

# THE RESOLUTION PROFESSIONAL

RESEARCH JOURNAL OF INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI (IIPI)  
(A Section 8 Company Promoted by ICAI and Registered as an IPA with IBBI)



**REIMAGINING INSOLVENCY FRAMEWORK FOR  
SUSTAINABLE CORPORATE GROWTH**



## ABOUT IIPI

The Insolvency and Bankruptcy Code, 2016 (Code) provides that no entity shall carry on its business as an Insolvency Professional Agency (IPA) under this Code and enrol Insolvency Professionals (IPs) as its members except under and in accordance with a certificate of registration issued in this behalf by the Insolvency and Bankruptcy Board of India (IBBI).

Against this backdrop of the Code and the IBBI (Insolvency Professional Agencies) Regulations, 2016 (IPA Regulations), The Institute of Chartered Accountants of India (ICAI) formed Indian Institute of Insolvency Professionals of ICAI (IIPI), a Section 8 company to enrol and regulate IPs as its members in accordance with the Code read with its Regulations. The Company was incorporated on 25th November 2016.

IIPI is the first Insolvency Professional Agency (IPA) of India registered with IBBI. The certificate of registration was handed over to the agency by the then Hon'ble Minister of Finance Late Shri Arun Jaitley on 28th November 2016.

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To be a leading institution for development of an independent, ethical and world-class insolvency profession responding to needs and expectations of the stakeholders.

## STRATEGIC PRIORITIES

- Capacity building of members by enhancing their all-round competency for their professional development in global context.
- Capacity building of other stakeholders for facilitating efficient and cost effective insolvency resolution proceedings.
- Deploying an independent regulatory framework with focus on ethical code of conduct by the members.
- Working closely with the regulator and contributing to policy formulation including with respect to the best practices in the insolvency domain.
- Conducting research on areas considered critical for development of a robust insolvency resolution framework.

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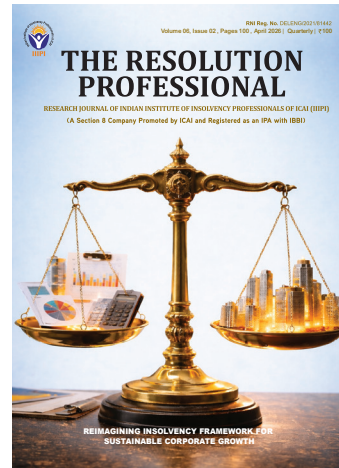
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### From Chairman - Editorial Board, IIPI



**CA. Prasanna Kumar D**  
President, ICAI  
Chairman, Editorial Board-IIPI

Dear Insolvency Professionals,

With a resilient GDP trajectory and a robust growth rate, India stands at a defining moment in its economic journey, positioning it among the world's fastest-growing economies. Driven by structural reforms, fiscal discipline, digital transformation, and transparency, this progress is strengthened by the continuously evolving insolvency and bankruptcy ecosystem, which plays a vital role in sustaining economic confidence and enabling the resolution of financial stress.

In this direction, the Insolvency and Bankruptcy Code (Amendment) Act, 2026 which has been recently approved by the Parliament, introduces various key provisions such as Group Insolvency, Cross-Border Insolvency, the Creditor-Initiated Insolvency Resolution Process (CIIRP), mandatory timelines for adjudicatory orders, time-bound disposal of appeals before NCLAT, enhanced penalties for frivolous applications, and strengthened provisions relating to avoidance transactions and fraudulent trading. These reforms will further streamline and expedite the resolution of corporate debtors.

Since its commencement in 2016, 8,833 companies have been admitted under the Insolvency and Bankruptcy Code (IBC), of which approximately 79% of the cases have been closed—1,376 through resolution plans and 2,626 through withdrawal or settlement—while the remaining were liquidated. The IBC has thus supported the economy by enabling viable companies to revive, recover and re-

enter economic activity, while ensuring timely liquidation of non-viable firms and efficient redeployment of their resources.

In its latest *World Economic Outlook* (April 2026) report, the International Monetary Fund (IMF) has stated that despite adverse impact of the Middle East conflict, the country's GDP growth is projected to 6.5 percent for 2026 and also projected to stay at 6.5 percent in 2027. The IBC ecosystem has strengthened credit culture by reinforcing borrower discipline, improving resolutions, enhancing recoveries, and boosting investor confidence.

With the trust of over 63% of the country's insolvency professionals—of whom 83% are Chartered Accountants—and 56% of the Insolvency Professional Entities (IPEs), the Indian Institute of Insolvency Professional of ICAI (IIPI) stands as a leading pillar of the IBC ecosystem in India, reflecting the Institute's commitment to professional excellence and regulatory compliance. This growing confidence is underpinned by several innovative programmes and technology-driven initiatives undertaken by IIPI.

The IIPI journal, *'The Resolution Professional'* provides an intellectual platform for advancing India's insolvency ecosystem by supporting discourse around an evolving framework. Through research articles, case studies, and insights from policy makers, regulators, and industry experts, it promotes informed discussion and connects next generation professionals with experienced practitioners while facilitating exchange between India's insolvency regime and global best practices.

In an era where sustainability has become integral to economic policy discussions, the insolvency profession should also embrace sustainable practices. By integrating principles of responsibility and long-term value creation into resolution strategies, insolvency professionals can help build resilient enterprises and contribute to the development of a robust and future-ready Indian economy.

I extend my sincere appreciation for your dedication and wish you continued success in your vital role in nation-building.

**CA. Prasanna Kumar D**  
President, ICAI  
Chairman, Editorial Board-IIPI

### From Chairman - Governing Board, IIIPI



**Dr. Ashok Kumar Mishra**  
Chairman, Governing Board-IIIPI

Dear Members,

The Government has consistently aligned the IBC framework with the evolving needs arising from a rapidly changing business environment and emerging economic realities. Through a series of timely amendments, regulatory refinements, and institutional strengthening, it has ensured that the framework remains responsive to new challenges and complexities. In this direction, the Insolvency and Bankruptcy Code (Amendment) Act, 2026 marks a significant step, reflecting the Government's responsiveness to emerging challenges and its commitment to strengthening the insolvency ecosystem in line with global best practices.

This Amendment introduces several crucial provisions to the Insolvency and Bankruptcy Code, 2016 (IBC), marking a decisive expansion of the IBC framework by widening its scope as well as plugging existing loopholes. The key provisions such as Group Insolvency, Cross-Border Insolvency, and the Creditor-Initiated Insolvency Resolution Process (CIIRP) are set to further diversify the IBC regime as per the changing requirement and global best practices. With the introduction of CIIRP, many lacunae of current framework(s) are sought to be addressed to aim at friction-free and timely resolutions. It is expected that actions under IBC law in future will gravitate towards CIIRP as a preferred mode. Besides, measures such as modifications to the waterfall mechanism, strengthening of avoidance transactions, and the introduction of civil penalties for non-cooperation by existing management, etc., are expected to streamline processes and enhance overall efficiency. IIIPI remains committed to working closely with the IBBI to facilitate the effective implementation of these amendments in letter and spirit.

In about a decade of IBC implementation, various reports by nationally and internationally reputed institutions—including the World Bank, the International Monetary Fund, the Reserve Bank of India, etc.—have highlighted the positive impact of the IBC regime on India's economic growth and financial stability. Recently, a Research Study published by IIM Ahmedabad titled "Effectiveness of the Resolution Process: Firm Outcomes in the Post-IBC Period" highlights a tangible improvement in the performance of resolved corporate debtors across various parameters. As per the research, in the five years following resolution, the average sales of resolved firms increased by 89%, the asset turnover ratio rose by about 131%, and liquidity improved by nearly 106%.

IIIPI, being the largest Insolvency Professional Agency (IPA) in the country, has the distinction of introducing several innovations in the insolvency ecosystem, including research projects, a Peer Review Mechanism, Mentorship Programs, and collaboration with overseas insolvency professional institutions. The several takeaways from various IIIPI study group reports have been incorporated into the legal framework. Recently, IIIPI collaborated with other IPAs to conduct a study, which I had the occasion to chair, on 'improving the regulatory environment for IPs/IPEs' with a view to ensure orderly development of the profession. The outcomes of the study have also been presented to the Regulator recently, whereby, inter alia, it was advised that with respect to frequent delays faced by IPs in release of their fees from CoC where they are constrained to approach NCLT for redressal, IPs may consider withdrawing from such assignments in accordance with law.

IIIPI journal The Resolution Professional continues to play a pivotal role in dissemination of research insights, perspectives from eminent personalities, and practical experiences in the form of case studies. We remain committed to continuing this shared endeavour in the best interest of the insolvency ecosystem.

I extend my sincere appreciation to Insolvency Professionals (IPs) for their continued confidence in IIIPI, as well as for their support and active engagement. The institute remains committed to going the extra mile to meet your expectations. We look forward to your continued association in further strengthening insolvency ecosystem in the country in line with the global best practices.

Wishing you all an engaging and insightful read.

Warm regards,  
Dr. Ashok Kumar Mishra  
Chairman  
IIIPI

## From Editor's Desk

Dear Member,

With the approval of the President of India, the IBC (Amendment) Act, 2026 has now been incorporated into the Insolvency and Bankruptcy Code, 2016 (IBC), marking a significant milestone. It introduces several path-breaking provisions, including Group Insolvency, Cross-Border Insolvency, and CIIRP, among others, and sets in motion a comprehensive transformation of India's insolvency framework. In alignment with these changes, the Insolvency and Bankruptcy Board of India (IBBI) has already issued multiple discussion papers proposing amendments to various regulations to ensure coherence with the revised statutory framework.

This evolving landscape is expected to significantly impact the functioning of Insolvency Professionals (IPs), who are central to the execution of the IBC regime. In this context, Indian Institute of Insolvency Professionals of ICAI (IIPI) reaffirms its commitment to support its IP members through capacity building and by providing national and global exposure, enabling them to effectively navigate the new regime and uphold the institute's legacy with competence and distinction. In this endeavour, IIPI's journal, *The Resolution Professional*, will serve as a key platform for knowledge dissemination and thought leadership, offering research articles, practical insights in the form of cases studies, and global best practices to help IPs stay informed and adapt to the evolving insolvency landscape.

This edition of *The Resolution Professional* starts with an address by Shri Sudhaker Shukla, delivered on 10 February 2026 at the inauguration of the 5th Batch of the Executive Development Program on Cross-Border Insolvency (for IPs), conducted online from 10 to 11 February 2026. In his address, he elaborated on various facets of cross-border insolvency and underscored its growing relevance within the IBC regime.

Moreover, this edition contains five research articles and a case study on the successful resolution of Educomp Infrastructure & School Management Ltd.

The opening article, "Digital Assets in Corporate Insolvency: Emerging Challenges for Valuation, Custody, and Realization under the IBC Framework," examines the intersection of digital assets and the IBC framework by analysing procedural ambiguities and

operational difficulties faced by IPs, and brings out key takeaways from global practices. In the second article, "Reverse CIRP in India: Innovation, Impact, and the Road Ahead," the author traces the evolution of Reverse CIRP and project-wise CIRP through judicial pronouncements, analyses their significance, and suggests measures for improvement. The third article, "Cross-Border Commercial Transactions and India's Insolvency Regime: The Hidden Costs of Territorial Moratorium," identifies key legal gaps in the IBC (Amendment) Act, 2026, and offers targeted recommendations for incorporation into subordinate legislation to ensure the coherent and effective implementation of the newly introduced provisions on CIIRP, Group Insolvency, and Cross-Border Insolvency. The fourth article, "CIRP Under the IBC: The Expanding Role of Chartered Accountants," highlights the role of Chartered Accountants in the effective implementation of the IBC and suggests that strengthening the capacity of CAs is vital to the success and continued advancement of the IBC regime. In the concluding article, "Refining the Bankruptcy Process: Key Improvements for a Smoother Financial Recovery," the author discusses ambiguities in individual insolvency and suggests reforms to strengthen its effectiveness.

Besides, the journal also has its regular features, i.e., Legal Framework, IBC Case Laws, IBC News, Know Your Ethics, IIPI News, IIPI's Publications, Services, Help Us to Serve You Better, and Crossword.

Please feel free to share your candid feedback to help us improve the quality of the journal, by writing to us on [iiipi.journal@icai.in](mailto:iiipi.journal@icai.in)

Wish you a happy reading.

Editor



## Address by Sh. Sudhaker Shukla, Course Director, Center for Insolvency & Bankruptcy, IICA, Manesar and Former Whole Time Member, IBBI

*Guest of Honour at the Inaugural Session of the 5th Batch of Executive Development Program on Cross Border Insolvency (For IPs) (Online), held from 10th February to 11th February 2026.*



**Shri Sudhaker Shukla**

Course Director

Center for Insolvency & Bankruptcy  
Indian Institute of Corporate Affairs (IICA), Manesar  
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*Shri Shukla served as a member of the Indian Economic Service (IES) for over 34 years in various capacities across Ministries and Departments of the Government of India. His last assignment was as Chief Economic Adviser in the Ministry of Rural Development. Earlier, he served as Adviser in African Development Bank. He has wide experience in dealing with various regulations.*

*On 10 February 2026, Shri Sudhaker Shukla delivered the Inaugural Address at the 5th Batch of the Executive Development Program on Cross-Border Insolvency (For IPs), conducted online from 10th February to 11th February 2026. In his address, he elaborated on various facets of Cross-Border Insolvency and underscored its growing relevance within the IBC regime. **Read on to know more...***

Interacting with Insolvency Professionals has always been an enriching experience as a two-way learning process. IIPCI and the Center for Insolvency & Bankruptcy, Indian Institute of Corporate Affairs (IICA), have recently signed an MoU. I'm confident that this partnership is well-timed and has a lot to offer, going forward in transforming the journey of the Post Graduate Insolvency Programme trainees and in creating a conducive environment for smooth transition of PGIP trainees into the insolvency eco-system.

You're all aware that path breaking reforms in continuum is the basic feature of the IBC Code. For keeping the regime aligned with emerging economic and business imperatives, six amendments to the IBC have already been effectuated, and the seventh round of amendments is on anvil and soon be operative after due process of legislative approval. The IBC (Amendment) Bill 2025 which is under consideration before Parliament would address several areas such as cross-border insolvency, group insolvency, intermingling of assets, CIIRP, digital platforms, and related aspects. It would be pertinent to note what we are expected to witness sweeping changes in the insolvency framework in India, which can aptly be referred to as IBC 2.0. Nevertheless, the reform juggernaut will surely not stop here, as many new reform initiatives are already under discussion in the context of emerging international insolvency order and sooner or later its adoption in the Indian insolvency regime will also commence.

### International Trends Unfolding in India

Therefore, today I would like to share some thoughts so that you may follow the debate in the international insolvency order and appreciate how they unfold in the context of the Indian insolvency regime. Moreover, as the next frontiers we need to include areas such as retail insolvency and individual insolvency, which have been

only partially implemented. Individuals are still outside ambit of IBC and continue to be governed by the pre-Independence or provincial laws of yesteryears, which are not very conducive for resolving the individual insolvency in India. So, discussion on ways and means to implement retail insolvency as detailed in the Code, will surely gain momentum in near future.

The second issue, which is debated in a big way world over, is alternate ways of restructuring like ‘out of court settlement’ or ‘mediation’. That has now become part of all advanced regimes. It is not that insolvency is unfit for such a regime, as some critiques have always argued; but if you see the working of mediation in UK and USA, it has done wonders by way of addressing issues in a very cost-effective and time-effective manner.

The provisions of the Mediation Act do not exclude IBC from its ambit. Without undermining the importance in insolvency resolution, it is important to point out that timeline of 6 months does not augur well with timelines prescribed under the Code. Furthermore, the items included in the excludable schedule refer to ‘in-rem’ proceedings and ‘third party rights.’ Now as line item, if these two are excludable then how IBC could be possibly in is an intriguing question. On timelines, even the Hon’ble Supreme Court has said that the procedural timelines are central to the procedural law while timelines for Courts are directory in nature. The proposed amendments do provide any deviation from the prescribed timelines need to follow a statement of reasons for such a deviation. The Economic Survey 2025-26 presented recently in Parliament states that even government departments must provide a timeline for disposal of work at hand. The timeline for disposal is to be strictly adhered to and entry in one’s ACR should be based on timelines adhered to and deliverable which one has been assigned. So, if this is coming for the Government servants, then you can imagine that any dispensation under law, especially the IBC, will have to adhere to its timelines.

The *third* aspect which is being debated is climate change issue. You may all know that the Ease of Doing Business (EODB) report which was being issued by

the World Bank has been discontinued since 2020. After five years, the new mechanism of such report is being introduced, and new parameters have been announced. Climate change is one of those parameters as a prominent feature. We will lose some points there if we do not have clear-cut guidelines or charter to dovetail environmental concerns within the insolvency regime. The climate change issues and its reflection in resolution mechanism will surely occupy lot of debating space in times to come.

Fourth issue being debated is valuation of digital assets. I think cryptocurrency was debated a lot in the G20 meeting in Delhi and a Group of Ministers (GoM) was constituted to formulate a way out, because not many countries have a framework to deal with cryptocurrency and digital assets. So, that would also be coming as you might have seen what happened to one of the providers of crypto currency which went under bankruptcy proceedings. In absence of regime for adjudication and the arbitration of such bankruptcy, cases like these go to international arbitration. So, we must ensure that the arbitration hub in India is as powerful as that of Singapore which would also be quite necessary for cross-border framework as well. If we implement cross-border without having an arbitration hub, then disputes would be landing in Singapore rather than in India. That was one of the reasons why our acceptance of cross-border has been delayed so far.

Lastly, as futuristic development, I can think of municipal insolvency. You might be reading these days that municipal bodies have been permitted to raise finance through issuing bonds. Though raising finance may not be a big concern, repayment would be an issue. From where shall the revenue come and how sustainable would that be? Since the market would be involved in raising money to meet the municipal expenditure, these insolvencies would be a matter of great concern if the finance raised as such is not returned to the investors in time. If one follows the literature of this subject, many articles are now coming up on municipal insolvency from the UK and from Australia.

### Cross-Border Insolvency: Early Signs

The market power of the brand, technological innovation, risk-taking, and entrepreneurship are all factored into making any multinational flourish. However, if you've followed the collapse of Lehman Brothers, it had 650 legal entities outside the United States. In the case of Lehman Brothers' insolvency, one can say it was a USA problem but considering that there were 650 legal entities established and incorporated outside USA, then it had repercussions for many developed countries, though India somehow was insulated. But this kind of collapse can trigger a pronounced demand for a Cross-Border regime as well. After the collapse of Lehman Brothers, as many as 67 countries adopted Cross-Border Insolvency—Malaysia being the last one—signed the Cross-Border regime based on the UNCITRAL model only recently.

You can imagine that the crisis created so much awareness about Cross-Border Insolvency in 2008 that the period from 2008 to 2010 became the window when most countries adopted the modern law on Cross-Border Insolvency. Though the crisis triggered the adoption, but a few major countries like China have not joined, and in India final views have emerged in the Parliament debate.

Besides, disruptive technologies are making business and financial transactions accessible and easy across the globe with remarkable pace. These are to be watched for risks, and interests must be protected by one regime or the other. In this context as well, Cross-Border regime is very important. The BLRC, while discussing Cross-Border framework, was not very committed to its earlier adoption and Sections 234 and 235 were inserted by the select committee and not as such recommended by the BLRC report. The BLRC report stated that the next frontier lies in addressing cross-border issues; accordingly, the matter was deferred for future consideration, with the Committee proposing to take it up in the next stage of deliberation depending on the maturity of the economy. Thus, the issue was left open-ended; however, later the Select Committee incorporated Sections 234 and 235.

The limited efficacy of Sections 234 and 235 in

addressing the cross-border regime is reflected in the fact that its operation is contingent upon two prerequisites - first, the existence of a bilateral agreement with the country concerned on a case-to-case basis; and second, a clear mutual understanding between the two governments. In the absence of either of these conditions, the Cross-Border Mechanism under Sections 234 and 235 becomes inoperative. The Jet Airways case may be an exception; however, in Videocon case, gas projects in Latin America were at stake and needed adequate redressal. The fact that China has not yet adopted the Cross-Border Insolvency framework, might have contributed to India's hesitation to adopt it. However, these issues are now largely of academic importance. The Select Committee has submitted its report to the Lok Sabha, and it is expected that the matter will achieve finality

### Gearing up for Future

Speaking of expectations in a professional regime, every professional must be agile towards international law. Looking at advanced countries where cross-border is applicable, we should familiarize ourselves with the legal position in the USA, UK, Singapore, and Australia. I would also request IIIPI to take more steps in advance for training professionals through programs on cross-country comparison of laws.

You may refer to case studies across major jurisdictions and prepare professionals to handle insolvency regime cases as soon as the framework is notified. This is one area where support is needed from IIIPI and the IBBI, the Regulator. The Regulator should also come out with a strategy to develop learning capsules on international jurisdictions—covering the legal position, approach, and filing of affidavits in other jurisdictions. These aspects are important because without knowledge of the law there would be hesitation among IPs, as they would not have clarity on what is to be done in jurisdictions like the USA and UK.

A second issue to watch for is that each regime has a different efficiency or disposal rate. The practitioners must factor in this carefully. If a case in India proceeds in 500–600 days and in Singapore it is completed in 200 days, the question arises how the Resolution Plan

will be implemented and whose plan will prevail, since two courts are deciding simultaneously in different jurisdictions. If one jurisdiction lags, many of the expected gains may not materialize. Therefore, wherever there is a Cross-Border element, you would need to alert the NCLT bench about ongoing proceedings in other jurisdictions such as Singapore or Australia, highlight its current status, and seek appropriate directions.

Speaking of adjudication hub, there is an alternative coming up by way of GIFT City adjudication hub. We know from the experience of Singapore that initially the hub was in London, but due to cost efficiency and time efficiency it shifted from London to Singapore. If we can deliver the same efficiency and time management at a competitive cost, our GIFT City adjudication hub may take over in the coming years.

The other issue is basically about gaining access to different jurisdictions, which again is part of training—how much access you allow foreign representatives to plead in India and how much you get in reciprocal arrangement in other jurisdictions, so that cases proceed smoothly. This would involve foreign practitioners coming in to argue in India and would need some regulatory oversight, which will perhaps come from the IBBI. We have to see the final details, but this must be taken care of.

Further, public policy exception in a cross-border framework is critical which, to my mind, is a domain of the legislature. Though debatable, this is something which ideally cannot be delegated to lower

functionaries to decide on a case-to-case basis. But reading of the proposed amendment suggests that the public policy exception is being delegated through rule making exercise. This would create some problems because public policy exception follows a different pattern in different countries. The USA is very liberal; they have opened everything with nothing prohibited in the name of public policy exception. But if you see Japan, everything is prohibited in the name of public policy exception.

So, we have a wide range of prescriptions across different jurisdictions, and each jurisdiction must be responded to in a different manner. That is why I believe, certain ‘no-go areas’ where one cannot enter for discussion or negotiation —should preferably be included in the IBC itself by the Parliament.

Deploying specialized courts will help only if we ensure specialized training of judges simultaneously. If judges are not trained to deal with international jurisdiction, then there would be a problem, for instance, when the determination of Centre of Main Interests (COMI) comes up, many advanced jurisdictions would be quick to declare COMI on the basis of either the registered office or the concentration of assets, but in India there may be a delayed response without trained judiciary on these lines.

These are some thoughts I would like to leave with you all today. I thank IIIPI once again for giving me this opportunity to share my perspective on the subject. Thank you.



# Digital Assets in Corporate Insolvency: Emerging Challenges for Valuation, Custody, and Recovery under the IBC Framework



**Hiten Abhani**

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*The growing prevalence of digital assets—such as cryptocurrencies, non-fungible tokens (NFTs), and other blockchain-based instruments—has introduced a new dimension to corporate finance. As Indian companies increasingly engage with these assets for investment, fundraising, and operational purposes, their presence in insolvency proceedings has become inevitable. However, the IBC and its related regulations do not expressly provide procedural mechanisms for the identification, valuation, custody, or realisation of digital assets. This regulatory gap creates significant practical challenges for Insolvency Professionals during the CIRP and liquidation process. This paper examines the intersection of digital assets and the IBC framework by analysing procedural ambiguities, operational difficulties faced by IPs, and comparative global practices. It recommends strengthening procedural clarity under the IBC to ensure value preservation, enhance creditor confidence, and build a future-ready insolvency regime. **Read on to know more...***

## 1. Introduction

The rise of digital assets—cryptocurrencies, non-fungible tokens (NFTs), and other blockchain-based instruments—has redefined corporate balance sheets worldwide. Once considered speculative or peripheral, such holdings are now increasingly integrated into mainstream corporate portfolios. In India, listed

companies and start-ups alike have experimented with digital tokens for investment, marketing, or cross-border transactions. Consequently, when such companies enter financial distress, questions regarding the treatment of digital assets inevitably arise within the framework of the Insolvency and Bankruptcy Code, 2016 (IBC or the Code).

Digital assets are inherently borderless, decentralised, and pseudonymous, with ownership and transfer evidenced through cryptographic mechanisms rather than physical possession. Under Indian law, their legitimacy has progressively crystallised at a broader level. Virtual digital assets are expressly recognised under the Income-tax Act, 1961, and the Supreme Court has acknowledged crypto-related activity as a legitimate business activity. Although cryptocurrencies were originally conceived as currencies, they are not recognised as legal tender by central banks, largely for economic and monetary policy reasons rather than legal invalidity. In this context, the principal challenge has shifted from questions of legal recognition to the absence of procedural clarity governing the treatment of digital assets within regulatory and insolvency frameworks.

For Insolvency Professionals (IPs), this presents a distinct practical challenge: how can one effectively identify, take control of, value, or liquidate assets that are not recognised as legal tender and are not regulated in the same manner as traditional securities? These concerns are not merely theoretical. Global insolvency proceedings, including *in re FTX Trading Ltd*<sup>1</sup>, and *in re Celsius Network LLC*<sup>2</sup>, illustrate the significant complexities associated with custody, valuation, and ownership of crypto-assets in insolvency.

This article examines the intersection of digital assets and India's insolvency framework, analysing their treatment under the IBC, valuation and recovery challenges, forensic and avoidance implications, and the need for calibrated regulatory or procedural guidance, drawing where relevant on comparative global experience.

## 2. Understanding Digital Assets and their Legal Position in India

Digital assets encompass a spectrum of instruments—cryptocurrencies (like Bitcoin or Ether), stablecoins, NFTs, and other tokens representing value, rights, or contractual claims recorded on distributed ledgers. A key feature distinguishing these assets from

traditional forms is their decentralised ownership and cryptographic proof of possession via private keys. Some digital assets may also constitute “contractual rights,” depending on their structure and underlying agreements.

***A key feature distinguishing digital assets from traditional forms is their decentralised ownership and cryptographic proof of possession via private keys.***

India's legal stance on such assets remains ambiguous. The Reserve Bank of India<sup>3</sup> (RBI) has consistently expressed concerns regarding volatility and systemic risks of cryptocurrencies, and issued a Circular in 2018, restricting banks from dealing with entities engaged in virtual currency transactions. Although the Supreme Court struck down this circular in *Internet and Mobile Association of India v. RBI*<sup>4</sup> (2020), the absence of enabling legislation means that digital assets are neither expressly prohibited nor formally recognised as legal tender.

From an insolvency perspective, the IBC defines “assets” broadly to include all property, tangible or intangible, movable or immovable, owned by the corporate debtor<sup>5</sup>. Accordingly, cryptocurrencies, NFTs, and other virtual assets—whether representing ownership, value, or contractual rights—may qualify as “intangible assets” capable of being included in the insolvency estate. The primary challenge lies not in their inclusion under the IBC but in establishing control, access, and realisation mechanisms.

## 3. Relevance of Digital Assets in Corporate Insolvency Resolution Process

During a Corporate Insolvency Resolution Process (CIRP), the Interim Resolution Professional (IRP) or Resolution Professional (RP) is tasked with taking custody and control of the corporate debtor's assets.

<sup>1</sup>Reserve Bank of India, *Circular on Virtual Currencies*, RBI/2017-18/154, April 6, 2018.

<sup>2</sup>*In re FTX Trading Ltd.*, U.S. Bankruptcy Court, District of Delaware, Case No. 22-11068 (JTD), 2022.

<sup>3</sup>*In re Celsius Network LLC*, U.S. Bankruptcy Court, Southern District of New York, Case No. 22-10964 (MG), 2023.

<sup>4</sup>*Internet and Mobile Association of India v. Reserve Bank of India*, (2020) 10 SCC 274.

<sup>5</sup>IBC, s. 18(1)(f) read with s. 3(27).

This ordinarily involves seizing bank accounts, books, and physical property. However, when a debtor holds crypto wallets, the mechanism of control shifts entirely—access depends on private keys, which may be stored digitally, held by third-party custodians, or even permanently lost.

Some companies may also have indirect exposure to digital assets through investments in blockchain platforms, tokenised equity, or NFT-based marketing assets. While these may possess economic value, they are often difficult to trace. Without clear statutory or regulatory guidance, IPs risk omission or misvaluation of such assets in the insolvency estate.

In liquidation, Section 35 of the IBC empowers the liquidator to realise and distribute assets. Yet the liquidation of digital assets raises practical questions regarding jurisdiction, conversion, and regulatory compliance. For instance, should cryptocurrencies be sold through exchanges—potentially triggering KYC/AML obligations—or transferred peer-to-peer? How are proceeds recorded for audit and tax purposes?

The IBC and its current regulations provide no specific guidance on these issues, and the IBBI has not issued formal instructions on identifying, securing, or disposing of digital assets. Internationally, bodies like the Financial Stability Board have highlighted the systemic and operational risks of crypto-assets, which underscores the need for clear procedural frameworks in insolvency contexts<sup>6</sup>.

#### 4. Valuation and Realisation Challenges

Valuation of digital assets represents a significant challenge for IPs, though it is not insurmountable. Under the IBC, two registered valuers must determine the fair and liquidation value of the corporate debtor's assets<sup>7</sup>. While the Companies (Registered Valuers and Valuation) Rules, 2017, primarily address tangible or financial assets, valuation procedures are available to assess all forms of digital assets at a given point in

***In Re Gatecoin Ltd., Hong Kong (2022), the High Court affirmed that digital assets belong to the estate but emphasised the importance of secure and specialised custodianship.***

time, such as the Insolvency Commencement Date (ICD). Price volatility, therefore, while notable, does not preclude valuation, as even traditional assets like currency or gold fluctuate over time.

Nonetheless, practical issues remain. The absence of standardised exchanges or reliable price feeds can complicate reliance on market data, and illiquid or highly bespoke tokens—such as certain NFTs—may require specialised approaches. Custody and control also pose major hurdles. Without access to private keys, IPs cannot move or liquidate tokens, and if keys are lost or retained by management personnel under suspension, recovery may become impossible.

Internationally, courts have recognised crypto-wallets as property of the bankruptcy estate. In *Re Gatecoin Ltd., Hong Kong*<sup>8</sup> (2022), the High Court affirmed that digital assets belong to the estate but emphasised the importance of secure and specialised custodianship. For Indian practitioners, the absence of a regulatory framework for crypto-custody increases the risk of misappropriation or cyber-theft during CIRP.

Moreover, valuation and realisation challenges intersect with reporting obligations. As the OECD has highlighted in its Crypto-Asset Reporting Framework<sup>9</sup> (2022), accurate record-keeping and disclosure of holdings, transactions, and conversions are essential, adding another layer of complexity for RPs.

#### 5. PUF Transactions Involving Crypto

Sections 43 to 66 of the IBC empower the RP or liquidator to challenge Avoidance or Preferential,

<sup>6</sup>Financial Stability Board, *Assessment of Risks to Financial Stability from Crypto-assets* (2023).

<sup>7</sup>IBC, s. 46; Companies (Registered Valuers and Valuation) Rules, 2017, r. 8.

<sup>8</sup>*Re Gatecoin Limited* [2022] HKCFI 914 (High Court of Hong Kong).

<sup>9</sup>Organisation for Economic Co-operation and Development (OECD), *Crypto-Asset Reporting Framework* (2022).

Undervalued, Fraudulent and Extortionate (PUFE) transactions. When digital assets are involved, tracing and proving such transactions becomes more complex due to their pseudonymous nature. Although blockchain transactions are publicly recorded, identifying the beneficial owner of a wallet often requires specialised forensic tools and cooperation from foreign exchanges or custodians. Where a corporate debtor has transferred crypto-assets to promoters or affiliates prior to the CIRP, the RP must establish both intent and value differential, a task complicated by fluctuating market values of tokens and the absence of standardised valuation benchmarks.

International experience demonstrates potential approaches. In *In re Celsius Network LLC* (2023), U.S. courts were able to “claw back” crypto transactions using blockchain analysis. While the Enforcement Directorate (ED) and Serious Fraud Investigation Office (SFIO) in India have begun employing blockchain forensics in financial crime investigations<sup>10</sup>, insolvency practitioners currently lack comparable institutional support for recovery and investigative exercises in CIRP.

A further consideration is cross-border recoveries. Crypto-assets transferred to foreign wallets may fall outside India’s jurisdiction, but Section 60(5) of the IBC grants NCLTs broad powers to adjudicate avoidance proceedings. Nonetheless, effective enforcement remains dependent on international cooperation, foreign legal frameworks, and exchange regulations.

## 6. Cross-Border and Regulatory Dimensions

Digital assets rarely remain confined within a single jurisdiction. A corporate debtor’s crypto holdings may be stored in offshore wallets or with exchanges operating under foreign law. In such cases, traditional cross-border insolvency mechanisms, including principles under the UNCITRAL Model Law on Cross-Border Insolvency (2019), become relevant.

<sup>10</sup> Financial Intelligence Unit–India, *Use of Blockchain Forensics in Financial Crime Investigations* (2023).

Although India has not formally adopted the Model Law, the Ministry of Corporate Affairs released a draft framework for cross-border insolvency in 2018. Recent proposals under the IBC (Amendment) Bill, 2023, seek to clarify procedural mechanisms for cross-border asset recognition and cooperation, which could directly impact digital asset realisation.

In the absence of such statutory recognition, Indian IPs face challenges in seeking assistance from foreign courts to freeze or recover crypto holdings abroad. Exchanges may refuse to cooperate without a clear legal mandate, exposing the insolvency estate to potential value erosion and asset leakage.

Regulatory ambiguity surrounding the classification of digital assets—as “goods,” “securities,” or “currencies”—further complicates tax, accounting, and liquidation processes. The Finance Act, 2022, introduced a 30% tax on transfers of “virtual digital assets<sup>11</sup>” (VDAs), implicitly acknowledging their existence. For capital gains arising from the transfer of VDAs, set off against losses in the same category is permissible, but traditional concepts like depreciation do not apply, as these are intangible, non-depreciable assets. This distinction can create anomalies when liquidators attempt to sell or convert such assets into realisable value, highlighting the need for clear guidance in cross-border and regulatory contexts.

“Regulatory ambiguity surrounding the classification of digital assets—as “goods,” “securities,” or “currencies”—further complicates tax, accounting, and liquidation processes.”

## 7. Policy and Practice Recommendations

To bridge the existing gaps in the treatment of digital assets under the IBC, several reforms and practical measures can be considered:

<sup>11</sup> Finance Act, 2022, s. 2(47A) read with s. 115 BBH (Income-tax Act amendments).

- (a) **Regulatory Guidance by IBBI:** The IBBI may issue operational circulars or practice notes specifying procedures for identifying, safeguarding, and realising digital assets. This may include requiring IPs to engage certified crypto-custodians or auditors for secure management and transaction verification.
- (b) **Specialised Valuation Framework:** While registered valuers already have authority to value VDAs, the gap lies in the absence of specific guidance. The valuers' rules could be supplemented with recommendations on exchange averages, volatility adjustment factors, and disclosure of pricing methodology, ensuring consistent and transparent valuation practices.
- (c) **Training and Capacity Building for IPs:** IPs and registered valuers should undergo structured training on blockchain forensics, key management, and AML compliance in digital contexts, equipping them to address technical and operational challenges effectively.
- (d) **Coordination with Financial Regulators:** Collaboration among the IBBI, RBI, and FIU-IND can facilitate reporting interfaces allowing IPs to verify corporate crypto holdings with exchanges or custodians in compliance with KYC/AML norms<sup>12</sup>.
- (e) **Cross-Border Cooperation Mechanism:** Adoption of the UNCITRAL Model Law or interim protocols will empower Indian NCLTs to seek recognition of Indian insolvency proceedings in jurisdictions where crypto exchanges operate, mitigating cross-border enforcement risks.
- (f) **Standard-Form Disclosure and Audit:** Regulation 36(2) of the CIRP Regulations already mandates full disclosure of all assets—including tangible, intangible, and contractual assets—which technically includes VDAs. Blockchain audit certificates can support these disclosures, enhancing transparency for resolution applicants.
- (g) **Forensic and Investigative Support:** The government may empanel expert firms specialising in blockchain analytics to assist IPs in tracing, recovering, and verifying crypto-based

transactions, particularly those potentially falling under avoidance provisions.

“  
The U.K. Law Commission in (2023) recommended recognising “data objects” as a distinct category of property, ensuring enforceability during insolvency.”

Such measures will not only safeguard value for creditors but also prepare the IBC ecosystem for mainstreaming of digital assets<sup>13</sup>.

## 8. Comparative Insights: Lessons from Global Precedents

Recent crypto insolvencies in the United States and Asia offer instructive parallels. In *FTX Trading Ltd.*, courts had to distinguish between custodial and non-custodial wallets and whether customer deposits constituted property of the estate. In *Celsius Network* (2023), valuation of tokens under staking programs—debt-like versus equity-like instruments, posed significant challenges.

These cases underscore the need for clear definitions and robust record-keeping. Jurisdictions such as Singapore<sup>14</sup> and Hong Kong<sup>15</sup> permit IPs to appoint licensed crypto-custodians and transact via regulated exchanges. The U.K. Law Commission (2023) recommended recognising “data objects” as a distinct category of property, ensuring enforceability during insolvency. For India, adopting similar legislative recognition would reduce ambiguity around ownership and recovery of digital tokens.

## 9. The Road Ahead: Integrating Digital Assets into the IBC Ecosystem

The rapid expansion of digital assets, ranging from cryptocurrencies and tokenised securities to NFTs, blockchain-based receivables, and smart contract-driven rights has challenged traditional assumptions

<sup>13</sup> World Bank, *Crypto-assets and Insolvency: Emerging Issues*, 2024.

<sup>14</sup> Monetary Authority of Singapore, *Consultation Paper on Proposed Regulatory Approach for Stablecoins*, 2023.

<sup>15</sup> Hong Kong Monetary Authority, *Guidelines on Custody of Digital Assets*, 2022

<sup>12</sup> FIU-IND, *Anti-Money-Laundering Guidelines for Virtual Asset Service Providers*, 2023.

underlying insolvency law. For India's IBC, recognising and integrating digital assets is critical for preserving enterprise value, protecting creditors, and maintaining the Code's relevance in a digital economy.

Digital assets are increasingly reflected in corporate treasuries, either as investments, transaction instruments, or operational tools. Their decentralised and borderless nature creates unique risks during insolvency process concerning discovery, preservation, valuation, and realisation. India requires a structured, multi-layered policy approach addressing immediate operational challenges while laying the foundation for long-term reforms<sup>16, 17</sup>.

**(a) Short-Term Priorities: Immediate Regulatory and Professional Action**

- (i) Issuance of clarificatory circulars by IBBI defining digital assets, specifying disclosure requirements, acceptable valuation methods, custodial controls, forensic procedures, and accounting treatment.
- (ii) Professional capacity building by ICAI, ICSI, and IPAs on blockchain fundamentals, wallet management, DeFi, token standards, and regulatory risks.
- (iii) Development of SOPs for locating and securing private keys, engaging blockchain forensic specialists, and ensuring safe custody to prevent asset dissipation.
- (iv) Integration of digital asset reporting into the Information Memorandum (IM), including wallet details, token types, blockchain networks, liquidity, smart contract obligations, and transaction history.

**(b) Medium-Term Reforms: Legal and Institutional Clarity**

- (i) Formal legislative recognition of digital assets as "property" or "assets" under the IBC and Companies Act, including tokenised rights and blockchain-based claims.
- (ii) Establishment of cross-regulatory coordination among IBBI, RBI, SEBI, and MeitY for custody, KYC/AML compliance, tokenised securities, and stablecoins.

- (iii) Empanelment of licensed custodians to manage private keys, monitor transactions, and execute controlled liquidation.
  - (iv) Standardised valuation frameworks considering liquidity, market behaviour, regulatory and technological risks, and historical trading patterns.
- (c) Long-Term Vision: Building a Mature Digital-Insolvency Ecosystem**
- (i) Creation of blockchain-based asset registries for insolvent entities to enhance transparency, track encumbrances, and reduce disputes.
  - (ii) Recognition of smart contracts as enforceable instruments under RP and NCLT oversight, allowing structured liquidation or revenue-sharing mechanisms.
  - (iii) Enabling technical expert panels to assist the judiciary in digital asset disputes, ensuring informed and consistent adjudication.

*“By addressing regulatory gaps and equipping stakeholders with appropriate tools, the IBC can continue maximizing value in India's evolving digital economy.”*

## 10. Conclusion

Digital assets are reshaping how economic value is created, stored, and transferred, posing new challenges and opportunities for insolvency frameworks. To remain effective and future-ready, the IBC must adopt a multi-layered policy approach. This should include immediate regulatory guidance to address classification and custody issues, medium-term statutory reforms to recognize digital assets within insolvency processes, and long-term institutional innovation for technological capacity building. By addressing existing regulatory gaps and equipping professionals, adjudicatory bodies, and creditors with appropriate tools, the IBC can continue fulfilling its core objective of maximizing stakeholder value in India's rapidly evolving digital economy.

<sup>16</sup> IBBI, *Handbook for Insolvency Professionals*, 2023 Edition.

<sup>17</sup> Deloitte, *The Future of Crypto Assets in Corporate Finance*, 2023.

# Reverse CIRP in India: Innovation, Impact, and the Road Ahead



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*Reverse CIRP is a court-evolved mechanism applied during a standard CIRP initiated under Sections 7, 9, or 10 of the IBC, particularly in real estate insolvencies. While the moratorium, appointment of IRP/RP, and constitution of the CoC continue, the distinguishing feature of Reverse CIRP is the tribunal's recognition that value maximization lies in project completion, not in inviting third-party resolution applicants. The IRP/RP primarily monitors fund infusion, escrow-based utilization, and physical progress, often under judicial supervision. This approach balances the IBC framework with homebuyer protection, ensuring timely delivery without derailing ongoing projects, while retaining insolvency discipline in a modified form. In this article, the author traces the evolution of Reverse CIRP and Project-wise CIRP through judicial pronouncements, analyses their significance, and suggests measures for improvement. **Read on to know more....***

## 1. Introduction

The enactment of the Insolvency and Bankruptcy Code, 2016 (the Code/IBC) marked a paradigm shift in India's corporate insolvency regime, seeking to provide time-bound resolution of distressed companies, value maximisation for creditors and revival wherever feasible. However, over the years it became evident that certain sectors, particularly real-

estate development, presented distinct challenges such as multiple allottees/homebuyers, stalled construction, regulatory approvals, long timelines, and significant risk of value destruction if liquidation ensued.

In such a context, the conventional Corporate Insolvency Resolution Process (CIRP) sometimes proved ill-suited for real-estate companies whose core value lay in completing projects and handing over possession rather than mere asset sale. Recognising

this gap, National Company Law Appellate Tribunal (NCLAT) pioneered the concept of Reverse CIRP, a mechanism tailor-made for real-estate insolvencies, wherein the original promoter or developer is allowed (under judicial supervision) to complete the project or act as financier/lender rather than be replaced, thereby preserving homebuyers' interests and concluding the project successfully.

Reverse CIRP represents a notable innovation in Indian insolvency jurisprudence. It offers a creative way of addressing a particularly acute problem in the real-estate sector i.e., stalled projects and helpless homebuyers, while preserving value and continuity. Its success and wider adoption, however, depend on how the legal/regulatory system evolves to provide clarity, safeguards and consistency.

If well-embedded, Reverse CIRP can become an important tool in India's insolvency resolution ecosystem, balancing the interests of multiple stakeholders, improving outcomes in distressed real-estate projects, reducing value destruction, and enhancing trust among homebuyers and creditors.

## 2. Concept and Evolution of Reverse CIRP

### 2.1. Definition and Rationale

Reverse CIRP is not defined in the IBC statute but has emerged via judicial innovation. In essence, it is a process whereby once insolvency proceedings (under Sections 7/9/10 of the IBC) are triggered, rather than inviting third-party resolution applicants, the original promoter/developer (or a related entity) steps in as a lender or financier and assumes responsibility for completing the project (or designated portion thereof) under judicial/insolvency-professional supervision. The aim is to deliver possession to allottees/homebuyers and prevent value destruction from liquidation or protracted delays.

### 2.2. Origin and Early Cases

One of the earliest recognitions of the concept is in the case of *Flat Buyers Association Winter Hills-77, Gurgaon v. Umang Realtech Pvt. Ltd. (2020)*, where NCLAT recognised that a promoter (Uppal Housing)

could act as lender/financier to ensure the project is completed, allottees get possession and that the CIRP could proceed in a "reverse" manner. Subsequent developments in real-estate insolvency (for example, project-wise CIRP in Supertech Limited) strengthened the model<sup>1</sup>.

**“Homebuyers often form the largest group of creditors, but their interests differ from financial creditors. As a result, a standard CIRP may not meet their objectives.”**

### 2.3. Why it Evolved

Key drivers for this innovation include:

- Homebuyers/allottees are often the largest group of creditors but their interests differ (possession of flats) from financial creditors (repayment). A standard CIRP may not align with their objective<sup>2</sup>.
- Many stalled real-estate projects continue incurring cost/opportunity losses; liquidation may destroy value rather than preserve it<sup>3</sup>.
- The existing IBC framework lacked specific provisions to address real estate regulatory approvals, RERA obligations, multiple allottees, and long project timelines. Consequently, a tailored judicial mechanism emerged.

### 2.4. Timeline of Key Evolution

- 2020: Winter Hills case recognised concept of promoter as lender in real-estate CIRP<sup>4</sup>.
- 2022–2023: Project-wise CIRP and Reverse CIRP referenced in Supertech and other real estate cases<sup>5</sup>.

<sup>1</sup> <https://www.ijlra.com/uploads/1753178157.pdf?utm>

<sup>2</sup> <https://ibclaw.in/reverse-cirp-and-its-judicial-endorsement-analysing-the-first-ever-closure-by-nclat-in-grand-reality-by-anshul-bansal/?utm>

<sup>3</sup> <https://cbcl.nliu.ac.in/insolvency-law/legislative-integration-of-reverse-cirp-in-real-estate-insolvency/?utm>

<sup>4</sup> <https://ibclaw.in/a-reverse-cirp-can-be-followed-in-the-cases-of-real-estate-infrastructure-companies-in-the-interest-of-the-allottees-survival-of-the-real-estate-companies-to-ensure-completion-of/?print=print&print-posts=pdf&utm>

<sup>5</sup> <https://24law.in/story/reverse-cirp-nclat-ends-insolvency-against-grand-reality-as-flats-handed-over-and-claims-resolved?utm>

(c) 2025: The case of Grand Reality Pvt. Ltd. culminated in formal closure of CIRP under the Reverse CIRP model by NCLAT, thereby giving strong judicial endorsement.

### 3. Legal Mechanics and Operation

#### 3.1 Initiation of CIRP

Reverse CIRP is ordered by NCLAT or NCLT during a standard CIRP initiated by a financial creditor under Section 7, an operational creditor under Section 9, or the Corporate Debtor (CD) itself under Section 10, files for initiation. A moratorium is imposed, an Interim Resolution Professional (IRP) is appointed, and the Committee of Creditors (CoC) is constituted.

#### 3.2 Transition into Reverse CIRP Mode (Project-specific)

What differentiates Reverse CIRP is the court/tribunal recognising that the resolution must focus on project completion rather than inviting new bidders. Key features include:

- (a) The promoter (or a related entity) may step in as lender/financer (not as resolution applicant) to infuse funds for project completion. For example, in Winter Hills: the promoter agreed to remain outside CIRP but acted as lender<sup>6</sup>.
- (b) The CIRP may be restricted to a specific project/SPV rather than the entire CD. In Supertech, the CoC was confined to one project.
- (c) The existing promoter may be permitted to continue operations (under IRP/RP supervision) as part of the going concern, subject to certain safeguards.

#### 3.3 Role of IRP/RP

- (a) The IRP/RP monitors the infusion of funds, the flow of funds, use of proceeds (often via escrow), and physical progress of the project. In the case of Winter Hills, the promoter's payments were required to be by cheque and jointly signed by IRP/RP and company's authorised representative.

- (b) Physical monitoring is also mandated: e.g., in Grand Reality case a Local Commissioner verified project completion<sup>7</sup>.
- (c) The moratorium continues to apply, and the proceedings remain under the IBC, albeit in a modified form.

#### 3.4 CoC and Voting Dynamics

- (a) In the Reverse CIRP model, the CoC may include homebuyers/allottees (treated as financial creditors if they have paid amounts) alongside banks/NBFCs.

*In a Reverse CIRP, the CoC may approve a resolution plan (less frequently), or the court may permit an alternative route (completion by the promoter) under its inherent powers.*

- (b) The CoC may approve a plan (less frequently) or the court may permit an alternative route (completion by promoter) under inherent powers.

#### 3.5 Completion, Closure & Exit

- (a) Once the project is completed, possession handed over, all claimants resolved (or permitted to continue their claims separately) then the IRP may apply for closure of the CIRP (via Section 12A or by exercise of inherent powers under Rule 11 of NCLAT Rules). In the Grand Reality case, NCLAT closed the CIRP under its inherent power.
- (b) If promoter fails to perform or funding dries up, the tribunal may revert to a standard CIRP/liquidation route.

#### 3.6 Interface with RERA, Section 29A and Other Provisions

- (a) Real-estate regulation via the Real Estate (Regulation and Development) Act, 2016 (RERA) and state regulations overlay the process. Promoters must comply with RERA obligations, and the building plan must be approved for

<sup>6</sup> <https://conventuslaw.com/report/india-proposed-amendments-to-the-insolvency-and-bankruptcy-code-a-real-solution-for-real-estate-insolvencies/?utm>

<sup>7</sup> <https://www.ijlra.com/uploads/1014190493.pdf?utm>

monetisation. Eg: In 2025, NCLAT refused monetisation of unsold units without revalidated building plan under Reverse CIRP<sup>8</sup>.

- (b) Section 29A of the IBC (which restricts defaulting promoters from bidding in resolution plans) can conflict with Reverse CIRP if the promoter remains involved.

## 4. Stakeholder Analysis

### 4.1 Homebuyers / Allottees

#### Interests & benefits:

- (a) Primary interest in possession of flats and project completion rather than mere monetary recovery. Reverse CIRP delivers that.
- (b) Faster project completion increases value retention for them.
- (c) Their exposure as unsecured creditors means that payments to other financial creditors may take priority over their claims.
- (d) Possibility of promoter misuse, delays in completion even under RP supervision.
- (e) Monitoring transparency: Ensuring funds infusion, correct utilisation, adherence to timelines.

### 4.2 Financial Creditors (Banks, NBFCs)

#### Interests:

- (a) Recovery of debt via value preservation of the project rather than taking over a stranded asset (lose value prematurely due to factors like technological shifts, changes in market demand, or new regulations).
- (b) Potentially higher recovery if asset value is preserved by completion.
- (c) The promoter's dual role (developer + lender) may tilt priorities towards homebuyers/allottees and leave banks at a disadvantage.
- (d) The CoC may shrink the role of traditional resolution applicants/bidders.

- (e) Delay risks remain, as prolonged project timelines can lead to increased bank exposures.

### 4.3 Developers / Promoters

#### Interests:

- (a) The ability to complete their project, instead of being replaced under standard CIRP, helps preserve their reputation and value.
- (b) Avoids liquidation of group assets and loss of control.
- (c) If the promoter fails to perform, there is a risk of being replaced, or the project may revert to liquidation.
- (d) Regulatory compliance risks, including those relating to RERA and other approvals, remain significant.
- (e) Their status under Section 29A may pose regulatory barriers.

*The monitoring burden remains high, requiring close oversight of promoter and lender infusions, project execution, and the management of complex stakeholder claims*

### 4.4 Regulatory Authorities & Insolvency Professionals (IPs)

#### Interests:

- (a) Efficient resolution of distressed real-estate projects, protect homebuyer interests and reduce systemic risk.
- (b) Ensuring IBC objectives of time-bound resolution, value maximisation and creditor fairness.
- (c) The monitoring burden remains high, requiring close oversight of promoter and lender infusions, project execution, and the management of complex stakeholder claims.
- (d) It may set a precedent for other sectors, creating a risk of stretching the model beyond real estate where it may not be suitable.

<sup>8</sup> <https://www.geosquare.in/nclat-rejects-monetisation-of-unsold-units-in-real-estate-project-without-revalidated-building-plan-831571351341-news/index.html?utm>

(e) Legal uncertainty persists, as the absence of a statutory basis for Reverse CIRP creates jurisprudential risk.

## 5. Key Case Law and Judicial Developments

### 5.1 Flat Buyers Assn. Winter Hills-77, Gurgaon v. Umang Realtech Pvt. Ltd. (2020)

In this landmark NCLAT decision (4 Feb 2020), the tribunal recognised that:

- (a) The allottees (homebuyers) were major stakeholders and preferred completion of project.
- (b) The promoter (Uppal Housing) agreed to act as lender/financier rather than third party applicant.
- (c) The tribunal permitted a loan infusion and ordered completion within a fixed timeframe; if promoter didn't comply, liquidation route could follow. This laid the template for Reverse CIRP.

### 5.2 Project-wise CIRP in Supertech Ltd.

In the case of the Supertech real estate group, the NCLAT adopted a project-wise approach, limiting the CoC to one project (Eco Village-II) of the CD and requiring payment from the promoter. This reinforced the idea that for real estate, different projects may be treated separately, enabling targeted resolution.

### 5.3 Closure under Reverse CIRP: Grand Reality Pvt. Ltd.

In July 2025, the Grand Reality case became a significant milestone. The NCLAT, exercising inherent powers under Rule 11 of the NCLAT Rules, closed the CIRP once - (i) project completion was verified, (ii) flats handed over, and (iii) all pending claims resolved/settled.

These cases collectively recognized and reinforced the concept of Reverse CIRP, where the focus shifts from resolving the CD as a whole to completing a specific real estate project, protecting the interests of homebuyers while keeping the CD as a going concern. Therefore, while the reliefs granted were case-specific, the underlying rationale of project-centric resolution, safeguarding homebuyers, and value maximization

can be applied generally, subject to the facts of each case and the discretion of the Adjudicating Authority (AA).

### Key observations:

- (a) The Local Commissioner verified physical completion (Occupancy Certificates issued 10 & 22 May 2024) and allottees confirmed possession.
- (b) The Income-Tax Department's claim was preserved despite closure (i.e., closure did not extinguish statutory claims).
- (c) This case confirmed that Reverse CIRP was more than an experimental concept, it can lead to final exit.

## 5.4 Other jurisprudence

- (a) Judicial commentary emphasises the need for promoter's fund infusion, oversight, restrictions on monetisation without revalidated building plan. Eg: NCLAT rejected monetisation of unsold units without a revalidated building plan in Belvedere Project (2025).
- (b) Legal analyses highlight a legislative gap, as Reverse CIRP lacks explicit statutory footing under the IBC amendments.

## 6. Critical Assessment (Advantages & Risks)

### 6.1 Advantages

1. **Project completion & value preservation:** Allows stalled real-estate projects to be completed rather than liquidated, which often leads to lower value realisation.
2. **Homebuyer-centred resolution:** Since many allottees are worst affected by delays, this model places their interests at front.
3. **Flexibility and speed:** By leveraging the existing promoter's familiarity with project and avoiding full asset sale, it can reduce time to resolution.
4. **Tailored approach to real estate:** Recognises that real-estate insolvency dynamics differ from manufacturing or service companies; hence gives project-specific treatment.

## 6.2 Risks and Limitations

1. **Legal uncertainty and lack of statutory backing:** Since Reverse CIRP is a judicially evolved concept, it lacks a clear statutory framework, raising questions of predictability.
2. **Conflict with Section 29A:** The promoter's involvement as lender may conflict with the objective of Section 29A (which prevents defaulting promoters from proposing resolution). This remains a grey area.
3. **Creditor hierarchy and fairness:** Financial creditors may feel disadvantaged if homebuyers or promoter lenders get preferential treatment. Ensuring equitable treatment is challenging.
4. **Monitoring and enforcement risk:** Ensuring the promoter indeed infuses funds, adheres the timelines and regulatory approvals demand robust oversight potentially resource intensive.
5. **Potential for misuse:** If applied loosely, promoters may seek to avoid the full rigour of CIRP by invoking Reverse CIRP to delay or manipulate outcomes.
6. **Scope limited to real estate (so far):** The model may not generalise across sectors, and its extension may pose complexities.

*If applied loosely, promoters may seek to avoid the full rigour of CIRP by invoking Reverse CIRP to delay or manipulate outcomes.*

## 7. Comparative Glimpses (International)

While Reverse CIRP is an Indian judicial innovation, a few international regimes offer comparable but not identical mechanisms:

- 7.1 **United States of America (USA) - Debtor-in-Possession (DIP) Financing in Chapter 11:** Under U.S. Bankruptcy Law, the debtor may continue operations and secure new financing (DIP financing) to complete or reorganise.

This resonates with the promoter financing in Reverse CIRP, though institutional context differs significantly.

- 7.2 **United Kingdom (UK) – Administration with Continuation:** In UK insolvency law, a company may be placed into administration but continue trading under administrator's supervision; the focus is on rescue as a going concern rather than liquidation. The UK's Project Merlin type arrangements (for real estate) sometimes allow completion of projects.

- 7.3 **China – Project Completion Mandates in Real Estate Insolvency:** Chinese courts/regulators have devised mechanisms where large real-estate developers with stalled projects are mandated to complete projects (often via state-owned entities) rather than liquidation.

### Insights for India:

- (a) The importance of continuity of operations and project completion rather than asset sale.
- (b) The need for financing mechanisms (new finance, lender involvement) to bridge funding gaps.
- (c) Robust oversight and regulatory approval interplay are critical (as seen in China/UK).

However, the Indian Reverse CIRP remains unique in its combination of promoter-financer, homebuyer-centric orientation, and project-specific approach under IBC's regime.

## 8. Policy & Reform Proposals

### 8.1 Statutory Recognition

It would help if the IBC were amended (or the rules/regulations under IBC and RERA aligned) to provide explicit recognition of Reverse CIRP for real-estate projects: define scope (project-wise only), eligibility of promoter as lender, monitoring structure, timelines. This addresses the current legal uncertainty.

### 8.2 Eligibility and Safeguards

- (a) Criteria for promoters to act as lenders should be set e.g., financial strength, track record, regulatory compliance.

- (b) Clear guidelines for the CoC composition (homebuyers + financial creditors) and voting rights.
- (c) Monitoring mechanisms include the use of escrow accounts, physical progress tracking, and independent verification reports.
- (d) Clear time-bound execution and consequences for failure (automatic switching to standard CIRP/liquidation).

### 8.3 Integration with RERA & Building Approvals

- (a) Since real-estate projects are regulated under RERA and building-plan/OC approvals are critical, the mechanism must ensure synchronisation with state authorities. For example, during monetisation of unsold units, revalidated building plan must exist (cf. Belvedere case).
- (b) Homebuyers' rights under RERA should be explicitly linked to insolvency proceedings to avoid duplication of proceedings.

### 8.4 Protecting Creditor Fairness

- (a) It is essential to safeguard the rights of financial creditors by ensuring clear recovery timelines, adequate disclosure of promoter and lender proposals, and transparent evaluation of plans and alternatives.
- (b) Homebuyers, having advanced funds that constitute financial debt, should not only be recognized as financial creditors but receive timely information, and monitor project progress explicitly codified under the IBC framework, particularly in Reverse CIRP cases where their interests are most directly at stake.

### 8.5 Monitoring Performance & Benchmarking

- (a) Standard performance metrics should be introduced, including time to completion, cost overruns, ratio of payments to allottees, and recovery to banks.
- (b) Use data and charts to benchmark success of Reverse CIRP vs standard liquidation or full CIRP in real-estate sector.



### 8.6 Broader Application & Caution

- (a) While real estate is the clear domain, policymakers may study whether similar models may apply in other asset-heavy sectors (infrastructure, power) with project-specific distress.
- (b) However, care must be taken to preserve the core IBC objectives (time-bound resolution, value maximisation, creditor equality) and avoid diluting them.

## 9. Applicability of Reverse CIRP where accounts and loans are not project-wise:

- (a) **Project Identification through Indirect Segregation:** If formal project-wise accounts do not exist, the RP can rely on:
  - (i) RERA registrations and disclosures
  - (ii) Approved building plans
  - (iii) Allotment letters and buyer agreements
  - (iv) Escrow accounts (if any)
  - (v) Cash flow analysis and cost allocation based on construction stages

These tools help in notional segregation of the project for resolution purposes.

- (b) **Ring-fencing of Cash Flows:** The AA may direct those future receivables and collections from the concerned project be ring-fenced and utilized exclusively for completing that project, irrespective of how past funds were pooled.
- (c) **Cooperation of Promoters / Third-party Funding:** Reverse CIRP, as seen in the above

*To transform Reverse CIRP, into a robust tool rather than an occasional remedy, policy reform, statutory recognition and detailed procedural guidelines are necessary.*

cases, often proceeds on the premise that promoters or external investors infuse funds to complete the project. This reduces dependence on historical accounting segregation.

**(d) Equitable Treatment over Accounting Formalities:** The tribunals have emphasized that technical deficiencies in accounting practices should not defeat substantive justice, especially where homebuyers' interests are at stake. The absence of project-wise accounts is therefore not fatal, provided transparency and supervision mechanisms are put in place.

**(e) Adjudicating Authority's Supervisory Role**

The NCLT retains close oversight to ensure that:

- (i) Funds are not diverted
- (ii) The resolution remains project-specific
- (iii) Other creditors' rights are not unfairly prejudiced.

## 10. Statutory Vacuum and the Fragility of Reverse CIRP

The IBBI introduced important reforms through the February 2024 amendments to the Insolvency Resolution Process for Corporate Persons (CIRP) Regulations, 2016, aimed at strengthening the project-centric approach in real estate insolvency resolution. One key change is the insertion of Regulation 4D, which mandates that the Resolution Professional (RP) maintain separate bank accounts for each real estate project of the CD. This requirement promotes financial transparency and ensures that funds generated from a particular project are utilized exclusively for that

project, thereby preventing diversion of resources and safeguarding the interests of homebuyers. Additionally, the Regulation 36A (1) empowers the RP, with the approval of the CoC, to invite resolution plans for specific projects or groups of projects rather than the CD as a whole. This provision introduces greater flexibility in the insolvency resolution process by enabling project-wise bidding, thereby enhancing the prospects of attracting resolution applicants and facilitating the completion of viable projects. Collectively, these amendments reflect a regulatory effort to align the insolvency framework with the unique characteristics of the real estate sector and to further institutionalize the principles underlying the reverse-CIRP approach.

## 11. Conclusion

Reverse CIRP represents a significant evolution in India's insolvency jurisprudence. For the real-estate sector, where value lies in project completion, large numbers of homebuyers are stakeholders, regulatory approvals complicate turnaround, and liquidation often destroys value, it offers a pragmatic and focused mechanism to deliver outcomes aligned with stakeholder interests.

Its successful deployment (as seen in Grand Reality) shows its promise, but it is still embryonic, dependent on novel judicial thinking and lacking a settled statutory framework. To transform it into a robust tool rather than an occasional remedy, policy reform, statutory recognition and detailed procedural guidelines are necessary.

As India grapples with real-estate distress and the larger challenge of resolving stressed infrastructure/asset-heavy entities, Reverse CIRP offers an instructive blueprint of "tailored insolvency resolution" anchored in pragmatism. Going forward, stronger institutional mechanisms, monitoring frameworks, and empirical data will decide whether this innovation becomes mainstream or remains a niche workaround.

# Cross-Border Commercial Transactions and India's Insolvency Regime: The Hidden Costs of Territorial Moratorium



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*Through the enactment of the Insolvency and Bankruptcy Code (Amendment) Act, 2026, the Government of India has introduced enabling provisions for CIIRP, Cross-Border Insolvency, and Group Insolvency. At the same time, the Act provides scope for further refinement through subordinate legislation. Besides, certain existing provisions in the IBC require alignment with the Amendment Act to further strengthen the legal framework for effective implementation. An analysis of key Cross-Border cases alongside the new amendments, reveals structural inconsistencies and coordination challenges. This article identifies these gaps and proposes targeted recommendations for incorporation into subordinate legislation to ensure coherent implementation of the newly introduced provisions on CIIRP, Group Insolvency and Cross Border Insolvency. **Read on to know more...***

## 1. Introduction

In February 2025, the Singapore High Court recognized India's Corporate Insolvency Resolution Process (CIRP) as a "foreign main proceeding" under the UNCITRAL Model Law (Model Law) on Cross-Border Insolvency—marking the first such recognition

in Singapore and one of the earliest globally under the Model Law. The decision in *In re Compuage Infocom Ltd.*<sup>1</sup> is technically uncontroversial - Compuage's Centre of Main Interests (COMI) was clearly in India, the CIRP met the Model Law's definitional criteria and

<sup>1</sup> *In re Compuage Infocom Ltd. and Another*, [2025] SGHC 49 (Sing.) [hereinafter *Compuage*].

Singapore's Insolvency, Restructuring and Dissolution Act, 2018 furnished the procedural mechanism. Its significance is structural. Indian insolvency proceedings can now be integrated into the Cross-Border coordination frameworks which is followed by sixty-five jurisdictions worldwide. However, India has not offered reciprocal mechanism for inbound recognition.

This asymmetry has direct commercial weight-India attracted USD 81.04 billion in foreign direct investment in FY 2024-25, a fourteen percent increase year-on-year, with Singapore being the single largest source.<sup>2</sup> Indian companies simultaneously expand internationally through foreign subsidiaries, transnational supply chains, and outbound investment, and when distress strikes across these borders, the Insolvency and Bankruptcy Code, 2016<sup>3</sup> (IBC) operates as if these international dimensions do not exist. Sections 234 and 235, nominally enabling Cross-Border cooperation through bilateral agreements, have produced nothing, not one agreement has been signed since enactment.<sup>4</sup>

The IBC (Amendment) Act, 2026 (Amendment Act), passed in the Lok Sabha on 30 March 2026, the Rajya Sabha on 1 April 2026, and received Presidential assent on 6 April 2026, places India in a transitional position, moving from a purely territorial insolvency regime toward Cross-Border integration. This article advances three related arguments. First, India's territorial moratorium imposes hidden transaction costs that the IBC's own value-maximisation objectives cannot survive. Second, the Amendment Act<sup>5</sup> introduces Cross-Border Insolvency Framework under newly inserted Section 240C.<sup>6</sup> Third, the Amendment Act's new mechanisms, CIIRP and Group Insolvency, are closely interrelated to Cross Border Insolvency hence

the subordinated legislations should enable interaction between these three frameworks.

## 2. The Territorial Moratorium and its Commercial Consequences

The IBC's Section 14 moratorium, triggered automatically upon admission of a CIRP application by Adjudicating Authority (AA), prohibits institution or continuation of suits against the Corporate Debtor (CD), enforcement of security interests, asset transfers, and termination of essential contracts.<sup>7</sup> Within India, courts have read these prohibitions expansively as in *Alchemist Asset Reconstruction Co. Ltd. v. Hotel Gaudavan Pvt. Ltd.*, the Supreme Court held that arbitral proceedings constitute "legal proceedings" under Section 14(1)(a), rendering post-moratorium arbitration void ab initio.<sup>8</sup> In *Brilliant Alloys Pvt. Ltd. v. S.L. Goel*, the NCLAT held ipso facto clauses, termination provisions triggered by insolvency alone, unenforceable during moratorium.<sup>9</sup> Section 238's non-obstante clause, affirmed in *Board of Control for Cricket in India v. Kochi Cricket Pvt. Ltd.*, gives these effects overriding force.<sup>10</sup>

***The collective rationale of the moratorium, preserving the debtor's estate for equitable distribution, is undermined from the outset when the estate extends beyond India's borders.***

None of the domestic jurisprudence is applied in overseas cases as Section 1(2) confines the IBC to the Indian territory.<sup>11</sup> The moratorium restrains enforcement against Indian assets but does not reach foreign assets. Therefore, foreign financial creditors remain free to pursue enforcement against overseas assets simultaneously. Unsecured foreign suppliers,

<sup>2</sup> Press Info. Bureau, Dep't for Promotion of Indus. & Internal Trade, India Records USD 81.04 Billion FDI Inflow in FY 2024-25 (May 27, 2025), <https://pib.gov.in/PressReleasePage.aspx?PRID=2131716> [hereinafter DPIIT FDI Release].

<sup>3</sup> Insolvency and Bankruptcy Code, No. 31 of 2016 (India) [hereinafter IBC].

<sup>4</sup> IBC §§ 234-235.

<sup>5</sup> Insolvency and Bankruptcy Code (Amendment) Act, 2026 (India) (Lok Sabha: Mar. 30, 2026; Rajya Sabha: Apr. 1, 2026; Presidential assent: Apr. 6, 2026) [hereinafter Amendment Act].

<sup>6</sup> Select Committee of Lok Sabha, Report on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, ¶ 67.6.4 (Dec. 17, 2025) [hereinafter Select Committee Report].

<sup>7</sup> IBC § 14(1).

<sup>8</sup> *Alchemist Asset Reconstruction Co. Ltd. v. Hotel Gaudavan Pvt. Ltd.*, (2022) 5 SCC 1 (India).

<sup>9</sup> *Brilliant Alloys Pvt. Ltd. v. S.L. Goel, Company Appeal (AT) (Insolvency) No. 407 of 2018* (NCLAT India 2018).

<sup>10</sup> *Bd. of Control for Cricket in India v. Kochi Cricket Pvt. Ltd.*, (2018) 6 SCC 287 (India); IBC § 238.

<sup>11</sup> IBC § 1(2).

lacking resources for parallel foreign enforcement, absorb concentrated losses. The collective rationale of the moratorium, preserving the debtor's estate for equitable distribution, is undermined from the outset when the estate extends beyond India's borders.

These territorial limitations produce compounding transaction costs in international commercial relationships of India. Foreign trade creditors are required to account for the risk that moratorium restraints bind them within India, while recovery against foreign assets remains uncertain, and that their negotiated dispute resolution mechanisms may be overridden by Section 238. Trade finance providers must factor these interactions into facility pricing. Research on Model Law adoption shows that harmonised Cross-Border frameworks reduce transaction costs by providing the legal certainty international commerce requires.<sup>12</sup> As per the data of Insolvency and Bankruptcy Board of India (IBBI) till December 2025, 8,833 companies were admitted under the IBC.<sup>13&14</sup> The average resolution time has now exceeded 619 days (after excluding the time excluded by the AA) against the original 180-day statutory ceiling. The IBC Amendment Act, 2026 addresses mandatory fourteen-day NCLT admission and a new three-month NCLAT disposal timeline.<sup>15</sup> These procedural reforms should be complemented by clear enabling provisions across both domestic and Cross-Border Insolvency regimes to ensure effective coordination and enhance predictability.

### 3. Judicial Developments and the Legislative Response

#### A. Jet Airways: Protocol as Substitute for Law

When Jet Airways' CIRP commenced before NCLT Mumbai in June 2019, Dutch administrators initiated parallel bankruptcy proceedings. As Sections 234-235 remained inoperative, the AA lacked statutory

authority to recognise foreign proceedings.<sup>16</sup> On appeal, the NCLAT directed cooperation rather than resolving the jurisdictional question, leading to a protocol executed in October 2019.<sup>17</sup> The protocol designated India as the COMI, established information-sharing, and coordinated the asset sale. It rested on administrative goodwill; creditors held no statutory claim to its protections. Jet Airways<sup>18</sup> demonstrated that ad hoc coordination is possible through appellate pragmatism. It cannot provide the ex-ante predictability that commercial parties require when negotiating transactions.

#### B. Compuage: Recognition Abroad and India's Reciprocity Deficit

In Compuage<sup>19</sup> the Singapore High Court examined whether Indian CIRP qualified as a "foreign proceeding" under Article 2 of the UNCITRAL Model Law as adopted in Singapore. Applying the framework from *Ascentra Holdings Inc. v. SPGK Pte. Ltd.*,<sup>20</sup> the court found CIRP qualified as a foreign proceeding and recognised the NCLT as a "foreign court" notwithstanding its quasi-judicial composition,<sup>21</sup> and granted broad relief allowing the Resolution Professional (RP) to access Compuage's Singapore bank accounts and records. The court required notification to Singapore-based creditors before asset repatriation, a safeguard reflecting that Cross-Border creditor protection requires procedural reciprocity, not unilateral claims to recognition. The IBC has secured recognition in Singapore owing to Singapore's enactment of the UNCITRAL Model Law.<sup>22</sup>

<sup>12</sup> U.N. Comm'n on Int'l Trade Law, UNCITRAL Model Law on Cross-Border Insolvency with Guide to Enactment and Interpretation, 1-4 (2014) [hereinafter UNCITRAL Guide to Enactment].

<sup>13</sup> Finance Minister Nirmala Sitharaman, Address in the Lok Sabha on the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, Lok Sabha Debates (Mar. 30, 2026) [hereinafter Sitharaman Address].

<sup>14</sup> IBBI, Insolvency and Bankruptcy News, Oct.-Dec 2025, p. 8-9.

<sup>15</sup> Sitharaman Address, supra note 13 (average resolution time now exceeding 760 days, against the 180-day base statutory ceiling under IBC § 12(1), extendable under § 12(3)).

<sup>16</sup> See CP (IB) No. 2205/MB/C-II/2019 (NCLT Mumbai 2019) (refusing recognition of Dutch proceedings on grounds that IBC §§ 234-235 remained inoperative and the tribunal lacked statutory authority to recognise foreign insolvency proceedings).

<sup>17</sup> Rishi Anand & Richa Roy Chowdhury, India's Journey Towards Cross-Border Insolvency Law Reform, 19 Asian J. Comp. L. 395, 409-13 (2024) (describing the October 2019 cross-border insolvency protocol and its terms) [hereinafter Anand & Chowdhury].

<sup>18</sup> In re Jet Airways (India) Ltd., Company Appeal (AT) (Insolvency) No. 707 of 2019 (NCLAT India 2019) [hereinafter Jet Airways].

<sup>19</sup> Compuage, [2025] SGHC 49, supra note 1.

<sup>20</sup> *Ascentra Holdings, Inc. v. SPGK Pte. Ltd.*, [2023] 2 SLR 421 (Sing.).

<sup>21</sup> Compuage, [2025] SGHC 49 (holding that the NCLT constitutes a "foreign court" within Art. 2(e) of the UNCITRAL Model Law as adopted in Singapore's IRDA, notwithstanding its quasi-judicial composition).

<sup>22</sup> UNCITRAL, Status: Model Law on Cross-Border Insolvency (1997), [https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border\\_insolvency/status](https://uncitral.un.org/en/texts/insolvency/modellaw/cross-border_insolvency/status) (last visited Mar. 31, 2026) (sixty-two states in sixty-five jurisdictions).

*The IBC Amendment Act, 2026 inserts Section 240C, empowering the Central Government to prescribe rules under Cross-Border Insolvency for notified classes of debtors and designate NCLT benches.*

### C. Section 240C and the Select Committee's Observations

The Insolvency Law Committee in its report in October 2018, proposed “Draft Part Z”, a comprehensive Cross-Border insolvency framework covering COMI-based recognition of foreign proceedings, foreign representative access to Indian courts, cooperation mechanisms, and concurrent proceeding coordination.<sup>23</sup> Draft Part Z’s reciprocity requirement was its principal weakness, excluding major trading partners like member countries of the European Union (EU).<sup>24</sup> The Cross-Border Insolvency Rules Committee submitted implementing regulations in June 2020.<sup>25</sup>

The Amendment Act inserts Section 240C, empowering the Central Government to prescribe rules under Cross-Border Insolvency for notified classes of debtors and designate NCLT benches.<sup>26</sup> Section 240C leaves several core issues—including recognition criteria, COMI determination, standards for granting or refusing relief, court cooperation, and priority in concurrent proceedings, to be addressed through subordinate legislations. The Lok Sabha’s Select Committee in its report dated December 17, 2025, has recommended “codifying the basic tenets of the Cross-Border Insolvency Framework directly within the Code itself” to harmonise UNCITRAL principles with Indian law.<sup>27</sup> The Committee separately recommended clarifying “Corporate Debtor” in Section 240C to explicitly include persons incorporated outside India with assets, creditors, or operations connected to

India.<sup>28</sup> The government accepted all eleven Select Committee recommendations and added a twelfth transparency amendment.<sup>29</sup>

## 4. CIIRP, Group Insolvency, and Cross-Border Dependency

### 4.1. CIIRP: A New Mechanism with Cross-Border Blind Spots

Chapter IV-A introduces Creditor-Initiated Insolvency Resolution Process (CIIRP), replacing the fast-track process.<sup>30</sup> As per the provision of CIIRP, specified financial institutions may initiate insolvency out of court with fifty-one percent creditor approval while existing boards will remain in possession under the RP oversight. The process must complete within 150 days, which is extendable once by 45 days.<sup>31</sup> The following three key areas need to be addressed to further strengthen the framework:

*As the moratorium is not automatic in CIIRP, sophisticated institutional lenders may initiate foreign proceedings against overseas assets before its confirmation, thereby extracting value.*

- (a) **Moratorium:** The moratorium in CIIRP is not automatic. Section 58G requires the RP to apply to the NCLT for moratorium after commencement.<sup>32</sup> In the window between CIIRP commencement and moratorium confirmation, lenders can begin foreign proceedings against the corporate debtor’s overseas assets thereby extracting value.

<sup>23</sup> Select Committee Report, supra note 6, 67.6.4 (recommending codification of basic tenets of the cross-border framework directly within the Code to provide clear legislative guidance and harmonise UNCITRAL principles with Indian law).

<sup>24</sup> Select Committee Report, supra note 6, 67.6.4 (recommending clarification that “corporate debtor” in § 240C includes persons incorporated with limited liability outside India).

<sup>25</sup> See Sitharaman Address, supra note 12 (confirming acceptance of all eleven Select Committee recommendations and the addition of a twelfth transparency amendment requiring CoC to record reasons for selecting the successful resolution applicant).

<sup>26</sup> Amendment Act, supra note 5, §§ 58A-58K; id. § 39 (omitting Chapter IV, comprising §§ 55-58).

<sup>27</sup> Id. § 58D(1)-(2) (150-day period from the creditor-initiated insolvency commencement date, extendable by 45 days not more than once).

<sup>28</sup> Id. § 58G(1) (requiring RP to apply to the NCLT for moratorium with CoC approval or, before CoC constitution, with approval of not less than fifty-one percent by value of the notified financial creditors).

<sup>23</sup> Ministry of Corporate Affairs, Report of the Insolvency Law Committee on Cross-Border Insolvency (Oct. 2018) [hereinafter ILC Report].

<sup>24</sup> See Anand & Chowdhury, supra note 18, at 403-408 (discussing the reciprocity requirement and its exclusion of major non-Model Law jurisdictions).

<sup>25</sup> Cross-Border Insolvency Rules/Regulations Committee, Ministry of Corporate Affairs, Report on Rules and Regulations for Cross-Border Insolvency Resolution (June 2020).

<sup>26</sup> Amendment Act, supra note 5, § 240C(3) (incorporating parliamentary oversight procedure under § 59A(4)-(6)).

“

*Section 59A coordinates proceedings among Indian group entities, reducing duplication and preventing creditor arbitration, but its “group” definition covers only entities under the Companies Act.*

”

- (b) **Timeline:** The 150-day deadline may be incompatible with the practical requirements of Cross-Border asset protection. Securing recognition in a foreign jurisdiction sometimes takes months. *Compuage* itself required close to two years from CIRP commencement to Singapore court’s recognition. There should be some flexibility in the timeline for completed cases.
- (c) **Asset Dissipation:** CIRP’s debtor-in-possession structure creates dissipation risk, as existing management continues to run the business, including transactions with foreign subsidiaries. The Amendment Act extends avoidance transaction look-back periods to run from the initiation date, which is a genuine improvement.<sup>33</sup> But avoiding transactions with foreign group entities requires Cross-Border enforcement capacity that Section 240C seems to lack.

#### 4.2. Group Insolvency, Territorial Boundaries, and the Three-Tier Delegation Problem

Section 59A empowers the Central Government to prescribe rules for coordinated insolvency proceedings where two or more corporate debtors form part of a “Group.”<sup>34</sup> The explanation defines “Group” as entities interconnected by control or twenty-six percent or more ownership, including holding companies and subsidiaries.<sup>35</sup> These rules may provide for a common NCLT bench, joint Committee of Creditors (CoC), and binding coordination agreements.

Section 59A coordinates proceedings among Indian group entities, reducing duplication and preventing

creditor arbitration, but its “group” definition covers only entities under the Companies Act. Corporate groups generating India’s most complex insolvency cases, often structured with Cayman or Mauritius holding companies and Singapore or UAE subsidiaries, will frequently include entities beyond its scope. The Dutch operating subsidiary in Jet Airways exemplifies the problem as it fits within the corporate group but outside the Indian coordination mechanism. Coordinating Indian group proceedings with that entity requires the Cross-Border recognition and cooperation mechanisms that Section 240C is supposed to eventually provide.



#### 5. Recommendations and Conclusion

As discussed earlier, recognition of Indian CIRP in the *Compuage* case by Singapore was facilitated by its Insolvency, Restructuring and Dissolution Act, 2018<sup>36</sup> enacted under the UNCITRAL Model Law. Similarly, United States (USA) enacted Chapter 15 of its Bankruptcy Code in 2005,<sup>37</sup> producing over a thousand recognition proceedings and substantial jurisprudence on COMI determination. Both jurisdictions demonstrate that Cross-Border cooperation coexists with robust domestic creditor protection. Singapore and the United States embed their Cross-Border Insolvency Frameworks within the statute. However, India has delegated the entire framework to future subordinate legislation. Until that legislation produces an operational regime, the asymmetry that *Compuage* illustrates persists i.e., Indian proceedings gain recognition abroad through other jurisdictions’ statutory mechanisms, while foreign administrators approaching Indian courts

<sup>33</sup> Id. §§ 43, 46, 50 as amended (shifting the look-back period threshold from insolvency commencement date to initiation date, and including the intervening period in avoidance analysis).

<sup>34</sup> Id. § 59A.

<sup>35</sup> Id. § 59A, Explanation (b) (defining “group”) and (d) (defining “significant ownership” as twenty-six percent or more voting rights); Companies Act, No. 18 of 2013, §§ 2(6), 2(46), 2(87) (India).

<sup>36</sup> Insolvency, Restructuring and Dissolution Act, No. 40 of 2018, pt. 11 (Sing.).

<sup>37</sup> 11 U.S.C. §§ 1501-1532 (2018).

find no corresponding pathway in domestic law. In the light of the above discussion, major recommendations are as follows:

- (a) **Codification of UNCITRAL principles:** The subordinate legislations delegated to the Central Government under the IBC Amendment Act 2026 should be in line to the UNCITRAL Model Law and Report of the Insolvency Law Committee.<sup>38</sup> At minimum, the rules should specify- COMI as the primary connecting factor, access for foreign representatives to Indian courts subject to a narrowly construed public policy exception, automatic stay upon recognition of a foreign main proceeding and a cooperation obligation on Indian courts and resolution professionals. These are the UNCITRAL Model Law's core provisions, applied in sixty-five jurisdictions and recommended by the Insolvency Law Committee in 2018.

“*The definition of “corporate debtor” in Section 240C should explicitly include persons incorporated with limited liability outside India whose insolvency proceedings have a meaningful connection to India.*”

- (b) **Coordination among Group Insolvency, Cross Border Insolvency and CIIRP:** The subordinate legislation under Section 240C should facilitate effective interaction and coordination among



the three new provisions introduced by the IBC (Amendment) Act, 2026. Section 59A rules should address how Group Insolvency coordination agreements interact with recognition orders for foreign group entities.

- (c) **Section 240C corporate debtor clarification:** The definition of “corporate debtor” in Section 240C should, as the Select Committee recommended, explicitly include persons incorporated with limited liability outside India whose insolvency proceedings have a meaningful connection to India.

The IBC (Amendment) Act marks an important step forward by recognising Cross-Border Insolvency as an area requiring dedicated statutory treatment. Section 240C establishes an enabling foundation, while the introduction of CIIRP and Group Insolvency provisions brings into focus the importance of integrated Cross-Border coordination.

<sup>38</sup> ILC Report, supra note 22, at ch.

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# CIRP under the IBC: The Expanding Role of Chartered Accountants



*The IBC framework, reinforced by judicial endorsement of the Committee of Creditors' (CoC) commercial wisdom, has significantly strengthened its financial decision-making in insolvency proceedings, thereby increasing its reliance on professional expertise. Central to this framework is the expanding role of Chartered Accountants (CAs), who play key roles as Interim Resolution Professionals (IRPs), Resolution Professionals (RPs), Insolvency Professionals (IPs), forensic experts, valuers, and strategic advisors. Their expertise in financial analysis, claim verification, valuation, and resolution planning ensures transparency, reduces information asymmetry, and enhances outcome quality. The article concludes that the effectiveness and credibility of the IBC regime are closely linked to the technical competence, independence, and multidisciplinary contributions of Chartered Accountants. Accordingly, strengthening the capacity of Chartered Accountants is vital to the success and continued advancement of the IBC regime. **Read on to know more....***



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## 1. Introduction

The introduction of the Insolvency and Bankruptcy Code, 2016 (IBC/the Code) represents a paradigm shift in India's approach to corporate financial distress. Prior to its enactment, insolvency proceedings were governed by a multiplicity of statutes—most notably

the Companies Act framework and recovery laws such as SARFAESI—resulting in procedural fragmentation, jurisdictional overlaps, and prolonged resolution timelines. Recovery rates frequently remained below 25%, eroding asset value and undermining credit discipline.

The IBC sought to rectify these structural inefficiencies by consolidating insolvency laws into a comprehensive, creditor-driven and time-bound framework. At its core lies the Corporate Insolvency Resolution Process (CIRP), a structured mechanism designed to either revive financially distressed companies or facilitate orderly liquidation. The shift from “Debtor-in-Possession” to “Creditor-in-Control” altered the balance of power within corporate insolvency, placing commercial decision-making in the hands of financial creditors through the Committee of Creditors (CoC).

Within this reformed landscape, Chartered Accountants (CAs) have assumed a central institutional role. Their expertise in financial reporting, auditing, valuation, forensic accounting, and regulatory compliance aligns closely with the technical demands of CIRP administration<sup>1</sup>. This article examines the statutory architecture of CIRP, key judicial developments, and the multidimensional role of CAs in operationalizing the IBC’s objectives.

## 2. Empirical and Economic Impact of the IBC Framework

Since its enactment in 2016, the IBC framework has reshaped India’s credit and restructuring landscape in both quantitative and qualitative terms. Empirical data published by regulatory authorities indicates a marked improvement in resolution timelines compared to the pre-IBC regime, where insolvency proceedings often languished for years with minimal recoveries. While sectoral variations persist and recovery percentages fluctuate depending on asset quality, industry profile, and litigation complexity, the institutional shift toward time-bound resolution has materially strengthened creditor confidence.

The Code’s emphasis on strict timelines, centralized adjudication before the NCLT, and professional management through regulated Insolvency Professionals (Ips) has reduced procedural fragmentation and discouraged strategic defaults. Even in cases culminating in liquidation, the discipline imposed by CIRP has encouraged earlier settlements, out-of-court restructurings, and negotiated withdrawals under Section 12A, reflecting a broader behavioural

change in debtor-creditor dynamics. The IBC has contributed to:

- (a) Improved credit appraisal standards within financial institutions.
- (b) Enhanced monitoring of borrower financial statements.
- (c) Increased emphasis on collateral documentation and security perfection.
- (d) Greater accountability of corporate management.

“*Judicial affirmation of the “commercial wisdom” doctrine and the protective ambit of the moratorium further reinforce the economic orientation of the IBC regime.*”

Judicial affirmation of the “commercial wisdom” doctrine and the protective ambit of the moratorium further reinforce this economic orientation. By limiting judicial intervention in commercial decisions and safeguarding enterprise continuity during CIRP, the Supreme Court<sup>2</sup> has demonstrated institutional deference to financially informed decision-making. Within this framework, Chartered Accountants occupy a structurally significant position. Their analytical inputs in claim verification, financial modelling, viability assessment, and forensic scrutiny enhance the quality of resolution outcomes. The empirical gains of the IBC regime are thus inseparable from the professional competence underpinning its execution.

## 3. Normative Analysis: Law as a Framework, Finance as the Substance

The success of the IBC cannot be attributed solely to legislative consolidation. Its operational effectiveness derives from the alignment of legal structure with financial rationality. Insolvency resolution under CIRP is, in essence, a financial restructuring process administered within a judicially supervised statutory framework. The Code establishes procedural framework including timelines, moratorium protections, distribution hierarchies, and adjudicatory oversight

but the substantive resolution of distress hinges upon economic evaluation: viability projections, capital restructuring, asset valuation, and risk allocation. In this context, CAs perform the following normative functions:

- (a) CAs reduce information asymmetry not only by improving disclosure, but also by acting as an independent arbiter of financial truth, using audit and due diligence frameworks that go beyond the internal assessments of lenders or borrowers.
- (b) Unlike purely legal or administrative disclosures, CA driven financial reporting embeds standards based recognition and measurement, thereby converting boilerplate language into quantifiable, comparable, and verifiable risk indicators for creditors.
- (c) CAs go beyond negotiation table bargaining by explicitly quantifying the Net Present Value (NPV), collateral impairment, and cash flow implications of each restructuring alternative, converting qualitative compromises into comparable financial scenarios.
- (d) CAs support rational loss allocation not only by applying statutory hierarchies, but also by embedding market consistent valuation and discounting, thereby ensuring that formal creditor priorities are mirrored in realistic financial

outcomes rather than arbitrary book keeping entries.

The convergence of law, finance, and governance under CIRP reflects the emergence of insolvency practice as a specialized multidisciplinary domain. Legal provisions define institutional authority; financial analysis determines substantive outcomes; governance principles ensure accountability.

Accounting expertise, particularly of CAs functioning as IPs, therefore, operates not as an ancillary function but as the operational backbone of the insolvency regime. By converting statutory rights and timelines into claim verification exercises, balance sheet adjustments, and cash flow based resolution plans, CAs embed financial pragmatism into the IBC framework.

#### 4. Status of Ongoing CIRPs

As of December 31, 2025, a total of 8,833 CIRPs have been admitted since inception, with 6,954 closed by various means, including 1,366 on appeal/review/settled, 1,260 withdrawn under Section 12A, 1,376 with approved resolution plans, and 2,952 leading to liquidation orders. This leaves the 1,879 ongoing cases, compiled from NCLT websites and Insolvency Professional filings, excluding one case transferred directly from BIFR. About 76% of ongoing cases exceed the 270-day statutory timeline, highlighting delays in resolution<sup>3</sup>.

**Table 1: Timeline of ongoing CIRPs**

Duration	Number of CIRPs	Percentage
> 270 days	1,431	76%
> 180 to ≤ 270 days	151	8%
> 90 to ≤ 180 days	136	7%
≤ 90 days	161	9%
<b>Total</b>	<b>1,879</b>	<b>100%</b>

#### 5. Role of CAs in the CIRP

CIRP under the IBC is fundamentally financial in character, though legally administered. At its core, CIRP involves assessment of enterprise viability, valuation of assets, restructuring of liabilities, and equitable distribution of economic value. Consequently, accounting expertise is not merely supportive but

central to the effective functioning of the insolvency framework. The roles of CAs under the IBC regime could be summarised as under:

##### 5.1. CAs as IPs (IRP/RP/Liquidator)

CAs constitute about 55% of the IPs registered with the Insolvency and Bankruptcy Board of India (IBBI)

under the IBC regime as on December 31, 2025. The detailed professional break up of IPs is in Table 2.

CAs constitute an important segment of the technical members in NCLT/NCLAT, reflecting the emphasis on financial, insolvency and compliance expertise in IBC

adjudication. NCLT has approximately 31 technical members across its benches as of February 2026, drawn from official listings on the NCLT website. These members assist in corporate insolvency and company law matters, with eligibility often including CAs, CSs, or senior officials.

**Table 2: Distribution of IPs as per their eligibility as on December 31, 2025**

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	2227	229	2456
Member of ICSI	609	142	751
Member of ICAI	186	19	205
Member of Bar Council	241	35	276
Managerial Experience	737	38	775
PGIP Qualified	43	7	50
<b>Total</b>	<b>4043</b>	<b>470</b>	<b>4513</b>

*CAs constitute about 55% of the IPs registered with the Insolvency and Bankruptcy Board of India (IBBI) under the IBC regime.*

## 5.2. Operational Stabilization and Going Concern Management

During CIRP, Chartered Accountants are engaged to restore the CD's financial stability, stabilize operations, and ensure its continuity as a going concern. They perform the following functions:

- (i) Monitor and manage cash flows during the moratorium period to ensure liquidity.
- (ii) Rationalize expenditure, preserve working capital, and prioritize critical payments.
- (iii) Identify critical services (e.g., utilities, key suppliers, employee salaries) and leverage them strategically before stakeholders to secure continuity.
- (iv) Negotiate with suppliers, lenders, and operational partners for essential services.
- (v) Maintain statutory filings, tax compliances (GST,

TDS, Income Tax), and regulatory obligations (MCA, ROC, labour laws).

- (vi) Conduct operational audits to assess viability, optimize resources, and support resolution plan feasibility.

This approach aligns with IBC objectives under Section 20, emphasizing value maximization and business continuity. Ensuring that the CD remains a going concern is critical to preserving enterprise value and enhancing resolution prospects.

## 5.3. Claim Verification and Financial Reconciliation

One of the most technically demanding stages of CIRP involves collation and verification of creditor claims under IBC Section 18. CAs apply forensic accounting skills to:

- (i) Reconcile submitted claims with audited financial statements, ledger records, and books of account.
- (ii) Examine loan documentation, security agreements, charge registrations (with CERSAI/RoD), and guarantees.
- (iii) Validate classification of financial vs. operational debt, further categorizing financial debt as fund-based (term loans, working capital), non-fund-based (LCs, bank guarantees), or contingent

(derivatives, performance obligations).

- (iv) Determine voting shares of financial creditors within the CoC based on verified claim amounts.
- (v) Verify employee and workmen claims, classifying dues as wages/salaries (operational debt), Provident Fund contributions (secured under Section 36(4)), and Gratuity (calculated per Payment of Gratuity Act, 1972, using last drawn salary  $\times$  15/26  $\times$  years of service, prioritized as workmen's dues).
- (vi) Protect the interests of workmen and employees by ensuring priority under Section 53 waterfall and timely collation for fair representation in CIRP.

This process ensures claim accuracy, prevents disputes, and supports robust CoC decision-making. The process reduces informational asymmetry and prevents inflated or duplicative claims from distorting commercial decision-making.

#### 5.4. Preparation of the Information Memorandum

The Information Memorandum (IM) serves as the foundational disclosure document for prospective resolution applicants. Its accuracy and completeness are essential for informed bidding and valuation. CAs ensure the IM under IBC Section 29 and CIRP Regulation 36 contains comprehensive, accurate disclosures for resolution applicants. Key elements include:

- (i) Audited and provisional financial statements (last two years plus current year up to 14 days before application).
- (ii) Detailed asset-liability mapping as on insolvency commencement date, including valuations and security interests.
- (iii) Litigation details, contingent liabilities, ongoing investigations by statutory authorities, and guarantees by related parties.
- (iv) Related-party transactions, off-balance-sheet exposures, and debts due from/to related parties.

**Feb 25, 2026, Amendments:** Recent IBBI amendments mandate enhanced disclosures:

- (i) Carry-forward losses from income tax returns and unutilized GST input credits to highlight the going concern value.
- (ii) For real estate projects, explicit treatment of allottees who didn't file claims, but whose details appear in project records.
- (iii) Company overview with business performance snapshots, key contracts, employees, supply chain, and utility connections.

This ensures transparency, enabling realistic resolution plans while protecting stakeholder interests.

*“Although commercial approval rests with the CoC under IBC Section 30(4), CAs provide critical financial analysis to assess resolution plan viability and feasibility.”*

#### 5.5. Evaluation of Resolution Plans

Although commercial approval rests with the CoC under IBC Section 30(4), CAs provide critical financial analysis to assess resolution plan viability and feasibility. Key responsibilities include:

- (i) Building financial models with cash-flow projections, funding sources, and implementation timelines.
- (ii) Calculating Internal Rate of Return (IRR), Net Present Value (NPV), Debt Service Coverage Ratio (DSCR), and Average Debt Service Coverage Ratio (ADSCR).
- (iii) Evaluating debt restructuring proposals, including haircut analysis, repayment schedules, and equity infusions.
- (iv) Conducting sensitivity and stress testing on projected revenues, EBITDA margins, capital expenditure, and working capital assumptions.
- (v) Verifying statutory compliance under Section 30(2), ensuring fair distribution per Section 53 waterfall, management changes, and employee protections.

- (vi) Implementing challenge mechanism procedures per CIRP Regulation 39(1A), where dissenting creditors can propose superior fair-value plans for CoC consideration.

This analytical rigor ensures CoC decisions maximize CD's value while mitigating execution risks.

### 5.6. Identification of Avoidance Transactions

Sections 43–66 of the IBC empower the RP to investigate preferential, undervalued, extortionate credit, and fraudulent transactions. CAs apply forensic accounting techniques to:

- (i) Trace fund flows, related-party dealings, and circular transactions preceding the look-back period (2 years for related parties, 1 year for others).
- (ii) Identify asset transfers, corporate guarantees, or abnormal payments impacting creditor interests.
- (iii) Examine transactions lacking commercial substance or at undervalued prices that prefer certain creditors.
- (iv) Quantify recoverable value through reverse engineering and fair market value assessments.
- (v) Identify parties (beneficiaries, directors, related entities) with whom funds have been appropriated, enabling RP to initiate avoidance applications before NCLT or recovery proceedings.

Such investigations strengthen creditor recoveries and reinforce accountability within distressed enterprises.

### 5.7. Forensic and Valuation Expertise

Complex insolvencies—particularly in infrastructure, financial services, and conglomerate structures—often involve intricate financial arrangements and opaque related-party transactions. CAs drawing upon forensic methodologies, play a pivotal role in:

- (i) Detecting diversion of funds and siphoning of assets.
- (ii) Reviewing accounting irregularities or misstatements.
- (iii) Analysing layered corporate structures and cross-

guarantees.

- (iv) Supporting litigation or avoidance applications with evidentiary documentation.

In collaboration with registered valuers, CAs also contribute to determining fair value and liquidation value benchmarks. Their understanding of financial statements, asset impairment, and market comparables enhances the integrity of valuation exercises, which form the basis for negotiation and creditor decision-making.

### 5.8. Advisory and Strategic Roles Beyond Statutory Appointments

The role of CAs extends beyond formal appointments as IPs. Within the broader restructuring ecosystem, they serve as strategic advisors to multiple stakeholders. Here is the list of opportunities for Chartered Accountants in the CIRP under IBC, 2016:

- (i) As an IP (after registration with IBBI)
- (ii) IRP for the initial period of CIRP up to 40 days.
- (iii) RP for the CIRP period of 180 days, extendable up to 270 days.
- (iv) Liquidator in corporate liquidation (normally about 2 years or till completion).
- (v) Representative of a creditor in the CoC under section 21(6C).
- (vi) Authorised Representative of a class of creditors under section 21(6A)(b).
- (vii) Voluntary Liquidator for voluntary liquidation of corporate persons under Chapter V of the Code.
- (viii) RP for individuals, proprietorships and partnership firms (including personal guarantors to corporate debtors, as and when notified).
- (ix) Bankruptcy Trustee for bankruptcy process of individuals, proprietorships and partnership firms.
- (x) Partner/director in an Insolvency Professional Entity (IPE) providing support services to IPs.

### 5.9. Opportunities in and around CIRP / PPIRP as IP

- (i) RP for Pre-Packaged Insolvency Resolution

Process (PPIRP) – consultancy role with corporate debtor pre-appointment.

- (ii) RP for PPIRP in pre-appointment stage (structuring base resolution plan and preliminary IM).
- (iii) RP for PPIRP post-appointment (full conduct of the PPIRP).
- (iv) Preparation of resolution plans and handholding takeover/take-over bidders in PPIRP and CIRP.

*The role of CAs extends beyond formal appointments as IPs. Within the broader restructuring ecosystem, they serve as strategic advisors to multiple stakeholders.*

**5.10. Non-IP professional opportunities in CIRP ecosystem for CAs:** Providing support services to IRP/RP/Liquidator during CIRP and liquidation, such as:

- (a) Preparation of Information Memorandum.
- (b) Business and financial operations report for previous two years.
- (c) Claim verification and reconciliation.
- (d) Evaluation of assets and liabilities as on insolvency commencement date.
- (e) Examination and evaluation of resolution plans submitted to RP.
- (f) Internal audit during CIRP with focus on fund flow and leakages.
- (g) Stock audit during CIRP for asset protection.
- (h) Statutory audit during CIRP where RP changes auditor with CoC approval.
- (i) Audit of income and expenditure during liquidation.
- (j) All statutory and regulatory compliances of corporate debtor during CIRP/liquidation (tax, company law, labour, SEBI, etc.).

(k) Advisor to corporate debtors undergoing CIRP, including:

- (l) Strategy for dealing with CIRP.
- (m) Compiling information and data required by RP.
- (n) Advising and assisting in preparation, submission and negotiation of resolution plan (where CD is permitted to submit).
- (o) Advising on forensic/transaction audit issues.
- (p) Identifying causes of financial stress and arriving at sustainable debt and revival structure.
- (q) Consultant to entities under financial stress (pre-CIRP), including:
  - (r) Identifying distressed companies for restructuring.
  - (s) Designing risk-mitigation and restructuring strategies (including RBI restructuring, IBC options).
  - (t) Working out detailed bankable financial structure and turnaround plan.
  - (u) Advising on use of IBC versus RBI restructuring, merger, acquisition or takeover.
  - (v) Protection against “insolvency attacks” and recovery of debts using IBC, including:
    - (w) Designing documentation and internal processes to protect clients against being dragged into CIRP.
    - (x) Training purchase, accounts and other departments on safeguards under IBC (pay or dispute, section 8 notices, documentation, etc.).
    - (y) Drafting notices to defaulters.
    - (z) Drafting and filing creditor petitions before NCLT under sections 7 or 9 and representation before NCLT/NCLAT.

**5.11. Advisor to Resolution Applicants for taking over companies under IBC:**

- (a) Strategy and structure for bidding.
- (b) Preparation of resolution plan with sustainable debt and restructuring of debt and equity.
- (c) Arranging/structuring funds and acquisition finance.

- (d) Representation before RP and CoC.
- (e) Transaction / forensic auditor in CIRP and liquidation, including investigations of:
- (f) Preferential transactions under sections 43–44.
- (g) Undervalued transactions under sections 45–49.
- (h) Extortionate credit transactions under sections 50–51.
- (i) Fraudulent/wrongful trading under sections 49, 66, 67, 69.
- (j) Registered Valuer (after separate registration) rendering valuation services required under IBC, Companies Act, Income-tax, SEBI and RBI frameworks, including mandatory valuations in CIRP and liquidation.
- (k) Consultant under RBI’s SASHAKT framework and related restructuring schemes for stressed assets, which often overlap with IBC situations.

**5.12. Role as CA/auditor vis-à-vis CIRP/IBC risk (indirect but important opportunity/responsibility)**

- (i) As statutory auditor of companies under financial stress,
- (ii) CAs have an enhanced role (and risk) in early identification and reporting of diversion of funds, frauds and wilful default indicators.
- (iii) Reporting as per SA 240, section 143 of Companies Act, RBI wilful defaulter circular, CARO, NFRA provisions, etc., which directly interact with insolvency outcomes and forensic audits.

**6. Institutional Significance**

The participation of CAs in CIRP reflects the convergence of law, finance, and governance within modern insolvency practice. Their technical proficiency:

- (i) Reduces informational asymmetry between stakeholders.
- (ii) Enhances transparency and disclosure integrity.

- (iii) Supports evidence-based commercial decisions.
- (iv) Promotes value maximization consistent with the objectives of the IBC.

In effect, CAs function as financial stewards of the insolvency process, translating statutory mandates into quantifiable economic outcomes. Their independence, analytical rigor, and adherence to professional ethics are critical to sustaining stakeholder confidence in India’s evolving restructuring regime.

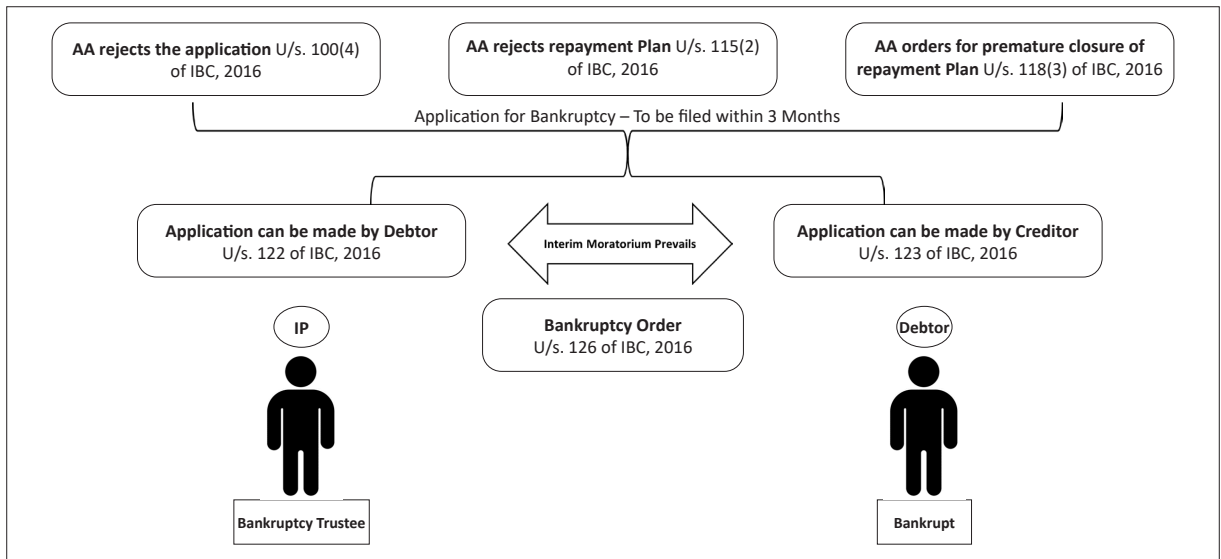
**7. Conclusion**

IBC represents a transformative milestone in India’s corporate insolvency resolution. In this evolving ecosystem, CAs serve as pivotal institutional actors. Whether functioning as IPs, forensic investigators, valuation collaborators, or strategic advisors, they translate complex financial realities into structured resolution strategies. Their technical competence ensures integrity in financial disclosures, rigor in claim adjudication, and realism in viability assessments.

As insolvency jurisprudence evolves to address sector-specific challenges—such as real estate, MSMEs, and Group Insolvencies—the sustainability of India’s IBC framework hinges on both legislative refinement and unwavering professional integrity. The specialized expertise of CAs, spanning pre-CIRP advisory, creditor claim verification, IM preparation, resolution plan evaluation, operational stabilization, and avoidance transaction investigations, remains pivotal in delivering analytical rigor and value preservation.

This detailed mapping of CA roles aligns seamlessly with the opportunity classifications (Pre-CIRP Restructuring Advisory, Advisory to Creditors, and Advisory to Resolution Applicants) and process-stage interventions outlined earlier. By institutionalizing multidisciplinary capabilities through enhanced Limited Insolvency Examination (LIE) training, forensic accounting certifications, and IBBI collaboration, the accounting profession will strengthen India’s restructuring ecosystem—elevating recovery rates toward global benchmarks while safeguarding CoC autonomy and judicial efficiency.





minimum default threshold for initiating proceedings under Part III is fixed at ₹1,000, with the Central Government empowered to enhance it up to ₹1 lakh. Furthermore, the provisions pertaining to the insolvency and bankruptcy of personal guarantors (individuals and partnership firms) under the IBC were notified on November 15, 2019, and became effective from December 01, 2019. Consequently, the insolvency proceedings for Personal Guarantors (PG) to Corporate Debtors (CD) shall be conducted in accordance with the IBC, for whom the AA would be the NCLT. In contrast, the insolvency proceedings for individuals who do not qualify as Personal Guarantors will be carried out under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920.

## 2. Pre-Initiation of the Bankruptcy Process

Under Part III of the IBC, a bankruptcy order under Section 126 is passed only after specific preconditions specified under Section 121 are met following the failure of the CIRP. These include:

- (i) rejection of the CIRP application by the AA under Section 100(4),
- (ii) rejection of the repayment plan under Section 115(2), or

- (iii) premature termination of the repayment plan under Section 118(3).

Once any of these events happen, a bankruptcy application must be filed within three months—either by the debtor under Section 122 or by the creditor under Section 123 of the IBC. During this time, an interim moratorium is in effect until the AA issues the bankruptcy order. When accepted, the IP assumes the role of Bankruptcy Trustee, and the debtor is officially declared bankrupt. This begins the bankruptcy process, including the vesting of the estate of the Bankrupt with the Bankruptcy Trustee under the supervision of the Committee of Creditors (CoC).

## 3. Bankruptcy Process

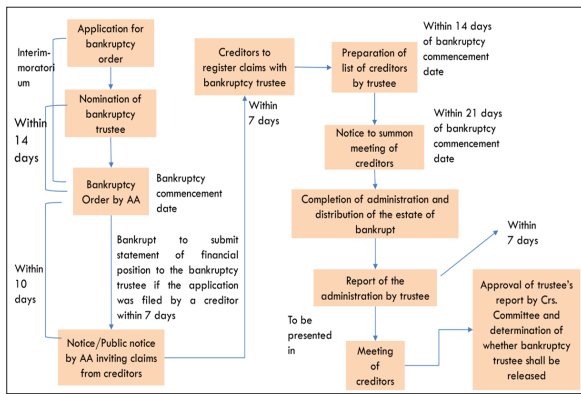
Following the pre-initiation stage, once a bankruptcy order has been issued, the subsequent steps will be undertaken:

- (a) **Public Notice and Claim Collection:** The court or the bankruptcy trustee will issue a public notice

*The minimum default threshold for initiating proceedings under Part III is fixed at ₹1,000, with the Central Government empowered to enhance it up to ₹1 lakh.*

inviting all creditors to submit their claims within a period of seven days. The trustee will compile these claims and prepare a comprehensive list of creditors.

**(b) Meeting with Creditors:** A meeting of creditors will be convened by the trustee within twenty-one days from the commencement of the bankruptcy process. In cases where the bankruptcy is initiated by a creditor, the guarantor or debtor must also provide details regarding their financial status.



**(c) Management of the Guarantor’s or Debtor’s Assets:** The trustee will assume responsibility for the following:

- (i) Selling or managing the assets of the guarantor,
- (ii) Paying creditors in accordance with their priority,
- (iii) Maintaining accurate records of all actions undertaken.
- (iv) The duration of this process is not predetermined and is contingent upon the complexity of the case.

**(d) Final Report and Closure:** Upon the completion of the trustee’s assignments, a report will be submitted to the creditors. The creditors will then determine whether the trustee may be released from their duties.

**(e) Discharge of the Guarantor/ the Debtor:** The guarantor or debtor will be officially discharged from bankruptcy when one of the following conditions is met:

- (i) Court approval is granted,
- (ii) One year has elapsed from the start date of the bankruptcy,

(iii) Creditors agree to a discharge prior to the one-year mark.

This discharge signifies that the guarantor or debtor is no longer legally obligated to repay the debts encompassed within the bankruptcy proceedings.

*“ There is no explicit provision for extending the bankruptcy period, which raises concerns when concealed assets are discovered late. ”*

#### 4. Some of the Grey areas under the Bankruptcy Process

Even though the IBC—along with its supporting Rules and Regulations—lays out a comprehensive framework for the bankruptcy process applicable to personal guarantors, several practical and interpretive gaps remain. These grey areas, if left unaddressed, can lead to procedural inconsistencies, stakeholder disputes, and operational inefficiencies for bankruptcy professionals, adjudicating authorities, and affected parties.

While the IBC provides end-to-end coverage of the bankruptcy process—from initiation to discharge—there are still numerous questions that require regulatory clarity. These include concerns around asset disclosure, treatment of jointly held or foreign assets, quantification of excluded assets and domestic needs, handling of ongoing litigation, and trustee responsibilities in complex scenarios such as imprisonment, absconding debtors, or post-discharge discoveries. The following section outlines key questions that remain unanswered, highlighting the need for interpretive guidance, regulatory amendments, or judicial precedents to ensure uniformity and fairness in the administration of bankruptcy estates.

**(a) Extension of Bankruptcy Period:** There is no explicit provision for extending the bankruptcy period, which raises concerns when concealed assets are discovered late. This can undermine the recovery process, especially in cases where

assets are hidden and later uncovered through asset tracing. The current system allows for the discharge of bankrupts after one year, potentially releasing assets that were not yet recovered.

**(b) Initiating Bankruptcy Proceedings against Legal Heirs:**

There is no provision addressing the initiation of bankruptcy proceedings against the legal heirs of a deceased personal guarantor. The introduction of such a provision is crucial for ensuring that creditors can recover debts from the estates of deceased debtors or personal guarantors.

**(c) Handling of Jointly Held or Foreign Assets:**

The treatment of jointly held assets and foreign assets remains ambiguous. There is no clear guidance on how these should be managed or how trustees should handle the repatriation of foreign assets or liabilities.

**(d) Disclosure and Asset Transparency:**

They are of two kinds:

**(i) Asset Transfers to Relatives/Third Parties:**

The Code lacks clarity on tracing and clawing back assets transferred before bankruptcy, especially if done without fraudulent intent.

**(ii) Jointly Held Assets:**

No specific guidance exists on how to apportion or administer jointly owned assets, especially in matrimonial or family contexts.

**(e) Excluded Assets and Daily Needs**

**(i) Excluded Assets:**

Section 79(14) defines excluded assets, but monetary limits (e.g., tools of trade, basic household items) are not quantified in regulations.

**(ii) Daily Needs:**

The term “domestic needs” is undefined. Trustees lack guidance on quantifying reasonable living expenses or approving recurring costs like food, utilities, or dependent care.

**(f) Legal Proceedings and Enforcement**

**(i) Civil/Criminal Cases:**

The Code does not specify how ongoing litigation against the bankrupt should be treated—whether stayed, continued, or transferred.

**(ii) Untraceable Bankrupts:**

No procedural roadmap exists for cases where the bankrupt absconds or cannot be located.

**(iii) Post-Discharge Discoveries:**

There is no provision for reopening or revisiting the estate if hidden assets are discovered after discharge.

*“It is unclear whether trustees must file tax returns or other statutory documents on behalf of the bankrupt.”*

**(g) Cross-Border and Foreign Assets**

**(i) Foreign Persons:**

The Code is silent on applicability to foreign nationals acting as personal guarantors.

**(ii) Foreign Assets:**

No mechanism exists for recognition, tracing, or repatriation of offshore assets into the bankruptcy estate.

**(iii) Foreign Liabilities:**

Ambiguity remains on whether discharge under Indian law extinguishes liabilities owed to foreign creditors.

**(h) Asset Classification and Management**

**(i) Unencumbered Assets:**

The Code defines “excluded assets” under Section 79(14) (such as unencumbered tools, dwelling units, etc.) as automatically excluded from the insolvency estate, but the text does not explicitly require the debtor to keep them. This creates an interpretive gap regarding their definite non-inclusion in the estate.

**(ii) Ownership vs. Lease:**

Treatment of leased or rented assets (e.g., vehicles, homes) is unclear—whether they form part of the estate or are excluded.

**(i) Operational and Compliance Oversight**

**(i) Bank Account Pooling:**

No clear process for freezing, consolidating, or accessing the bankrupt’s bank accounts.

**(ii) EMIs and Credit Cards:**

No guidance on managing ongoing EMIs or blocking credit facilities after bankruptcy, restricting the bankrupt from utilizing any additional credit from financial institutions.

**(iii) Trustee’s Operational Role:**

The extent to which the trustee manages the bankrupt’s daily affairs is vague.

- (iv) **Statutory Filings:** It is unclear whether trustees must file tax returns or other statutory documents on behalf of the bankrupt.
  - (v) **Post-Dated Commitments:** No clarity on whether future-dated obligations (e.g., club memberships, subscriptions) must be honored or terminated.
- (j) Special Situations**
- (i) **Club Memberships:** No guidance on whether such privileges are considered assets or liabilities.
  - (ii) **Imprisoned Bankrupts:** The Code does not address how to proceed if the bankrupt is imprisoned.
  - (iii) **Third-Party Recovery:** The trustee’s power to initiate recovery against third parties is not explicitly defined. This third-party recovery may include money lent on oral agreement, any financial assistance pending recovery etc.
  - (iv) **Domestic Needs Quantification:** Trustees lack benchmarks for evaluating what constitutes reasonable domestic expenditure.
  - (v) **Karta of HUF:** The Code is silent on how to treat Hindu Undivided Family (HUF) assets and liabilities when the bankrupt is a *Karta*.

## 5. Suggestions to Address Grey Areas in the Bankruptcy Process

The IBC provides a framework to address individual and partnership firm bankruptcy, but several grey areas remain that can cause delays, confusion, and disputes. To enhance the efficiency, transparency, and fairness of the bankruptcy process, the following suggestions are proposed:

### (a) Disclosure and Asset Transparency

**Issue:** There are several issues related to asset disclosure, including incomplete or hidden assets, asset transfers to relatives or third parties, and the treatment of jointly held assets.

#### Suggestions for Improvement:

- (i) **Asset transfers to relatives/third parties:** Implement clawback provisions similar to those in Sections 45–51 of the IBC for suspect transactions

made within two years prior to a bankruptcy filing. This would empower the trustee to reverse these transactions if they are deemed inappropriate. Additionally, introduce explicit provisions under Part III of the IBC to facilitate the avoidance or clawback of fraudulent transactions for individuals and personal guarantors, mirroring the provisions available for CIRP. This would enable trustees to reverse suspicious transactions that occurred in the years leading up to the bankruptcy.

- (ii) **Jointly held assets:** Establish clear guidelines in regulations for the apportionment of bankruptcy trustee for jointly held assets. This will enable the trustee to realize the proportionate value of these assets or seek court directions when necessary. Additionally, introduce specific provisions for handling jointly held assets in bankruptcy cases to clarify how they should be divided.
- (iii) **Allow for Extension of Bankruptcy Period:** Implement a provision permitting the extension of the bankruptcy period if concealed assets are discovered late, ensuring that assets found after the bankruptcy process should be brought into the estate. This would provide creditors with more time to recover hidden assets.

*Permit ex parte proceedings and allow estate administration in absentia, with public notice and substituted service to handle cases where the bankrupt is untraceable.*

### (b) Excluded Assets and Domestic Needs

**Issue:** The treatment of excluded assets and determining what constitutes “domestic needs” are often unclear, causing confusion and disputes during the bankruptcy process.

#### Suggestions for Improvement:

- (i) **Undefined monetary limits for excluded assets:** The Insolvency and Bankruptcy Board of India (IBBI) should notify standard monetary thresholds

for tools of trade, household items, and basic living expenses to provide clarity on what can be excluded from the bankruptcy estate.

- (ii) **Daily/domestic needs:** Create a benchmark matrix (e.g., per capita expense bands) for evaluating reasonable living expenses, subject to creditor committee oversight and trustee approval. This would help in quantifying the debtor’s domestic needs.

#### (c) Legal Proceedings and Enforcement:

**Issue:** Managing ongoing legal cases and determining the scope for enforcement during bankruptcy can be challenging, especially when the bankrupt party is untraceable or involved in litigation.

#### Suggestions for Improvement:

- (i) **Civil/ Criminal cases against bankrupt:** Clarify the moratorium scope under Section 124 of the IBC; allow civil cases to be stayed while criminal cases may be allowed to proceed unless directly related to the debt being resolved under bankruptcy.
- (ii) **Untraceable bankrupt:** Permit *ex parte* proceedings and allow estate administration *in absentia*, with public notice and substituted service to handle cases where the bankrupt is untraceable.
- (iii) **Post-discharge asset discovery:** Enable the reopening of the estate under the trustee’s application to the DRT, with clawback rights for any undisclosed assets discovered after the bankruptcy discharge.
- (iv) **Proceedings against the legal heir:** Create a regulation that clarifies how Section 169 (liability of legal heirs) functions concerning a deceased personal guarantor. The regulation should specify the procedure, timeline, and scope of heirs’ liability.

#### (d) Cross-Border and Foreign Assets

**Issue:** The IBC framework does not provide sufficient clarity on how to handle foreign assets, liabilities, or debtors who are not Indian nationals.

#### Suggestions for Improvement:

- (i) **Non-Indian citizens:** Clarify the jurisdictional applicability of the IBC to non-Indian citizens through necessary amendments, requiring a local nexus for initiating proceedings.
- (ii) **Foreign assets:** Empower the trustee to seek recognition of foreign assets under the UNCITRAL Model Law or bilateral treaties, allowing the AA to issue letters rogatory for asset recovery.
- (iii) **Foreign liabilities:** Define the scope of discharge of foreign liabilities—whether it is limited to Indian creditors or universally applicable through regulatory clarification.

#### (e) Asset Classification and Management

**Issue:** There are challenges related to the classification and management of various assets, including unencumbered assets and leased assets.

#### Suggestions for Improvement:

- (i) **Unencumbered assets:** Mandate the inclusion of unencumbered assets in the estate unless exempted under Section 79(14) and require the trustee to document the rationale for exclusion.
- (ii) **Ownership vs. lease:** Clarify the treatment of leased assets, specifying that leased assets should be excluded unless the leasehold interest has a realizable value.

#### (f) Operational and Compliance Oversight

**Issue:** The bankruptcy process requires extensive compliance with procedural requirements, but current guidelines/ provisions are not clear, leading to delays and confusion.

#### Suggestions for Improvement:

- (i) **Pooling bank accounts:** Trustees should notify banks under Section 132 of the IBC, and the Reserve Bank of India (RBI) may issue Standard Operating Procedures (SOP) for freezing and consolidating the bankrupt’s bank accounts.
- (ii) **Pension/insurance benefits:** Clearly define exempt categories (e.g., death benefits) and other categories (e.g., Gratuity, EPFO etc) to avoid confusion regarding the treatment of retirement or insurance benefits.

- (iii) **EMIs and credit cards:** Trustees should notify lenders and suspend EMIs unless secured. Additionally, credit cards should be blocked post-bankruptcy order to prevent further financial risk.
- (iv) **Foreign travel:** The trustee should seek the AA's order to restrict travel if the estate is at risk and notify passport authorities accordingly.
- (v) **Trustee's operational role:** Clearly define the scope of the trustee's responsibilities, stating that the trustee manages the estate, not the bankrupt's personal affairs, with exceptions for incapacitated bankrupts.
- (vi) **Statutory filings:** It should be clarified whether it is required to file the Income Tax returns on behalf of the bankrupt and who shall file the same.
- (vii) **Post-dated commitments:** The trustee should evaluate the enforceability of future commitments (e.g., club memberships, subscriptions) and seek approval from the AA to terminate non-essential contracts.

#### (g) Special Situations

**Issue:** Certain unique situations arise during bankruptcy that require specific treatment, such as club memberships, imprisoned bankrupts, and recovery from third parties.

#### Suggestions for Improvement:

- (i) **Club memberships:** Treat club memberships as luxury assets; the trustee may liquidate or disclaim them under Section 160 of the IBC.
- (ii) **Imprisoned bankrupt:** Allow the trustee to act on behalf of the bankrupt with the court's permission and utilize necessary options to retrieve financial data to ensure transparency.
- (iii) **Recovery from third parties:** Empower the trustee to file recovery suits against third parties under Section 171 of the IBC; the AA should adjudicate these claims.
- (iv) **Karta of HUF:** Clarify whether HUF assets are part of the bankruptcy estate, requiring a family court or AA direction for asset partition.



## 6. Conclusion

The bankruptcy process under the Insolvency and Bankruptcy Code (IBC) represents a significant reform in India, providing a structured framework for resolving personal and individual insolvency. It ensures a fair and orderly mechanism for both debtors and creditors, enabling efficient debt management and offering financially distressed individuals and businesses an opportunity for a fresh start.

However, several grey areas continue to affect the effectiveness of the process. These include ambiguities in asset disclosure, the treatment of foreign and jointly owned assets, and the handling of ongoing legal proceedings. Such uncertainties often lead to procedural delays and operational inefficiencies, undermining timely resolution. Addressing these issues through regulatory clarification and targeted reforms can substantially improve the system's efficiency. Clear guidelines on asset transfers, a more precise definition of domestic needs, and robust frameworks for managing cross-border assets and liabilities would enhance transparency and fairness. These measures would reduce disputes and make outcomes more predictable, thereby strengthening the credibility of the IBC framework.

By refining these aspects, the IBC can inspire greater confidence among individuals, businesses, and creditors, facilitating smoother resolutions and faster recoveries. A streamlined and transparent insolvency regime will also contribute to economic growth by fostering a healthier business environment and improving India's global standing in insolvency resolution. In conclusion, while the IBC has established a strong foundation for bankruptcy resolution, addressing its existing grey areas is essential to maximize its potential. With continued reforms, the system can better serve all stakeholders and support the broader economic ecosystem.

# Resolution of Educomp Infrastructure & School Management Ltd: A Case Study

*Educomp Infrastructure and School Management Ltd. (EISML), the Corporate Debtor (CD), was established in 2006 as a wholly owned subsidiary of the listed entity Educomp Solutions Ltd. (ESL) to set up and manage school infrastructure. Through nearly 20 wholly owned subsidiaries, EISML acquired land and constructed school buildings, largely financed by bank loans. The model primarily benefited 27 promoter-controlled trusts/societies operating schools across eight states, which paid the CD fixed and variable lease rentals along with support service fees.*

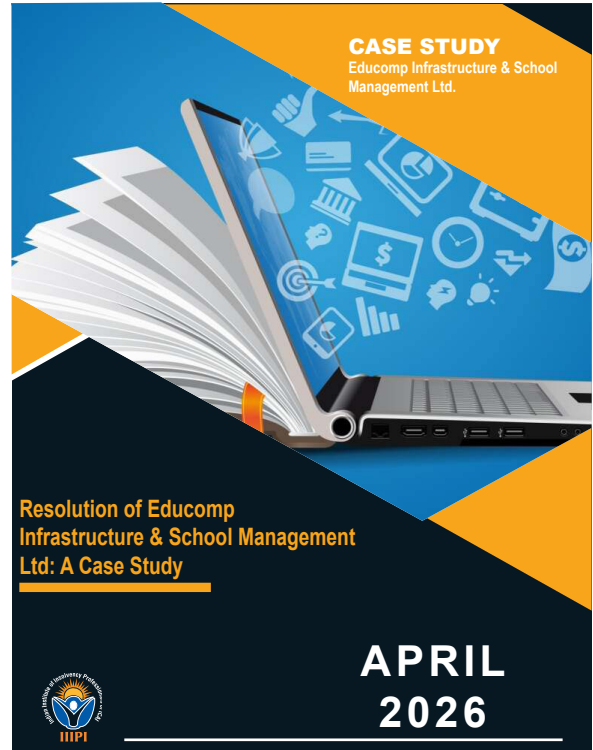
*After 2014, declining revenue flows from these trusts led to defaults on loans from eight banks. By April 2018, when EISML entered insolvency, it owned 62 properties, including 26 operational schools, and owed about ₹910 crore to its creditors. Despite the interlinked group structure, the CoC declined Group Insolvency and pursued the CIRP of the CD individually, encouraged by a strong Expression of Interest (EOI) response. However, the complex structure deterred most bidders, leaving only one Resolution Applicant, whose plan of ₹499.88 crore was approved by the CoC with 100% voting share. Finally, the CD was taken over by Jasrati Education Solutions Ltd.*

*In the present case study, Mr. Ashwini Mehra, the Resolution Professional (RP) of EISML, highlights the challenges encountered during the resolution process and the measures adopted to achieve a successful resolution of the CD. **Read on to know more...***



**Ashwini Mehra**

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## 1. Introduction

Educomp Infrastructure & School Management Ltd. (EISML), set up in 2006, is a closely held subsidiary of Educomp Solutions Ltd. (ESL), a listed Company (also admitted under insolvency). EISML, the Corporate Debtor (CD), developed and owned schools' infrastructure viz. land and buildings. At the time of admittance to insolvency in April 2018, the CD had a total of 62 properties at various locations spread across the country in seven states namely Bihar, Haryana, Karnataka, Madhya Pradesh, Tamil Nadu, Uttar Pradesh, and Maharashtra. These comprised of 26 operating schools, under 26 family-controlled Trusts/ Societies who managed the schools' operations, 12 closed/non-operating schools, 20 plots of vacant lands aggregating over 360 acres and four residential buildings. As per the business model, the CD received from the respective Trusts both pre-determined fixed lease rentals and variable lease rentals linked to a

percentage of each school's annual revenue. EISML also received service fees from the respective school Trusts on a per-student enrollment basis for, inter alia, support of the student curriculum, teacher training programs, and the school portal, which were managing the schools. These funds were received in a Trust and Retention (TRA) account of the lead lender and part thereof was utilized for payments towards the loans and interest thereon of the eight lending banks. The promoter was the MD of EISML, Chairman of ESL as also Managing Trustee/ Secretary of all the Trusts & a Society (barring two, where his father was the Managing Trustee). As per the Articles of the Trusts, the Managing Trustee could be replaced only by another immediate family member.

## 2. Reasons for Admittance to Insolvency

Over time, the CD engaged approximately 20 largely wholly owned subsidiaries to acquire land and construct school buildings in accordance with specified requirements. It raised loans aggregating ₹875 crores from eight banks for paying the subsidiaries as also for development and management of school infrastructure under several brand names at various locations across the country. The school properties and infrastructure were then leased to various trusts and a society for the operation and management of the schools. The respective school fees and other revenues were collected by these trusts, and the proceeds flowed back to the company. TRA account opened with the lead bank gradually dwindling from 2013 onwards; the aggregate revenue declined steadily from approximately ₹84 crores in FY2013-14 to ₹71 crores in FY2014-15, ₹47 crores in FY2015-16, ₹37 crores in FY2016-17, and ₹21 crores in FY2017-18. There had been unauthorized, unregistered downward refixing of lease rentals, in violation of the Master Agreements governing the loan covenants for conduct of the business by the CD, the Trusts, etc.

This was done without the written consent of the comity of lenders. Also, the fee income from various support services provided to the schools by EISML gradually stopped due to abrupt cancellation of service contracts and the franchisee business started getting diverted to another promoter owned entity from 2014

onwards. Part of the school revenues allegedly started flowing into other unauthorized bank accounts opened outside the TRA, resulting in the drying up of funds in the designated TRA account. Consequently, loan accounts with all banks turned non-performing. Despite attempts by banks to restructure the accounts, based on assurances from the promoter, under Corporate Debt Restructuring (CDR) and S4A schemes of Reserve Bank of India (RBI), there was no improvement in the position of accounts. Ultimately, the CD filed insolvency under Section 10 of the IBC 2016 and was admitted by the Adjudicating Authority (AA), National Company Law Tribunal (NCLT) Chandigarh<sup>1</sup>, on April 25, 2018. At the time of filing the application in early 2018, it owed over ₹900 crores to these banks and additionally Compulsory Convertible Preference Shares (CCPS) aggregating ₹300 crores. After the Interim Resolution Professional (IRP) demitted office soon after appointment due to health issues, the author was appointed as Resolution Professional (RP) in mid-June 2018.

“  
*The TRA account opened with the lead bank began to dwindle from 2013 onwards, with aggregate revenue declining steadily from approximately ₹84 crores in FY2013-14 to ₹21 crores in FY2017-18.*  
 ”

## 3. Claims Admitted

As on the date of admission to Corporate Insolvency Resolution Process (CIRP), the financial creditors had lodged claims of ₹1198.26 crores of which ₹904.94 crores were admitted by the RP. Besides, the operational creditors had also lodged claims of ₹6.81 crores of which ₹4.96 crores were admitted. Employees' claims of ₹0.13 crores were admitted to the extent of ₹0.11 crs. The following chart shows the claims admitted against the CD by the RP:

**Security Structure:** Apart from the mortgage of the

<sup>1</sup> *Educomp Infrastructure & School Management Ltd. vs. Andhra Bank*, CP (IB) No. 10, Chd. Hry. 18 with CA No. 87/ 2018 dated 25.04.2018.

**Table 1: Creditors and their dues**

Sr. No.	Name of Entity	Amount Due (₹ crores)
1	Axis Bank	227.71
2	State Bank of India	221.92
3	Punjab Natl. Bank	93.23
4	Yes Bank	117.98
5	Corporation Bank	44.30
6	Karnataka Bank	44.70
7	Andhra Bank	66.30
8	Bank of India	88.80
9	Others (OCs & Employees)	5.07
	<b>TOTAL</b>	<b>910.01</b>

individual properties in all cases barring one, the credit facilities were governed by a MSSA (Master Security & Support Agreement) dated May 3, 2014 entered into between the Trusts, Schools, Societies, EISML, subsidiaries, guarantors (i.e. ESL, Shantanu Prakash and Jagdish Prakash), the share pledgees (i.e. ESL, Educomp School Management Limited, Shantanu Prakash and Anjalee Prakash), Security Trustee and Axis Bank (as the Monitoring Institution). The MSSA provides for first charge over all fixed assets of the Trusts, Societies and subsidiaries, brands, intangible assets, current and non-current assets with certain exclusions in favour of the lenders.

***“The Transaction Audit revealed a whopping figure of around ₹905 crores in the realm of Avoidance Transactions or PUFÉ (Preferential, Undervalued, Fraudulent, and Extortionate) Transactions.”***

#### 4. Avoidance Transactions

The Transaction Audit revealed a whopping figure of around ₹905 crores in the realm of Avoidance Transactions or PUFÉ (Preferential, Undervalued, Fraudulent, and Extortionate) Transactions. Section 45 (undervalued) transactions were estimated to be ₹163.20 crores (four transactions overlapped with Section 66), and Section 66 transactions (fraudulent) were estimated to be ₹343.76 Crores. Approximately ₹561 crores of prima facie suspicious transactions were considered indeterminate due to lack of

conclusive data/records, hindered by the lack of access to the Accounting Platform. Till the conclusion of the CIRP, no substantive hearing on the Avoidance Application was conducted by the AA. At the stage of implementation of the Resolution Plan, the Monitoring Committee reached a consensus that the application would be pursued by the Successful Resolution Applicant (SRA) after implementation, with an agreed sharing arrangement of any recoveries with the financial creditors. Subsequently, the Monitoring Committee approved the transfer of the application from the RP to the SRA.

The Financial Creditors obtained a forensic audit report from the Transaction Auditor and based on the findings, most of the banks declared the CD and promoters as willful defaulters. The promoters’ financial misdemeanors are the subject matter of an investigation by the Central Bureau of Investigation (CBI) based on a complaint filed by the State Bank of India (SBI) on behalf of other member banks. Even as the CIRP had commenced, Serious Fraud Investigation Office (SFIO) was already investigating the Group following the insolvency proceedings against ESL and one other company of the Group.

#### 5. Valuation of the CD

The valuation exercise was entrusted to two registered valuers to determine the Fair Value and Liquidation Value of the CD in accordance with Regulation 35 of the IBC. Their assessments are summarized below:

Thus, the average Fair Value of the CD was ₹957 cr. and Liquidation Value ₹462 cr. as on the date of commencement of CIRP. The average fair value

**Table 2: Valuation of the CD**

Sr. No.	Name	Fair Value (₹ in crores)	Liquidation Value (₹ in crores)
1	Valuer 1	900.48	437.47
2	(Valuer 2)	1013.69	487.3

(₹957 cr.) exceeded the admitted financial creditors' claims (₹910.01), as the loans were largely backed by real estate assets, which typically appreciate in value.

*The average fair value (₹957 crs) exceeded the admitted financial creditors' claims (₹910.01), as the loans were largely backed by real estate assets, which typically appreciate in value.*

### 6. Approval of Resolution Plan

The Expression of Interest (EOI) was invited from interested parties in mid-2018. A total of 21 EOIs were received, including several prominent players in primary and higher education; 14 were shortlisted as eligible bidders and granted access to the VDR. Gradually, all but three of the shortlisted entities exited for various reasons, primarily due to significant uncertainties arising from the organizational structure and legal mandates within the Educomp Group, which effectively impeded the transfer of control over the Trusts and their revenue streams to the SRA.

Consequently, access to the business cashflows would not flow to the SRA, making it a highly risky revenue model for the new owners/ successful bidders of EISML. Of the three who finally bid, one bidder was rejected as it failed to deposit the Earnest Money Deposit (EMD) and the other chose to step down after initial discussions with the CoC, leaving only one bidder. As regards the Plan submitted by the lone remaining bidder, there were initial hiccups in the approval process arising from the lenders' discomfort with the source of funding of the Plan and the inadequacy of the Plan amount. The bidder addressed these concerns making requisite improvements in the bid structure and amount. The revised Plan secured about 100 per cent approval of the CoC, and the bidder was declared as the Successful Resolution Applicant (SRA). The bid

aggregated ₹499.88 crores of which ₹363.88 crores was to be paid upfront in cash and the balance by issuance of ₹136 crores as 0% Compulsorily Redeemable Non-Preference Shares payable in four instalments from the 12<sup>th</sup> to the 20<sup>th</sup> year. The CoC approved the Resolution Plan with the requisite 100 per cent voting share in its meeting held in September 2019. The RP submitted the Resolution Plan to the NCLT in October 2019, and AA granted its approval<sup>2</sup> on December 14, 2020. Finally, the CD was taken over by Jasrati Education Solutions Ltd.

### 7. Challenges faced by RP

- At the commencement of the CIRP, all personnel of the Corporate Debtor had left employment, and only one junior official was placed in charge of handing over the records. This handover was carried out in a perfunctory manner, and the official also left soon thereafter. Consequently, given the paucity of funds with the Corporate Debtor, the RP appointed a junior graduate accountant in charge of day-to-day accounting operations, with oversight from the back office.
- There was a lack of access to the accounting software used by EISML, which remained under the direct control of its parent company, ESL; access for others had been blocked by its RP for security reasons.
- The CD had been engaging Haribhakti & Company, as its statutory auditor but they resigned after the audit of FY2015-16 and were replaced by a single person audit firm whose audits left many questions unanswered and who chose to discontinue audit after the last audit of FY2017-18.
- The Transaction Auditor's work was severely handicapped because of the lack of accounting and other financial records. The non-availability of access to past records on the Accounting Platform

<sup>2</sup>CA No. 898 / 2019 in CP IB No. 10/Chd/ Hry/ 2018 dated 14.12.2020.

added complexity to their exercise, consequently leaving a whopping amount of ₹561 crs. of possibly suspicious transactions indeterminate.

- e) A Section 19 Application under the IBC seeking cooperation from promoters of schools and Trusts in providing important information to help value maximization did not elicit any meaningful support from them. Additionally, the NCLT also ruled that their writ does not extend to the non-corporate bodies like schools and Trusts, therefore, they could not be directed by the NCLT to cooperate with the RP. However, the NCLT directed the Insolvency and Bankruptcy Board of India (IBBI) to initiate proceedings against the promoters and directors, which remains sub judice to date.

***The Whole Time Director of the CD engaged in filibustering before courts and other forums, including the Haryana Police, by filing complaints against the RP and the financial creditors.***

- f) The Whole Time Director (WTD) of the CD engaged in filibustering before courts and other forums, including the Haryana Police, by filing complaints against the RP and the financial creditors, and frequently adopted a disruptive approach during CoC meetings. This led to significant diversion of time and resources from the core CIRP process for all stakeholders.
- g) Substantial time was lost due to the advent of the COVID-19 pandemic, during which the SRA was unable to pursue implementation of the approved Resolution Plan. Subsequently, ostensibly due to the lack of a funds tie-up to deposit the plan proceeds, the SRA engaged in procrastination by alleging encroachments on land parcels and closed school properties. However, except for one, all 61 properties were found by teams of lenders and SRA representatives to be available for unfettered acquisition by the SRA. The SRA's challenge before the NCLAT in this regard was also rejected, and it was directed to implement

the plan forthwith. In the meantime, the SRA succeeded in tying up the requisite funds with an NBFC.

- h) Given the financial condition of the CD, the lenders were reluctant to provide financial support in the day-to-day running of the CD, which created friction with the back-office entity as also came in the way of appointing a Company Secretary to ensure secretarial compliances. As such, at the time of the Plan implementation in a very short time window to be completed within the FY2022-23 in line with financial creditors understandable expectations, the help of a professional secretarial agency was taken based on priority payment of their approved fees, in the form of unpaid CIRP cost, from the proceeds of the Resolution Plan.
- i) The lack of timely financial support from the financial creditors compounded the tensions arising from dealing with a recalcitrant SRA. Like other stakeholders, including the RP, the financial creditors could not discern any light at the end of the tunnel in the absence of confidence-building measures from the SRA and remain uncertain about how long their support toward CIRP costs would remain locked in.
- j) Although the Resolution Plan was approved in December 2020, the SRA appears to have faced difficulties in tying up the requisite funds for its implementation. The lack of financial support from the lenders created operational hurdles, resulting in mounting unpaid expenses and an inability to meet costs associated with verifying the allegations of land encroachments raised by the SRA, which were largely perceived as attempts to delay implementation of the Plan.

## 8. Case Prognosis and Postmortem

In the initial stages of EISML's formation, loans were raised to implement the business of building and managing school infrastructure at various locations across the country. At that time, operations functioned smoothly, and various stakeholders, including banks dealing with the group entities, were reassured that

they were effectively engaging with the group as a whole, led by the individual promoter.

It is common practice and perfectly reasonable for commercial ventures to operate through groups of entities and for each entity in the Group to have a separate legal personality. Separate entities are often set up to dissociate specific assets from general liabilities, the purpose often being to not only raise funding on more favorable conditions but also take advantage of statutory benefits made available by the legal characteristics particular Group entities.

When these businesses are solvent and operational, general perception is typically that they function as a unified Group in the eyes of customers, suppliers, creditors, etc. Nevertheless, as a normal credit risk measure, the lenders often seek guarantees or credit support from ultimate parent and the principal individual promoters, which were readily provided in the instant case. Formal divisions were ignored under the impression that they were dealing with the Group identified with the promoter. Consequently, a sense of complacency gradually set in with all agencies, including lenders, dealing with any of the group entities.

*Annual reports were allegedly manipulated by concealing losses and obscuring the true nature of transactions through intra-group entities, thereby creating a false sense of comfort among stakeholders, including lenders.*

However, as the case of EISML revealed, the use of the Group structure provided promoters and key personnel with opportunities to manipulate the corporate form and evade regulatory and fiduciary responsibilities. Annual reports were allegedly manipulated by concealing losses and obscuring the true nature of transactions through intra-group entities, thereby creating a false sense of comfort among stakeholders, including lenders. Assets appear to have been transferred within the enterprise without proper bookkeeping, and intra-group claims and payables remained indeterminate due

*Despite the constraints, the RP successfully completed the CIRP and ensured that financial and other creditors received their dues under the Resolution Plan.*

to opaque record-keeping practices, board minutes, and accounting. The result was significant confusion regarding inter se liabilities and asset ownership, which hampered the Transaction Auditor's ability to classify a substantial volume of suspect transactions into the appropriate categories of PUFEE transactions.

While the Group Insolvency approach for 'substantive' consolidation would have otherwise been ideal in this case, somehow, despite the suggestion coming from an opinion of a well-regarded law firm, the financial creditors did not favor the approach at the material time. It is felt that this was possibly due to the overwhelming initial response to the request for EOIs and the lenders felt it better not to spread the canvas too much and focus on the approach adopted by proceeding against the CD only. Perhaps, in the minds of the financial creditors, any other approach would have resulted in further time delay.

## 9. Conclusion

The RP faced numerous challenges from the very outset of the CIRP. There was a severe shortage of funds, which constrained even routine operations. Members of the erstwhile Board were often uncooperative and, at times, disruptive. The existing personnel on the CD were largely unavailable, making it difficult to keep the business running. Creditors were hesitant to infuse additional cash for operations. The CD also had a large number of widely dispersed real estate units, making supervision and control difficult. There was no adequate secretarial support for statutory MCA (Ministry of Corporate Affairs) compliances. Further, the SRA remained recalcitrant, apparently due to delays in tying up finances for the Resolution Plan. Judicial delays at the NCLT level added to the difficulties. Despite these constraints, the RP successfully completed the CIRP and ensured that financial and other creditors received their dues under the Resolution Plan.



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## Legal Framework

### ACT

#### **Insolvency and Bankruptcy Code (Amendment) Act, 2026 - Assented to by the President of India on April 06, 2026**

The Insolvency and Bankruptcy Code (Amendment) Bill, 2026 was passed by the Lok Sabha on March 30, 2026, and by the Rajya Sabha on April 1, 2026. The Bill received the assent of the President of India on April 6, 2026, and has been published in the Gazette of India Extraordinary as the Insolvency and Bankruptcy Code (Amendment) Act, 2026 dated April 6, 2026.

The major provisions introduced through this amendment include enhanced penalties for frivolous or vexatious proceedings before the Adjudicating Authority; time-bound admission of applications by the NCLT; mandatory timelines for adjudicatory orders by the Adjudicating Authority; the Creditor-Initiated Insolvency Resolution Process (CIIRP); time-bound disposal of appeals before the NCLAT; relaxations for MSMEs in the insolvency process; modifications to the waterfall mechanism under Section 53 of the IBC; the Group Insolvency Framework; the Cross-Border Insolvency Framework; and strengthening of avoidance transactions, among others.

**Source:** *The Gazette of India (Extraordinary), CG-DL-E-06042026-271594, Ministry of Law and Justice (Legislative Department), , dated April 06, 2026.*

### REGULATIONS

#### **Fair Value will Include Tangible and Intangible Assets: IBBI**

The Insolvency and Bankruptcy Board of India (IBBI) has amended the IBBI (CIRP) Regulations through a Notification dated 25 February 2026.

“The estimated realizable value of the corporate debtor shall be computed after taking into account the total estimated realizable value of all the assets of the corporate debtor including but not limited to tangible and intangible assets, along-with their



underlying synergies,” reads the explanation inserted in Regulation 2 (hb) of the IBBI (CIRP) Regulations 2016. This amendment also makes provision for appointment of two sets of registered valuers to determine the fair value and the liquidation value, and a coordinating valuer. The amendments have also been done in Regulations 27, 35 and 36. Besides, Regulation 38A has been inserted for treatment of allottees not filing claims. “In respect of a real estate project, where the information memorandum includes the details of the allottees who have not submitted their claims, the resolution plan shall provide for treatment of such allottees,” reads Regulation 38 A, which has been inserted through this amendment. The amendment has also inserted Regulation 36 (ja) to incorporate the dues of homebuyers in the Information Memorandum (IM). “details of all allottees, including their names, amounts due, and units allotted, whose claims are either reflecting in the books of accounts of the corporate debtor or in the records of the Real Estate Regulatory Authority as established under the Real Estate (Regulation and Development) Act, 2016 (16 of 2016), but have not submitted their claims to the resolution professional,”.

**Source:** *Notification F. No. IBBI/2025-26/GN/REG135, dated February 25, 2026.*

#### **IBBI Amends PPIRP Regulations**

Through a notification dated 25 February 2026, the IBBI has amended the Pre-Packaged Insolvency

Resolution Process (PPIRP) Regulations, 2021, primarily to revise the provisions relating to fair value and to expand the definition and scope of fair value. Instead of appointing two valuers, the Resolution Professional will now appoint two sets of registered valuers. The average of the two estimates of the fair value submitted by the coordinating valuers shall be considered as the fair value of the CD. Furthermore, the Registered Valuers shall prepare the Report and maintain documentation.

**Source:** *Notification F. No. IBBI/2025-26/GN/REG138, dated February 25, 2026.*

## CIRCULARS

### **IBBI Mandates use of International Valuation Standards (IVS) for Valuations under IBC**

Through a Circular dated April 01, 2026, the IBBI has notified the International Valuation Standards (IVS), as issued and updated from time to time by the International Valuation Standards Council (IVSC), as the valuation standards applicable for the purposes of the valuations conducted under the IBC and regulations made thereunder, until further orders. “This circular shall come into force from the date of its issue and shall apply to all valuation conducted under the Code and regulations made thereunder,” said the IBBI emphasizing that the Circular has been issued u/s 196 of the Code and regulations made thereunder. The circular aligns with a key objective of the IBC—maximising the value of the Corporate Debtor’s assets in a time-bound manner, said IBBI.

**Source:** *Circular No. IBBI/RV/93/2026 dated April 01, 2026.*

### **IBBI introduced standardized forms for Resolution Professionals to monitor Personal Guarantors’ Insolvency**

These standardized Forms will replace the previous system under which the Resolution Professional (RP) used to submit periodic information regarding the insolvency resolution process to the IBBI through

emails, which was time-consuming and inefficient. “The key benefits of these forms include allowing resolution professionals to easily access and submit forms online, reducing delays and improving efficiency and minimizing the likelihood of errors and omissions, ensuring more accurate and reliable information,” said the Circular issued by the IBBI. In order to facilitate IPs to familiarize themselves with these forms and resolve technical issue(s) that may arise, if any, penalties shall be levied for delayed submission or modification only after June 30, 2026, said the Circular. The IBBI has also prescribed timelines for these 7 forms.

**Source:** *Circular No. IBBI/II/92/2026, dated March 06, 2026.*

## NOTIFICATION

### **Ashutosh Mishra Appointed Ex-Officio Member in IBBI**

This appointment has been made pursuant to Gazette Notification F. No. 30/03/2016- Insolvency dated February 11, 2026, issued by Ms. Anita Shah Akella, Joint Secretary, Ministry of Corporate Affairs (MCA). “In accordance with the provisions of clause (c) of sub-section (1) of section 189 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016), the Central Government hereby appoints Shri Ashutosh Mishra, Additional Secretary as the ex-officio member in the Insolvency and Bankruptcy Board of India to represent the Ministry of Law & Justice in the said Board,” reads the Notification.

**Source:** *F. No. 30/03/2016-Insolvency, dated February 11, 2026.*

## FACILITATION

### **IBBI published final panel of IPs and IPEs**

The panel, which will be valid from January 16 to June 30, 2026, includes 1183 Insolvency Professionals (IPs) and 59 Insolvency Professional Entities (IPEs) registered as IPs. According to IBBI, Individual IPs have been categorized into four geographical zones (North, South, East, West), in addition to their

existing bench-wise classifications. The list includes a breakdown of ongoing assignments (as IRP, RP, Liquidator) in CIRP, and RP (Individual Insolvency, & BT) and total number of completed assignments, said the IBBI.

**Source:** IBBI, January 16, 2026. <https://ibbi.gov.in/uploads/whatsnew/e4487cf0ce93bb466992a524bca2d15b.pdf>

## PRESS RELEASES

### **Committee on Framing Guidelines for Insolvency Proceedings in the Real Estate Sector submits its Report to Chairperson, IBBI**

The Committee, chaired by Shri Jayanti Prasad, submitted its report on April 7, 2026. According to the IBBI, the Report recognises that real estate insolvency presents unique challenges, as it directly affects large numbers of homebuyers whose primary expectation is completion and delivery of homes rather than financial recovery. It highlights the need for a shift from an entity-centric, recovery-focused framework to a project-centric, completion-driven approach, with stronger coordination between the IBC and the Real Estate (Regulation and Development) Act, 2016.

The Committee has reportedly examined the 55 key issues affecting real estate insolvency and has made 155 recommendations covering structural, procedural, and institutional aspects of the framework. These recommendations are aimed at improving efficiency, ensuring timely completion of projects, enhancing stakeholder confidence, and strengthening alignment between insolvency processes and sectoral regulation.

**Source:** *Press Release, No. IBBI/PR/2026/7, April 08, 2026.*

### **Ms. Aparna Sinha appointed Ex-officio member in the IBBI**

Through a Gazette notification, Ms. Aparna Sinha, Advisor (FSRL), Department of Economic Affairs, Ministry of Finance, has been appointed as an ex officio member of the Insolvency and Bankruptcy Board of

India (IBBI), representing the Ministry of Finance on the Board. This appointment has been made by the Central Government in accordance with clause (c) of subsection (1) of section 189 of the Insolvency and Bankruptcy Code, 2016 (31 of 2016).

**Source:** *Gazette Notification, File No. 30.03.2016-Insolvency, dated March 24, 2026.*

## DISCUSSION PAPERS

### **IBBI Issues Discussion Paper on Strengthening CoC Oversight and Procedural Clarity under the CIRP Regulations, 2016**

The Discussion Paper dated February 16, 2026, addresses key issues within the corporate insolvency framework. It proposes strengthening the recording of Committee of Creditors (CoC) deliberations while approving resolution plans and clarifies decision making on continuation of the Corporate Debtor (CD) as a going concern and approval of CIRP costs. It also delineates the roles of the Adjudicating Authority (AA) and the CoC regarding delayed but admissible claims and examines CoC composition where only Operational Creditors are represented. According to Insolvency and Bankruptcy Board of India (IBBI), the proposed amendments are intended to strengthen creditor oversight, improve procedural discipline, and reinforce value maximization. They include directing the CoC to record expected recoveries for creditors in respect to the fair and liquidation values determined under Regulation 35; amending Regulation 31B of the IBBI (CIRP) Regulations to enhance clarity and ensure proper recording of proceedings; and amending Regulation 16(2)(a) to expressly exclude related operational creditors from participation in the CoC constituted under Regulation 16, among other measures. The IBBI has also attached the Draft Regulations to the Discussion Paper.

**Source:** *Discussion Paper on strengthening CoC's oversight and procedural clarity under the CIRP Regulations, 2016, dated February 16, 2026.*

## IBC Case Laws

### Supreme Court of India

*Omkara Assets Reconstruction Pvt. Ltd. Vs Amit Chaturvedi & Ors. Civil Appeal No. 11417 of 2021, Date of Supreme Court Judgement: February 24, 2026*

#### Facts of the Case

The present appeal arises out of proceedings initiated under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“IBC/the Code”) at the instance of Omkara Assets Reconstruction Private Limited, assignee of a Stressed Assets Stabilisation Fund (“Financial Creditor/FC”), in respect of financial facilities extended to the respondent-Corporate Debtor (CD). Two term loans were sanctioned on 05.04.1999 and 12.12.2000 aggregating to ₹10,60,00,000/-. The Corporate Debtor committed default with effect from 01.01.2003. The outstanding liability, as claimed in the Section 7 application, was ₹154,33,12,274/- together with further interest.

As the CD failed to clear dues, an application under Section 7 of the IBC was filed before the Adjudicating Authority (AA) seeking initiation of Corporate Insolvency Resolution Process (“CIRP”). The CD opposed the maintainability of the application, inter alia, on the ground that a Scheme of Arrangement (“SOA”) under Sections 391–394 of the Companies Act, 1956 had been sanctioned by the Punjab and Haryana High Court and that proceedings in relation thereto were pending. It was contended that in view of the subsisting scheme and proceedings before the High Court, initiation of CIRP was unwarranted and impermissible.

The AA, upon consideration of the material on record, held that the CD had failed to demonstrate compliance with the statutory requirements governing implementation of the sanctioned scheme. Noting that the scheme had not been brought into effect within the prescribed time and had, in substance,



become redundant, the Authority invoked the overriding provision contained in Section 238 of the IBC and admitted the Section 7 application, thereby commencing CIRP and appointing an Interim Resolution Professional (“IRP”).

Aggrieved thereby, the CD preferred an appeal before the National Company Law Appellate Tribunal (“NCLAT/Appellate Tribunal”), which directed that the Section 7 proceedings be kept in abeyance pending disposal of proceedings before the High Court. Challenging the said order, the Apex Court instituted the present appeal before the Supreme Court. In the present appeal, Supreme Court issued an interim order reviving the moratorium and permitting the IRP to resume charge of the Corporate Debtor.

#### Supreme Court Observations

The principal issue considered by this Court was whether the existence or prior sanction of a Scheme of Arrangement under Sections 391–394 of the Companies Act, 1956 could operate as a legal impediment to the initiation or continuation of proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016. The Court observed that the mere sanction of a scheme does not, by itself, create a bar against insolvency proceedings, particularly where such scheme has not been implemented in accordance with statutory requirements.

In this backdrop, the Court examined the correctness

of the Appellate Tribunal’s direction to keep the Section 7 proceedings in abeyance and considered whether such deferment aligned with the legislative intent and the factual findings recorded by the AA. After examining the record, the Court noted that the AA had returned a clear finding that the sanctioned Scheme of Arrangement had not been brought into effect within the prescribed timelines and that the CD had failed to demonstrate compliance with the conditions necessary for its implementation. The continued pursuit of recovery proceedings by creditors under other statutory mechanisms further indicated that the scheme had not achieved practical efficacy. In such circumstances, the scheme could not be treated as a subsisting arrangement capable of overriding the remedy available under the IBC.

Reiterating the object and scheme of the IBC as a comprehensive and time-bound framework for insolvency resolution, the Court underscored the overriding effect of Section 238 of the Code. It held that once default is established and the statutory requirements under Section 7 are satisfied, the AA is obligated to admit the application, subject only to limited judicial scrutiny. Proceedings under the Companies Act cannot be invoked to stall or defeat the operation of the Code where the arrangement in question has, in effect, become redundant.

**Order:** Considering the facts and circumstances of the case as highlighted above, the Supreme Court ruled that there was no reason to sustain the order of the Appellate Tribunal and accordingly set aside the same restoring the order of the AA which allowed the IRP to proceed in accordance with law.

**Case Review:** *Appeal allowed.*

***State Bank of India Vs Union of India & Ors. Civil Appeal No. 1810 of 2021, Date of Supreme Court Judgement: February 13, 2026***

#### **Facts of the Case**

The present batch of civil appeals arises from a judgment of the National Company Law Appellate

Tribunal (“NCLAT”) concerning the treatment of spectrum under the Insolvency and Bankruptcy Code, 2016 (“IBC/the Code”). The NCLAT, while dealing with insolvency proceedings initiated against certain telecom service providers (TSPs), held that spectrum usage rights held by the corporate debtors constitute intangible assets and can be subjected to the corporate insolvency resolution process (“CIRP”) under the Code. It further held that dues payable to the Department of Telecommunications (“DoT”), including license fees and spectrum usage charges, fall within the ambit of “operational debt” under Section 5(21) of the Code.

The controversy arose in the backdrop of CIRP proceedings against telecom companies such as the Aircel Group and Reliance Communications, which had defaulted on substantial license fee and adjusted gross revenue (AGR) dues payable to the Union of India. Financial creditors, including State Bank of India and other lending institutions, contended that spectrum, though governed by statutory and contractual conditions, was reflected as an asset in the books of the corporate debtor and formed part of the overall business undertaking. Relying upon the Tripartite Agreement framework executed between DoT, lenders and the licensee, it was argued that the right to use spectrum could be treated as part of the insolvency estate and made available for resolution, including by way of transfer to a successful resolution applicant.

The Union of India, through DoT, assailed this position, asserting that spectrum is a scarce and finite natural resource vested in the State in trust for the public. It was submitted that license holders acquire only a limited, conditional and revocable right to use spectrum, without any proprietary or ownership interest. According to DoT, permitting spectrum to be dealt with under the IBC in a manner that extinguishes or dilutes governmental dues would undermine the statutory regime under the Telegraph Act and related laws. Aggrieved by the NCLAT’s findings on the nature of spectrum, its amenability to insolvency proceedings, and the characterization of DoT dues as operational

debt, appeals were preferred before the Supreme Court by SBI, resolution professionals, successful resolution applicants, and the Union of India, culminating in the present adjudication.

#### Supreme Court's Observations

After duly hearing both the parties, the Supreme Court framed certain issues for proper adjudication of the matter. At the outset, this Court examined the nature of spectrum and reiterated that it is a natural resource held by the Union of India in public trust. The conferment of a right to use spectrum under a licence granted under Section 4 of the Telegraph Act, 1885 does not vest ownership or proprietary interest in the telecom service providers (TSPs); ownership remains with the nation, with the Union Government acting as trustee. The Court distinguished between ownership, possession and occupation, observing that TSPs merely hold a limited right to use, subject to strict statutory and contractual conditions.

The Court then considered whether the right to use spectrum constitutes an “asset” within the meaning of Section 18 of the IBC. It analysed the interplay between the IBC and the Telegraph Act, Wireless Telegraphy Act, and TRAI Act, particularly in light of the revenue-sharing regime. The Court also addressed whether licence dues, including AGR dues and deferred spectrum instalments, could be characterised as operational debt, and whether such dues could be extinguished or diluted through a resolution plan. A significant part of the analysis concerned transferability of spectrum in insolvency proceedings vis-à-vis the Spectrum Trading Guidelines. The Court examined whether approval of a resolution plan could override or substitute the requirements of prior governmental approval and clearance of past dues under Guidelines 10, 11 and 12. It further considered whether licence conditions or tripartite agreements created any enforceable security interest in favour of lenders, and the mode of enforcement thereof.

Finally, the Court addressed concerns regarding bona fides in triggering CIRP, particularly where insolvency

proceedings were initiated by TSPs facing substantial governmental dues. It underscored that CIRP cannot be invoked as a device to evade statutory liabilities or frustrate regulatory control over a scarce public resource.

**Order:** Considering the facts and circumstances of the case as highlighted above, the Supreme Court ruled that spectrum allocated to TSPs and shown in their books of account as an “asset” cannot be subjected to proceedings under the IBC.

**Case Review:** *Appeal filed by the Banks/TSPs dismissed; Appeal of the Union of India through DoT allowed in part.*

*Apex Heights Pvt. Ltd. Vs Ram Kishor Arora & Anr. Civil Appeal No. 2626/2025, Date of Supreme Court Judgement: February 05, 2026*

#### Facts of the Case

These appeals arise from the judgment passed by the National Company Law Appellate Tribunal (NCLAT), Principal Bench, New Delhi. The aforesaid order was passed in an interim application (IA) in an appeal, which in turn, was directed against the order of the National Company Law Tribunal (NCLT), New Delhi, while admitting an application under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC/the Code) filed by the Union Bank of India against the Corporate Debtor (CD), namely, M/s. Supertech Limited.

The Corporate Debtor is a real estate developer engaged in construction of multiple residential and commercial projects across Noida, Greater Noida, Yamuna Expressway, Gurugram and other regions. On account of noncompletion of projects and default in repayment of financial obligations, Union Bank of India initiated proceedings under Section 7 of the Code. The application was admitted and the CIRP commenced. The controversy in the present batch of appeals pertains to 16 incomplete projects of the CD involving a substantial number of residential units. While the management stated that approximately 40,000 units were involved, the home buyers contended

that the number exceeded 51,000. It was also brought on record that certain units had been completed prior to initiation of insolvency proceedings and some additional units were completed during pendency of the proceedings.

During the pendency of appeals before the NCLAT, the aforementioned IA was argued with a view to explore a mechanism for completion of the stalled projects. The home buyers suggested engagement of NBCC (India) Ltd., a Government of India enterprise, to undertake completion of the projects. The Interim Resolution Professional and project management consultant supported the proposal. The NCLAT, by the impugned order, issued comprehensive directions approving NBCC's proposal (with modifications), prescribing timelines for commencement of construction, constituting an Apex Court Committee and Project-wise Committees, directing maintenance of separate project accounts, and regulating funding and supervision mechanisms for completion of the projects.

Subsequent to the said order, certain stakeholders raised objections and sought modification; however, in view of interim orders passed by the Supreme Court, further proceedings before the NCLAT were curtailed. Aggrieved particularly by the decision to entrust completion of the projects to NBCC and the consequential directions issued, the present appeals came to be filed before the Supreme Court.

#### **Supreme Court Observations**

The Supreme Court noted that the primary consideration in the present matter was the protection of the interests of the home buyers, who had invested their life savings in the residential projects and had been awaiting possession for several years. The Court emphasised that in real estate insolvencies, the interests of home buyers assume central importance, and any resolution mechanism must be tested on feasibility, practicality and likelihood of completion. In this backdrop, the approach adopted by the NCLAT in bringing NBCC (India) Ltd. on board as a completing agency was

examined.

Examining the impugned order, the Court noted that the NCLAT had devised a structured framework to ensure completion of 16 stalled projects through institutional supervision. The Court held that the decision of the NCLAT to entrust completion of the aforementioned projects to NBCC was neither per se unfair nor contrary to any express provision of the Code. It was observed that the objective of the Code is resolution and value maximisation, and in the peculiar facts of the case, facilitating completion of long-pending housing projects subserved that objective. The Court further noted that the competing claims of secured creditors, operational creditors and statutory authorities would not stand extinguished, but could be addressed at an appropriate stage after completion of the projects and ascertainment of surplus. The entrustment of the projects to NBCC (India) Ltd. was viewed as a measure intended to provide credibility and execution capability.

The Supreme Court emphasised that not a mere recovery mechanism but a resolution framework intended to maximise value and balance stakeholder interests. Once residential units are completed and handed over with basic amenities, the remaining claims of stakeholders could be determined in accordance with law. The Court also clarified that completion of projects through NBCC would not prejudice the rights of statutory authorities or creditors, whose claims would be adjudicated in due course.

**Order:** Considering the facts and circumstances of the case as highlighted above, the Supreme Court found no merit in the challenge to the NCLAT's directions and upheld the impugned order, subject to certain clarifications and modifications issued in the interest of smooth implementation and supervision of the projects.

**Case Review:** *Appeals dismissed.*

*Gloster Ltd. Vs. Gloster Cables Ltd & Ors. Civil Appeal No. 2996/2024 WITH Civil Appeal No. 4493/2024, Date of Supreme Court Judgement: January 22, 2026*

#### **Facts of the Case**

These two appeals arise from the judgment of the National Company Law Appellate Tribunal (NCLAT), Principal Bench, New Delhi dated 25.01.2024 in Company Appeal (AT) (Ins.) No. 1343 of 2019. While one civil appeal was filed by Gloster Limited – the Successful Resolution Applicant (SRA), another cross-appeal filed by Respondent No.1- Gloster Cables Limited (GCL), challenging the findings in the impugned judgment insofar as it held that the Adjudicating Authority (AA/NCLT) had the jurisdiction to declare on the aspect of title to the trademark “Gloster”.

The CIRP of Fort Gloster Industries Limited (“Corporate Debtor/CD”) was initiated on an application filed under Section 9 of the IBC by a former employee of the CD. Upon admission of the application, a Resolution Professional was appointed and the CIRP commenced in accordance with the provisions of the Code. During the CIRP, a Resolution Plan submitted by Gloster Limited was placed before the Committee of Creditors (CoC), duly considered and approved. Pursuant thereto, the Resolution Professional filed an application before the Adjudicating Authority, seeking approval of the Resolution Plan. While the application for approval of the Resolution Plan was pending, Gloster Cables Limited filed an application before the AA claiming ownership over the trademark “GLOSTER” and objecting to its treatment as an asset of the CD under the Resolution Plan. It was contended that the said trademark did not belong to the CD and could not form part of the assets resolved under the CIRP. By its order, the Adjudicating Authority approved the Resolution Plan submitted by Gloster Limited. While doing so, the AA also made certain observations with respect to the ownership of the trademark “GLOSTER”, holding that the said trademark formed part of the assets of the CD. The application filed by Gloster Cables Limited was accordingly dismissed.

Aggrieved by the observations of the AA concerning the ownership of the trademark, Gloster Cables Limited preferred an appeal before the NCLAT. By the impugned judgment, the NCLAT held that the AA did not have jurisdiction under the Code to decide disputes relating to ownership of trademarks and further held that the trademark “GLOSTER” did not belong to the CD. Aggrieved by the said judgment, the parties approached the Supreme Court by way of the present appeals.

#### **Supreme Court's Observations**

The Supreme Court considered whether the AA, while exercising jurisdiction under the IBC, could determine disputes relating to ownership of intellectual property, specifically the trademark “GLOSTER”. The Court observed that the jurisdiction of the NCLT under the IBC is limited to matters which arise directly in relation to the insolvency resolution of the CD and does not extend to adjudication of independent civil or commercial disputes concerning title or ownership of assets, particularly where such disputes involve third parties. The Court noted that while the Resolution Professional and the AA are required to identify and deal with the assets of the CD for the purpose of resolution, such exercise cannot confer jurisdiction upon the NCLT to conclusively decide questions of ownership which are disputed and require adjudication by a competent civil forum. The Supreme Court held that any observations made by the AA on the ownership of the trademark were incidental and could not attain finality or bind parties claiming independent rights.

The Court further observed that approval of a Resolution Plan under Section 31 of the Code does not have the effect of extinguishing or overriding third-party proprietary rights which were never vested in the CD. It is reiterated that a resolution applicant acquires only such rights and interests as legitimately belonged to the CD and were capable of being transferred under law. At the same time, the Supreme Court clarified that the NCLAT was correct in holding that the AA could not assume jurisdiction to finally adjudicate the trademark dispute. However, it

cautioned that appellate interference should be limited to correcting jurisdictional excess and should not result in conclusive findings on ownership, which remain open to be determined in appropriate proceedings. Accordingly, the Court delineated the boundary between insolvency jurisdiction and adjudication of independent proprietary disputes, emphasising that the IBC is not a forum for resolution of title disputes unconnected with insolvency.

**Order:** Considering the facts and circumstances of the case as highlighted above, the Supreme Court noted that the findings of the NCLT, specifically with respect to adjudicating on the ownership of the trademark, are perverse and in gross violation of the principles of natural justice and beyond the scope of the enquiry as far as the present case is concerned. While doing so, the Court also clarified that these observations would not come in the way of any other Court or authority deciding the issue of title to the trademark “Gloster”, if the parties herein litigate upon and those proceedings will be decided on their own merits uninfluenced by these observations.

**Case Review:** *Appeals disposed off accordingly.*

***Elegna Co-Op. Housing and Commercial Society Ltd. Vs Edelweiss ARC Ltd. & Anr. Civil Appeal No. 10261 of 2025 with Civil Appeal No. 10012 of 2025, Date of Supreme Court’s Judgement: January 15, 2026***

#### **Facts of the Case**

The present appeals arise from the judgment dated 01.07.2025 passed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi (“NCLAT”). By the impugned judgment, the NCLAT set aside the order dated 06.11.2024 passed by the National Company Law Tribunal, Ahmedabad Bench (“Adjudicating Authority”), and directed admission of the application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (“the Code”), thereby initiating the Corporate Insolvency Resolution Process (“CIRP”) against Takshashila Heights India Private

Limited (“Corporate Debtor”), the appellant in Civil Appeal No. 10012 of 2025. The NCLAT further rejected the intervention application filed by Elegna Co-operative Housing and Commercial Society Ltd. (homebuyers’ society), the appellant in Civil Appeal No. 10261 of 2025, on the ground of lack of locus standi.

The Corporate Debtor had availed financial assistance aggregating to ₹70 crores from ECL Finance Ltd., the original lender, under two term loan facilities for development of a residential-cum-commercial project titled “Takshashila Elegna”. Term Loan–I of ₹40 crores and Term Loan–II of ₹30 crores were extended pursuant to duly executed loan agreements, promissory notes, and allied security documents, including an Indenture of Mortgage. Due to defaults in repayment, the loan accounts were classified as Non-Performing Assets, with the last payment having been made on 30.09.2021. On 09.05.2022, the original lender assigned its rights, title, and interest in the loan facilities to Edelweiss Asset Reconstruction Company Ltd. (“EARCL”). Thereafter, EARCL issued a recall and invocation of guarantee notice on 31.05.2022. Recovery proceedings were initiated before the Debts Recovery Tribunal, Ahmedabad, and a demand notice under Section 13(2) of the SARFAESI Act was issued on 21.07.2022 claiming ₹57.24 crores as outstanding. Subsequently, on 23.05.2023, the Corporate Debtor and EARCL entered into a Restructuring-cum-One Time Settlement Agreement to settle the outstanding liability for ₹55 crores. The Corporate Debtor paid ₹5.5 crores towards the first instalment and sought issuance of a provisional No Objection Certificate to enable sale of unsold units. The Financial Creditor, however, revoked the restructuring arrangement on 29.12.2023 citing default.

Thereafter, EARCL filed an application under Section 7 of the Code. By order dated 06.11.2024, the Adjudicating Authority dismissed the application, observing that the Code was being invoked as a recovery mechanism and noting the advanced stage of the real estate project. Aggrieved, the Financial

Creditor preferred an appeal before the NCLAT, which allowed the appeal by the impugned judgment, giving rise to the present civil appeals.

#### Supreme Court Observations

After duly hearing both the parties, the Supreme Court examined the scope of enquiry under Section 7 of the Code, and reiterated that once the existence of a financial debt and occurrence of default are established, the Adjudicating Authority is statutorily mandated to admit the application. The Court emphasised that at the admission stage, the jurisdiction of the NCLT is circumscribed and does not extend to considerations of equity, project viability, or the stage of completion of a real estate project. It held that factors such as substantial completion of the project or the possibility of resolving disputes outside the insolvency framework cannot override the express mandate of Section 7(5) of the Code.

The Court further clarified that the Insolvency and Bankruptcy Code does not permit the Adjudicating Authority to refuse admission of a Section 7 application on the ground that insolvency proceedings may cause hardship to third parties or disrupt an ongoing project. Observations made by the NCLT regarding invocation of the Code as a recovery mechanism were held to be legally untenable once debt and default stood established. The Court reiterated that the objective of the Code is resolution of insolvency through a collective process, and not adjudication of commercial expediency at the threshold stage.

On the issue of locus standi, the Supreme Court affirmed the finding of the NCLAT that a Cooperative Housing Society does not, by itself, acquire the status of a financial creditor merely by representing homebuyers. It observed that the right to participate in insolvency proceedings flows from statutory recognition under the Code, and an association or society cannot claim an independent right of intervention unless it satisfies the statutory requirements. In the absence of such standing, the intervention application was rightly rejected.

**Order:** Considering the facts and circumstances of the case as highlighted above, the Supreme Court dismissed the appeal challenging the admission of the CD into CIRP, as well as the intervention application by the homebuyers' society. Additionally, the Court issued directions to the Committee of Creditors to support any extraordinary/non-routine decisions by cogent decisions duly recorded in writing

**Case Review:** *Appeal dismissed.*

*UV Asset Reconstruction Company Ltd. Vs Electrosteel Castings Ltd. Civil Appeal No. 9701 of 2024, Date of Supreme Court's Judgement: January 06, 2026*

#### Facts of the Case

This appeal filed by UV Asset Reconstruction Company Ltd. (UV-ARCL) under Section 62 of Insolvency and Bankruptcy Code, 2016 (IBC/ Code) calls in question the legality and correctness of the judgment dated 24.01.2024 by the National Company Law Appellate Tribunal (NCLAT), whereby, the NCLAT affirmed the order dated 24.06.2022 passed by the NCLT rejecting the application filed by the appellant under Section 7 of the IBC.

Electrosteel Steels Limited (ESL) availed financial assistance amounting to ₹500 crores from SREI Infrastructure Finance Limited ("SREI") pursuant to a sanction letter dated 26.07.2011. The sanction letter provided for security in the form of a demand promissory note and post-dated cheques and did not stipulate any requirement of a personal or corporate guarantee from ECL, the promoter of Electrosteel Castings Ltd. (ESL). However, ECL was required to furnish an undertaking to arrange for infusion of funds to enable ESL to comply with stipulated financial covenants. In furtherance thereof, ECL executed a Deed of Undertaking dated 27.07.2011, whereby it undertook a limited obligation to arrange for infusion of funds into ESL in the event of breach of financial covenants. Clause 2.2 of the said Deed obligated ECL to facilitate compliance by arranging funds,

without expressly undertaking to discharge ESL's liability towards SREI. Subsequently, a supplementary agreement dated 21.11.2011 was entered into between ESL, ECL and SREI, amending certain terms of the facility and security package. CIRP against ESL was initiated on an application filed by State Bank of India (SBI) under Section 7 of the Code, which was admitted by the NCLT, Kolkata on 20.07.2017. A resolution plan submitted by Vedanta was approved on 17.04.2018 and duly implemented, pursuant to which ESL's debts stood resolved. Following implementation, SREI issued a 'no dues certificate' to ESL, acknowledging full discharge of its claims. Thereafter, SREI executed a Deed of Assignment dated 30.06.2018 in favour of UV-ARCL, purporting to assign a residual debt allegedly arising from reduced equity allotment under the Resolution Plan. The Appellant subsequently filed an application under Section 7 of the Code before the NCLT, Cuttack, asserting that ECL was a corporate guarantor and that a financial debt subsisted notwithstanding the resolution of ESL.

The NCLT dismissed the application on the ground that the ECL was not a guarantor in terms of financial facilities availed by ESL as Deed of Undertaking did not constitute a contract of guarantee, and that approval of the Resolution Plan extinguished any liability. The NCLAT affirmed the said findings, leading to the present appeal before the Supreme Court

#### **Supreme Court Observations**

After duly hearing both the parties, the Supreme Court examined whether the Deed of Undertaking executed by ECL could be construed as a contract of guarantee so as to render ECL a "corporate guarantor" and consequently a "corporate debtor" under the IBC. The Court observed that a guarantee, within the meaning of Section 126 of the Indian Contract Act, 1872, must involve a clear and unequivocal promise to discharge the liability of a principal debtor in the event of default. On a plain reading of the Deed of Undertaking, the Court held that ECL had merely undertaken to arrange for infusion of funds to ensure compliance with financial covenants and had not assumed any

obligation to repay the debt of ESL.

The Court further noted that the language of the Deed of Undertaking did not disclose the essential ingredients of a contract of guarantee, namely the existence of a principal debtor, a surety, and a promise to discharge the debt upon default. It held that commercial undertakings aimed at financial support or facilitation cannot, by implication, be elevated to guarantees in the absence of a clear contractual intent. Accordingly, the Court agreed with the concurrent findings of the NCLT and NCLAT that ECL could not be treated as a corporate guarantor.

The Supreme Court also considered the effect of approval and implementation of the resolution plan in the CIRP of ESL. Relying on the settled position of law, the Court observed that once a Resolution Plan is approved and implemented, all claims not forming part of the Plan stand extinguished. It held that the issuance of a 'no dues certificate' by SREI conclusively demonstrated discharge of the underlying debt, and no residual or contingent liability could thereafter be asserted against ECL. Rejecting the Appellant's contention that assignment of an alleged residual debt revived a cause of action, the Court held that an assignee cannot acquire rights greater than those held by the assignor. In the absence of a subsisting debt or a valid guarantee, initiation of proceedings under Section 7 of the Code against ECL was held to be legally unsustainable.

**Order:** Considering the facts and circumstances of the case as highlighted above, the Supreme Court concurred with the findings of NCLT and NCLAT that the Deed of Undertaking does not constitute a contract of guarantee and that ECL cannot be treated as a Corporate Guarantor for the financial facilities availed by ESL. Therefore, there was no infirmity in the impugned judgment warranting interference in this appeal.

**Case Review:** *Appeal dismissed.*

## High Court(s)

*Roseland Buildtech Pvt. Ltd. Vs Vihaan 43 Reality Pvt Ltd & Ors. CS (COMM.) 812/2025, Date of Delhi's High Court Judgement: December 23, 2025*

### Facts of the Case

Roseland Buildtech Pvt. Ltd. (“the Plaintiff”) and Defendant Nos. 1 to 5 are entities engaged in real estate and allied commercial activities. From 2006 onwards, Defendant No. 5, Anant Raj Ltd., held 50% of the equity shareholding in the Plaintiff company, while the remaining 50% was held by other entities. During the financial year 2021–22, the balance shareholding was held by Defendant No. 2, CLE Private Limited (formerly Sonata Investments Ltd.), which was subsequently transferred to Defendant No. 4 in April 2024.

On 31.10.2006, the Plaintiff availed a term loan of ₹80 crores from Defendant No. 2 under a Loan Agreement. The Plaintiff asserted that the entire loan liability stood fully discharged over time through various payments made in accordance with the agreed terms. It was the Plaintiff’s case that no amount remained outstanding under the said loan arrangement. On 06.03.2020, a Business Transfer Agreement (“BTA”) was executed between Defendant No. 1 (Vihaan 43 Realty Pvt. Ltd.), Defendant No. 2 (CLE Private Limited), and Defendant No. 3 (Summit Ceminfra Pvt. Ltd.), whereby Defendant No. 2 purported to assign its rights under the Loan Agreement in favour of Defendant No. 1. The Plaintiff contended that the said BTA was never disclosed to it and was fraudulent, fabricated, and unenforceable in law.

In February 2024, a Share Purchase Agreement (“SPA”) was executed between Defendant No. 5 (Seller) and Defendant No. 6 (Purchaser), Hallow Securities Pvt. Ltd., with Defendant No. 2 acting as a confirming party. According to the Plaintiff, upon execution of the SPA and receipt of consideration, all liabilities, including the loan of ₹88 crores, stood fully extinguished. Despite this, Defendant No. 1 initiated

proceedings under Section 7 of the Insolvency and Bankruptcy Code, 2016 before the NCLT, New Delhi, claiming to be a financial creditor on the basis of the BTA.

Aggrieved by the initiation of CIRP, the Plaintiff filed the present suit before the Delhi High Court seeking declarations that no debt was due, that the BTA was void and unenforceable, and for injunctions restraining enforcement of the alleged loan and insolvency proceedings. The Plaintiff’s core grievance was that no legally enforceable debt existed and that the insolvency proceedings were initiated on the basis of a contrived and fraudulent transaction.

### High Court’s Observations

The High Court examined the maintainability of the present civil suit in light of the insolvency proceedings initiated under Section 7 of the Insolvency and Bankruptcy Code, 2016. The Court observed that the IBC is a self-contained and exhaustive code governing issues relating to insolvency, including determination of the existence of a financial debt and default. It held that once a petition under Section 7 is filed, all questions relating to the validity of the debt, the status of the creditor, and the legality of transactions relied upon must be adjudicated exclusively by the National Company Law Tribunal.

The Court rejected the Plaintiff’s contention that allegations of fraud, forgery, or prior discharge of liability justified invocation of the civil court’s jurisdiction. It observed that the IBC framework empowers the NCLT to examine such objections at the threshold stage, and permitting a parallel civil suit would directly interfere with and derail the insolvency resolution process. The Court emphasised that mere allegations of fraud cannot be used as a device to bypass the statutory forum prescribed under the Code.

Addressing the challenge to the Business Transfer Agreement dated 06.03.2020, the Court held that questions relating to its validity, enforceability, and effect on the status of the financial creditor are

matters squarely within the domain of the NCLT while considering the Section 7 application. The Court noted that granting declaratory or injunctive reliefs in respect of such transactions would amount to pre-empting the jurisdiction of the insolvency forum.

The High Court further observed that entertaining the suit and granting interim relief would defeat the object of the IBC, which mandates a time-bound and collective resolution process. It accordingly declined to grant any interim protection and dismissed the suit, while leaving it open to the Plaintiff to raise all permissible defences before the NCLT in accordance with law.

**Order:** Considering the facts and circumstances of the case as highlighted above, the High Court allowed the application under Order VII Rule 11 of the CPC thereby rejecting the plaint. However, it granted interim protection to prevent prejudice to the plaintiff, while clarifying that its observations would not affect the merit of pending insolvency proceedings.

**Case Review:** *Plaint rejected.*

## National Company Law Appellate Tribunal (NCLAT)

*Gopal Trading Company Vs. RP of Matrushi Fibres Pvt Ltd & Ors. Company Appeal (AT) (Insolvency) No. 222 of 2026, Date of NCLAT's Judgement: March 17, 2026*

### Facts of the Case

The present appeal arises from an order dated 15.12.2025 passed by the NCLT, Ahmedabad Bench, whereby two Interlocutory Applications (IAs) — IA No. 1316(AHM)/2024 and IA No. 643(AHM)/2025— were allowed, resulting in termination of the Corporate Insolvency Resolution Process (CIRP) of Matrushi Fibres Pvt. Ltd. (Corporate Debtor or CD) and imposition of financial liabilities on the Appellant, Gopal Trading Company, an Operational Creditor.

The Appellant had initially filed a CIRP application

under Section 9 of the Insolvency and Bankruptcy Code, 2016 (IBC), leading to the admission of the CD into CIRP on 25.09.2023. Following admission, the Interim Resolution Professional (IRP) verified claims and constituted the Committee of Creditors (CoC), which comprised solely two Operational Creditors—Assistant Commissioner of GST (95.01% voting share) and Assistant Commissioner of State Tax (4.99% voting share). During the CIRP, the RP faced significant challenges due to non-cooperation from the suspended management of the CD, which failed to provide essential financial records despite repeated communications. Additionally, the Appellant initially did not deposit CIRP costs citing financial constraints, prompting the RP to initiate contempt proceedings.

Due to lack of progress in the CIRP, the RP filed IA No. 1316 of 2024 seeking termination of CIRP, payment of fees and expenses, and discharge from duties, without impleading the Appellant. Subsequently, IA No. 643 of 2025 was filed impleading the Appellant, alleging fraudulent initiation of CIRP under Section 65 of the IBC. By a common order, the Adjudicating Authority allowed both applications, terminated the CIRP, imposed a penalty of ₹10 lakh on the Appellant, and directed payment of ₹6 lakh toward CIRP costs, in addition to ₹2 lakh already paid.

Aggrieved by the judgement, this appeal was filed wherein the Appellant contending that the CIRP had been validly admitted, and that its failure was due to non-cooperation by the suspended management and inaction by the RP under Section 19(2), not the Appellant. It also challenged the ex-parte proceedings and disproportionate financial liabilities imposed

### NCLAT's Observations

The NCLAT observed that Section 65 embodies a clear legislative mandate to prevent abuse of the insolvency process and empowers the AA to intervene at any stage, even suo-motu, if fraudulent or malicious intent is evident from the surrounding facts and circumstances. The Appellate Tribunal further noted that the CIRP had stagnated after expiry of the statutory period, and the

RP had filed IA No. 643 of 2025 alleging fraudulent initiation. The NCLAT affirmed the AA's finding that the conduct of the Appellant was unusual and indicative of ulterior motive. Despite initiating CIRP for an operational debt of ₹3.80 crore, the Appellant failed to file its claim pursuant to the public announcement and did not participate further in the process. This omission, without any credible explanation, was held to be inconsistent with the conduct of a genuine creditor and suggested lack of bona fide intent. The Tribunal further noted that the only tax authorities filed the claims during CIRP, whose recovery proceedings were effectively halted due to the moratorium under Section 14. The timing of CIRP initiation, coinciding with pending tax recovery, indicated that the process was invoked to circumvent statutory liabilities rather than for insolvency resolution. "Thus, what seems to underpin the reason for triggering CIRP proceedings was clearly to circumvent the tax liability," said the Court. Appellant claimed non-filing of claims was due to lack of legal awareness. NCLAT rejected this because the Appellant had issued a legal notice dated 11.01.2022 demanding ₹3.90 crore and had also lodged police complaints — showing deliberate legal preparation. The plea was held to be an after-thought. The Appellant's proprietor was the real brother of the Corporate Debtor's director and was also an ex-director of the CD. NCLAT gave this independent weight in upholding the Section 65 finding. The NCLAT further noted that Section 65 is designed to deter misuse and protect the integrity of the insolvency framework, the Adjudicating Authority was not off the mark in examining the overall conduct of the Appellant in the surrounding circumstances and in satisfying itself that the threshold elements of malicious intent was met in the facts of the present case. Finally, the Appellate Tribunal held that given the absence of assets, a non-functional CoC, and prima facie abuse of CIRP, the Adjudicating Authority rightly exercised its residuary jurisdiction to direct the Appellant to bear the RP's fees and expenses

**Order:** The Appellate Tribunal found no merit in the appeal and find no cogent reasons to interfere with the

impugned order of the Adjudicating Authority (AA) in any manner.

**Case Review:** *Appeal Dismissed.*

***Income Tax Officer, Jaipur Vs. Solar Voltaic Power LLP & Anr. Company Appeal (AT) (Insolvency) No. 286 of 2025, Date of NCLAT's Judgement: March 13, 2026***

#### **Facts of the Case**

The present appeal has been filed by the Income Tax Officer, Ward 1(3), Jaipur (Appellant) under Section 61 of the Insolvency and Bankruptcy Code, 2016 (IBC), aggrieved by the order dated 11.12.2024 passed by the NCLT, Jaipur Bench (Adjudicating Authority). By the said order, the Adjudicating Authority (AA) approved the Resolution Plan of M/s Solar Voltaic Power LLP (Corporate Debtor), which provides only ₹1,50,000/- towards the appellant's statutory dues against a claim of ₹3,11,11,442/- for various assessment years.

The Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor (CD) commenced on 19.09.2023 upon admission of a petition under Section 7 of the IBC by the AA. Pursuant to the public announcement, the Appellant filed its claim on 08.10.2023 in Form B for ₹3,11,11,442/-, representing outstanding income tax dues, along with a notice of demand under Section 156 of the Income Tax Act, 1961. The Resolution Professional (RP) sought additional documents on 29.11.2023 and again on 20.05.2024, which were duly furnished by the Appellant on 01.12.2023 and 30.05.2024, respectively. However, by email dated 06.06.2024, the RP rejected the claim, stating that the Resolution Plan submitted by M/s Valente Lifespace Creators Pvt. Ltd. had been approved by the CoC in its meeting held on 25.04.2024, and that the claim could not be considered under Regulation 13(1B) of the CIRP Regulations. The Appellant also alleged that this email had gone to the spam folder and was not seen by the Income Tax Officers. The Resolution Plan was subsequently approved by the AA in which the Appellant was allocated only ₹1,50,000/.

The Appellant contended that its claim, duly supported by documents, was repeatedly submitted but rejected by the RP without cogent reasons. The RP, however, argued that the claim was not part of the approved Resolution Plan and thus stands extinguished in law, further submitting that demand notices lack independent existence unless backed by subsisting assessment orders, which, despite several reminders, were furnished only after CoC approval of the Resolution Plan. Further, the RP also alleged that the Appellant did not raise this issue during pendency of the Resolution Plan before the AA.

#### **NCLAT's Observations**

After considering the submissions of both parties and the documents, the NCLAT framed two issues: (i) whether the RP erred in not considering the IT Department's claim; and (ii) whether such non-consideration resulted in a reduction of the amount receivable by the IT Department under the Resolution Plan.

The NCLAT observed that the Appellant and the RP were in regular email correspondence regarding the IT Department's claim, with the RP repeatedly seeking assessment orders to crystallize the claim. However, the assessment orders were first furnished only on 30.05.2024, after the CoC had approved the Resolution Plan and the RP had already filed an application for its approval before the Adjudicating Authority on 28.05.2024. Further, the NCLAT observed that the appellant failed to approach the AA due to its own delay; no irregularity or lapse is attributable to the RP.

Regarding the Appellant's allegation of receiving lesser amount in the Resolution Plan compared to what they would have received if the claim was admitted, the NCLAT observed that the size of the Resolution Plan was ₹20 lakh and it involved upfront one-time payment to all stakeholders. The Resolution Plan provides three categories of payments from the resolution proceeds, with CIRP costs having first priority under Section 53(1)(a) and being payable in full. Thereafter, unsecured financial creditors and

operational creditors were provided their dues. The NCLAT further noted that considering their lower priority, operational creditors typically receive a nominal share. However, in this case, the SRA and CoC allocated about 46% to government (IT) creditors and retained 54% for the CoC member, despite its higher priority under Section 53(1) of the Code. Based on its proportionate share within the category, the IT Department has been allotted twice the amount it would have received if its claim had been admitted. Therefore, the NCLAT held the view that no injustice has been done to the appellant and there is no infirmity in the impugned order. The Court put on record that the present case exemplifies a waste of valuable public resources in pursuing frivolous litigation by public agencies. The NCLAT further noted that such appeals waste valuable governmental and judicial resources amid heavy caseloads and directed that the matter be brought to the notice of the Chairperson, CBDT, for appropriate policy action to curb frivolous litigations.

**Order:** NCLAT Court did not find any infirmity in the impugned order of AA. Pending IAs, if any, stand closed.

**Case Review:** *Appeal Dismissed.*

## **National Company Law Tribunal (NCLT)**

***Central Bank of India Ltd. Vs. Narmada Extrusions Ltd. I CP(IB)/21(MP)2025, Date of NCLT's Judgement: March 13, 2026***

#### **Facts of the Case**

The present case concerns a petition filed by the Central Bank of India, acting as the Financial Creditor, seeking initiation of the Corporate Insolvency Resolution Process (CIRP) against Narmada Extrusions Limited, the Corporate Debtor (CD), under Section 7 of the Insolvency and Bankruptcy Code, 2016 (IBC). The petition arises from an alleged default in repayment of financial debt amounting to approximately ₹95.31 crore, inclusive of interest.

The Financial Creditor submits that it had extended various credit facilities to the CD, including cash credit, term loans, letters of credit, and bank guarantees, which were periodically enhanced, with the latest sanction issued in 22.09. 2022. Due to persistent irregularities and failure to service the debt, the loan account of the Corporate Debtor became overdrawn, particularly following the devolvement of letters of credit. Despite repeated reminders and opportunities for regularization, the CD failed to clear its outstanding dues, leading to classification of the account as a NonPerforming Asset (NPA).

Subsequently, the Financial Creditor initiated recovery proceedings under the SARFAESI Act and issued notice dated 02.03.2024. However, the CD did not discharge its liability. The Financial Creditor contended that the CD was financially distressed, with declining operations and insufficient income, and that its liabilities significantly exceeded its assets, indicating an inability to meet its financial obligations. The debt is also stated to have been acknowledged in the Corporate Debtor's balance sheets. The CD, however, opposed the petition on grounds of maintainability, disputing the occurrence and timing of default. However, the CD argued that continued "holding-on" operations negated any crystallized default. It claimed to be a going concern, making payments and pursuing multiple restructuring proposals. The CD also alleged suppression of material facts by the Financial Creditor and contended that parallel SARFAESI and IBC proceedings amounted to forum shopping and misuse of insolvency proceedings for recovery purposes.

Thus, the dispute centers on the existence of default, the maintainability of the insolvency petition in light of ongoing proceedings under the SARFAESI Act.

#### **NCLT Observations**

The NCLT Bench observed that a longstanding banking relationship existed between the parties, spanning over four decades, during which multiple credit facilities

were extended. It noted that despite repeated follow-ups, the CD failed to regularize its account, which remained overdrawn and was classified as NPA in accordance with RBI norms. It was further observed that a recall notice was duly issued and served; however, the CD failed to repay the outstanding dues. The Tribunal noted that although a final opportunity through "holding-on operations" was granted, it was conditional and temporary in nature. However, the CD failed to repay the amount or regularize the loan account. The Tribunal observed that documentary evidence, including account statements and records, sufficiently established the existence of financial debt under Section 5(8) of the Code. Further, the objection regarding authority of the bank officer was rejected, with the Tribunal observing that the officer was duly authorized by the Financial Creditor. The Tribunal further observed that pendency of SARFAESI proceedings does not bar initiation of CIRP, as both operate in distinct legal domains. Proceedings under SARFAESI are in the nature of enforcement of security interest, whereas proceedings under the IBC are aimed at resolution of insolvency of the CD as a whole. Citing the Supreme Court judgement in the case of *Innoventive Industries Ltd. v. ICICI Bank Ltd.* (2018), the Bench said that at this stage the Adjudicating Authority is required to ascertain whether a financial debt exists and whether a default has occurred. Finally, the Tribunal observed that the CD's objections regarding holding-on operations, restructuring, and parallel SARFAESI proceedings did not affect the determination of default. Accordingly, it concluded that the Financial Creditor had successfully established the existence of financial debt and default.

**Order:** After considering the material on record and the applicable legal position, the NCLT concluded that the Financial Creditor had successfully established the existence of financial debt and the occurrence of default on the part of the Corporate Debtor.

**Case Review:** *CIRP application allowed.*

## IBC News

### IBBI Committee's Report on Drafting Regulations Requires Promoters to Disclose Holdings in Cryptocurrencies and Foreign Assets

The five-member committee, led by IBBI Whole Time Member (WTM) Jayanti Prasad, has submitted the draft regulations. According to the IBBI report, these are based on the version of the IBC (Amendment) Bill, 2025, tabled in Parliament last August, along with the subsequent recommendations of a Lok Sabha Select Committee that reviewed it. Any changes to the regulations arising from amendments to the IBC will be incorporated at the time of notification. The committee has reportedly recommended that, whether promoters of corporate debtors initiate bankruptcy voluntarily or are pushed into it by their financial creditors, they must disclose their holdings in crypto assets, retirement funds, and assets held abroad, along with all beneficial ownership of assets not held in their name. According to media reports, a new Regulation 6A is proposed to be inserted into the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019, to enable such disclosures. The move seems significant, as the sharp haircuts suffered by financial creditors during debt resolution have been a vulnerable aspect of the IBC. IBBI is reportedly encouraging lenders to recover funds from promoters and to reverse suspicious transactions made during a company's financial decline.

**Source:** *Livemint.com, April 03, 2026.*

<https://www.livemint.com/news/india/ibbi-draft-rules-ibc-amendment-2026-11775216714656.html>

### Insolvency and Bankruptcy Code (Amendment) Bill, 2025 passed in the Lok Sabha on March 30, 2026

The Insolvency and Bankruptcy Code (Amendment) Bill, 2025 was introduced in the Lok Sabha on August 12, 2025, to amend the Insolvency and Bankruptcy Code (IBC), 2016. It proposes several changes, including measures to reduce the time taken for the admission of Corporate Insolvency Resolution Process (CIRP) applications. The Bill was subsequently



referred to a Select Committee of the Lok Sabha, which submitted its report in December 2025.

“The Bill was referred to a Select Committee of the Lok Sabha under the chairpersonship of Shri Baijayant Panda. The report of the Select Committee made 11 major recommendations, all of which have been accepted by the Government. In addition to the 11 recommendations, we've brought in one other, under which the Committee of Creditors (CoC) shall record the reasons for selection of the Successful Resolution Applicant (SRA), which will improve transparency,” said the office of the Finance Minister Ms. Nirmala Sitharaman. According to media reports, while addressing the Lok Sabha, Ms. Sitharaman said that IBC has been a very crucial factor to improve the health of the country's banking sector, including the recovery of non-performing assets. She also reportedly noted that companies are performing well and their corporate governance practices have also improved after coming out of the CIRP.

**Source:** *NDTV Profit.com, March 30, 2026.*

<https://www.ndtvprofit.com/india/lok-sabha-passes-amendments-to-insolvency-and-bankruptcy-code-ibc-code-2025-11285351>

### MP Calls for Overhaul of RERA and IBC over Misuse by Builders

Raising the issue in the Zero Hour, Rajya Sabha MP, Mr. Laxmikant Bajpai highlighted the distress faced by homebuyers as builders declare insolvency and leaving several projects incomplete. He also highlighted that several builders have evaded accountability by entering in the IBC proceedings. He further added that in cases

where flats have been constructed, builders have failed to clear government dues, resulting in stalled registrations and buyers being denied legal ownership.

**Source:** *The Economic Times*, March 27, 2026.

[https://economictimes.indiatimes.com/news/india/builder-declares-insolvency-buyer-pays-the-price-bjpm-bajpai-demands-rera-overhaul-in-rajya-sabha/articleshow/129841219.cms?UTM\\_Source=Google\\_Newsstand&UTM\\_Campaign=RSS\\_Feed&UTM\\_Medium=Referral&from=mdr](https://economictimes.indiatimes.com/news/india/builder-declares-insolvency-buyer-pays-the-price-bjpm-bajpai-demands-rera-overhaul-in-rajya-sabha/articleshow/129841219.cms?UTM_Source=Google_Newsstand&UTM_Campaign=RSS_Feed&UTM_Medium=Referral&from=mdr)

### JSW Energy Completed Acquisition of RCRIPL for ₹700.10 Crore through Resolution Plan under IBC

Raigarh Champa Rail Infrastructure Private Limited (RCRIPL) provides railway infrastructure services to JSW Mahanadi Power Company Ltd., which operates a 3,600 MW thermal power plant in Chhattisgarh, with 1,800 MW operational and the remaining under construction. By bringing RCRIPL in house, JSW Energy secures seamless logistics support for the entire capacity. The acquisition grants JSW Energy 100% ownership, making RCRIPL its wholly owned subsidiary. The transaction was completed under the IBC for a total consideration of ₹700.10 crore. The payment structure includes a cash outflow by JSW Energy and the issuance of non-convertible debentures by RCRIPL to its financial creditors.

**Source:** *FreePressJournal.in*, March 27, 2026.

<https://www.freepressjournal.in/business/jsw-energy-completes-70010-crore-acquisition-of-rcripl-under-insolvency-resolution-in-march-2026>

### Miscellaneous Application in a Disposed SLP Cannot be Used to Reopen concluded Proceedings: Supreme Court

In a landmark decision, the Supreme Court has held that in proceedings arising from a disposed Special Leave Petition (SLP), it cannot be called upon to reassess the comparative financial merits of competing offers or substitute its own view for the commercial wisdom exercised by the Committee of Creditors (CoC) under the IBC. Relying on *K. Sashidhar* (2019), *Essar Steel* (2020), and *Vallal RCK* (2022), the Supreme Court reiterated that the CoC's commercial

wisdom is generally non-justiciable and cannot be appealed on merits. However, it clarified that limited judicial review is permissible in cases of statutory illegality or jurisdictional error. The Court asserted that a mere claim of a higher offer is insufficient to reopen a dismissed SLP.

**Source:** *Verdictum.in*, March 24, 2026.

<https://www.verdictum.in/court-updates/supreme-court/ms-lamba-exports-pvt-ltd-v-ms-dhir-global-industries-pvt-ltd-ors-2026-insc-275-1610571>

### Post-Insolvency, Adani Group Plans Strategic Split of Jaypee Assets

According to media reports, the Adani Group is likely to undertake a significant restructuring of Jaiprakash Associates Ltd (JAL), which it has recently acquired through a Resolution Plan under the IBC. The restructuring is aimed at carving up assets across its core verticals to unlock value and streamline operations. The Resolution Plan, approved on March 17 by the Allahabad bench of the NCLT, entails an acquisition outlay of about ₹14,535 crore against JAL's admitted debt of around ₹57,185 crore. Adani Enterprises Ltd acted as the resolution applicant on behalf of the group. The deal hands the Adani Group's control over a diverse portfolio spanning cement plants, power assets, and large land parcels in the Delhi-NCR region.

**Source:** *Moneycontrol.com*, March 23, 2026.

<https://www.moneycontrol.com/news/business/adani-group-plans-strategic-split-of-jaypee-assets-after-insolvency-takeover-13867557.html>

### Supreme Court Upholds Manglam Multiplex Resolution Plan for Varutha Developers

Dismissing the appeal filed by Ganga Construction (Consortium) against the Resolution Plan, the Supreme Court held that the plea sought to reopen issues that had already attained finality and would unsettle a duly concluded resolution process. The Court observed that Ganga Construction, though a Prospective Resolution Applicant (PRA), did not carry its participation to its logical conclusion and failed to submit a final resolution plan. It also did not challenge its exclusion at the negotiation stage in a timely manner. The

Resolution Plan submitted by Manglam Multiplex Pvt Ltd. (Successful Resolution Applicant), meanwhile, had been approved by the Committee of Creditors with a 100% voting share.

**Source:** *Insolvencytracker.in, March 22, 2026.*

<https://insolvencytracker.in/2026/03/22/sc-upholds-varutha-developers-resolution-plan-rejects-plea-by-unsuccessful-bidder/>

### IIMA Study Finds Market Capitalization of IBC-Rescued Companies Surged Over Threefold in Five Years

According to media reports, a study by the Indian Institute of Management, Ahmedabad (IIMA) finds that the total market capitalization of stressed companies resolved under the decade-old Insolvency and Bankruptcy Code (IBC) has more than tripled—from about ₹2.8 lakh crore to ₹9 lakh crore—within five years of resolution. The findings point to improved investor confidence and stronger growth prospects following successful resolution with creditors.

Further, the study reportedly found that the average sales of resolved firms increased by 89% in the five years following resolution, while their asset turnover ratio rose by 131%, indicating improved operational efficiency. The IIMA study on “Effectiveness of the Insolvency and Bankruptcy Code (IBC),” covered 1,194 rescued firms and builds on its 2023 analysis of the IBC. It also concluded that capital expenditure of these companies grew by about 106% within five years post-resolution, reflecting renewed investment activity and improved economic viability. Similarly, average employee expenses reportedly increased by close to 72% for firms within five years of resolution, indicating greater employment intensity and a possible expansion in workforce-related expenditure during the post-resolution phase.

**Source:** *The Economic Times, March 20, 2026.*

<https://economictimes.indiatimes.com/news/company/corporate-trends/market-cap-of-firms-resolved-under-ibc-jumps-over-three-times-in-five-years-says-iim-study/articleshow/129704439.cms?from=mdr>

### Income Tax Department cannot adjust Refund during IBC Moratorium: NCLT

The Indore Bench of NCLT held that the moratorium under Section 14 of the IBC comes into effect automatically from the insolvency commencement date and binds all authorities, even without formal notice. The ruling arose after a company entered CIRP on November 13, 2024, following admission of a petition by Bank of India. Although the Income Tax Department had determined a refund of ₹4,95,720 for AY 2024–25 on November 1, it later adjusted the amount against a prior tax demand during the moratorium. The tribunal held this amounted to recovery of a pre-CIRP debt and directed the department to reverse the adjustment.

**Source:** *BWLegalWorld.com, March 13, 2026.*

<https://www.bwlegalworld.com/article/nclt-indore-income-tax-department-cannot-adjust-refund-during-ibc-moratorium-even-without-knowledge-of-cirp-597387>

### Financial Services Secretary Reviewed Progress in Top IBC Cases

The Finance Ministry has reportedly advised banks to adopt a collaborative approach in resolving pending IBC cases to maximize asset value, improve recoveries, and ensure adherence to timebound resolution. Financial Services Secretary Mr. M. Nagaraju held a review meeting to monitor the progress of key IBC cases pending for admission and resolution. A review of the top twenty accounts pending for admission and ten accounts pending for resolution was undertaken to expedite the process. Banks were also urged to minimize adjournments and delays in filing CIRP applications, while CEOs of PSBs were advised to closely monitor major pending cases. It was informed that 20 high-value accounts were expedited via admission, assignment, or disposal at the NCLT.

**Source:** *ETLegalWorld.com, March 10, 2026.*

<https://legal.economictimes.indiatimes.com/news/law-policy/dfs-secretary-reviews-ibc-case-progress-at-nclt/129375896>

#### **IBC does not require the NCLT to determine netting-off of counter claims at admission stage: NCLT**

NCLT Jaipur has held that Section 7 proceedings should not be converted into a forum for adjudicating damages or counterclaims, and the IBC does not require the Adjudicating Authority to determine netting-off of counterclaims at the admission stage. In *Canara Bank v. Prayag Polytech Pvt. Ltd.* (2026), the Court observed that the petition includes a statement of account, asserts an outstanding amount exceeding the prescribed threshold, and pleads NPA and default. The CD's defense raised issues relating to discharge, appropriation, and the bank's conduct, which do not negate default for admission under Section 7. Admitting the CIRP application, the court held that balance sheets and acknowledgements/letters may amount to acknowledgement of debt.

**Source:** *Ibclaw.in*, March 07, 2026.

<https://ibclaw.in/canara-bank-vs-prayag-polytech-pvt-ltd-nclt-jaipur-bench/>

#### **NCLAT Dismissed Rolta Employees' Appeal against Resolution Plan**

The Appellate Tribunal observed that the resolution plan earmarked ₹1 crore for employee dues. Since the liquidation value for operational creditors was nil, the payout under the Plan satisfied the requirement under Section 30(2)(b) of the IBC. It noted that employees were receiving more than unsecured financial creditors. The court further examined the financial structure of the Plan, noting that the total plan value was ₹900 crore, while the admitted claims of secured financial creditors exceeded this amount, leaving no liquidation value available for operational creditors, including employees.

**Source:** *BWLegalworld.com*, March 05, 2026.

<https://www.bwlegalworld.com/article/nclat-dismisses-rolta-employees-challenge-to-resolution-plan-596121>

#### **Primacy of the CoC's Commercial Wisdom under the IBC Cannot be Supplanted by Judicial Review: Supreme Court**

The Supreme Court has emphasized that the commercial decisions of the Committee of Creditors (CoC) cannot be interfered with by the National Company Law Tribunal (NCLT), the National Company Law Appellate Tribunal (NCLAT), or even by the Supreme Court itself. The Bench clarified that judicial intervention cannot extend beyond the narrow statutory confines of the Code, as doing so would undermine both predictability and finality in the insolvency resolution process.

“The IBC deliberately confines judicial review to strict statutory compliance. Respecting these limits will preserve the economic sense of the IBC and ensure that insolvency remains a predictable, time-bound, and market-driven process,” said the Court. In the case, the Court noted that the resolution plan concerning the corporate debtor had already been approved by both the NCLT and the NCLAT and had since been implemented, leaving absolutely no scope for intervention by the Supreme Court. Accordingly, the appeal filed by Torrent Power Ltd. and others was dismissed. “The appeals before us typify the growing strategic use of the judicial system by unsuccessful resolution applicants, who seek to reopen almost every commercial decision under the guise of procedural impropriety,” added the Court. The Court observed that the IBC marks a shift from a court-centric insolvency framework to a creditor-driven process, with the doctrine of commercial wisdom vesting decisive authority in the CoC.

**Source:** *Deccan Herald*, March 04, 2026.

<https://www.deccanherald.com/india/commercial-wisdom-of-coc-cant-be-supplanted-by-judicial-review-sc-3919860>

#### **NCLT Approved JSW Energy's ₹700 Crore Resolution Plan for Raigarh Champa Rail Infrastructure**

The Resolution Plan submitted by JSW Energy Ltd. (SRA) for Raigarh Champa Rail Infrastructure Pvt. Ltd. was already approved with 100% votes by the Committee of Creditors (CoC) in November 2025. The CIRP commenced in January 2021 following a petition

by Axis Bank and witnessed multiple developments, including a change in the majority lender. JM Financial Asset Reconstruction Company (JMFARC) eventually became the sole member of the CoC after acquiring debt from various lenders, holding 78.59% of the voting share. According to media reports, the Plan value has significantly exceeded the company's liquidation value of ₹206.22 crore and its fair value of ₹293.74 crore, ensuring a better recovery for creditors.

**Source:** *Insolvencytracker.in, March 02, 2026.*

<https://insolvencytracker.in/2026/03/02/nclt-approves-rs-700-cr-resolution-plan-for-raigarh-champa-rail-infrastructure/>

### Creditors Can Pursue Simultaneous CIRP Against Both Principal Debtor and Corporate Guarantors: Supreme Court

The Apex Court bench has ruled that there is no statutory bar under the IBC preventing a financial creditor from initiating parallel proceedings to recover its dues. "It seems prudent that the rationale of a creditor obtaining a guarantee for its debt must be realized to its fullest. A financial creditor, vested with rights under the Code, must be able to exercise them. Equally, the Adjudicating Authority has an obligation to examine each application independently, on its own merits," the Court said. The verdict reaffirmed the fundamental principle of the Indian Contract Act that the liability of a guarantor is "co-extensive" with that of the principal debtor.

**Source:** *The Economic Times, February 26, 2026.*

<https://economictimes.indiatimes.com/news/india/creditors-can-pursue-simultaneous-insolvency-proceedings-against-both-debtors-guarantors/articleshow/128818666.cms?from=mdr>

### IBBI amends CIRP Regulations making mandatory listing of all homebuyers in a CD's Information Memorandum

As per the amendment to the CIRP Regulations, 2016 dated 25 February 2026, the Information Memorandum for a company undergoing insolvency proceedings must include details of all allottees, even if they have not submitted a claim to the Resolution Professional. Allottees whose names appear in the company's books

or in the records of the Real Estate Regulatory Authority will be eligible for such inclusion. According to the IBBI, this measure aims to ensure fair and equitable treatment for all homebuyers. In cases where these details are included in the Information Memorandum of the CD, the Resolution Plan must provide for treatment of such allottees, IBBI said.

**Source:** *Business Standard, February 26, 2026.*

[https://www.business-standard.com/industry/news/ibbi-mandates-listing-all-homebuyers-in-a-firm-s-information-memorandum-126022600832\\_1.html](https://www.business-standard.com/industry/news/ibbi-mandates-listing-all-homebuyers-in-a-firm-s-information-memorandum-126022600832_1.html)

### NCLT Approves Reliance-Backed Capri Global's ₹449 Crore Resolution Plan for SevenHills Hospital

According to media reports, under the approved resolution plan, secured creditors are set to recover about ₹449 crore, or roughly 40% of their admitted claims. The Municipal Corporation of Greater Mumbai (MCGM) will reportedly receive a settlement of around ₹223.4 crore, along with an additional payment of about ₹205 crore. Employees and other operational creditors will be paid ₹6 crore. The Successful Resolution Applicant - Reliance Group and Capri Global Holdings - have reportedly proposed a multi-step scheme of arrangement under which Reliance will extend equity support, and the hospital will be converted into a not-for-profit entity. The resolution plan was approved unanimously by the CoC reportedly because it was the only bid to secure a noobjection certificate from authorities.

**Source:** *Insolvencytracker.in, February 24, 2026.*

<https://insolvencytracker.in/2026/02/24/nclt-approves-capri-globals-%E2%82%B9456-crore-resolution-plan-for-mumbai-hospital-of-seven-hills-healthcare-hospital-to-be-converted-into-not-for-profit-entity/>

### Misuse of the IBC among eight priority areas flagged by the ED

According to a media report, the Enforcement Directorate has identified eight focus areas for coordinated action, including tracking foreign assets, misuse of the Insolvency and Bankruptcy Code, trade-based money laundering, cyber fraud, illegal online gambling, drug financing, share market manipulation,

and foreign interference through illicit funding; the decision was reportedly taken at its 34th quarterly conference of zonal officers held in Guwahati from February 19 to 21, 2026. “Instances of potential collusion between corporate debtors, resolution professionals, members of the Committee of Creditors (CoC), and other stakeholders were flagged as areas requiring scrutiny,” said the agency with respect to IBC related cases. IBBI, Financial Intelligence Unit-India, and other agencies also made thematic presentations in the conference.

**Source:** *The Hindu*, February 22, 2026.

<https://www.thehindu.com/news/national/ed-flags-eight-priority-areas-including-ibc-misuse-and-cyber-fraud/article70664087.ece>

### Government-Backed Bad Bank Resolves Two Accounts, Distributes ₹330 Crore among Banks

India Debt Resolution Co. Ltd. (IDRCL), the managing arm of the government backed bad bank National Asset Reconstruction Co Ltd (NARCL), has reportedly resolved two corporate debtors and is distributing approximately ₹330 crore to banks. This marks the bad bank’s first recoveries since commencing operations in 2022, with resolutions in respect of Metamere Ltd. and Helios Photo Voltaic. According to media reports, IDRCL has completed the redemption of the security receipts issued to banks in these cases. The debt had been acquired by NARCL from banks under the 15:85 structure, with 15% paid upfront in cash.

**Source:** *The Economic Times*, February 20, 2026.

<https://economictimes.indiatimes.com/industry/banking/finance/banking/idrcl-settles-two-insolvency-cases-first-since-inception/articleshow/128591075.cms?from=mdr>

### Only the Liquidation Value in summary form is to be provided to the members of the CoC: NCLAT, Chennai

Interpreting Regulation 35(2) of the IBBI (Liquidation Process) Regulations, the Appellate Tribunal held that the legislature consciously provides only for disclosure of the liquidation value in summary form to CoC members, not the full valuation reports. Accordingly, the RP’s actions were in line with the Code, and

the Adjudicating Authority’s order upholding them cannot be faulted. The Tribunal further noted that the Appellant had neither challenged the liquidation value nor the valuation process during the CIRP; the subsequent attempt to seek full valuation reports by alleging undervaluation was therefore an afterthought.

**Source:** *IBCLaw.in*, February 16, 2026.

<https://ibclaw.in/tamilnad-mercantile-bank-ltd-vs-radhakrishnan-dharmarajan-nclat-chennai/>

### Pending Counterclaim Does Not Bar Financial Creditor from Invoking Insolvency Proceedings, Rules Supreme Court

Interpreting the concept of default under Section 3(12), the Bench of the Supreme Court reaffirmed that insolvency jurisdiction is concerned with the non-payment of a debt that is legally due and payable. Regarding the legal effect of a counterclaim filed by the Corporate Debtor before the Debt Recovery Tribunal (DRT), the Bench held that an adjudicated counterclaim remains a mere assertion of liability and does not operate as a set-off against an admitted debt. In conclusion, the Supreme Court upheld the finding that the Section 7 application satisfied statutory requirements, was within limitation due to valid acknowledgements of liability, and was not vitiated by pending recovery proceedings or criminal allegations.

**Source:** *Verdictum.in*, February 14, 2026.

<https://www.verdictum.in/court-updates/supreme-court/b-prashanth-hegde-v-state-bank-of-india-2026-insc-155-1607511>

### Telecom Spectrum Cannot be Transferred under Insolvency and Bankruptcy Code, rules Supreme Court

The Supreme Court has reportedly ruled that spectrum is off the table when it comes to insolvency resolutions. The Court highlighted that the Insolvency and Bankruptcy Code, 2016 (IBC) does not permit adjustments to spectrum ownership, as it is a crucial public resource that stays in the hands of the government.

“Its ownership and, more importantly, its control with all its attributes, including benefits, have to be secured

for its citizens,” said a Bench of the Supreme Court. It was also highlighted that the IBC cannot serve as the guiding framework for restructuring or altering ownership of such a resource. Observing that the asset in question was spectrum allocated through auction, the Court said the attempt to treat spectrum as a corporate asset raised fundamental questions about its ownership, possession, use, and transferability. The judgment is structured in three parts—first, defining the legal character of spectrum; second, identifying the core legal issues; and finally, examining how assets are treated under the IBC and how the framework interacts with telecom laws governing spectrum. The judgment has come on a batch of appeals filed by the Department of Telecommunications (DoT), the Committee of Creditors (CoC) led by the State Bank of India (SBI), and others challenging an April 2021 order of the NCLAT. The lenders argued that the right to use spectrum constituted an intangible asset that should move through the Resolution Plan.

**Source:** *The Economic Times, February 13, 2026.*

<https://economictimes.indiatimes.com/industry/telecom/supreme-court-telecom-spectrum-transfer-insolvency-and-bankruptcy-code-dot-aircel-rcom-case-verdict/articleshow/128289946.cms?from=mdr>

### NCLT approved Resolution Plan for Hotel Horizon

The Resolution Plan, amounting to ₹919 crore and submitted by a consortium of Oberoi Realty, Shree Naman Developers, and JM Financial Properties and Holdings, was approved unanimously by the Committee of Creditors (CoC). Against admitted claims of ₹1,293 crore, the creditors will recover 74% of their claims. Hotel Horizon’s principal assets include 1.85-acre freehold land parcel in Juhu, Mumbai. However, on appeals by the suspended directors, the NCLAT has restricted the creation of equity but allowed the consortium to acquire Hotel Horizon.

**Source:** *The Economic Times, February 09, 2026.*

<https://economictimes.indiatimes.com/industry/services/property/-construction/nclt-clears-hotel-horizon-resolution-nclat-bars-equity-creation-for-now/articleshow/128125178.cms?from=mdr>

### NCLAT Upholds Higher Payments to GNIDA Over Secured Financial Creditors under Resolution Plan

The NCLAT observed that the Greater Noida Industrial Development Authority (GNIDA) was required to be treated as a secured creditor by virtue of a statutory charge as decided by the Supreme Court in the case of Prabhjit Singh Soni. With respect to the approved Resolution Plan providing ₹16.50 crore to GNIDA against an admitted claim of approximately ₹26.45 crore, an amount higher than that allocated to secured financial creditors, the NCLAT held that the payout satisfied the requirements of Section 30(2) of the IBC. On the issue of valuation, the Appellate Tribunal noted that the valuation exercise had been conducted in accordance with Regulation 35 of the CIRP Regulations and had been accepted by the Committee of Creditors. Accordingly, it held that the valuation could not be reopened at the stage of approval of the resolution plan.

**Source:** *Taxscan.in, February 08, 2026.*

<https://www.taxscan.in/top-stories/nclat-upholds-resolution-plan-payout-to-gnida-rejects-objections-on-section-302-and-valuation-read-order-1442848>

### Supreme Court Raises Concern Over Undervaluation and Manipulated Auctions Under IBC: Media Report

According to a media report, the Supreme Court, during the hearing on the sale of Anil Ambani Group’s Reliance Communications to his elder brother Mukesh Ambani’s Reliance Industries under the IBC, expressed serious concerns over steep haircuts and sought probe by the Central Bureau of Investigation and the Enforcement Directorate.

“Unfortunately, IBC proceedings are misused nowadays. The assets of a company in debt are undervalued. Then it is put on a sham auction and, in a planned manner, a family member or a friend buys it,” said the Bench of the Supreme Court led by Hon’ble Justice Surya Kant, the Chief Justice of India (CJI). “Every day such matters are coming up before the court,” added the Bench. The court was informed

that Reliance Communications had outstanding dues of ₹47,000 crore and, during bankruptcy proceedings, was sold for ₹455 crore—approximately 1% of the total outstanding amount. In a sarcastic manner, the Bench remarked, “It is a nice plan. Voluntarily declare bankruptcy and then get evaluated by friendly valuers at 10% of the market value. Unfortunately, the conduct of resolution professionals is not above board.” The Bench also said that CBI and ED should investigate the matter thoroughly and get to the bottom of the case. “We will monitor the investigations, and if we find them to be slack in probing the cases, we will pass appropriate directions,” said the Supreme Court.

**Source:** *Times of India*, February 05, 2026.

<https://timesofindia.indiatimes.com/india/sc-flags-undervaluation-sham-auctions-under-ibc-seeks-probe/articleshow/127920634.cms>

### **PMLA Court Clears DHFL in Money Laundering Case, Denies Relief to Associated Individuals**

Discharging the now-defunct Dewan Housing Finance Corporation Ltd (DHFL) in a ₹5,050-crore money laundering case, the PMLA Court, Mumbai, held that the Successful Resolution Applicant (SRA) is entitled to immunity under the IBC. The Court also clarified that such immunity does not extend to erstwhile officers and directors who were directly or indirectly involved in the offence prior to the CIRP. It held that they would continue to be prosecuted and punished for offences committed by DHFL. The company was acquired by the Piramal Group in 2021 through an IBC-approved resolution plan and subsequently merged into a group entity.

**Source:** *The Economic Times*, February 04, 2026.

<https://economictimes.indiatimes.com/news/india/pmla-court-discharges-dhfl-grants-immunity-under-ibc-after-change-in-management/articleshow/127915645.cms?from=mdr>

### **Resolution Plan of Cian Healthcare Ltd Successfully Implemented**

The Resolution Plan Implementation Committee, in its meeting held on February 1, 2026, confirmed the successful completion of all settlement obligations under the approved resolution plan of Cian Healthcare Ltd. The total resolution plan amount of ₹37.30 crore has been fully utilized to settle stakeholder claims in accordance with the approved framework. The CIRP commenced on August 14, 2024, and the Resolution Plan was approved on December 18, 2025. The settlements covered CIRP costs and claims of financial creditors, operational creditors, workmen, employees, and other eligible claimants.

**Source:** Scanx.trade, February 01, 2026.

<https://scanx.trade/stock-market-news/earnings/cian-healthcare-completes-corporate-insolvency-resolution-process-with-37-30-crore-settlement/31510628>

### **The Economic Survey 2025-26 cautioned that extended insolvency timelines can trigger value erosion**

The Survey noted that the National Company Law Tribunal (NCLT) had a pendency of nearly 30,600 cases as of March 2025. While the Code mandates completion of the Corporate Insolvency Resolution Process (CIRP) within 330 days, including extensions, the actual average duration stands at 713 days overall and 853 days for cases closed in FY25. This reflects a deviation of over 150 per cent from the statutory limit, the Economic Survey said. Prolonged insolvency timelines can lead to significant value erosion, as assets deteriorate, employees leave, customers shift to competitors, and supplier relationships weaken. It also flagged institutional constraints at the level of courts and Resolution Professionals (RPs)

**Source:** The BusinessLine.com, January 29, 2026.

<https://www.thehindubusinessline.com/companies/extended-insolvency-timelines-can-trigger-value-erosion-economic-survey/article70565211.ece>

# International Development on Insolvency Law From Around the World

## Supreme Court of Singapore and Indonesia Signed MoU on Cross-Border Collaboration

The Memorandum of Understanding (MoU) aims to enhance communication and cooperation in insolvency and restructure matters through designated liaison points, improving coordination in cross-border insolvency proceedings. It formalizes communication processes between the two courts, provides clarity for stakeholders, and seeks to enhance the efficiency of restructuring processes for companies operating in both jurisdictions. This MoU builds on the Model Framework for Communication and Cooperation between ASEAN Courts in Cross-Border Insolvency, endorsed at the 12th Council of ASEAN Chief Justices meeting in November 2025.

**For More Details, Please Visit:** <https://www.canadianlawyermag.com/news/international/singapore-indonesia-supreme-courts-ink-memorandum-to-boost-cross-border-collaboration/393939>

## Brazilian Retailer Americanas Files Motion to Exit Bankruptcy Protection Proceedings

According to media reports, the company stated that it has fulfilled all previously established obligations and is seeking to exit bankruptcy proceedings. Americanas entered bankruptcy protection in January 2023 after disclosing approximately \$4 billion in accounting irregularities. A nearly century-old retailer with a widespread physical and online presence across Brazil, it had initially sought to restructure about 43 billion reais (approximately \$8.23 billion) in debt. As part of its restructuring efforts, the company closed more than 170 stores last year.

**For More Details, Please Visit:** <https://www.investing.com/news/stock-market-news/brazils-americanas-files-motion-to-exit-bankruptcy-protection-proceedings-4581299>



## Spandex Maker Lycra Files for Bankruptcy in the US to Cut \$1.2 Billion in Debt

The Lycra Company, a maker of spandex and other stretch fabrics, has reportedly filed for Chapter 11 bankruptcy protection in Houston, Texas, seeking to shed \$1.2 billion in debt. The company's lenders agreed to provide \$75 million in new financing and to eliminate most of the company's \$1.53 billion in existing debt. The company has stated that the restructuring will not affect its manufacturing operations, customers, vendors or employees. It also submitted that it has near unanimous support from its lenders for a "prepackaged" restructuring and expects to emerge from bankruptcy within 45 days.

**For More Details, Please Visit:** <https://www.reuters.com/legal/litigation/spandex-maker-lycra-files-bankruptcy-cut-12-billion-debt-2026-03-17/>

## German corporate insolvencies reach highest level since 2014

The total number of corporate bankruptcies in Germany rose to its highest level in more than a decade in 2025, according to data published by the federal statistics office, a media report said. Local courts reportedly registered 24,064 corporate insolvency filings, marking a 10.3% increase compared with the previous

year. Germany's anemic economic growth last year, after two years of recession, contributed to the rise in bankruptcies. Europe's largest economy is expected to recover modestly over the course of this year, assuming energy prices driven up by the war in Iran go back to normal in the next few months, according to forecasts from three economic institutes.

**For More Details, Please Visit:** <https://www.reuters.com/business/german-corporate-insolvencies-reach-highest-level-since-2014-2026-03-13/>

### **US Radio Broadcaster ‘Cumulus Media’ files for Bankruptcy to Reduce \$600 Million Debt**

Cumulus Media, an audio entertainment company that owns 394 radio stations, along with a radio syndication business and a podcast network, has filed for bankruptcy protection in Texas with a restructuring deal that would eliminate most of its \$697 million debt. In a media statement, the company reportedly said that its debt had become unsustainable due to persistent challenges such as increasing competition from digital audio and streaming platforms, changes in the advertising market, and recurring annual declines in radio audiences. Cumulus reported \$553.6 million in net revenue for the nine months ended September 30, 2025, with a net loss of \$65.6 million during that period.

**For More Details, Please Visit:** <https://www.reuters.com/legal/litigation/radio-station-owner-cumulus-media-files-bankruptcy-cut-600-mln-debt-2026-03-05/>

### **Mexico’s Salinas-controlled TV Azteca announces bankruptcy**

The shareholders of Mexican broadcaster TV Azteca have reportedly approached for a voluntary bankruptcy process to restructure the company’s finances and liabilities. According to media reports, multiple factors contributed to the move, including the recent payment of nearly \$2 billion in back taxes to Mexican authorities, complex negotiations with international creditors, the impact of the pandemic, and the burden of license payments to the government in 2018. The company also cited “profound transformations” in the television industry, including shifts in the advertising

market. TV Azteca is one of Mexico’s most-watched broadcasters.

**For More Details, Please Visit:** <https://www.reuters.com/business/media-telecom/mexicos-tv-azteca-announces-bankruptcy-proceedings-2026-02-26/>

### **Brazil’s Airline Azul Exits Chapter 11 Bankruptcy Proceedings in the United States**

The company reportedly said that it has achieved its primary restructuring objectives, including strengthening its capital structure, increasing liquidity, and reducing indebtedness. It has reduced debt and lease obligations by approximately \$2.5 billion during the process, which also involved raising nearly \$1.4 billion through debt and \$950 million in equity investments. Azul had filed for Chapter 11 in May 2025 to restructure its debt and was part of a broader wave of Latin American airlines seeking bankruptcy protection following the impact of COVID-19 on the aviation sector.

**For More Details, Please Visit:** <https://www.reuters.com/legal/litigation/brazils-airline-azul-exits-chapter-11-bankruptcy-proceedings-2026-02-20/>

### **USA’s Eddie Bauer store operator files for bankruptcy, seeks sale of 180 apparel stores in the USA and Canada**

The company will reportedly keep door open for a buyer to acquire its entire brick-and-mortar retail business. The bankruptcy will not impact its online sales, apparel manufacturing or wholesale sales businesses, which are owned and operated separately. The bankrupt Eddie Bauer retail company has \$1.7 billion in debt, according to its court filings. Eddie Bauer, founded in Seattle, has sold outdoor sportswear for 106 years. But the retail company said it has recently struggled with declining sales, supply chain challenges, inflation and business uncertainty due to unpredictable U.S. tariffs.

**For More Details, Please Visit:** <https://www.reuters.com/legal/litigation/eddie-bauer-store-operator-files-bankruptcy-seeks-sale-2026-02-09/>

## Wage Pressures Lead to Surge in Bankruptcy in Japan: Survey

Japan's bankruptcy cases rose in January as companies struggled with rising labour costs amid a tight job market, according to a private survey. The data reflects the growing impact of higher wages on smaller firms. Bankruptcies rose 5.6% to 887 cases, the highest for January in 13 years. Of these, 19 cited rising labour costs and 36 cited labour shortages, said the Survey. The Report further highlighted that many small firms cannot cope with rising costs and labour shortages. With demand for funds likely to increase towards the March fiscal year-end, bankruptcy cases are expected to rise.

**For More Details, Please Visit:** <https://www.reuters.com/sustainability/sustainable-finance-reporting/rising-wages-push-more-japan-firms-under-january-survey-shows-2026-02-09/>

## Europe's largest hotel group collapses into administration with 260+ sites affected

Revo Hospitality Group, a leading European hotel operator, has reportedly declared insolvency, throwing the future of its properties across the continent into uncertainty. The Group, previously called HR Group, was launched in 2008 and stands as Europe's biggest white-label hotel operator—a third-party management firm that runs hotels for owners without displaying its own branding. The company manages over 260 hotels across 12 European nations and 146 cities. Last week, it revealed plans for restructuring through self-administration by summer, though it confirmed that hotels in two countries would continue trading

**For More Details, Please Visit:** <https://www.mirror.co.uk/travel/news/europes-largest-hotel-group-collapses-36653714>

## Restaurant Chains' promoter company in USA files for bankruptcy over high debt, legal woes

FAT Brands, the parent company of restaurant chains such as Fatburger, Johnny Rockets, and Round Table Pizza, has filed for bankruptcy protection in Houston, USA, after its business took a hit from the indictment of its former CEO and rising costs on its \$1.4 billion in debt. According to media reports, the company and its franchisees operate over 2,200 restaurants, and those

restaurants will remain open for business. FAT Brands reportedly entered bankruptcy with just \$2.1 million in cash on hand, and the court has allowed it to use some of that cash to ensure that \$400,000 in recently issued checks do not bounce when employees go to cash them.

**For More Details, Please Visit:** <https://www.reuters.com/legal/litigation/fatburger-owner-files-bankruptcy-over-high-debt-legal-woes-2026-01-27/>

## Japan's bankruptcy cases hit 12-year high in 2025: Survey

According to media reports, bankruptcy cases in Japan have risen to a 12-year high due to increasing raw material costs and intensifying labor shortages. The data highlights how inflation and a tight job market are emerging as fresh challenges for companies, which could keep the Bank of Japan under pressure to raise still-low interest rates. The total number of companies that reportedly went bankrupt in 2025 stood at 10,300, marking the highest level since 2013. The number was up 2.9% from the previous year, marking the fourth straight annual increase but slowing from a 15.1% rise in 2024.

**For More Details, Please Visit:** <https://www.reuters.com/world/asia-pacific/japans-bankruptcy-cases-hit-12-year-high-2025-survey-shows-2026-01-13/>

## Royal Air Philippines Cancelled All Flights Amid Bankruptcy

Royal Air Philippines, a Manila-based charter and cargo airline, has cancelled all its commercial flights as it enters a bankruptcy and liquidation process, marking one of the first airline failures of 2026. The carrier, which began operations in 2017 and expanded to regional international routes, confirmed the suspension of services through March 2026, leaving thousands of booked travelers scrambling for alternatives or refunds. Authorities have asked creditors to submit claims as part of insolvency proceedings, and the airline indicated ongoing efforts to address its financial challenges, though resumption of flights appears increasingly unlikely.

**For More Details, Please Visit:** <https://www.financialexpress.com/world-news/us-news/13th-largest-us-private-jet-operator-verijet-files-for-bankruptcy-after-ceos-death-owes-10-5m-to-customers/4008525/>

# Study Group Report on Taxation and Company Law Compliances Under IBC– Best Practices

(...continued from the previous edition)

## 4. Analysis of Challenges in Statutory Compliances during CIRP & Liquidation

While the statutory imperative for an Insolvency Professional (IP) to ensure compliance is unequivocal, the practical application of this duty is fraught with significant challenges. The interplay between the Insolvency and Bankruptcy Code, 2016, and other existing statutes creates numerous legal ambiguities and operational impediments. These challenges are not uniform and vary significantly depending on the specific legislation in question. This section provides a detailed analysis of the key challenges faced by IPs in ensuring compliance under various pivotal laws. It draws upon the extensive research, stakeholder consultations, and practical experiences gathered by the Study Group. The analysis is structured to first identify the specific legal or procedural issue, then to explore its practical impact on the CIRP or Liquidation process, thereby laying the groundwork for the best practices and legislative reforms recommended in subsequent sections.

### 4.1 Compliances under the Companies Act, 2013, and SEBI Regulations

The Companies Act, 2013, and the regulations issued by the Securities and Exchange Board of India (SEBI) govern the fundamental corporate and governance obligations of a company. For listed entities, these two legal frameworks are inextricably linked. During a CIRP or Liquidation, while the Board of Directors is suspended, the company as a legal entity continues to exist and remains subject to these provisions. This creates an immediate conflict between the normal functioning envisaged by company and securities law and the altered reality of a company managed by an IP. The primary challenges identified in this domain are

as follows:

#### 4.1.1 Conundrum of Statutory Meetings and Corporate Approvals

The mechanism of corporate approvals under the Companies Act is predicated on a functional Board of Directors and an engaged body of shareholders. The initiation of CIRP renders this mechanism largely unworkable.

- **Board and Committee Meetings:** With the powers of the Board suspended under Section 17 of the Code, the convening of Board meetings and its various committees (e.g., Audit Committee, Nomination & Remuneration Committee, Stakeholders Relationship Committee) becomes a legal impossibility. All powers are vested in the IP, who acts in consultation with the Committee of Creditors (CoC). This suspension creates a governance vacuum that the law does not formally address with exemptions.
- **Annual General Meetings (AGMs):** The requirement to hold an AGM under Section 96 of the Companies Act presents a significant challenge. The primary purpose of an AGM is to consider and adopt the annual financial statements. However, with the Board suspended, the accounts cannot be approved by directors in the conventional manner before being presented to the shareholders. Furthermore, as the erstwhile promoters and their relatives often constitute the majority of shareholders, their cooperation in convening an AGM and adopting the accounts (which may contain qualifications or reflect poor performance) is frequently withheld. This creates a procedural deadlock, making a fundamental compliance of the Companies Act impracticable.

#### 4.1.2 Preparation, Signing, and Auditing of Financial Statements

The finalisation of financial statements is a cornerstone of corporate compliance, yet it is an area fraught with obstacles for the IP.

- **Access to Information:** IPs frequently encounter non-cooperation from the suspended management and face situations where financial records are incomplete, missing, or inaccessible. This severely hampers the ability to prepare accurate financial statements for the period prior to and during the CIRP.
- **Signing of Financial Statements:** A significant point of contention is the legal responsibility for signing the financial statements. Section 134(1) of the Companies Act requires financial statements to be signed by directors. Suspended directors often refuse to sign, arguing that they no longer control the company's affairs. While IPs have the authority to manage the company, they are not designated as directors and may be hesitant to sign off on accounts for periods they did not oversee. The Hon'ble NCLAT, in the matter of *Mr. Mukund Choudhary vs. Mr. Subhash Kumar Kundra (RP for CLC Industries Ltd.)*, has clarified that the suspension of powers does not absolve directors of their duties and they are obligated to cooperate and sign the financial statements. Despite this judicial clarification, non-cooperation remains a persistent ground-level challenge requiring the IP to seek directions from the Adjudicating Authority, causing delays.
- **Appointment and Role of Statutory Auditors:** The process for appointment or re-appointment of a statutory auditor, which requires shareholder approval in an AGM, is disrupted. IPs often struggle to have auditors appointed or to secure the cooperation of existing auditors, who may have outstanding fees from the pre-CIRP period or may be unwilling to continue due to the complexities and risks involved.

#### 4.1.3 Impediments in Statutory Filings with Regulatory Portals

Even when an IP manages to prepare the requisite documents, procedural and technical hurdles in filing them with the Registrar of Companies (ROC) present a major challenge.

- **MCA Portal Architecture:** The MCA-21 e-filing portal is designed for filings to be made by directors or other Key Managerial Personnel (KMP) using their Digital Signature Certificates (DSCs). The system architecture is not inherently equipped to recognise the role of an IP.
- **Workarounds and Their Limitations:** While the Ministry of Corporate Affairs (MCA) has issued circulars (e.g., General Circular No. 08/2020) providing workarounds—such as requiring the IP to first file Form INC28 to notify the appointment, and subsequently file other forms like AOC-4 and MGT-7 as attachments to Form GNL-2, signing as “CEO” for filing purposes—these are ad hoc solutions. They indicate a responsive approach from the Ministry but also highlight a deeper systemic issue: the lack of seamless integration between the IBC process and the standard corporate filing infrastructure. This multi-step, manual-override process is cumbersome, prone to error, and can lead to delays.

#### 4.1.4 Specific Form-wise Filing Challenges

The general challenges in filing manifest as specific, acute problems when dealing with individual statutory forms. The following are key examples:

- **Form AOC-4 (Financial Statements) & Form MGT-7 (Annual Return):** These are the most critical annual filings and face the most significant hurdles.
- **Interdependency:** The filing of MGT-7 is contingent on the date of the AGM, and the filing of AOC-4 requires financial statements to be duly signed and adopted at the AGM. Since holding an AGM is often impracticable, a cascading failure occurs.

- **Data Field Constraints:** Form MGT-7 contains mandatory fields for details of Board and Committee meetings held during the year. As no such meetings are held post-CIRP initiation, the form cannot be accurately filled, leading to validation errors on the portal.
- **Form DIR-12 (Particulars of Appointment of Directors and KMP):**
- **Inapplicability during CIRP:** This form is used to report changes in the Board of Directors. During CIRP, the Board is suspended, not changed. The IP's appointment is notified via Form INC-28. There is no standard procedure to reflect the "suspension" status of existing directors in the MCA master data, leading to an inaccurate representation of the company's governance.
- **Post-Plan Complications:** Upon approval of a resolution plan that requires the appointment of a new Board, filing DIR-12 for the new directors can be problematic if the records for previous directors are not in order.
- **Form ADT-1 (Auditor Appointment):** The inability to convene an AGM makes it impossible to follow the standard procedure for auditor appointment or ratification, rendering the filing of this form problematic.
- **Forms for Charges (CHG-1, CHG-4):** Modifying or satisfying charges as part of debt restructuring is a key CIRP activity. However, filing these forms can be challenging without the active cooperation of the charge holders (lenders), who may be slow to provide the necessary authorisations.
- **Forms for Corporate Actions (e.g., PAS-3 - Return of Allotment, SH-7 - Notice for Alteration of Capital):**

These forms are critical for implementing a resolution plan that involves issuance of new shares to a resolution applicant or alteration of the company's capital structure. The successful filing of these forms is often hindered by the need for precedent actions (like shareholder resolutions) which are typically waived by the NCLT in the

resolution plan approval order. However, the portal's validation checks may not recognize such waivers, creating filing impediments that delay the legal and financial closure of the resolution plan.

- **Form DPT-3 (Return of Deposits):** The IP may not have access to complete historical records of deposits accepted by the company, making it difficult to file an accurate return.

#### 4.1.5 Heightened Challenges for Listed Entities under SEBI Regulations

For companies whose securities are listed, the compliance burden is magnified due to the stringent and time-sensitive disclosure regime of the SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015 (LODR). The IP must effectively function as the Board, CEO, and Compliance Officer combined.

- **Continuous Disclosure Obligations (Regulation 30):** The LODR mandates disclosure of all material events. An IP, who is primarily focused on the resolution process, faces the immense challenge of identifying and disclosing such information within the stipulated timelines. This includes quarterly financial results, which suffer from the same finalisation and audit issues detailed above, leading to significant delays and potential non-compliance.
- **Specialised SEBI Filings:** The IP is confronted with numerous specialised compliance requirements for which they may lack historical data or context, including:
  - **Annual Secretarial Compliance Report (LODR 24A):** Requires a comprehensive review of past compliance, which is difficult for an IP to certify.
  - **Insider Trading Compliance (PIT Regulations):** The IP assumes responsibility for implementing the code of conduct, including maintaining a Structured Digital Database (SDD) and monitoring the trading window for designated persons, tasks complicated by the potential lack of a complete list of such persons from the erstwhile management.

- **Scheme of Arrangement Approvals:** If a resolution plan involves a scheme of arrangement, navigating the SEBI Master Circular on Schemes can be complex and time-consuming.
- **Related Party Transaction Disclosures (Regulation 23):** While SEBI has granted exemptions from shareholder approvals for related party transactions forming part of an NCLT-approved resolution plan, the IP must still ensure compliance with all other facets of the regulation during the CIRP, including identification of related parties and maintaining proper records, which can be difficult without historical context and cooperation.
- **Compliance with Minimum Public Shareholding (MPS):** A resolution plan that involves significant equity infusion to a new promoter can lead to the public shareholding falling below the mandated 25%. While rules provide a window to restore the MPS, this adds another layer of complexity for the incoming resolution applicant and must be factored into the plan, potentially affecting its attractiveness.

#### 4.1.6 The Inherited Burden of Pre-CIRP Non-Compliance

The IP does not start with a clean slate. Upon appointment, the IP inherits a history of the corporate debtor's operations, which often includes a significant backlog of statutory non-compliances under both the Companies Act and SEBI regulations.

- **Unfulfilled Filing Obligations:** Typically, a company spirals into insolvency after a period of financial distress, during which statutory filings such as annual returns (MGT-7), financial statements (AOC-4), and various SEBI disclosures for one or more preceding years are often neglected. The IP is then faced with the monumental task of rectifying these historical defaults, a task made difficult by the aforementioned issues of data unavailability and non-cooperation.
- **Penalties and Prosecution:** This inherited non-compliance carries the risk of substantial

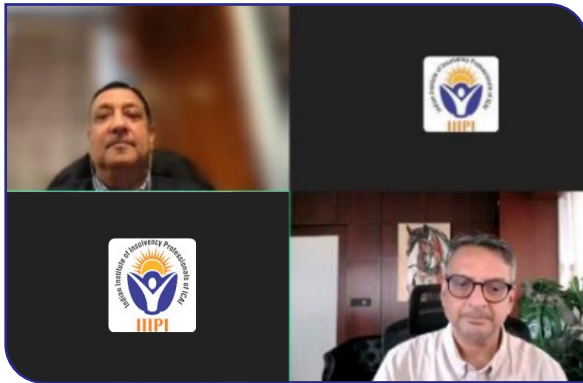
additional fees for delayed filings and potential prosecution against the company and its “officers in default.” The IP must then expend valuable time and resources seeking condonation of these delays or waivers from regulatory authorities, diverting focus from the core resolution activities.

#### 4.1.7 Post-Resolution Plan Implementation Challenges

The challenges do not cease upon the approval of a resolution plan by the Adjudicating Authority. The new management, installed by the Successful Resolution Applicant (SRA), faces its own set of compliance hurdles as it seeks to regularise the company's affairs.

- **Rectification of Past Defaults:** The new Board of Directors assumes responsibility for a company whose public records with both the ROC and stock exchanges are often outdated and reflect a history of noncompliance. Bringing these records up to date, filing for condonation of delays for the pre-CIRP and CIRP periods, and ensuring the company master data is accurate is a complex and time-consuming process.
- **Transition of Authority:** Transitioning filing authority on the MCA portal and stock exchange portals from the IP back to the newly appointed directors of the revived company can be procedurally challenging. It requires proactive coordination with multiple regulators to ensure a smooth handover and to update the signatory details in the respective systems, failing which the new management may find itself unable to make statutory filings.
- **Impact of Waivers:** While a resolution plan approved under Section 31 of the Code is binding on all stakeholders, the extent to which it grants a blanket waiver for all past non-compliances under the Companies Act and SEBI Regulations is still a matter of debate. The new management often has to engage with authorities to have historical defaults formally addressed, even if they are covered by the plan's provisions.

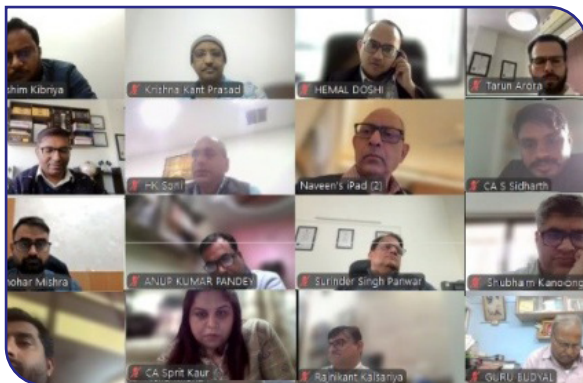
# IIIPI News



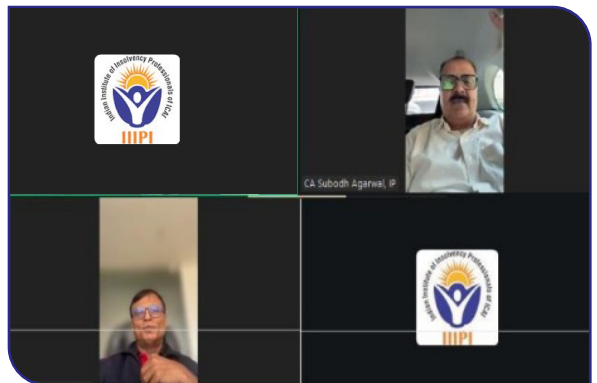
Webinar on “Investment Banking and Soft Skills for IPs” conducted by IIIPI on January 09, 2026.



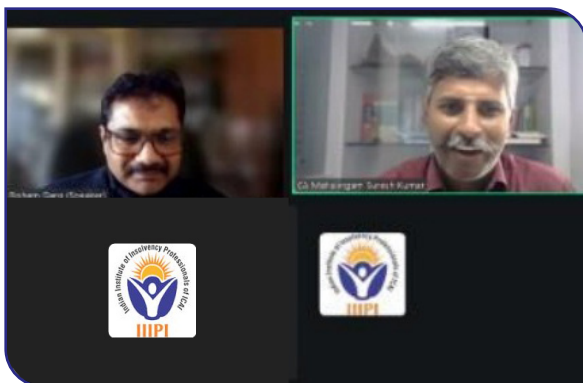
One-Day Virtual Workshop on “Legal Skills, Pleading & Court Processes under IBC” for IPs and RVs organized by the IIIPI on 10<sup>th</sup> January 2026.



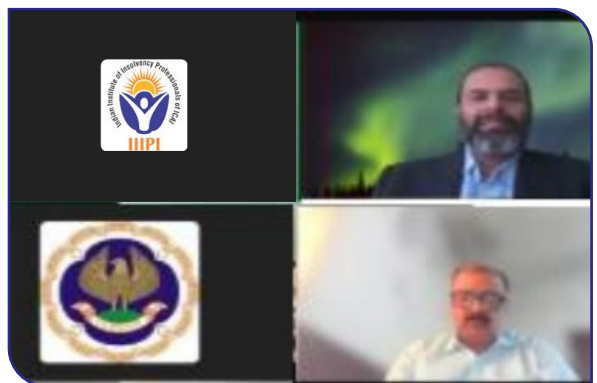
69<sup>th</sup> Batch of Pre-Registration Educational Course (PREC) from 15<sup>th</sup> January 2026 to 21<sup>st</sup> January 2026 through Online Mode.



Webinar on CoC/SCC Dynamics Conducted by IIIPI on 30<sup>th</sup> January 2026



Webinar on the “IBC interface with Corporate, Taxation, and Labour Laws” organized by IIIPI on 6<sup>th</sup> February 2026.

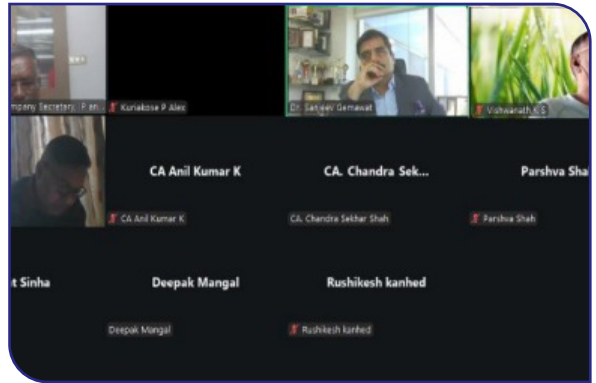


Webinar on IBC Amendment Bill, 2025 conducted by IIIPI on February 13, 2026.

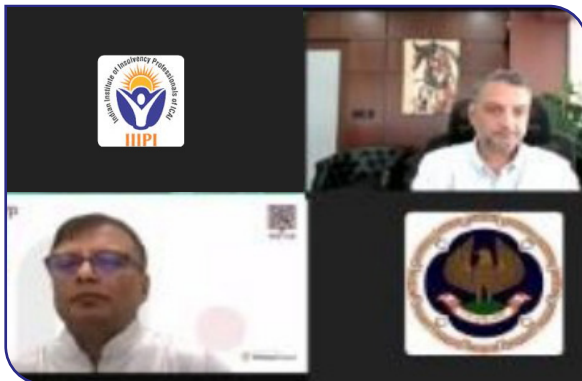
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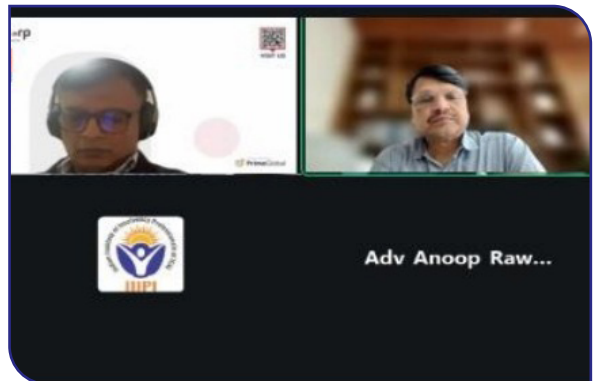
One day Physical workshop on “Enabling Infrastructure Common Issues and Compliances” on 21<sup>st</sup> February 2026 at India International Centre, Delhi.



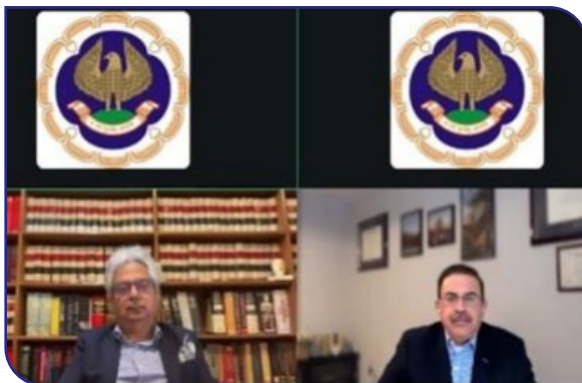
26<sup>th</sup> Batch of EDP on "Managing Corporate Debtors as going concern under CIRP" conducted by IIIPI from 23<sup>rd</sup> to 27<sup>th</sup> February 2026.



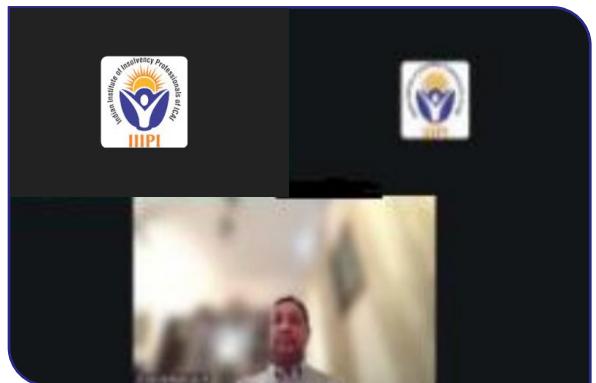
Webinar on Restructuring and Turnaround skills for IPs conducted by IIIPI on February 27, 2026.



Webinar on “Highlights on IBC Amendment Bill 2026” conducted by IIIPI on April 06, 2026.



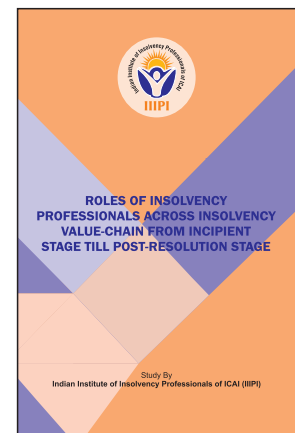
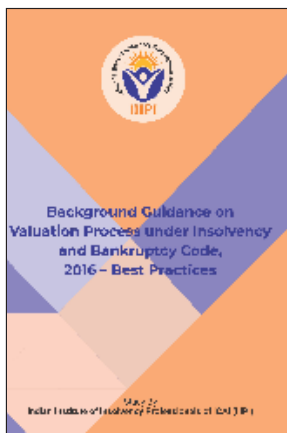
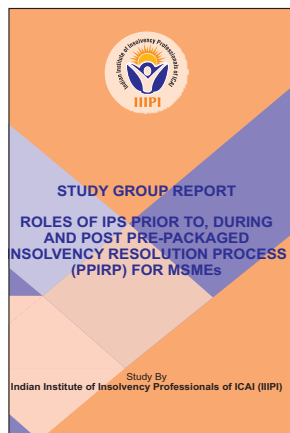
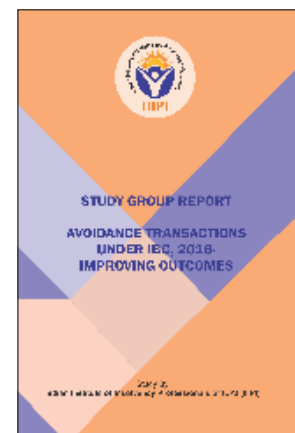
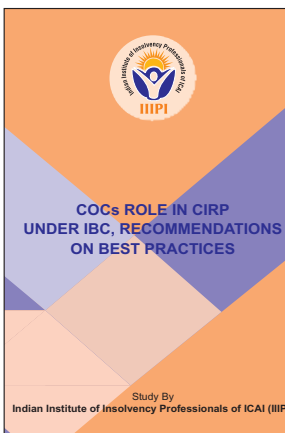
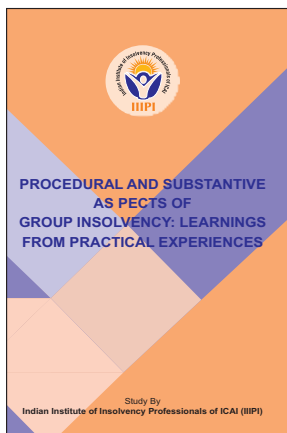
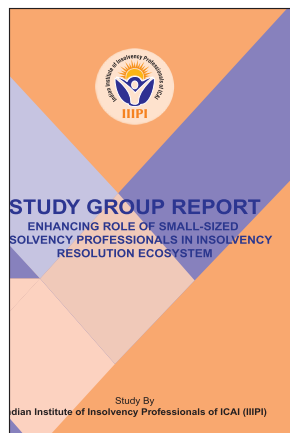
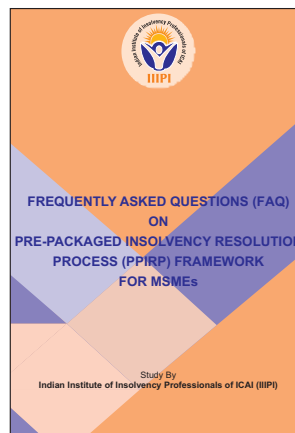
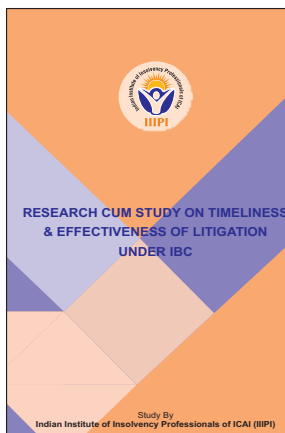
Webinar on “Recent Landmark Judgement” conducted by IIIPI on March 20, 2026.



Webinar on “Highlights on IBC Amendment Bill 2026” conducted by IIIPI on April 06, 2026.

# IIIPI PUBLICATIONS

IIIPI has published several research publications based on the Reports submitted by various Study Groups. The Study Reports of some other Study Groups are under process. The soft copies (downloadable PDF) of all these publications are available on IIIPI website (<https://www.iiipicai.in/publications/>).





## Help Us to Serve You Better

### Guidance on Common Issues Observed by IIIPI During Monitoring/ Inspections of IPs

(.....Continued from the previous edition)

#### PART II (LIQUIDATION)

##### 2.6. Observations related to Valuation:

Observations	Relevant Provisions of Law	Remarks
<p>i. There was a substantial time gap between the valuation reports conducted during the CIRP and liquidation commencement date. Despite this, the Liquidator proceeded with the same valuation reports without consulting the Stakeholders Consultation Committee (as required under Regulation 31A) to consider fresh valuations.</p> <p>ii. For gaps in appointment of valuers Please refer to 1.12 of this document (similar to CIRP).</p> <p>iii. The valuers were not appointed by the Liquidator because the IRP/RP did not appoint the Valuers during CIRP, despite of the fact that assets were appearing in the balance sheet specifically for securities and financial assets</p>	<ul style="list-style-type: none"> <li>Regulation 15 &amp; 35 of IBBI (Liquidation) Regulations 2016</li> </ul>	<p>i. A procedural gap of approximately 12 months between the commencement of the liquidation process and the date of valuation reports, especially during the COVID-19 period, may have a substantive impact on asset valuations in the real estate sector. The pandemic's effects on market conditions could have caused significant fluctuations in property values, affecting the accuracy and fairness of the valuations. Additionally, any procedural discrepancies in the appointment of valuers, as referenced in section 1.12 of the relevant document, must be addressed to ensure compliance.</p> <p>ii. The liquidator shall convene SCC meeting to discuss the methodology of the valuers before arriving at the estimated Values. and in case difference in valuation reports of two valuers are more than 25% than the Liquidator shall appoint third valuer as mandated. Also, wherein the valuation of the asset is not conducted during CIRP, the liquidator in consultation with SCC may form an opinion to conduct fresh valuation within 7 days of the Liquidation Commencement Date.</p>

**2.7. Observations related to Sale of Assets, Auction and eligibility of 29A:**

Observations	Relevant Provisions of Law	Remarks
<p>i. Calculation of 90 days from the Letter of Intent for payment to be made by the bidder as per clause 12 of Schedule 1 of the Liquidation Regulations.</p> <p>ii. Regulations.</p> <p>iii. Delay in issuance of sale certificate</p> <p>iv. The liquidator did not check eligibility u/s 29A for selling any asset of the corporate debtor to anyone who is ineligible to present resolution plan in line with Section 35(1) (f) of the Code.</p> <p>v. The Auction notice did not provide a reasonable time to bidder to submit the Bid</p> <p>vi. The Bidders bid accepted after the last date without any approval/apprise to the SCC.</p> <p>vii. The same bidder was declared as the highest bidder in the 2nd round of auction without apprising to the SCC about the fact that the same Bidder had not submitted the EMD in the previous round of auction.</p>	<ul style="list-style-type: none"> <li>Clause 11 and 12 of Schedule 1 of the Liquidation Regulations.</li> <li>Section 35(1)(f) of the IBC</li> </ul>	<p>i. Procedurally, the identified issues highlight significant deviations from established protocols within the insolvency framework. The miscalculation of payment timelines, delays in issuing sale certificates, and inadequacies in auction notices demonstrate a lack of adherence to prescribed procedures, leading to potential inconsistencies and inefficiencies in the resolution process.</p> <p>ii. Substantively, the failure to verify bidder eligibility under Section 29A and the lack of transparency in bid acceptance procedures raise fundamental concerns regarding fairness and integrity. By allowing bids to be accepted without requisite approvals and neglecting to disclose critical information to stakeholders, the substantive integrity of the process is compromised, potentially resulting in outcomes that are not in the best interest of creditors or the corporate debtor.</p>

**2.8. Observations related to Model Timelines:**

Observations	Relevant Provisions of Law	Remarks
<p>i. Delay in filing of reports/ applications before AA.</p> <p>ii. Completion of Liquidation process within timelines.</p>	<ul style="list-style-type: none"> <li>Regulation 47 of IBBI (Liquidation) Regulations 2016</li> </ul>	<p>i. Procedurally, the observed delays in filing reports and applications before the Adjudicating Authority (AA) disrupt the smooth flow of the liquidation process.</p>

<p>iii. Liquidator do not file application to AA wherein Liquidation is not completed within one year.</p> <p>iv. In addition to above, delay in all other model timelines were observed which ultimately impact the overall timelines for completion of Liquidation process.</p>		<p>ii. Substantively, these delays undermine the substantive objectives of the insolvency framework by impeding the impact the overall timelines for completion of Liquidation process. timely distribution of assets to creditors. Additionally, the systemic impact of delays in meeting the model timelines exacerbates the challenges faced in liquidation proceedings, eroding trust in the effectiveness of the process.</p> <p>iii. Time is the essence of IBC, IP to ensure the timelines prescribed under the Code &amp; Regulations for the smooth process.</p>
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**2.9. Observations related to preservation of Records:**

Observations	Relevant Provisions of Law	Remarks
<p>i. In the event of replacement, the Liquidator hand over the records to the newly appointed liquidator and did not maintain a copy of the liquidation process records for his purposes</p> <p>ii. The liquidator do not preserve records in line with Regulation 45A(2) of Liquidation Regulations.</p> <p>iii. The liquidator did not maintain Registers as mandated in the Regulations</p> <p>iv. The Receipt and payment accounts do not have supportings in Invoices for the payments</p>	<ul style="list-style-type: none"> <li>• Regulation 45A of IBBI (Liquidation) Regulations 2016</li> <li>• Regulation 7(2)(g) of IBBI (IP) Regulations, 2016</li> </ul>	<p>i. Procedurally, the lack of record preservation by the liquidator, particularly in the event of replacement, raises concerns regarding the continuity and accessibility of crucial information throughout the liquidation process.</p> <p>ii. Substantively, the failure to preserve records in accordance with Regulation 45A (2) of the Liquidation Regulations undermines the transparency and accountability of the liquidation process. This lack of record-keeping jeopardizes the integrity of the proceedings and may impede the fair distribution of assets to creditors.</p>

<p>v. The Liquidator was unable to retrieve the documents preserved while seeking records during Inspection by IPA</p> <p>vi. The Liquidator did not maintain the written contemporaneous records of all his decisions as mandated in the code of conduct</p>	<p>iii. Failure to provide records upon request by the IPA/IBBI constitutes a substantial lapse. Similarly, preserving records but being unable to retrieve them is considered non-preservation of records.</p> <p>iv. The IP must ensure the preservation of all records as per the list suggested in the Regulations</p>
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**2.10. Observations related to the Liquidation Estate:**

Observations	Relevant Provisions of Law	Remarks
<p>i. Liquidation estate not formed by the IP in line with Section 36.</p> <p>ii. Liquidator did not presume that the assets covered under the security interest as a part of liquidation estate as secured creditor did not intimate its decision within thirty days from the liquidation commencement date.</p> <p>iii. Liquidator considered asset as liquidation estate wherein the corporate debtor had given possession to an allottee in a real estate project and such asset was neither considered for valuation nor formed part of the liquidation estate of the corporate debtor. It reflects ambiguity in the approach of Liquidator.</p>	<ul style="list-style-type: none"> <li>• Section 36 of the Code and Regulation 21A of IBBI (Liquidation) Regulations 2016</li> </ul>	<p>i. Procedurally, the liquidation estate as mandated by Section 36 raises significant concerns regarding the proper initiation and management of the liquidation process. Additionally, the liquidator's omission to include assets covered under security interests in the liquidation estate due to the secured creditor's non-response within the specified timeframe highlights procedural lapses that could impede the fair and transparent distribution of assets.</p> <p>ii. Substantively, the liquidator's decision to exclude assets from the liquidation estate based on the possession granted to an allottee in a real estate project may have substantive implications on creditor rights and the overall distribution.</p>

**2.11. Observations related to filing of Application/Reports with Adjudicating Authorities:**

Observations	Relevant Provisions of Law	Remarks
<p>i. The Liquidator did not file any application to AA to explain reasons for delay beyond 1 year.</p> <p>ii. The liquidator did not submit a compliance certificate along with the final report before dissolution to AA</p> <p>iii. The liquidator did not submit Progress Reports to AA/IBBI within fifteen days after the end of every quarter.</p> <p>iv. The liquidator did file a preliminary report within the stipulated timeline under the Liquidation Regulations.</p> <p>v. The Progress Report did not contain all relevant details as mentioned in the Regulations.</p> <p>vi. Delay in filing list of stakeholders before AA.</p> <p>vii. Liquidator did not file final report to the AA in case of Sale as going concern during Liquidation was approved by AA</p>	<ul style="list-style-type: none"> <li>• Regulations 13, 15, 44, 45 of IBBI (Liquidation) Regulations 2016</li> </ul>	<p>i. Procedurally, the liquidator did not adhere to statutory requirements, such as filing applications to the Adjudicating Authority (AA) to explain delays in liquidation timeline beyond one year and submitting progress reports to the AA/IBBI within stipulated timelines, raises concerns regarding procedural compliance and transparency in the liquidation process. Moreover, the delays in filing the list of stakeholders before the AA.</p> <p>ii. Further compounding these procedural shortcomings, potentially leading to disruptions and inefficiencies, the absence of compliance certificates along with the final report and the incomplete details in progress reports undermine the substantive integrity and accountability of the process.</p> <p>iii. The Progress report may be filed by way of any other documents/application as per the standard practice of the concerned AA. with AA within the timelines provided in the Regulations and in case required by the AA by way of an application.</p>

**2.12. Observations Related To The Duties Of The Liquidator & Managing The Bank Account During Liquidation:**

Observations	Relevant Provisions of Law	Remarks
<p>i. The Liquidator did not open a separate bank account in the name of CD.</p> <p>ii. The liquidator did not complete/maintain books of accounts of the CD.</p> <p>iii. The liquidator did not prepare/submit preliminary report, asset memorandum, progress reports, sale report, minutes of the SCC meeting, and final report prior to dissolution in the manner specified before the AA.</p> <p>iv. Undertaking from the stakeholder not sought before sharing preliminary report, asset memorandum, progress reports, sale report, minutes of SCC meeting, and final report prior to dissolution.</p> <p>v. Liquidator did not make any application before AA to seek co-operation from the personnel of the CD, whenever required.</p> <p>vi. The liquidator did not file relationship disclosure of the professional appointed.</p>	<ul style="list-style-type: none"> <li>• Regulations 6, 41 of IBBI (Liquidation) Regulations 2016</li> </ul>	<p>i. The procedural lapses by the liquidator may have substantive impacts on the liquidation process. Firstly, the failure to open a separate bank account in the name of the Corporate Debtor (CD) affects financial integrity and transparency requirements.</p> <p>ii. Secondly, not completing or maintaining the books of accounts of the CD undermines accurate financial reporting and accountability. Thirdly, the liquidator's omission to prepare and submit crucial reports—such as the preliminary report, asset memorandum, progress reports, sale report, minutes of the Stakeholders Consultation Committee (SCC) meeting, and the final report—compromises the thoroughness and compliance of the liquidation process. Additionally, not seeking undertakings from stakeholders before sharing these reports disregards confidentiality protocols.</p> <p>iii. The liquidator shall comply and file a refund to the statutory Authorities before the dissolution of the CD.</p>

2.13. Observations Related to PUF E Transactions

Observations	Relevant Provisions of Law	Remarks
<p>i. Liquidator did not determine PUF E transactions considering the fact that IRP/ RP did not make an opinion on the same despite the fact that he had reasons to form an opinion on the same</p> <p>ii. Undue delay in filing application for PUF E transactions to AA</p> <p>iii. Undue delay in dissolution of the CD considering pending application for PUF E transaction with AA</p> <p>iv. Non-filing of Sec 19(2) application for not receiving the books of accounts from the Suspended Board of Directors</p>	<ul style="list-style-type: none"> <li>Regulations 31A of IBBI (Liquidation) Regulations 2016</li> <li>Sections 43 and 51 and Section 66 of the Code</li> </ul>	<p>i. The Liquidator may seek from SCC to decide the manner in which proceedings in respect of preferential transactions, undervalued transactions, extortionate credit transactions or fraudulent or wrongful trading, if any, shall be pursued after the closure of liquidation proceedings and the manner in which the proceeds, if any, from these proceedings shall be distributed.</p>

(to be continued...)

**Indian Institute of Insolvency Professionals of ICAI**  
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**EXECUTIVE DEVELOPMENT PROGRAM  
CROSS BORDER INSOLVENCY  
(For IPs)**

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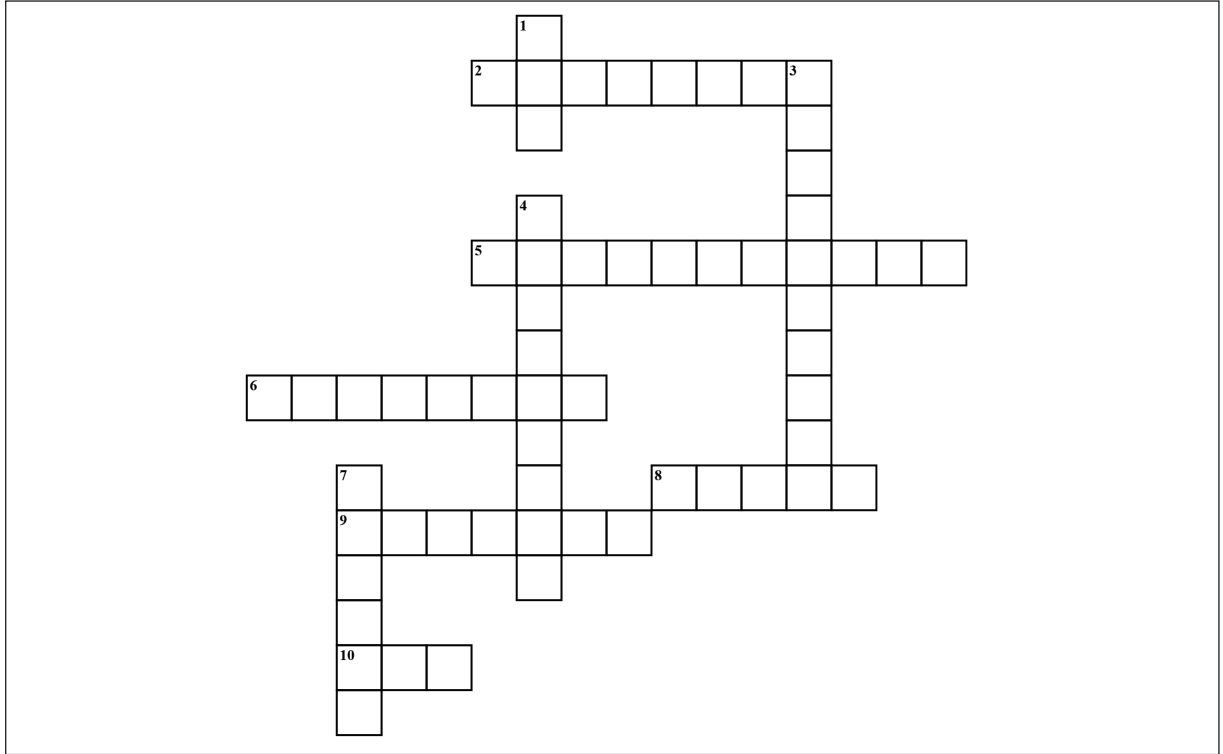
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IBC Crossword



Across \_\_\_\_\_

- [2] \_\_\_ number of largest operational creditors by value constitute the CoC where there are no financial creditors.
- [5] Which writ is issued to restrain a lower court or tribunal from proceeding in a case beyond its jurisdiction?
- [6] A creditor can appeal a liquidator’s decision on claim acceptance or rejection to the AA within \_\_\_ days of the receipt of such decision.
- [8] After completing two consecutive terms, an Independent Director cannot be reappointed or associated with the company for \_\_\_\_\_ years.
- [9] A lesser of \_\_\_ members or 5% of the total number of members required to institute a class action suit for oppression and mismanagement under Companies Act.
- [10] CD has to submit the list of claims with in \_\_\_ days of the commencement of PPIRP.

Down \_\_\_\_\_

- [1] A liquidator can apply to disclaim onerous property or contracts within \_\_\_\_\_ months from the liquidation commencement date.
- [3] The RP has to submit the IM to the CoC within \_\_\_\_\_ days from the Insolvency Commencement Date.
- [4] In *Gloster Limited v. Gloster Cables Limited* (2026), the Supreme Court held that disputes regarding the ownership of \_\_\_\_\_ cannot be adjudicated by the NCLT.
- [7] Within how many days from the date of submission of claims is the liquidator required to verify them?

Answers For January 2026 Edition

Across

- 1. Form C
- 2. Pari Passu
- 3. Sixty Five
- 6. Ten
- 7. Certiorari
- 8. Nine

Down

- 1. Forty Eight
- 3. Sixty
- 4. Ninety
- 5. Two
- 6. Three



## GUIDELINES FOR ARTICLE SUBMISSION


**THE RESOLUTION PROFESSIONAL**, quarterly peer-reviewed refereed research journal of Indian Institute of Insolvency Professionals of ICAI (IIPI), with RNI Registration Number DELENG/2021/81442/ invites research-based articles for its upcoming editions on a rolling stock basis. The contributors/authors can send their article/s manuscripts for publications in The Resolution Professional as per their convenience at [iiipi.journal@icai.in](mailto:iiipi.journal@icai.in). The same will be considered for publication in the upcoming edition of the journal, subject to approval by the Editorial Board. The articles sent for publication in the journal should conform to the following parameters:

- The article should be of 2,500-3,000 words and cover a subject with relevance to IBC and the practice of insolvency while a case study should be around 5,000 words.
- The article should be original, i.e., not published/broadcast/hosted elsewhere including on any website.
- The article should:
  - Contribute towards development of practice of Insolvency Professionals and enhance their ability to meet the challenges of competition, globalisation, or technology, etc.
  - Be helpful to professionals as a guide in new initiatives and procedures, etc.
  - Should be topical and should discuss a matter of current interest to the professionals/readers.
  - Should have the potential to stimulate a healthy debate among professionals.
  - Should preferably expose the readers to new knowledge area and discuss a new or innovative idea that the professionals/readers should be aware of. It may also preferably highlight the emerging professional areas of relevance.
  - Should be technically correct and sound.
  - Headline of the article should be clear, short, catchy and interesting, written with the purpose of drawing attention of the readers. The sub-headings should preferably within 20 words.
  - Should be accompanied with abstract of 150-200 words. The tables and graphs should be properly numbered with headlines, and referred with their numbers in the text. The use of words such as below table, above table or following graph etc., should be avoided.
  - Authors may use citations as per need but one citation/ quote should have about 40 words only. Lengthy citations and copy paste must be avoided.
  - Plagiarism (including references) should be below 10%.
  - The authors must provide the list of references at the end of article.
  - A brief profile of the author, e-mail ID, postal address and contact number along with his passport size photograph and declaration confirming the originality of the article as mentioned above should be enclosed along with the article.
  - The article can be sent by e-mail at [iiipi.journal@icai.in](mailto:iiipi.journal@icai.in)
  - In case the article is found suitable for publication, the same shall be communicated to the author/s at the earliest.
  - The articles/ case studies received from authors are subjected to blind review.
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