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➤ **NCLT rejects Promoters plea challenging insolvency of Srei group cos**

In October last year, the NCLT's Kolkata bench in its order allowed the Reserve Bank of India's application under section 227 of the Insolvency and Bankruptcy Code, 2016, thus admitting Srei Equipment under Corporate Insolvency Resolution Process (CIRP)

MUMBAI: The National Company Law Appellate Tribunal (NCLT) on Wednesday rejected Srei Infrastructure Finances' promoter Adisri Commercial's plea challenging the Kolkata National Company Law Tribunal's 8 October 2021 insolvency order.

In October last year, the NCLT's Kolkata bench in its order allowed the Reserve Bank of India's application under section 227 of the Insolvency and Bankruptcy Code, 2016, thus admitting Srei Equipment under Corporate Insolvency Resolution Process (CIRP).

Prior to which RBI superseded the boards of Kolkata-based Srei Infrastructure Finance and its subsidiary Srei Equipment Finance due to concerns over governance and default on loan repayment obligations.

According to the NCLAT order, the Promoters submitted that substantial injustice was caused to Srei and its shareholders by the Kolkata NCLT's October order which admitted the company into insolvency. This was done without even having to serve the notice to the company or its Promoters as required under law.

Adding that a copy of the petition of insolvency was not served on the superseded board of Srei thus denying the opportunity to the Promoters to defend the matter on merits.

Following which the Promoters then presented memo of the appeal in the NCLAT ofce on 22 November 2021 after certain scrutiny, defects were found in the appeal and were informed to the Promoters. The Promoters thereafter reled the memo of the appeal on 19 October 2022 after a delay of 321 days along with an interlocutory application seeking condonation of delay in reling the appeal.

A bench led by Justice Ashok Bhushan and Barun Mitra said "The bench finds no merit in the application for seeking condonation of 321 days delay in relaying the appeals, the same are dismissed. In view of the dismissal of the application for condonation of delay in relaying the appeal, both memo of appeals are rejected".

We are of the considered view that the grounds cited to explain the 321 days delay when viewed against the parameters of timely, effective and efficient resolution as envisaged in the IBC, fall hopelessly short of meeting the desirable standards of being adequate and efficient.

Promoters claimed that the delay was occasioned by bonafide and genuine reasons. They cited pandemic and construction work to be the reason for the delay in relaying. The tribunal however, held that, it needs to be fully satisfied that the delay was unavoidable and the applicant (Promoters) was consistently diligent in pursuing the matter.

The two lending companies of Srei Group—Srei Equipment and Srei Infrastructure owe around ₹30,000 crore to creditors, of which the share of banks is ₹20,000 crore rupees and rest is in the form of non-convertible debentures, external commercial borrowings, among others.

On Tuesday, the lenders of two Srei companies has extended the deadline for submission of the revised resolution plans till 24 December 2022 after the resolution applicants asked for additional time.

The three resolution applicants include a consortium of Varde Partners and Arena Investors, National Asset Reconstruction Company (NARCL) and Authum Investment and Infrastructure — are expected to submit their revised resolution plans with higher financial bids for acquiring the two insolvent Srei companies, Srei Infrastructure Finance (SIFL) and Srei Equipment Finance (SEFL), Mint reported.

Source: Live Mint

Read Full news at: <https://www.livemint.com/companies/news/nclat-rejects-promoters-plea-challenging-insolvency-of-srei-group-cos-11671641245617.html>

➤ **Reliance Capital auction: Torrent Group highest bidder at ₹8,600 cr.**

The Reserve Bank of India (RBI) had on November 29 last year superseded the board of Reliance Capital in view of payment defaults and serious governance issues.

Torrent Group on Wednesday emerged as the highest bidder for debt-ridden Reliance Capital in the auction conducted as part of its resolution process.

Ahmedabad-based Torrent Group submitted a bid of ₹8,640 crore for acquiring the NBFC firm set up by the Anil Ambani Group, sources said.

Hinduja Group was the second highest bidder, they said, adding Oaktree did not participate in the auction. The Cosmea Piramal consortium had already pulled out of the bidding process.

The Committee of Creditors (CoC) fixed a floor value of ₹6,500 crore for the auction.

If lenders accept the bid submitted by Torrent Group, which is into pharmaceuticals and power businesses, it will mark its entry into the financial services space. As per an order of the National Company Law Tribunal (NCLT), lenders have to complete the resolution process of Reliance Capital by January 31, 2023. This is the first time that an e-auction of this scale is taking place for the resolution of an NBFC (non-banking finance company) under the Insolvency and Bankruptcy Code. The decision of ascending e-auction has been taken at the behest of LIC and EPFO, which together control 35% of the voting rights in the CoC. The Reserve Bank of India (RBI) had on November 29 last year superseded the board of Reliance Capital in view of payment defaults and serious governance issues. The RBI appointed Nageswara Rao Y as the administrator in relation to the Corporate Insolvency Resolution Process (CIRP) of the firm. Reliance Capital is the third large non-banking financial company (NBFC) against which the central bank has initiated bankruptcy proceedings under the Insolvency and Bankruptcy Code (IBC). The other two were Srei Group NBFC and Dewan Housing Finance Corporation (DHFL). The RBI subsequently filed an application for initiation of CIRP against the company at the Mumbai bench of the National Company Law Tribunal (NCLT).

In February this year, the RBI-appointed administrator invited expressions of interest for the sale of Reliance Capital.

Source: The Hindu

Read Full news at: <https://www.thehindu.com/business/reliance-capital-auction-torrent-group-highest-bidder-at-8600-cr/article66290077.ece>

➤ **Yes Bank's claim against Vijay Group Realty rejected**

The National Company Law Tribunal (NCLT) has rejected Yes Bank's claim worth over ₹420 crore against real estate developer Vijay Group Realty, citing an uninvoked bank guarantee and the principal borrower account being a standard account.

The bank had moved the dedicated bankruptcy court against the company's insolvency resolution professional's decision to reject the claim and not include the bank in the committee of creditors (CoC). Yes Bank, in its December 2021 response to a query from the resolution professional, had stated that the developer had not defaulted in repayment of its loan and the bank had not invoked the corporate guarantee provided by the corporate guarantor. However, Yes Bank insisted the resolution professional to admit its claims.

Advocate Shyam Kapadia, representing the bank, had submitted that the maturity of claim, or default of claim or invocation of guarantee for claiming the amount has no nexus with filing of claim.

To counter this, advocate Nausher Kohli, representing the company's resolution professional, relied upon another judgement of the NCLAT, wherein the court took a contrary view stating that the uninvoked corporate guarantee cannot be considered as a claim as per the provisions of the IBC. Hence, not to be included in the list of claims maintained and updated by the resolution professional.

The Mumbai bench of NCLT, composed of judicial member H V Subba Rao and technical member Anuradha Sanjay Bhatia, after hearing the submissions on both sides and perusing the matter, dismissed the bank's plea.

The bench has taken a view that the resolution professional has not committed any illegality or irregularity in rejecting the claim of the bank principal borrower and his decision is in accordance with the law laid down by the Supreme Court.

Ashish Pyasi, associate partner at Dhir and Dhir Associates, said the guarantees given by the companies to bankers pose a challenge the moment the company goes into insolvency proceedings.

"To make any claim, the first guarantee has to be invoked by the bank and in the event the same is not done before the commencement of the resolution process, then after initiation of moratorium, banks cannot invoke such guarantees," said Pyasi.

"It is a settled law that such claims cannot be admitted. The resolution professional will have to examine the claim from this perspective also and in the event there is any such claim being made then the same needs to be rejected as rightly rejected by the professional in this case," he added.

Source: The Economic Times

Read Full news at:

<https://economictimes.indiatimes.com/industry/banking/finance/banking/yes-banks-claim-against-vijay-group-realty-rejected/articleshow/96379994.cms>

