



29th December 2023 – Issue 421

Reserve Bank of India vide notification dated December 28, 2023, has issued Classification of MSMEs

- RBI vide notification dated December 28, 2023, has issued Classification of MSMEs.
- As classification / re-classification of MSMEs is the statutory responsibility of Ministry of MSME, GoI as per the provisions of the MSMED Act, 2006, regulated entities shall be guided by the notifications issued by the Ministry of MSME in this regard, from time to time.
- The complete notification is herein attached.

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Reserve Bank of India vide notification dated December 28, 2023, has issued Reserve Bank of India (Financial Benchmark Administrators) Directions, 2023

- RBI vide notification dated December 28, 2023, has issued Reserve Bank of India (Financial Benchmark Administrators) Directions, 2023.
- The Directions have been reviewed to put in place a holistic risk-based framework covering all benchmark administrators in financial markets regulated by the Reserve Bank.
- The revised Directions are enclosed herewith.

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Reserve Bank of India vide notification dated December 27, 2023, has issued Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023

- RBI vide notification dated December 27, 2023, has issued Foreign Exchange Management (Manner of Receipt and Payment) Regulations, 2023.



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- The Regulations are enclosed herewith.

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Mr. Brajesh Mishra and Others v. M/s Dolphin Offshore Shipping Ltd.

Date: 2nd November, 2023

Mr. Brajesh Mishra and Others ('Petitioner') filed a joint petition under section 9 of the Insolvency and Bankruptcy Code, as an operational creditor ('Code') to initiate Corporate Insolvency Resolution Process ('CIRP') against M/s Dolphin Offshore Shipping Ltd. ('Corporate Debtor') on the ground that the Corporate debtor committed default in making a payment of a sum of Rs. 2,86,11,281/- to the Petitioner. The Petition filed under Section 9 of the Insolvency and Bankruptcy Code, 2016, was filed by 23 petitioners, who were the employees of the Corporate Debtor. It was contended by the Operational Creditor that Corporate Debtor expressed their inability to clear the dues and kept on putting the matter of settling the amount due.

The Corporate Debtor submitted that a joint application under Section 9 of the IBC Code by one or more Operational Creditors was not legally sustainable as the individual claims of each Operational Creditor fall below the prescribed minimum threshold limit of Rs. 1 crore. Therefore, on prima facie grounds, they contended that the Petition should be dismissed solely on this basis, additionally, the Applicants failed to demonstrate any default on the part of the Corporate Debtor.

The Hon'ble National Company Law Tribunal, Mumbai while deciding the matter held, upon perusal of the records, it was evident that none of the petitioners individually had a claim exceeding Rs. 1 crore, and thus failed to meet the threshold limit of Rs.1 core under Section 4 of the IBC Code, 2016.



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However, the question before the bench arose as to whether a joint petition under Section 9 by more than one individual is maintainable even if the petitioners individually do not meet the threshold limit of Rs.1cr.?

Relying on the judgment passed by Hon'ble National Company Law Appellant Tribunal in Sadashiv Nomaya Nayak and Others vs. Gammon India and Contractors Private Limited 2023 ibclaw.in 455 NCLAT, whereby it was held that if the individual claim of each operational creditor is less than rupees one lakh (as the threshold limit was at that time), it could be rejected as being not maintainable. Considering the above discussion and legal precedents, it was concluded that the current petition was not maintainable, as the individual claims of the joint petitioners did not meet the Rs. 1 crore threshold. Consequently, the Company Petition was dismissed without imposing any costs.

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