



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Success is defined in units of fun. It's all about being happy"

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➤ 'Lenders must catalyse IBC proceedings'

Lenders must play a "catalytic role" in the corporate insolvency resolution process (CIRP) given the current regime of creditor-led Insolvency and Bankruptcy Code, the National Company Law Appellate Tribunal (NCLAT) said in a recent order.

"Shifting the entire blame on the Interim Resolution Professional (IRP) on grounds of non-performance of duty and making him the scapegoat does not appear to be justified. Creditors need to play a catalytic role in such resolution process", a bench of justices Ashok Bhushan and Barun Mitra said. "We are thus of the considered view that the IRP was entitled in this case to claim his fees/expenses incurred on CIRP and needs to be compensated for his professional services", the court said.

The issue began when Guru Containers, an operational creditor, initiated insolvency proceedings against Tarang Exports under Section 9 of the IBC. The National Company Law Tribunal appointed Jitendra Palande as the IRP for the company. As per an earlier NCLT order, the operational creditor was to reimburse the total cost incurred by the IRP for discharge of his duties. However, the operational creditor moved the NCLAT, alleging the IRP failed to discharge his duties; so the creditor is not liable for reimbursing the fees.

The creditor added that the IRP was seeking the court's intervention for reimbursement of his fees mainly to cover up his non-performance and had undertaken minimum work pertaining to issuing public announcement of the insolvency proceedings against the company.

Source: Mint

Read Full news at: <https://www.livemint.com/companies/news/lenders-must-catalyse-ibc-proceedings-11678039771802.html>

➤ NCLAT rejects plea against McDowell Holdings' insolvency proceedings

The National Company Law Appellate Tribunal (NCLAT) has rejected a plea by the shareholders of McDowell Holdings Ltd, challenging the initiation of the corporate insolvency resolution process (CIRP) against the firm. A two-member bench of the appellate tribunal upheld the order of the Bengaluru bench of the National Company Law Tribunal (NCLT), which on April 8, 2022, directed to initiate CIRP over the plea filed by its financial creditor Sunstar Hotels and Estates.

Nine shareholders, who together hold more than 15 per cent of the stake in McDowell Holdings Ltd (MHL), had moved the NCLAT against the order. While rejecting the plea, the NCLAT observed that the shareholders "do not have any 'Locus', and therefore the present appeals are not maintainable." The appellate tribunal stated that in its earlier rulings, the NCLAT had "held that an investor in a Corporate Debtor cannot claim to be an 'aggrieved person' for preferring an appeal against an order against insolvency petition."

Source: Live Law

Read Full news at: https://www.business-standard.com/article/companies/nclat-rejects-plea-against-mcdowell-holdings-insolvency-proceedings-123030500411_1.html

➤ Regulatory ire on insolvency professionals over breaches

The Insolvency and Bankruptcy Board of India (IBBI) has sent a strong message to professionals who have allegedly erred while steering sinking companies through the bankruptcy resolution process by taking action against a dozen such officials since January. The bankruptcy rule maker, which has also been authorized to administer the valuation rules under the Companies Act, has issued a total of 14 disciplinary orders this year, including one each against an industry body of valuers, and a valuation firm, in addition to the orders against the dozen insolvency professionals. Disciplinary orders were issued in 23 cases since October, publicly available data showed.

The orders issued against the professionals hired by lenders to administer bankrupt businesses have held them guilty of a host of violations ranging from procedural breaches to serious ones. These include delays in the verification of claims and in the submission of resolution plans, breaches in estimating the fair value of businesses and the liquidation value of assets and failures in estimating the value of trade receivables, inventory, cash and cash equivalents.

Source: Mint

Read Full news at: <https://www.livemint.com/news/india/regulatory-ire-on-insolvency-professionals-over-breaches-11678037033710.html>

