INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI
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IIIPI Newsletter

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NCLAT sets aside CIRP against Coffee Day Enterprises

The shares of Coffee Day Enterprises Ltd (CDEL), surged to their 20 percent upper circuit limit of ₹25.65 in intra-day trading on Monday, March 3, after the NCLAT, Chennai Bench dismissed insolvency proceedings against the company.

The CIRP began when IDBI Trusteeship Services Ltd. (IDBITSL) moved NCLT, Bengaluru, alleging a default of ₹228.45 crore by CDEL. However, CDEL appealed against the order and the matter reached the Supreme Court which directed the NCLAT to dispose of the matter.

For More Details, Please Visit:
https://www.livemint.com/market/stock-market-news/coffee-day-enterprises-hits-20-upper-circuit-as-nclat-sets-aside-insolvency-proceedings-11740977112914.html

News Update

*For Internal Circulation Only
*Knowledge SBU Initiative

Attachment under the BUDS Act does not have precedence over proceedings under SARFAESI Act and IBC: Kerala High Court

The Kerala High Court has held that the proceedings under the Securitization And Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002 and the Insolvency and Bankruptcy Code, 2016 (IBC) will have superseding effects on proceedings of attachment under the Banning of Unregulated Deposit Schemes Act (BUDSA). This judgement was delivered in a case wherein the Appellant filed a writ petition seeking directions to the Respondent to register the Sale Certificate issued by it in terms of the provisions contained in the SARFAESI Act 2002 and consequently, for directions to the revenue authorities to carry out the mutation of the property covered by Sale Certificate.

"It is clear that the expression 'Save as otherwise provided in the SARFAESI Act 2002 or the IBC, 2016 can only mean that any action/proceeding under the SARFAESI Act and the IBC is saved from the provision providing precedence to the BUDS Act," said the Court. The Court did not accept arguments of the Government counsel to invoke the High Court's power under Article 226. This matter is not related to Writ Appeal No. 1087/2024, as that case pertains to the High Court's power under Article 226 to efface an attachment ordered by a Court without approaching the competent Court and is unrelated to the present issue, the Court further observed.

For More Details, Please Visit:
https://www.verdictum.in/court-updates/high-courts/kerala-high-court/hdb-financial-services-limited-vs-the-sub-registrar-2025ker14342-no-precedence-to-attachment-under-buds-act-over-proceeding-under-sarfaesi-act-and-ibc-1569891

News Roundup

Application u/s 9 of the IBC cannot be entertained when the debt is not unequivocally admitted by the CD: NCLAT

The NCLAT has held that a Section 9 Application by Operational Creditor (OC) must be denied if the OC receives notice of dispute or if a dispute is noted in the Information Utility in accordance with section 9(5)(ii) of the IBC. In this case, the OC sent a demand notice under section 8 of the IBC to the Corporate Debtor (CD). However, the CD responded to the notice contesting the OC's claim. Thereafter, the OC sent out a payment reminder and then filed an application under section 9 of the IBC. Subsequently, the NCLT passed an order of insolvency against the CD which was challenged in the Appellate Tribunal. "When Operational Creditor seeks to initiate insolvency process against a CD, it can only be done in clear cases where no real dispute exists between the two," said the Court.

For More Details, Please Visit:
https://www.taxscan.in/application-u-s-of-ibc-must-not-be-entertained-when-debt-is-not-unequivocally-admitted-by-corporate-debtor-nclat/494126/

Benches assigned to newly appointed NCLT Members

The Union government has reportedly assigned benches to 21 of the 24 newly appointed judicial and technical members of the National Company Law Tribunal (NCLT). These members were appointed to 11 NCLT Benches across the country to fill the vacant positions. However, the delay in assigning the benches was reportedly due to the non-completion of the induction program. The vacancies in the NCLT adversely affect the resolution of cases. According to the IBBI, the recovery rate for creditors stands at 49.2% if the CIRP is concluded within 330 days. It reduces to 36% if the CIRP process concludes between 330-599 days; and beyond 600 days, recovery stands at mere 26.1%.

For More Details, Please Visit:
https://www.financialexpress.com/business/industry-21-new-nclt-members-get-to-work-after-sc-rap-over-delays-3764797/

U.S. carmaker Tesla will acquire parts of the insolvent German high-tech parts maker Manz AG

This acquisition will reportedly include more than 300 employees at its site in Reutlingen city in the southwest. According to media reports, the deal marks a wider presence by Tesla in Germany, where it runs a manufacturing site near Berlin, even after CEO Elon Musk endorsed the far-right party AfD, which mainstream parties have refused to work with due to its extreme positions. Tesla sold almost 60% fewer cars in Germany in January than a year earlier, as the U.S. electric vehicle maker faces a test of popularity amid Musk's U.S. political involvement.

For More Details, Please Visit:
https://www.reuters.com/business/autos-transportation/struggling-e-truck-maker-nikola-files-chapter-11-bankruptcy-protection-2025-02-19/

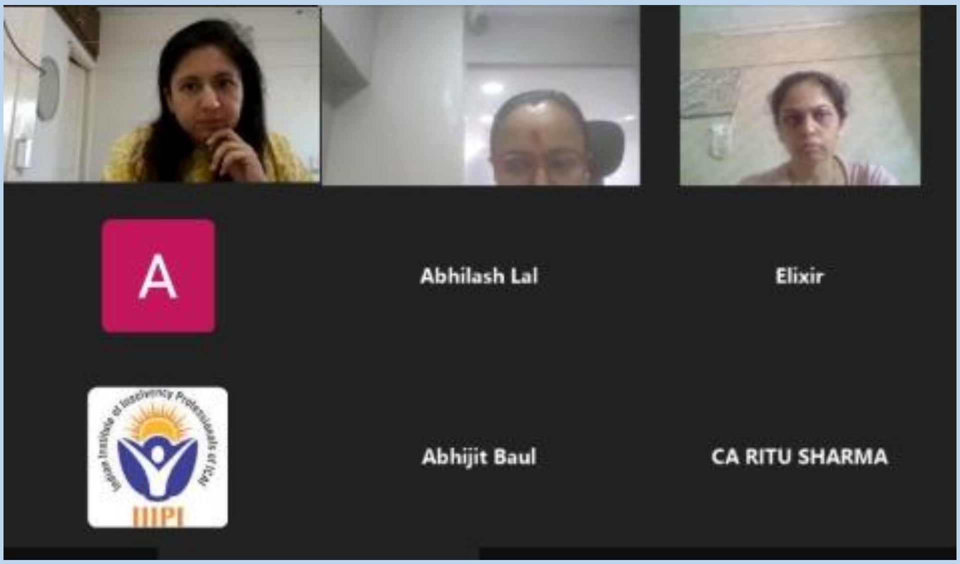
Liquidations under the IBC decreasing: IBBI Chairperson

According to a news report, the Insolvency and Bankruptcy Board of India (IBBI) in its latest Newsletter has claimed that in 2017-18 for every one case that was resolved, five companies used to go down the liquidation path. However, this figure came down to 1.3 liquidation on each resolution in 2024-25 (till December).

"There is a visible trend reversal in the number of companies going into liquidation under the code. While the liquidation process has undergone important course corrections over the years, there is scope for further improvement," said Ravi Mittal, Chairperson, IBBI. As of December 2024, 2,707 corporate insolvency resolution processes have ended in liquidation ending up in realization of ₹8,788 crore against total admitted claims of ₹ 2,43,703 crore.

For More Details, Please Visit:
https://www.business-standard.com/companies/news/downward-shift-in-liquidations-seen-under-ibc-ibbi-chairperson-ravi-mittal-125022400719_1.html

EVENT PHOTOGRAPH



Limited Insolvency Examination Preparatory Classroom Program (Virtual) organized by IIIPI from 25th February to 01st March 2025.

IIIPI's One Day Virtual Workshop on Managing CDs as going concern under CIRP scheduled on 8th March 2025

The One-Day Virtual Workshop "Managing Corporate Debtors as Going Concern Under CIRP for Insolvency Professionals & Registered Valuers will be organized from 10:30 AM-04:30 PM on 8th March 2025. The participants will be eligible for CPE: 4 hours for this program. Please click to register

https://app.iiipicai.in/regpayments/

For More Details, Please Visit: *https://www.iiipicai.in/wp-content/uploads/2025/02/FLYER-2nd-batch-EDP-Cross-Border-insolvency.pdf*