

MINISTRY OF CORPORATE AFFAIRS

NOTIFICATION

New Delhi, the 7th December, 2016

G.S.R. 1119(E).— In exercise of the powers conferred under sub-sections (1) and (2) of section 434 of the Companies Act, 2013 (18 of 2013) read with sub-section (1) of section 239 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016) (hereinafter referred to as the Code), the Central Government hereby makes the following rules, namely:—

1. Short title and Commencement. - (1) These rules may be called the Companies (Transfer of Pending Proceedings) Rules, 2016.

(2) They shall come into force with effect from the 15th December, 2016, except rule 4, which shall come into force from 1st April, 2017.

2. Definitions.- (1) In these rules, unless the context otherwise requires-

(a) “Code” means the Insolvency and Bankruptcy Code, 2016 (31 of 2016);

(b) “Tribunal” means the National Company Law Tribunal constituted under section 408 of the Companies Act, 2013.

(2) Words and expressions used in these rules and not defined, but defined in the Companies Act, 1956 (1 of 1956) (herein referred to as the Act), the Companies Act, 2013 (18 of 2013) or the Companies (Court) Rules, 1959 or the Code shall have the meanings respectively assigned to them in the respective Act or rules or the Code, as the case may be.

3. Transfer of pending proceedings relating to cases other than Winding up.—All proceedings under the Act, including proceedings relating to arbitration, compromise, arrangements and reconstruction, other than proceedings relating to winding up on the date of coming into force of these rules shall stand transferred to the Benches of the Tribunal exercising respective territorial jurisdiction:

Provided that all those proceedings which are reserved for orders for allowing or otherwise of such proceedings shall not be transferred.

4. Pending proceeding relating to Voluntary Winding up: All applications and petitions relating to voluntary winding up of companies pending before a High Court on the date of commencement of this rule, shall continue with and dealt with by the High Court in accordance with provisions of the Act.

5. Transfer of pending proceedings of Winding up on the ground of inability to pay debts.—(1) All petitions relating to winding up under clause (e) of section 433 of the Act on the ground of inability to pay its debts pending before a High Court, and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959 shall be transferred to the Bench of the Tribunal established under sub-section (4) of section 419 of the Act, exercising territorial jurisdiction and such petitions shall be treated as applications under sections 7, 8 or 9 of the Code, as the case may be, and dealt with in accordance with Part II of the Code:

Provided that the petitioner shall submit all information, other than information forming part of the records transferred in accordance with Rule 7, required for admission of the petition under sections 7, 8 or 9 of the Code, as the case may be, including details of the proposed insolvency professional to the Tribunal within sixty days from date of this notification, failing which the petition shall abate.

(2) All cases where opinion has been forwarded by Board for Industrial and Financial Reconstruction, for winding up of a company to a High Court and where no appeal is pending, the proceedings for winding up initiated under the Act, pursuant to section 20 of the Sick Industrial Companies (Special Provisions) Act, 1985 shall continue to be dealt with by such High Court in accordance with the provisions of the Act.

6. Transfer of pending proceedings of Winding up matters on the grounds other than inability to pay debts.—All petitions filed under clauses (a) and (f) of section 433 of the Companies Act, 1956 pending before a High Court and where the petition has not been served on the respondent as required under rule 26 of the Companies (Court) Rules, 1959 shall be transferred to the Bench of the Tribunal exercising territorial jurisdiction and such petitions shall be treated as petitions under the provisions of the Companies Act, 2013 (18 of 2013).

7. Transfer of Records.—Pursuant to the transfer of cases as per these rules the relevant records shall also be transferred by the respective High Courts to the National Company Law Tribunal Benches having jurisdiction forthwith over the cases so transferred.

8. Fees not to be paid.—Notwithstanding anything contained in the National Company Law Tribunal Rules, 2016, no fee shall be payable in respect of any proceedings transferred to the Tribunal in accordance with these rules.

[F. No. 1/5/2016– CL-V]

AMARDEEP SINGH BHATIA, Jt. Secy.