

S.O. 1683(E)(24.05.2017)—Whereas, the Insolvency and Bankruptcy Code, 2016 (31 of 2016) (hereinafter referred to as the said Code) received the assent of the President on 28th May, 2016 and was published in the official Gazette on the same date;

And, whereas, section 252 of the said Code amended the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 (1 of 2004) in the manner specified in the Eighth Schedule to the said Code;

And, whereas, the un-amended second proviso to clause (b) of section 4 of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 provides that any scheme sanctioned under sub-section (4) or any scheme under implementation under sub-section (12) of section 18 of the repealed enactment i.e., the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) shall be deemed to be a scheme under implementation under section 424D of the Companies Act, 1956 (1 of 1956) and shall be dealt with in accordance with the provisions contained in Part VIA of the Companies Act, 1956;

And, whereas, section 424D of the Companies Act, 1956 provided for review or monitoring of schemes that are sanctioned or are under implementation;

And, whereas the Companies Act, 1956 has been repealed and re-enacted as the Companies Act, 2013 (18 of 2013) which, inter alia, provides for scheme of revival and rehabilitation, sanction of scheme, scheme to be binding and for the implementation of scheme under sections 261 to 264 of the Companies Act, 2013;

And, whereas, sections 253 to 269 of the Companies Act, 2013 have been omitted by Eleventh Schedule to the Insolvency and Bankruptcy Code, 2016;

And, whereas, clause (b) of section 4 of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 has been substituted by the Eighth Schedule to the Code, which provides that any appeal preferred to the Appellate Authority or any reference made or inquiry pending to or before the Board or any proceeding of whatever nature pending before the Appellate Authority or the Board under the Sick Industrial Companies (Special Provisions) Act, 1985 shall stand abated. Further, it was provided that a company in respect of which such appeal or reference or inquiry stands abated under this clause may make a reference to the National Company Law Tribunal under the Code within one hundred and eighty days from the date of commencement of the Code;

And, whereas, difficulties have arisen regarding review or monitoring of the schemes sanctioned under subsection (4) or any scheme under implementation under sub-section (12) of section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986) in view of the repeal of the Sick Industrial Companies (Special Provisions) Act, 1985, substitution of clause (b) of section 4 of the Sick Industrial Companies (Special Provisions) Repeal Act, 2003 and omission of sections 253 to 269 of the Companies Act, 2013;

Now, therefore, in exercise of the powers conferred by the sub-section (1) of the section 242 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby makes the following Order to remove the above said difficulties, namely:—

1. Short title and commencement.—(1) This Order may be called **the Insolvency and Bankruptcy Code (Removal of Difficulties) Order, 2017**.

2. In the Insolvency and Bankruptcy Code, 2016, in the Eighth Schedule, relating to amendment to the Sick Industrial Companies (Special Provisions) Repeal Act, 2003, in section 4, in clause (b), after the second proviso, the following provisos shall be inserted, namely:—

“Provided also that any scheme sanctioned under sub-section (4) or any scheme under implementation under sub-section (12) of section 18 of the Sick Industrial Companies (Special Provisions) Act, 1985 shall be deemed to be an approved resolution plan under sub-section (1) of section 31 of the Insolvency and Bankruptcy Code, 2016 and the same shall be dealt with, in accordance with the provisions of Part II of the said Code:

Provided also that in case, the statutory period within which an appeal was allowed under the Sick Industrial Companies (Special Provisions) Act, 1985 against an order of the Board had not expired as on the date of notification of this Act, an appeal against any such deemed approved resolution plan may be preferred by any person before National Company Law Appellate Tribunal within ninety days from the date of publication of this order.”

Read Delhi High Court decision on above matter-[Click here](#).