Swift India
CORPORATE SERVICES LLP

Swift e-Bulletin
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Week – November 14th to November 18th

<u>Quote for the week:</u>

"Every moment is a fresh beginning"

– T.S. Eliot.

Introduction

We welcome you to our weekly newsletter!

The 'Swift e-Bulletin' - weekly newsletter, covers all regulatory updates and critical judgements passed during the week. We hope that you liked our previous editions and found it to be of great value in its content. We want this newsletter to be valuable for you so, please share your feedback and suggestions to help us improve.

Further, various regulatory authorities have been proactive in bringing significant regulatory changes in recent challenging times. This week's newsletter covers various Circulars/notifications issued by certain regulatory authorities such as the Securities and Exchange Board of India ("**SEBI**"), International Financial Services Centres Authority

("**IFSCA**") and Insolvency and Bankruptcy Board of India ("**IBBI**") and order passed by National Company Law Appellate Tribunal and SEBI.

The Regulatory authorities provided various updates/relaxations, some of which being:

- SEBI vide Notification dated November 14, 2022 notified the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2022.

- IFSCA vide Press Release dated November 16, 2022 details about the MoU executed with Reserve Bank of India ("RBI")

We have prepared a comprehensive summary for quick reference of the aforesaid updates and Judgements / orders issued during the week of November 14 to November 18, 2022.

Thank you,
Swift team

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REGULATORY UPDATES

SEBI

1. **SEBI vide Notification dated November 14, 2022 notified the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2022.**

- Vide this Notification on the said regulation, SEBI has brought in various modifications in the existing SEBI (LODR) Regulations.

- Pursuant to the Notification, Regulation 25 of the said Regulation pertaining to Independent Director has been modified:

  - Failure to get requisite majority to constitute a special resolution for appointment of Independent Director will not completely quash aside the possibility of the candidate being appointed as an Independent director if the twin conditions are satisfied:
    - The votes cast in favour of the resolution will be more than that against it.
    - Votes cast by the public shareholders in favour must exceed votes against it.

  - Independent director appointed in the above mentioned manner can be removed if the twin conditions are satisfied:
    - The votes cast in favour of the resolution will be more than that against it.
    - Votes cast by the public shareholders in favour must exceed votes against it.

- As per Regulation 52 of the SEBI (LODR) Regulations,

  - Within 45 days from the end of the quarter every listed entity shall submit to the Stock Exchange and for the last quarter the entity will submit audited as well as un-audited quarterly and year to date financials.

  - The entities undergoing audit done by the Comptroller and Auditor General of India need to submit.

    - Un-audited Financials backed by the Limited Review Report to the Stock Exchanges within 60 days from the end of the Financial Year.
    - Audited Financials to the Stock Exchange within 9 months from the end of the Financial Year.

  - The listed entity needs to submit Statement of Assets and Liabilities and Statement of Cash flows on a half yearly basis in the form of a note to the financial statement.

- The Notification has also listed down the various financial results that need to be entered in the quarterly and yearly financial results.

- The entities ought to submit to the stock exchanges in a quarterly manner, the statement of utilization of the issue proceeds and deviation in the manner of utilization, if any of the non-convertible securities along with its financial results until full utilization is made.

- The Stock Exchange needs to publish the consolidated statement in the newspaper in case the listed entity submits to the stock exchange the standalone as well as consolidated financial statements.

- The Notification also brings about "Draft Scheme of Arrangement and Scheme of Arrangement:

  - A listed entity having either non-convertible debt securities or non-convertible preference shares listed; now intending to file scheme of arrangement u/s 230 to 234 & 66 of Companies Act, 2013 shall for the purpose of obtaining the (No-objection Certificate) NoC required to apply before Tribunal for seeking approval for the arrangement furnish draft scheme of arrangement along with non-refundable fees to Stock Exchange

  - The validity of the NoC shall be 6 months from issuance within which the draft scheme needs to be filled to NCLT.

  - The provisions will not apply to a scheme sanctioned through a resolution plan by NCLT provided the same has been intimated to Stock Exchange within 1 day of the approval of resolution plan.

- In Regulation 61A, for the listed entities outside the ambit of "company definition" any unclaimed amount in Escrow Account for 7 years shall be transferred to Investor Protection and Education Fund created by the Board.

- The Notification also brings about "Draft Scheme of Arrangement and Scheme of Arrangement for entities having their non-convertible securities and non-convertible redeemable preference shares listed:

  - The designated Stock Exchange pursuant to receipt of the draft scheme forward the same to SEBI.

  - The Stock Exchanges will issue the No-Objection Letter having validity of 6 months to the listed entity.

- The Stock Exchange shall bring the NoC to the NCLT at the time of approval pf scheme by the NCLT.

- Once the NCLT sanctions the scheme, the Stock Exchange shall forward the its recommendations to the Board.

- Schedule XI of the Regulation pertaining to the fees in respect of the draft scheme of arrangement has been duly modified:

  - 0.1% of the paid up share capital of the listed/transferee/resulting company whichever is higher after giving effect to the scheme subject to maximum INR 5 Lakh – entities having listed their specified securities, or listed specified securities and listed nonconvertible debt securities or non-convertible redeemable preference shares.

  - 0.1% of the amount of outstanding debt of listed/transferee/resulting company whichever is higher after giving effect to the scheme subject to maximum INR 5 Lakh – entities having listed their only listed non-convertible debt securities or non-convertible redeemable preference shares.

  - The said fees are to be paid in favour of SEBI by way of credit to Bank Account through NEFT/ RTGS/ IMPS or any mode permitted by RBI.

To read the Notification in detail, please click here.

To read the SEBI (LODR) Regulations, 2015 in detail, please click here.

2. SEBI vide Notification dated November 15, 2022 amends the Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) (Second Amendment) Regulation, 2022

- These Regulations will now be called as the Securities Contracts (Stock Exchanges and Clearing Corporations) (Second Amendment) Regulations, 2022.

- The said amendment, post Regulation 44 the following shall be included w.r.t. the Orderly winding down of the critical operations and services.

- Irrespective of whether the winding down is owing to the voluntary or involuntary scenarios, the clearing corporation shall ensure that the framework:

  - Ensures settlement is done, both timely and orderly or cessation or transfer of positions is provided for and/or

  - Provides for the transfer of the collateral(s) or deposit(s) or margin(s) or any other asset(s) of the members to another recognized clearing corporation that would take over the operations of the clearing corporation and/or

- Any other matters incidental thereto.

To read the Notification in detail, please click here.

To read the Securities Contracts (Stock Exchanges and Clearing Corporations) Regulations, 2018 in detail, please click here.

3. **SEBI vide Notification dated November 15, 2022 notified the Securities and Exchange Board of India (Mutual Funds) (Third Amendment) Regulations, 2022.**

- Vide this Notification SEBI has amended the said regulation to included Transfer of Dividend and Redemption Proceeds for every mutual fund and asset management company ("**AMC**").

- Pursuant to the notification, the Regulation 53 of the said Regulation pertaining to Dispatch of warrants and proceeds has been substituted namely with **"Transfer of dividend and redemption proceeds".**

- As per newly substituted Regulation 53 of the SEBI (Mutual Funds) Regulation,

  - The transfer of the dividend payments, redemption and repurchase proceeds to the unitholders shall be within such period as may be specified by the board from time to time.
  - In case of failure to transfer within the period specified, the AMC shall be liable to pay interest to the unitholders at such rate specified by the board for the period of such delay.
  - Notwithstanding payment of such interest the AMC may be further liable for action in case of failure to transfer.
  - The physical dispatch of redemption or repurchase proceeds or dividend payment shall be carried out only in exceptional circumstances and AMC shall also be required to maintain records along with reasons for all such physical dispatches.

To read the Notification in detail, please click here

4. **SEBI vide Notification dated November 15, 2022 notified the Securities and Exchange Board of India (Alternative Investment Funds) (Fourth Amendment) Regulations, 2022.**

- SEBI vide the Notification has replaced certain words and inserted new sub-regulations.

- Pursuant to the Notification, the duration of the term “**tenure**” shall be from the date of first close till last date.

- SEBI by inserting new sub-regulations in Regulation 12 have notified that Alternative Investment Fund (“**AIF**”) shall declare the first close of the scheme in the manner specified by the board, in case of failure the AIF shall be required to file a fresh application for launch of scheme by paying the requisite scheme fee as mentioned under the Second Schedule of the Securities and Exchange Board of India (Alternative Investment Funds) Regulations.

- SEBI by inserting new sub-regulations in Regulation 13 have notified the manner of calculating the tenure of a close ended scheme and the manner of modification of the tenure of an AIF, shall be specified by the board from time to time.

- SEBI has modified the General obligations and notified that the AIF shall inform the board in case of any material change from the information provided at the time of application for registration by the AIF.

- In case of change of Sponsor, Manager or change in control the AIF shall be subjected to seek prior approval of the board and payment of fees and any other conditions as may be specified by the board.

- Further, SEBI has inserted a new general obligation for AIF wherein the manager, either the trustee or the trustee company or the board of director or designated partners of the AIF as the case may be shall ensure that the assets and liabilities, bank accounts and securities accounts of each scheme of an AIF are segregated and ring-fenced from the other schemes of the AIF.

To read the Notification in detail, please click here

5. **SEBI vide Circular on November 17,2022 notified Guidelines for AIFs for declaration of first close, calculation of tenure and change of sponsor/manager or change in control of sponsor/manager**

- SEBI on November 15,2022 amended the SEBI (Alternative Investment Funds) Regulations, 2012 (“**AIF Regulations**”)

- SEBI with reference to the amendment have issued Guidelines for AIFs for declaration of first close, calculation of tenure and change of sponsor/manager or change in control of sponsor/manager

- Given below are the important extracts from the aforesaid Circular:

    - SEBI notified the timeline for declaration of First close of schemes of AIFs under regulation 12(4) of AIF regulation as follows: -

- The first close of a scheme shall not be declared later than 12 months from the date of SEBI communication for taking the PPM of the scheme on record.
- Category III AIFs in case of open ended scheme shall refer to the close of their Initial Offer Period.
- Corpus of the scheme at the time of declaring its First Close shall not be less than the minimum corpus prescribed in AIF Regulations for the respective category/sub-category of the AIF.
- In case the First Close of a scheme is not declared within the timeline prescribed above, the AIF shall be required to file a fresh application for launch of the said scheme as per applicable provisions of AIF Regulations by paying requisite fee to SEBI.

• SEBI notified the timeline for declaration of Calculation of tenure of close-ended schemes of AIFs under regulation 13(4) of AIF regulation as follows: -

  - The tenure of close ended schemes of AIFs shall be calculated from the date of declaration of the First Close

  - AIF may modify the tenure of a scheme at any time before declaration of its First Close. Prior to declaration of the First Close, the investor may withdraw or reduce commitment provided to such scheme of an AIF.

• SEBI notified the fees for change in control of manager /sponsor or change in manager/sponsor of AIFs under regulation 20(13) of AIF regulation as follows:

  - In case of change in control of manager/sponsor and in case of change in manager/sponsor a fee equivalent to the registration fee applicable to the respective category / sub-category of the AIF, shall be applicable.
  - In case of simultaneous change in control of manager/change of manager and change in control of sponsor/change of sponsor of an AIF is proposed fee equivalent to single registration shall be levied.
  - The fees shall not be levied if the manager is acquiring control in or replacing the sponsor and exit of sponsor in case of AIF having multiple sponsors
  - The fees shall be paid within 15 days of effecting the proposed change in manager/sponsor or change in control of manager/sponsor

To read the Circular in detail, please click here.

6. **SEBI vide Circular dated November 17, 2022 issued an amendment for change in for operational aspects with reference to scheme(s) of arrangement by entities who have listed their Non-Convertible Debt securities("NCDs")/Non-convertible Redeemable Preference shares ("NCRPS").**

- SEBI vide Notification dated November 14, 2022 amended the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (hereinafter referred to as "**Listing Regulations**") through insertion of **Regulation 59A and 94A** with respect to Scheme(s) of Arrangement by entities who have listed their NCDs/ NCRPS.

- The newly inserted **Regulation 59A** provides that the listed entity that has listed NCDs or NCRPS, which intends to undertake a scheme of arrangement or is involved in a scheme of arrangement shall file the draft scheme with Stock Exchange(s) for obtaining the No-Objection Letter, before filing such scheme with any court or Tribunal and **Regulation 94** of the Listing Regulations requires the designated Stock Exchange to forward such draft schemes to SEBI in the manner prescribed by SEBI.

- This Circular is applicable to all listed entities that have listed NCDs/ NCRPS and intend to undertake or are involved in a scheme of arrangement as per Chapter XV of the Companies Act, 2013.

- The Circular is divided in two parts along with 4-annexures, given below are the important extracts from the aforesaid Circular:

  <u>PART -1: REQUIREMENTS TO BE COMPLIED BY THE LISTED ENTITIES WHICH INTEND TO UNDERTAKE A SCHEME OF ARRANGEMENT OR ARE INVOLVED IN A SCHEME OF ARRANGEMENT</u>

  - **Requirements to be fulfilled by listed entities:**
    - Choosing a Designated Stock Exchange
    - Submission of Documents
    - Conditions for schemes of arrangement involving unlisted entities
    - Valuation Report
    - Auditor's certificate
    - Report of Complaints/ Comments received by the listed entity on the draft scheme of arrangement
    - Report on the Unpaid dues/ fines/ penalties
    - Disclosure in the draft scheme of arrangement, on the Website, Etc.

  - **Obligations of the Stock Exchange:**
    - Forward the same to SEBI within three working days from the date of receipt of the draft scheme.

- The Stock Exchange(s) shall provide the '**No-Objection**' Letter to SEBI on the draft scheme of arrangement in co-ordination with each other in terms of Regulation 94A of the Listing Regulations within seven working days from the date of receipt of satisfactory reply from an expert/entity if any, on clarifications, sought by Stock Exchange(s), as applicable.

- **Processing of the Draft Scheme by SEBI:**
  - Upon receipt of the 'No-Objection' Letter from the Stock Exchange(s), SEBI shall provide comments on the draft scheme of arrangement to the Stock Exchange(s). While processing the draft scheme, SEBI may seek clarifications from any person relevant in this regard including the listed entity or the Stock Exchange(s)and may also seek an opinion from an Expert such as Practicing Company Secretary, Practicing Chartered Accountant, Lawyer, etc.

  - SEBI shall provide comments on the draft scheme to the Stock Exchange(s)within **thirty days** from the later of the following:
    - ✓ date of receipt of satisfactory reply on clarifications, if any, sought from the listed entity by SEBI; or
    - ✓ date of receipt of opinion from expert, if sought by SEBI; or
    - ✓ date of receipt of 'No-Objection' Letter from the Stock Exchange(s).

<u>PART-II: REQUIREMENTS BY LISTED ENTITY/ RESULTANT ENTITY POST SANCTION OF SCHEME OF ARRANGEMENT BY NCLT</u>

- The listed entity/ resultant entity shall ensure that steps for listing of NCDs/ NCRPS issued pursuant to the scheme of arrangement, are completed and trading commences within sixty days of receipt of the order of the NCLT, simultaneously on all the Stock Exchange(s)where the NCDs/ NCRPS are listed.

- Before the commencement of trading, the listed entity/ resultant entity, shall also give an advertisement in an English national daily and a regional daily having wide circulation at the place where the registered office of the transferee entity is situated, given below are few of the following details:
  - Name of the Company and address of Registered Office and Corporate Office of Company;
  - Details of change of name and/or object clause;
  - **Capital & Debt structure** –pre and post scheme of arrangement.
  - Name and details of board of directors (experience including current / past position held in other firms);
  - **Rationale** for scheme of arrangement/ amalgamation/ merger/ reconstruction etc.
  - **Outstanding material litigations** and defaults of the transferee entity, promoters, directors or any of the group companies;

- **Regulatory Action**, if any -disciplinary action taken by SEBI or Stock Exchange(s)against the Promoters in last **five financial years**;
- Brief details of **outstanding criminal proceedings** against the Promoters;

- Such other information as may be specified by SEBI from time to time.

To read the Circular in detail, please click here.

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IFSCA

1. **IFSCA vide Press Release dated November 16, 2022 details about the MoU executed with Reserve Bank of India ("RBI")**

- The Press Release dated November 16, 2022 details the MoU entered between the IFSCA and RBI for facilitating the regulation and supervision of Regulated Entities.

- IFSCA is granted the authority to regulated and supervise the Authorised Banks and NBFCs operating in International Financial Centres, since IFSCA is the unified regulator for financial goods, services and institutions.

- RBI on the other hand, is the authority having control to regulate and supervise the banks and NBFCs.

- Thus, the collaboration between the said two regulators will facilitate smooth functioning of the business environment conducive for the growth of the financial ecosystems.

To read the Press Release in detail, please click here.

2. **IFSCA vide Circular dated November 16, 2022 issued Guidelines for Business Continuity Plan (BCP) and Disaster Recovery (DR) for Market Infrastructure institutions (MIIs).**

- IFSCA Being a member of IOSCO, adopted the Principles for Financial Market Infrastructures ("**PFMIs**") laid down by CPMI-IOSCO.

- Principle 17 of PFMI that relates to management and mitigation of '**Operational risk**' requires that systemically important Market Infrastructure Institutions like Stock Exchanges (including Bullion Exchange), Clearing Corporations and Depositories (hereinafter referred to as Market Infrastructure Institutions or **MIIs**) to ensure a high degree of security and operational reliability and should have adequate, scalable capacity.

- As part of implementation of Principle 17 a Business Continuity Plan ("**BCP**") is framed and relevant guidelines are notified vide this Circular, where in, MIIs are required to set up Disaster Recovery site ("**DRS**") to provide essential facilities and perform systemically critical functions relating to trading, clearing and settlement in securities market during any unforeseen circumstances.

To read the Circular in detail, please click here.

JUDGEMENTS

NCLAT

1. NCLAT dismissed the appeal seeking restoration of name of the Company in the Register of the Companies

- The Appeal was filed under Section 421 of the Companies Act, 2013 (CA 2013) by the Appellants against the final order dated 11.12.2020 passed by the National Company Law Tribunal (New Delhi Court-III) whereby the Appellants filed the application under Section 252(1) of the Companies Act, 2013, seeking restoration of name of the Company in the Register of the Companies and after hearing the parties the Tribunal passed the order that there are no grounds for ordering the restoration of name of the Company and the Company appears to be shell company.

- The Ld. Counsel for the Appellants informed that the Appellant Company has been carrying on business of distribution of hardware and software and constructing structure of units since 2006. The Company owns the building and land was brought by way of sale deed and at present the company continued to run its business of distribution and software service since 2006, but for a period of time, it was not doing the sale and purchase of goods and distribution, despite that the Appellant Company was making regular expenditure for maintenance of immovable property such as payment of property tax and other miscellaneous expenses. Further submitted that the Company conducted its Annual General Meeting annually and prepared audited financial statements from 2016-17 to 2018-19 and also filed its Income Tax Returns from AY 2006-07 to 2012-13 and thereafter from AY 2013-14 to till date.

- The RoC submitted that the Appellant has filed its financial statements till FY 2011-12, due to which the RoC had reasonable cause to believe that the Appellant Company was not in operation and in term of provision CA 2013 notice was sent due process was followed. It was also submitted that neither the Appellant Company was carrying out any operation for a period of 2 immediately preceding financial years nor have any immovable property in its name, therefore, the company was unable to produce before the Tribunal any just and equitable ground for revival. Based on these submissions, the NCLT had rightly passed the impugned order, therefore, there is no merit in the present Appeal, the Appeal is fit to be dismissed.

- After hearing the parties and going through the pleadings made on behalf of the parties, the Appellants have neither fact in issue nor question of Law and any ground raised with the legal provisions does not assail the finding of the Tribunal wherein the Tribunal held that the Appellant Company appears to be a shell Company and the appeal was dismissed.

To read the Order in detail, please click here.

SEBI

1. **SEBI imposed penalty on TARC Ltd (Noticee) for non-compliances of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.**

- SEBI had received a complaint that TARC Ltd (Noticee) has been declared as NPA by Yes Bank, but the Noticee failed to disclose the same to Stock exchange. Based on the aforesaid complaint, examination was conducted by SEBI to identify any alleged violations of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and of the SEBI Circular SEBI/HO/CFD/CMD1/CIR/P/2019/140 dated November 21, 2019.

- During the examination, it was observed that Noticee has failed to disclose material information related to defaults on loans from banks and financial institutions and failed to disclose the defaults in the required format, thus it was alleged that TARC has violated the provisions of Regulation 30(1) read with regulation 30(2) and 30(6) of LODR Regulations and Schedule III part A Para A(6) of the LODR Regulations, read with clause 2 of Listing Agreement; and Para 3(B), C(2) and 5 of the SEBI Circular read with regulation 30 of LODR Regulations and read with clause 2 of Listing Agreement.

- The Adjudicating Officer ("AO") issued Show Cause Notice ("SCN") to the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed for the alleged violation.

- After receiving the reply from the Noticee and after considering all the facts and circumstances of the case, the nature and gravity of the violations. The AO passed the order and imposed penalties on Noticee under Section 23-I of SEBI Act, 1992.

To read the Order in detail, please click here.

2. **SEBI imposed penalty on Vipul Limited (Noticee) for non-compliances of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015.**

- SEBI had conducted an examination was conducted by SEBI to identify any alleged violations of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 and of the SEBI Circular SEBI/HO/CFD/CMD1/CIR/P/2019/140 dated November 21, 2019.

- During the examination, it was observed that Noticee has failed to disclose that it had defaulted in payment of interest/repayment of secured loans to PNB Housing Finance

Ltd, and the notice by the PNB Housing Finance Ltd was served on the Company. The said disclosure was mandatory as per Regulation 30 of SEBI (LODR), 2015.

- The Adjudicating Officer ("AO") issued Show Cause Notice ("SCN") to the Noticee to show cause as to why an inquiry should not be held against it and why penalty, if any, should not be imposed for the alleged violation.

- After receiving the reply from the Noticee and after considering all the facts and circumstances of the case, the nature and gravity of the violations. The AO passed the order and imposed penalties on Noticee under Section 23-I of SCRA Act, 1956.

To read the Order in detail, please click here.

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IBBI

1. **In the matter Vidarbha Industries Power Limited Vs. Axis Bank Limited [Civil appeal No. 4633 of 2021].**

- Vidarbha Industries Power Limited ("**Corporate Debtor/CD**") is a Power Generating Company under the Electricity Act, 2003 and had set up a Thermal Power Plant in Maharashtra. It had debt of approximately Rs.553 crores due to the Axis Bank Limited and the total debt of approximately Rs.2727 crores due to the consortium of lenders.

- Axis Bank Limited ("**Financial Creditor/FC**"), filed an application under section 7 of the Code before the Adjudicating Authority ("**AA**") ("**Mumbai Bench**") for initiation of CIRP against the CD, as a response CD sought citing reasons that the implementation of the past pending order pending before Hon'ble Supreme Court ("**SC**") in terms of which a sum of Rs. 1,730 Crores would enable it to clear all its outstanding liabilities.

- By an order dated 29th January 2021, the AA refused to stay the proceedings. CD filed an appeal before the NCLAT, against the said order of AA, which was also dismissed vide order dated 2nd March 2021. Then CD filed the instant appeal against NCLAT order before SC. Hon'ble SC, allowed the appeal of CD and made the following observations:

  - When AA is satisfied that a default has occurred and the application of a FC is complete and there are no disciplinary proceedings against proposed IRP, it may by order admit the application.
  - Legislature has, in its wisdom, chosen to use the expression "may" in section 7(5)(a) of the Code. Legislature intended section 9(5)(a) to be mandatory and section 7(5)(a) of the Code to be discretionary. An application of an Operational Creditor ("**OC**") for initiation of CIRP under section 9(2) of the Code is mandatorily required to be admitted if the application is complete in all respects and in compliance of the requisites of the Code. However, in the case of an application by a FC, the AA might examine the expedience of initiation of CIRP, taking into account all relevant facts and circumstances, including the overall financial health and viability of the CD. If facts and circumstances so warrant, the AA can keep the admission in abeyance or even reject the application.
  - It is certainly not the object of the Code to penalize solvent companies, temporarily defaulting in repayment of its financial debts, by initiation of CIRP. However, the SC cautioned the AA, that even though section 7(5)(a) may confer discretionary power on the AA, such discretionary power cannot be exercised arbitrarily or capriciously.

To read Summary Judgment, please click here.

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