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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

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➤ **Related Party Status Must Be Determined On When Insolvency Proceedings Commence, Not By Historical Facts: NCLT Ahmedabad**

The National Company Law Tribunal, Ahmedabad bench of Mr. Shammi Khan (Judicial Member) and Mr. Sanjeev Kumar Sharma (Technical Member), held that related party status as per the Insolvency & Bankruptcy Code must be determined on the date of commencement of Insolvency Proceedings and not based on historical roles.

The Corporate Debtor, Sebacic India Limited, was incorporated on 10.09.2007. Between 2011 and 2018, venture Capital Funds, Wayzata III India Ocean Pvt. Ltd. and India Nivesh Renaissance Fund, held significant shareholdings in this company. On 15.05.2024, the National Company Law Tribunal admitted a petition filed by *Basil Enterprises*, an Operational Creditor, under **Section 9** of the Code and initiated insolvency proceedings against the Corporate Debtor.

Thereafter, **Mr. Manish Kumar Bhagat** was appointed as the **Interim Resolution Professional**. The IRP issued a public announcement and invited claims from creditors. After verifying the claims received, he constituted a CoC comprising five financial creditors, and **Sterling Auxiliaries Pvt. Ltd.** held the largest voting share with 48.84%.

Sterling claimed its status as a financial creditor based on a *bridge loan* of ₹16.73 crore provided in March 2023. The loan was given to settle corporate debtor's outstanding dues with the State Bank of India under a One-Time Settlement.

Source : Live Law

Read Full news: [Related Party Status Must Be Determined On When Insolvency Proceedings Commence, Not By Historical Facts: NCLT Ahmedabad](#)

➤ **Personal Guarantor's Liability Can't Exceed Contractual Limit: NCLT Kochi Dismisses Petitions U/S 95 IBC For Defective Demand Notices**

The **National Company Law Tribunal (NCLT), Kochi Bench** comprising **Smt. Madhu Sinha (Technical Member)** and **Shri. Vinay Goel (Judicial Member)** has held that where a guarantee agreement expressly limits the liability of the personal guarantor, any demand notice or invocation of guarantee which seeks to recover an amount exceeding such capped liability is invalid and cannot form the basis for initiating insolvency proceedings under Section 95 of the Insolvency and Bankruptcy Code, 2016.

The Tribunal held that a material inconsistency between the terms of the guarantee agreement and the demand or invocation notice renders the demand notice defective in law. In the absence of a valid and legally tenable demand, the condition precedent for triggering the insolvency process against personal guarantors under Section 95 of the IBC is not satisfied.

Source: Live Law

Read Full news: [Personal Guarantor's Liability Can't Exceed Contractual Limit: NCLT Kochi Dismisses Petitions U/S 95 IBC For Defective Demand Notices](#)

➤ **IBC Not A Recovery Mechanism, Additional Claims Of Interest Beyond Amount In Petition Cannot Justify Admission Of Insolvency Plea: NCLT Mumbai**

The **National Company Law Tribunal, Mumbai**, comprising Justice V.G. Bisht (Retd.) and Prabhat Kumar (Member - Technical), examined if a petition u/s 7 of the IBC could be admitted when the amount claimed in the petition is subsequently offered by the corporate debtor through a demand draft.

The bench dismissed the petition and observed that IBC is not a recovery mechanism and the additional claims of interest beyond the amount mentioned in the petition cannot justify admission.

Source: Live Law

Read Full news: [IBC Not A Recovery Mechanism, Additional Claims Of Interest Beyond Amount In Petition Cannot Justify Admission Of Insolvency Plea: NCLT Mumbai](#)

