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INSOLVENCY AND BANKRUPTCY BOARD OF INDIA

NOTIFICATION

New Delhi, the 27th March, 2018

**INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (INSOLVENCY RESOLUTION
PROCESS FOR CORPORATE PERSONS) (SECOND AMENDMENT)
REGULATIONS, 2018**

No. IBBI/2017-18/GN/REG030. -In exercise of the powers conferred by clause (t) of sub-section (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 (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, 2018.

(2) They shall come into force on 1st April, 2018.
2. In the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, (hereinafter referred to as the principal regulations), in regulation 3, in sub-regulation (1), in clause (c), in sub-clause (i), for the words “company secretaries”, the words “secretarial auditors” shall be substituted.
3. In the principal regulations, in regulation 33, for the *Explanation*, the following *Explanation* shall be substituted, namely: -

“*Explanation.* - For the purposes of this regulation, “expenses” include the fee to be paid to the interim resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the interim resolution professional.”.
4. In the principal regulations, in regulation 34, for the *Explanation*, the following *Explanation* shall be substituted, namely: -

“Explanation. - For the purposes of this regulation, “expenses” include the fee to be paid to the resolution professional, fee to be paid to insolvency professional entity, if any, and fee to be paid to professionals, if any, and other expenses to be incurred by the resolution professional.”.

5. In the principal regulations, after regulation 34, the following regulation shall be inserted, namely: -

“34A. Disclosure of Costs. - The interim resolution professional or the resolution professional, as the case may be, shall disclose item wise insolvency resolution process costs in such manner as may be required by the Board.”.

6. In the principal regulations, after regulation 35, the following regulation shall be inserted, namely: -

“35A. Identification of Resolution Applicant.- The resolution professional shall identify the prospective resolution applicants on or before the 105th day from the insolvency commencement date.”.

7. In the principal regulations, in the Schedule, in Form A, for entries 8 and 9, the following entries shall be substituted, namely: -

“8	NAME AND REGISTRATION NUMBER OF THE INSOLVENCY PROFESSIONAL ACTING AS INTERIM RESOLUTION PROFESSIONAL	
9.	ADDRESS AND E-MAIL OF THE INTERIM RESOLUTION PROFESSIONAL, AS REGISTERED WITH THE BOARD	
10	ADDRESS AND E-MAIL TO BE USED FOR CORRESPONDENCE WITH THE INTERIM RESOLUTION PROFESSIONAL, IF DIFFERENT FROM THOSE GIVEN AT SL. NO. 9.	
11.	LAST DATE FOR SUBMISSION OF CLAIMS.”.	

8. In the principal regulations, in the Schedule, in Form B, for the Affidavit and Verification, the following shall respectively be substituted, namely: -

“DECLARATION

I, [Name of claimant], currently residing at [insert address], hereby declare and state as follows:-

1. [*Name of corporate debtor*], the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., actually indebted to me in the sum of Rs. [*insert amount of claim*].
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: [*Please list the documents relied on as evidence of claim*].
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, [*Name*] the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of the claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity].

9. In the principal regulations, in the Schedule, in Form C,-

(a) in the Table, in item 10, for the words “OPERATIONAL CREDITOR”, the words “FINANCIAL CREDITOR” shall be substituted;

(b) for the Affidavit and Verification, the following shall be substituted, namely: -

“DECLARATION

I, *[Name of claimant]*, currently residing at *[insert address]*, do hereby declare and state as follows: -

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

5. I am / I am not a related party in relation to the corporate debtor, as defined under section 5 (24) of the Code.

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity]”.

10. In the principal regulations, in the Schedule, in Form D, for the Affidavit and Verification, the following shall respectively be substituted, namely: -

“DECLARATION

I, *[Name of claimant]*, currently residing at *[insert address]*, do hereby declare and state as follows: -

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of claimant)”.

11. In the principal regulations, in the Schedule, in Form E,-

- (a) under the heading, **ATTACHMENTS**, for items (a) and (b), the following shall be substituted, namely:

“Documents relied as evidence as proof of debt and as proofs of non-payment of debt”;

- (b) for the Affidavit and Verification, the following shall respectively be substituted, namely: -

“DECLARATION

I, *[Name of claimant]*, currently residing at *[insert address]*, do hereby declare and state as follows: -

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of claimant)”.

12. In the principal regulations, in the Schedule, in Form F, for the Affidavit and Verification, the following shall respectively be substituted, namely: -

“DECLARATION

I, *[Name of claimant]*, currently residing at *[insert address]*, do hereby declare and state as follows: -

1. *[Name of corporate debtor]*, the corporate debtor was, at the insolvency commencement date, being the.....day of.....20....., actually indebted to me in the sum of Rs. *[insert amount of claim]*.
2. In respect of my claim of the said sum or any part thereof, I have relied on the documents specified below: *[Please list the documents relied on as evidence of claim]*.
3. The said documents are true, valid and genuine to the best of my knowledge, information and belief and no material facts have been concealed therefrom.
4. In respect of the said sum or any part thereof, neither I, nor any person, by my order, to my knowledge or belief, for my use, had or received any manner of satisfaction or security whatsoever, save and except the following:

[Please state details of any mutual credit, mutual debts, or other mutual dealings between the corporate debtor and the creditor which may be set-off against the claim].

Date:

Place:

(Signature of the claimant)

VERIFICATION

I, *[Name]* the claimant hereinabove, do hereby verify that the contents of this proof of claim are true and correct to my knowledge and belief and no material fact has been concealed therefrom.

Verified at ... on this day of, 20...

(Signature of claimant)

[Note: In the case of company or limited liability partnership, the declaration and verification shall be made by the director/manager/secretary and in the case of other entities, an officer authorised for the purpose by the entity]”.

(Dr. M. S. Sahoo, Chairperson)

[ADVT.-.....]

Note: The Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 were published in the Gazette of India Extraordinary *vide* notification No. IBBI/2016-17/GN/REG04 on 30th November, 2016 and were subsequently amended by-

- 1) The Insolvency and Bankruptcy Board of India (Insolvency resolution Process for Corporate Persons) (Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG013, dated the 16th August, 2017;
- 2) The Insolvency and Bankruptcy Board of India (Insolvency resolution Process for Corporate Persons) (Second Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG018, dated the 5th October, 2017;
- 3) The Insolvency and Bankruptcy Board of India (Insolvency resolution Process for Corporate Persons) (Third Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG019, dated the 7th November, 2017;
- 4) The Insolvency and Bankruptcy Board of India (Insolvency resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2017 vide notification No. IBBI/2017-18/GN/REG022, dated the 31st December, 2017; and
- 5) The Insolvency and Bankruptcy Board of India (Insolvency resolution Process for Corporate Persons) (Amendment) Regulations, 2018 vide notification No. IBBI/2017-18/GN/REG024, dated the 6th February, 2018.