



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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“Goal setting is the secret to a compelling future.”

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➤ **Decision Taken By New Resolution Professional Cannot Be Objected By Erstwhile Resolution Professional: NCLAT Delhi**

The National Company Law Appellate Tribunal, Delhi Bench, comprising Shri Justice Ashok Bhushan (Chairperson) Shri Barun Mitra and Shri Arun Baroka (Technical Members), in Partha Sarathy Sarkar vs Union of India & Ors. has held that the decision taken by New Resolution Professional cannot be objected by the Erstwhile Resolution Professional after replacement who is now proceeding with the CIRP.

The application was filed by Partha Sarathy Sarkar (“Erstwhile Resolution Professional”) against the officials of the UTI for summoning the attendance and production of documents. The appellant was replaced by New Resolution Professional. It was submitted by the New RP that he does not want to further prosecute the application. Due to this, the application was disposed as infructuous.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-delhi-new-resolution-professional-cannot-objected-erstwhile-resolution-professional-257920>

➤ **Disciplinary Committee Should Comprise Of At Least Two Whole Time Members Or Not U/S 220(1) Of IBC: Pending Before Gujarat High Court**

Mr. Ajit Gyanchand Jain (“Petitioner” / “Resolution Professional”) was penalized by Insolvency and Bankruptcy Board of India (hereinafter “IBBI”) (“Respondent”) by suspending the license for 2 years. It was stated in the IBBI order that the decree holders who are homebuyers should not be treated differently based on Supreme Court judgement, though the same was delivered after the plan approval by NCLT. Further, it was also observed that the unclaimed unitholders

should have been considered by the resolution plan. However, the resolution plan was voted and approved by COC and NCLT.

It was contended by the Resolution Professional that the plan had passed muster and the allegation of complainant had already attained finality. However, the contention was rejected by IBBI. Thus, the Resolution Professional appealed the order before Hon'ble Gujarat High Court.

Source: Live Law

Read Full news : <https://www.livelaw.in/high-court/gujarat-high-court/gujarat-high-court-disciplinary-committee-comprise-two-whole-time-members-ibc-257957>

➤ **NCLT Mumbai: Operational Debt Under IBC Does Not Include Penalty Or Liquidated Damages**

The National Company Law Tribunal ('NCLT') Mumbai, comprising Shri K.R. Saji Kumar (Judicial Member) and Shri Sanjiv Dutt (Technical Member) held that the operational debt under Insolvency and Bankruptcy Code, 2016 ('IBC') does not include penalty or liquidated damages.

Matoshri Laxmi Sugar Co-Generation Industries Ltd. (Corporate Debtor) had failed to supply the goods on time as per the agreed terms to Sucden India Pvt. Ltd. (Applicant), the Operational Creditor. A sum of Rs. 85.43 Lakhs became payable by the Corporate Debtor as a penalty for the delay in the supply of sugar.

Source: The Hindustan Times

Read Full news : <https://www.livelaw.in/ibc-cases/nclt-mumbai-operational-debt-under-ibc-does-not-include-penalty-or-liquidated-damages-257918>

