

## IBC Ordinance 2020 to suspension of initiation of corporate insolvency resolution process for six months dated 05.06.2020

Section 10A and sub-section (3) to section 66 have been inserted by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 dated 05.06.2020

### Statute Wording of Section 10A

#### **Section 10A: Suspension of initiation of corporate insolvency resolution process.**

*((Inserted by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 dated 05.06.2020 w.e.f 05.06.2020))[10A. Notwithstanding anything contained in Sections 7, 9 and 10, no application for initiation of corporate insolvency resolution process of a corporate debtor shall be filed, for any default arising on or after **25th March, 2020** for a period of six months or such further period, not exceeding one year from such date, as may be notified in this behalf:*

*Provided that no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.*

*Explanation.- For the removal of doubts, it is hereby clarified that the provisions of this section shall not apply to any default committed under the said sections before 25th March, 2020.]*

### Statute Wording of Section 66(3)

Further, the Ordinance has inserted sub-section (3) to section 66 as under:

*(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub- section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.*

### Statute Wording of Section 66

After said sub-section, the complete section 66 read as under:

#### **Section 66: Fraudulent trading or wrongful trading**

*((This shall come into force w.e.f. from 01.12.2016.))66. (1) If during the corporate insolvency resolution process or a liquidation process, it is found that any business of the corporate debtor has been carried on with intent to defraud creditors of the corporate debtor or for any fraudulent purpose, the Adjudicating Authority may on the application of the resolution professional pass an order that any persons who were knowingly parties to the carrying on of the business in such manner shall be liable to make such contributions to the assets of the corporate debtor as it may deem fit.*

*(2) On an application made by a resolution professional during the corporate*

*insolvency resolution process, the Adjudicating Authority may by an order direct that a director or partner of the corporate debtor, as the case may be, shall be liable to make such contribution to the assets of the corporate debtor as it may deem fit, if—*

*(a) before the insolvency commencement date, such director or partner knew or ought to have known that there was no reasonable prospect of avoiding the commencement of a corporate insolvency resolution process in respect of such corporate debtor; and*

*(b) such director or partner did not exercise due diligence in minimising the potential loss to the creditors of the corporate debtor.*

*((Inserted by the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020 dated 05.06.2020 w.e.f 05.06.2020))[(3) Notwithstanding anything contained in this section, no application shall be filed by a resolution professional under sub-section (2), in respect of such default against which initiation of corporate insolvency resolution process is suspended as per section 10A.]*

*Explanation.—For the purposes of this section a director or partner of the corporate debtor, as the case may be, shall be deemed to have exercised due diligence if such diligence was reasonably expected of a person carrying out the same functions as are carried out by such director or partner, as the case may be, in relation to the corporate debtor.*

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