



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



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Latest updates On Insolvency & Bankruptcy

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"Happiness is an inside job"

➤ **SC order on IBC jolts bankers, lawyers**

An apex court order giving the National Company Law Tribunal (NCLT) discretion over admission of insolvency cases even when default is proven has shaken bankers and lawyers.

They said the ruling could deflate an already delayed process under the Insolvency and Bankruptcy Code (IBC) and will most likely be used by unscrupulous promoters to argue against the admission of cases, potentially denting the potency of the dedicated recovery mechanism.

Shiju P Veetil, senior partner, IndiaLaw LLP, said the court order has the potential to cause long-lasting harm to the IBC as cases may not be admitted, taking the system back to days before the code came into being.

"Earlier, creditors were required to prove the inability of debtors to admit a winding up petition. IBC changed this criterion as creditors were only required to prove the existence of debt and default in payment to admit an insolvency case," Veetil said. "Unfortunately, the Supreme Court judgement takes jurisprudence back to the earlier regime, and now the creditor is required to prove the inability of the debtor to pay the debt, including the feasibility of initiating the process. This will make IBC more contentious and less effective."

Last month, in a case involving thermal power company Vidarbha Industries Power (VIPL), the apex court ruled that proven default cannot be the reason for initiation of insolvency proceedings, in contrast to the long-held view that a corporate in default has to mandatorily be admitted under Section 7 of the IBC.

Source: The Economic times

Read Full news at: https://economictimes.indiatimes.com/industry/banking/finance/banking/sc-order-on-ibc-jolts-bankers-lawyers/articleshow/93696400.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

➤ **From insolvency to twin tower razing: amid Supertech's setbacks, are good days ahead for homebuyers?**

As much as 3700kg of explosives will demolish two 100-metre tall towers in Noida on August 28 — following Supreme Court's orders.

The apex court, on August 31, 2021, had declared the controversial under-construction twin towers of the Supertech group's Emerald project at Sector 93A Noida — illegal.

The towers have been asked to be razed to the ground as they violated building norms in collusion with Noida Authority officials.

But this is not the only cause for worry for the Supertech group.

Apart from the demolition setback, the group's flagship company and also the builder of the controversial twin towers, Supertech Limited, was declared bankrupt as per the provisions of insolvency and bankruptcy code (IBC) by the National Company Law Tribunal (NCLT) on March 26, 2022, acting on the petition filed by the Union Bank of India for a default of around INR432 crore worth of dues.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/prime/corporate-governance/from-insolvency-to-twin-tower-razing-amid-supertechs-setbacks-are-good-days-ahead-for-homebuyers/primearticleshow/93682271.cms>

➤ **NCLAT Upheld The Ruling Of NCLT-Mumbai, Admitting The Realty Developer, M/S Satra Properties (India) Limited In To Corporate Insolvency Resolution Pro**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench comprising of Justice Ashok Bhushan, Dr. Alok Srivastava (Member Technical) and Ms. Shreesha Merla (Member Technical) while dismissing the Appeal filed by Mr. Praful Nanji Satra vs Vistra ITCL (India) Limited and Ors, had upheld the Adjudicating Authority's order for initiating corporate insolvency resolutions process against Satra Properties and sends the company in to insolvency.

The Appellant's company i.e M/s. Satra Properties (India) Ltd. ("SPIL") is engaged in the business of real estate and development of residential and commercial properties, and in order to execute some projects of the corporate debtor it proposed to raise finances up to Rs. 56 crores by way of issuing non-convertible debentures ("NCDs"). Accordingly, Respondents had agreed to subscribe to 5600 secured redeemable NCDs having face value of Rs.1,00,000/- i.e. Rupees one lakh each for a total consideration of Rs. 56 crores.

The said NCDs were to be redeemed after the end of 12 months from the date(s) of issue with interest in accordance with redemption schedule annexed to the Debenture Subscription Agreement. The debentures could not be redeemed in accordance with the redemption schedule provided in the Debentures Subscription Agreement due to financial difficulties being faced by the Appellant. Pursuant to the financial difficulties

faced by the Appellant, he entered negotiation with the Respondents for an amicable settlement. The original redemption schedule of the NCDs which was 12 months after the issue of debentures, was extended and the same were to be repaid in five tranches from 2nd April 2019 to 2nd December 2019. Since the Appellant default in its obligation under the facility document, the Respondent file an application under section 7 of the Insolvency and Bankruptcy Code, 2016 ("Code").

The Adjudicating Authority admitted the section 7 application vide the Impugned Order dated 03.08.2022 ("Impugned Order") but the members of the two-member bench differed on the issue of impounding of the Redeemable Non-Convertible Debenture Subscription Agreement and the Debenture Trustee Deed, both dated 1.3.2014 for proper stamping. This two-member bench framed the following question of law and referred the matter to the Hon'ble President of NCLT for adjudication by an appropriate bench or a third member. The third member gave his opinion on the question of law raised by the original two-member bench and held that the proper course of action that needs to be adopted is to dismiss the above Misc. Application without getting into the issue of stamp duty as it is irrelevant and uncalled for a Section 7 Application more so when the 'debt' and 'default' are provided otherwise without looking into those documents. Aggrieved by the order, the Appellant has challenged the impugned order.

Source: Live Law

Read Full news at:

<https://www.livelaw.in/law-firms/deals/nclat-ms-satra-properties-india-limited-corporate-insolvency-resolution-process-207102>

