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Latest updates On Insolvency & Bankruptcy

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"There is nothing impossible to them who will try"

➤ **NCLT dismisses homebuyers' petition to reject Lavasa insolvency resolution plan**

The National Company Law Tribunal (NCLT) has dismissed a petition filed by around 368 homebuyers who had purchased properties from Lavasa Corporation. The petition had alleged misconduct in the corporate insolvency resolution process (CIRP) of the company and mistreatment of the homebuyers as a class of creditors.

The homebuyers, in their petition, had sought the tribunal's intervention to declare the resolution plan submitted by Darwin Platform Infrastructure in violation of the Insolvency and Bankruptcy Code (IBC) and prayed to reject the revival plan, which was earlier approved by the lenders of the company.

When the company was admitted into insolvency, it owed more than Rs 6,200 crore to its financial creditors and more than Rs 400 crore to 840 homebuyers.

On August 30, 2018, when the company was admitted for the insolvency process for revival, Hindustan Construction Company (HCC) in its exchange filing said that the project was severely impacted by a notification issued by the ministry of environment and forest (MoEF) that directed the company to stop work for jurisdictional reasons and not for environmental infractions.

Set up in 2000 by the Ajit Gulabchand-led HCC, Lavasa was developing the country's first privately developed city spread over 20,000 acres in the Mulshi and Velhe areas in Maharashtra's Pune district, around 180 km from Mumbai. However, the project has been entangled in various issues, including environmental violations and land acquisition.

After Lavasa and its subsidiaries defaulted on debt obligations, the lenders sought debt resolution through the NCLT in August 2018 under the Insolvency and Bankruptcy Code, 2016.

Lavasa was held jointly by HCC with a 68.7% stake, Avantha Group 17.18%, Venkateshwara Hatcheries 7.81% and Vithal Maniar 6.29%. During the course of the resolution process, the committee of creditors (CoC) approved the resolution plan

dated November 20, 2021 as proposed by Darwin Platform Infrastructure, the successful resolution applicant, with a 96.41% voting share in their meeting on November 23, 2021.

The said resolution plan is pending for approval before the NCLT Mumbai bench. According to the homebuyers' plea, the homebuyers were promised to be paid the liquidation value in case they voted against the plan, but the liquidation value attributable to the homebuyers was never calculated or disclosed.

Homebuyers submitted that the liquidation value derived and presented to the CoC is notional and does not represent the fair value and that the resolution professional completely neglected his duty to calculate the liquidation value for each homebuyer before putting the plan to vote.

"In order to deal with the question that fell for consideration, it is pertinent to note that homebuyers, essentially, constitute a different class of creditors distinct from the other financial creditors.

Individual homebuyers may have divergent views, but ultimately, they vote as a class, and individuals therein cannot claim to be 'dissenting financial creditors' if they vote against the resolution plan," Justice PN Deshmukh and technical member Shyam Babu Gautam said in the ruling.

The NCLT Mumbai bench is of the view that this is a belated stage for the homebuyers to raise allegations against the authorised representative, especially after the CoC has voted in favour of the resolution plan with an overwhelming majority of 96.14% voting share.

Moreover, the authorised representative has already voted in favour of the plan and a change in this decision would not influence the results in a substantial manner given that the homebuyers hold a 7.45% voting share in the CoC.

Source: *The Economic Times*

Read Full news at: <https://economictimes.indiatimes.com/industry/services/property/-/construction/nclt-dismisses-homebuyers-petition-to-reject-lavasa-insolvency-resolution-plan/articleshow/94651549.cms>

➤ **NCLT admits First Flight Couriers for insolvency**

The bankruptcy court has admitted Mumbai-based First Flight Couriers under the corporate insolvency resolution process (CIRP) and appointed Indrajit Mukherjee as the company's interim resolution professional (IRP).

The Mumbai bench of the National Company Law Tribunal (NCLT), while admitting the petition filed by the operational creditor of First Flight Couriers, observed that the counsel for the corporate debtor has made a submission that they are unable to repay the dues and also admits the liability as well as default.

The courier company's operational creditor Srinidhi Comprint had approached the tribunal after it failed to repay its dues of about Rs 1.44 crore.

Srinidhi Comprint is a company engaged in the business of printing supplied goods including courier slips and PP woven fabric sack among other things to the First Flight Couriers between June 2018 and March 2019.

Source: *The Economic Times*

Read Full news at: <https://economictimes.indiatimes.com/news/company/corporate-trends/nclt-admits-first-flight-couriers-for-insolvency/articleshow/94667891.cms>

➤ **IBBI streamlines norms to aid insolvency professional entities**

The move is significant as insolvency professional entities were, until last month, only allowed to assist the resolution professional hired by lenders to run companies in distress.

The Insolvency and Bankruptcy Board of India (IBBI) has amended its regulations governing insolvency professional entities to facilitate them to take on the task of administering companies that are going through the bankruptcy process.

The Model Bye-Laws and Governing Board of Insolvency Professional Agencies (Amendment) Regulations, 2022, brought out by the IBBI on 3 October streamlines the regulations regarding their enrolment for the task of administering sick companies.

The regulations also make other consequential changes needed for facilitating this.

The move is significant as insolvency professional entities were, until last month, only allowed to assist the resolution professional hired by lenders to run companies in distress.

That changed when IBBI brought out the Insolvency Professionals (Fourth Amendment) Regulations last month because entities can bring certain advantages over individual professionals.

These entities can bring multi-disciplinary expertise, which will be helpful in handling the bankruptcy resolution of large and complex companies.

Mint was the first to report on 11 June that incorporated entities, such as firms, will be allowed to run bankrupt businesses in place of individual administrators hired by lenders.

The new regime allows entities to register themselves as insolvency professionals and perform associated duties. Earlier they were allowed only to provide support services to insolvency professionals.

In September, IBBI had allowed slicing up of businesses in distress so that individual units or assets can be sold separately which would attract more investor interest.

The regulator considers that a mix of investors buying different parts of a bankrupt company is better than a single investor picking up the company as a whole as different investors may find individual units more strategically fitting.

Source: Mint

Read Full news at: <https://www.livemint.com/companies/news/ibbi-streamlines-norms-to-aid-insolvency-professional-entities-11664874724522.html>



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