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Latest updates On Insolvency & Bankruptcy

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➤ **Lodha claims 47% in Peerless after NCLT says share allotment to Roys 'void'**

It's face-off between the Roys of Peerless General Finance & Investment Company and Parasmal Lodha after the Kolkata Bench of the National Company Law Tribunal (NCLT) termed allotment of shares to Roys in 1988 as 'void'.

Peerless Managing Director Jayanta Roy said that the order was nothing but a stage of litigation. "It is subject to challenge which we shall certainly do. We are confident that a final verdict from the higher forum will be in our favour."

Lodha retorted, "They must understand that the delaying tricks that they have been using for 30 years in Calcutta High Court will not work in higher forums. Fair justice will prevail."

At the heart of the matter lie 30,000 shares of Peerless General Finance issued in 1988 to friends, relatives and nominees of the Roys. This brought down the holding of Lodha and his nominees and increased the holding of Roys to more than 50 per cent, according to Lodha.

The original petitioners in the case were Ajit Kumar Chatterjee and Arghya Kusum Chatterjee who by way of a family settlement came to own shares of Kali Kumar Chatterjee, who used to own and run Peerless with Sunil Kanti Roy.

Lodha was part of a group of shareholders that filed the petition at the time. Then, Bhagwati Developers, Lodha's company, replaced Ajit Kumar Chatterjee in the legal battle when he died.

According to Lodha, with the NCLT ruling, his holding in Peerless would increase from 23 to 47 per cent while Roy's holding would come down from 66 per cent to 36 per cent.

In 1988, the promoters of Peerless had bought 15,626 shares of the company from Lodha, Bhagwati Developers and other shareholders.

The NCLT has declared issuance and allotment of the shares as null and void and the holders have been directed to return the shares, bonus shares and accrued dividend to previous shareholders i.e. transferors within 30 days. Lodha puts the value of accrued dividend at Rs 250 crore.

The 32-year legal battle that was started by a group of shareholders is largely being spearheaded by Lodha now.

Parasmal Lodha

It's not unusual for Lodha to make headlines – by his own admission it has often been for the “wrong reasons”.

Lodha entered the real estate business in the early 1980s and quickly earned the nickname “Extra Floor Lodha”. His specialty was squeezing in extra floors in buildings in lieu of roof rights – an idle asset for the owner.

He had agreements with the owners of many big buildings in Kolkata. The iconic ones were Tobacco House, Bagree Market, Stephen Court in Kolkata.

“I wanted to enter the real estate business but had no money to buy land. So I came with the novel idea of buying the roof and adding extra floors,” Lodha said.

The onus of getting the legal stamp was on Lodha. Was it due to his political connections? “Some people liked me,” he admitted.

In the 1990s, he was in the public eye for Peerless. But the last time he was under spotlight was in 2016 when he was taken into custody by the Enforcement Directorate (ED) for allegedly converting over Rs 25 crore in banned currency into new notes.

He was in custody for three months. Lodha claims that the case is almost over.

Source: Business Standard

Read Full news at: https://www.business-standard.com/article/companies/lodha-claims-47-in-peerless-after-nclt-says-share-allotment-to-roys-void-122072300249_1.html

➤ **Court ruling on IBC creates uncertainty in admission of cases. Timelines envisaged in code must be adhered to**

The introduction of the Insolvency and Bankruptcy Code marked a fundamental change in the relationship between borrowers and lenders. With a creditor-in-control framework, the move to a time-bound resolution process shifted the balance of power away from the corporate borrower. The code was meant to discipline errant borrowers — who till then had been able to game the system — with the threat of losing control. However, delays in the resolution process beyond the timelines prescribed in the code, the large haircuts that creditors have taken, and the disproportionate share of cases that have ended in liquidation, have cast a shadow over the functioning of the code. A recent court judgment is only likely to further complicate matters.

Till now, in order to initiate proceedings under the IBC, financial creditors had to provide proof of the corporate debtor's default. Once the adjudicating authority, the

National Company Law Tribunal, was convinced of the default, the application was admitted. This allowed for quick admission of cases. However, the judgment in Vidarbha Industries Power Ltd. v. Axis Bank appears to have created ambiguity in this process. As per the judgment, the NCLT “has to consider the grounds made out by the corporate debtor against admission, on its own merits.” This creates space for applications by financial creditors to be rejected even if there is a default. If the NCLT is now required to delve into the financial position of the corporate debtor, to inquire if the default is due to cash flow distress and whether it can repay, then matters of commercial considerations, which are the domain of the committee of creditors, are now also being placed with the NCLT. Doing so may also lead to delays in the admission of cases beyond the timelines envisaged.

In large measure, the success of the IBC was in its attempt to transform the credit culture in the country. The threat of losing control over the firms was meant to ensure that borrowers honour their obligations. There are indications of this threat having become a credible deterrence. Till March 2022, 21,000 applications for the initiation of the resolution process were resolved before their admission. However, if the admission of cases itself becomes a matter of discretion, this will impinge on IBC being an effective deterrence for errant borrowers. Considering that delays in either admitting the case or the resolution process will only lead to further destruction of asset values, NCLTs must ensure that the timelines envisaged in the code are strictly adhered to.

Source: *The Indian Express*

Read Full news at: <https://indianexpress.com/article/opinion/editorials/court-ruling-on-ibc-creates-uncertainty-in-admission-of-cases-8046299/>

➤ **Three Future group firms to file claims before FRL's interim resolution professional**

New Delhi: Three listed Future group firms will file their claims before the Interim Resolution Professional (IRP) of FRL, against which insolvency proceeding has been initiated by NCLT earlier this week. The three companies in their respective regulatory filings informed that they have significant amount of receivables from FRL against the transactions undertaken in the course of the business.

Claim before the IRP as per the provisions and process prescribed under the code including applicable rules made thereunder," said the three Future Group companies in their respective filings on Thursday.

On July 20, the Mumbai bench of the National Company Law Tribunal (NCLT) ordered initiating insolvency resolution proceedings against the debt-ridden FRL and dismissed objections raised by e-commerce major Amazon. NCLT has passed the order after allowing the petition filed by (BoI) following loan defaults by FRL -- the flagship firm of the Kishore Biyaniled group.

Under the Insolvency & Bankruptcy Code, a company facing insolvency proceedings is protected under moratorium and during that period any recovery through suits, decree, arbitration etc. is prohibited.

"The order of moratorium shall have effect from the date of pronouncement of this order till the completion of the corporate insolvency resolution process or until this bench approves the resolution plan or passes an order for liquidation of the corporate debtor, as the case may be," NCLT had said in its order.

The Future group is facing financial trouble after its Rs 24,713-crore deal announced in August 2020 to sell its retail, wholesale, logistics and warehousing assets to NSE - 3.21 % could not materialise.

Source: The Economic Times

Read Full news at: <https://economictimes.indiatimes.com/industry/services/retail/three-future-group-firms-to-file-claims-before-frls-interim-resolution-professional/articleshow/93057877.cms>

➤ **Jet Airways' lenders threaten insolvency over aircraft rental proceeds: Report**

Jet Airways' lenders led by the State Bank of India could push the airline into liquidation if the winning bidder, the Jalan-Kalrock consortium, disagrees on distributing the proceeds from aircraft rentals among the financing banks, The Economic Times has reported.

Aircraft rentals to Air Serbia have, so far, yielded about Rs 108 crore. The amount is parked with the SBI. The banks conveyed to the winning bidder that they would apply for liquidation if lease rentals were not distributed to the verified lenders, the report said, citing sources.

Moneycontrol couldn't verify the report independently.

The Jalan-Kalrock consortium has sought time until next week for a decision. The resolution plan approved by the National Company Law Tribunal (NCLT) is silent on the distribution of the lease rentals, leading to a dispute between the lenders to the distressed airline and the winning bidder.

Source: Money Control

Read Full news at: <https://www.moneycontrol.com/news/business/jet-airways-lenders-threaten-insolvency-over-aircraft-rental-proceeds-report-8870451.html>

