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Latest updates On Insolvency & Bankruptcy

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"Nothing is impossible"

➤ **Sebi orders forensic audit of FRL's financial statements of last 3 years**

The Securities and Exchange Board of India (Sebi) has ordered a forensic audit of the financial statements of beleaguered Future Retail.

“Sebi has reasonable grounds to believe that the disclosure of financial information and the business transactions in the matter of Future Retail, have been dealt with in a manner which may be detrimental to the interest of investors or the securities markets and/or an intermediary or a person associated with the securities market may have violated the provisions of Sebi Act...” the regulator said in a letter to the company.

Group firm Future Consumer and Future Enterprises on Thursday disclosed to the exchanges about the directive from the market regulator to Future Retail. They further said Chartered Accountants Chokshi & Chokshi have been appointed as forensic auditor, which will audit the consolidated financial statements of Future Retail and the books of accounts of the company and some other entities for FY20, FY21 and FY22.

Future Retail shareholders’ representative, Vijay Kulkarni, said, “I welcome Sebi’s decision... on behalf of several investors, I had repeatedly addressed Sebi in April and May this year and it appears that the regulator has found substance and is, therefore, conducting the forensic audit.”

Last month, Insolvency and Bankruptcy Code (IBC) proceedings were invoked against Future Retail. Sebi’s letter was sent to interim resolution professionals (IRPs) who have been appointed under the IBC. Bank of India had moved the insolvency petition against Future Retail on April 14 for non-payment of dues under the agreement between the Future Group and the bank. It was seeking admission of its petition and the appointment of an IRP.

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/sebi-orders-forensic-audit-of-fri-s-financial-statements-of-last-3-fiscals-122080401169_1.html

➤ **Fraudulent Initiation Of CIRP, NCLAT Upholds Issuance Of Show Cause Notice To Related Parties**

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 Zoom Communications Pvt. Ltd. v M/s. Par Excellence Real Estate Pvt. Ltd., has upheld the Adjudicating Authority's order declining to initiate CIRP on an application made by a related party of the Corporate Debtor upon mala fide. The Bench has also upheld the issuance of Show Cause Notice under Section 65(1) of the Insolvency and Bankruptcy Code, 2016 ("IBC") by the Adjudicating Authority to the Related Parties, for attempting to initiate CIRP fraudulently.

M/s. Par Excellence Real Estate Pvt. Ltd. ("Corporate Debtor") had obtained a loan amounting to Rs.7 Crores from IndiaBulls and the Director of Zoom Communications Pvt. Ltd., Mr. Gulshan Kumar Jhurani, was a co-applicant in the said loan. A petition under Section 9 of the Insolvency and Bankruptcy Code, 2016 ("IBC") was filed by Zoom Communications Pvt. Ltd. ("Operational Creditor"), seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor, over an unpaid invoice of Rs. 57,25,000/-, which the Operational Creditor had allegedly paid towards the processing fee for procuring the loan for the Corporate Debtor.

The Adjudicating Authority vide an order dated 17.05.2022 dismissed the petition and took the view that the Operational Creditor and the Corporate Debtor were having common director, namely Mr. Gulshan Kumar Jhurani. Upon piercing of Corporate Veil the Adjudicating Authority held that the Parties were related parties and the transaction was a sham transaction. It was observed that Proviso to Section 21(2) of IBC, states that no right of representation, participation or to vote has been granted to a 'Related Party' on initiation of CIRP of the Corporate Debtor.

Source: Live Law

Read Full news at: <https://www.livelaw.in/news-updates/national-company-law-appellate-tribunal-nclat-insolvency-and-bankruptcy-code-cirp-show-cause-notice-205690>

