



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"The way to get started is to quit talking and begin doing."

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➤ **Future Retail: NCLT extends deadline till September 15 for completing insolvency**

oncompletion of the insolvency resolution process of debt-ridden Future Retail Ltd (FRL). The decision came on an application moved by the company's Resolution Professional before the tribunal's Mumbai bench seeking to exclude a period of 29 days from the process, according to a regulatory filing.

"NCLT on September 7, 2023, heard the application and granted the said exclusion of 29 days' from CIRP of FRL. Consequently, the last date for completion of CIRP of FRL is September 15, 2023," it said. CIRP refers to Corporate Insolvency Resolution Process. This is the third extension for FRL. Last month, NCLT extended the deadline to August 17 after allowing the plea of FRL to exclude 33 days from the CIRP. In April, NCLT had granted the company an extension of 90 days till July 15, 2023 for concluding the process.

The Insolvency & Bankruptcy Code (IBC) mandates the completion of CIRP within 330 days, which includes time taken during litigations. The insolvency proceedings against FRL was started by the tribunal on July 20, 2022.

As per Section 12(1) of the Code, a CIRP shall be completed within a period of 180 days from the date of initiation. However, NCLT may grant a one-time extension of 90 days. The maximum time within which CIRP must be completed, including any extension or litigation period, is 330 days.

Source: The Economic Times.

Read Full news at: <https://retail.economictimes.indiatimes.com/news/industry/future-retail-nclt-extends-deadline-till-september-15-for-completing-insolvency-process/103620689>

➤ **NCLAT Provides Clarity That IBC Is Not A Debt-Recovery Mechanism**

The National Company Law Appellate Tribunal has refused to entertain an insolvency petition filed by Tricolite Electrical Industries Ltd. against Wipro Ltd., offering clarity that the bankruptcy law can't be used as a means to recover debt against solvent companies.

The Chennai bench of the NCLAT, in its order last week, observed that there was a pre-existing dispute between the two parties regarding payment dues and, hence, the Insolvency and Bankruptcy Code was not made to be used as a "mere recovery legislation for creditors".

While the IBC deals with financially distressed corporate entities unable to repay debts, it excludes solvent companies and cases stemming from pre-existing disputes. Earlier, under the Companies Act, the courts tested the solvency of the corporate debtor and its ability to pay its debt, according to Padmaja Kaul, partner at IndusLaw. However, Kaul explained, under the IBC the test is limited to the existence of a debt and a default, and not a pre-existing dispute between the parties.

The Supreme Court has repeatedly held that the provisions of IBC cannot be used as a means to recover dues. In the Mobilix Innovations vs Kirusa Software case, the apex court decided that in a pre-existing dispute that is not spurious, hypothetical or illusory, the court has to reject the insolvency application filed against an entity.

Source: BQ Prime.

Read Full news at: <https://www.bqprime.com/business/nclat-provides-clarity-that-ibc-is-not-a-debt-recovery-mechanism>

➤ **Go First case: RP raises questions on timing of lease termination by lessors**

Senior Advocate Ramji Srinivasan, who appeared for the Resolution Professional (RP) of the grounded airline Go First, on September 12 alleged that the aircraft and engine lessors had terminated their leases only after knowing that the airline was filing a plea for voluntary insolvency resolution process.

Arguing at the National Company Law Tribunal (NCLT), Srinivasan noted that Go First had received communications terminating the leases after May 2, the date on which the airline announced its plan to enter insolvency. He therefore questioned the intent of the lessors in terminating the leases at this time, despite being aware of the airline's financial situation much before it announced its plan to file for insolvency.

Srinivasan made these arguments while NCLT was hearing a bunch of applications by Go First's aircraft and engine lessors asking to be exempted from the moratorium since they terminated the leases before the moratorium kicked in on May 10. Engine lessors SMBC and Engine Lease Finance BV made their arguments today. According to them, the moratorium does not apply to them since they had sent demand notices under the Insolvency and Bankruptcy Code, 2016 much before the airline filed for insolvency.

Source: Money Control.

Read Full news at: <https://www.moneycontrol.com/news/trends/legal/go-first-case-rp-raises-questions-on-timing-of-lease-termination-by-lessors-11354311.html>

➤ Coffee Day Enterprises shares crash after IDBI Trusteeship Services files insolvency petition

Shares of Coffee Day Enterprises Ltd (CDEL) crashed on the bourses on Monday after IDBI Trusteeship Services filed an insolvency petition with the Bangalore bench of the National Company Law Tribunal (NCLT) for alleged default of Rs 228.45 crore. The CDEL share ended at Rs 45.34, marking a loss of 14.57 per cent, or Rs 7.73, after tanking more than 18 per cent to a day's low of 43.35.

This came after the company disclosed in a regulatory filing that an application has been filed against it under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4 of the Insolvency and Bankruptcy Rules, 2019 by IDBI Trusteeship Services before the NCLT, Bangalore. Under Section 7 of the Insolvency and Bankruptcy Code (IBC), a financial creditor can get insolvency proceedings initiated against the corporate debtor concerned.

CDEL said it is seeking appropriate legal advice and will take all steps to protect its interest in the dispute. Last month, the Chennai bench of the National Company Law Appellate Tribunal (NCLAT) stayed the order of the NCLT to initiate insolvency proceedings against Coffee Day Global Ltd (CDGL), which owns and operates the popular Cafe Coffee Day outlets. CDGL is the subsidiary of CDEL

Passing an interim order, the Chennai bench of the NCLAT had issued notices to the interim resolution professional and its financial creditor IndusInd Bank and stayed the operations of the order passed by the Bangalore bench of the NCLT.

Source: The Telegraph Online.

Read Full news at: <https://www.telegraphindia.com/business/coffee-day-enterprises-shares-crash-after-idbi-trusteeship-services-files-insolvency-petition/cid/1965597>

