

Companies (Second Amendment) Act, 2002

Section 2 - Amendment of Section 2

In section 2 of the Companies Act, 1956 (1 of 1956) (hereinafter referred to as the principal Act),--

(a) after clause (1a), the following clause shall be inserted, namely:--

'(1B) "Appellate Tribunal" means the National Company Law Appellate Tribunal constituted under sub-section (1) of section 10FR;'

(b) after clause (19A), the following clauses shall be inserted, namely:--

'(19AA) "industrial company" means a company which owns one or more industrial undertakings;

(19AB) "industrial undertaking" means any undertaking, pertaining to any industry carried on in one or more factories or units by any company, as defined in clause (aa) of section 3 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) but does not include a small-scale industrial undertaking as defined in clause (j) of that section;'

(c) after clause (29), the following clause shall be inserted, namely:--

'(29A) "net worth" means the sum total of the paid-up capital and free reserves after deducting the provisions or expenses as may be prescribed.

Explanation.--for the purposes of this clause, "free reserves" means all reserves created out of the profits and share premium account but does not include reserves created out of revaluation of assets, write back of depreciation provisions and amalgamation;'

(d) after clause (31A), the following clause shall be inserted, namely:--

'(31AA) "operating agency" means any group of experts consisting of persons having special knowledge of business or industry in which the sick industrial company is engaged and includes public financial institution, State level institution, scheduled bank or any other person as may be specified as the operating agency by the Tribunal;'

(e) in clause (33), for the words "High Courts", the words "the Tribunal" shall be substituted;

(f) after clause (46A), the following clauses shall be inserted, namely:--

'(46AA) "sick industrial company" means an industrial company which has--

(i) the accumulated losses in any financial year equal to fifty per cent, or more of its average net worth during four years immediately preceding such financial year; or

(ii) failed to repay its debts within any three consecutive quarters on demand made in writing for its repayment by a creditor or creditors of such company;

(46AB) "State level institution" means any of the following institutions, namely:--

'(a) the State Financial Corporations established under section 3 or section 3 A and institutions notified under section 46 of the State Financial Corporations Act, 1951 (63 of 1951);

(b) the State Industrial Development Corporations registered under this Act;'

(g) after clause (49), the following clause shall be inserted, namely:--

'(49A) "Tribunal" means the National Company Law Tribunal constituted under sub-section (1) of section 10FB;'
