



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



IBC AU-COURANT

Latest updates On Insolvency & Bankruptcy

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"More is lost by indecision than wrong decision"

➤ **Uniform reporting standards for RPs, creditors on anvil**

The insolvency regulator is planning to introduce uniform reporting standards for resolution professionals (RPs) and creditors for better management of insolvency cases, said a senior government official.

The Insolvency and Bankruptcy Board of India (IBBI) will create a data bank of the information received from RPs and creditors, allowing stakeholders and the government to track all the bankruptcy cases.

"In lot of cases, RPs are submitting the case information but there is no uniform format and hence they have to be analysed manually one by one," said the government official, who did not wish to be identified.

"If a uniform disclosure format is introduced, the data can straightaway be entered into the comprehensive database and using tools such as artificial intelligence, the regulator will also be able to gather various insights.

This data-gathering plan assumes significance as the IBBI plans to be included as a party in the proceedings in sensitive cases.

The IBBI regulates the insolvency profession and oversees the processes as well. Currently, tracking Insolvency and Bankruptcy Code (IBC) cases is difficult as they are spread across various courts and the National Company Law Tribunal (NCLT) benches operating in different cities.

The regulator is also planning to employ data analytics tools and artificial intelligence to gather insights into challenges faced in insolvency resolution. The regulator has been looking to weed out any bottlenecks in the insolvency resolution process that are leading to delays.

According to government data, the average number of days taken to resolve a case rose to 679 days in the first half of this financial year from 230 days in 2017-18. On October 31 last year, 12,871 bankruptcy resolution cases were pending, down from 13,211 a year earlier.

In the past few months, there have been several conflicting insolvency judgements by various courts and tribunals. Some judgements, especially the ones rendered in high courts and the Supreme Court also set a precedent for the future, hence the board and Ministry of Corporate Affairs (MCA) want to intervene and represent their views to the court.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/news/india/uniform-reporting-standards-for-rps-creditors-on-anvil/articleshow/96920255.cms>

➤ **Bankruptcy court dismisses revival plan for Ujaas Energy**

A bankruptcy court in Indore has rejected a revival plan for Ujaas Energy, adding the observation that the Committee of Creditors (CoC) cannot extinguish the rights of a secured creditor to proceed against the listed borrower's personal guarantor.

The ruling will likely set a precedent for lenders in other cases where dissenting secured creditors are seeking to proceed separately against the promoters with regard to personal guarantees.

“The CoC can take any commercial decision relating to insolvency of the corporate debtor only; the CoC cannot extinguish the rights of the particular secured creditor to proceed against the personal guarantor of the corporate debtor under the garb of its commercial wisdom,” observed the division bench of Madan Gosavi and Kaushalendra Singh. The bench also rejected a resolution plan for the company.

Ujaas Energy was admitted under the corporate insolvency resolution process (CIRP) in September 2020 and it has admitted liabilities of about Rs 144 crore.

The lenders had approved the resolution plan submitted by the consortium of SVA Family Welfare Trust and M&B Switchgears with 78.04% votes in August 2021. The consortium had proposed to pay Rs 74.81 crore to acquire the company through the resolution process.

The proposal involved payment of Rs 68.81 crore to financial creditors, and that included Rs 28.81 crore toward the release of the personal guarantee. However, advocate Nipun Singhvi, appearing for the Bank of Baroda, a dissenting financial creditor of the company with a 5.83% voting share in the CoC, objected to the plan with the arguments that the lenders can't extinguish the right of the secured creditor to proceed against the personal guarantor.

According to Aparna Ravi, partner at law firm Samvad Partners, this case is likely to set an important precedent on the boundaries of the exercise of commercial wisdom by the CoC and the extent to which a resolution plan can deal with the treatment of guarantors. Other members of the CoC, including Union Bank of India, State Bank of India, Axis Bank and RBL Bank, agreed to the proposal of the resolution plan to extinguish the personal guarantee.

“While rights of a creditor against the principal debtor (being the corporate debtor) can be settled under a resolution plan, however, rights of such creditor to proceed against third party sureties cannot be taken away in the resolution plan without its consent,” said Pooja Mahajan, managing partner of law firm Chandhiok & Mahajan Advocates.

“To that extent, the order proceeds on sound legal footing.” The tribunal, while rejecting this resolution plan, observed that the CoC by majority votes can not enforce its decision for extinguishment of the right of the dissenting creditor to proceed against the personal guarantor.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/services/property/-construction/bankruptcy-court-dismisses-revival-plan-for-ujaa-energy/articleshow/96919748.cms?from=mdr>

➤ **Torrent questions Reliance Capital's 2nd auction**

Torrent Investments, one of the final bidders for insolvent Reliance Capital, on Thursday argued before the National Company Law Tribunal that the second auction proposed by the Committee of Creditors (CoC) to be held on 19 January, is a “brazen” attempt to nullify the tribunal’s earlier order by starting an extended second challenge mechanism.

Torrent, which emerged as the top bidder in the auction process with an offer of ₹8,640 crore for Reliance Capital (RCap), approached the bankruptcy court to restrain lenders from considering Hinduja’s upgraded offer of ₹9,000 crore, arguing that accepting late offers violated the norms for the insolvency resolution process.

The CoC on Friday floated a proposal for the fresh second round of auction after receiving a revised bid from the Hinduja group. In its application before the NCLT, Torrent pleaded a stay on voting by the lenders in the second round. It however, could not get interim relief.

On 3 January, the NCLT in its order asked the lenders to not take up the bid offered by the Hinduja group till the next date of hearing, thereby granting interim relief to Torrent.

Senior counsel, Darius Khambata, representing Torrent, said after the CoC realized that a second challenge mechanism could not be initiated after the first challenge mechanism was over, hence, they termed it as an “extended challenge mechanism”.

"How can something be extended once it's over? This is nothing but jumping off the rst challenge mechanism and a completely new process has been started, " Khambata argued. Responding to Torrent's arguments, Kapil Sibal, senior counsel on behalf of CoC, said that it had found that the bid submitted by Torrent was sub-optimal and that it was not eligible and compliant while also being below the threshold price.

Source: Financial Express

Read Full news at: <https://www.financialexpress.com/industry/4-indian-psus-outbid-adani-reliance-close-to-acquiring-lanco-power-plant-in-insolvency-proceedings/2912011/>



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