

Communication to Employees and workers of Assam Company India Limited

From Interim Resolution Professional

This communication is being made by Vinod Kumar Kothari, Interim Resolution Professional (IRP), appointed on the order of the National Company Law Tribunal, Guwahati Bench, dated 26th October, 2017, (“Order”), Diary No. 529 of 2017. Since, it appears, that concerns are being expressed by certain employees, workers and others, it is important to quell any apprehensions arising out of unawareness of the process of resolution.

This communication is purely an informal communiqué from the IRP with a view to set up a line of communication with the employees and workers. The IRP makes no claims about the next stages or the progress of the resolution process; nothing in this communication may be used against the IRP in any manner.

The communication is being made in the style of FAQs.

1. Why the insolvency proceedings? Does insolvency mean the company is heading towards a closure?

Insolvency was a term used in earlier legal parlance as an imminent liquidation; however, the Insolvency and Bankruptcy Code (Code) uses two distinct terms – insolvency and bankruptcy. Insolvency is not equivalent to bankruptcy.

Briefly, insolvency is simply a situation of financial difficulty, requiring collective effort of creditors to help the company to resolve. The stress in insolvency proceedings is on preparation of a resolution plan. The resolution plan is an effort, normally over a phased period of time, agreed upon by the creditors, to overcome the company’s current financial stress.

In layman’s language, it is like a house developing a crack; therefore, the natural impulse is to carry out a repair. The resolution plan is a process of repairing the financial health of the company.

2. How is the process of insolvency initiated? Does it imply that something wrong has been done by the company?

The genesis of an insolvency proceeding is a “default”, that is, failure to meet any financial obligations of the company towards a financial creditor (that is, a person who has provided a funding facility, such as a bank), or an operational creditor (that is, a supplier of goods or services, or an employee, or a government authority).

Defaults may occur due to purely external reasons (say, a business cycle), or due to structural financial issues (for example, investment into a business segment which is not yielding cashflows for the time being), or managerial reasons. The existence of a default surely indicates there is a need to take remedial action, but does not necessarily imply a wrong committed by the company or its management.

3. Does the initiation of insolvency imply the company is going to be closed? Assets will be disposed off?

As mentioned earlier, the initiation of insolvency proceedings is merely a recognition that there is a need to take some remedial action to resolve the present situation. The remedial action is based on a resolution plan to be presented and accepted by the creditors, and thereafter, to be ordered by the NCLT.

There is, at the preliminary stages, no reason for any concern about the going-concern nature of the company. In fact, one of the primary obligations of the IRP/RP during resolution is to maintain the going concern nature of the company.

4. I am an employee/worker working for the company. Should I feel secure about the future of the Company?

As said before, at this stage, there is no reason for a concern at all.

5. What about my current salaries/wages?

The payment of current salaries/wages or other employment dues is not affected during the resolution process, subject to prioritization, in case of a cashflow shortage.

6. What about my unpaid salaries, wages, or other employment dues?

If any wages, salaries or other employment dues have been unpaid at the time of initiation of the insolvency proceedings, you are required to file a claim. For guidance on filing of claims, see the insolvency section of the company's website.

7. What about my gratuity, provident fund or retirement benefits?

For those who are continuing with the employment of the company, the question of any retirement benefit at this stage does not arise. Current provident fund contributions are made by the management and will, based on available cashflows, continue to be made. If there is any shortfall in gratuity fund or provident fund, the same will count as employee dues and may be included by the respective trustees as a part of their claim against the company.

8. I am an employee. What is expected of me?

What is expected is clearly – understand the situation, and let the process of resolution go smoothly. The IRP/RP is an independent person appointed by the NCLT; he is not the agent of the management. The IRP/RP is in overall control of the affairs of the company, though the existing staff/management remains intact. The resolution is something which is expected to be

equally for the benefit of everyone. The resolution plan will be eventually vetted and approved by the NCLT.

9. Is sending of claims means we will get our money now?

No. It simply means that you have submitted your claim to the IRP. Claims will be verified by the IRP and will be made as per priority.

10. Do I have a say in the approval of resolution plan?

No. The Creditors' Committee consisting of financial creditors (banks, financial institutions, etc) votes on the resolution plan.

11. Is it likely that the existing management may influence the resolution plan?

No likely. Even if there are any related parties that may have lent funds to the Company, they do not have voting rights on the resolution plan.

12. If I have to blow whistle against any employee/executive of the Company, how do I do that? Will any action be taken against me?

If any of the employees/workers of the Company wishes to raise concern about the serious irregularities, any poor or unacceptable practice and any event of misconduct within the Company, he/she may send confidential mail to the IRP at resolution@vinodkothari.com .

No adverse action shall be taken or recommended against that employee/worker in retaliation to his disclosure in good faith of any unethical and improper practices or alleged wrongful conduct.