



# IBC AU-COURANT

*Latest updates On Insolvency & Bankruptcy*

**31<sup>st</sup> August 2022**

**"Be the best version of yourself all the times "**

## ➤ **Reliance Capital's insolvency process gets poor response**

Debt-laden Reliance Capital's (RCap) insolvency proceedings received a tepid response, with just four firms evincing interest in the entire assets of the former Anil Ambani group firm. However, there were no takers for Reliance Nippon Life Insurance. Under option-1, wherein bids were called for the total assets of the company, the administrator received bids from IndusInd Bank, Torrent Group, Oaktree Capital and B Right Real Estate. These bids were in the range of Rs 4,000 crore, sources close to the development said.

Nearly five companies were in the fray under option-2, where they could bid for eight different businesses or clusters of RCap that included general insurance, life insurance and securities business among others.

Advent International, Zurich Insurance, and a consortium led by Piramal Enterprises have placed bids for Reliance General Insurance, while Jindal Steel & Power and New Delhibased UV Asset Reconstruction Company (UVARC) submitted bids for Reliance Capital's Asset Reconstruction Company business. However, there were no bidders for Reliance Nippon Life Insurance.

RCap's clusters that were put under option 2 included Reliance General Insurance, Reliance Nippon Life Insurance, Reliance Asset Reconstruction Company, Reliance Securities, Reliance Commercial Finance and Reliance Home Finance. There were three bidders for the assorted assets — Choice Equity, Global Fincap and Grand Bhawan — of RCap, they said, adding the deadline to submit the bids ended on Monday.

The interest under both options was poor, considering that 54 companies had earlier submitted Expressions of Interests (EoIs) during the initial stages of the bankruptcy process.

A couple of the bidders have also sought a further extension of the final date of submission, which had been deferred five times now. The final deadline to complete the entire bankruptcy process ends on November 1, 2022.

RCap is currently undergoing insolvency proceedings, with the creditors of the company seeking Rs 23,666 crore in dues.

Earlier on November 29, 2021, the Reserve Bank of India superseded RCap's board following payment defaults and governance issues and appointed Nageswara Rao Y as the administrator for the bankruptcy process. The regulator also filed an application for initiation of the Corporate Insolvency Resolution Process (CIRP) against RCap before the National Company Law Tribunal's (NCLT) Mumbai bench. In February this year, RBI appointed administrator invited EoIs for the sale of Reliance Capital assets and subsidiaries.

**Source: Financial Express**

**Read Full news at:** <https://www.financialexpress.com/industry/reliance-capitals-insolvency-process-gets-poor-response/2649841/>

## ➤ **Innova Captab places ₹400 cr bid for Sharon Bio-Medicine**

Homegrown pharma company Innova Captab Ltd has placed a bid of ₹400 crore to acquire debt-laden Sharon Bio-Medicine Ltd in an ongoing insolvency resolution process, two people aware of the development said.

This is the second round of the insolvency proceedings of Sharon Bio-Medicine. In the first round, Peter Beck und Partner Vermoögensverwaltung (PBP), the successful bidder, had failed to implement its resolution plan.

PBP had made an offer of ₹230 crore to secured creditors, against claims of ₹702 crore, the people cited above said on the condition of anonymity.

"Innova Captab has offered a bid of ₹400 crore, which includes an immediate payment of ₹350 crore and the balance ₹50 crore over one year. The second round of the resolution process as per NCLT (National Company Law Tribunal) directive needs to be completed by 16 September," one of the two people said.

A few other pharma companies have also submitted bids to acquire Sharon Bio-Medicine, the person said, adding that the filing deadline is 22 August.

On 18 August, The Economic Times reported that Piramal Pharma and Cadila Pharmaceuticals have shown interest in the company.

Sharon Bio-Medicine develops and manufactures pharmaceutical intermediates, actives, and finished dosages, besides generic alternatives for new drugs. It posted a loss of ₹1.1 crore on a revenue of ₹37.83 crore in the June quarter.

An email query sent to Innova Captab did not elicit any response till press time.

Innova Captab is an integrated pharmaceutical company with a presence in research and development, manufacturing and drug distribution.

Innova Captab is planning to go public and has filed its draft prospectus on 29 June for an initial share sale that will see the company raise ₹400 crore in equity and an offer for sale of 9.6 million shares by existing shareholders.

The proposed initial public offering (IPO) is likely to be for ₹700-900 crore.

Mint had reported that the company raised ₹50 crore at a pre-IPO round from UTI AMC backed UTI Capital at a valuation of ₹2,400 crore.

Innova Captab was founded as a partnership company in 2005. It has two WHO-GMP (World Health Organization's Good Manufacturing Practices) certified manufacturing facilities in Baddi and a research and development facility approved by the Council of Scientific and Industrial Research.

It runs a contract development and manufacturing organization business providing manufacturing services to Indian pharmaceutical companies, besides a domestic-branded generics business and an international-branded generics business.

Innova counts pharma majors such as Ajanta Pharma, Mankind Pharma, Sun Pharma, Abbott Pharma, Cipla, Glenmark Pharma, Lupin and Emcure Pharma as its customers, offering contract research and manufacturing. On the generics side, it has a portfolio of more than 400 products sold via 3,400-plus stockists and distributors covering around 96,000 retail touchpoints.

**Source: Mint**

**Read Full news at:** <https://www.livemint.com/companies/news/innova-captab-places-400-cr-bid-for-sharon-biomedicine-11661881452123.html>

## ➤ **Status Of Debtor, Attained Finality, Can't Be Altered Based On A Subsequent Judgment: NCLAT Delhi**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, comprising of Justice Ashok Bhushan (Chairperson), Justice M. Satyanarayana Murthy (Judicial Member) and Mr. Barun Mitra (Technical Member), while adjudicating an appeal filed in Raghavendra G. Kundangar & Ors. v Shashi Agarwal & Anr., applied the Doctrine of Prospective Overruling while observing that when status of a debtor attains finality, the same cannot be altered on the basis of a subsequent judgment in different proceedings. NCLT had admitted the Corporate Debtor into insolvency under Section 7 of IBC for defaulting in payments in respect of supply of materials. Subsequently, the Supreme Court in Anuj Jain v Axis Bank Limited had held that debt arising out of supply of materials is operational debt and not financial. The NCLAT Bench declined to intervene in NCLT's order by applying Doctrine of Prospective Overruling. The NCLAT Bench further held that NCLT is exclusively invested with inherent jurisdiction to decide the petition filed either under Section 7, 9 or any of the provisions of IBC.

Jindal Steel & Power Limited ("Respondent No. 2") had supplied certain material to Bharat NRE Coke Ltd. ("Corporate Debtor") under an Agreement and payments were

not released by the Corporate Debtor. The Respondent No. 2 filed a petition under Section 7 of Insolvency and Bankruptcy Code, 2016 ("IBC"), seeking initiation of Corporate Insolvency Resolution Process against the Corporate Debtor, claiming that there was subsisting financial debt regarding supply of material to the Corporate Debtor. The NCLT Kolkata Bench had admitted the petition and had initiated CIRP vide an order dated 11.03.2019. The Appellants preferred an appeal before NCLAT against the order dated 11.03.2019, which ended in dismissal. The Appellants filed an appeal before the Supreme Court under Section 62 of IBC which was dismissed in-limine. In all these proceedings, the debt of the Respondents was declared as Financial Debt.

Alongside, another batch of appeals in Arun Kumar Jagatramka v Jindal Steel & Power Limited & Anr., Civil Appeal No. 6015 of 2019 and Suraksha Asset Reconstruction Limited v Jindal Steel & Power Limited & Anr., Civil Appeal No. 7027 of 2019 were dismissed by the Supreme Court vide order dated 16.08.2019 and had attained finality. However, in a subsequent appeal in Anuj Jain v Axis Bank Limited, (2020) 7 SCC 401, the Supreme Court held that the person who supplied material under contract to the Corporate Debtor is not Financial Creditor but an Operational Creditor. Based on the judgment in Anuj Jain case, the Appellants filed an application before NCLT to recall the order dated 11.03.2019 whereby CIRP was initiated under Section 7 of IBC, as a supplier of material was no more a financial creditor rather an operational creditor.

The Appellants argued once the NCLAT's decision which was confirmed by the Supreme Court is overruled in the subsequent judgment, the order passed by the NCLT on 11.03.2019 becomes bad in law. Consequently, the Respondent No. 2 becomes incompetent to initiate a proceeding under Section 7 of IBC, claiming to be a Financial Creditor, since it is only an Operational Creditor now. It was submitted that when judgment is overruled it will have retrospective effect and also NCLT lacks inherent jurisdiction.

Whether the order dated 11.03.2019 passed by NCLT can be recalled on the ground of over-recalling the Judgment of Supreme Court in Anuj Jain Vs. Axis Bank Limited?

The Bench observed that the order of the NCLT initiating CIRP under Section 7 of IBC has attained finality. Reliance was placed on the Supreme Court judgment in Sri Budhia Swain & Ors. v. Gopinath Deb & Ors., (1999) 4 SCC 396, wherein it was held that an Order can be recalled only on 4 points: (i) The proceedings culminating into an order suffer from inherent lack of jurisdiction and such lack of jurisdiction is patent; ii) There exists fraud or collusion in obtaining the judgment; iii) There has been a mistake of the Court prejudicing a party; or iv) A judgment was rendered in ignorance of the fact that a necessary party had not been served at all or had died and the estate was not represented.

The Bench opined that none of the four criteria laid down in Sri Budhia Swain & Ors. v. Gopinath Deb & Ors. was met as it is not the case of the Appellants that the NCLT lacks inherent jurisdiction patently or order was obtained by playing fraud or collusion.

The Bench observed that a defect of jurisdiction strikes at the very authority of the court to pass any decree, and such a defect cannot be cured even by consent of parties. But the same has no application to the facts of the case as NCLT is vested with such jurisdiction and the order does not suffer from inherent lack of jurisdiction. Hence, the contention of this Appellant that the Adjudicating Authority lacks inherent jurisdiction is hereby rejected.

**Source:** *Live Law*

**Read Full news at:** <https://www.livelaw.in/news-updates/nclat-delhi-section-7-of-insolvency-and-bankruptcy-code-corporate-debtor-financial-creditor-207834>

