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"If you stay positive in a negative situation, you win."

➤ **Indian Performing Right Society moves NCLT against Zee Entertainment, files insolvency plea claiming Rs 211-cr dues**

The Indian Performing Right Society (IPRS) Ltd has moved the insolvency tribunal NCLT against Zee Entertainment Enterprise Ltd, claiming a default of Rs 211.41 crore, the media major said in a regulatory filing. However, Zee Entertainment Enterprise Ltd (ZEEL) added that it "will be filing its reply rejecting the claim on, inter alia, the ground that there is a pre-existing dispute between the parties on the claimed amount..."

IPRS, which is a non-profit society comprising authors, composers and music publishers, had filed an application under Section 9 of the Insolvency and Bankruptcy Code (IBC) 2016, as an operational creditor claiming dues towards royalty payable for utilisation of "literary and musical works".

"A Petition has been filed against the Company under Section 9 of the IBC by the IPRS, an Operational Creditor, before the NCLT, Mumbai Bench for initiation of Corporate Insolvency Resolution Process against the company, claiming a debt and default of Rs 211.41 crore towards royalty payable for utilization of 'literary and musical works'," ZEEL said.

However, ZEEL added that the claim is not in "consonance with the interpretation of the law" on the point of payment of royalties for "literary and musical works" by the Delhi High Court, and hence, the "claimed amount is not due or payable to IPRS".

IPRS authorises use of copyrighted music by users by issuing them licences and collect royalties on behalf of IPRS members -- authors, composers and publishers of music. Royalty is distributed amongst members after deducting IPRS's administrative costs.

Last month, IDBI Bank moved the National Company Law Tribunal (NCLT) against ZEEL seeking to initiate insolvency proceedings against the media firm to recover dues.

IDBI Bank has claimed dues of Rs 149.60 crore, which has been disputed by ZEEL, as per a regulatory update from the media firm.

ZEEL had earlier announced a merger with rival Culver Max Entertainment (earlier Sony Pictures Network India) in December 2021. The merger has been approved by the Competition Commission of India (CCI) with certain conditions along with other bodies such as NSE and BSE. Its shareholders and creditors have already approved the merger.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/markets/stocks/news/indian-performing-right-society-moves-nclt-against-zee-entertainment-files-insolvency-plea-claiming-rs-211-cr-dues/articleshow/96689578.cms>

➤ **When COC Approves A Resolution Plan, It Is Presumed To Be Viable And Feasible: NCLAT Delhi**

The National Company Law Appellate Tribunal (“NCLAT”), Principal Bench, comprising of Justice Ashok Bhushan (Chairperson), Shri Kanthi Narahari (Judicial Member) and Shri Barun Mitra (Technical Member), while adjudicating an appeal filed in *Rajesh Kumar & Ors. v Rabindra Kumar Mintri & Anr.*, has held that when the Committee of Creditors (CoC) approves a Resolution Plan in its commercial wisdom, it is presumed that the Resolution Plan is viable and feasible.

Background Facts

Today Homes Noida Private Limited (“Corporate Debtor”) was admitted into Corporate Insolvency Resolution Process (“CIRP”). Mr. Sunil Kumar Jain alongwith Mr. Apoorv Jain (“Resolution Applicants”) had submitted a Resolution Plan for the Corporate Debtor, through their consortium name One Group. The said Resolution Plan was put to vote before the Committee of Creditors (“CoC”) and 1053 home buyers which were represented by their Authorized representative. The Resolution Plan was approved by the CoC with 100% votes.

Subsequently, the 68 home buyers filed an application before the Adjudicating Authority seeking rejection of the approved Resolution Plan and replacement of the Resolution Professional. The 68 Homebuyers opposed the approved Resolution Plan upon the premise that there were procedural irregularities in the proceedings of CoC.

On 26.09.2022, the Adjudicating Authority dismissed the application while relying on the NCLAT judgment in *Priya Puri & Ors. v Mr. Dehashish Nanda & Ors.*, CA (AT) (Ins) No. 906/2022, wherein it was held that when homebuyers as a class have assented to the plan, any individual homebuyer or association cannot challenge the plan. The Homebuyers challenged the Order dated 26.09.2022 before NCLAT.

Contentions Of Appellant

The Homebuyers argued that their Authorized Representative had not obtained their instructions and approval with regard to different items of the Agenda. In the 6th CoC meeting several items were deferred without obtaining any opinion of the homebuyers, which vitiated the entire process. Further, no opinion was sought from the homebuyers with respect to the feasibility and viability of the Resolution Plan, despite the CoC having resolved to seek such opinion.

NCLAT Verdict

The Bench observed that the judgment of Priya Puri & Ors. vs. Mr. Debhashish Nanda & Ors., being relied upon by the Adjudicating Authority, pertained to one set of homebuyers challenging the various procedures adopted while approving the Resolution Plan.

The Bench placed reliance on the Supreme Court judgment in Jaypee Kensington Boulevard Apartments Welfare Association and Ord. vs. NBVV (India) Ltd. and Ors., (2021) 1 SCC 401, wherein it was held that the democratic principles of the determinative role of majority opinion have been duly incorporated in IBC and the minority homebuyers have to necessarily sail with the majority within the class.

The Bench further observed that it is incumbent upon the Authorized Representative of the homebuyers to obtain instructions to vote for any agenda item where CoC obtain votes. Where there is no voting of the CoC in an agenda item, the Authorized Representative's opinion can be taken note of and considered in the CoC meeting.

The Bench held that when the CoC approves the Resolution Plan in its commercial wisdom, it is presumed that the approval was given to a viable and feasible plan. After the Resolution Plan is approved the Adjudicating Authority cannot interfere with the commercial wisdom of CoC. The approval of the CoC suggests that the plan is viable and feasible.

The Bench dismissed the appeal.

Case Title: Rajesh Kumar & Ors. v Rabindra Kumar Mintri & Anr.

Case No.: Company Appeal (AT) (Insolvency) No.1489 of 2022

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/when-coc-approves-a-resolution-plan-it-is-presumed-to-be-viable-and-feasible-nclat-delhi-217880?infinitescroll=1>

➤ **Lenders to meet on Tuesday to discuss bids for Reliance Capital's acquisition**

The Committee of Creditors (CoC) of debt-ridden Reliance Capital Ltd is scheduled to meet on Tuesday to discuss bids submitted by Torrent Group and Hinduja Group as part of the insolvency resolution process. Ahmedabad-based Torrent Group submitted a bid of Rs 8,640 crore for acquiring the NBFC firm set up by the Anil Ambani Group, sources said. If successful, it will mark the entry of Torrent Group into financial services space. In an e-auction conducted under the Challenge Mechanism, Torrent had presented a resolution plan for Reliance Capital Ltd (RCL) with a net present value of Rs 8,640 crore, while Hinduja's offer was Rs 8,110 crore. The CoC fixed a floor value of Rs 6,500 crore for the auction held on December 21. After the e-auction was over, sources said, Hinduja presented a revised resolution plan with a bid of Rs 9,000 crore and it offered 100 per cent cash upfront.

On the other hand, sources said, Torrent Group offered only Rs 3,750 crore as upfront cash, which is 54 per cent lower than the Hinduja offer. This is the first time that an e-auction of this scale is taking place for the resolution of an NBFC (non-banking financial company) under the Insolvency and Bankruptcy Code (IBC). The decision of e-auction was taken at the behest of LIC and EPFO, which together control 35 per cent of the voting rights in the CoC.

The National Company Law Tribunal (NCLT) has set a deadline of March 31, 2023 for the completion of RCL's resolution, which is already delayed by over a year. The Reserve Bank of India (RBI) had on November 29 last year superseded the board of RCL in view of payment defaults and serious governance issues. The RBI appointed Nageswara Rao Y as the administrator in relation to the Corporate Insolvency Resolution Process (CIRP) of the firm. RCL is the third large NBFC against which the central bank has initiated bankruptcy proceedings under IBC. The other two were Srei Group NBFC and Dewan Housing Finance Corporation. The RBI subsequently filed an application for initiation of CIRP against the company at the Mumbai bench of NCLT. In February this year, the RBI-appointed administrator invited expression of interest for the sale of RCL.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/banking/finance/lenders-to-meet-on-tuesday-to-discuss-bids-for-reliance-capitals-acquisition/articleshow/96682385.cms>

