INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA
PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

27 October | 2026

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"Fall seven times, stand up eight."

➢ Personal Guarantor's Insolvency Cannot Block Recovery Against Company's Property: NCLT Mumbai

The National Company Law Tribunal (NCLT), Mumbai Bench, has held that a Personal Guarantor's Insolvency proceedings cannot be used to block recovery of property owned by the company that borrowed the money. "The moratorium in respect of the Personal Guarantor, resulting from the Company Petition filed by the Personal Guarantor under Section 94, does not extend to the Subject Property," observed a bench of Judicial Member K. R. Saji Kumar and Technical Member Anil Raj Chellan.

Aztek Processors Pvt. Ltd. (Corporate Debtor) availed the loan facilities from the ICICI Bank. An industrial plot situated at Dombivali Industrial Estate, Maharashtra, owned by the Corporate Debtor was mortgaged to secure the financial facilities, and Abhishek Ajit Naker was the Personal Guarantor to facilities. The present application was filed by the UV Asset Reconstruction Company Limited (UVARCL), assignee of the loan facility from ICICI Bank.

The applicant previously initiated the enforcement proceedings under the proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), and obtained an order under section 14 of the Act and took physical possession of the property.

However, the enforcement mechanism was challenged before the DRT on the ground that the Personal Insolvency of the Personal Guarantor is pending and the Interim Moratorium is in existence. The DRT directed the applicant not to take any coercive steps until NCLT altered or lifted the moratorium. Therefore, UVARCL filed present application contending that the moratorium in respect of Personal Guarantor doesn't protect property belonging to the Corporate Debtor.

The NCLT relied upon the ruling of Ramesh Kumar Chugh v. Assets Care and Construction Enterprises Limited, where NCLAT observed that the moratorium under Section 96 would apply only to the security interest created by the Personal Guarantor.

Source: Live Law Biz
Read Full News: *https://www.livelawbiz.com/nclt/personal-guarantors-insolvency-cannot-block-recovery-against-companys-property-nclt-mumbai-556021*

➢ Homebuyers Cannot Pursue Compensation Claims After Conveyance Deed Under Resolution Plan: NCLT Delhi

The Delhi Bench of the National Company Law Tribunal (NCLT) on 5 October held that Homebuyers who execute conveyance deeds and take possession cannot pursue claims against a Corporate Debtor where the resolution plan expressly treats registration of the deeds as full and final settlement of all claims.

A Bench of Judicial Member Mahendra Khandelwal and Technical Member Atul Chaturvedi dismissed an application by Pankaj Gupta and Prachi Jain seeking recognition of their Rs. 41.80 lakh compensation claim as a financial debt under the Insolvency and Bankruptcy Code, 2016 (IBC).

Source: Live Law Biz
***Read Full News*:** *https://www.livelawbiz.com/ibc/decree-holder-status-under-hrera-order-does-not-convert-into-financial-debt-after-possession-nclt-delhi-555987*

➢ Commercial Property Allottees Can Be Financial Creditors Under IBC: NCLT Mumbai

The National Company Law Tribunal (NCLT), Mumbai Bench, has held that allottees of commercial property can qualify as Financial Creditors under the Insolvency and Bankruptcy Code, 2016 (IBC). The tribunal observed that the law does not restrict this status to buyers of residential units.

The bench of Judicial Member Vinay Goel and Technical Member Charanjeet Singh Gulati observed,"Upon a plain reading of Section 5(8)(f) of the Code, it is clear that when funds are obtained from an allottee in a real estate project, having the commercial effect of a borrowing, and disbursed against the consideration for the time value of money, it constitutes a Financial Debt."

Source: Live Law Biz
Read Full News: *https://www.livelawbiz.com/nclt/commercial-property-allottees-can-qualify-as-financial-creditors-under-ibc-nclt-mumbai-556020*