

Insolvency and Bankruptcy Board of India
7th Floor, Mayur Bhawan, Connaught Place, New Delhi-110001

CIRCULAR

No. IBBI/LIQ/45/2021

15th November, 2021

To
All Registered Insolvency Professionals
All Recognised Insolvency Professional Entities
All Registered Insolvency Professionals Agencies
(By mail to registered email addresses and on website of the Board)

Dear Madam /Sir,

Subject: Clarification regarding requirement of seeking No Objection Certificate or No Dues Certificate from the Income Tax Department during Voluntary Liquidation Process under the Insolvency and Bankruptcy Code, 2016 (Code).

Regulation 14 of the IBBI (Voluntary Liquidation Process) Regulations, 2017 (the Regulations) mandates the liquidator to make the public announcement within five days of his appointment, calling for submission of claims by stakeholders within thirty days from the liquidation commencement date. The Regulations also obligate all the financial creditors, operational creditors including government, and other stakeholders to submit their claims within the specified period. If the claims are not submitted in time, the corporate person may get dissolved without dealing with such claims and such claims may consequently get extinguished.

2. It has been noticed that even after providing opportunity for filing of claims, the liquidators seek 'No Objection Certificate' (NOC) or 'No Dues Certificate' (NDC) from the Income Tax Department despite the fact that the Code or the Regulations do not envisage seeking such NOC/NDC.

3. In this regard, section 178 of the Income-tax Act, 1961 which, *inter alia*, obligates the liquidator to fulfil certain income tax related requirements, explicitly states that the provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force except the provisions of the Code.

4. The process of applying and obtaining of such NOC/NDC from the Income Tax Department consumes substantial time and thus militates against the express provisions of the Code, and also defeats the objective of time-bound completion of process under the Code.

5. Therefore, it is hereby clarified that as per the provisions of the Code and the Regulations read with Section 178 of the Income-tax Act, 1961, an Insolvency Professional handling voluntary liquidation process is not required to seek any NOC/NDC from the Income Tax Department as part of compliance in the said process.

6. This Circular is issued in exercise of the powers under section 196 of the Code.

Yours sincerely,
Sd/-
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