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➤ **Limitation Period To Reset When Part-Payment Of Debt Is Made By Personal Guarantor U/S 19 Of Limitation Act: NCLT Delhi**

The **National Company Law Tribunal (NCLT) Delhi** comprising of Justice Subrata Kumar Dash (Member Technical) and Justice Ashok Kumar Bhardwaj (Member Judicial) dismissed an appeal filed by the personal guarantors of the principal debtor M/s VCRM Petrochemicals Pvt. Ltd. stating that the appeal falls within the ambit of limitation period as prescribed under Section 19 of Limitation act, 1963 and that the Liquidator can institute a Section 95(4) proceedings against the personal guarantors.

UCO Bank, the applicant and creditor-initiated proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016 against the respondents Nishu Goel and Ajay Goel, who were also the personal guarantors for the financial facilities extended to the Principal Debtor, M/s VCRM Petrochemicals Pvt. Ltd. The deed of guarantee was executed on 31.05.2017 and the Principal Debtor account was declared as a non-performing asset (NPA) on 31.03.2018. This led to issue of notice under Section 13(2) of the SARFAESI Act, 2002.

Subsequently, the assets of Nishu Goel were taken into possession and the were sold on 15.11.2019 to recover a certain portion of the debt. When the Corporate Insolvency Resolution Process (CIRP) was initiated with later resulted in failure of forming a resolution plan, the company was ordered to be liquidated. During the ongoing liquidation process, the bank received partial repayments on certain dates, but the debt remained unsatisfied, prompting the filing of insolvency applications against the personal guarantors.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/limitation-period-reset-part-payment-of-debt-made-by-the-personal-guarantor-section-19-of-the-limitation-act-nclt-delhi-280808?code=lnapko7295CmDAzciPEZfl9QPpRxGy>

➤ Commercial Wisdom Of CoC In Opting For Liquidation And Rejecting Resolution Plan Of Ineligible Applicant Is “Non-Justiciable”: NCLAT

The **National Company Law Appellate Tribunal (NCLAT), Principal Bench, New Delhi** has held that the commercial wisdom of the Committee of Creditors (CoC) in rejecting a resolution plan and opting for liquidation is “non-justiciable”. The Appellant-Director was disqualified under Section 164(2) of the Companies Act, thereby rendering the him ineligible to be a Resolution Applicant under Sections 29A(e) and 29A(j) of Insolvency & Bankruptcy Code, 2016 (IBC). The Tribunal held that the decision of the CoC to reject the Appellant's Resolution Plan cannot be interfered with.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-commercial-wisdom-coc-opting-for-liquidation-and-rejecting-resolution-plan-of-ineligible-resolution-applicant-non-justiciable-280753>

➤ Appeal U/S 421 Of Companies Act Not Maintainable Against Interlocutory Order Permitting AGM, No Substantive Rights Affected: NCLAT

The National Company Law Appellate Tribunal has recently held that an appeal under Section 421 of the Companies Act, 2013, against an interlocutory order permitting holding of an Annual General Meeting (AGM) without affecting the substantive rights of the appellants is not maintainable. The Tribunal emphasized that procedural orders which do not determine substantive rights cannot be appealed under Section 421.

The NCLAT bench presided over by **Justice Sharad Kumar Sharma [Member (Judicial)] and Jatindranatha Swain [Member (Technical)]**, observed, *"In fact, looking at the nature of the order, which has been subjected to challenge by invoking Section 421 of the Companies Act, 2013, it takes the shape of an Interlocutory Order, where the right of the Appellant in the context of provisions contained under Section 134 of the Companies Act, 2013, which though being procedural in nature and it's not being a substantive provision, has been left open to be considered and thus the Impugned Order permitting holding of the AGM as scheduled would be an Interlocutory Order."*

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-appeal-us-421-companies-act-not-maintainable-against-interlocutory-order-permitting-agm-280751>

