INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI
(Company formed by ICAI under Section 8 of the Companies Act 2013)

IIIPI Newsletter

January 06, 2025
IIIPI Newsletter No. 300

CONTENTS

IIIPI's 13th Batch of EDP on "Mastering Avoidance/ PUFE Forensics" from 15th January 2025

IIIPI will host the 13th Batch of its Executive Development Program (EDP) on "Mastering Avoidance/ PUFE Forensics" under the Insolvency and Bankruptcy Code, 2016 (IBC) from 15th to 17th January 2025. The program will span three days, with a total duration of 18 hours and provide 12 (CPE) hours. The last date for registration is 14th January 2025, and seats will be allocated on a first-come, first-served basis.

For More Details, Please Visit: *https://www.iiipicai.in/wp-content/uploads/2024/12/FLYER-PUFE-EDP-13th-batch-15-17-Jan-2025.pdf*

News Update

**For Internal Circulation Only*
**Knowledge SBU Initiative*

IBC is a complete code in itself, having sufficient checks and balances, remedial avenues and appeals: Supreme Court

Allowing the Appeal of Successful Resolution Applicant (SRA), the Supreme Court asserted that the supervisory and judicial review powers vested in High Courts represent critical constitutional safeguards, yet their exercise demands rigorous scrutiny and judicious application. The Apex Court set aside the decision of Karnataka High Court in the case of *Mohammed Enterprises (Tanzania) Ltd. vs. Farooq Ali Khan & Ors.* that quashed a Resolution Plan approved under the IBC, 2016.

The case is concerned with the CIRP of Associate Decor Ltd., initiated in 2018 by Oriental Bank of Commerce (now merged with Punjab National Bank). The Resolution Plan submitted by Mohammed Enterprises was approved by the CoC with 100% voting in February 2020. However, the High Court of Karnataka, acting on a writ petition filed by a suspended director of the CD, annulled the Resolution Plan in 2024, citing principles of natural justice and delayed notice of the CoC meeting. The Supreme Court ruled that the High Court's intervention was unwarranted, emphasizing that the Insolvency and Bankruptcy Code (IBC) is a complete code with sufficient checks, balances, remedial avenues and appeals. The Apex Court also observed that there was three-year delay in filing the writ petition and held that the High Court erred in disregarding the statutory framework of the IBC. The Supreme Court directed the NCLT to resume proceedings and finalize the CIRP expeditiously.

For More Details, Please Visit: *https://www.verdictum.in/court-updates/supreme-court/mohammed-enterprises-tanzania-ltd-v-farooq-ali-khan-ors-civil-appeal-no-482025-ibc-corporate-insolvency-process-1563335*

News Roundup

Nirma Group's sister concern to acquire Vadraj Cement Ltd through Resolution Plan under the IBC

Nuvoco Vistas Corporation Ltd, the building materials division of the Nirma Group has emerged as the successful resolution applicant (SRA) in the CIRP of Vadraj Cement Ltd (VCL). According to media reports, a phased investment will be spread over 15 months towards the refurbishment of assets and to drive operational improvements across the Vadraj Cement Ltd plants. With this transaction, Nuvoco's total cement production capacity is set to increase to approximately 31 MMTPA consolidating its position as the fifth-largest cement group in India. In February 2024, NCLT admitted the insolvency process of Vadraj Cement Ltd. after Punjab National Bank filed a plea over a default of about ₹87.45 crore. The company had a total debt of ₹7,000 crore owed to various lenders.

For More Details, Please Visit:
https://www.ndtvprofit.com/business/nuvoco-vistas-wins-bid-for-vadraj-cement-in-insolvency-process

NCLAT Clarifies EPFO's Role in CIRP and Liquidation

The NCLAT ruled that EPFO cannot conduct assessment proceedings during the CIRP's moratorium period u/s 14(1) of the IBC but can proceed once liquidation begins u/s 33(5). Claims based on assessments during the CIRP moratorium are inadmissible. The tribunal clarified that while the moratorium under Section 14 prohibits all proceedings, the moratorium under Section 33(5) only bars suits and legal actions, allowing statutory assessments. Upholding NCLT orders, the tribunal dismissed EPFO's appeals, reinforcing the distinction between CIRP and liquidation phases under the IBC. Thus, the NCLAT ruled that during the liquidation process, the EPFO can proceed with the assessment.

For More Details, Please Visit: *https://www.cnbctv18.com/business/companies/nclat-rules-epfo-can-begin-assessment-proceedings-during-liquidation-19534368.htm*

Business Bankruptcies in Canada Soar to 15-Year high amid Economic Pressures

Business bankruptcies in Canada hit a 15-year high in Q3 2024, with 1,312 filings, marking a significant rise since the 2009 financial crisis. Ontario and Quebec saw year-over-year increases of 67% and 40%, respectively. The surge follows the withdrawal of pandemic-era financial support, with 25% of small businesses failing to repay loans under the "Canadian Emergency Business Account" program. Insolvencies spanned multiple sectors, with construction up 37% and food services rising 32%. Oil and gas bankruptcies reached a three-year high due to declining prices. Analysts cite weak economic conditions, high inflation, and elevated interest rates as drivers, though the Bank of Canada's recent rate cut to 3.25% may offer some relief.

For More Details, Please Visit: *https://ca.finance.yahoo.com/news/business-bankruptcies-canada-highest-level-143400764.html*

Request for one-time settlement cannot be entertained by a sole FC after initiation of CIRP

The Telangana High Court dismissed a writ petition filled by Mandava Holdings Private Limited, ruling that a sole financial creditor cannot entertain a one-time settlement (OTS) after the commencement of CIRP. The petitioner challenged PTC India Financial Services Limited's rejection of its ₹90 crore OTS proposal, arguing it should have been considered under RBI's framework.

The court emphasized that CIRP is governed by the IBC, requiring 90% CoC approval for an OTS under Section 12A, which a sole creditor cannot provide. It also noted the petitioner's unexplained delay in approaching the court and affirmed the AA as the proper forum for insolvency-related disputes, as per Section 60(5) of the IBC. The petition was dismissed to uphold the IBC's timeline and procedural integrity.

For More Details, Please Visit: *https://www.taxscan.in/request-one-time-settlement-cannot-be-entertained-sole-financial-creditor-commencement-cirp-telangana-hc/474781/*