



INSOLVENCY PROFESSIONAL AGENCY
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IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"The journey of a thousand miles begins with one step."

➤ Profitable Companies Can Face Insolvency Proceedings If They Default on Loans: Supreme Court

The Supreme Court on Thursday held that a company's profitability does not prevent insolvency proceedings under the Insolvency and Bankruptcy Code (IBC). A financial default, rather than commercial or balance-sheet insolvency, triggers the Corporate Insolvency Resolution Process (CIRP). "Profitability is neither legally relevant to, nor economically probative of, the capacity to service debt.

The Code proceeds upon the principle of timely intervention rather than terminal insolvency, and adopts 'default' under Section 3(12) of the Code, not commercial or balance-sheet insolvency, as the jurisdictional trigger," a bench of Justices Dipankar Datta and Augustine George Masih observed.

The court dismissed appeals filed by Deepak Raheja and another appellant challenging the National Company Law Appellate Tribunal's August 19, 2025 order. The tribunal had upheld the admission of insolvency proceedings against GSTAAD Hotels Pvt Ltd and Neo Capricorn Plaza Pvt Ltd. The dispute arose from loan facilities worth ₹600 crore extended by Piramal Finance to the two companies as co-borrowers under an agreement dated December 26, 2017.

The lenders assigned the loans to Omkara Asset Reconstruction in December 2022. After issuing recall notices, Omkara moved the NCLT in March 2023. The tribunal admitted the insolvency petitions in 2024, and the appellate tribunal upheld the orders in August 2025 after a fresh hearing. Before the apex court, the companies argued that they were profitable and had positive EBITDA.

The court rejected this, holding that Section 7 proceedings require proof of financial debt and default, not a detailed audit of every account entry. Disputes over the exact amount owed do not negate default if the statutory threshold is met.

Source: Live Law Biz

Read Full News: <https://www.livelawbiz.com/top-stories/ibc-profitability-of-corporate-debtor-irrelevant-to-insolvency-proceedings-once-default-is-established-supreme-court-554911>

➤ **NCLT Chennai Approves Pothys Retail's ₹43.02 Crore Resolution Plan For Arihant Retail**

The National Company Law Tribunal at Chennai has approved a resolution plan submitted by Pothys Retail Private Limited for Arihant Retail Private Limited, holding that the plan complies with the Insolvency and Bankruptcy Code and the applicable CIRP Regulations.

A coram of Judicial Member Sanjiv Jain and Technical Member Venkataraman Subramaniam approved the plan after noting that the Committee of Creditors had unanimously approved it with 100% of the voting share.

Source: Live Law Biz

Read Full News: <https://www.livelawbiz.com/nclt/national-company-law-tribunal-chennai-approves-pothys-retail-43-crore-resolution-plan-arihant-retail-private-limited-554914>

➤ **NCLAT Delhi Upholds CIRP Against Shri Paramsukh Edible Foods Based on GST Credit and TDS Records**

On 14 October, the National Company Law Appellate Tribunal (NCLAT) at Delhi upheld the admission of insolvency proceedings against Shri Paramsukh Edible Foods Pvt. Ltd., holding that tax deducted at source (TDS), claims of input tax credit (ITC) on goods and services tax (GST), and ledger entries established the supply of goods and the existence of an outstanding operational debt.

A Bench of Judicial Member Justice Sharad Kumar Sharma and Technical Member Indavar Pandey dismissed the appeal filed by the corporate debtor, observing: "...once there was an input tax credit claimed on the part of the GST paid as invoiced by the supplier, all these documents did show that the goods were actually supplied and received by the Appellant, and the minor change in the PIN Code in the invoices for the demand notice will not have any adverse bearing on the proceedings under Section 9 of the IBC Code."

Source: Live Law Biz

Read Full News: <https://www.livelawbiz.com/ibc/nclat-upholds-cirp-admission-against-shri-paramsukh-edible-foods-relies-on-tds-deductions-and-gst-input-tax-credit-554859>



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