IBBI directs insolvency professionals to disclose carry-forward losses in information memorandum

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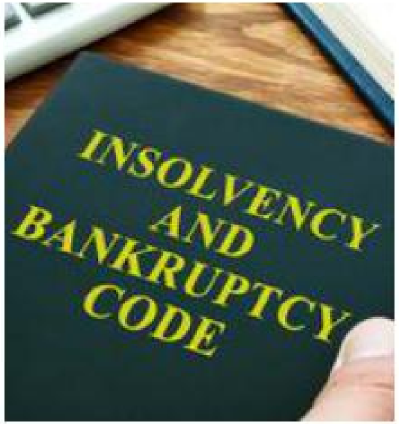
The Insolvency and Bankruptcy Board of India (IBBI) has directed insolvency professionals (IPs) to include a dedicated section in the information memorandum (IM) detailing the carry forward of losses under the Income Tax Act, 1961.

The IM is a crucial document in the resolution process under the Insolvency and Bankruptcy Code (IBC), where the respondents to Expression of Interest (EOI) are provided details of the assets and affairs of the entity under insolvency.

This directive by the insolvency regulator comes post a recent review of IM where the IBBI observed that disclosure of carry forward of losses by IPs need to be more robust.

The dedicated section must prominently highlight the quantum of carry forward losses available to the corporate debtor, a breakdown of these losses under specific heads as per the Income Tax Act, 1961 and the applicable time limits for utilising these losses. If there are no carry forward of losses available to the corporate debtor, the IM should explicitly specify the fact, a IBBI circular said.

This enhanced disclosure framework is intended to



provide potential resolution applicants with a more comprehensive understanding of the corporate debtor's financial position, enabling them to develop more informed and viable resolution plans while considering the benefits of carry forward losses, the circular added.

Commenting on the latest IBBI circular, Hari Hara Mishra, CEO, Association of ARCs in India, said, "In many IBC cases, accumulated losses is a key value driver. Furnishing complete particulars thereof in a structured way will help prospective resolution applicant price the information, which is expected to enhance value of the resolution plan."

'MORE NEEDED'

Vishwas Panjiar, Partner, Nangia Andersen LLP, said, "We acknowledge and appreciate the progress made with the inclusion of carry-forward tax losses in the IM. However, we believe more could be done at the Form G stage itself to provide deeper insights into the company's operations, sectoral dynamics, and business prospects."

Anjali Jain, Partner at Areness Law, said the new disclosures will provide accurate information with respect to the prospective synergies that the corporate debtor may offer to the potential resolution applicant. "So, the information that is generally retrieved after a detailed due diligence process will now onwards be quickly available and easily accessible which will enhance the chances of early-interest of the potential investors and might even lead the way for better price discovery,"Jain added.