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Latest updates On Insolvency & Bankruptcy

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"Life has got all those twists and turns"

➤ **Central Bank files a personal insolvency case against Biyanis**

Mumbai: State-owned Central has opened a new front to recover dues from the Biyanis, promoters of the debt-laden retail conglomerate Future Group that is facing bankruptcy proceedings. The bank has filed a personal insolvency case against promoter Kishore Biyani, his elder brother Vijay Biyani and cousin Sunil Biyani with total claims of ₹1,047 crore.

The claims were filed in the Mumbai bench of the National Company Law Tribunal (NCLT) a few days ago and are yet to be admitted by the court, documents seen by ET show.

Central Bank is the lead lender to NSE 0.00 % (FEL) which owes lenders and bondholders a total of ₹6,778 crore.

Kishore Biyani is described as the vice-chairman while Vijay Biyani is designated as managing director, according to the FEL website. Sunil Biyani is a former director of FEL.

All three had given personal guarantees for loans applied by subsidiaries Iskrupa Mall Management, Syntex Trading and Agency and Unique Malls, as per documents seen by ET.

Kishore and Vijay Biyani have each given a guarantee totalling ₹513 crore while Sunil Biyani has given a guarantee of ₹21 crore, the documents show. The cases against them are a part of the 15 different cases Central Bank filed against the group companies. The bank did not reply to an email seeking comment.

Future retails is the largest debtor in the group, with about ₹17,000 crore of dues. Two other listed companies - Future Enterprises that holds its supply chain, and NSE -4.70 % that houses apparel brands such as Central and Brand Factory - add another ₹11,000 crore to the debt pile, taking the group-level outstanding to ₹28,000 crore.

"The claims are part of banks' attempts to recover whatever is possible. We will outstanding to the group will also join the personal insolvency proceedings once the case is admitted," said a person with direct knowledge of the matter. "The truth is

there are many challenges to the resolution of these loans and court delays are not helping. Banks are doing whatever it takes to recover but there is no clear end in sight," said a second person aware of the situation.

Last week, Bank of India dragged Future Lifestyle Fashions to the NCLT under the Insolvency and Bankruptcy Code for recovery of dues. BoI's petition against Future Retail, the largest debtor in the group was admitted by the NCLT in July.

Source: *The Economic Times*

Read Full news at:

<https://economictimes.indiatimes.com/industry/banking/finance/banking/central-bank-files-a-personal-insolvency-case-against-biyanis/articleshow/93991405.cms>

➤ **24% jump in insolvency cases in wholesale, retail trade during Q1 FY23 from year-ago period: CareEdge**

The number of cases admitted for Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC), 2016 pertaining to wholesale and retail trade increased 24.8 per cent in the first quarter (April-June) of the current financial year from the year-ago period, according to the report by credit rating company CareEdge on Q1 FY23 insolvency cases. The share of the trading sector with 567 cases (from 454 in June 2021) in the total 5,636 insolvency cases during the first quarter stood at 10 per cent.

The manufacturing sector (2,232 cases) accounted for the highest share at 40 per cent while real estate (1,160 cases) share was at 21 per cent, construction 622 (cases) at 11 per cent, and hotels & restaurants (121 cases) at 2 per cent, among top five sectors.

While the number of CIRP cases increased each quarter since IBC's launch in 2016, a major portion of the cases was admitted over the last 12 quarters, indicating the rising acceptance of IBC as an effective debt resolution mechanism, the report noted. Moreover, even as the number of admitted cases jumped 23.5 per cent in Q1 FY23 from 4,565 cases in Q1 FY22, the number continued to be lower compared to earlier quarters in FY19 and FY20, it added.

In terms of the status of the cases during Q1, out of the total cases admitted into CIRP at the end of June, only 9 per cent ended in approval of resolution plans, while 35 per cent remained in the resolution process in comparison to 37 per cent as of June 2021. On the other hand, 30 per cent of the total cases admitted ended in liquidation.

Importantly, the MSME Ministry in July last year had reinstated retail and wholesale trade under the MSME category, for the limited purpose of priority sector lending, to benefit 2.5 crore retail and wholesale traders. The move allowed traders to register on the Udyam registration portal. Between July 2, 2021, and November 29, 5.33 lakh registrations were recorded on the portal, MSME Minister Narayan Rane had informed Lok Sabha last year.

Source: Financial Express

Read Full news at: <https://www.financialexpress.com/industry/sme/msme-eodb-24-jump-in-insolvency-cases-in-wholesale-retail-trade-during-q1-fy23-from-year-ago-period-careedge/2654885/>

➤ **Liquidator Empowered To Decide The Mode Of Sale, Not Bound By Recommendations Of Stakeholders Committee: NCLT Kolkata**

The National Company Law Tribunal ("NCLT"), Kolkata Bench, comprising of Shri Rohit Kapoor ("Judicial Member") and Shri Balraj Joshi (Technical Member), while adjudicating an application filed in Sauria Corporation v Kohinoor Pulp & Paper Private Limited, has held that a Liquidator is empowered to decide the mode of sale of Corporate Debtor which is in best interest for maximization of asset value. The Bench further held that the Liquidator is not bound by the recommendations of Stakeholders' Consultation Committee while determining such mode of sale.

Sauria Corporation ("Operational Creditor") had filed a petition under Section 9 of the Insolvency and Bankruptcy Act, 2016 ("IBC") seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against Kohinoor Pulp & Paper Pvt. Ltd. ("Corporate Debtor"). The Adjudicating Authority admitted the petition and CIRP was initiated. Subsequently, the Adjudicating Authority passed an order for liquidation of the Corporate Debtor.

On 02.08.2022 the Liquidator had issued a notice for conducting sale of the Corporate Debtor as a going concern by Swiss Challenge Method. The notice mentioned, "Liquidator reserves the right to amend and or /annul this invitation including any timelines or the process therein, without giving reasons, at any time and in any respect. Any such amendment in the invitation, including the aforementioned timelines, shall be notified".

Thereafter, the Liquidator issued a fresh notice on 22.08.2022 stating that now the sale of the Corporate Debtor would be conducted through normal e-auction process instead of Swiss Challenge Method and the date for auction was fixed to 31.08.2022. Universaltech Paper LLP ("Applicant") being a Swiss Challenger in the auction, filed an application before the Adjudicating Authority, challenging the change in mode for conducting the e-auction and sought stay on notice dated 22.08.2022.

The Applicant submitted that by not conducting the sale through Swiss Challenge Method, the Liquidator has acted arbitrarily and unlawfully.

The Bench opined that it is the Liquidator who has to take call on what mode of sale is in the best in the interest for maximizing the asset value. The Liquidator is not bound by the recommendations/ advice of Stakeholder' Consultation Committee, however, in exercise of process of consultation if something better transpires; he can take the same into consideration.

It was observed that Stakeholders Consultation Committee was of the opinion that reserve price should be increased and auction should be conducted through normal

process. Therefore, the reserve price was increased to Rs. 48 Crores from the previous value of Rs. 36 Crores fixed by the Liquidator.

The Bench held that there was no arbitrariness in the conduct of auction through normal process and the Applicant was free to participate in the newly notified auction process by the Liquidator.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclt-kolkata-section-9-of-the-insolvency-and-bankruptcy-act-corporate-insolvency-resolution-process-liquidator-208352>

