



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"The future depends on what you do today."

„Τὸ μέλλον εξαρτάται ἀπὸ τὴν ἐπιλογή σου σήμερα.“

➤ **CoC Entitled To Liquidate Corporate Debtor If No Approved Resolution Plan Is Placed Before Adjudicating Authority Within Statutory CIRP Period: NCLAT**

The NCLAT bench of Justice Ashok Bhushan (Chairperson) and Barun Mitra (Technical Member) have observed that the statutory construct of Insolvency and Bankruptcy Code, 2016 (IBC) in terms of Section 33 empowers the Committee of Creditors (CoC) to decide to liquidate the Corporate Debtor any time before the approval of the resolution plan by the Adjudicating Authority. The decision to liquidate is a commercial wisdom of the CoC which is not subject to judicial review except for ensuring that the resolution plan complies with the IBC and related Regulations. The Tribunal further observed that the Explanation to Section 33(2) of IBC makes it clear that the CoC is entitled to take a final call to liquidate the Corporate Debtor before approval of the resolution plan by the CoC.

The Corporate Debtor (Oracle Home Textiles Ltd) was admitted into insolvency on 09.08.2018. Interested resolution applicants were given time to submit their resolution plans to the Resolution Professional (RP) by 22.04.2019. The CIRP period came to an end on 13.05.2019. On 11.02.2020, the CoC decided to proceed with the liquidation of the Corporate Debtor with 99.61% vote share.

On 18.02.2020, the Adjudicating Authority allowed the Appellant to submit a resolution plan within two week. The Adjudicating Authority also directed the CoC to consider the resolution plan besides extending CIRP period. The Appellant submitted their resolution plan along with EMD to the CoC. Before their plan could be considered by the CoC, two IAs were filed by other resolution applicants before the Adjudicating Authority seeking permission for submission of plans. On 21.01.2021, the Adjudicating Authority reserved its orders on both IAs.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/coc-entitled-to-liquidate-corporate-debtor-no-approved-resolution-plan-placed-before-adjudicating-authority-within-statutory-cirp-period-us-33-ibc-274114>

➤ **Regular IBC tweaks needed to address bankruptcy challenges, says Corporate Affairs Ministry**

The corporate affairs ministry has underscored the need for a "continuous refinement" in the Insolvency and Bankruptcy Code (IBC) to address future challenges in corporate recast effectively. In an internal communication dated October 30, the ministry said: "The Code's adaptability to evolving business landscapes ensures that it remains dynamic and responsive, while its continuous refinement will be essential for effectively addressing future challenges in insolvency management and corporate restructuring".

The communication to stakeholders comes ahead of the government's plan to introduce a raft of amendments to the IBC in the winter session of Parliament, likely in December.

Source: The Economic Times

Read Full news : <https://economictimes.indiatimes.com/news/economy/policy/regular-ibc-tweaks-needed-to-address-bankruptcy-challenges-says-corporate-affairs-ministry/articleshow/114918074.cms?from=mdr>

➤ **When Both Arbitration And Insolvency Petitions Are Pending, Petition U/S 7 Of IBC Has To Be Decided First: NCLAT**

The NCLAT New Delhi Bench of Justices Ashok Bhushan, Barun Mitra and Arun Baroka held that if at the time of filing a petition under section 7 of the IBC, arbitration proceedings are pending, the Adjudicating Authority is obligated to first decide the petition under section 7 and record a satisfaction as to the existence of a debt and default. Pendency of the arbitration proceedings is immaterial.

This Appeal has been filed challenging the Order dated 10.07.2024 passed in I.A. filed by the Appellant. The Adjudicating Authority by the Impugned Order rejected the I.A. 542/2024 against by which Order the Appeal has been filed.

Source: Live Law

Read Full news <https://www.livelaw.in/ibc-cases/nclat-ruling-adjudicating-authority-7-ibc-petition-pending-arbitration-proceedings-274062>

