



Bankruptcy Trustee

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*Application For Bankruptcy
(Section 121,122 & 123 of Code r.w. Rule 6 & 7 of Bankruptcy
Process Rules, 2019)*

Only in Three Condition (within three months) in Form A with fees of
Rs.2,000/-

Insolvency application was rejected under Section 100(4)

Order for Rejection of Repayment Plan under Section 115(2)

Order on non compliance of repayment plan under Section
118(3)



- An interim moratorium shall commence on the date of the application in relation to all the debts and shall cease on the date of admission of such application
[Section 124] 7 days
- If application u/s 122 or 123 filed through Bankruptcy Trustee (BT), Adjudicating Authority within seven days direct Board to confirm the BT or if filed by the debtor or creditor Adjudicating Authority within seven days direct Board to nominate the BT
[Section 125 r.w. Rule 8 of Bankruptcy Process Regulations, 2019]. 10 days
- Board within seven days communicate confirmation of appointment of RP or shall nominate RP within 10 days to AA. **[Section 125 (3)(4)]. 14 days**



- AA shall pass a bankruptcy order [**Section 126, 154 & 155**]

7 days

- Bankrupt shall provide statement of financial position [**Section 129**]

10 days

- AA issue a public notice in Form C (**Section 130 (b) r.w. Rule 9 & 10 of Bankruptcy Process Rules, 2019**)

7 days

- Creditors shall register their claims with the BT within 7 days of the publication of public notice in Form F. (**Section 131**). **14 days from bankruptcy commencement date**



- BT shall within 14 days from bankruptcy commencement date , prepare a list of creditors of the bankrupt. (**Section 132**).

21 days from bankruptcy commencement date

- BT within 21 days from the from bankruptcy commencement date issue a notice for calling a meeting of the creditors to every creditor. (**Section 133**).
- BT shall conduct the administration and distribution of the estate of the bankrupt in accordance with Chapter V. (**Section 136**).
- BT shall convene meeting of COC on completion of the administration and distribution of the estate of the bankrupt in acc with Chapter V. **7 days**



- COC shall approve the report submitted by the BT within 7 days of the receipt of report and shall determine whether BT should be released under Section 148. **(Section 137 (3))**
- one year/ 7 days

BT on the expiry of one year from the bankruptcy commencement date or seven days of approval of report by COC, shall apply to the AA for discharge order **(Section 138)**
- AA shall pass a discharge order on an application by the BT. **(Section 138 (2)).**
- AA may on application or suo motu modify or recall a bankrupt order, whether or not bankrupt is discharged. **(Section 142).**
- BT shall be released from his office with effect from the date on which the COC approves the report of BT [**Section 148 (3)**]



Priority For Distribution Section 178

However the bankruptcy trustee shall not commence distribution unless a preliminary report is filed with the Adjudicating Authority.

Costs and expenses incurred by BT

Workmen & Secured Creditors| 24 months

Employee dues| 12 months

Government dues

Other debts| Unsecured Creditors



Reports By Bankruptcy Trustee (Regulation 7)

Preliminary Report| 90 days (Reg. 8)

Progress Reports| quarterly (Reg. 10)

Final Report| with application (Reg 11)



DISQUALIFICATIONS/RESTRICTIONS OF BANKRUPT (Section 140 AND 141)

DISQUALIFICATIONS

Being appointed or acting as a trustee or representative in respect of any trust, estate or settlement

Being appointed or acting as a public servant

Being elected to any public office where the appointment to such office is by election

Being elected or sitting or voting as a member of any local authority



RESTRICTIONS

not act as a director of any company, or directly or indirectly take part in or be concerned in the promotion, formation or management of a company

prohibited from creating any charge on his estate or taking any further debt (without prior approval)

Prior to entering into any financial or commercial transaction of such value as may be prescribed, either individually or jointly, inform all the parties involved in such transaction that he is undergoing a bankruptcy process

Without the previous sanction of the Adjudicating Authority, be incompetent to maintain any legal action or proceedings in relation to the bankruptcy debts

Not be permitted to travel overseas without the permission of the Adjudicating Authority



Provisions for BANKRUPTCY TRUSTEE

Fees of bankruptcy trustee will be as may be specified in proportion to the value of the estate of the bankrupt and from the distribution of the estate of the bankrupt in the manner provided in section 178 [Section 144]

Replacement of BT – CoC with 75% votes can replace by making application to AA [Section 145]

Resignation of BT [Section 146]

Vacancy in office of bankruptcy trustee – AA to appoint BT [Section 147]

Release of bankruptcy trustee - with effect from the date on which the Adjudicating Authority passes an order appointing a new bankruptcy trustee in the event of replacement, resignation or occurrence of vacancy under Sections 145, 146 or 147, as the case may be [Section 148]



Provisions for BANKRUPTCY TRUSTEE

Functions of BT

investigate the affairs of the bankrupt

realise the estate of the bankrupt

distribute the estate of the bankrupt

Rights of BT

- hold property of every description;
- make contracts;
- sue and be sued;
- enter into engagements in respect of the estate of the bankrupt;
- employ persons to assist him;
- execute any power of attorney, deed or other instrument; and
- do any other act which is necessary or expedient for the purposes of or in connection with the exercise of his rights.



General powers of bankruptcy trustee

- sell any part of the estate of the bankrupt
- give receipts for any money received by him
- prove, rank, claim and draw a dividend in respect of such debts due to the bankrupt as are comprised in his estate
- where any property comprised in the estate of the bankrupt is held by any person by way of pledge or hypothecation, exercise the right of redemption in respect of any such property subject to the relevant contract by giving notice to the said person
- where any part of the estate of the bankrupt consists of securities in a company or any other property which is transferable in the books of a person, exercise the right to transfer the property to the same extent as the bankrupt might have exercised it if he had not become bankrupt
- deal with any property comprised in the estate of the bankrupt to which the bankrupt is beneficially entitled in the same manner as he might have dealt with it

Khushboo Shah Rajani



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Khushboo has over 12 years experience in the fields of Tax Litigation and Corporate Law. She was a part of Firm managing one of the biggest transfer pricing litigation in the case of a Telecom Major, Vodafone.

Since January 2017, Khushboo has also been providing litigation support under the Insolvency and Bankruptcy Code before the NCLT. She has also been advising Resolution Professionals from Big 4s and others as “Process Advisor” during their tenure as RP with regard to corporate laws and complex issues and sought directions from NCLT.

She has also represented leading transnational companies across a range of industries such as Telecom, Real Estate, Manufacturing and more, before the Appellate Authorities i.e. the Income Tax Tribunals and High Courts on complex direct tax matters.

She is actively involved in insolvency resolution, arbitration, tax planning and other strategic projects. Khushboo and Ayush have co-authored a book on “**Insolvency and Bankruptcy in India – Law & Practice**” published by Bloomsbury in February 2020, 1st Edition, while the 2nd Edition is also published in March 2021. She has also argued more than 550 matters since 2017 on behalf of RP and FC.

She is an associate member of the Institute of Chartered Accountants of India and also holds a Bachelor’s degree in Law as well as a Bachelor’s degree in Commerce. She is a speaker at Indian Institute Insolvency Professionals of ICAI (“IIPI”)

Ayush J. Rajani



Ayush J. Rajani

F.C.A

**Head – Insolvency and
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Ayush has over 14 years of professional experience which expands to Insolvency and Bankruptcy Code, 2016 [since 2017], Transfer Pricing and International Tax. He was previously associated with Deloitte for a period of over 7 years in his initial days before setting up his own practice.

He is a Fellow member of the Institute of Chartered Accountants of India.

Ayush has been providing services to financial lenders as well as corporates under the Insolvency and Bankruptcy Code. He has been advising and Resolution Professionals from Big 4s before the Hon'ble NCLT and Hon'ble NCLAT and others as “Process Advisors” throughout the corporate insolvency and resolution process and represented before NCLT and NCLAT with regards to complex issues including Resolution Plans and forensic applications.

Khushboo and Ayush have co-authored a book on **“Insolvency and Bankruptcy in India – Law & Practice” 1st Edition published by Bloomsbury in February 2020, while the 2nd Edition is also published in March 2021.**

He has also represented RPs in leading and contentious matters involving exposures of Rs. 2,000 to Rs. 11,000 crores and more, before Hon'ble NCLT and NCLAT and assisted RPs and Liquidators in resolving various issues. He has argued more than 500 matters so far before Hon'ble NCLT (pan India) and Hon'ble NCLAT representing RPs and FCs

He is a regular speaker at Indian Institute Insolvency Professionals of ICAI and has also authored and co-authored articles on Transfer Pricing published in International Taxation, Financial Chronicle, Taxsutra and other portals.

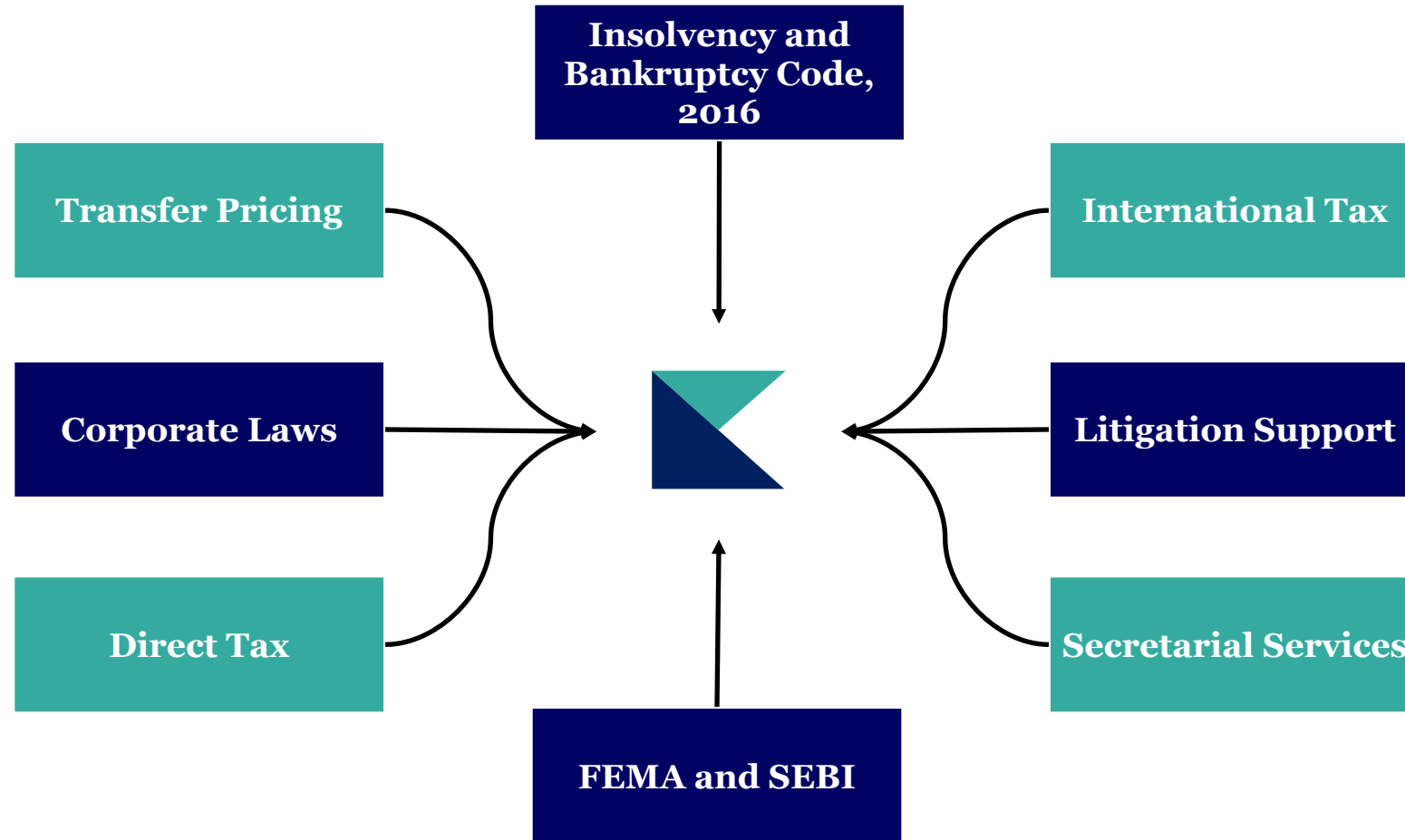


How We Can Help





We at AKR can Assist You





Let's Talk

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