



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



IBC AU-COURANT

Latest updates On Insolvency & Bankruptcy

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"If you cannot do great things, do small things in a great way."

➤ Govt proposes slew of changes to insolvency law

To further strengthen the insolvency law regime, the government on Wednesday proposed a raft of changes, including fast-tracking the process, expanding the scope of the prepackaged framework and developing an electronic platform with minimal human interface.

The Insolvency and Bankruptcy Code (IBC), which came into force in 2016, provides for a market-linked and time-bound resolution of stressed assets. The Code has already undergone various amendments.

"To strengthen the functioning of the IBC, changes to the code are being considered in relation to the admission of corporate insolvency resolution process (CIRP) applications, streamlining the insolvency resolution process, recasting the liquidation process, and the role of service providers under the Code," the ministry said in a notice.

Among other changes, the corporate affairs ministry has suggested developing a state-of-the-art electronic platform that can handle several processes under the Code with minimum human interface.

"It is being considered that this e-platform may provide for a case management system, automated processes to file applications with the AAs, delivery of notices, enabling interaction of IPs (Insolvency Professionals) with stakeholders, storage of records of CDs (Corporate Debtors) undergoing the process, and incentivising participation of other market players in the IBC ecosystem," the notice said.

The ministry has also proposed redesigning the Fast-Track Corporate Insolvency Resolution Process (FIRP) to allow financial creditors to drive the insolvency resolution process for a CD outside of the judicial process while retaining some involvement of the Adjudicating Authority (AA) to improve the legal certainty of the final outcome.

"It is being considered that the provisions dealing with FIRP may be amended to provide that unrelated FCs of a CD may select and approve a resolution plan through an informal out-of-court process and involve the AA only for its final approval (or a moratorium, if needed).

"Insolvency resolution through this procedure will be available for CDs with such asset size as notified by the central government. Further, the resolution plan approved through this procedure will have the same sanctity as a regular plan approved during the CIRP (Corporate Insolvency Resolution Process)," the notice said.

Certain changes with respect to the resolution process for real estate projects have also been proposed. "When an application is filed to initiate the CIRP in respect of a CD who is the promoter of a real estate project, and the default pertains to one or more of its real estate projects; the AA, at its discretion, shall admit the case but apply the CIRP provisions only with respect to such real estate projects, which have defaulted.

"Accordingly, such projects shall be recognised as distinct from the larger entity for the limited purpose of the resolution," it noted. Another proposal is to enable a resolution professional to transfer the ownership and possession of a plot, apartment or building to the allottees with the consent of the CoC (Committee of Creditors).

"It is observed that allottees may, during a CIRP or a project-specific resolution process as being considered herein, request ownership and possession of a completed unit of the real estate project, which cannot be permitted during the moratorium under the Code," the notice said.

Further, the ministry said, it is being considered that the right of a CD to propose an IRP should be done away with and in such instances, the IRP concerned should be appointed by the AA on the recommendation of the IBBI.

Mani Gupta, Partner at Sarthak Advocates & Solicitors, said the proposed amendments to the Code are a step in the right direction.

"Keeping the Fast-Track CIRP outside the judicial process may help in quicker disposal of the CIRP, however, care will have to be taken to ensure that interests of stakeholders other than the financial creditors are duly protected within the framework provided in the IBC.

A limited role for adjudicating authority in approving the final plan is perhaps intended for that," he added.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/news/economy/policy/govt-proposes-slew-of-changes-to-insolvency-law/articleshow/97094004.cms>

➤ **NCLT Mumbai Approves Promoter's Resolution Plan For Srithik Ispat Pvt. Ltd.**

The National Company Law Tribunal ("NCLT"), Mumbai Bench, comprising of Shri Kishore Vemulapalli (Judicial Member) and Shri Manoj Kumar Dubey (Technical Member), while adjudicating a petition filed in Swastik Coal Corporation Pvt. Ltd. v Srithik Ispat Pvt. Ltd., has approved the resolution plan submitted by the Promoter of the Corporate Debtor (Srithik Ispat Pvt. Ltd.). The Corporate Debtor is engaged in the business of iron sponge manufacturing in Goa.

Background Facts

Srithik Ispat Pvt. Ltd. ("Corporate Debtor") is a Micro, Small, Medium Enterprise (MSME) company, engaged in the business of manufacturing sponge iron in Goa, Maharashtra. Swastik Coal Corporation Pvt. Ltd. ("Operational Creditor") filed a petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor. On 30.09.2019 the Adjudicating Authority initiated CIRP against the Corporate Debtor. Mr. Raj Kumar Dad was appointed as an Interim Resolution Professional (IRP) and later confirmed as the Resolution Professional.

Approval Of Resolution Plan

A resolution plan was submitted by the Promoter of the Corporate Debtor, Mrs. Girija Agarwal ("Successful Resolution Applicant/SRA"), which was approved by the Committee of Creditors (CoC) on 06.03.2021. The Resolution Plan submitted by the SRA is for a total amount of Rs. 8,70,00,000/-. The plan proposes to pay the Secured Financial Creditors Rs. 8,20,00,000/- as against the admitted amount of Rs. 32,63,64,000/-. The operational creditors (Government) are proposed to be paid Rs. 7 Lakhs as against an admitted claim of Rs. 10,44,83,597/-. While operational creditors other than the Government, Employees and Workmen are proposed to be paid Rs. 1,50,000/- as against an admitted amount of Rs. 4,17,00,000/-.

No salary or wages dues are proposed to be paid to the workers. Further, the statutory dues towards labour (including PPF dues being more than 2 years old) are covered under Operational Creditors (Statutory Creditors). Hence, no amount is to be paid towards the same. The Resolution Professional filed an application under Section 31 of IBC before Adjudicating Authority for approval of the resolution plan.

The Adjudicating Authority vide an order dated 11.01.2023 has approved the Resolution Plan submitted by the Corporate Debtor's Promoter.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/journalists-not-exempted-disclosing-sources-investigating-agencies-delhi-court-219340?infinitescroll=1>

➤ **Vedanta emerges successful bidder for Meenakshi Energy; to pay ₹1,440 crore for acquisition**

Vedanta Ltd has emerged as the successful bidder for Meenakshi Energy Ltd under bankruptcy proceedings and will pay ₹1,440 crore for acquiring it, the company said in an exchange filing on Wednesday.

Meenakshi Energy owns a 1,000 MW coal-based power plant in Nellore, Andhra Pradesh. Of this, phase 1 of 300 MW unit has been completed while the remaining 700 MW is yet to be tested and declared fit for commercial operations.

Anil Agarwal-owned Vedanta plans to operate the power plant of the bankrupt company as an independent power producer and will be entering into power purchase agreements with customers.

The total consideration will be paid partly in cash and through subscription to non-convertible debentures that will be issued by Meenakshi Energy. The cash component of ₹312 crore will be paid upfront.

The NCDs will mature in five equal instalments over five years. Meenakshi Energy, set up in 1996, went into insolvency in 2019. As on March 31, 2022, of the ₹12,944 crore worth of claims submitted only ₹4,625 crore were admitted.

State Bank of India led the list of lenders with claims of around ₹1,900 crore. The company reported revenues of ₹201 crore in FY22, ₹95 crore in FY21 and ₹12 crore in FY20.

Vedanta said that the committee of creditors approved its bid on Wednesday.

The approval of the National Company Law Tribunal is still pending and the acquisition is expected to be completed next fiscal year.

On Wednesday, Vedanta shares ended 1.95 per cent higher at ₹324.15 on the National Stock Exchange.

Source: The Hindu Business line

Read Full news at: <https://www.thehindubusinessline.com/companies/vedanta-emerges-successful-bidder-for-meenakshi-energy-to-pay-1440-crore-for-acquisition/article66398214.ece>

