

**Webinar on**  
**“Insolvency Resolution: Public Interest & Ethics”**  
**12<sup>th</sup> June, 2020**

**KEY TAKEAWAYS**

- In any distress business, it's not only the company or the economic entity whose fate is involved, but also at stake are the livelihoods of countless individuals as employees, vendors, customers and other stakeholders. And this is precisely the reason why insolvency profession is often comparable with the healthcare profession and insolvency resolution framework. We therefore must accord of paramount importance to the public interest while balancing interests of various stakeholders.
- Many recent amendments in insolvency law, including that concerning MSMEs, house owners in real estate projects and minimum compensation to various stakeholders in waterfall mechanism under IBC, are among few instances showing credible progress in the pursuance of above agenda. In nutshell, public interest, the integrity, trust and ethics are clearly the hallmarks of insolvency profession. The pitfalls are obvious, as elated in many pronouncements by the courts or disciplinary proceedings by the IBBI.
- The first and foremost objective is to earn the trust of the people who are going to be directly affected by your conduct. The insolvency professional should exhibit fairness in the process as there is a saying that justice is not only to be done but also should seem to be done.
- An insolvency professional cannot be prosecuted upon for anything that he/she has done in good faith during the corporate insolvency resolution process. Insolvency Professionals are not treated as a public servant within the meaning of section-21 of the Indian Penal Code. A public servant is subjected to more stringent norms. However IPs exercise a public function.
- There are two aspects involved in public interest. First, the process which we adopt and the end outcome should also be always in public interest. Secondly, we need to carry out functions fairly, impartially and with integrity. We should always be acting reasonably that is our actions our processes, our decisions should be appearing reasonable to all the stakeholders and it should not defending only certain set of stakeholders. Besides, we should also ensure accountability and transparency.
- The first objective under IBC or for any resolution professional is to rescue the company practices to ensure that it does not go into liquidation, as liquidation is always the last option. The second objective is to maximize the value of the assets of the company so, that they get the best returns as far as the company is concerned. The other objectives are promoting entrepreneurship, availability of credit and balancing interest of all the stakeholders. So the responsibility for the insolvency professional to rescue the company as a going concern. It is also the duty of the insolvency professional insulate the resolution applicants from misdeeds of the previous management.
- In nutshell, *“Ethics is knowing the difference between what you have a Right to do and what is Right to do.”* Moreover, *“integrity needs no regulation”*.

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