



April 25, 2022

IBC AU-COURANT

Insolvency Professional Agency of Institute of Cost Accountants of India



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Updates on Insolvency and Bankruptcy Code

➤ **After deal with Reliance Retail collapses: Future lenders likely to go for Group insolvency**

Future Group's lenders will pursue group insolvency after the deal to sell assets to Reliance Industries Ltd (RIL) companies collapsed, said three people aware of the development, pegging recovery at less than 10%.

The businesses of the Future Group entities are interdependent, so a holistic resolution makes sense, they said. The total loans of Future Group companies stood at Rs 28,921 crore on January 31. The majority of this is accounted for by Future Retail and Future Enterprises.

Bank of India, Future Retail's lead lender, filed a petition seeking insolvency proceedings against Kishore Biyani's flagship company at the Mumbai bankruptcy court on April 21.

Cash Flow Impacted

Lenders will pursue the same route for the other defaulting group companies such as Future Enterprises that also missed payments in the last week of March.

Although the National Company Law Tribunal (NCLT) has to admit a company within 14 days of being referred under the Insolvency and Bankruptcy Code (IBC), the process typically takes at least three months.

Recovery could even be less than 10% since the value of the assets on Future's books are dwarfed by the debt."The lease takeover of 946 stores by Reliance has reduced Future's cash flow by over 65%," said one of the persons cited above. "To sustain operations of the remaining stores, the company does not have adequate inventories or the money to pay its staff or vendors. Sooner or later, the landlords of these stores too will chase them out."

Reliance had taken over the stores after Future failed to make rental payments.

The main assets that remain with Future Group are about 30 large-format stores and about 300 small-format outlets, although all are on lease. It also has a fully automated supply chain solutions facility in Nagpur, and about 20 ownership stores pledged with different lenders.

Future Retail, which operates retail stores such as Big Bazaar, Hypercity, Foodhall, eZone, Easyday and Heritage Fresh, had outstanding debt of ₹14,090.6 crore on January 31. Future Enterprises, which manufactures, designs, procures and distributes fashion apparel, has outstanding debt of ₹6,880 crore. Future Lifestyle and Fashion, Future Supply Chain and Future Consumer are the other key group companies.

Reliance and Future formally called off the ₹24,713 crore deal announced in August 2020 after 69% of secured lenders voted against the plan while 86% of shareholders and 78% of unsecured creditors voted in favour of the scheme.

Secured lenders voted against the sale of assets to Reliance since they did not receive any comfort from Future Group that the buyer would support the proposed distribution plan. Future had proposed transferring about 45% of the proceeds - amounting to Rs 12,612 crore - to Reliance while it would repay the remaining loans over seven years.

A 20-month legal battle between Future Group and Amazon delayed the sale of assets of Reliance group companies. Amazon had challenged the sale of assets, alleging that its agreement with Future Coupon in 2019 barred the sale of assets to Reliance entities.

Source: The Economic Times

Read Full news at:

<https://economictimes.indiatimes.com/industry/services/retail/after-deal-with-reliance-retail-collapses-future-lenders-likely-to-go-for-group-insolvency/articleshow/91060551.cms>

➤ **NCLT orders insolvency proceedings against Supertech Ltd over Rs 432 crore default**

Acting on a petition filed by the Union Bank of India for non-payment of around Rs 432 crore worth dues, the bankruptcy court ordered the initiation of insolvency proceedings against real estate firm Supertech Ltd, one of the companies of Supertech group.

Real estate developer Supertech on Friday was declared bankrupt by the National Company Law Tribunal (NCLT), a move that could have a bearing on 25,000 home buyers of the firm's ongoing projects in the Delhi and NCR region.

Acting on a petition filed by the Union Bank of India for non-payment of around Rs 432 crore worth dues, the bankruptcy court ordered the initiation of insolvency proceedings against real estate firm Supertech Ltd, one of the companies of Supertech group.

The NCLT said "there has been a default in payment of the financial debt" and appointed Hitesh Goyal as the Interim Resolution Professional (IRP) superseding the board of Supertech Ltd.

A two-member NCLT bench comprising P S N Prasad and Rahul Bhatnagar said the documents submitted by the financial creditor Union Bank of India as well as the corporate debtor Supertech had "substantiated" the former's claim that there was a debt on which the builder had defaulted.

"In light of the above discussion, after giving careful consideration to the entire matter, hearing arguments of the parties and upon the appreciation of the documents placed on record to substantiate the claim, this tribunal admits this petition and initiates CIRP on the corporate debtor with immediate effect, the NCLT said.

CIRP refers to Corporate Insolvency Resolution Process (CIRP).

Supertech Ltd has 38,041 customers and out of them, homes have been delivered to 27,111 people. As many as 10,930 homes are yet to be delivered and among them, over 70 per cent construction is complete with respect to over 8,000 homes, according to Supertech Group Managing Director Mohit Arora.

The tribunal has also directed the IRP to make a public announcement in this regard and declared a moratorium against the company as per the provision of the Insolvency & Bankruptcy Code.

Moratorium will continue till a resolution plan is approved and during that period no new cases or claims can be filed against the company in any court of law, tribunal, arbitration panel or any other authority.

Apart from this, Supertech is also barred from transferring, encumbering, alienating, or disposing of any assets.

This is the second major setback for Noida-based developers in the last one year.

On August 31 last year, the Supreme Court had ordered the demolition of Supertech Ltd's twin 40-storeyed towers, which are part of the under-construction Emerald Court project in Noida for violation of building norms.

Supertech Group said it would challenge the order before the National Company Law Appellate Tribunal (NCLAT).

"In the matter of appointment of IRP in one of the Supertech Group companies by the NCLT, management of the company stated that the company will be approaching NCLAT in an appeal against the order," Supertech Group said in a statement.

However, it also added the NCLT order will not affect operations of other companies of the Supertech Group.

The NCLT order will not impact the construction at all ongoing projects or operation of the company and "we are committed to giving delivery of units to allottees," it said.

When contacted, Arora said, "there are around 11-12 housing projects in the Supertech Ltd against which insolvency proceedings have been initiated. Around 90 per cent of these projects are completed."

The debt of Supertech Ltd is around Rs 1,200 crore, including nearly Rs 150 crore loans from Union Bank of India, he added.

According to Arora, there are three-four other companies in the group that are developing many projects across Delhi-NCR, including luxury project Supernova.

The default pertains to the loan given by Union Bank of India to Eco Village II project at Greater Noida (West) in Uttar Pradesh, which was being developed at a cost of Rs 1,106.45 crore.

In 2013, Supertech Ltd had approached various financial institutions to avail a credit facility of Rs 350 crore from a consortium of banks, and out of them, Union Bank of India, the lead bank, had an exposure of Rs 150 crore.

A loan agreement was executed between the banks and Supertech on December 30, 2013.

Later, loan account of banks which was maintained by Supertech in respect of credit line became highly irregular with repeated defaults in payment of principal and interest.

Finally, a notice was sent on April 24, 2019 and Supertech again failed to pay and Union Bank of India moved the NCLT.

Supertech had opposed the plea contending that it was filed by the lenders with the authority and as per the clauses of their inter credit agreement, lenders are restricted to initiate any action of winding up, liquidation, bankruptcy, insolvency or dissolution of the borrower.

Moreover, NPA classification of their account was contrary to the guidelines issued by RBI, as per the realty firm contended.

Rejecting the argument, the NCLT said Supertech had submitted a onetime settlement proposal which was not accepted by the financial creditor.

"The counsel for the corporate debtor has therefore admitted the debt and default," it said.

Source: Zee Business

Read Full news at:

<https://www.zeebiz.com/companies/news-nclt-orders-insolvency-proceedings-against-supertech-ltd-over-rs-432-crore-default-183429>

➤ **Fresh Resolution Plan Cannot Be Considered By Committee Of Creditors: NCLAT New Delhi**

National Company Law Appellate Tribunal (NCLAT) Principal Bench comprising of Justice Ashok Bhushan, Dr Alok Srivastava & Ms. Shreesha Merla in the matter of Steel Strips Ltd versus Avil Menezes held that a fresh resolution plan cannot be considered by a Committee of Creditors (COC) once it has already approved a resolution plan.

Successful Resolution Applicant Steel Strips Wheels Ltd. (Steel Strips) filed an appeal before the NCLAT under Section 61 of the Insolvency & Bankruptcy Code, 2016 against the order dated 18.01.2022 of NCLT Ahmedabad wherein it has directed the COC to consider a fresh resolution of Triton Electric Vehicle LLC (Triton Electric) even though the COC has already approved the Resolution Plan submitted by Steel Strips.

Brief Background:

The Corporate Insolvency Resolution Process of AMW Auto Component Ltd. was initiated on 01.09.2020 and thereafter, the Resolution Plan dated 24.04.2021 submitted by Steel Strips was approved by COC with 98.55% voting shared. Letter of intent was issued to Steel Strips and a

bank guarantee of INR 20 Crores was also submitted by Steel Strips. Thereafter, the Resolution Professional filed an approval application before the NCLT.

Subsequently, Triton Electric filed an application before the NCLT seeking permission for submitting a resolution plan before the COC and same was allowed by NCLT Ahmedabad vide its order dated 18.01.2022.

It was contended by Steel Strips that there was no occasion for the Adjudicating Authority to pass an order for consideration of the Resolution Plan submitted by Triton Electric once COC already approved the resolution plan of steel strips with 98.55% voting share and the same is pending approval before the NCLT.

It was also contended that Triton was not included in the final list of prospective resolution applicants and therefore, Triton has no authority to submit any resolution plan. It was also argued that the NCLT has no jurisdiction to direct the COC to consider the resolution plan of Triton once it has already approved the resolution plan of Steel Strips.

It was submitted by the Resolution Professional that email dated 22.12.2021 of Triton Electrics requesting to submit the resolution plan was forwarded to COC and the COC denied to consider the same but now the COC has shown its willingness to consider the resolution plan of Triton Electrics.

It was submitted by COC that looking at the objects and reasons of the Code, the COC in its meeting dated 05.03.2022 deliberated and decided that Triton Electrics may be given an opportunity to present their Resolution Plan.

It was contended by Triton Electrics that it has submitted a joint resolution plan which also deals with the sister concern of corporate debtor. It was also contended that the Steel Strips itself submitted its resolution plan after the due date and therefore, cannot question the submission of plan by Triton Electric on the ground of delay.

NCLAT observed that it is not disputed two resolution plans were placed for approval before COC and the plan of Steel Strips was approved by 98.55% voting shares. It further observed that it is also not disputed that the COC in its meeting dated 18.12.2021 denied to consider fresh expression of interest submitted by Triton Electrics. NCLAT held that the CoC could not as per existing law, consider the Resolution Plan of Respondent No.3 after approval of the plan of the Appellant and after over of the CIRP. NCLAT further relied on the judgment of Supreme Court in *Ebix Singapore Private Limited vs. Committee of Creditors of Educomp Solutions Limited* and held that the finality has been attached to the Resolution Plan of the Steel Strips which was approved by the CoC, which finality could not have been taken away by the impugned order passed by the Adjudicating Authority.

NCLAT further held that the Supreme Court in *Ebix* also noticed that late and unsolicited bids by Resolution Applicants after the original bidder becomes public upon passage of the deadline for submission of the plan is a reason for deviation of the original objective and timeline under the Code and therefore, resolution plan of Triton Electric cannot be considered after the approval of plan of Steel Strips and CIRP period is over.

NCLAT further relied on its previous judgment in the case of *Chhattisgarh Distilleries Ltd. vs. Dushyant Dave and Kalinga Allied Industries India Pvt. Ltd. vs. Hindustan Coils Ltd* and held that; "25...After approval of the Resolution Plan by the CoC by requisite vote and after expiry of CIRP, it is not open for the CoC to contend that it is ready to consider the plan of Respondent No.3 which according to it may be better plan". In the light of the above observations, NCLAT held that order dated 18.01.2022 is unsustainable and set aside the same.

Source: Live Law

Read Full news at:

<https://www.livelaw.in/ibc-cases/fresh-resolution-plan-cannot-be-considered-by-committee-of-creditors-197350>

➤ **NCLT admits insolvency plea against GVK Ind Ltd**

Hyderabad: GVK Power Infrastructure Ltd (GVKPIL) on Friday informed the bourses that the Hyderabad bench of the National Company Law Tribunal has admitted an insolvency proceedings petition filed by J& K Bank against its stepdown subsidiary GVK Industries Limited under the Insolvency and Bankruptcy Code (IBC) during it's hearing on April 21, 2022. "The appointed Insolvency Resolution Professional (IRP) will be initiating the process as stipulated under the IBC. Upon such appointment, the IRP will take charge of GVK Industries Limited in terms of the IBC. The order copy is yet to be received by the company," GVKPIL.

Source: The Times of India

Read Full news at:

<https://timesofindia.indiatimes.com/city/hyderabad/nclt-admits-insolvency-plea-against-gvk-ind-ltd/articleshow/91015584.cms>



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