve its ₹75 crore Earnest Money Deposit (EMD), which it had deposited along with its resolution plan to acquire Reliance Capital. The process has been initiated after the NCLT finally approved the Resolution Plan submitted by Hinduja Group's IndusInd International Holdings.

According to a media report, any definitive decision regarding the refund is poised to await the outcome of the Supreme Court hearing regarding Torrent's plea challenging the second round of auction for Reliance Capital. **For More Details, Please**

Visit: <https://www.cnbtv18.com/business/companies/torrent-investment-seeks-refund-of-75-crore-earnest-money-deposit-in-reliance-capital-under-ibc-19297861.htm>



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CONTENTS

News Update
News Roundup
Upcoming Event
Event Photographs

News Update

**For Internal Circulation Only*

**Knowledge SBU Initiative*

Whether Input Tax has been taken in excess by Corporate Debtor or not, cannot be decided in proceedings under Section 9 of IBC: NCLAT

NCLAT, New Delhi Bench has upheld that the issue whether the Corporate Debtor (CD) has claimed input tax in excess on a GST invoice raised by the Operational Creditor cannot be decided in proceedings under Section 9 of the IBC.

“As per the submission of the Appellant that CD has taken input on the tax invoice sent by the Appellant. It is on record that advance payments were made by the CD and issues whether input tax taken is in excess is the issue which could not be gone into in proceeding under Section 9 of the IBC. However, we observe that it shall be open for the Appellant to take such remedy as available under the contract if there are any dues,” said the Court in the case of *Zaara Enterprises Venture Pvt. Ltd. (Appellant) vs. Dhanraaj Agencies Pvt. Ltd. (Respondent/CD)*.

The CD had engaged the Appellant for some interior work in one of its showrooms for which some advance payments were made. In an email dated July 11, 2022, to the Appellant, the CD sought refund of the excess amount alleging the work done by Appellant was not satisfactory and incomplete. Thereafter, the Appellant served a “demand notice” to the CD and after payments were not received, it filed an insolvency petition under Section 9 of the IBC. In the court, Appellant submitted that it completed the work as per the contract and email was just a moonshine defense by the CD. Further, the CD had also claimed Input Tax Credit on the GST invoice raised by the Appellant.

For More Details, Please Visit: <https://www.livelaw.in/ibc-cases/issue-of-whether-input-tax-has-been-taken-in-excess-cant-be-dealt-with-in-section-9-proceedings-under-ibc-nclat-delhi-252570>

News Roundup

March 31 deadline for implementation of Reliance Capital's Resolution Plan is untenable: IIHL

In a letter written to the administrator of Reliance Capital, the Successful Resolution Applicant (SRA) - IndusInd International Holdings Ltd (IIHL), which is a part of the Hinduja Group, said that implementation of the Resolution Plan for Reliance Capital by March 31, is untenable. As per the NCLT order, IIHL is required to implement the Resolution Plan by March 31 and complement payment for the takeover in accordance with the Resolution Plan by May 28. In the letter, IIHL has alleged that despite clarifications in this regard, the Administrator included the deadline as an agenda item. However, it has reaffirmed its commitment to implement the Resolution Plan as per the deadline and urged the stakeholders, including administrator, to collaborate promptly and efficiently to secure the remaining approvals from different authorities.

For More Details, Please Visit: <https://www.livemint.com/companies/news/implementation-of-rcap-resolution-plan-by-31-march-deadline-untenable-iihl-11710406570957.html>

NCLT Mumbai admitted CIRP of Snehanjali S.B Developers on homebuyers' petition

The CIRP of Snehanjali S. B. Developers Pvt Ltd (Corporate Debtor) has been ordered on a petition of about 67 prospective homebuyers, who had filed the plea as financial creditors. "The default has occurred on part of the corporate debtor (Snehanjali) due to non-fulfilment of its obligations under the sale agreements executed with the financial creditors," said NCLT. In 2015, the builder started collecting money from home buyers against booking of flats/units in respect of a redevelopment project located on Sion-Chembur Road, Mumbai with a deadline in June 2015. However, it failed to complete the project till June 2023. Snehanjali's promoters have been under the scanner of various police and investigating agencies for allegedly cheating more than 1,000 homebuyers.

For More Details, Please Visit:

<https://www.livemint.com/companies/news/snehanjali-sb-developers-admitted-under-insolvency-11710059146871.html>

USA's Electric Vehicle start up – Fisker to file for Bankruptcy

According to a media report, the Electric vehicle startup Fisker (FSR.N, has hired restructuring advisers to assist with a possible bankruptcy filing. Earlier this month, Fisker flagged going-concern risks, job cuts and a pause in investments into future projects until it secures a partnership with a manufacturer. Nissan was in advanced talks to invest in Fisker in a deal that could provide the Japanese automaker with access to an electric pickup truck.

For More Details, Please Visit: <https://www.reuters.com/business/autos-transportation/ev-start-up-fisker-prepares-possible-bankruptcy-filing-wsj-reports-2024-03-13/>



IMC seeks immediate possession of 97 towers in Jaypee's Wish Town

In pursuance to the order of the NCLAT, the NCLT appointed Implementation and Monitoring Committee (IMC) has written to JIL's (Jaypee Infratech Ltd/Corporate Debtor) holding company Jaiprakash Associates Ltd (JAL) seeking possession of towers at these nine projects immediately. After the possession, the IMC will start construction as per the order of the NCLAT on these nine projects comprising 97 towers wherein construction was suspended for almost a decade back, affecting around 20,000 homebuyers.

The Corporate Debtor (JIL) had appointed JAL as contractor for these projects; therefore, they are in the possession of JAL. The IMC handles day-to-day operations of JIL and will also continue to work on hiring contractors for construction at Wish Town till Suraksha takes the reins of JIL.

For More Details, Please Visit:

<https://timesofindia.indiatimes.com/city/noida/jaypee-infratech-ltd-construction-to-resume-at-wish-town-projects/articleshow/108505284.cms>

EVENT PHOTOGRAPH



Webinar on “Individual Insolvency (PG to CD) process” organized by IIIPI on March 15, 2024.

PUFE transactions should be considered separately: NCLAT

National Company Law Appellate Tribunal (NCLAT) has said that the ingredients of preferential, undervalued, and fraudulent transaction are entirely different and there has to be application of mind to the ingredients of each transaction to come to conclusion that ingredients are satisfied and the transaction falls in the said category advertent to the given pleadings in the application.

Observing that the Adjudicating Authority (AA) has recorded his conclusion without giving any reason and without advertent to any pleadings or materials on record, the NCLAT set aside the order of the NCLT.

For More Details, Please Visit:

<https://lawbeat.in/news-updates/ingredients-fraudulent-undervalued-preferential-transactions-be-checked-separately-nclat>