



INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

"The only thing standing between you and outrageous success is continuous progress you need discipline."

„The only thing standing between you and outrageous success is continuous progress you need discipline.“

➤ CIRP Cannot Be Initiated Against Successful Resolution Applicant For Default Of Payment As Per Resolution Plan: NCLT Mumbai

The National Company Law Tribunal (NCLT) has recently held that a Corporate Insolvency Resolution Process (CIRP) cannot be initiated against a Successful Resolution Applicant for default in terms of payment to the stakeholders/creditors as per the terms of the approved resolution plan.

“we are of the considered view that such a promise or undertaking made by a Resolution Applicant, if not fulfilled, cannot be treated as a default of a financial debt nor the so called obligation to pay such sums to the Financial Creditors of the Corporate Debtor in CIRP by such an Applicant can be treated as a financial debt covered under the four corners of the definition provided u/s 5(8) of the Code, 2016. In our considered view, in such an eventuality when the SRA is not able to implement the plan, some consequences are bound to follow,” the order reads. A division bench of the National Company Law Tribunal (NCLT) Mumbai, comprising Judicial Member Kuldeep Kumar Kareer and Technical Member Anil Raj Chellan, was hearing an application filed by a financial creditor for the failure of the corporate debtor to discharge a sum of Rs. 5 crore as per the resolution plan.

ICICI Prudential Real Estate AIF I had disbursed Rs. 40 crores to Sunshine Housing and Infrastructure Private Limited (SHIPL) by subscribing to 4,000 unlisted, unrated, secured, redeemable non-convertible debentures.

Source: Law Beat

Read Full news at: <https://lawbeat.in/news-updates/cirp-cannot-be-initiated-against-successful-resolution-applicant-default-payment-resolution-plan>

➤ IBC | Statutory Set Off Or Insolvency Set Off Inapplicable To Corporate Insolvency Resolution Process: Supreme Court

The Supreme Court has held statutory set off or insolvency set off is not applicable to Corporate Insolvency Resolution Process (“CIRP”) proceedings under the Insolvency and Bankruptcy Code, 2016 (“IBC”). Further, Regulation 29 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (“Liquidation Regulations”), which provides for mutual dealing and set off, does not apply to Part II of the IBC which deals with CIRP.

The principle of Set-off recognizes the right of a debtor to adjust the smaller claim owed to him against the larger claim payable to his creditor. The Bench has also carved out two exceptions to the application of statutory or insolvency set off to CIRP proceedings.

Source: Live Law

Read Full news at: <https://www.livelaw.in/top-stories/supreme-court-rules-insolvency-set-off-inapplicable-corporate-insolvency-resolution-process-245880>

➤ Purpose Of IBC Would Be Defeated: NCLT Refuses To Condone Delay Of 1185 Days In Filing Proof Of Claim With Resolution Professional

The National Company Law Tribunal (NCLT) has recently refused to condone a delay of 1185 days for a delayed claim to be admitted with the Resolution Professional while observing that if the claim is allowed to be admitted, it would defeat the purpose of the Insolvency and Bankruptcy Code (IBC).

This observation was made by the NCLT Bench in Mumbai, referring to a National Company Law Appellate Tribunal (NCLAT) order in the case of Mukul Kumar v. RPS Infrastructure.

Source: Law Beat

Read Full news at: <https://lawbeat.in/news-updates/purpose-ibc-would-be-defeated-nclt-refuses-condone-delay-1185-days-filing-proof-claim-resolution-professional>

