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NEWSLETTER

Success usually comes to those who are too busy to be looking for it

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G Prerna & Co. | Company Secretaries

Fast Track Corporate Insolvency Resolution Process

As per the amendment, an application for fast track corporate insolvency resolution process may be made in respect of the following corporate debtors, namely:

(a) a small company as defined under clause (85) of section 2 of Companies Act, 2013; or

(b) a Startup (other than the partnership firm); or

(c) an unlisted company with total assets, as reported in the financial statement of the immediately preceding financial year, not exceeding rupees one crore.

For details: https://egazette.nic.in/WriteReadData/2022/238571.pdf & https://ibbi.gov.in/webadmin/pdf/legalframwork/2017/Jul/notification_before_publication.pdf

The Companies (Specification of Definition Details) Amendment Rules, 2022

For the purposes of Section 2(85)(i) and (ii) of the Companies Act, 2013, the **paid up capital** and **turnover** of the small company shall not exceed rupees **four crore** and rupees **forty crore** respectively.

For details: https://www.mca.gov.in/bin/dms/getdocument?mds=tiMs9IFJ8xuPm%252B%252Foxc6fUw%253D%253D&type=open

Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2016

The Insolvency and Bankruptcy Board of India (IBBI/Board) notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2016 (CIRP Regulations) on 16th September, 2022.

With the objective to maximise value in resolution, the amendment enables the resolution professional (RP) and the Committee of creditors (CoC) to issue request for resolution plan for a second time for sale of one or more of assets of the corporate debtor (CD) in cases where no resolution plan has been received for the corporate debtor as a whole. It enables for a resolution plan to include sale of one or more assets of CD to one or more successful resolution applicants submitting resolution plans for such assets and providing for appropriate treatment of the remaining assets. Further to improve the value received in the resolution plan, the amendment enables marketing of assets of the CD. It provides for formulating a strategy for marketing of assets of CD in consultation with the CoC to disseminate information about the asset to a wider and targeted audience of potential resolution applicants. The amendment also enables a longer time for the asset in the market as the invitation for expression of interest in Form G has been advanced to 60th day from insolvency commencement date (ICD). Changes have also been made to Form G to provide more relevant information to persons for expressing interest.

For details: https://ibbi.gov.in/uploads/press/5789c46394f1eb1211858f1dadcdb362.pdf

The Companies (Corporate Social Responsibility Policy) Amendment Rules, 2022

According to the amendment the proviso to rule 3(1) has been inserted stating that, a company having any amount in its **Unspent Corporate Social Responsibility Account** as per section 135(6) shall constitute a CSR Committee and comply with the provisions contained in sub-sections (2)to (6) ofthe said section." In case of CSR implementation, the Board shall ensure that the CSR activities are undertaken by the company itself or through a company established under section 8 of the Act, or a registered public trust or a registered society, exempted under sub-clauses (iv), (v), (vi) or (via) of clause (23C) of section 10 or registered under section 12A and approved under 80 G of the Income Tax Act, 1961, established by the company, either singly or along with any other company; or a company as mentioned above is having an established track record of at least three years in undertaking similar activities. Further, a Company undertaking impact assessment may book the expenditure towards Corporate Social Responsibility for that financial year, which shall not exceed two percent of the total CSR expenditure for that financial year or fifty lakh rupees, whichever is higher; and the format for the annual report on CSR activities to be included in the board's report for financial year commencing on or after the 1st day of April, 2020 has been substituted.

For details: https://www.mca.gov.in/bin/dms/getdocument?mds=1Wt3uUYzV0rGCr2Vxa8ztQ%253D%253D&type=open

Ministry of Corporate Affairs (MCA) : Clarification for AOC-4

Amendment to Schedule III to the Companies Act, 2013 vide MCA Notification GSR. 207(E) dated 24th March 2021 mandates companies to round off the figures appearing in the Financial Statements depending upon their total income. However, if the companies provide absolute figures in eforms i.e., AOC-4, the same shall not be treated as incorrect certification by the Professionals.

For details: https://www.mca.gov.in/content/mca/global/en/home.html

Ministry of Corporate Affairs (MCA) : Extension for DIR-3-KYC and DIR-3-KYC-WEB

The MCA has, vide its general circular no. 09/2022 extended the time for filing e-form DIR-3-KYC and DIR-3-KYC-WEB without payment of late fee upto 15th October, 2022

For details:
https://www.mca.gov.in/bin/dms/getdocument?mds=2itVq%252FZQrw%252FU4s9JXtbS1w%253D%253D&type=open#:~:text=Subject%3A%20Extension%20of%20time%20for,without%20fee%20upto%2015.10.2022.&text=2.,fee%20upto%2015th%20October%2C%202022