



INSOLVENCY PROFESSIONAL AGENCY
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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Real change, enduring change, happens one step at a time."

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➤ A Primer On Avoidance Transactions Under Insolvency And Bankruptcy Code

Corporate insolvency and bankruptcy are critical issues that impact the financial stability and operational viability of businesses. In India, the Insolvency and Bankruptcy Code, 2016 ("Code") serves as a comprehensive framework to address insolvency and ensure timely resolution.

During insolvency or liquidation proceedings, the primary goal is to maximize the recovery of assets of the Corporate Debtor and distribute them fairly among stakeholders, ensuring that creditors are paid in accordance with their priority and shareholders receive their share of any remaining assets.

Here comes the role of avoidance transactions, which is aimed to undo all the prior transactions that were undertaken to benefit any particular creditor/set of creditors that harm the interest of all other creditors. By avoiding such transactions, the Code endeavours to maximise the assets of the Corporate Debtor and hence accords more protection to the creditors.

The Insolvency Code contains four types of avoidance transactions, which are preferential, undervalued, fraudulent and extortionate credit transactions, covered under Sections 43, 45, 66 and 50 of the Code, respectively. These transactions are also known as PUF transactions.

This article aims to offer an in-depth exploration of the mechanisms behind avoidance transactions as outlined in the Code and to examine how the courts have addressed various issues related to these transactions.

Source: *Live Law*

Read Full news: <https://www.livelaw.in/lawschool/articles/avoidance-transactions-under-insolvency-and-bankruptcy-code-260867>

➤ **Adjudicating Authority Rejects Application For Initiating Personal Insolvency Resolution Process Due To Forum Shopping: NCLT Delhi**

The National Company Law Tribunal, Delhi Bench, comprising Shri Bachu Venkat Balram Das (Judicial Member) and Shri Atul Chaturvedi (Technical Member), while adjudicating an application under Section 95 of Insolvency and Bankruptcy Code, 2016 (“IBC, 2016”) has held that the applicant has approached all possible forums for remedies, constituting forum shopping. It was stated that this conduct indicates the applicant did not approach the Adjudicating Authority with clean hands.

Ms. Parul Upadhyay (“Respondent”/ “Personal Guarantor”) is the Director of M/s. IAP Company Private Limited (“Corporate Debtor”). M/s. Intec Capital Limited (“Financial Creditor”/ “Applicant”) was approached by the Corporate Debtor through its promoters/shareholders/directors/representatives for getting the loan facility for business purposes.

Source: Live Law

Read Full news : <https://www.livelaw.in/ibc-cases/nclt-delhi-adjudicating-authority-application-initiating-personal-insolvency-resolution-process-forum-shopping-260823>

➤ **IBBI seeks to tighten the noose around guarantors of bankrupt firms**

The insolvency regulator has proposed that the resolution plan submitted by an investor won’t extinguish the creditors’ right to proceed against loan guarantors to the stressed firm and enforce realisation of guarantees governed through various agreements.

The move, suggested in a discussion paper by the Insolvency and Bankruptcy Board of India (IBBI), will make it difficult for personal guarantors of defaulting firms to escape liabilities.

The regulator has decided to follow the Supreme Court verdict in the case of Lalit Kumar Jain vs Union of India since the extant insolvency regulations don’t offer much clarity on the guarantee issue. The apex court had ruled that the approval of a resolution plan of a bankrupt firm does not automatically release its guarantors from their liability.

Source: The Economic Times

Read Full news : <https://economictimes.indiatimes.com/news/economy/policy/ibbi-seeks-to-tighten-the-noose-around-guarantors-of-bankrupt-firms/articleshow/111120529.cms?from=mdr>

