



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"It is better to fail in originality than to succeed in imitation."

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➤ NCLAT dismisses IDBI Trusteeship's appeal against ZEEL promoter entity Cyquator

The National Company Law Appellate Tribunal (NCLAT) on September 14 dismissed an appeal by IDBI Trusteeship's appeal challenging an order refusing to initiate insolvency process against Cyquator Media Services, a promoter group company of Zee Entertainment Enterprises Ltd (ZEEL).

NCLAT dismissed the appeal after noting that default took place in the month of June 2020 which is covered under the period excluded under Section 10A of the Insolvency and Bankruptcy Code, 2016.

Section 10A mandates that no application for initiation of corporate insolvency resolution process (CIRP) can be filed against any debtor by any financial and operational creditor for any default arising on or after March 25, 2020, for a period of one year. On September 12, NCLAT dismissed IDBI Trusteeship's plea against another ZEEL company called Direct Media Ventures.

Essel Infraprojects a company belonging to the Essel group proposed to sell 425 non-convertible debentures worth ₹425 crore on a private placement basis in 2015. At the request of the Essel, the IDBI agreed to act as Debenture Trustee. A debenture trust deed was executed between IDBI Trusteeship and Essel, for which Cyquator Media and another Essel company called Direct Media Ventures stood as a corporate guarantor.

Source: Money Control

Read Full news at: <https://www.moneycontrol.com/news/trends/legal/nclat-dismisses-idbi-trusteships-appeal-against-zeel-promoter-entity-cyquator-11366991.html>

➤ **Bombay High Court seeks Attorney General response in challenge to IBC provisions on IRP appointment**

The Bombay High Court recently issued notice to Attorney General for India R Venkataramani in a petition challenging the constitutional validity of provisions of the Insolvency and Bankruptcy Code (IBC) which deal with the appointment of insolvency resolution professionals (IRPs).

A Bench of Justices BP Colabawalla and MM Sathaye ordered, "Since the constitutional validity of Sections 7(5) and 9(5) of the IBC are also challenged in the present Petition, notice is issued to the Attorney General of India returnable on September 27, 2023."

Insolvency professional Poonam Basak, who was suspended for three years from the Insolvency and Bankruptcy Board of India (IBBI), has moved the Court with this petition. Basak pointed out that the suspension created an illegibility against her from accepting any new appointment as IRP. The embargo that effectively suspends her ability to take up any assignment immediately upon issuance of a show cause notice, presupposes that the allegations are true until proven false, Basak argued in her petition.

"It is submitted that the embargo would amount to an unreasonable restriction on the fundamental right to practice a business/profession of one's choice and would be in clear violation of articles 14, 19 and 21 of the constitution," the plea highlighted. The provisions under challenge are Sections 7(5), 9(5), 16(2), 16(3), 16(4), 27(5), 82(1), 89(3), 97(1), 98(3), 98(5), 125(1), and 145(5). These provide for suspension of an insolvency professional without hearing, upon issuance of show cause notice.

Source: Bar and Bench

Read Full news at: <https://www.barandbench.com/news/bombay-high-court-attorney-general-notice-challenge-ibc-provisions-irp-appointment>

