



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

Success takes communication, collaboration and, sometimes, failure.

➤ **Failure To Deliver Second Demand Notice After First Is Returned Unserved Renders Petition U/S 9 Of IBC Not Maintainable: NCLT New Delhi**

The National Company Law Tribunal (NCLT) New Delhi bench of **Shri Manni Sankariah Shanmuga Sundaram (Judicial Member)** and **Shri Atul Chaturvedi (Technical Member)** has held that when a demand notice under section 8 of the IBC is returned unserved with the endorsement “the addressee has left without instructions” and the Operational Creditor fails to effect the delivery again by any other alternate modes, the petition under section 9 of the IBC cannot be entertained.

The present application has been filed under section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC) seeking to initiate Corporate Insolvency Resolution Process (CIRP) against the Corporate Debtor. The issue for consideration before the Tribunal was whether in the present case a demand notice under section 8 of the IBC can be deemed validly served when the notices were returned with the endorsement Addressee has left without instruction. The notice sent by an email was also bounced.

The Appellate Tribunal in **Shubham Jain v. Gagan Ferrotech Ltd.** held that when the demand notice was returned with the endorsement the addressee has left without instruction and the Operational Creditor failed to attempt the delivery by any alternate mode, the statutory requirement of sending demand notice under section 8 of the IBC is not satisfied. Therefore, the petition under section 9 was rejected.

Based on the above, it held that “where a demand notice is returned unserved with the remark “addressee has left without instruction” and no subsequent service is effected via email or other electronic means, the service cannot be deemed valid.

Source: Live Law

Read Full news: [Failure To Deliver Second Demand Notice After First Is Returned Unserved Renders Petition U/S 9 Of IBC Not Maintainable: NCLT New Delhi](#)

➤ **IBC Does Not Impose Time Limit For Rectification Of NCLT Orders: NCLAT New Delhi Upholds Two-Year Limit Under Rule 154 Of NCLT Rules**

The present appeal was filed by the erstwhile Resolution Professional of the corporate debtor against the order passed by the adjudicating authority, which approved the resolution plan submitted by the Successful Resolution Applicant.

After approval of the resolution plan, the appellant moved an application before the adjudicating authority, seeking rectification of certain figures in the resolution plan. The counsel for the appellant submitted that all the figures have been rectified by the CoC, and then it has moved the application before the adjudicating authority for approval of the resolution plan. However, the approved rectification was omitted from the resolution plan when it was placed before the adjudicating authority. Therefore, the adjudicating authority, vide its order dated 30.07.2024, approved the resolution plan but without the aforesaid ratification.

Source: *Live Law*

Read Full news: [IBC Does Not Impose Time Limit For Rectification Of NCLT Orders: NCLAT New Delhi Upholds Two-Year Limit Under Rule 154 Of NCLT Rules](#)

➤ **NCLT Replaces Resolution Professional In Anil Ambani Insolvency Case**

The National Company Law Tribunal (NCLT) has removed Jitender Kothari as the resolution professional (RP) in the insolvency proceedings tied to Anil Ambani's personal guarantee on a Rs 1,385 crore loan issued by the State Bank of India (SBI) to Reliance Communications. Prashant Jain has been appointed as the new RP with immediate effect.

The proceedings stem from a personal guarantee Ambani gave in September 2016. The loan was later declared a non-performing asset from August 2016. After SBI invoked the guarantee in 2019, it moved to initiate insolvency proceedings against Ambani in 2020. Kothari was appointed as RP that year.

Source: *Live Law*

Read Full news: [NCLT Replaces Resolution Professional In Anil Ambani Insolvency Case - BW Legal World](#)

