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Insolvency Professional Agency of Institute of Cost Accountants of India



"Someday is not a day of the week"

Updates on Insolvency and Bankruptcy Code

➤ **Welspun looks to acquire bankrupt Sintex group arm**

Welspun group company Welspun Corp has placed a bid to acquire Sintex Prefab and Infra Ltd, as part of the Sintex group firm's ongoing bankruptcy resolution process in the National Company Law Tribunal (NCLT), said two people aware of the development.

Sintex Prefab, a subsidiary of Sintex Plastics, was taken to the NCLT under the insolvency and bankruptcy (IBC) code last year by Bank of Baroda. The company makes prefabricated plastic structures for industrial and housing projects.

"Welspun is keen on acquiring this Sintex business. They have been evaluating various Sintex businesses that are up for sale because of the bankruptcy process and they have placed a bid for Sintex Prefab recently. The committee of creditors (CoC) is voting on the Welspun bid. The voting will be completed by next week," said the first person mentioned above on the condition of anonymity as he is not authorized to speak with the media.

Sintex Prefab has outstanding claims of more than ₹600 crore from financial and other creditors, said the second person mentioned above. "The Welspun bid is close to 10% of the outstanding claims," he said.

Welspun Corp on Tuesday informed the stock exchanges that it has set up an entity under the name Big Shot Infra Facilities Pvt. Ltd, which it intends to use as a special purpose vehicle for organic or inorganic growth of its businesses. The Sintex Prefab business will be housed in this

special purpose vehicle, if Welspun's bid is approved by the CoC, said the second person mentioned above.

Sintex Prefab is not the only business in the Sintex group that Welspun has interest in.

Earlier this month, Welspun Corp acquired ₹1,128 crore of debt of Sintex BAPL (SBAPL), known for its plastic water tanks, for ₹386.9 crore, the company said in a stock exchange filing. Sintex BAPL is also undergoing bankruptcy resolution.

"Welspun Corp. Ltd is desirous of working harmoniously with other lenders of Sintex BAPL Ltd to resolve the insolvency situation of SBAPL at the earliest in accordance with the provisions of the Insolvency and Bankruptcy Code, 2016," the company said in its filing.

Source: Mint

Read Full news at:

<https://www.livemint.com/companies/news/welspun-looks-to-acquire-bankrupt-sintex-group-arm-11650481042488.html>

➤ **Reliance ARC buys distressed loans from IOB, Jana SFB**

Reliance Asset Reconstruction Company has begun actively acquiring distressed loans from banks even as its parent company Reliance Capital is undergoing an insolvency proceeding, two people aware of the development told ET.

In two separate transactions, Reliance ARC acquired stressed loan portfolios from Jana Small Finance Bank and Indian Overseas Bank in the last week of March, the sources said. Both deals were concluded under a structured deal involving upfront payment and issuances of security receipts to the banks, they said. Jana Bank, Indian Overseas Bank and the administrator of Reliance Capital did not respond to ET's request for comment.

In all, the Anil Ambani group ARC acquired a principal loan portfolio of ₹273 crore from the two banks under two separate uncontested Swiss challenge auction.

It acquired a principal loan portfolio of ₹141 crore from Indian Overseas Bank at a reserve price of ₹84.8 crore under a structured deal of 25:75. Here, the ARC paid 25% of the transaction value upfront and the balance will be paid in the form of security receipts that will be redeemed as it recovers money from borrowers.

From Jana Small Finance Bank, the ARC purchased ₹132 crore loan at a reserved price of ₹98.6 crore under a 15:85 structured deal where 15% of the transaction value is paid upfront and the remaining in security receipts. IOB's and Jana Bank's portfolios comprised loans to small and medium entrepreneurs.

Anil Ambani-promoted Reliance Capital was admitted to insolvency proceedings by the Reserve Bank of India last December and has attracted 54 expressions of interest, according to a stock exchange notice.

Entities that have shown interest in acquiring the ARC business include Adani Finserve, Ares SSG Capital, Brookfield Pvt Capital, Arpwood Partners, Cosmea Financial Holdings, Edelweiss Alternative Asset Advisors, Piramal Consortium, Motilal Oswal Financial Services, International Asset Reconstruction Company, J C Flowers & Company, Yes Bank, Globe Fincap and True North Fund VI.

Source: Money Control

Read Full news at:

<https://economictimes.indiatimes.com/industry/banking/finance/banking/reliance-arc-buys-distressed-loans-from-iob-jana-sfb/articleshow/90965919.cms>

➤ Can't blow hot and cold: NCLT dismisses Piramal Capital's Section 7 IBC petition for lack of authorisation

The National Company Law Tribunal (NCLT) at Delhi on Tuesday, while applying the rule of estoppel, rejected a petition under Section 7 of the Insolvency and Bankruptcy Code (IBC) filed by Piramal Capital, which took over Dewan Housing Finance Limited (DHFL) in 2021 (Dewan Housing Finance Limited v. Nayati Healthcare and Research NCR Pvt Limited).

A Bench of Judicial Member Dharminder Singh and Technical Member Sumita Purkayastha said that an earlier transaction deemed fraudulent can now not be termed as a valid loan that has been defaulted upon.

"Thus, now, by virtue of this petition under section 7 of code, it cannot be allowed to say that the said transaction was valid being loan in nature. The petitioner cannot be allowed to blow hot & cold by taking contradictory and inconsistent stands with a malafide intention to take undue advantage to secure an order of initiation of CIR proceedings against the corporate debtor herein," the NCLT order stated.

"Thus, now, by virtue of this petition under section 7 of code, it cannot be allowed to say that the said transaction was valid being loan in nature. The petitioner cannot be allowed to blow hot & cold by taking contradictory and inconsistent stands with a malafide intention to take undue advantage to secure an order of initiation of CIR proceedings against the corporate debtor herein," the NCLT order stated.

The NCLT was hearing a plea filed under the name of DHFL, which was taken over by Piramal Capital and Housing Finance Limited in 2021, seeking to trigger the Corporate Insolvency Resolution Process (CIRP) against the present respondent, claiming default of ₹250 crore on a loan granted for constructing a hospital.

At the same time, the respondent submitted, DHFL had filed an interlocutory application (IA) in a matter before the NCLT at Mumbai, where it claimed that the transaction of the loan in question was fraudulent. Further, in view of an avoidance application filed before the NCLT Mumbai, the petitioner cannot take a contradictory stance and term the present transaction financial debt, it was argued.

The petitioner submitted that the twin criteria of debt and default as laid down by the Supreme Court in *Innoventive Industries* was fulfilled in this case.

It said that the purpose of the avoidance application was different from the present reliefs sought, and that the allegations of its erstwhile administrator (when under DHFL) on the transaction do not make the present proceedings malicious.

Since the respondent-corporate debtor is unable to pay its debt, the present plea should be admitted, it was argued.

The Tribunal framed the following questions of law:

- *Whether the present petition has been filed by duly Authorised officer of DHFL and he is entitled to pursue the same on behalf of PHCFL as well?*

- *Whether the petitioner bank actually extended the loan facility to the respondent corporate debtor?*
- *Whether the petitioner bank is entitled to trigger CIR proceedings on the basis of default in repayment of the amount involved herein?*

On the first point, the NCLT at the outset observed that as per Section 201 of the Indian Contract Act, the moment a principal becomes insolvent, the power of attorney is terminated.

"In the matter in hand, the power of attorney stood terminated on initiation of CIR proceedings, hence, the Power of Attorney also stand terminated on triggering of CIR proceedings," the order noted.

Taking note of the ongoing proceedings at NCLT Mumbai regarding the alleged fraudulent and collusive nature of the loan transaction, the Bench stated that once it is established that a party 'consciously elected' to take a certain plea, it cannot be permitted to say something contradictory to and inconsistent with the same, as was done in the present case.

"The expression 'debt due' would obviously refer to debts that are 'due and payable' under law and not the amount, which was disbursed fraudulently and collusively with ulterior motive," the order stated.

Towards this, the Bench held that if an amount is not payable or due in law, then a petition regarding its defaulting cannot be entertained. Accordingly, the NCLT in the present case deemed that petition has not been filed by a duly authorised officer and also does not establish the loan as being a financial debt.

The Tribunal further held that the said transaction amount, which was being claimed as a loan was nothing but a sham transaction and did not satisfy the conditions laid down under Section 5(8) of the IBC. Section 5(8) enlists the types of debt that will qualify as "financial debt" for the purpose of initiating CIRP.

Advocates Giriraj Subramaniam, Simarpal Singh Sawhney and Abhishek Choudhary appeared for the respondent-corporate debtor.

Yes Bank, being a secured creditor, had sought to implead itself and was represented by Senior Advocate **Gopal Jain** with Advocates Raunak Dhillon, Dhananjay Kumar, Surbhi Pareek, Isha Malik, Nihaad Dewan, and Shashank Agrawal.

DHFL was represented by Senior Advocate **Ramji Srinivasan** and Advocates Pooja Mahajan, Savar Mahajan, Srishti Kapoor, and Rajshree Chaudhary.

Source: Bar and Bench

Read Full news at:

<https://www.barandbench.com/news/salary-wages-during-cirp-are-costs-for-asset-distribution-under-section-53-ibc-supreme-court>

