



CIVIL

IBBI Enhances Disclosure Requirements for Carry forward losses in Corporate Insolvency Resolution Process

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The Insolvency and Bankruptcy Board of India (IBBI) has issued a new circular dated 17th March 2025, aimed at improving transparency in the Corporate Insolvency Resolution Process (CIRP). The directive mandates Insolvency Professionals (IPs) to include detailed disclosures about the carry forward losses in the Information Memorandum (IM), a critical document guiding resolution plans for financially distressed companies.

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Background

Under the Insolvency and Bankruptcy Code, 2016 (IBC), the IBBI amended Regulation 36 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('CIRP Regulations') to require IPs to disclose loss carry forward details as per the Income Tax Act, 1961. However, recent reviews of IMs revealed inconsistencies and inadequacies in how these disclosures were presented. To address this, the IBBI has now introduced stricter guidelines to ensure clarity and comprehensiveness.

Identified Issue

The Board observed that IPs were not systematically capturing or highlighting loss carry forward information in IMs. This lack of strong disclosure risked leaving potential resolution applicants with incomplete insights into the corporate debtor's financial health, particularly regarding tax benefits tied to unutilized losses.

Enhanced Disclosure Framework

IPs are now required to dedicate a distinct section in the IM solely to loss carryforward details. This section must explicitly state:

- a) The quantum of carry forward losses available to the corporate debtor ;
- b) A breakdown of these losses under specific heads as per the Income Tax Act, 1961;
- c) The applicable time limits for using these losses; and
- d) If there are no carry forward of losses available to the Corporate debtor , the Information Memorandum should explicitly specify the fact.

Objective of the Circular

The enhanced framework aims to equip resolution applicants with a clearer picture of the debtor's financial position. By understanding the value and limitations of carry forward loss benefits, applicants can craft more informed and viable resolution plans, potentially improving outcomes for creditors and stakeholders.

Legal Basis

The circular is issued under Section 196 of the IBC, which empowers the IBBI to regulate and enforce procedural compliance in insolvency matters. This move underscores the Board's commitment to maintaining transparency and accountability in CIRP proceedings.

With these updated guidelines, the IBBI seeks to strengthen the efficiency of insolvency resolution in India by ensuring that critical financial data is communicated effectively to all stakeholders involved.

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