



IBC AU-COURANT

Latest updates On Insolvency & Bankruptcy

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"Year's end is neither an end nor a beginning but a going on, with all the wisdom that experience can instill in us"

➤ **IBC process: Resolution and distribution of funds may be separated**

The government is considering an amendment to the Insolvency and Bankruptcy Code (IBC) to separate the process of resolution of a bankrupt firm from the distribution of funds received from the successful bidder to enable a faster takeover of the distressed company, a senior government official told Business Standard.

"In many cases the successful bidder is unable to take over the company because of disputes regarding the distribution of funds. Right now the whole plan goes as one but it is being suggested that we look at it in two parts," the official said.

The corporate affairs ministry is rethinking the lower priority currently given to government dues in the IBC under the waterfall mechanism. The IBC places secured lenders at the top of the waterfall mechanism, followed by employees and operational creditors. Fourth come government dues.

"There is a suggestion that the government should also get something out of the resolution process, which is not happening now. We are looking into it," the official added.

The amendments needed to the IBC were discussed in a meeting of a colloquium earlier this week. The meeting was attended by officials of the Insolvency and Bankruptcy Board of India (IBBI) and Reserve Bank of India, resolution professionals (RPs), bankers and judges of the National Company Law Tribunal. The amendment Bill is likely to be placed before Parliament next year in the Budget Session. Some of the changes, however, may be made through alterations in rules as well.

The separation of resolution and distribution will be done by retaining the service of the RP beyond the approval of the resolution plan.

"The RP and the committee of creditors can decide the details of distribution as a subsequent activity after the resolution plan has been approved," the official said.

Industry experts say while handover to the successful bidder has not been delayed, litigation by creditors can lead to problems for the winning bidder.

“Some creditors, in order to get a bigger share, can arm-twist the bidder to give more money. For example, they can get an injunction on the corporate insolvency process, which would derail the plan,” said Anshul Jain, partner, PwC India.

The data released by the IBBI shows financial creditors have recovered 32.95 per cent of their claims in 553 corporate insolvency processes that were resolved till September this year. The IBBI said this only reflected the extent of value erosion by the time the debtor entered the resolution process.

“Yet it is the highest among all options available to creditors for recovery. Resolution plans on average are yielding 84 per cent of the fair value of the corporate debtors,” the IBBI said.

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/resolution-and-distribution-of-funds-could-be-separate-processes-in-ibc-122120100966_1.html

➤ **Adani Ports wins Karaikal bid with ₹1,200-crore offer**

Adani Ports & SEZ Limited (APSEZ) has won the bid for Karaikal Port with a ₹1,200-crore offer that surpassed the one from rival Vedanta, said people aware of the development.

Bidding for the port was conducted under the Insolvency and Bankruptcy Code (IBC) guidelines.

The lenders to Karaikal Port met last week to approve APSEZ's offer, which will now be taken to the National Company Law Tribunal (NCLT) for the final approval, said the people.

APSEZ and Vedanta declined to comment on the matter. The 600-acre port, built under a public-private partnership between the government of Puducherry and Chennai-based MARG Limited, faced financial constraints which resulted in the outstanding debt ballooning to ₹3,000 crore due to defaults and delays in repayments.

The Adani Group, which has been scaling up its ports business, sees the southern port located in Pondicherry as a natural fit.

Vedanta pursued the bid process because it moves significant quantities of raw materials and finished goods for its metals and mining businesses. APSEZ is the largest port operator in India and owns 12 ports including Mundra Port, the largest private port in the country.

The company recently acquired Gangavaram Port in Andhra Pradesh for ₹6,200 crore. The acquisition of Karaikal Port will be the first such acquisition under the IBC. The port received initial bids from five applicants - JSW Infra, Jindal Power, APSEZ,

Vedanta and a consortium of RKG Fund and Sagacious Capital. APSEZ and Vedanta eventually submitted binding financial bids whereas the others did not.

The NCLT admitted Karaikal Port for insolvency proceedings on April 29 and appointed Rajesh Sheth as the resolution professional to run the company till its debt resolution is finalised.

A group of 11 lenders, all of which are public sector banks or financial institutions, had originally sanctioned a loan of Rs 1,362 crore to Karaikal Port. The loan ballooned to its current size as interest and penalties were added following irregular repayments.

The original lenders were Indian Bank, Allahabad Bank, PNB, United Bank (later merged into PNB), Oriental Bank (later merged into PNB), Syndicate Bank (later merged into Canara Bank), Central Bank, Indian Overseas Bank, IIFC, State Bank of Hyderabad (later merged into State Bank of India) and Corporation Bank (later merged into Union Bank of India). Nine of the 11 lenders, except State Bank of Hyderabad and Corporation Bank, sold their loans to Edelweiss Asset Reconstruction Company in 2015.

Source: The Economic Times

Read Full news at:

https://economictimes.indiatimes.com/industry/transportation/shipping/-transport/adani-ports-wins-karaikal-bid-with-1200-crore-offer/articleshow/95921150.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

