INSOLVENCY PROFESSIONAL AGENCY
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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Action is the foundational key to all success."

➢ NCLT Mumbai Admits West Gujarat Expressway's Voluntary Insolvency Plea Over ₹227.20 Crore Debt

On 2 November, the National Company Law Tribunal (NCLT), Mumbai, admitted a voluntary Insolvency petition filed by West Gujarat Expressway Limited under Section 10 of the Insolvency and Bankruptcy Code, 2016 (IBC), initiating the Corporate Insolvency Resolution Process (CIRP).

A Bench of Judicial Member Ashish Kalia and Technical Member Banwari Lal Meena held that acknowledgment of debt in audited financial statements can extend limitation under Section 18 of the Limitation Act, 1963, read with Section 238A of the IBC. It said: *"As to limitation, the dues have remained outstanding since October 2018 and have been acknowledged in the audited financial statements, including those for FY 2024–25. Under Section 18 of the Limitation Act, 1963, read with Section 238A of the Code, a written acknowledgment made before expiry of the prescribed period gives rise to a fresh period of limitation. The Petition is therefore not barred by limitation."*

West Gujarat Expressway Limited is a special purpose vehicle incorporated by IL&FS Transport Network Limited (ITNL) and Infrastructure Leasing & Financial Services Limited (IL&FS) to develop, operate and maintain the Jetpur–Gondal–Rajkot section of National Highway 8B under a 20-year build-operate-transfer concession agreement with the National Highways Authority of India (NHAI).

The NHAI terminated the project in December 2021, and the project was handed over in April 2022. West Gujarat Expressway subsequently ceased significant business operations. In December 2022, the National Company Law Appellate Tribunal (NCLAT) classified the entity as a 'Red Entity' under the IL&FS resolution framework.

Source: Live Law Biz
Read Full News: *https://www.livelawbiz.com/nclt/nclt-mumbai-admits-west-gujarat-expressways-voluntary-insolvency-plea-over-rs-227-crore-debt-557070*

➢ Statutory Creditors Cannot Get Preferential Treatment Over Other Operational Creditors In Liquidation: NCLAT

The National Company Law Appellate Tribunal (NCLAT) at Delhi has recently observed that admitting a government department's claim three years after the deadline in a liquidation process would place it in a more favourable position than other Operational Creditors.

These creditors had complied with the prescribed timelines. "A statutory creditor stands in the same line as other operational creditors, and Section 53 of the Code does not put it ahead of the rest merely because it is the State. Letting it in three years late, on a liability that did not exist when the list was made, would treat it better than every creditor who obeyed the timelines," the Tribunal observed.

Source: Live Law Biz
Read Full News:https://www.livelawbiz.com/ibc/statutory-creditors-cannot-get-preferential-treatment-over-other-operational-creditors-in-liquidation-nclat-557098

➢ NCLAT Allows Withdrawal of Byju's-Aakash Rights Issue Dispute Appeals, Permits Revival If Settlement Fails

The National Company Law Appellate Tribunal (NCLAT) at Chennai has allowed the withdrawal of three appeals arising from the rights issue dispute between Aakash Educational Services Limited and Think & Learn Private Limited, the parent company of Byju's, while granting liberty to revive the appeals if the settlement between the parties fails.

A Bench of Judicial Member Justice N. Seshasayee and Technical Member Jatindranath Swain was hearing applications seeking withdrawal of the appeals in view of the settlement reached between the parties.

Source: Live Law Biz
Read Full News: https://www.livelawbiz.com/ibc/nclat-allows-withdrawal-of-byjus-aakash-rights-issue-dispute-appeals-permits-revival-if-settlement-fails-557062