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➤ Decree Holder Is “Financial Creditor” Under IBC, Limitation For Filing Section 7 Petition Is Extendable On Acknowledgment Of Debt: NCLAT

The National Company Law Appellate Tribunal (NCLAT) New Delhi bench comprising **Justice Yogesh Khanna (Judicial member)** and **Arun Baroka (Technical member)** has held that a decree holder falls within the definition of "Financial Creditor" under Section 5(7) and Section 5(8) of the Insolvency and Bankruptcy Code (IBC) if the decree is based on a financial debt. The Tribunal observed that the cause of action for initiating proceedings under Section 7 of the IBC arises when the debt is acknowledged by the debtor.

The Tribunal noted that the Petition filed by the Appellant was within the limitation period as the Respondent had acknowledged the debt, extending the limitation period under Section 18 of the Limitation Act, 1963. It initiated the Corporate Insolvency Resolution Process (CIRP) against the Respondent.

There was a litigation going on between the parties including a suit for recovery filed by the Appellant before the Delhi High Court. Disputes were referred to Mediation which culminated in a Settlement Agreement. The Respondent agreed to pay Rs. 15.23 crores to the Appellant, issuing four cheques; however, the cheque for Rs. 10 crores was dishonoured.

The Delhi High Court attached the Respondent's bank accounts and immovable property to enforce the decree and appointed a Court Auctioneer for the sale of a plot in Pratap Vihar, Ghaziabad. The Respondent failed to pay the debt of Rs. 10 cr. despite the decree of the Delhi High Court. This led to filing of a Petition under Section 7 of IBC. The Adjudicating Authority dismissed the Section 7 petition on the ground that it is barred by limitation.

Source: *Live Law*

Read Full news: <https://www.livelaw.in/ibc-cases/decreed-holder-financial-creditors-ibc-limitation-period-filing-section-7-petition-extendable-acknowledgment-of-debt-nclat-279434>

➤ Status Report Submitted In Criminal Proceeding Can Have No Bearing While Deciding Application U/S 7 Of IBC: NCLAT

The NCLAT New Delhi bench of **Justice Ashok Bhushan (Judicial Member)** and **Mr. Arun Baroka (Technical Member)** has held that Status Report submitted in a criminal proceeding regarding allegations of fraud and forgery can have no bearing while deciding Section 7 Application. The said Status Report is not an evidence on which it can be pronounced that threshold of 100 allottees was not complete in filing of Section 7 Application.

These appeals have been filed by the Suspended Directors of Mist Direct Sales Pvt. Ltd., Anand Infoedge Pvt. Ltd., and Mist Avenue Pvt. Ltd., challenging the decision passed by the NCLT by which an application under section 7 was admitted. The application was filed by 115 allottees of the Festival City Project against the three Corporate Debtors (CDs) collectively.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/status-report-submitted-in-criminal-proceeding-can-have-no-bearing-while-deciding-application-us-7-of-ibc-nclat-279360>

➤ Application U/S 12A Of IBC Can Be Withdrawn By Resolution Professional Before It Is Heard Or Allowed: NCLAT

The NCLAT New Delhi bench of **Justice Ashok Bhushan (Judicial Member)**, **Barun Mitra (Technical Member)** and **Arun Baroka (Technical Member)** has held that CIRP withdrawal application can be withdrawn by Resolution Professional before the application is heard and allowed.

The suspended director of the corporate debtor has filed these two appeals challenging two orders passed by the NCLT. These appeals stemmed from an application filed under section 9 of the code by the operational creditor which was admitted.

Source: Live Law

Read Full news: <https://www.livelaw.in/ibc-cases/application-us-12a-can-be-withdrawn-by-rp-before-application-heard-allowed-nclat-279359>

