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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Work hard in silence, let your success be your noise."

➢ Individual Consortium Lender Can Initiate Insolvency Proceedings Against Personal Guarantor: NCLT Delhi

The New Delhi Bench of the National Company Law Tribunal (NCLT) has held that an individual consortium lender can initiate Insolvency Resolution proceedings under the Insolvency and Bankruptcy Code (IBC) against a Personal Guarantor without requiring all consortium lenders to jointly institute the proceedings.

Judicial Member Manni Sankariah Shanmuga Sundaram and Technical Member Reena Sinha Puri rejected the objections raised by Amit Sethi, a Personal Guarantor of Santosh Overseas Limited, and admitted the application filed by State Bank of India (SBI) under Section 95 of the IBC.

The Tribunal observed: *"Section 95 permits a creditor to file an application either by itself, jointly with other Creditors, or through a Resolution Professional. The provision does not require all consortium lenders to collectively institute proceedings against a Personal Guarantor"*

SBI had extended loan facilities to Santosh Overseas Limited from 2015, secured, among other things, by Sethi's personal guarantee. The borrower defaulted and its account was classified as a non-performing asset (NPA) on 31 March 2017.

Subsequently, SBI issued a demand notice to Sethi on 29 June 2021, but he failed to discharge the liability. SBI subsequently filed an application under Section 95(1) of the IBC. The NCLT appointed Deepak Mittal as the Resolution Professional (RP) under Section 99 by an order dated 30 July 2024.

The RP recommended initiation of Insolvency Proceedings against Sethi. Sethi opposed the application, contending that it was deceptive, barred by limitation and inconsistent with the notice issued under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI Act).

Source: Live Law Biz
Read Full News : *Individual Consortium Lender Can Initiate Insolvency Proceedings Against Personal Guarantor: NCLT Delhi*

NCLT Indore Admits Marvel Industries Insolvency Plea Against Flexituff Technology

The Indore bench of the National Company Law Tribunal (NCLT) has initiated Insolvency Proceedings against FIBC manufacturer Flexituff Technology International Ltd.

The tribunal found that the company had acknowledged an Operational Debt of ₹1.92 crore, made part-payment and issued post-dated cheques towards the balance, three of which were dishonoured.

The order was passed by the bench of Judicial Member Brajendra Mani Tripathi and Technical Member Man Mohan Gupta.

Source: Live Law Biz
Read Full News: *NCLT Indore Admits Marvel Industries Insolvency Plea Against Flexituff Technology*

Mere Commercial Association, Historical Linkage Cannot Make Entity Related Party Under IBC: NCLT Chennai

The Chennai Bench of the National Company Law Tribunal (NCLT) has held that mere commercial association, historical linkage or institutional connection cannot, by itself, make an entity a "Related Party" under Section 5(24) of the Insolvency and Bankruptcy Code, 2016 (IBC).

A Division Bench comprising Judicial Member Jyoti Kumar Tripathi and Technical Member Ravichandran Ramasamy on 27 July set aside the classification of SREI Equipment Finance Limited (SEFL) and SREI Infrastructure Finance Limited (SIFL) as related parties of AMRL Hitech City Limited and directed their inclusion in the Committee of Creditors (CoC).

Source: Live Law Biz
Read Full News: *Mere Commercial Association, Historical Linkage Cannot Make Entity Related Party Under IBC: NCLT Chennai*