



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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Latest updates On Insolvency & Bankruptcy

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"Keep a little fire burning; however small, however hidden"

➤ **NCLT allows plea for S Kumars' insolvency resolution**

The bankruptcy court has allowed Edelweiss Asset Reconstruction Co's petition, seeking to initiate insolvency proceedings against S Kumars, and has appointed Anjan Bhattacharya as its interim resolution professional.

The ARC had approached the Mumbai bench of the National Company Law Tribunal (NCLT) against the over seven-decade-old textile maker and leader in the school uniform fabric segment, after it defaulted on dues of more than Rs 414 crore.

"The corporate debtor (S Kumars) has not objected to, nor denied, the existence of the debt which is in default," the division bench of Justice PN Deshmukh and technical member Shyam Babu Gautam observed in the order on November 18.

The tribunal noted that the debtor had made a settlement proposal on July 18, 2020 and a revised one on August 12, 2020, but had failed to make the payment. "The debtor companies were reworking on the settlement proposal diligently and were serious to settle the dues." S Kumars had given corporate guarantee to a loan taken by a subsidiary, SKM Fabrics, from Central Bank of India in 2009.

The loan was declared a nonperforming asset on June 30, 2010, and the ARC acquired the right to recover the debt in March 2014.

Counsel Rohan Agarwal, along with Nishit Dhruva of law firm MDP & Partners, appearing for the lenders, argued that the petition was complete in all respects and that the default had been corroborated by substantial evidence.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/banking/finance/nclt-allows-plea-for-s-kumars-insolvency-resolution/articleshow/95646002.cms>

➤ **NCLAT Delhi Stays Insolvency Process Against BPTP LTD., As Parties Enter Settlement**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, comprising of Justice Ashok Bhushan (Chairperson), Dr. Alok Srivastava (Judicial Member) and Shri Barun Mitra (Technical Member), while adjudicating an appeal filed in *Sudhanshu Tripathi v M/s RBCL Projects Pvt. Ltd. & Anr.*, has stayed the initiation of Corporate Insolvency Resolution Process ("CIRP") against BPTP Ltd. by the Adjudicating Authority, as Parties have entered settlement.

Background Facts

M/s BPTP Ltd. ("Corporate Debtor") is a company engaged in real estate sector in Northern India with several successful residential and commercial projects at Gurgaon, Faridabad and NOIDA. The Corporate Debtor had given work orders to M/s RBCL Projects Pvt. Ltd. ("Operational Creditor/Respondent") for construction of Group Housing Projects situated at Faridabad. The Corporate Debtor failed to pay the outstanding invoices of the Operational Creditor, arising out of final bills.

The Operational Creditor had issued a Demand Notice dated 02.04.2019 to the Corporate Debtor under Section 8 of Insolvency and Bankruptcy Code, 2016 ("IBC"), to which no reply was received. Subsequently, the Operational Creditor had also invoked arbitration on 09.02.2021.

The Operational Creditor filed a petition under Section 9 of IBC, seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor. The Adjudicating Authority had observed that the Operational Creditor has established default on the part of Corporate Debtor in payment of operational debt. Accordingly, on 14.11.2022 the Section 9 Petition was admitted and CIRP was initiated against the Corporate Debtor. Mr. Rakesh Kumar Gupta was appointed as the Interim Resolution Professional (IRP).

The Corporate Debtor through Mr. Sudhanshu Tripathi ("Appellant") filed an appeal before the NCLAT against the Order dated 14.11.2022, contending that the Parties have entered settlement on 15.11.2022.

Decision Of NCLAT

The NCLAT Bench observed that the Parties have entered settlement and the Operational Creditor also made a statement that it has already received the amount under the Settlement. Thus, the Bench stayed the Order dated 14.11.2022 and accordingly the CIRP has been stayed. The next date of hearing is 23.11.2022.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/nclat-stays-insolvency-process-against-bptp-ltd-as-parties-enter-settlement-214564>

➤ **Slow and poor recovery of avoidance transactions, shows IBC data**

IBC's latest data shows that recovery for avoidance transactions has been slow and poor. Resolution Professionals filed 809 applications for avoidance transactions for around Rs 2.2 lakh crore till September 2022.

Of this only 98 applications involving just about 8 per cent of the total amount have been disposed.

The recovery is even less at 0.3 per cent, according to the latest data by the Insolvency and Bankruptcy Board of India.

An analysis by CareEdge explained that resolution professionals can reverse any transaction entered by the debtor company before the IBC is invoked if the RP can prove that the transaction was intended to divert funds or alienate assets.

This provision of IBC is used on related party transactions, fund diversions, and other relevant corporate actions. The recovered amount is distributed among lenders, with the permission of the National Company Law Tribunal.

The number of insolvency cases increased by 24 per cent July -September 2022 compared to the corresponding period last year. The trend in the sectoral break up of insolvency cases remained the same as in previous years.

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/slow-and-poor-recovery-of-avoidance-transactions-shows-ibc-data-122112000562_1.html

