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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Do the best you can until you know better. Then when you know better, do better."

NCLAT Sets Aside Rejection of Insolvency Plea After Finding Corporate Debtor Had Admitted Outstanding Dues

The National Company Law Appellate Tribunal (NCLAT) at Delhi has set aside an order rejecting an insolvency application after finding that the corporate debtor had admitted outstanding dues in its reply to the statutory demand notice.

The tribunal also found that the corporate debtor could not later adopt a contrary stand during the proceedings. "The litigant cannot be permitted to approbate and reprobate," it observed.

A bench of Judicial Member Justice Mohd. Faiz Alam Khan and Technical Member Arun Baroka allowed the appeal filed by Uniworth Enterprises LLP against Starco Metaplast Private Limited. Uniworth claimed dues of ₹2.83 crore, including interest, for the supply of pharma packaging materials. The parties later attempted a settlement under which Starco Metaplast agreed to pay about ₹1.91 crore in instalments. When the payment did not materialise, Uniworth initiated insolvency proceedings.

Before the appellate tribunal, Uniworth argued that the NCLT had wrongly accepted Starco Metaplast's plea of a pre-existing dispute despite its admission of the outstanding dues in its reply to the demand notice. Starco Metaplast, on the other hand, maintained that disputes existed over the supply of goods and the appropriation of payments. It also claimed the outstanding amount had fallen below the statutory threshold because payments had been made against specific invoices.

Examining the reply to the demand notice, the tribunal found that Starco Metaplast had acknowledged an outstanding liability of about ₹1.91 crore, well above the IBC threshold It also noted that the corporate debtor had agreed to pay the amount in monthly instalments after the operational creditor issued the agreed credit note.

Source: Live Law Biz
***Read Full News**:* *NCLAT Sets Aside Rejection of Insolvency Plea After Finding Corporate Debtor Had Admitted Outstanding Dues*

➢ Commercial Wisdom of Creditors No Bar to Judicial Scrutiny of IRP Remuneration: NCLAT

The National Company Law Appellate Tribunal (NCLAT) at Delhi has recently held that disputes over an interim resolution professional's remuneration are not immune from judicial scrutiny merely because they arise from a decision of the Committee of Creditors (CoC).

Clarifying the scope of the Supreme Court's ruling in K. Sashidhar, the tribunal held that the judgment, which concerns judicial review of the CoC's commercial decisions on resolution plans, could not be relied upon to decide disputes over an IRP's remuneration.

Source: Live Law Biz
Read Full News**:** *Commercial Wisdom of Creditors No Bar to Judicial Scrutiny of IRP Remuneration: NCLAT*

➢ Settlement Breach Before CIRP Admission Cannot Sustain Section 9 Insolvency Proceedings: NCLT New Delhi

The New Delhi National Company Law Tribunal (NCLT) has held that once parties enter into a settlement agreement before admission of a Corporate Insolvency Resolution Process (CIRP) under Section 9 of the Insolvency and Bankruptcy Code, 2016, any subsequent default arising from such settlement does not give rise to an “operational debt” and cannot sustain insolvency proceedings.

A Bench comprising Judicial Member Mahendra Khandelwal and Technical Member Anu Jagmohan Singh noted that such disputed must be pursued before the appropriate civil forum and dismissed a petition filed by Silver Collections Private Limited against Paragon Knits Limited. It observed.

Source: Live Law Biz
Read Full News**:** *Settlement Breach Before CIRP Admission Cannot Sustain Section 9 Insolvency Proceedings: NCLT New Delhi*