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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Logic will get you from A to Z; imagination will get you everywhere."

➤ **Adjudicating Authority Can Recall Orders Obtained Through Fraud Under Rule 11 Of NCLT Rules: NCLAT**

The National Company Law Appellate Tribunal (NCLAT) bench comprising Justice Ashok Bhushan (Chairperson), Barun Mitra (Technical Member) and Arun Baroka (Technical Member) has observed that where the Adjudicating Authority has been made to rely on distorted facts which the Adjudicating Authority became aware of belatedly, the Adjudicating Authority can always invoke its inherent powers under Rule 11 of NCLT Rules in order to protect itself and to prevent an abuse of its process.

Source: *Live Law*

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-adjudicating-authority-can-recall-orders-obtained-through-fraud-under-rule-11-of-nclt-rules-281625>

➤ **Issue Of Maintainability Of Application U/S 7 Of IBC Can Be Decided Separately By Adjudicating Authority: NCLAT**

The NCLAT New Delhi bench of Justice Ashok Bhushan (Judicial Member) and Mr. Arun Baroka (Technical Member) has held that the issue of maintainability of application under section 7 of the code can either be decided separately or with other substantive issues.

The present appeal has been filed by the corporate debtor against an order passed by the NCLT. The respondent filed an application under section 7 of the code seeking initiation of the insolvency process against the corporate debtor. The corporate debtor raised objections with respect to maintainability of the application which were agreed to be heard by the Adjudicating Authority. Both parties filed their written submissions. The Adjudicating Authority held the application to be maintainable.

Source: *Live Law*

Read Full news: <https://www.livelaw.in/ibc-cases/issue-of-maintainability-application-us-7-of-ibc-can-be-decided-separately-by-adjudicating-authority-nclat-281545>

➤ **No Appeal u/s 61 of IBC Maintainable after Dissolution of Corporate Debtor: NCLAT**

In a recent ruling, the New Delhi bench of the National Company Law Appellate Tribunal (NCLAT) has held that an appeal under section 61 of the IBC cannot be entertained after the dissolution of the corporate debtor under section 54 of the Insolvency Bankruptcy code (IBC), 2016. The appellant, New India Color Company Ltd., contested the National Company Law Tribunal's (the "Tribunal") order dated 14.09.2022, which dismissed the appellant's interlocutory application filed in Company Petition No. (IB) – 908/ND/2020 under Section 60(5) r/w Section 73 of the Insolvency & Bankruptcy Code, 2016 (the "Code").

Source: Taxscan

Read Full news: <https://www.taxscan.in/no-appeal-u-s-61-of-ibc-maintainable-after-dissolution-of-corporate-debtor-nclat/481311/>

➤ **NCLAT upholds S. 95 Application against Personal Guarantor, Rejects Time-Bar Claim and Authorization Challenge**

The Delhi Bench of National Company Law Appellate Tribunal (NCLAT) upheld the validity of the Section 95 application filed by State Bank of India, the Financial Creditor, against the Personal Guarantor, rejecting the appellant's claims of a time-barred application and challenges to the authorization of its filing. State Bank of India, Respondent No. 1-Financial Creditor had sanctioned loan facilities to Vrundavan Ceramic Pvt. Ltd., Corporate Debtor with the appellant as the Personal Guarantor. After the Corporate Debtor's loan account was classified as an Non-performing Asset (NPA) in 2013, the bank initiated legal action under the Insolvency and Bankruptcy Code (IBC), leading to the admission of the Corporate Debtor into the Corporate Insolvency Resolution Process (CIRP) in January 2020.

Source: Taxscan

Read Full news: <https://www.taxscan.in/nclat-upholds-s-95-application-against-personal-guarantor-rejects-time-bar-claim-and-authorization-challenge/481321/>

