

The Companies (Registered Valuers and Valuation) Fourth Amendment Rules, 2018

In exercise of the powers conferred by section 24T read with section 469 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules further to amend the Companies (Registered Valuers and Valuation) Rules, 2017, namely:-

In the Companies (Registered Valuers and Valuation) Rules, 2017 (hereinafter referred to as "the said rules"), in rule 1, - (a) for the marginal heading, the following marginal heading shall be substituted, namely:- "Short title, commencement and application"; (b) after sub-rule (2), the following sub-rule shall be inserted, namely:-

"(3) These rules shall apply for valuation in respect of any property, stocks, shares, debentures, securities or goodwill or any other assets or net worth of a company or its liabilities under the provision of the Act or these rules. Explanation.- It is hereby clarified that conduct of valuation under any other law other than the Act or these rules by any person shall not be affected by virtue of coming into effect of these rules."

In the said rules, in rule 3, in sub-rule (2), - (a) in clause (a), the word "not" shall be omitted; (b) in clause (c), after the brackets and letter "(e)", the brackets and letter "(f)," shall be inserted. In the said rules, in rule 4, - in clause (c), the words, brackets and letters "and having qualification mentioned at clause (a) or (b)" shall be omitted; (b) in Explanation II, the words "and examination or training" shall be omitted;

(c) after Explanation II, the following Explanation shall be inserted, namely:- "Explanation III.- For the purposes of this rule and Annexure IV, equivalent' shall mean professional and technical qualifications which are recognised by the Ministry of Human Resources and Development as equivalent to professional and technical degree.". 5. In the said rules, in rule 10, the words "and he may conduct valuation as per these rules if required under any other law or by any other regulatory authority" shall be omitted. 6. In the said rules, in rule 11, the Explanation shall be omitted. 7. In the said rules, in rule 12, in sub-rule(I), in clause (ii), for the words "a professional institute", the words "it is a professional institute" shall be substituted.

THE INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (LIQUIDATION PROCESS) (SECOND AMENDMENT) REGULATIONS 2018

In exercise of the powers conferred by clause (t) of subsection (1) of section 196 read with section 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 (Liquidation Process) Regulations, 2016, namely:

In the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 (hereinafter referred to as the principal regulations), for regulation 32, the following regulation shall be substituted, namely: - "32. Sale of Assets, etc. The liquidator may sell- (a) an asset on a standalone basis;

(b) the assets in a slump sale; (c) a set of assets collectively; (d) the assets in parcels; (e) the corporate debtor as a going concern; or (f) the business(s) of the corporate debtor as a going concern: Provided that where an asset is subject to security interest, it shall not be sold under any of the clauses (a) to (f) unless the security interest therein has been relinquished to the liquidation estate.”.

In the principal regulations, in regulation 34, in sub-regulation (2), for clause (b), the following clause shall be substituted, namely: - “(b) value of the assets or business(s) under clauses (b) to (f) of regulation 32, valued in accordance with regulation 35, if intended to be sold under those clauses;”.

In the principal regulations, for regulation 35, the following regulation shall be substituted, namely: -
Page 2 of 3 "35. Valuation of assets or business intended to be sold. (1) Where the valuation has been conducted under regulation 35 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 or regulation 34 of the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017, as the case may be, the liquidator shall consider the average of the estimates of the values arrived under those provisions for the purposes of valuations under these regulations. (2) In cases not covered under sub-regulation (1), the liquidator shall within seven days of the liquidation commencement date, appoint two registered valuers to determine the realisable value of the assets or businesses under clauses (a) to (f) of regulation 32 of the corporate debtor: Provided that the following persons shall not be appointed as registered valuers, namely:- (a) a relative of the liquidator; (b) a related party of the corporate debtor; (c) an auditor of the

corporate debtor at any time during the five years preceding the insolvency commencement date; or (d) a partner or director of the insolvency professional entity of which the liquidator is a partner or director. (3) The Registered Valuers appointed under sub-regulation (2) shall independently submit to the liquidator the estimates of realisable value of the assets or businesses, as the case may be, computed in accordance with the Companies (Registered Valuers and Valuation) Rules, 2017, after physical verification of the assets of the corporate debtor. (4) The average of two estimates received under sub-regulation (3) shall be taken as the value of the assets or businesses.”.

In the principal regulations, in regulation 40, in the Explanation occurring at the end, after the words “parcel of assets,” the word “, business” shall be inserted.

Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2018

In exercise of the powers conferred by sections 196, 207 and 208 read with section 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 Professionals) Regulations, 2016, namely: -

In the Insolvency and Bankruptcy Board of India (Insolvency Professionals) Regulations, 2016 (hereinafter referred to as the principal regulations), in regulation 7, in sub-regulation (2), for clause (c), the following clauses shall be substituted, namely: - “(c) pay to the Board, a fee of ten thousand rupees, every

five years after the year in which the certificate is granted and such fee shall be paid on or before the 30th April of the year it falls due; Illustration Where registration is granted on 2nd February, 2018 in the year 2017-18, the fee shall become due on 1st April, 2023, after five years (2018-19, 2019-20, 2020-21, 2021-22 and 2022-23) and it shall be paid on or before the 30th April, 2023. (ca) pay to the Board, a fee calculated at the rate of 0.25 percent of the professional fee earned for the services rendered by him as an insolvency professional in the preceding financial year, on or before the 30th of April every year, along with a statement in Form E of the Second Schedule;”;

In the principal regulations, in regulation 12, for sub-regulation (2), the following sub regulation shall be substituted, namely: - “(2) A person eligible under sub-regulation (1) may make an application for recognition as an insolvency professional entity to the Board in Form C of the Second Schedule along with an application fee of fifty thousand rupees.”.

In the principal regulations, in regulation 13, in sub-regulation (2), for clauses (b) and (c), the following clauses shall be substituted, namely: - 2 “(b) inform the Board, within seven days, when an individual ceases to be its director or partner, as the case may be, in Form F of the Second Schedule along with a fee of two thousand rupees; (c) inform the Board, within seven days, when an individual joins as its director or partner,

as the case may be, in Form F of the Second Schedule along with a fee of two thousand rupees; (ca) pay to the Board, a fee calculated at the rate of 0.25 percent of the turnover from the services rendered by it in the preceding financial year, on or before the 30th of April every year, along with a statement in Form G of the Second Schedule; and”.

In the principal regulations, after regulation 14, the following regulation shall be inserted, namely: - “15. Interest.- Without prejudice to any other action which the Board may take as deemed fit under the Code or any regulations made there under, any delay in payment of fee by an insolvency professional or an insolvency professional entity, a simple interest at the rate of 12% per annum on the amount of fee unpaid shall be paid to the Board after the last date of payment of fee under these regulations.”.

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