



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Don't let yesterday take up too much of today."

"Don't let yesterday take up too much of today."

➤ NCLT orders liquidation of Overnite Express with immediate effect

The NCLT on Monday ordered the liquidation of Overnite Express after admitting the plea of its lender Deutsche Bank AG against a resolution plan submitted by a member of the debt-ridden company's suspended board.

While the Insolvency and Bankruptcy Code (IBC) bars promoters of a corporate debtor from submitting a resolution plan under the CIRP, there is relaxation for MSMEs. The resolution plan was submitted citing that the company is an MSME under the Corporate Insolvency Resolution Process.

A two-member bench of the National Company Law Tribunal (NCLT) ordered the liquidation of corporate debtor Overnite Express "with immediate effect" as a time frame of more than 330 days of the Corporate Insolvency Resolution Process (CIRP) has already elapsed.

It also appointed Tarun Jain as liquidator of the corporate debtor to carry on the liquidation process as per the relevant provision of the IBC 2016.

A resolution plan was submitted on behalf of a member of the suspended board of Overnite Express, claiming that the corporate debtor falls under the MSME category in terms of the central government's notification dated June 1, 2020.

Source: Business Standard

Read Full news at: https://www.business-standard.com/companies/news/nclt-orders-liquidation-of-overnite-express-with-immediate-effect-123091801227_1.html

➤ **Moratorium Under IBC Does Not Bar Payment Of Fees To Arbitrator Due Prior To Moratorium: Madras High Court**

The High Court of Madras has held that the moratorium under Section 14 of the Insolvency and Bankruptcy Code, 2016 does not affect the payment of fees to the arbitrator for the award passed before the moratorium was declared.

The bench of Justice Abdul Quddhose has held that mere initiation of insolvency proceedings against an entity should not be a ground to deny the legitimate fees to the arbitral tribunal. It observed that arbitrators provide essential services which are saved by Section 14(2) of the IBC. Moreover, it observed that when the award has been passed against the corporate debtor (CD) and the lien has been exercised by the arbitrator against the CD, the payment of arbitrator's fees would be treated as part of costs of CIRP as it would enable the CD to challenge an unfavourable award.

Source: Live Law

Read Full news at: <https://www.livelaw.in/high-court/madras-high-court/moratorium-under-ibc-does-not-bar-payment-of-fees-to-arbitrator-due-prior-to-moratorium-madras-high-court-238035>

➤ **Telecom Bill loses IBC, fee waiver provisions**

In the face of objections from the ministries of finance, corporate affairs, and commerce and industry, the department of telecommunications (DoT) has decided to drop provisions relating to insolvency of telecom operators and defaults in payment of licence fee, from the draft Telecom Bill.

The ministries had said DoT cannot make laws on subjects which do not fall solely in its domain and have revenue implications for the government. A provision in the draft Bill had said that in the event of insolvency proceedings against a telecom service provider, the company needs to pay dues owed to the government, or else spectrum assigned to it will be taken back.

Source: The Financial Express

Read Full news at: <https://www.financialexpress.com/business/industry-telecom-bill-loses-ibc-fee-waiver-provisions-3247735/>

