INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI
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IIIPI Newsletter

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NCLAT: CIRP Can Only Be Initiated for Uncontested Payment Defaults

The NCLAT has overturned the NCLT order admitting M/s Ambassador Logistics Pvt. Ltd. into CIRP under Section 9 of the IBC 2016, citing a pre-existing dispute.

A bench of Justice Yogesh Khanna and Ajai Das Mehrotra ruled that the operational creditor's ₹6 lakh claim was contested, as email exchanges indicated a dispute over payments. While NCLT had found the debt valid and within the limitation period, NCLAT held that under IBC, CIRP can only proceed for uncontested defaults. Accordingly, the tribunal dismissed the insolvency proceedings.

For More Details, Please Visit:
https://www.taxscan.in/operational-creditor-can-only-trigger-cirp-on-default-in-payment-nclat-read-order/499061/

News Update

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

SC: Cheque Bounce Case Barred Against Ex-Director Post IBC Moratorium

The Supreme Court has ruled that cheque bounce proceedings under Section 138 of the Negotiable Instruments Act, 1881 (NI Act) cannot continue against an ex-director if the cause of action arises after the imposition of a moratorium under the Insolvency and Bankruptcy Code, 2016 (IBC).

A bench comprising Justices Sudhanshu Dhulia and Ahsanuddin Amanullah set aside the Punjab & Haryana High Court's decision, which had refused to quash proceedings against the appellant. The Court distinguished this case from P. Mohan Raj vs. M/S Shah Brothers Ispat Pvt. Ltd. 2021, clarifying that in Mohan Raj, the cause of action arose before the moratorium, while in this case it arose after. The Apex Court emphasized that upon the imposition of a moratorium, the corporate debtor's management vests with the Insolvency Resolution Professional (IRP), and ex-directors cannot be held liable for acts they are no longer authorized to undertake. Since the demand notice in the present case was issued after the moratorium was imposed, the liability did not extend to the appellant.

Highlighting that the offence under S.138 NI Act arises only after the lapse of 15 days from a demand notice, the Court concluded that the appellant could not be prosecuted. Accordingly, it quashed the cheque dishonour case against the appellant, reinforcing the legal protection granted under IBC's moratorium provisions.

For More Details, Please Visit:
https://www.livelaw.in/supreme-court/no-s138-ni-act-case-against-ex-director-of-company-when-cause-of-action-arose-after-ibc-moratorium-was-declared-supreme-court-286691

News Roundup

IBBI Mandates Enhanced Disclosure of Carry Forward Losses in IM

The IBBI has directed Insolvency Professionals (IPs) to strengthen disclosures on carry forward of losses in the Information Memorandum (IM). As per the latest circular, IPs must include a dedicated section in the IM detailing the quantum, classification, and utilization limits of carry forward losses under the Income Tax Act, 1961. If no such losses exist, the IM must explicitly state it. This move aims to enhance transparency and assist resolution applicants in making informed decisions. Issued under Section 196 of the IBC 2016, the directive applies to all registered insolvency professionals, entities, and agencies.

For More Details, Please Visit:
https://ibbi.gov.in//uploads/legalframwork/6fb7768b385beefa146df2af2ff67a65.pdf

Rosmerta Digital Files Insolvency Petition against Ola Electric Subsidiary

Rosmerta Digital Services Ltd. has filed an insolvency petition under Section 9 of the IBC 2016 against Ola Electric Technologies before NCLT Bengaluru, citing payment defaults. Ola Electric, in a regulatory filing, stated that it strongly disputes the claims and has sought legal advice to contest the petition. The automaker was renegotiating terms with Rosmerta Digital and Shimnit India to cut costs and improve vehicle registration processes. This comes after Ola Electric's "Network Transformation and Opex Reduction Program" led to a ₹90 crore monthly cost reduction. The company remains optimistic about achieving EBITDA breakeven soon.

For More Details, Please Visit:
https://www.autocarpro.in/news/rosmerta-files-insolvency-plea-against-ola-electric-technologies-subsidiary-over-payment-default-125417

Germany Faces Surge in Corporate Bankruptcies, More Expected in 2025

Germany saw a 22.4% rise in corporate bankruptcies in 2024, reaching 21,812 cases the highest since 2015. Experts warn of a further spike in 2025, potentially exceeding the 2009 financial crisis levels. Creditor claims more than doubled to €58.1 billion, driven by a 127.5% rise in large insolvencies. Key sectors affected include transportation, construction, and temporary work agencies.

Analysts predict up to 26,000 insolvencies in 2025 due to high energy costs, supply chain disruptions, and political uncertainties. While some foresee a crisis, others expect stabilization.

For More Details, Please Visit:
https://themunicheye.com/themunicheye.com/corporate-bankruptcies-germany-2015-levels-13184#:~:text=The%20total%20number%20of%20corporate,than%20doubled%2C%20amounting%20to%20EUR58.

Delhi HC Clears Path for INSCO's Acquisition of HNGIL

The Delhi High Court has confirmed that the suspension of RP Girish Sriram Juneja's (AFA) does not prevent him from managing ongoing insolvency cases. This clarification led HNGIL's Workers' Union to withdraw its petition, while AGI Greenpac's intervention applications were dismissed.

This ruling removes legal uncertainty, allowing the CoC to proceed with INSCO's resolution plan after the SC quashed AGI Greenpac's bid for non-compliance with competition laws. The decision also validates key CoC meetings held on February 4 and 10, 2025, which had declared INSCO the successful resolution applicant. INSCO welcomed the ruling, stating its commitment to revitalizing HNGIL and ensuring long-term stability for creditors, workers, and stakeholders in the glass manufacturing sector.

For More Details, Please Visit:
https://www.bwlegalworld.com/article/inscos-resolution-plan-in-hindustan-glass-insolvency-moves-forward-550873

EVENT PHOTOGRAPH

Webinar on "Recent Regulatory Amendments under IBC" organized by IIIPI on 12th March 2025.

IIIPI to organize One Day Virtual Workshop on 22nd March 2025

One day Virtual Workshop on "Avoidance/PUFE Forensics under IBC" is scheduled from 10:30 AM to 16:30 PM on 22nd March 2025 is for Insolvency Professionals and Registered Valuers. The participants will be eligible for CPE: 4 hours and registration fees are ₹1000/ plus GST.

Please click to register https://app.iiipicai.in/regpayments/

For More Details, Please Visit: *https://www.iiipicai.in/wp-content/uploads/2025/02/WORKSHOP-FLYER-22nd-march-25.pdf*