

Companies (Second Amendment) Act, 2002

Section 57 - Insertion of New Sections 441a, 441b, 441c, 441d, 441e and 441f

After section 441 of the principal Act, the following shall be inserted, namely:--

Levy by way of cess and formation of Rehabilitation and Revival Fund

441 A. Levy and collection of cess on turnover or gross receipts of companies.-- (1) There shall be levied and collected, for the purposes of rehabilitation or revival or protection of assets of the sick industrial company, a levy by way of cess at such rate not less than 0.005 per cent, and not more than 0.1 per cent, on the value of annual turnover of every company or its annual gross receipt, whichever is more as the Central Government may, from time to time, specify by notification in the Official Gazette.

(2) Every company shall pay to the Central Government the cess referred to in sub-section (1) within three months from the close of every financial year.

(3) Every company shall furnish, in such form as may be prescribed, to the Central Government and the Tribunal the details of its turnover and gross receipts with payment of cess under sub-section (1),

(4) The Central Government may, by rules made in this behalf, specify the manner in which the cess shall be paid under sub-section (2).

441B. Crediting proceeds of cess to Consolidated Fund of India.-- The proceeds of the cess levied and collected under section 441A shall first be credited to the Consolidated Fund of India and the Central Government may, if Parliament by appropriation made by law in this behalf so provides, pay to the Tribunal, from time to time, out of such proceeds (after deducting the cost of collection), such sums of money as it may think fit for being utilised for the purposes of the Fund.

441C. Rehabilitation Fund.--(1) There shall be formed for the purposes of rehabilitation or revival or protection of assets of a sick industrial company, a Fund to be called the Rehabilitation and Revival Fund.

(2) There shall be credited to the Fund--

- (a) all amounts paid under section 441B;
- (b) any amount given as grants by the Central Government for the purposes of this Fund;
- (c) any amount given to the Fund from any other source;
- (d) any income from investment of the amount in the Fund;
- (e) amount refunded by the company under section 441G.

441D. Application of Fund.-- The Fund shall be applied by the Tribunal for the purpose of--

- (a) making interim payment of workmen's dues pending the revival or rehabilitation of the sick industrial company; or
- (b) payment of workmen's dues due to the workmen, referred to in subsection (3) of section 529, of the sick industrial company; or
- (c) protection of assets of sick industrial company; or
- (d) revival or rehabilitation of sick industrial company; which in the opinion of the Tribunal are necessary or expedient for the said purposes.

441E. Power to call for information.-- The Central Government or Tribunal may require any company to furnish for the purposes of rehabilitation or revival or protection of assets of sick industrial companies, such statistical and other information in such form and within such period as may be prescribed.

441F. Penalty for non-payment of cess.-- (1) If any cess payable by a company under section 441A is not paid in accordance with the provisions of that section, it shall be deemed to be in arrears and the same shall be recovered by the Tribunal in such manner as may be prescribed.

(2) The Tribunal may, after such inquiry as it deems fit, impose on the company, which is in arrears under sub-section (1),

a penalty not exceeding ten times the amount in arrears:

Provided that before imposing such penalty, such company shall be given a reasonable opportunity of being heard, and if, after such hearing, the Tribunal is satisfied that the default was for any good and sufficient reason, no penalty shall be imposed under this sub-section.

441G. Refund of fund in certain cases.-- (1) Where the fund has been applied by the Tribunal for any of the purposes specified in clauses (a) to (d) of section 441D, such amount of fund shall be recovered from the company after its revival or rehabilitation or out of sale proceeds of its assets after discharging the statutory liabilities and payment of dues to creditors.

(2) The amount referred to in sub-section (1) shall be recovered in the manner as the Tribunal may direct.".
