

Companies (Second Amendment) Act, 2002

Section 60 - Substitution of New Sections for Sections 443 and 444

For sections 443 and 444 of the principal Act, the following sections shall be substituted, namely:--

"443. Power of Tribunal on hearing petition.-- (1) On hearing a winding up petition, the Tribunal may --

- (a) dismiss it, with or without costs; or
- (b) adjourn the hearing conditionally or unconditionally; or
- (c) make any interim order that it thinks fit; or
- (d) make an order for winding up the company with or without costs, or any other order that it thinks fit:

Provided that the Tribunal shall not refuse to make a winding up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets,

(2) Where the petition is presented on the ground that it is just and equitable that the company should be wound up, the Tribunal may refuse to make an order of winding up, if it is of the opinion that some other remedy is available to the petitioners and that they are acting unreasonably in seeking to have the company wound up instead of pursuing that other remedy.

(3) Where the petition is presented on the ground of default in delivering the statutory report to the Registrar, or in holding the statutory meeting, the Tribunal may--

- (a) instead of making a winding up order, direct that the statutory report shall be delivered or that a meeting shall be held; and
- (b) order the costs to be paid by any persons who, in the opinion of the Tribunal, are responsible for the default.

"444. Order for winding up to be communicated to Official Liquidator and Registrar.-- Where the Tribunal makes an order for the winding up of the company, the Tribunal, shall within a period not exceeding two weeks from the date of passing of the order, cause intimation thereof to be sent to the Official Liquidator and the Registrar."