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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

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➤ **Serving Demand Notice to Personal Guarantor Under Rule 7 Of Personal Guarantors Rules Cannot Be Considered Invocation Of Guarantee: NCLAT**

The National Company Law Appellate Tribunal (NCLAT) New Delhi bench of Justice Ashok Bhushan (Judicial Member), Mr. Barun Mitra (Technical Member) and Mr. Arun Baroka (Technical Member) has held that a Notice served to the personal guarantor under Rule 7 of Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 ("2019 Rules") cannot be considered 'Invocation of Guarantee', therefore unless a guarantee has been invoked as per the terms of the 'Deed of Guarantee', an application under section 95 of the Insolvency and Bankruptcy Code, 2016 (Code) against the personal guarantor cannot be entertained.

It was also argued that the definition of 'Personal Guarantor' as provided under Section 5, sub-section (22) of the Insolvency and Bankruptcy Code, 2016 (Code) shall automatically cover the Respondent, irrespective of the fact whether such contract or guarantee is invoked or not.

Per contra, the Respondent submitted that invocation of personal guarantee and existence of default is a must before any action is contemplated under Section 95 of the code.

An application under Section 95 was held as not maintainable and dismissed. It was held that the Respondent is not a Guarantor as defined in Rule 3(1)(e) of 2019 Rules.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/serving-demand-notice-to-personal-guarantor-under-rule-7-of-personal-guarantors-rules-cannot-be-considered-invocation-of-guarantee-nclat-285361?code=DI0dCMwtWJuhTaj6x4sxxk1oTJNo5u>

➤ **Coffee Day shares surge 20% as NCLAT sets aside insolvency proceedings**

Shares of Coffee Day Enterprises Ltd (CDEL) soared as much as 20% on Monday to Rs 25.65 on the BSE after the National Company Law Appellate Tribunal (NCLAT) set aside insolvency proceedings against the company, offering a major relief to the operator of the Café Coffee Day chain.

The Chennai bench of the NCLAT overturned the National Company Law Tribunal's (NCLT) August 2024 order that had admitted an insolvency plea led by IDBI Trusteeship Services Ltd over an alleged default of Rs 228 crore. A detailed copy of the ruling is awaited.

In a stock exchange listing, Coffee Day Enterprises said the appellate tribunal had allowed its appeal and annulled the insolvency resolution process that had been initiated against it. The order was pronounced on Thursday.

Source: The Economic Times

Read Full news: <https://economictimes.indiatimes.com/markets/stocks/news/coffee-day-shares-surge-20-as-nclat-sets-aside-insolvency-proceedings/articleshow/118673936.cms?from=mdr>

➤ **Hero Electric's bankruptcy: EV pioneer faces insolvency over Rs 301cr debt**

Hero Electric, the country's first electric scooter manufacturer, is undergoing insolvency resolution under the Insolvency and Bankruptcy Code (IBC) over Rs 301 crore debt. The resolution professional (RP) has invited bids from potential investors for the financially distressed company.

Among these claims, Rs 82 crore is owed to major lenders, including Bank of Baroda, Kotak Mahindra Bank, South Indian Bank, and IDFC First Bank. These creditors hold 100 per cent of the voting rights in the Committee of Creditors (CoC), which will decide the company's fate — either restructuring or liquidation.

Bank of Baroda holds the majority voting power at 66.92 per cent, followed by South Indian Bank (21.03 per cent) and IDFC First Bank (11.40 per cent). Kotak Mahindra Bank has less than 1 per cent voting rights. An additional Rs 557 crore in claims is under verification.

Source: Business Standard

Read Full news: https://www.business-standard.com/companies/news/hero-electric-bankruptcy-insolvency-debt-ibc-125030100335_1.html

