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LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Optimism is the faith that leads to achievement. Nothing can be done without hope and confidence."

➤ Govt considers giving financial creditor status to insurers issuing surety bond during resolution

To make surety bond business more attractive, the government is looking at making relevant changes in the Insolvency and Bankruptcy Code (IBC) to consider insurers as financial creditor in case of default of infra projects. The surety bond issued by a general insurance company is a three-party contract by which one party (the surety) guarantees the performance or obligations of a second party (the principal) to a third party (the obligee). The surety is a company that provides the financial guarantee to the obligee (usually a government entity) that the principal (business owner) will fulfil their obligations.

According to sources, the Ministry of Corporate Affairs is looking into concerns raised by the insurers that they should have recourse to recovery on par with the banks as forwarded by the Department of Financial Services under the finance ministry. The department is examining the issue and after careful examination, relevant changes would be made in IBC to provide financial creditor status to the insurer under the resolution process, sources said.

The general insurance companies are seeking changes in the Indian Contract Act and Insolvency and Bankruptcy Code (IBC) to bring surety bonds at par with bank guarantees when it comes to recourse available to them in case of a default..

Source: Financial Express

Read Full news at: <https://www.financialexpress.com/business/industry-govt-considers-giving-financial-creditor-status-to-insurers-issuing-surety-bond-during-resolution-3253365/>

➤ **RP Can't Obtain MSME Certificate Just To Enable Back-Door Entry Of Promoter/Suspended Management Of Corporate Debtor: NCLT Delhi**

The National Company Law Tribunal (NCLT), New Delhi Bench, comprising of Shri Ashok Kumar Bhardwaj (Judicial Member) and Shri L.N. Gupta (Technical Member), while adjudicating a petition filed in M/s Hi-Tech Resource Management Limited v M/s Overnite Express Limited, has held that neither Section 25 nor Section 28 of IBC empowers the Resolution Professional or CoC to obtain an MSME Certificate to enable the back door entry of the defaulting Promoter/Suspended Management into the Corporate Debtor, who are otherwise barred under Section 29A of IBC to submit the EOI/Resolution Plan.

Under Section 25 of IBC the Resolution Professional is obligated to invite prospective resolution applicants to submit plans as per the criteria laid down by him. However, such criteria must be laid down in accordance with Section 29A and other provisions of IBC.

Source: Live Law

Read Full news at: <https://www.livelaw.in/ibc-cases/nclt-delhi-msme-certificate-promoter-suspended-management-corporate-debtor-238554>

➤ **NCLAT New Delhi: CIRP Cannot Be Initiated For Defaults During The Excluded Timeline Under Section 10A Of IBC**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, New Delhi comprising of Justice Anant Bijay Singh (Judicial Member) and Mr. Ajai Das Mehrotra (Technical Member), dismissed an appeal filed in Vikram Kumar, Proprietor, Sourya Containers Leasing Company vs. Aranca (Mumbai) Pvt. Ltd. against the National Company Law Tribunal ("NCLT") Mumbai's order by Vikram Kumar (Financial Creditor), the proprietor of Sourya Containers Leasing Company against Aranca (Mumbai) Pvt. Ltd. (Corporate Guarantor).

The Appellate Tribunal held that since the invocation of bank guarantee for default was within the excluded period specified in Section 10-A of the Code, CIRP cannot be initiated since the default occurred within a 12-month period starting from 25.03.2020.

Source: Live Law

Read Full news at: <https://www.livelaw.in/ibc-cases/nclat-new-delhi-cirp-cannot-be-initiated-for-defaults-during-the-excluded-timeline-under-section-10a-of-ibc-238524>

➤ **Jet Airways' lenders claim JKC has not paid a penny, says resolution plan not implemented yet**

The Committee of Creditors (CoC) of debt-laden Jet Airways on Friday said that it has not received any money from the Jalan Kalrock Consortium. It also said that the insolvency resolution plan is yet to be implemented.

The consortium has however said that it will have to shell out additional amount than what was approved if Punjab National Bank's additional liability Rs 202 crore is accepted. The matter has been scheduled for hearing on October 3, 2023. Jalan Kalrock Consortium, the

winning bidder for the revival of grounded carrier Jet Airways, had earlier said it has deposited Rs 100 crore in Jet Airways, taking the total investment in the airline to Rs 250 crore. "JKC confirms to have deposited Rs 100 crores in Jet Airways in less than 48 hours of the NCLAT allowing implementation of the revival plans," it had said in a statement.

Source: Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/transportation/airlines/-aviation/jet-airways-lenders-claim-jkc-has-not-paid-a-penny-says-resolution-plan-not-implemented-yet/articleshow/103859650.cms?from=mdr>

➤ **NCLT Mumbai: Operational Creditors Must File GST Liability Claims Under CIRP On Time As No Claim Can Be Admitted After Resolution Plan Approved By CoC**

The National Company Law Tribunal ("NCLT"), Mumbai Bench comprising of Kuldeep Kumar Kareer (Judicial Member) and Shyam Babu Gautam (Technical Member), dismissed an application filed in Abnco Vie Win Ent Pvt. Ltd. vs. Steamline Industries Ltd. by Abnco Vie Win Ent Pvt. Ltd. (Applicant), an operational creditor, seeking directions against the Resolution Professional ("RP") of the Corporate Debtor to make payment of GST liability of Rs. 60.34 Lakhs with the GST department and to file GSTR – 3B return for a stipulated tax period.

Source: Live Law

Read Full news at: <https://www.livelaw.in/ibc-cases/nclt-mumbai-operational-creditors-gst-liability-claims-resolution-plan-238578>

