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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

India Code

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 13th March, 2020/*Phalguna* 23, 1941 (*Saka*)

The following Act of Parliament received the assent of the President on the 13th March, 2020, and is hereby published for general information:—

THE INSOLVENCY AND BANKRUPTCY CODE (AMENDMENT) ACT, 2020

No. 1 OF 2020

[13*th March,* 2020.]

An Act further to amend the Insolvency and Bankruptcy Code, 2016.

BE it enacted by Parliament in the Seventy-first Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Insolvency and Bankruptcy Code (Amendment) Act, 2020. Short title and commencement.

(*2*) It shall be deemed to have come in force on the 28th day of December, 2019.

Amendment of section 5.

2. In section 5 of the Insolvency and Bankruptcy Code, 2016 (hereafter referred to as the principal Act), 31 of 2016.—

(*i*) in clause (*12*), the proviso shall be omitted;

(*ii*) in clause (*15*), after the words "during the insolvency resolution process period" occurring at the end, the words "and such other debt as may be notified" shall be inserted.

Amendment of section 7.

3. In section 7 of the principal Act, in sub-section (*1*), before the *Explanation*, the following provisos shall be inserted, namely:—

"Provided that for the financial creditors, referred to in clauses (*a*) and (*b*) of sub-section (*6A*) of section 21, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such creditors in the same class or not less than ten per cent. of the total number of such creditors in the same class, whichever is less:

Provided further that for financial creditors who are allottees under a real estate project, an application for initiating corporate insolvency resolution process against the corporate debtor shall be filed jointly by not less than one hundred of such allottees under the same real estate project or not less than ten per cent. of the total number of such allottees under the same real estate project, whichever is less:

Provided also that where an application for initiating the corporate insolvency resolution process against a corporate debtor has been filed by a financial creditor referred to in the first and second provisos and has not been admitted by the Adjudicating Authority before the commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2020, such application shall be modified to comply with the requirements of the first or second proviso within thirty days of the commencement of the said Act, failing which the application shall be deemed to be withdrawn before its admission.".

Amendment of section 11.

4. In section 11 of the principal Act, the *Explanation* shall be numbered as *Explanation* I and after *Explanation* I as so numbered, the following *Explanation* shall be inserted, namely:—

"*Explanation* II.—For the purposes of this section, it is hereby clarified that nothing in this section shall prevent a corporate debtor referred to in clauses (*a*) to (*d*) from initiating corporate insolvency resolution process against another corporate debtor.".

Amendment of section 14.

5. In section 14 of the principal Act,—

(*a*) in sub-section (*1*), the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the purposes of this sub-section, it is hereby clarified that notwithstanding anything contained in any other law for the time being in force, a license, permit, registration, quota, concession, clearances or a similar grant or right given by the Central Government, State Government, local authority, sectoral regulator or any other authority constituted under any other law for the time being in force, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising for the use or continuation of the license, permit, registration, quota, concession, clearances or a similar grant or right during the moratorium period;";

(*b*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) Where the interim resolution professional or resolution professional, as the case may be, considers the supply of goods or services critical to protect and preserve the value of the corporate debtor and manage the operations of such corporate debtor as a going concern, then the supply of such goods or

services shall not be terminated, suspended or interrupted during the period of moratorium, except where such corporate debtor has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified.";

(*c*) in sub-section (*3*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) such transactions, agreements or other arrangements as may be notified by the Central Government in consultation with any financial sector regulator or any other authority;".

Amendment of section 16.

6. In section 16 of the principal Act, in sub-section (*1*), for the words "within fourteen days from the insolvency commencement date", the words "on the insolvency commencement date" shall be substituted.

Amendment of section 21.

7. In section 21 of the principal Act, in sub-section (*2*), in the second proviso, after the words "convertible into equity shares", the words "or completion of such transactions as may be prescribed," shall be inserted.

Amendment of section 23.

8. In section 23 of the principal Act, in sub-section (*1*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that the resolution professional shall continue to manage the operations of the corporate debtor after the expiry of the corporate insolvency resolution process period, until an order approving the resolution plan under sub-section (*1*) of section 31 or appointing a liquidator under section 34 is passed by the Adjudicating Authority.".

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Amendment of section 29A.

9. In section 29A of the principal Act,—

(*i*) in clause (*c*), in the second proviso, in *Explanation* I, after the words, "convertible into equity shares", the words "or completion of such transactions as may be prescribed," shall be inserted;

(*ii*) in clause (*j*), in *Explanation* I, in the second proviso, after the words "convertible into equity shares", the words "or completion of such transactions as may be prescribed," shall be inserted.

Insertion of new section 32A.

10. After section 32 of the principal Act, the following section shall be inserted, namely:—

Liability for prior offences, etc.

"32A. (*1*) Notwithstanding anything to the contrary contained in this Code or any other law for the time being in force, the liability of a corporate debtor for an offence committed prior to the commencement of the corporate insolvency resolution process shall cease, and the corporate debtor shall not be prosecuted for such an offence from the date the resolution plan has been approved by the Adjudicating Authority under section 31, if the resolution plan results in the change in the management or control of the corporate debtor to a person who was not—

(*a*) a promoter or in the management or control of the corporate debtor or a related party of such a person; or

(*b*) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession, reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court:

Provided that if a prosecution had been instituted during the corporate insolvency resolution process against such corporate debtor, it shall stand discharged from the date of approval of the resolution plan subject to requirements of this sub-section having been fulfilled:

Provided further that every person who was a "designated partner" as defined in clause (*j*) of section 2 of the Limited Liability Partnership Act, 2008, or an "officer who is in default", as defined in clause (*60*) of section 2 of the Companies Act, 2013, or was in any manner incharge of, or responsible to the corporate debtor for the conduct of its business or associated with the corporate debtor in any manner and who was directly or indirectly involved in the commission of such offence as per the report submitted or complaint filed by the investigating authority, shall continue to be liable to be prosecuted and punished for such an offence committed by the corporate debtor notwithstanding that the corporate debtor's liability has ceased under this sub-section. 6 of 2009. 18 of 2013.

(*2*) No action shall be taken against the property of the corporate debtor in relation to an offence committed prior to the commencement of the corporate insolvency resolution process of the corporate debtor, where such property is covered under a resolution plan approved by the Adjudicating Authority under section 31, which results in the change in control of the corporate debtor to a person, or sale of liquidation assets under the provisions of Chapter III of Part II of this Code to a person, who was not—

(*i*) a promoter or in the management or control of the corporate debtor or a related party of such a person; or

(*ii*) a person with regard to whom the relevant investigating authority has, on the basis of material in its possession reason to believe that he had abetted or conspired for the commission of the offence, and has submitted or filed a report or a complaint to the relevant statutory authority or Court.

Explanation.—For the purposes of this sub-section, it is hereby clarified that,—

(*i*) an action against the property of the corporate debtor in relation to an offence shall include the attachment, seizure, retention or confiscation of such property under such law as may be applicable to the corporate debtor;

(*ii*) nothing in this sub-section shall be construed to bar an action against the property of any person, other than the corporate debtor or a person who has acquired such property through corporate insolvency resolution process or liquidation process under this Code and fulfils the requirements specified in this section, against whom such an action may be taken under such law as may be applicable.

(*3*) Subject to the provisions contained in sub-sections (*1*) and (*2*), and notwithstanding the immunity given in this section, the corporate debtor and any person who may be required to provide assistance under such law as may be applicable to such corporate debtor or person, shall extend all assistance and co-operation to any authority investigating an offence committed prior to the commencement of the corporate insolvency resolution process.".

Amendment of section 227.

11. In section 227 of the principal Act,—

(*i*) for the words "examined in this Code", the words "contained in this Code" shall be substituted;

(*ii*) the following *Explanation* shall be inserted, namely:—

"*Explanation*.—For the removal of doubts, it is hereby clarified that the insolvency and liquidation proceedings for financial service providers or categories of financial service providers may be conducted with such modifications and in such manner as may be prescribed.".

Amendment of section 239.

12. In section 239 of the principal Act, in sub-section (*2*), after clause (*f*), the following clauses shall be inserted, namely:—

"(*fa*) the transactions under the second proviso to sub-section (*2*) of section 21;

(*fb*) the transactions under *Explanation* I to clause (*c*) of section 29A;

(*fc*) the transactions under the second proviso to clause (*j*) of section 29A;".

Amendment of section 240.

13. In section 240 of the principal Act, in sub-section (*2*), after clause (*i*), the following clause shall be inserted, namely:—

"(*ia*) circumstances in which supply of critical goods or services may be terminated, suspended or interrupted during the period of moratorium under sub-section (*2A*) of section 14;".

Repeal and savings.

Ord. 16 of 2019.

14. (*1*) The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 is hereby repealed.

31 of 2016.

(*2*) Notwithstanding such repeal, anything done or any action taken under the Insolvency and Bankruptcy Code, 2016, as amended by the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of the said Code, as amended by this Act.

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Secretary to the Govt. of India.

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