



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Perfection is not attainable, but if we chase perfection we can catch excellence."

➤ **Submission & Approval Of Resolution Plan In Extended Timeline Of Expression Of Interest Cannot Be Questioned By Unsuccessful Resolution Applicant: 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 issuance of fresh Form G is not required in case of modification in Invitation of Expression of Interest (EoI) when there existed a clause in the EoI permitting the Committee of Creditors (CoC) to extend the timeline for submitting the resolution plan.

The Tribunal also held that if based on such extension of timeline, a new resolution plan is submitted which is later approved by the Adjudicating Authority then such approval of the plan cannot be questioned by the Unsuccessful Resolution Applicants when they also took the benefit of extension and submitted the revised plans.

The Indian Pulp and Paper Private Limited ("Corporate Debtor") was admitted into the **Corporate Insolvency Resolution Process ("CIRP")** on 22.07.2022. On 13.02.2023, a communication was sent by the Resolution Professional to all Resolution Applicants to submit revised plans, if any, in terms of the extended timeline. Pinax Paper Mills Ltd. in consortium with Pinax Steel Industries Pvt. Ltd. submitted EoI.

On 23.02.2023, a list of **Prospective Resolution Applicants ("PRAs")** was published in which apart from the Appellant, the name of Pinax Paper Mills Ltd. was also mentioned as one of the PRAs.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-submission-approval-resolution-plan-extended-timeline-expression-interest-cannot-questioned-unsuccessful-resolution-applicant-284526>

➤ **Infusion Of Funds In Corporate Debtor With Intention Of Earning Profits Would Fall Within Definition Of Financial Debt: NCLAT**

The National Company Law Appellate Tribunal (NCLAT) New Delhi bench of Justice Ashok Bhushan (Judicial Member) and Mr. Barun Mitra (Technical Member) has held that Injecting funds in the Corporate Debtor with the objective of generating profits would be covered within the ambit of Financial Debt under Section 5(8) of the Insolvency and Bankruptcy Code, 2016 ("Code"). It further held that such transactions have a commercial effect of borrowing.

The Appellant-Adhunik Corporation Limited was approached by Shivam India Limited-Respondent for financial assistance towards operationalization of their factory which had been shut down for financial constraints and want of working capital.

A fresh Memorandum of Agreement ('MoA') was executed on 23.06.2020 for a further period of five years which was entered into between Adhunik Corporation Limited, Shivam India Limited and promoters of Shivam India Limited.

According to the terms mentioned in the MoA, financial assistance of Rs. 27.85 crore was provided to the respondent by the appellant. Subsequently, an application under section 7 of the code was filed by the appellant in which the date of default was mentioned as October 11, 2021.

The Section 7 application was dismissed by the Adjudicating Authority on 11.10.2023 by holding that the purported debt claimed by the Appellant was not a financial debt and that the Appellant was not a financial creditor. Aggrieved by the impugned order, the Appellant has come up in appeal.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/infusion-funds-corporate-debtor-with-intention-earning-profits-would-fall-within-definition-financial-debt-nclat-284543>

➤ **NCLT Admits Aviom India Housing Finance Into Insolvency On RBI's Petition**

The National Company Law Tribunal (NCLT) in Delhi has admitted Aviom India Housing Finance into insolvency proceedings following a petition by the Reserve Bank of India (RBI). The move places the company under an interim moratorium, halting legal proceedings, asset transfers, and recovery actions, though essential services will remain unaffected.

RBI invoked the Financial Service Providers (FSP) Insolvency Rules, 2019, under which only a regulator can refer a financial services provider for bankruptcy proceedings. Unlike regular corporate insolvency cases, an administrator, rather than an insolvency resolution professional, takes charge of the company's management. The central bank had earlier intervened on 27 January, superseding Aviom's board over governance concerns and payment defaults.

Source: BW Legal World

Read Full news: <https://www.bwlegalworld.com/article/nclt-admits-aviom-india-housing-finance-into-insolvency-n-rbis-petition-548608>

➤ Supreme Court Disapproves Of High Court Interdicting Insolvency Process Against Personal Guarantor At Threshold Stage In Writ Jurisdiction

The Supreme Court while deciding an appeal pertaining to insolvency proceedings initiated against a personal guarantor, observed that the High Court should not have prohibited such proceedings by holding that the guarantor's liability has been waived.

"It is well-settled that when statutory tribunals are constituted to adjudicate and determine certain questions of law and fact, the High Courts do not substitute themselves as the decision-making authority while exercising judicial review.," the Bench of Justices **P.S. NARASIMHA and Manoj Mishra** observed.

Source: Live Law

Read Full news: <https://www.livelaw.in/top-stories/supreme-court-disapproves-of-high-court-interdicting-insolvency-process-against-personal-guarantor-at-threshold-stage-in-writ-jurisdiction-284573>

