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OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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"Life is not about having everything. It's about finding meaning in everything"

➤ **Coc Initiates Liquidation, Appeal Against Initiation Of CIRP Becomes Infructuous: NCLAT Delhi**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, comprising of Justice Anant Bijay Singh (Judicial Member) and Mr. Barun Mitra (Technical Member), while adjudicating an appeal filed in Mr. Rakshit Dhirajlal Doshi v IDBI Bank Limited, has held that an appeal challenging the order initiating CIRP becomes infructuous if the Committee of Creditors decided to liquidate the Corporate Debtor and accordingly an application for liquidation is filed.

Background Facts

Doshion Private Limited ("Corporate Debtor/Appellant") had obtained financial assistance amounting to Rs. 32.70 Crores from a Consortium of various banks and IDBI Bank Ltd. ("Financial Creditor/Respondent") was the lead bank in the Consortium.

The account of the Corporate Debtor was declared Non Performing Asset on 29.10.2015. On 19.12.2018, after 3 years of NPA classification, the Financial Creditor filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor. The Adjudicating Authority vide an order dated 31.08.2021 had admitted the petition and initiated CIRP. The Corporate Debtor had filed an appeal before NCLAT against the order dated 31.08.2021.

Contentions Of Appellant

The Appellant argued that the petition was not maintainable as it had not been instituted by the Financial Creditor. The petition was instituted by Assistant General Manager (AGM) as an alleged Authorized Signatory of the Bank. However, no Board Resolution or letter of authority had been annexed along with the petition authorizing the AGM to initiate CIRP under Section 7 of IBC.

The Financial Creditor/Bank submitted that the AGM was authorized by General Manager of IDBI Bank. The Adjudicating Authority had concluded that the AGM was

competent to file the Petition. Further, the Committee of Creditors had resolved to liquidate the Corporate Debtor. Accordingly, the Resolution Professional had filed application under Section 31 of IBC and the same is pending for consideration. As the CoC by applying its commercial wisdom, had already proposed liquidation of the Corporate Debtor Company, therefore, the appeal has become infructuous.

Decision Of NCLAT

The Bench observed that the appeal challenging the initiation of CIRP had become infructuous as the CoC had already decided to liquidate the Corporate Debtor. Also, an application was pending before the Adjudicating Authority for liquidation of the Corporate Debtor. "After hearing the parties and going through the pleadings made on behalf of the parties, we agree with the reasons given by the Adjudicating Authority while passing the impugned order and as the CoC has recommended for liquidation of the Company for which I.A. is pending before the Adjudicating Authority, hence this Appeal has become infructuous."

The Bench affirmed the Order dated 31.08.2021 passed by the Adjudicating Authority and dismissed the appeal.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclat-delhi-committee-of-creditors-liquidation-initiation-of-cirp-infructuous-213996>

➤ **Here is why bidders are keen on Future Group's logistics, warehousing arm**

Bidders appear keen to acquire the logistics and warehousing businesses of the Future group as it would give them a well-established nationwide presence apart from getting access to Future Retail's 300-odd stores.

Thirteen companies, including Reliance Retail Ventures and April Moon Retail Private, a joint venture of the Adani group and Flemingo group, have expressed interest in acquiring the bankrupt company, which is undergoing debt resolution under the Insolvency and Bankruptcy Code.

A source in the know of the matter said these companies have expressed their interest in Future Retail assets in the hope that they will acquire assets of Future Supply Chain Solutions, another listed entity, as well. The supply chain's warehouse in Nagpur has become the most attractive for most players who have sent their expressions of interest.

Future Supply Chain Solutions, which made a loss of Rs 700 crore in fiscal 2022, operates 65 distribution centres comprising a total area of 8.02 mn square feet and operates about 200-250 containerised line-haul and feeder trucks. The company has a pan-India network of 13 hubs and 123 branches and franchisees and services 11,780 pin codes across India. It also has a network of owned and wet-leased reefer trucks and 13 temperature-controlled distribution centres.

According to the document circulated to potential bidders, Future Retail's fixed assets comprised furniture, fixtures, and leasehold improvements at various leased retail stores. When the insolvency commenced in July, Future Retail had access to 302 leased retail stores across 23 states and union territories, consisting of 30 large format stores (Big Bazaar and FBB stores) and 272 small format stores.

In August 2020, when Reliance Retail first announced the acquisition of Future group businesses, it was buying the entire logistics, warehousing businesses and stores at an enterprise valuation of Rs 24,700 crore. The plan failed to take off after multiple litigations by US retail giant Amazon, which had a 50-per cent stake in a promoter entity of Future Retail.

Meanwhile, Future Supply Chain Solutions is witnessing an interesting chain of events with several directors, including the managing director, quitting the board in the last month after joining it in September. The company announced on September 19 that it had failed to sell its warehouse assets as it had yet to receive approvals from several stakeholders other than its shareholders. Hence, the sale was called off, and within days its managing director Mayur Toshniwal quit. Two other directors, Smita Neogi and Shinichi Kakiyama, a representative of Nippon Express, quit in the first week.

Lenders said the stage is set to send Future Supply Chain to bankruptcy court and sell its assets along with Future Retail, and a decision will be taken soon.

A top State Bank of India official said the situation at Future group is complicated, and it is unclear how the process will unfold considering the multiple litigations. As things stand, several stores have been taken over by Reliance which had leased its properties to Future stores.

"In other resolution cases like DHFL, the housing finance company had a running business and the bidders got ready platform and technology. But in the case of Future, it is different as whoever wins the race will have to negotiate with leading players and start afresh which is not easy," the banker said.

The lenders are already in talks with the Centre-backed National Asset Reconstruction Company Ltd to sell their debt. The banks have made a claim of Rs 21,450 crore against Future Retail.

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/here-is-why-bidders-are-keen-on-future-group-s-logistics-warehousing-arm-122111300303_1.html

