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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

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➤ When insolvency meets money laundering

In a recent decision, the Bombay High Court was faced with an interesting question – whether the National Company Law Tribunal (NCLT), under the Insolvency and Bankruptcy Code, had powers to direct the Enforcement Directorate (ED) to release assets seized under the Prevention of Money Laundering Act, 2002 (PMLA).

The matter pertained to the insolvency resolution of DSK Southern Projects (corporate debtor). A few years prior to the commencement of the insolvency proceedings, the assets of DSK had been attached by ED, under PMLA. The attachment of DSK's assets continued long after the commencement of the insolvency proceedings and even after the approval of the resolution plan. It is the continuation of such attachment which became the heart of the dispute before the High Court, and writ petitions came to be filed in this regard.

The petitioner and successful resolution applicant who challenged the continuance of the attachment placed reliance on Section 32A of the IBC, which provides for immunity to the corporate debtor and its assets, upon the approval of a resolution plan provided the conditions stipulated in the provision were met. As per the petitioner, Section 32A, being a non-obstante provision, would override the provisions of PMLA should a conflict arise.

The ED argued that the continuance of attachment on two counts. (a) The attachment of assets happened prior to the insolvency proceedings. Hence, anyone aggrieved by the attachment could file an appeal under Section 26(1) of PMLA. (b) Section 32A of IBC could not be interpreted in a manner that nullified the special objectives for which the PMLA was enacted.

Source: *The Hindu Business Line*

Read Full news: <https://www.thehindubusinessline.com/business-laws/when-insolvency-meets-money-laundering/article68036072.ece>

➤ **NCLT admits insolvency petition against BGR Energy Systems**

The Amaravti bench of National Company Law Tribunal (NCLT) admitted insolvency petition filed against BGR Energy Systems Ltd. The petition was filed by the company's operational creditor RDC Concrete India Private Ltd.

In a stock exchange announcement, the BGR said RDC Concrete India Private Ltd claimed a default of around ₹7.20 crore and the NCLT passed an order initiating corporate insolvency resolution process (CIRP) on April 3. The NCLT also appointed P.V.B. Sudhakararao as an interim resolution professional for BGR Energy.

Meanwhile, Sudhakararao asked BGR Energy's creditors to submit their claim details with proof by April 17, according to a public announcement. BGR Energy's CIRP is likely to be completed by September 29, according to the announcement.

Last year, BGR in a stock exchange announcement said it has received communication from three of its bankers that the company's accounts have been downgraded as non-performing assets (NPAs).

Source: *The Hindu*

Read Full news : <https://www.thehindu.com/news/national/tamil-nadu/nclt-admits-insolvency-petition-against-bgr-energy-systems/article68035931.ece>

➤ **NCLAT reserves order on plea challenging Dream 11 insolvency**

The National Company Law Appellate Tribunal (NCLAT) on Friday reserved its judgment in a plea filed by Bhavit Sheth, cofounder and COO of Dream11, challenging a bankruptcy court order initiating insolvency resolution against its parent Sporta Technologies. The tribunal gave parties three days' time to file written submissions.

The counsel for Bhavit Sheth argued that Reward Solutions - an operational creditor that had moved the National Company Law Tribunal (NCLT) seeking corporate insolvency resolution process (CIRP) against the fantasy sports company - initiated the application based on a default occurred within the timeline covered by Section 10 A of Insolvency and Bankruptcy Code (IBC), 2016.

The government had introduced Section 10A to the IBC, prohibiting applications for CIRP initiation for defaults arising after March 25, 2020, for six months or such a period not exceeding one year from the date.

But the counsel for the NCLT-appointed resolution professional (RP) of Sporta Technologies contested that default was different from debt, and "10A only applies to default and not on ability to claim a debt which fell due". The debt was for a period that falls within the ambit of

Section 10 A, but the default occurred after the period covered under Section 10 A as Dream11 was served a demand notice on April 20, 2021.

Source: *The Economic Times*

Read Full news : <https://economictimes.indiatimes.com/industry/media/entertainment/nclat-reserves-order-on-plea-challenging-dream-11-insolvency/articleshow/109073774.cms?from=mdr>

➤ NCLAT Delhi Rejects Homebuyers Application To Initiate CIRP Proceeding Against Ansal Hi-Tech Township

The National Company Law Appellate Tribunal (NCLAT) New Delhi, comprising Justice M. Venugopal (Judicial Member) and Mr. Arun Baroka (Technical Member), has rejected the homebuyer's application under Section 7 of IBC seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the Ansal Hi-Tech Township.

The Appellant is a Creditor in Class, representing homebuyers who purchased their flats between 2011 and 2012 in the Sushant Metropolis Township located in Gautam Budh Nagar, which was being developed by the Respondent (Corporate Debtor).

According to the allotment agreements, the respondent promised to deliver possession of the flats within 36 to 42 months from the date of the sanctioned plan. However, the respondent failed to deliver the flats within the promised timeframe.

Aggrieved by the delay in possession, the appellant filed an application under Section 7 of IBC in the NCLT Delhi to initiate CIRP proceedings against the respondent.

Source: Live Law

Read Full news : <https://www.livelaw.in/ibc-cases/nclat-delhi-homebuyers-application-cirp-proceeding-ansal-hi-tech-township-254360>

