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Latest updates On Insolvency & Bankruptcy

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➤ **SBI files insolvency petition against India's largest sugar firm Bajaj Hindusthan**

In the last fiscal year, the company had posted a consolidated net loss of Rs 267.54 crore and a turnover of Rs 5,607 crore. On August 12, the company reported that for the quarter ended June of this fiscal year, its net loss stood at Rs 45 crore and total income at Rs 1,538 crore.

SBI as a financial creditor has filed the plea before the Allahabad bench of the National Company Law Tribunal (NCLT). In a regulatory filing, Ltd informed that "we understand that, financial creditor through its advocate has initiated Corporate Insolvency Resolution Process of Bajaj Hindusthan Sugar Ltd." The petition has been filed under Section 7 of Insolvency and Bankruptcy Code 2016. In the last fiscal year, the company had posted a consolidated net loss of Rs267.54 crore and a turnover of Rs 5,607 crore.

On August 12, the company reported that for the quarter ended June of this fiscal year, its net loss stood at Rs 45 crore and total income at Rs 1,538 crore. "During the June '22 quarter, due to delayed payment of loan instalment and coupon rate interest on optionally convertible debentures the lenders have classified the company's account as Non-Performing Assets (NPA) as per the RBI regulations on loan classification. The lenders of the company have signed an ICA (Inter Creditors Agreement) on January 28, 2022 for resolution of the company's accounts, the company had said in the notes of accounts of financial statement for the first quarter. The debt restructuring as per RBI's S4A scheme has improved the company's liquidity position, it said. "However, keeping in view the status of outstanding cane dues and funds for servicing debt obligations, the company is further discussing with the lenders a debt resolution plan to have a lasting solution to improve its liquidity," Bajaj Hindusthan had said. The resolution plan envisages reduction of its overall debt, realignment of its capital structure, payment of cane dues of farmers, increasing cane availability and supply etc. "The company is also exploring/evaluating various options for corporate restructuring to streamline the business and enhance the company's value," Bajaj Hindusthan said. Bajaj Hindusthan Sugar Ltd is India's leading sugar and ethanol manufacturing company.

Part of the Bajaj Group (Kushagra), it is headquartered in Mumbai, Maharashtra. The company has fourteen sugar plants, all located in Uttar Pradesh. These plants have an aggregate sugarcane crushing capacity of 1,36,000 tonnes crushed per day and alcohol distillation capacity of 800 kilolitres per day.

It is also one of the largest producers of ethanol and currently produces 38 million litres of ethanol per year. The company has increased its ethanol manufacturing capacity to roughly 218 million litres per year. Bajaj Hindusthan said the company generates close to 430 MW of power from the bagasse produced at its sugar mills and supplies nearly 100 MW from it to the UP State Grid.

Additionally, it has five 90 MW coal-fired power plants adjacent to its sugar units which generate another 450 MW of electricity for the state grid.

Source: The Economic Times

Read Full news at: https://economictimes.indiatimes.com/news/company/corporate-trends/sbi-files-insolvency-petition-against-indias-largest-sugar-firm-bajaj-hindusthan/articleshow/93599085.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

➤ **Insolvency resolution plans should go beyond recast of liabilities: IBBI**

Insolvency resolution plans of businesses stitched together by committee of creditors should increase the value of the company over the years in a sustained way which needs strategies going beyond mere restructuring of liabilities, Insolvency and Bankruptcy Board of India (IBBI) has said.

In a message on its website, the bankruptcy rule maker said a resolution plan requires the committee of creditors to display great commercial wisdom. "Such value maximisation with sustained resolution requires strategies much beyond restructuring of liabilities. This requires tremendous commercial dexterity and acumen on the part of members of the CoC," IBBI said.

The regulator also said that with responsibility comes accountability and since the decisions of the committee of creditors impact the life of a firm and consequently its stakeholders, it needs to be fair and transparent in its decisions.

IBBI's views on the panel of creditors which decide on the future of a distressed company comes in the context of the efforts of policy makers to improve the outcome of bankruptcy resolution.

The committee of creditors has powers commensurate with its responsibilities, it said. Creditors can decide a haircut of any magnitude to any or all stakeholders required for rescuing the firm and to seek and choose the best resolution plan from the market, unlike other avenues that allow creditors to find a resolution only from existing promoters.

IBBI said a resolution plan can entail a change of management, technology, or product portfolio and acquisition or disposal of assets, businesses, or undertakings. It can also entail restructuring of the organisation, its business model or its ownership.

"Its decisions must increase the value of the firm, which is valued 100 at the commencement of the resolution process, to at least 101 the next year, 102 the year after, and so on," IBBI said.

The regulator is in the process of building awareness about the role played by the committee of creditors as an institution of public faith and to build the capacity of institutional creditors to ensure that the committee discharges its statutory duties and responsibilities with utmost care and diligence.

Source: Live Mint

Read Full news at: <https://www.livemint.com/industry/insolvency-resolution-plans-should-go-beyond-recast-of-liabilities-ibbi-11660646538416.html>

➤ **NCLT Mumbai Initiates Insolvency Against Topworth Urja & Metals, A Topworth Group Enterprise**

The National Company Law Tribunal ("NCLT"), Mumbai Bench, comprising of Justice P.N. Deshmukh (Judicial Member) and Shri Shyam Babu Gautam (Technical Member), while adjudicating a petition filed in Bank of Baroda v Topworth Urja & Metals Limited, has initiated Corporate Insolvency Resolution Process ("CIRP") against Topworth Urja & Metals Ltd. over a default of Rs. 218,14,20,222.95/- and has appointed Mr. Alok Kailash Saksena as the Interim Resolution Professional.

Topworth Urja & Metals Limited ("Corporate Debtor") is a company promoted by Mr. Abhay Lodha and belongs to the Topworth Group of companies, engaged in the iron and steel sector business. From 2015 onwards, the Bank of Baroda ("Financial Creditor") had disbursed term loan and working capital facilities to the Corporate Debtor, which were restructured by executing a Master Restructuring Agreement ("MRA") dated 30.03.2015. The Corporate Debtor failed to meet its payment obligations and had acknowledged a debt of Rs.1,51,96,40,085/- as an "Amount Outstanding as on 31.03.2018" towards the Financial Creditor in its Standalone Financial Statements for the period of 01.04.2017 to 31.03.2018.

On 01.02.2016, the Financial Creditor had issued a recall notice calling upon the Corporate Debtor to pay Rs.174.61 crores, however, the payments were not received. Therefore, in 2018 the Financial Creditor filed a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 ("IBC") before NCLT, Mumbai Bench, seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor, for a default of Rs.218,14,20,222.95/- as on 30.04.2018.

The Corporate Debtor argued that the Petition has been filed on the basis of an incorrect date of default and the alleged amount claimed was not due and payable. It

was contended that the default in the petition was based on the MRA, which stood revoked on 01.06.2016. Hence, as per the clauses of the MRA, after revocation the rights and liabilities of the parties fell back to the original facility agreements which were already declared NPA by the Financial Creditor.

The Adjudicating Authority opined that there was nothing on record to show that the MRA was revoked and hence a debt was admittedly due and payable. The Bench admitted the petition, initiated CIRP and appointed Mr. Alok Kailash Saksena as the Interim Resolution Professional.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclt-mumbai-section-7-of-the-insolvency-and-bankruptcy-code-corporate-insolvency-resolution-process-cirp-206640>

➤ **Moratorium Under Section 14 Of Insolvency And Bankruptcy Code, 2016 Is No Bar For Initiation Of Proceedings Under Section 66 Of The Code: NCLAT**

The National Company Law Appellate Tribunal (NCLAT) bench comprising of Justice Ashok Bhushan, Justice N Satyanarayana Murthy and Mr. Barun Mitra held that the moratorium imposed under Section 14 of the Insolvency & Bankruptcy Code, 2016 (Code/IBC) is not a bar for initiation of proceedings against the resolution professional of a company undergoing Corporate Insolvency Resolution Process (CIRP) under Section 66 of the Code.

NCLAT held that Section 14 and Section 66 are independent provisions incorporated for different purposes and therefore, these provisions have to be read independently to achieve the objective of the Code. A Petition under Section 7 of the Code was filed against HBN Foods Ltd. (Corporate Debtor) and CIRP was initiated and Mr. Jagdish Singh Nain was appointed as the Resolution Professional. During the inspection of the balance sheets of the Corporate Debtor, the Resolution Professional found that there are various transactions carried out between 2013-14 to 2018-19 with the intent to defraud the creditors of the Corporate Debtor.

Accordingly, the Resolution Professional filed an application under Section 66 of the Code against various related parties of the Corporate Debtor which also includes companies like HBN Home Colonizers Pvt. Ltd which was also undergoing CIRP and a moratorium under Section 14 of the Code was also imposed concerning HBN Home Colonizers. The NCLT vide its order dated 13.12.2021 allowed the Section 66 Application and directed the Respondents including the Resolution Professional of HBN Home Colonizers to make contribution of INR 2687.27 Crores jointly or severally. Aggrieved by the order of NCLT, the Resolution Professional of HBN Home Colonizers filed an appeal before the NCLAT under Section 61 of the Code.

The Appellant contended that the CIRP is already initiated against the HBN Home Colonizers vide order dated 24.07.2019 and therefore, by the virtue of moratorium imposed under Section 14 of the Code, no proceedings could be initiated against the HBN Home Colonizers for any fraudulent transactions under Section 66 of the Code.

It was contended on behalf of the Respondent that the Appellant despite being afforded numerous opportunity did not appear before the NCLT and therefore, the Appellant is not competent of file the present appeal before this Appellate Tribunal in the absence of pleadings.

It was further contended on behalf of the Respondent that the NCLT has the power under Section 60(5) of the Code to adjudicate such issues pertaining to the fraudulent transactions during the moratorium imposed under Section 14 of the Code.

Question Framed by NCLAT

After hearing the parties, NCLAT formed the point of law as follows; "Whether the Adjudicating Authority is competent to pass order under Section 66 of IBC during currency of moratorium under Section 14 of IBC? If, so whether the order in I.A. No. 2844/2020 dated 13.12.2021 is sustainable?"

Analysis/Decision by NCLAT

NCLAT noted the provisions of Section 14 of the Code and held that Section 14 prohibits institution and prosecution of proceedings against the Corporate Debtor but does not prohibit proceedings against the Resolution Professional of the Corporate Debtor. Furthermore, the Bench observed that both the provisions are independent in nature and incorporated for different purposes and thus, they should be construed harmoniously to give effect to the intendment of the Code and to make it workable. NCLAT also held that the order for making payment of INR 2687.27 Lacs was passed against the Appellant in its capacity as a Resolution Professional and not a corporate debtor and hence, there is no illegality in the order passed by NCLT.

Accordingly, NCLAT upheld the order passed by NCLT and dismissed the appeal.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclat-section-14-of-the-insolvency-bankruptcy-code-section-66-moratorium-nclt-resolution-professional-206639>

