

Legal Update dated 17th August 2019

1) Application filed with Hon'ble High Court

As per the directions of Hon'ble NCLT, the Resolution Professional has filed the application with the Hon'ble Court for seeking directions to direct the Official Liquidator for releasing the Assets of the Corporate Debtor and for such other relief as the Hon'ble High Court may direct.

2) Removing Confusion over Committee of Creditors Meeting

This is to inform all the Financial Creditors (falling under the category of Home Buyers) that the Financial Creditors of the Category Home Buyers has chose Mr. Manish Agarwal as their Authorised Representative. As per the provisions of the Insolvency & Bankruptcy Code, 2016, no Financial Creditor falling under the category of (Home buyer) is allowed to attend the meeting. The Authorised Representative Mr. Manish Agarwal is only entitled to attend the meeting on behalf of the Class of Home Buyers.

We hereby request to all the Financial Creditors of class of Home buyers to give their suggestions, if any, to your Authorised Representative Mr. Manish Agarwal and it is the duty of Mr. Manish Agarwal to report the same to me & give you the feedback by circulating the minutes of the meeting.

3) Confusion related to Contribution for meeting CIRP expenses

We have received the call from various buyers and on the basis of their feedback we have come to know that there are some people who are spreading confusion/ rumors among the Buyers about the payment of contribution and criteria of contribution.

We hereby clarify that the contribution fund is required for meeting expenses under CIRP proceedings. The CoC has passed the resolution empowering the RP to borrow money from the Buyers for meeting expenses. The money received from the Buyers/ Association of Buyers shall remain in the Bank account and the same will be spent on the basis of approvals of Committee of Creditors from time to time. The Criteria is prepared on the basis of number of claimants available in each slab.

We are accepting the contribution from Home buyer individually who wishes to contribute directly and from Association of Buyers who wish to contribute through some association. The Association needs to give the details of the buyers on whose behalf they are making the payment.

We again hereby clarify to all the members of the Committee of Creditors that it is the independent decision of each home buyer to choose, whether they contribute through any Association or Directly to Bank Account of Premia Project Ltd maintained by Resolution Professional.

It is the duty of the Buyer to understand the rules, regulations of any such Association & further Assurance of return of their respective money. The RP has no role in working of any Association of Buyer.

In case if payment is received from buyer, we will give the acknowledgement to the buyer for that amount.

In case if the payment is received through any Association, Association is requested to provide the details of each buyer and their amount, accordingly we will issue the receipt in the name of Association & note down the names on whose behalf the contributions are received.

We hereby request to each and every buyer that this process of CIRP is under the monitoring of Hon'ble National Company Law Tribunal, New Delhi. Please don't come under any wrong impression or rumor or wrong influence of any wrong doers that your money will go in loss or RP is taking the money in his personal account.

As assured you earlier that these expenses of CIRP falls under the priority payment and before any Resolution Applicant takes over the project, the RA shall make the payment of CIRP cost first, which would be refunded back to you. And in case of non approval of any Resolution Plan, these contributions shall be refunded back subject to the receipts of proceeds of Liquidation Process under the Companies Act or IB Code, 2016

The Resolution Professional during the process is vested with an array of Statutory & Legal Duties and Powers. While conducting the process, the Insolvency Professional / Resolution Professional shall acts as an Officer of the Court and discharges statutory public function.

We hereby assure you that any money received from Buyer/ Association of Buyer as contribution for CIRP expenses in the bank account of Premia Project Limited managed by Resolution Professional is safe in his hands.

IBC, 2016 empowers the Resolution Professional the Resolution Professional to take over the charge of Board of Director, manage operations of the Company, protect the value of its property and complies with the applicable law on its behalf.

The expenses made through the Resolution Professional are only entitled for the CIRP expenses and any expenses made by any association are not falling in the category of CIRP expenses.

Insolvency and Bankruptcy Board of India has issued a note to all the stakeholder/ Financial Creditors/ Authorities for extending due cooperation to Mr. Jitender Arora, when he is conducting an Insolvency Proceeding under the IBC, 2016. The copy of same is enclosed herewith. The copy of same is enclosed herewith.

Sd/-

Jitender Arora

RP of Premia Projects Limited



भारतीय दिवाला और शोधन अक्षमता-बोर्ड Insolvency and Bankruptcy Board of India

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Ritesh Kavdia
Executive Director

IP-15011/1/2019-IBBI

11th February, 2019

TO WHOSOEVER IT MAY CONCERN

Mr. Jitender Arora, a professional member of the ICSI Institute of Insolvency Professionals, has been registered as an Insolvency Professional (IP) on August 10, 2017 with Registration No. IBBI/IPA-002/IP-N00305/2017-18/10863 granted by the Insolvency and Bankruptcy Board of India (IBBI).

2. The IBBI registers an individual, who is a fit and proper person and has the required qualifications and experience, as an IP under the Insolvency and Bankruptcy Code, 2016 (Code). The concerned Insolvency Professional Agency and the IBBI closely monitor his conduct and performance and penalise him if and when his conduct or performance falls short.

3. An IP is a key institution of the insolvency regime. He is the beacon of hope for the person in distress and its stakeholders. He plays a key role in insolvency proceedings (resolution, liquidation and bankruptcy processes) of financially distressed persons (companies, limited liability partnerships, partnership and proprietorship firms and individuals) under the Code.

4. The insolvency proceeding of a company begins with an order by the Hon'ble National Company Law Tribunal (NCLT) admitting an application for initiation of insolvency resolution process. It ends with issue of an order by the NCLT either approving a resolution plan or issuing an order for liquidation. Liquidation process also ends with an order of the NCLT dissolving the company.

5. The NCLT appoints an IP as Interim Resolution Professional, Resolution Professional or Liquidator for conducting an insolvency proceeding. It replaces or approves replacement of an IP in an insolvency proceeding, wherever required. In a sense, an IP exercises oversight over insolvency proceedings on behalf of the NCLT.

6. An IP, when acting as an Interim Resolution Professional, Resolution Professional or Liquidator, is vested with an array of statutory and legal duties and powers. He exercises the powers of the board of directors of the company undergoing resolution. He manages operations of the company as a going concern, protects the value of its property and complies with applicable laws on its behalf. The stakeholders are required to co-operate with him in discharge of his functions. In its order dated 16th January, 2019 in the matter of Asset Reconstruction Company (India) Pvt. Ltd. Vs. Shivam Water Treaters Pvt. Ltd., the NCLT held: *".. RP (Resolution Professional) is acting as an officer of the Court and any hindrance in the working of the CIRP will amount to contempt of court."*

7. An Insolvency Professional, while conducting a process, is an officer of the Court and discharges a statutory public function. Therefore, all concerned are requested to extend due co-operation to Mr. Jitender Arora, when he is conducting an insolvency proceeding under the Insolvency and Bankruptcy Code, 2016.

(Ritish Kavdia)
Executive Director