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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Life is not a problem to be solved, but a reality to be experienced."

➤ **Performance Pay Does Not Qualify As Operational Debt For Which Proceedings U/S 9 Of IBC Cannot Be Initiated: NCLAT**

The NCLAT Chennai bench of Justice Sharad Kumar Sharma (Judicial Member) and Jatindranath Swain (Technical Member) has held that a variable claim like performance pay which is not certain and has to be determined based on the performance of the employee will not be an operational debt as it is not the payment due therefore proceedings under section 9 of the IBC cannot be initiated for such a claim.

The Respondent, that is, the alleged Corporate Debtor (CD), is a company which stands registered under the name and style of M/s. Nagarjuna Group, which consists of various other subsidiary entities. The Appellant was transferred from one company to another and finally transferred to the company, M/s. Nagarjuna Fertilisers and Chemicals Limited, which is the alleged Corporate Debtor, where he continues to work till he superannuated on 30.04.2018.

Source: *Live Law*

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-performance-pay-does-not-qualify-operational-debt-proceedings-us-9-of-ibc-cannot-be-initiated-276176>

➤ **Revisiting Resolution Plan After Commencement Of Liquidation Process Is Against Principle Of Procedural Finality: NCLAT Chennai**

The **National Company Law Appellate Chennai** comprising of Justice Sharad Kumar Sharma, (Member Judicial) and Jatindranath Swain (Member Technical) dismissed two appeals filed by the Corporate Debtor seeking to challenge the order of NCLT, Bangalore by which it was directed to be put into the liquidation process and second to challenge the order of the same tribunal which dismissed the prayer of the Appellant for issue of an appropriate direction to the liquidator to put on hold the auction of the immovable asset of the Corporate Debtor.

The case deals with two company appeals preferred by the Appellant. The Appellant seeks to challenge the order of NCLT, Bangalore by which it was directed to be put into the liquidation process and second to challenge the order of the same tribunal which dismissed the prayer of the Appellant for issue of an appropriate direction to the liquidator to put on hold the auction of the immovable asset of the Corporate Debtor and to consider his proposal to sell the Corporate Debtor as a going concern and accordingly to provide him a sale notice for the same in the interest of maximisation of the value of Corporate Debtor.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/nclat-chennai-revisiting-resolution-plan-after-commencement-of-liquidation-process-against-principle-of-procedural-finality-276175>

➤ **NCLT Is Not Right Forum To Decide Whether Closure Of Factory Under Industrial Dispute Act Was As Per Law: NCLAT**

The NCLAT New Delhi bench of **Justice Ashok Bhushan (Chairperson), Barun Mitra (Technical Member) and Arun Baroka (Technical Member)** has held that the Adjudicating Authority is not the right forum to decide whether closure of the factory was in accordance with law. Such an issue should have been raised before the relevant authority under the Industrial Disputes Act and not before the Adjudicating Authority. In this case, the claim of the workers rejected by the liquidator was upheld because no evidence was presented to show that they were employees of the corporate debtor from the date of closure of factory till liquidation commencement date.

The CIRP of the Corporate Debtor commenced vide order dated 01.01.2018 passed by the Adjudicating Authority on an application filed under Section 7 by the Allahabad Bank against the Corporate Debtor 'Biotor Industries Ltd.'. On an application filed by the Resolution Professional, an order dated 31.12.2018 was passed by the Adjudicating Authority directing for liquidation of the corporate debtor. Liquidator made publication inviting claims from the stakeholders.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/development-rights-constitute-property-us-327-of-ibc-included-information-memorandum-rp-us-29-of-ibc-nclat-275473>

