

Companies (Second Amendment) Act, 2002

Section 67 - Amendment of Section 457

In section 457 of the principal Act,--

(a) for the word "Court", wherever it occurs, the word "Tribunal" shall be substituted;

(b) in sub-section (1), after clause (c), the following clause shall be inserted, namely:--

"(ca) to sell whole of the undertaking of the company as a going concern;" (c) after sub-section (2), the following sub-sections shall be inserted, namely:--

"(2A) The liquidator shall --

(a) appoint security guards to protect the property of the company taken into his custody and to make out an inventory of the assets in consultation with secured creditors after giving them notice;

(b) appoint, as the case may be, valuer, chartered surveyors or chartered accountant to assess the value the company's assets within fifteen days after taking into custody of property, assets referred to in sub-clause (a) and effects or actionable claims subject to such terms and conditions as may be specified by the Tribunal;

(c) give an advertisement, inviting bids for sale of the assets of the company, within fifteen days from the date of receiving valuation report from the valuer, chartered surveyors or chartered accountants referred to in clause (b), as the case may be.

(2B) The liquidator shall, immediately after the order for winding up or appointing the liquidator as provisional Liquidator is made, issue a notice requiring any of the persons mentioned in sub-section (2) of section 454, to submit and verify a statement of the affairs of the company and such notice shall be served by the liquidator.

(2C) The liquidator may apply to the Tribunal for an order directing any person who, in his opinion, is competent to furnish a statement of the affairs under sections 439A and 454 and such person shall for the said purpose be served a notice by the liquidator in the manner as may be prescribed.

(2D) The liquidator may, from time to time, call any person for recording any statement for the purpose of investigating the affairs of the company which is being wound up and it shall be the duty of every such person to attend to the liquidator at such time and place as the liquidator may appoint and give the liquidator all information which he may require and answer all such questions relating to winding up of company as may be put to him by the liquidator.

(2E) Every bidder shall, in response to advertisement referred to in clause (c) of sub-section (2A), deposit, his offer in the manner as may be prescribed, with liquidator or provisional liquidator, as the case may be, within forty-five days from the date of the advertisement and the liquidator or provisional liquidator shall permit inspection of property and assets in respect of which bids were invited:

Provided that such bid may be withdrawn within three days before the last day of closing of the bid:

Provided further that the inspection of property shall be open for not more than five days before closing of the bid.

(2F) The advertisement inviting bids shall contain the following details, namely:--

- (a) name, address of registered office of the company and its branch offices, factories and plants and the place where assets of the company are kept and available for sale;
- (b) last date for submitting bids which shall not exceed ninety days from the date of advertisement;
- (c) time during which the premises of the company shall remain open for inspection;
- (d) the last date for withdrawing the bid;
- (e) financial guarantee which shall not be less than one-half of the value of the bid;
- (f) validity period of the bids;
- (g) place and date of opening of the bids in public;
- (h) reserve price and earnest money to be deposited along with the bid;
- (i) any other terms and conditions of sale which may be prescribed. (2G) The liquidator appointed shall--
 - (a) maintain a separate bank account for each company under his charge for depositing the sale proceeds of the assets and recovery of debts of each company;
 - (b) maintain proper books of account in respect of all receipts and payments made by him in respect of each company and submit half yearly return of receipts and payments to the Tribunal."