



INSOLVENCY PROFESSIONAL AGENCY
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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"It always seems impossible until it's done."

➤ Defects In Board Resolution Authorising CIRP Plea Don't Invalidate Otherwise Valid Proceedings: NCLT Jaipur

The National Company Law Tribunal (NCLT) at Jaipur has held that alleged defects in the certified copy of a Board Resolution, including objections that it did not disclose the date of the Board meeting or carried mechanically reproduced signatures, do not invalidate an insolvency application where the Operational Creditor has, in substance, authorized the initiation of proceedings.

A coram of Judicial Member Reeta Kohli and Technical Member Kavita Bhatnagar was considering an interlocutory application filed by Sai Educare Private Limited, the corporate debtor, seeking rejection of the Section 9 petition filed by Vensysco Technologies Limited.

"The objection is that there are alleged deficiencies in the certified copy of the Board Resolution. Such deficiencies do not by themselves lead to the conclusion that the Operational Creditor had not been authorized to initiate the Section 9 proceedings. As a matter of fact, the proceedings have been continued throughout in the name of the Operational Creditor itself. In such circumstances mere objections regarding the format or contents of the certified copy of the resolution cannot automatically be elevated to the status of a jurisdictional defect." it held

The corporate Debtor sought rejection of the petition contending that the Operational Creditor had initiated the proceedings without a valid Board Resolution. The Corporate Debtor contended that the insolvency petition and the statutory demand notice issued under Section 8 of the Insolvency and Bankruptcy Code were not backed by a valid Board Resolution. It argued that the certified copy of the Board Resolution was undated, did not disclose the date of the Board meeting and contained only a mechanically reproduced signature. It contended that, in the absence of a valid Board Resolution, the demand notice and the subsequent insolvency proceedings were void and unsustainable.

Source: Live Law Biz

Read Full News: [Defects in Board Resolution Authorising CIRP Plea Don't Invalidate Otherwise Valid Proceedings: NCLT Jaipur](#)

➤ **IRP, RP Cannot Authorise Recovery Barred By IBC Moratorium: NCLT Indore**

The Indore bench of the National Company Law Tribunal (NCLT) has recently held that Bank of India violated the IBC moratorium by appropriating ₹16.49 crore from a company's cash credit account during its Corporate Insolvency Resolution Process (CIRP).

The amount was used to discharge letters of credit (LCs) issued before the insolvency commencement date. Holding that the bank had recovered its own pre-CIRP dues during the moratorium, the tribunal directed it to reverse the appropriation. It was also directed to credit the amount to the corporate debtor's account within four weeks.

A bench of Judicial Member Brajendra Mani Tripathi and Technical Member Man Mohan Gupta rejected the bank's defense that the transactions were authorised by the erstwhile Interim Resolution Professional (IRP).

Source: Live Law Biz

Read Full News: [IRP, RP Cannot Authorise Recovery Barred by IBC Moratorium: NCLT Indore](#)

➤ **NCLT Delhi Rejects APS Infra Resolution Plan, Says Resolution Applicant Can't Retain PUFER Recoveries**

The Delhi bench of the National Company Law Tribunal (NCLT) has held that a resolution plan allowing the Successful Resolution Applicant (SRA) to retain recoveries from avoidance (PUFER) transactions is contrary to the CIRP Regulations.

Rejecting the resolution plan submitted by SPG Infra Projects Pvt. Ltd. for APS Infra Engineers Pvt. Ltd., the bench ordered the company's liquidation.

"When we talk of distribution, the understanding would be that the same should be distributed amongst the creditors. Could the intention of Regulation be that the proceeds could be retained by the SRA, there could be such provision in the Regulation or the Regulation could say that the Plan will provide that how the proceed would be dealt with," the court observed while interpreting Regulation 38(2)(d) of the CIRP Regulations.

Source: Live Law Biz

Read Full News: [NCLT Delhi Rejects APS Infra Resolution Plan, Says Resolution Applicant Can't Retain PUFER Recoveries](#)



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