



INSOLVENCY PROFESSIONAL AGENCY
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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Strength does not come from physical capacity. It comes from an indomitable will."

➤ **Homebuyer Insolvency Threshold Must be Based on Actual Bookings, Not Proposed Units: NCLT Kolkata**

The Kolkata Bench of the National Company Law Tribunal (NCLT) on 9 October held that the threshold for admitting a homebuyer's insolvency petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC), must be determined on the basis of actual bookings as they stood on the date of filing, and not proposed units. Also, that post-filing changes could not affect the assessment of the statutory threshold.

A Bench of Judicial Member Bidisha Banerjee and Technical Member Rekha Kantilal Shah admitted Evanie Infrastructure Private Limited into the Corporate Insolvency Resolution Process (CIRP), holding that it had failed to establish the number of allottees on which it based its objection to the petition's maintainability. It observed: "we must evaluate the Applicants' numbers strictly as they stood on the date this petition was presented. Any subsequent cancellations, withdrawals, additions or post-filing changes cannot defeat the Applicants' right to proceed, nor can they affect this Tribunal's jurisdiction to decide the matter on its merits."

Evanie Eco Nest Home Buyers Association, comprising 59 homebuyers, approached the NCLT alleging that Evanie Infrastructure had failed to commence construction despite receiving payments from the homebuyers.

The Developer opposed the petition, contending that the project had 966 allottees and that the 59 applicants did not meet the minimum threshold of 10% of allottees prescribed under Section 7 of the IBC.

The Tribunal relied on the Supreme Court's ruling in *Manish Kumar v. Union of India*, (2021) ibclaw.in 16 SC, which held that Homebuyers must satisfy the statutory threshold as on the date of filing the Insolvency Application. Applying this principle, it held that the threshold calculation must rest on actual bookings or allotments rather than preliminary applications, promises or speculative figures.

Source: Live Law Biz

Read Full News: <https://www.livelawbiz.com/nclt/ibc-threshold-for-homebuyers-depends-on-actual-allotments-not-merely-proposed-units-nclt-kolkata-554286>

➤ **Dissenting Secured Creditors Entitled to Minimum Payment Based on Security Value: NCLT Mumbai**

The National Company Law Tribunal (NCLT), Mumbai, on 7 October held that a dissenting financial creditor is entitled to a minimum payment equivalent to the liquidation value of its security interest, and the Committee of Creditors (CoC) cannot cap this entitlement at the total value of the resolution plan.

A Bench of Technical Member Prabhat Kumar and Judicial Member Sushil Mahadeorao Kochey considered SBI's challenge to a CoC resolution that capped the bank's payment at the total Resolution Plan value instead of its minimum entitlement under the Insolvency and Bankruptcy Code (IBC).

Source: Live Law Biz

Read Full News: <https://www.livelawbiz.com/nclt/dissenting-secured-creditors-minimum-liquidation-value-cannot-be-capped-at-resolution-plan-value-nclt-mumbai-554255>

➤ **Disputed Interest Does Not Bar Section 9 IBC Plea If Principal Debt Exceeds ₹1 Crore: NCLT Allahabad**

The Allahabad Bench of the National Company Law Tribunal (NCLT) on 8 October held that a dispute over interest on delayed payments does not defeat insolvency proceedings when the admitted principal debt exceeds the statutory threshold under the Insolvency and Bankruptcy Code, 2016 (IBC).

A Bench comprising Judicial Member Praveen Gupta and Technical Member Ashish Verma admitted a Section 9 application filed by Boston Ivy Healthcare Solutions Private Limited against Zaneka Healthcare Limited, holding that the Corporate Debtor's admission of the principal liability established the debt despite its objections to interest and other aspects of the transaction.

Source: Live Law Biz

Read Full News: <https://www.livelawbiz.com/ibc/nclt-ahmedabad-admits-sharanam-infraproject-to-cirp-over-1035-crore-debt-rejects-restructuring-plea-554067>



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