

Advisories

Advisory No.1 (28/08/2019)

(A) For Member who is NOT a "Registered Valuer" under Companies Act, 2013.

(i) They should not undertake valuation of asset of any company for company law matters and also not to undertake valuation of work from Insolvency Professional for Insolvency and Bankruptcy matters under IBC.

They should also not undertake work from Real Estate Investment Trusts (REITs) registered with SEBI.

(ii) Member who is Registered Valuer under Wealth Tax Act can take the income tax valuation matter of a company or Bank loan purpose Valuation of the Company or valuation under SARFESI Act. The guiding principle here is that the valuation report which is being prepared should not be legally required under any of the sections of the companies act or under any of the section of Insolvency and Bankruptcy code or by the REITs. Member has to be very cautious in these cases where the owner of the asset is a company and obtain a very clear appointment letter stating the exact purpose of valuation and specifically mentioning that the present valuation report is not required for the Companies Act or IBC or for the purpose of REITs.

(B) For Member who is a "Registered Valuer" under Companies Act, 2013.

(i) They must first obtain Certificate of Practicing from RVO

(ii) Then only they can take work for companies/ Insolvency Professional under IBC / REITs.

They should take the work in their personal name and prepare their valuation report on personal letterhead and also take the fees in personal name and may open separate bank account for the same in personal name.

[For Registered Valuers who are proprietors having GST number in the name of Proprietary Firm may enquire from their CA whether they can raise their bills in their personal name and if allowed then they should do so, otherwise they should take letter from CA regarding the same and raise bill in proprietary firms name till further clarification is obtained from IBBI on this point.]

{Note: RVO was informed orally by a leading Chartered Accountant practicing in GST that in case of individual who is also a proprietor of proprietorship firm can raise the valid GST bill in his personal name and also in the name of proprietorship firm as the GST number remains same for both, however member is requested to take their independent advise from their own CA}

(iii) Registered valuer should directly take the work from Company or Insolvency professional or REITs and not from any other person/s for these types of work as company or IP or REIT can only appoint "registered valuer" as valuer and no one else hence taking the work from co-ordinating agency or contractor or middle man is wrong and strict disciplinary action will be taken for taking the work from middleman.

(iv) The fees should be received directly and deposited in personal name account only. (In case of proprietary firm having GST where it is not possible to raise bill in personal name as per CA letter then only deposit fees in the proprietary firm bank account [See note above]).

(v) Depositing the fees in partnership firm account or LLP Account or company account is wrong and disciplinary action will be initiated.

(vi) Above Valuation reports has to be reported in Semi Annual Report on the website of the RVO.

(vii) A Registered Valuer under the Companies Act who is also Registered Valuer under Wealth Tax Act and has taken the income tax valuation matter of a company or Bank loan purpose Valuation of Company or valuation under SARFESI Act, is not required to report these valuation assignments in Semi Annual report. However the guiding principle here is that the valuation report which is being prepared should not be legally required under any of the sections of the companies act or under any of the section of Insolvency and Bankruptcy code or by the REITs. Member has to be very cautious in these cases where the owner of the asset is company and obtain a very clear appointment letter stating the exact purpose of valuation and specifically mentioning that the present valuation report is not required for the Companies Act or IBC or the purpose of REITs.

(viii) All above advisory/ies are as per the oral talks with the regulator of the valuation profession i.e. Insolvency and Bankruptcy Board of India (IBBI)

Notes:

(a) All the valuation reports of "Registered Valuer" under Companies Act, 2013 should be as per internationally accepted valuation standards like IVS or similar.

(b) The liability of Registered

Valuer under Companies Act, 2013 is unlimited. In case of negligence or wrongdoings, the loss has to be compensated from valuers personal property. As per company act and rules this will be strictly implimented hence valuers should be very cautious and sringent in their approach to valuation and not consider this as other regular valuation work.

(c) One of our member has sent similar message as above to IBBI and got this reply from IBBI

Dear Sir,

In this regard, please be guided by contents of IBBI circular dated October 17, 2018 wherein it was directed that,

w.e.f. February 01, 2019, all valuations under the Companies Act, 2013 and IBC, 2016 be carried out by a registered

valuer i.e, a valuer registered under the Company's Act, 2013.

Individual and firms/companies owned by the individual are separate legal entity and can not be used in an

interchangeable manner. Therefore, in cases wherein Registered Valuer is an individual, assignments must be

entrusted to and undertaken by the Registered Valuers and not to or by firms/ companies owned by her/him.

Invoice towards service rendered should be raised by and paid to the person entrusted with the assignment i.e, the

registered valuer in this case.

Regards,

Amit Sahu

DGM - Valuer Division

(C) The members who are registered Valuers and are also partners in a valuation firm/LLP or directors in the valuation company which are not "Registered Valuers Entity" (RVE).

(i) These members should also take the work from Company / IP / REITs directly in their individual name only and raise bill in their individual name and deposit the fees in their individual account as described above.

(ii) In case the Registered Valuers firm/LLP or Company is registered as an "Registered Valuers Entity" (RVE) then from that date the valuation has to be taken from company / IP / REITs in the name of firm/LLP or Company which is an "Registered Valuers Entity" and the report is to be signed by the partner/director in the capacity of Partner/director of RVE but the director/partner signing the report of particular asset class must be registered for that asset class. i.e. Partner registered for Plant and Machinery cannot sign the report of land and Building assets.

(iii) In case the Firm/LLP/Company is registered as an "Registered Valuers Entity" (RVE) then the individual partner/director shall not sign any report in individual capacity and should sign in the capacity of partner/director of the RVE only. Signing the reports in more than one capacity is not permitted.

(iv) In case the Registered Valuer is Partner in more than one firm / LLP or director in more than one company or is partner also of some firm/s/LLP/s and director of some company or companies then he can sign report for only one RVE. Signing of report in multiple firm / LLP/Company and in multiple capacities is not permitted.

Above all advisories are as per discussion we had with the IBBI.

Members are requested to follow above advisory strictly in their own interest.

The laws and rules relating to Valuation Profession is an evolving one and in the initial period there shall be some tooting troubles relating to the same hence members are requested to fully co-operate with the IBBI as well as RVO in implementing the same in their own interest.