



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"There's no shortage of remarkable ideas, what's missing is the will to execute them."

➤ Insolvency Law Will Prevail Over Electricity Act, Says Supreme Court

The Insolvency and Bankruptcy Code overrides the provisions of the Electricity Act, 2003, the Supreme Court said. It said so in an appeal filed by Paschimanchal Vidyut Vitran Nigam Ltd. against an order of the National Company Law Appellate Tribunal. The company is a subsidiary of Uttar Pradesh Power Corp. Ltd.

The dispute pertained to unpaid electricity dues that Raman Ispat Pvt. owed to Paschimanchal Vidyut. This led PVVNL to get an order of attachment of Raman Ispat's property in its favour. Subsequently, Raman Ispat went into liquidation, and its liquidator argued before the tribunal that the attached property be released immediately, as whatever dues are owed to PVVNL will be distributed in accordance with the IBC.

The NCLAT agreed with the liquidator's view and ordered the release of the property with immediate effect. This prompted PVVNL to approach the apex court. It argued before the court that the Electricity Act exercised primacy over IBC and that it could opt to stay out of the liquidation process and recover its dues independently under the act.

However, the top court was not inclined to accept this argument and held that provisions of the Electricity Act cannot have primacy over the IBC. The court went on to explain the waterfall mechanism, as envisaged under the IBC, for recovering dues from a company in liquidation. In essence, the mechanism lists out a hierarchy of the order of distribution of assets for a company under liquidation.

Source: BQ Prime.

Read Full news at: <https://www.bqprime.com/amp/business/insolvency-law-will-prevail-over-electricity-act-says-supreme-court>

➤ **Lien Created On CD'S Account Prior To CIRP Cannot Continue After Moratorium Is Imposed U/S 14 Of IBC: NCLT Mumbai**

The National Company Law Tribunal (NCLT), Mumbai Bench, comprising of Shri. Kuldip Kumar Kareer (Judicial Member) and Smt. Anuradha Sanjay Bhatia (Technical Member), while adjudicating a petition filed in the matter of Rani Agro Private Limited v S & H Gears Private Limited, has held that the lien created on the Corporate Debtor's account prior to initiation of CIRP cannot sustain after moratorium is imposed under Section 14 of IBC post CIRP commencement, as it will hinder the entire resolution process. The Bench has set aside the lien created by Regional Provident Fund Commissioner on the Corporate Debtor's bank account prior to commencement of CIRP.

The Employees Provident Fund and Miscellaneous Provisions Act, 1952 ("EPF Act") was applicable to S & H Gears Private Limited ("Corporate Debtor"). An inquiry was initiated under Section 7A of the EPF Act and Regional Provident Fund Commissioner found Rs. 3,10,68,057/- to be outstanding from the Corporate Debtor.

Source: Live Law.

Read Full news at: <https://www.livelaw.in/amp/ibc-cases/lien-created-on-cds-account-prior-to-cirp-cannot-continue-after-moratorium-is-imposed-us-14-of-ibc-nclt-mumbai-232973>

➤ **Jharkhand High Court Rejects ESL Steel's ITC Claim Prior To The Approval Of The Resolution Plan By NCLT**

The Jharkhand High Court rejected ESL Steel's Input Tax Credit (ITC) claim prior to the approval of the resolution plan by the National Company Law Tribunal (NCLT). The bench of Justice Rongon Mukhopadhyay and Justice Deepak Roshan has observed that the liability of the earlier management may not be shifted to the current management as the current management was not a taxpayer during the period of procurement of inputs or capital goods as availed in the TRAN-1 filed on November 30, 2012.

Source: Live Law.

Read Full news at: <https://www.livelaw.in/high-court/jharkhand-high-court/jharkhand-high-court-esl-steels-itc-claim-prior-resolution-plan-nclt-232946>

