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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Not how long, but how well you have lived is the main thing."

➢ NCLT New Delhi Dismisses Vatika One On One Insolvency Plea, Holds Assured Returns Not Operational Debt

The New Delhi National Company Law Tribunal (NCLT) on 23 July held that claims for assured returns and lease rentals under Builder Buyer Agreements do not qualify as "operational debt" under the Insolvency and Bankruptcy Code, 2016 (IBC), and that individual claims must meet the statutory threshold of Rs. 1 crore under Section 4 of the Code.

A Bench of Judicial Member Manni Sankariah Shanmuga Sundaram and Technical Member Reena Sinha Puri dismissed an insolvency petition filed against Vatika One On One Pvt. Ltd., holding that the claims arose from real estate investment agreements and did not fall within the statutory definition of operational debt. It observed:

"The claim is also not in the nature of employment dues or statutory dues payable to the Government or a local authority. The claim of the Applicants arises out of non-payment of assured monthly returns and lease rentals under the Builder Buyer Agreements. Such claim does not fall within the statutory definition of "operational debt" under Section 5(21) of the Code."

Harsh Vardhan Krishnatray, Tanuja Krishnatray and Radhika Krishnatray had filed the application as Operational Creditors seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against Vatika One On One Private Limited, the Corporate Debtor.

The Corporate Debtor, a group company of Vatika Limited, approached the Applicants between 2014 and 2016 to invest in three commercial units in its project, each measuring 500 sq. ft. of super area. The Applicants received brochures offering assured monthly returns of Rs. 151.65 per sq. ft. until completion of construction, followed by assured lease rentals of Rs. 130 per sq. ft. for three years or until the units were leased, as applicable.

Source: Live Law Biz
Read Full News: *NCLT New Delhi Dismisses Vatika One on One Insolvency Plea, Holds Assured Returns Not Operational Debt*

➢ Later Default After Repayment Extension Cannot Revive COVID-Period Insolvency Claim: NCLT Mumbai

The National Company Law Tribunal (NCLT) at Mumbai has recently held that a creditor cannot rely on a later failure to repay after giving a company extra time when the original default occurred during the COVID-19 period. A bench of Judicial Member Nilesh Sharma and Technical Member Sameer Kakar ruled that extending the repayment period does not erase or extinguish the original default.

"Moreover we are of the view that as according to proviso to Section 10A, no application shall ever be filed for initiation of Corporate Insolvency Resolution Process of Corporate Debtor for the default, which has occurred during the Section 10A period, by granting extension for making payment, the original default does not get erased or extinguished giving the option to the creditor to file an application for initiation of CIRP against the CD based on the fact that during the extended period of payment/repayment, the Respondent had failed to clear the default. In case the said interpretation is made, in our opinion, the same would be contrary to intent of the legislature as stated in proviso to Section 10A which states that for default under Section 10A period no such Application can ever be filed" the tribunal observed.

Source: Live Law Biz
Read Full News: *Later Default After Repayment Extension Cannot Revive COVID-Period Insolvency Claim: NCLT Mumbai*

➢ NCLT Ahmedabad Directs Zyngo EV Mobility To Hand Over 16 Leased EVs To Gensol EV Lease

The Ahmedabad National Company Law Tribunal (NCLT) on 27 July, partly allowed an application filed by the RP of Gensol EV Lease Ltd. and directed Zyngo EV Mobility Pvt. Ltd. to hand over 16 leased electric vehicles (EVs), along with their documents, keys and accessories.

A Bench of Judicial Member Shammi Khan and Technical Member Sanjeev Sharma held that a Resolution Professional (RP) can seek recovery of leased assets lying with a third party during the Corporate Insolvency Resolution Process (CIRP), while disputes over damages, vehicle condition, lease rentals and CIRP costs must be decided separately by the appropriate forum.

Source: Live Law Biz
Read Full News: *NCLT Ahmedabad Directs Zyngo EV Mobility to Hand Over 16 Leased EVs To Gensol EV Lease*