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Latest updates On Insolvency & Bankruptcy

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“Success is not final; failure is not fatal: It is the courage to continue that counts.”

➤ **Yashomati Hospitals becomes third-party litigation funding startup LegalPay’s first exit**

The dedicated bankruptcy court’s approval for the revival plan submitted by Sri Kauvery Medical Care (India) Ltd for the Bengaluru-based Yashomati Hospitals Pvt Ltd (YHPL) becomes the first case of the third-party funding exit under the Insolvency & Bankruptcy Code (IBC) in the country.

The Bengaluru bench of the National Company Law Tribunal (NCLT) approved the resolution for the Bengaluru-based Yashomati Hospitals where the financial lenders had approved the plan submitted by Chennai-based hospital chain Sri Kauvery Medical Care with 100% voting.

The third-party litigation funding startup LegalPay got its first exit within nine months of its investments as the tribunal approved the resolution plan with over 26% return.

Last year in October, Ravindra Beleyur, resolution professional (RP) of Yashomati Hospitals raised an undisclosed amount from LegalPay to run the company as a going concern until the hospital found a new promoter through the insolvency process.

“The successful resolution of Yashomati Hospitals has established a landmark poster image that operational excellence can also be achieved during this period through third-party interim funding kicking in at the right moment and at reasonable interest rates,” said Kundan Shahi, chief executive of LegalPay. “We are inclined to organise and make the entire insolvency and legal process efficient and effective.”

Last year in March, Yashomati Hospitals was admitted under the Corporate Insolvency Resolution Process (CIRP) in a petition filed by Pegasus Assets Reconstruction. Initially, the company’s RP had received claims of over Rs

246.82 crore for the company. On May 30, 2022, the tribunal approved a resolution of Chennai Kauvery Medical Care for Rs 34.43 crore.

Source: Economic times

Full news at: <https://economictimes.indiatimes.com/news/company/corporate-trends/yashomati-hospitals-becomes-third-party-litigation-funding-startup-legalpays-first-exit/articleshow/92567155.cms>

➤ **Bankers, IBC experts cheer proposal for part-resolution of assets**

A proposal to allow part-resolution of stressed assets of companies under the insolvency process, if implemented, could help lenders maximise their recoveries, bankers and insolvency experts told Moneycontrol on June 29.

The Insolvency and Bankruptcy Board of India (IBBI) on June 28 released a 12-page discussion paper to augment the value of stressed assets. In the paper, it proposed that the resolution professional and the committee of creditors (CoC), entities in charge of the company under the insolvency process, can be enabled to explore resolutions of part of the assets or businesses by allowing submission of different resolution plans for them.

However, such an option can be made only when there was interest expressed by potential resolution applicants or bidders while submitting expression of interest, but where a resolution plan was not received within the stipulated time frame.

“Many a times, the resolution process gets stuck because the corporate debtor may have good assets and bad assets,” said Nirav Shah, partner, DSK Legal. “If part of a business or assets of corporate debtors are allowed to be resolved or sold, then it would probably hasten the resolution of the insolvency proceeding as it may help the resolution professional dispose of assets or businesses in a more expeditious manner.”

Shah added that the resolution professional can run parallel processes to sell different assets or businesses and invite resolution plans for the same. This can possibly lead to better outcomes for the banks owed money by the bankrupt company, he said.

What is the trigger for this proposal?

The IBBI observed that there are corporate debtors that have functional and non-functional assets across locations or in different businesses in the country. In such cases, the potential bidders who may be interested in the

functional asset or the asset in one location or business are often not interested in the others.

It was also observed that the additional investment demand on the bidders for the non-functional asset or the assets in other locations or businesses becomes too high, the IBBI said. Hence, such bidders are not willing to put in a resolution plan, in which case lenders proceed towards liquidation where the realisation is far less than what is expected.

“A combination of bidders taking different business units or assets may well be far superior to one bidder acquiring the entire business,” the IBBI said. “However, there seems to be very little effort in this direction and corporate debtors are pushed into liquidation.”

Beginning December 2016 till March 2022, 47 percent of corporate insolvency processes went into liquidation, compared with 14 percent that ended in a resolution plan, according to IBBI data.

Moneycontrol reported on June 2 that lenders are left with no choice but to go for liquidation of stressed assets under the Insolvency and Bankruptcy Code (IBC) due to a mismatch between the quoted value of the asset and the bid price.

In most bankruptcy cases, it is observed that lenders have had to take deep haircuts on their exposure to the stressed asset when the company goes for liquidation. Haircut, in banking parlance, refers to the monetary sacrifice banks need to make on their original loan exposure during the resolution process of a stressed borrower.

Why are bankers happy?

Bankers, who are mostly financial creditors, said that such a proposal would lead to a fairly good chance of reducing liquidations. Once the plans are received, banks can decide the best way to recover their dues and this can assist in saving valuable time and money, they said.

“Right now, what happens is that potential bidders, while assessing the value of the corporate debtor, often assign zero value to certain assets. The overall realisation value becomes so low that more often than not banks are forced to take the liquidation route,” said an official at a stressed recovery vertical of a Mumbai-based state-run bank, who did not want to be identified.

“If this proposal is implemented, banks can delay liquidation, if they feel they can milk some assets as the last straw,” added the banker. “This is surely a positive development as it opens up more ways for recovery.”

Another banker with a private bank elaborated that so far, only when the value of the entire asset has been good, like for example Bhushan Steel or

Essar Steel, the resolution was fruitful and the haircut for banks was relatively low.

“If part-resolution of assets is adopted, it will bring in more flexibility to the resolution process but a lot depends on implementation and what happens in reality,” the private banker said.

Insolvency experts agreed with the bankers.

The proposal “should effectively prevent the erosion of the functional and profit-making businesses or assets of the company under the resolution process, while the CoC and resolution professional wait for submission of a resolution plan for the non-functional asset or business of the company,” said Sushmita Gandhi, partner at IndusLaw. “This would significantly increase the prospects of the revival of the companies while ensuring less haircuts for the banks in the process.”

The proposed amendment can be of great help in squeezing maximum value as assets and business can be sold or resolved at the time when it can fetch the highest value, added Gandhi.

According to Gautam Bhatikar, partner at Phoenix Legal, one way to look at this is that lenders could categorise available assets on the basis of their end-use or geographic location and target selling them separately at a better value than the offer made by a prospective bidder in liquidations, which is normally lower. There is a “fairly good” chance of reducing liquidations, he added.

What’s the flip side?

Experts also warned that there could be another side to the proposal. For one, unmonitored use of the provision may lead to the early death of the corporate debtor, which is not the actual scope, intent and purpose of the IBC process, they said.

“In my view, this proposal needs a bit more deliberation and analysis since it goes against the concept of resolution of the corporate debtor as a ‘going concern’ and may in fact require an amendment to the code itself,” said Aastha, partner at Argus Partners (Solicitors & Advocates).

“The other aspect which would need to be considered is how the liabilities will be dealt with in case of resolution of only a part of the assets,” added Aastha. “We would need to see how dues of lenders who have lent to the non-functional assets are dealt with.”

It will also put the additional onus on the resolution professional to make efforts or undertake additional research to ensure that each of the

expressions of interest has a wide reach, especially in industry-specific platforms that have a wide outreach, said experts.

“It is also crucial that the resolution under this process gets done in a time-bound manner. If not, then this would not help,” added DSK Legal’s Shah.

Source: Money Control

Full news at: <https://www.moneycontrol.com/news/business/bankers-ibc-experts-cheer-proposal-for-part-resolution-of-assets-8756501.html>



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