



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Do the best you can. No one can do more than that."

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➤ Supreme Court Commences Hearing Of Pleas Challenging IBC Provisions On Personal Guarantor's Insolvency Resolution

The Supreme Court today (07.11.2023) commenced its hearings in a batch of petitions challenging the constitutionality of various provisions of the Insolvency and Bankruptcy Code (IBC) relating to Personal Guarantors Insolvency Resolution Process.

The central contention raised by the petitioners challenging Sections 95(1), 96(1), 97(5), 99(1), 99(2), 99(4), 99(5), 99(6), and 100 of the Code was the alleged absence of due process in the application of these provisions. The petitioners argued before a bench comprising CJI DY Chandrachud, Justice JB Pardiwala, and Justice Manoj Misra that the primary issue was that the personal guarantor was not provided any opportunity to present his case or dispute the initiation of insolvency resolution process or appointment of the resolution professional as per the code.

In 2019, the IBC introduced the process for personal guarantors' insolvency resolution. Prior to this, an insolvency resolution process was limited to corporates.

Section 95 of the IBC allows creditors to initiate insolvency proceedings against personal guarantors. Creditors can do this individually, jointly with others, or through a resolution professional, whom they choose. If there are no disciplinary issues with the selected resolution professional, the Adjudicating Authority will appoint them to oversee the insolvency resolution process for the personal guarantor.

Source: Live Law

Read Full news at: <https://www.livelaw.in/top-stories/supreme-court-commences-hearing-of-pleas-challenging-ibc-provisions-on-personal-guarantors-insolvency-resolution-241853>

➤ **Realty projects: IBBI proposes changes to rules for insolvency resolution process**

To address issues faced in the insolvency resolution process for realty projects, IBBI has proposed mandatorily registering of projects under the Real Estate Regulatory Authority and keeping properties that are in the possession of homebuyers from the ambit of liquidation. The Insolvency and Bankruptcy Board of India (IBBI) has proposed five broad changes, including operating a separate bank account for each real estate project, executing registration/sublease deeds with approval of the Committee of Creditors (CoC) during the resolution process and allowing CoC to examine and invite separate plans for each project.

Source: Money Control

Read Full news at: <https://www.moneycontrol.com/news/business/real-estate/realty-projects-ibbi-proposes-changes-to-rules-for-insolvency-resolution-process-11690751.html>

➤ **Regulator must clarify due clearance order in insolvencies**

The Supreme Court's judgement in the Rainbow Papers case upsets the insolvency appletart in India. The court has rejected requests for a review of its earlier order passed in September 2022, where it said that government dues must get higher priority when distributing the proceeds of an insolvent and liquidated company. Refusing to alter its view on the case, the court recently said that the earlier order did not miss the priority rule while deciding the matter. The order goes against the grain of insolvency law in India, which gives employees and financial creditors priority over statutory or government dues.

Source: The New Indian Express

Read Full news at: <https://www.newindianexpress.com/opinions/editorials/2023/nov/08/regulator-must-clarify-due-clearance-order-in-insolvencies-2630979.html>

