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IBC AU-COURANT

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"Knowing yourself is the beginning of all wisdom."

➤ **NCLT Cuttack Calls RPs Alteration of Creditors Claim 'Gross Dereliction' Approves Goyal Energy Resolution Plan**

The National Company Law Tribunal (NCLT) at Cuttack has recently approved a resolution plan worth ₹79 crore for Goyal Energy and Steel Limited, submitted by Mumbai-based Nakshatra Asset Ventures Ltd.

While approving the plan, the tribunal observed that a resolution professional cannot alter the amount claimed by a creditor in Form H (the statutory compliance certificate) without a revised claim from that creditor.

The bench of Judicial Member Cheekati Radha Krishna and Technical Member Banwari Lal Meena observed that Resolution Professional Ashish Arjinkumar Rathi had reduced the claim amount of Chhattisgarh State Power Distribution Company Limited (CSPDCL) in Form H even though the creditor had not filed a revised claim.

"This is a gross dereliction on part of RP as he has no authority to change the Claimed Amount by a Creditor while filing the Statutory Form-H especially when from documents on record it is completely clear that the Amount claimed by CSPDCL is higher than what has been stated in Form-H" However, it is also noted since the amount proposed in the Plan for Operational Creditors is very small in respect to the claims received or admitted it is not causing any prejudice to CSPDCL.", the tribunal observed.

The tribunal, however, observed that the amount proposed under the plan for operational creditors was very small in comparison with the claims received or admitted, and, therefore, it was not causing any prejudice to CSPDCL.

Source: Live Law Biz

Read Full News: [NCLT Cuttack Calls RPs Alteration Of Creditors Claim 'Gross Dereliction' Approves Goyal Energy Resolution Plan](#)

➤ **NCLT Chandigarh Rejects Samar Estates Homebuyers' Claim After They Admit Payment To Directors' Accounts**

The Chandigarh Bench of the National Company Law Tribunal (NCLT) has dismissed an application filed by three homebuyers seeking recognition as financial creditors of Samar Estates Pvt. Ltd. The tribunal held that the applicants failed to establish that the disputed Rs 60 lakh had been disbursed to the corporate debtor. It noted that the applicants themselves admitted the money had been paid into the personal accounts of the company's directors.

The bench of Judicial Member Khetrabasi Biswal and Technical Member Shishir Agarwal observed, "Disbursement into the account of the Corporate Debtor is an essential condition for a debt to fall under the definition of "Financial Debt" of the Code. The contention of the Respondent No.1 that as per the books of account, no amount is shown to be disbursed by the Applicants.

Source: Live Law Biz

Read Full News: [NCLT Chandigarh Rejects Samar Estates Homebuyers' Claim After They Admit Payment To Directors' Accounts](#)

➤ **Step-Down Subsidiary Cannot Use 'Colourable Means' To Extract Holding Company Assets In Liquidation: NCLT Chennai**

A step-down subsidiary cannot use indirect or colourable means to extract assets or establish parallel claims against its holding company undergoing liquidation, the National Company Law Tribunal, Chennai, held. The tribunal made the observation while dismissing an application filed by St. John Lines PTE Limited against the liquidator of its holding company, St. John Freight Systems Limited.

A coram of Judicial Member Jyoti Kumar Tripathi and Technical Member Ravichandran Ramasamy observed: "We are of the considerable view that a subsidiary, let alone a step-down subsidiary, cannot be permitted to use colorable means to extract assets or establish parallel claims against its holding company under liquidation. What cannot be done directly cannot be done through colourable actions indirectly which is against the very objective of IBC, and against the larger the interest of the stakeholders."

Source: Live Law Biz

Read Full News: [Step-Down Subsidiary Cannot Use 'Colourable Means' To Extract Holding Company Assets In Liquidation: NCLT Chennai](#)



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