



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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Latest updates On Insolvency & Bankruptcy

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"Good things take the time"

➤ **Certified Copy Preparation Period Can Be Excluded For Limitation Under Section 61 Of The Insolvency & Bankruptcy Code, 2016.**

The National Company Law Appellate Tribunal, Principal Bench comprising of Justice Ashok Bhushan and Mr. Barun Mitra recently held that the time taken for preparation of the certified copy of the order/judgment will be excluded for computation of limitation under Section 61 of the Insolvency and Bankruptcy Code, 2016. The Bench was hearing an appeal filed by the Appellant against the order dated 13.05.2022 passed by NCLT, Cuttack dismissing the application filed by the Appellant.

The Appellant filed the appeal before the NCLAT on 08.07.2022 and it was contended on behalf of the Appellant that the certified copy of the order was applied on 08.06.2022 which is within the period of 30 days from the impugned order and the certified copy was only supplied to Appellant on 09.05.2022 and thus the period of limitation under Section 61 of the Code will only starts from 09.06.2022.

The NCLAT rejected the contention of the Appellant on the ground that the Appeal under Section 61 of the Code shall be filed within a period of 30 days from the date of order and only a delay of 15 days can be condoned by the Appellate Tribunal. However, the Bench observed that the time period during which the certified copy was under preparation can be excluded for computing period of 30 days from the date of order.

"The Appellant is entitled to exclude the period for which certified copy was under preparation. Certified Copy was applied on 08th June, 2022 and delivered on 09th June, 2022 hence two days period is entitled to be excluded in computing the limitation". Accordingly, NCLAT held that the delay in filling the present appeal is beyond period of 15 days which cannot be condoned and thus dismissed the appeal filed by the Appellant.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclat-certified-copy-preparation-period-excluded-limitation-section-61-of-the-insolvency-bankruptcy-code-2016-206794>

➤ **Insolvency plea against Future Enterprises filed in NCLT**

Debt-ridden Future Enterprises Ltd said an operational creditor of the company has filed a plea before the National Company Law Tribunal to initiate insolvency proceedings against it. Future Enterprises Ltd (FEL), part of the Kishore Biyani-led Future Group, is facing difficulties like other firms of the group.

"Foresight Innovations Private Limited... Operational Creditors of the Company had filed an application under Section 9 of the Insolvency and Bankruptcy Code 2016 for an alleged default amount of Rs. 1.58 crore -with National Company Law Tribunal, Mumbai Bench (NCLT)," Future Enterprises said in a regulatory filing.

The next date of hearing is 26 August, 2022, it added.

Section 9 of the Insolvency and Bankruptcy Code (IBC) gives power to operational creditors of a company to initiate corporate insolvency resolution process in case of a default. On Tuesday, its Non-Executive Director Chandrapraksh Toshniwal resigned from the board of directors. FEL was part of the 19 group companies operating in retail, wholesale, logistics and warehousing segments which were supposed to be transferred to Reliance Retail as part of a ₹24,713-crore deal announced in August 2020.

The deal was called off by the billionaire Mukesh Ambani-led Reliance Industries Ltd in April. It had recently committed several defaults on payment of interest on its several non-convertible debentures. The NCLT has already initiated insolvency proceedings against Future Group's flagship firm Future Retail Ltd.

Meanwhile, E-commerce major Amazon has moved Supreme Court against an order of the NCLAT, which upheld fair trade regulator CCI's decision to suspend its approval for investment in a Future Group company.

The National Company Law Appellate Tribunal (NCLAT) on June 13 rejected Amazon's plea challenging the decision of the Competition Commission of India (CCI) to suspend the approval for the e-commerce major's deal with Future Coupons and directed the company to pay over ₹200 crore penalty imposed on it, within next 45 days.

The said order has now been challenged by Amazon before the apex court. In its petition, a copy of which has been seen by PTI, the e-commerce major has said the NCLAT order has several glaring defects and suffers from a total non-application of mind by the appellate tribunal. The matter is expected to be listed next week before the apex court. In December last year, the CCI suspended the approval given by it in 2019 for Amazon's deal to acquire a 49 per cent stake in Future Coupons Pvt Ltd (FCPL). The regulator had said that Amazon suppressed information while seeking clearances for the transaction back then and also slapped a fine of ₹202 crore on the company. This includes a ₹200 crore penalty for Amazon to notify the combination in the requisite terms and two penalties of ₹1 crore each for suppressing the actual scope and purpose of the combination. The CCI order was challenged by Amazon before the NCLAT, an appellate authority over the fair trade regulator, which in turn upheld the findings. The NCLAT said the e-commerce major "has not made full, whole, forthright and frank disclosures of relevant materials and had furnished only limited details / disclosures, pertaining to its 'acquiring strategic rights and interests' over 'FRL (Future Retail Ltd)' and executing the commercial contract.

In this regard, this appellate tribunal is in complete agreement with the view arrived at by the first respondent (CCI)... ", NCLAT had said.

Source: *Live mint*

Read Full news at: <https://www.livemint.com/companies/news/insolvency-plea-against-future-enterprises-filed-in-nclt-11660780683624.html>

➤ **Insolvency regulator to pass regulations by month end to reduce delays, improve resolution value**

The new regulations by IBBI will be based on consensus received from stakeholders

Insolvency regulator IBBI is likely to come out with regulations on the basis of the discussion paper circulated earlier to reduce delays and improve the resolution value under the corporate insolvency resolution process (CIRP) by the end of this month.

According to Ravi Mittal, Chairperson, IBBI, regulations would be issued on the basis of consensus received from stakeholders on the discussion paper floated earlier. IBBI had recently published a discussion paper aimed at reducing delays and improving resolution value by bringing in some changes including change in timelines for activities under CIRP and providing guiding factors for the CoC (committee of creditors) to decide on early liquidation among others.

"We had months of discussion with all stakeholders and tried to come with a consensus. We should be able to issue regulations by the end of this month," Mittal said at the 6th edition of "Conference on Insolvency and Bankruptcy Code" organised by the Confederation of Indian Industry virtually on Wednesday.

1,852 cases still ongoing under CIRP, As on March 31, 2022, as many as 5,258 cases have been admitted under the CIRP process. Of these, nearly 1,609 have ended up in liquidation, around 480 cases have been resolved while close to 1,852 cases are still ongoing, as per IBBI data.

Most of the cases admitted have been filed by the operational creditors (2,699) and the financial creditors (2,236) while only around 319 cases were filed by the companies themselves. The average realisation for a financial creditor post resolution has been on a declining trend and is close to 24 per cent, as compared to around 50 per cent witnessed in the first 8-10 cases.

Manufacturing sector accounts for nearly 40 per cent of the total cases admitted; construction accounts for 11 per cent while real estate makes up another 20 per cent. Cases being withdrawn increasingly, According to Rohit Kapoor, Member (Judicial), NCLT Kolkata, there has been an increase in instances of withdrawal of cases over the last few weeks. "We have been noticing over the past few weeks that we admit petitions, appoint resolution professional but before the CoC is formed they want to withdraw. It looks like the promoter or corporate debtor has realised that there is no escape route so either manage to pay or face CIRP," he said. The Reserve Bank of India had in early October last year superseded the boards of SIFL and its wholly-owned subsidiary SEFL.

Source: The Hindu Business Line

Read Full news at: <https://www.thehindubusinessline.com/money-and-banking/insolvency-regulator-to-pass-regulations-by-month-end-to-reduce-delays-improve-resolution-value/article65779291.ece>

➤ **IBBI likely to issue more regulations by August-end to streamline CIRP**

The new set of regulations will aim at further streamlining the Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, says IBBI chairperson Ravi Mital.

The Insolvency & Bankruptcy Board of India (IBBI) on Wednesday said it will issue some more regulations after getting elaborate feedback from the public in the form of discussion papers floated recently.

The new set of regulations will aim at further streamlining the Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code (IBC). It will also target to reduce delay and improve the resolution value, IBBI chairperson Ravi Mital said.

"We will issue the regulations by the end of this month," Mital said while addressing a CII virtual meeting on IBC.

Responding to issues raised in the discussion papers and pointed out by CII Co-Chairman (ER), economic affairs, corporate finance & Taxation sub-committee, Bijay Murmuria, he said that the new norms will attempt to address many concerns of banks.

The new regulations will be on changes in timelines for activities under CIRP, guiding factors for the Committee of Creditors (CoC) to decide on early liquidation, and remuneration of Resolution Professionals, Mital said.

NCLT Kolkata Member (Judicial) Rohit Kapoor said, "We are on the right track. Teething problems will be there as there will be solutions, and IBBI is already taking proactive measures."

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/ibbi-likely-to-issue-more-regulations-by-august-end-to-streamline-cirp-122081701313_1.html

