



**IN THE NATIONAL COMPANY LAW TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
Company Petition No.: IB 237(PB)/2022**

(Under Section 7 of the Insolvency and Bankruptcy Code, 2016 read with Rule 4)

IN THE MATTER OF:

M/s BSFC DISTRIBUTORS PRIVATE LIMITED

...Applicant/Operational Creditor

VERSUS

M/s PILOT MINES & MINERALS PRIVATE LIMITED

...Respondent/Corporate Debtor

Clarification order delivered on: 19.09.2022

CORAM:

SHRI RAMALINGAM SUDHAKAR

HON'BLE PRESIDENT

SHRI AVINASH K SRIVASTAVA

HON'BLE MEMBER (TECHNICAL)

^ACLARIFICATION QUESTIONS:

- 1) This petition is filed under section 7 of Insolvency & Bankruptcy Code, 2016, the nature of financial debt being in the form of Inter Corporate Deposit. This attracts section 186, 179 & 117 of Companies Act, 2013. Kindly provide a **certified true copy of the Board Resolution** passed at the meeting of the board duly complying with Section 179 (e) & (f) and Secretarial Standard-1.

Reference:

Aks



179. Powers of Board

(3) *The Board of Directors of a company shall exercise the following powers on behalf of the company by means of resolutions passed at meetings of the Board, namely: —*

(e) to invest the funds of the company;

(f) to grant loans or give guarantee or provide security in respect of loans

2) Kindly Provide duly audited **Financial Statements** accompanied by notes to accounts of the Company for the financial years 2020-21 & 2021-2022 so as to ensure compliance of section 186 (2).

Reference:

186. Loan and investment by company.

(2) *No company shall directly or indirectly —*

(a) give any loan to any person or other body corporate;

(b) give any guarantee or provide security in connection with a loan to any other body corporate or person; and

(c) acquire by way of subscription, purchase or otherwise, the securities of any other body corporate,

exceeding sixty per cent. of its paid-up share capital, free reserves and securities premium account or one hundred per cent. of its free reserves and securities premium account, whichever is more.

3) In case the Company has extended the loan exceeding the limits as stated in Section 186(2), kindly provide a **certified true copy of Special Resolution** passed at the meeting of shareholders of the company.

4) Further, as per section 117 (1) read with sub section(3)(a), kindly provide a copy of the MCA form **MGT-14**, which should be filed within 30 days of passing a special resolution, if applicable.

Reference:

117. Resolutions and Agreements to be Filed

(1) *A copy of every resolution or any agreement, in respect of matters specified in sub-section (3) together with the explanatory statement*

Rs



under section 102, if any, annexed to the notice calling the meeting in which the resolution is proposed, shall be filed with the Registrar within thirty days of the passing or making thereof in such manner and with such fees as may be prescribed

(3) The provisions of this section shall apply to—

(a) special resolutions;

The Financial Creditor is hereby directed to file response to the above questions pertaining to it, by an affidavit, to be filed on or before 26th September, 2022.

List on 26th September, 2022.

(RAMALINGAM SUDHAKAR)
PRESIDENT

(AVINASH K SRIVASTAVA)
MEMBER, TECHNICAL