AVM Insights... Unleash the potential

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KEY UPDATES/ AMENDMENTS

- NCLAT has asked the IRP of Dream 11 to maintain it as a going concern; not to take steps for insolvency as it has already stayed the Corporate Insolvency Resolution Process of the company.

- IBBI organised a three-day training programme for Indian Corporate Law Service (ICLS) trainee officers, of the 2022 batch from 08th April 2024 to 10th April 2024. The objective of the training program was to provide trainee officers with up-to-date insights, methodologies, and practical approaches necessary for effectively managing the intricacies of insolvency and bankruptcy proceedings. The expert faculty imparted a thorough understanding of the Insolvency and Bankruptcy Code (IBC), including its nuances and practical application, to the officers.

- In its continuous pursuit of protection of interests of investors in the securities market, SEBI has launched the new version of the SEBI Complaint Redress System (SCORES 2.0). The new version of SCORES strengthens the investor complaint redress mechanism in the securities market by making the process more efficient through auto-routing, auto escalation, monitoring by the 'Designated Bodies and reduction of timelines.

- In terms of SEBI Master Circular dated July 31, 2023 for Alternative Investment Funds (AIFs), intimation with respect to any change in the terms of Private Placement Memorandum (PPM) is required to be submitted to SEBI through a merchant banker, along with a due diligence certificate from the merchant banker in a format specified by SEBI. Such changes in the terms of PPM and in the documents of the fund/scheme are required to be intimated to investors and SEBI on a consolidated basis, within 1 month of the end of each financial year.

- The defect rate in settlements of Indian equity markets have halved after the shift to the T+1 settlement cycle, Securities and Exchange Board of India (SEBI) Chairperson Madhabi Puri Buch said on April 02, 2024. prior to moving to the T+1 settlement cycle, the defect rate in the Indian equity market was 0.7%-0.8%, while after the implementation of T+1, it has halved to 0.3%-0.4%.

- SEBI obtains ISO/IEC 27001:2022 Certification for its Information Security Management Systems for the following:

  a. Information Security Management System at the Primary Data Centre,
  b. Security Operations Control (SOC) and Network Operations Control (NOC) Operations and
  c. Information Security Management System at the Disaster Recovery site.

FROM EDITOR'S DESK

Is Indian Economy in Doldrums ?

- Recently Raghu Ram Rajan, Ex Governor of RBI commented that India is headed the path of SriLanka. Since SriLanka's economic disaster is public knowledge, his comment did send shivers amongst many until a counter comment was made by Kristalina Georgieva, MD of International Monetary Fund, " India deserves to be called a bright spot on this otherwise dark horizon because it has been a fast-growing economy, even during these difficult times, but most importantly, this growth is underpinned by structural reforms"

- No merit in further dissecting the thesis of Raghu Ram Rajan, but some hard statistifcal facts are more relevant to look at as follows to decipher the shade of colour ourselves : -

  (i) India is one of the fastest growing economy in India @7% plus endorsed by all multilateral financial institutions

  (ii) Indian banking has witnessed a massive turnaround with Gross NPA falling from 11.3% in 2018 to 3.9% in 2023

  (iii) FDI and FPI in India have been showing encouraging signs with Forex Reserves crossing 650 bn$

  (iv) Fiscal situation is very comfortable and GST collections have been growing upwards month on month

- With most of the macro and micro economic indicators showing a positive trend, the outlook remains upbeat notwithstanding the disturbing geo political situation. For a change India's foreign policy and diplomatic effect is witnessed amidst the power corridors. This is a new chapter to India's growth story.

- With India going to vote in next couple of months, the most significant driver of India's future is going to be the mandate Indian public assigns to forecast the future of Indian story of economic growth

KEY JUDGEMENTS

·NCLAT

1.Iskon Infra Engineering Pvt. Ltd. V. Central Bank of India
Guarantee continues to bind the Corporate Guarantor to discharge its liability and the fact that as on date, guarantee has not been invoked, would not mean that there is no debt and cannot be a ground for Corporate Debtor to be liquidated under Section 59 of the IBC.
https://cdn.ibclaw.online/insolvency/nclat/2024/Iskon+Infra+Engineering+Pvt.+Ltd.+Vs.+Central+Bank+of+India+01.04.2024+NCLAT+New+Delhi.pdf

2.Krystal Stone Exports Ltd. V. Stressed Assets Stabilization Fund
Mere fact that financial documents and OTS related documents were not referred to in the Section 7 application cannot disentitle the Financial Creditor to bring on record the said documents when plea was raised in the reply by the Corporate Debtor that application is barred by time.
https://cdn.ibclaw.online/insolvency/nclat/2024/Krystal+Stone+Exports+Ltd.+Vs.+Stressed+Assets+Stabilization+Fund+-+08.04.2024+NCLAT+New+Delhi.pdf

3.Adisri Commercial Pvt. Ltd. V. Reserve Bank of India and Ors.
Appellant who have challenged the order on merits in which he has been unsuccessful, cannot be allowed to file an application to recall the order on the same ground on which the appeal was filed by the Appellant.
https://cdn.ibclaw.online/insolvency/nclat/2024/Adisri+Commercial+Pvt.+Ltd.+Vs.+Reserve+Bank+of+India+and+Ors.+-+04.04.2024+NCLAT+New+Delhi.pdf

4.Vikram Laxman Pawar Vs. Mr. Sripatham Venkatasubramaniam Ramkumar, RP of Privilege Industries Ltd.
Although the timeline as stipulated in the Code are sacrosanct and important and sometime critical for resolution of the Corporate Debtor in order to achieve the maximization of value of all the stakeholders, the timelines need to be considered as of directory nature and not as mandatory in nature.
https://cdn.ibclaw.online/insolvency/nclat/2024/Mr.+Sripatham+Venkatasubramaniam+Ramkumar+RP+Vs.+Mr.+Sripatham+Venkatasubramaniam+Ramkumar%2C+RP+of+Privilege+Industries+Ltd.+-+05.040.2024+NCLAT+New+Delhi.pdf

5.Mohit Arora V. IFCI Ltd. And Anr.
When a resolution professional has already been appointed in Insolvency of Personal Guarantor, there is no occasion to appoint another resolution professional in other application.
https://cdn.ibclaw.online/insolvency/nclat/2024/Mohit+Arora+Vs.+IFCI+Ltd.+and+Anr.+-+05.04.2024+NCLAT+New+Delhi.pdf

·NCLT

6. Mr. Ajay Joshi (RP) V. Union Bank of India
Amount lying in the current account of the Corporate Debtor, even if it was subject to a charge, continues to be an asset of the Corporate Debtor, and adjustment or deduction of amounts from the current account of the Corporate Debtor during the moratorium period is not justifiable.
https://cdn.ibclaw.online/insolvency/nclt/2024/Mr.+Ajay+Joshi%2C+RP+for+Indian+Steel+Corporation+Ltd.+Vs.+Union+Bank+of+India+-+03.04.2024+NCLT+Mumbai+Bench.pdf

7. Mr. Ritesh Prakash Adaitya (RP)
By virtue of Section 29A in the code, persons who have contributed to the defaults of the Corporate Debtor or are undesirable due to incapacities as specified in the section, are prevented from gaining control of the Corporate Debtor.
https://cdn.ibclaw.online/insolvency/nclt/2024/Mr.+Ritesh+Prakash+Adaitya%2C+RP+-+03.04.2024+NCLT+Mumbai+Bench.pdf

INTERNATIONAL NEWS AND KEY INSIGHTS ON INSOLVENCY

1.More than 1.85 lakh companies were incorporated in the country in 2023-24, the highest number for any financial year. A total of 1,85,314 companies and 58,990 Limited Liability Partnerships (LLPs) were incorporated in the fiscal ended 31 March 2024.

2.Utkarsh Small Finance Bank has settled a case pertaining to disclosure norms with capital markets regulator SEBI and paid Rs 1.24 crore towards the settlement charges.

3.The gross Good and Services Tax (GST) revenue for March 2024 has witnessed the second highest collection ever at one lakh 78 thousand crore rupees, with an over 11 per cent year on-year growth

4.Competition Commission of India has approved the subscription to 14,25,79,161 equity shares of Max Life Insurance Company Limited by Axis Bank Limited.

5. Competition Commission of India has approved the acquisition of shares of MG Motor India Private Limited by IndoEdge India Fund – LVF Scheme.

6. IFSCA vide a circular modified the certain clauses of the IFSCA (Vault Manager) Circular, 2021, originally issued on August 25, 2021. The provisions related to the registration of additional vaults, security deposit requirements, and fee structures have been amended by IFSCA through this circular.

7. The Indian economy is projected to grow at 7.5% in 2024, the World Bank has said, revising its earlier projections for the same period by 1.2%. Overall, growth in South Asia is expected to be strong at 6.0% in 2024, driven mainly by robust growth in India and recoveries in Pakistan and Sri Lanka, the World Bank said in its latest South Asia Development Update.

8. Adani Green Energy becomes India's 1st 'Das Hazari' in renewables sector with over 10,000 MW portfolio.

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