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"More is lost by indecision than wrong decision"

➤ **NCLT allows SBI petition seeking insolvency proceedings against Bil Energy**

The bankruptcy court has admitted BSE-listed Bil Energy Systems Ltd under the corporate insolvency resolution process (CIRP) and has appointed Anuj Bajpai as its interim resolution professional.

The Mumbai bench of the National Company Law Tribunal (NCLT) allowed the State Bank of India's petition to initiate the insolvency proceedings after the state-owned lender approached it in 2019 against the manufacturer of transformers parts following a default on dues of over Rs 167 crore.

"It is seen from the records available that the financial creditor has established that the various term loans/credit facilities were duly sanctioned and duly disbursed to the debtor but there is no payment of debt on the part of the corporate debtor (Bil Energy)," the bench headed by Justice PN Deshmukh and Shyam Babu Gautam said.

"Hence, owing to the inability of the Corporate Debtor to pay its dues, this is a fit case to be admitted." The company challenged the SBI plea, saying that the default occurred in 2014 and hence the bank ought to have filed the application within three years of the date of default.

"The applicant (SBI) failed to prefer the petition within the limitation of three years from the date of the cause of action (default) and thus the petition is barred by limitation," the counsel for Bil Energy argued.

Advocate Rohit Gupta, appearing for the lender, argued that the default had been corroborated by enough substantial evidence; therefore, the petition ought to be admitted and the insolvency resolution process be initiated. The tribunal, while admitting the plea, observed that the lender had placed on record the financial statements of the company from financial year 2014 to 2021, wherein the manufacturing company had acknowledged the debt owed to SBI.

As per the latest data from the Insolvency & Bankruptcy Board of India (IBBI), 5,893 companies were admitted under the CIRP till September-end this year. Of these, the highest - 39% or 2,298 companies - admitted for insolvency were from the manufacturing sector.

Manufacturing firms catering to power, renewable energy and automobiles have seen faster resolution and keen interest from bidders, especially for those companies which have a steady business and clientele, said Ashish Pyasi, associate partner, Dhir & Dhir Associates.

Bil Energy's clients include BHEL, Emerson Climate Technologies, Suzlon, Bharat Bijlee and Tecumseh Products, among others.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/energy/power/nclt-allows-sbi-petition-seeking-insolvency-proceedings-against-bil-energy/articleshow/96207867.cms?from=mdr>

➤ **Compromise Doubtful, Only To Benefit Related Parties, NCLAT Delhi Upholds Liquidation Of CD**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, comprising of Justice Ashok Bhushan (Chairperson), Dr. Alok Srivastava (Judicial Member) and Mr. Barun Mitra (Technical Member), while adjudicating an appeal filed in Bankey Bihari Infrahomes Pvt. Ltd. v Mr. Alok Kumar Kuchchal & Anr., has upheld the Adjudicating Authority's decision to proceed with liquidation of Corporate Debtor as the Scheme of Compromise & Arrangement submitted by the Appellant appeared to be doubtful and ostensibly to appropriate the land to the benefit of related parties of the Corporate Debtor.

Ratandeep Infrastructure Private Limited ("Corporate Debtor") was admitted into Corporate Insolvency Resolution Process ("CIRP") by the Adjudicating Authority vide an order dated 16.04.2019. Subsequently, an order for liquidation of Corporate Debtor was passed by the Adjudicating Authority on 31.01.2022 and Mr. Alok Kumar Kuchchal was appointed as the Liquidator.

Mr. Rakesh Kumar Agarwal, the director of Bankey Bihari Infrahomes Pvt. Ltd. ("Appellant"), had attempted through 'AIG Infratech Pvt. Ltd.' to submit a resolution plan for the Corporate Debtor. However, the attempt was made at a time when the Committee of Creditors had already decided to liquidate the Corporate Debtor and the application for liquidation was pending before the Adjudicating Authority. In July, 2021 AIG Infratech Pvt. Ltd. had filed an application seeking an order to submit a resolution plan.

The Adjudicating Authority dismissed the application while observing that "no useful purpose would be served in keeping IA 220/2021, when the COC had already resolved to liquidate the Corporate Debtor."

After commencement of liquidation on 31.01.2022, Mr. Rakesh Kumar Agarwal again requested the Liquidator vide a letter dated 03.03.2022 to submit a scheme of compromise and arrangement. The Liquidator expressed his inability to accept such a scheme in view of the ongoing liquidation process.

Thereafter, Mr. Rakesh Kumar Agarwal filed IA 115/2022 through another company 'Bankey Bihari Infrahomes Pvt. Ltd.' seeking permission of the Adjudicating Authority for submission of a scheme of compromise and arrangement.

The Adjudicating Authority vide an order dated 13.04.2022 disposed off the application while observing that, "The liquidator is expected to act in accordance with the Liquidation Process Regulations. The decision on the proposed scheme be taken within a period of three weeks' from today."

After expiry of the three weeks' time granted by Adjudicating Authority, the Liquidator published auction notice on 20.05.2022 for sale of Corporate Debtor's land. The Appellant submitted the Scheme of Compromise to the Liquidator on 24.05.2022.

Immediately thereafter, the Appellant filed an application (I.A. No. 154/2022) before the Adjudicating Authority, requesting stay of the auction process and directions to place the proposed Scheme before the Stakeholders Consultation Committee. The Adjudicating Authority vide an order dated 01.06.2022 allowed the Liquidator to proceed with the e-auction and did not allow any more time for consideration of the Scheme.

The Bankey Bihari Infrahomes Pvt. Ltd. ("Appellant") filed an appeal before NCLAT challenging the Order dated 01.06.2022.

The Appellant argued that the Liquidator had published the auction sale notice in disregard to the Adjudicating Authority's directions for considering of the scheme of compromise proposed by the Appellant. When the Appellant filed an application seeking stay of the auction process, the Adjudicating Authority refused to intervene in the process of e-auction and further directed the Liquidator to act with the view to maximize the value of the Corporate Debtor's land.

The Order dated 01.06.2022 was passed by the Adjudicating Authority without considering its earlier order regarding submission of the scheme of compromise and arrangement.

The Bench observed that Mr. Rakesh Kumar Agarwal, through different corporate entities, had attempted to intervene in the process of liquidation by filing the three interlocutory applications.

The Appellant neither submitted the Scheme of Compromise within the stipulated time, nor did he inform the Liquidator about the delay in submitting the scheme or seek any extension of time limit from the Adjudicating Authority. The intention and seriousness of the Appellant in submitting the Scheme appears to be doubtful.

It was observed that the purported Scheme proposed to make payments to a number of related parties, unsecured creditors and those who had not submitted claims, upto an extent of 100% of admitted claimed amounts. It was further proposed to make payments within 90 days of approval of scheme. Whereas, in the event of auction-sale, the payments would be made promptly to claims in accordance with the 'waterfall mechanism' under section 53 of IBC.

The Adjudicating Authority provided sufficient opportunity to the Appellant. However, the Scheme so presented by the Appellant was found to inflate the total payments by provisioning payments to creditors who are either related to the Corporate Debtor or for such creditors who had not filed legitimate claims in the liquidation process.

Therefore, the proposed payments were in effect not of greater value than the amount being offered by the successful bidder in the e-auction. "The said scheme, therefore, appears to be a 'fictional one' ostensibly to appropriate the land to the benefit of a select few who are related parties of the corporate debtor."

The Bench upheld the Adjudicating Authority's Order dated 01.06.2022 and the appeal was dismissed.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/compromise-doubtful-only-to-benefit-related-parties-nclat-delhi-upholds-liquidation-of-cd-216510>

➤ **4 Indian PSUs outbid Adani, Reliance; close to acquiring Lanco power plant in insolvency proceedings**

Four Indian state-run power companies are close to buying a 1,980 megawatt stranded power plant from collapsed conglomerate Lanco Infratech for \$364.84 million, outbidding Adani Group and Reliance Industries, three government sources said.

The state companies – Power Finance Corp Ltd (PFC), REC Ltd SJVN Ltd and Damodar Valley Corp (DVC) – aim to acquire the coal-fired power plant of Lanco Amarkantak in Chhattisgarh in central India, the sources said.

Lanco Amarkantak ran into financial difficulties after its Gurugram-based parent company Lanco Infratech collapsed. Lenders to the project, led by PFC, referred Lanco Infratech to

insolvency proceedings. This sale process marks the first time that power sector financiers PFC and REC have entered the bidding to take over management of a project and have outbid the big industrial conglomerates.

Only one of the three equal size units at the plant is functional, as the remaining two are still under construction. If the deal goes ahead, SJVN Ltd will be the majority shareholder in Lanco Amarkantak with 40%, while DVC will own a 10% stake, the sources said, adding that PFC and REC would continue to hold 25% each.

Power sector financiers PFC and REC are separately also working on setting up a project management subsidiary that will bid for stressed power assets with support from power developers like NTPC, SJVN and DVC.

Source: Financial Express

Read Full news at: <https://www.financialexpress.com/industry/4-indian-psus-outbid-adani-reliance-close-to-acquiring-lanco-power-plant-in-insolvency-proceedings/2912011/>

