



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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Latest updates On Insolvency & Bankruptcy

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"Life is like a bicycle, To keep your balance you must keep moving."

➤ **NCLT admits listed coaching firm MT Educare under Corporate Insolvency Resolution Process**

A bankruptcy court has admitted the listed MT Educare, formerly known as Mahesh Tutorials, into the corporate insolvency resolution process (CIRP) and appointed Ashwin Bhavanji Shah as the interim resolution professional for the Mumbai-based coaching firm.

The Mumbai bench of the National Company Law Tribunal (NCLT) allowed the company's operational creditor Connect Residuary to initiate the insolvency proceedings. The operational creditor had approached the bankruptcy court in November last year after the company defaulted on its dues of about Rs 5.37 crore.

"This bench after hearing the submissions of both sides and upon perusing the material available on record is thoroughly convinced that the operational creditor (Connect Residuary) has successfully demonstrated the existence of 'debt' and 'default' committed by the corporate debtor (MT Educare) in this case," observed the bench of HV Subba Rao and Anuradha Sanjay Bhatia in an order of December 16.

As per the stock exchange filing, during FY 2022, the company reported revenue of Rs 30.40 crore and a loss of 25.17 crore. In FY2019, the company reported total revenue of over Rs 249 crore and a profit of 9.12 crore. Before the tribunal's order, Nausher Kohli, counsel for MT Educare, had argued that the coaching institute was adversely affected by the COVID-19 pandemic.

"The object of the insertion of section 10A (in IBC) was to safeguard the companies from the serious repercussions on its financial health on the account of COVID-19," argued the counsel for the listed coaching institute.

Due to the COVID-19 pandemic, the government introduced Section 10 A, in the Insolvency & Bankruptcy Code (IBC), which said that no application for initiation of the CIRP of a company shall be filed for any default arising on or after March 25, 2020, for a period of six months or such further period, not exceeding one year from such date.

The coaching class chain also argued that it is a listed company in the business of education and has extremely sound and prosperous financial health. The Mumbai-based company provides employment to nearly 900 employees across India and has more than 52 active tutorial classes spread all over the country.

The counsel for the operational creditor had argued that the company had defaulted from July/August 2019 onwards in payment of rent instalments and other monies.

The tribunal, while allowing the petition to admit the company, observed that from the email address by MT Educare to its creditor, except pleading mercy in reducing a certain amount of rent and also expressing their financial difficulties due to COVID-19, did not raise any pre-existing disputes.

Source: *The Economic Times*

Read Full news at: <https://economictimes.indiatimes.com/news/company/corporate-trends/moonlighting-staff-cant-take-up-work-thats-against-companys-interests-says-govt/articleshow/96356623.cms>

➤ **Circular in works on tax recovery from cos under IBC**

The government will issue a circular to facilitate recovery of tax dues from companies undergoing insolvency that may require new buyers to settle "agreed tax claims" while a resolution package is approved.

The revenue department will discuss the necessary changes with the Ministry of Corporate Affairs (MCA) that administers the Insolvency and Bankruptcy Code (IBC). The move is aimed at providing clarity following a Supreme Court judgement.

The issue was discussed at the Goods and Services Tax Council meeting Saturday, and it was agreed that more clarity was required regarding the treatment of statutory dues under the IBC.

After the meeting, the finance ministry said a circular will be issued for clarifying the issue of treatment of statutory dues under the GST law

Operational Creditors

Tax authorities are currently categorised as operational creditors under the IBC, which makes it difficult to recover dues. Tax authorities have several times pointed out the difficulty in recovering legitimate GST dues once a company lands in the National Company Law Tribunal under the IBC.

"Recovery has been very poor in cases that have gone under insolvency," a government official said.

The resolution process will clearly establish the tax liability of the new buyer of an insolvent company, ensuring payments while cutting down on disputes, the official said. Changes will also be made to Rule 161 of CGST Rules, 2017, and Form GST DRC-

25 to allow fresh demand notices when resolution proceedings have been finalised under the IBC.

Experts said this will not increase the resolution cost. "This will in fact give more certainty to both taxpayers and tax officials in terms of the exact amount they are liable to pay or recover," said Sourabh Agarwal, tax partner, EY.

ET reported last week that the MCA is already examining changes to the IBC and is likely to introduce an amendment bill in the budget session.

In its ruling in the ABG Shipyard case, the Supreme Court had held insolvency proceedings and the imposition of moratoria under the IBC restrict the powers available to customs authorities under the Customs Act, 1962, for recovery of duty.

The judgement is seen to have set a precedent for indirect taxes.

"The moratorium provisions kick in when company faces insolvency proceedings and the issue remains whether tax dues could be recovered, at what stage can recovery happen and can the admitted tax due be recovered partially or completely," said Abhishek A Rastogi, founder, Rastogi Chambers, explaining the need for clarity.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/news/economy/policy/circular-in-works-on-tax-recovery-from-cos-under-ibc/articleshow/96356944.cms>

