

**THE GAZETTE OF INDIA
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**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA
NOTIFICATION**

New Delhi, the 14th June, 2022

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2022

No. IBBI/2022-23/GN/REG084.- In exercise of the powers conferred by clause (t) of sub-section (1) of section 196 read with sections 7, 9 and 240 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Insolvency and Bankruptcy Board of India hereby makes the following regulations further to amend the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, namely: -

1. (1) These regulations may be called the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2022.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (hereinafter referred to as ‘the principal regulations’), after regulation 2A, the following regulations shall be inserted, namely: -

“2B. Record or evidence of transaction, debt and default by operational creditor.
The operational creditor shall, alongwith application under section 9, furnish copies of relevant extracts of Form GSTR-1 and Form GSTR-3B filed under the provisions of the relevant laws relating to Goods and Services Tax and the copy of e-way bill wherever applicable:

Provided that provisions of this regulation shall not apply to those operational creditors who do not require registration and to those goods and services which are not covered under any law relating to Goods and Services Tax.

2C. Submission of information along with application.

The financial creditor or operational creditor shall, while filing application under section 7 or 9, as the case may be, also furnish details of his/ its—

- (a) Permanent Account Number; and
- (b) Email-ID.”

3. In the principal regulations, in regulation 4, after sub-regulation (1), the following sub-regulations shall be inserted, namely: -

“(2) The personnel of the corporate debtor, its promoters or any other person associated with the management of the corporate debtor shall provide the information within such

time and in such format as sought by the interim resolution professional or the resolution professional, as the case may be.

(3) The creditor shall provide to the interim resolution professional or resolution professional, as the case may be, the information in respect of assets and liabilities of the corporate debtor from the last valuation report, stock statement, receivables statement, inspection reports of properties, audit report, stock audit report, title search report, technical officers report, bank account statement and such other information which shall assist the interim resolution professional or the resolution professional in preparing the information memorandum, getting valuation determined and in conducting the corporate insolvency resolution process.”

4. In the principal regulations, in regulation 7, in sub-regulation (2), in clause (b), after sub-clause (iv), the following sub-clause shall be inserted, namely: -

“(v) copies of relevant extracts of Form GSTR-1 and Form GSTR-3B filed under the provisions of the relevant laws relating to Goods and Services Tax and the copy of e-way bill wherever applicable:

Provided that provisions of this sub-clause shall not apply to those creditors who do not require registration and to those goods and services which are not covered under any law relating to Goods and Services Tax.”

5. In the principal regulations, in regulation 35, in sub-regulation (1), for clause (b), the following clause shall be substituted:-

“(b) if the two estimates of a value in an asset class are significantly different, or on receipt of a proposal to appoint a third registered valuer from the committee of creditors, the resolution professional may appoint a third registered valuer for an asset class for submitting an estimate of the value computed in the manner provided in clause (a).

Explanation.- For the purpose of clause (b),

(i) “asset class” means the definition provided under the Companies (Registered Valuers and Valuation) Rules, 2017;

(ii) “significantly different” means a difference of twenty-five per cent. in liquidation value under an asset class and the same shall be calculated as $(L1-L2)/L1$, where,

L1= higher valuation of liquidation value

L2= lower valuation of liquidation value.”

6. In the principal regulations, in regulation 35A, after sub-regulation (3), the following sub-regulation shall be inserted, namely: -

“(4) The creditors shall provide to the resolution professional, relevant extract from the audits of the corporate debtor, conducted by the creditors such as stock audit, transaction audit, forensic audit, etc.”

7. In the principal regulations, in regulation 36, after sub-regulation (3), the following sub-regulation shall be inserted, namely: -

“(3A) The creditors shall provide to the resolution professional the latest financial

statements and other relevant financial information of the corporate debtor available with them.”

8. In the principal regulations, in regulation 38, in sub-regulation (2), after clause (c), the following clause shall be inserted, namely: -

“(d) provides for the manner in which proceedings in respect of avoidance transactions, if any, under Chapter III or fraudulent or wrongful trading under Chapter VI of Part II of the Code, will be pursued after the approval of the resolution plan and the manner in which the proceeds, if any, from such proceedings shall be distributed:

Provided that this clause shall not apply to any resolution plan that has been submitted to the Adjudicating Authority under sub-section (6) of section 30 on or before the date of commencement of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Second Amendment) Regulations, 2022.”

RAVI MITAL, Chairperson
[ADVT.- _____]

Note: The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 were published vide notification No. IBBI/2016-17/GN/REG004, dated 30th November, 2016 in the Gazette of India, Extraordinary, Part III, Section 4, No. 432 on 30th November, 2016 and were last amended by the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Amendment) Regulations, 2022 published vide notification No. IBBI/2021-22/GN/REG080, dated the 9th February, 2022 in the Gazette of India, Extraordinary, Part III, Section 4, No. 82 on 9th February, 2022.