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"You don't learn to walk by following rules. You learn by doing and falling over."

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➤ **Sec. 126 Of ICA, 1872 Can't Be Interpreted To Mean That Co-Borrower And Guarantor Can't Be The Same Person: NCLT Mumbai**

The National Company Law Tribunal, Mumbai Bench, comprising Shri Kuldeep Kumar Kareer (Judicial Member) and Smt. Anuradha Sanjay Bhatia (Technical Member), while adjudicating an application under Section 7 of Insolvency and Bankruptcy Code, 2016 ("IBC, 2016") in Pegasus Assets Reconstruction Private Limited vs M/s. Whiz Enterprise Private Limited has held that Section 126 of the Indian Contract Act, 1872 cannot be interpreted to mean that co-borrower and the guarantor cannot be one and the same person

M/s Laxmi Business Center ("Borrower") availed credit facilities sanctioned by Shamrao Vithal Co-operative Bank ("Lender") vide Sanction Letters dated 01.02.2010 and 30.09.2016. M/s Whiz Enterprise Private Limited ("Corporate Debtor") was co-borrower in the transaction. The Corporate Debtor executed Deed of Guarantee dated 03.10.2016 to secure the loan. However, the Corporate Debtor failed to repay its dues and the loan account of the Corporate Debtor was declared as NPA on 02.12.2019. An Assignment of Debt Agreement dated 27.02.2020 was signed between the Lender and Pegasus Assets Reconstruction Private Limited ("Financial Creditor") vide which the debts of the Corporate Debtor was assigned to the Financial Creditor.

It was contended by the Corporate Debtor that it is not a co-borrower since it had not received any amount from the Lender. The Corporate Debtor was simply the Guarantor for the credit facilities availed by the Borrower. Even the financial statements of the Corporate Debtor did not reflect any outstanding loan payable to the Lender.

Source: Live Law

Read Full news at: <https://www.livelaw.in/ibc-cases/nclt-mumbai-sec-126-of-ica-1872-cant-be-interpreted-to-mean-that-co-borrower-and-guarantor-cant-be-the-same-person-227688>

➤ **Srei matter to come up for hearing at Kolkata NCLT on Tuesday**

Kolkata, May 2 The Kolkata bench of the National Company Law Tribunal (NCLT) is set to hear the arguments of both Authum Investment and Infrastructure and the counsel appearing on behalf of debenture shareholders over the evaluation matrix that gave National Asset Reconstruction Company (NARCL) a higher score in the bid submitted for the Srei group of companies on Tuesday.

In the previous hearing on Friday, the counsel appearing on behalf of the debenture shareholders had raised questions over the evaluation matrix that gave NARCL a higher score and had said there is “no certainty of recovery” of the underlying assets of the corporate debtor and, hence, repayment to creditors could be impacted.

The counsel further argued that in line with the final resolution plan submitted by NARCL, the security receipts to be issued to the creditors would be by way of redemption of secured non-convertible debentures and there was no guarantee whatsoever that it could be redeemed at the expected price.

Authum Investment and Infrastructure, whose financial bid was adjudged the second highest in terms of NPV, filed a petition before the Kolkata bench of NCLT, also challenging the process adopted by the CoC, in which NARCL became the highest bidder on the basis of the evaluation matrix adopted.

Following the completion of the challenge mechanism process, Srei group entities received three bids. The consolidated CoC for two insolvent Srei companies approved NARCL’s offer of Rs 5,555 crore in NPV terms, including upfront cash of Rs 3,180 crore, with the highest voting (89.25 per cent) amongst the bidders. The resolution plan submitted by Authum Investment and Infrastructure (Rs 5,526 crore in NPV terms) received 84.86 per cent vote and that of the consortium of Varde Partners and Arena Investors (Rs 4680 crore in NPV terms) got 9 per cent of the vote.

Source: The Hindu Business Line

Read Full news at: <https://www.thehindubusinessline.com/companies/srei-matter-to-come-up-for-hearing-at-kolkata-nclt-on-tuesday/article66802356.ece>

