

Highlights from Addresses of Eminent Speakers on IIIPI's 5th Foundation Day

IIIPI observed the 5th Foundation on 25th November 2021 in a hybrid mode under which a physical event was organized at The Park Hotel in New Delhi and the same was webcasted online. The program comprised of 'Inaugural Session' followed by 'Special Address: Contemporary Thoughts on IBC' in which eminent personalities expressed their views on five years journey of the IIIPI in strengthening the Insolvency and Bankruptcy Code, 2016 (IBC or Code), imminent challenges, and prospects. On this occasion a book titled 'Case Studies of Successful Resolutions Under IBC' published by IIIPI was also released. Here, we are presenting key takeaways from their addresses:

Welcome Address

Dr. Ashok Haldia

Chairman, IIIPI's Governing Board

1. Since its inception, the IBC regime is built on key pillars including NCLT, IBBI, IPAs and Insolvency Professionals. Today, IIIPI has more than 60% of the professional members in the country who have been 75% of CIRPs in value terms. As per IBBI records, 2556 IPs hold Authorisation for Assignment (AFAs) out of which about 62% are members of IIIPI. Thus, the IIIPI is leading in all aspects. Five years down the road we can claim to be one the best IPAs in the country.
2. As a frontline regulator, the IIIPI has four roles – Regulatory, Executive, Capacity Building and Quasi-Judicial.
3. IBC is constantly evolving. The IBC version 2.0 shall include capabilities to develop cross border insolvency, group insolvency, individual insolvency, prepack, and many more frameworks, yet to come, may be in the form of mediations and the settlements that the banks undertake.
4. IIIPI's role, for developing the profession, is to enhance the excellence of the professionals in many ways including dissemination of technical expertise. We have been organising training programmes, particularly the Executive Development Programmes (EDPs), interaction with stakeholders - NCLT, CAs, industries, lawyers, bankers, among others. We have also brought out number of technical publications, contributing in terms of technical knowledge, law making, constituting Study Groups on different facets of the IBC.
5. The Resolution Professional, journal of IIIPI, has been acclaimed as one of the best in the country among the insolvency professionals. The technical studies that we have brought out indicate the contribution by the professional members and the IBC in development and growth of insolvency profession. This includes studies on the Group Insolvency, CoC, suggestions that the IIIPI made post COVID in terms of enhancing the efficacy of IBC, IBBI, NCLT, and for that matter the



- insolvency professionals themselves. The critical suggestions were made to further understand, how to streamline the legal processes to reduce the time that is required in resolution of the CIRP, and how to imbibe and infuse technology into the entire CIRP process.
6. We are also conscious of the small and medium IPs. A Study Group was formed, and number of recommendations were considered how to strengthen them, how to carry them along, and how to do handholding exercise. A Discussion Forum on the IIIPI site has already been launched.
 7. IIIPI has developed a vision, and a strategic perspective as to how we steer IIIPI down the road, after the first five years, to meet the challenges of the IBC.
 8. We are also working on a quality assurance mechanism internally within the IP firm, and whether there is a need of external mechanism. We are interacting actively with IBBI, providing the policy inputs like the recent one by sharing our perspective of the problems of the IPs when they deal with the CoCs.
 9. We are thankful to IBBI and the Chairman, its members, and the entire IBBI team. I would term them as non-conventional regulators being down to earth and very approachable.
 10. ICAI President has guided us in terms of handholding the IIIPI, technical and financial support, and providing strategic inputs in taking the IBC regime forward.

Guest of Honour**CA. Nihar N Jambusaria****President,****The Institute of Chartered Accountants of India
(ICAI)**

1. In 2016, the Central Council of ICAI had long discussions on whether to enter insolvency activity or not. Finally, the Council decided to form IIIPI as a Section 8 Company. Five years down the line, we are happy to see the growth of the IIIPI in terms of both numbers and quality.
2. As per the latest IBBI data, about 55% of the 3,816 IPs are the members of the Institute of Chartered Accountants of India (ICAI). Furthermore, about 84% of the IPs who are members of the IIIPI are CAs. However, the IBC regime is not confined only to accounting and finance. It is a multidisciplinary function where you require services of advocates, engineers, or even valuers, and many other professionals as well.
3. In pursuance to the proposal of the ICAI Council, the Ministry of Corporate Affairs (MCA) has approved the rules for multidisciplinary partnerships in CA partnership firms for insolvency profession w.e.f. July 01, 2021. So, all those IPs who are not CAs can join in one firm where CAs, and non - CAs can be partners which will be a win-win situation for everybody.
4. Presently, company secretaries, cost accountants, valuers, and architects are allowed to join multidisciplinary CA partnership firms. However, the Bar Council of India (BCI) does not allow its professionals to join such firms. We will pursue this matter with the BCI so that they are allowed particularly in the Insolvency and Bankruptcy Code. There could be many more meaningful partnerships that may lead to the high quality of service.
5. The whole objective of bringing out this law, if I recall, was to consolidate all fragmented small insolvency laws which were formed over past many years but not working towards the common objective. The



governments all over the world realised that a system should evolve whereby the defaulting borrowers do not liquidate but continue thereby sustaining employment opportunities. I think, in five years this law has matured enough to deliver the objective.

6. Group Insolvency, Cross Border and Prepack Insolvency are the new concepts which are being coined in India. Individual Insolvency is also being considered to make this law more mature and holistic. I am sure when all these concepts will mature, this profession will be enriched, leading to professional satisfaction of the members.
7. As Dr. Haldia mentioned that for capacity building of the members, IIIPI is putting in lot of efforts. The journal of IIIPI is becoming popular and adding value for all IPs.
8. At ICAI, we have IBC Committee which supports IIIPI in terms of capacity building of members, so let us together resolve and decide that we make this profession meaningful and flourishing. Let us create a win-win situation for all stakeholders under IBC regime.
9. IIIPI has been conducting several workshops to train members to act as CEOs fruitfully for those enterprises which are subjected to processes under IBC. Such efforts, I am sure, would continue in future. With this, let me compliment IIIPI for completing five years of good work.



Guest of Honour

Dr. Navrang Saini

Chairperson,

Insolvency and Bankruptcy Board of India (IBBI)

1. Set up on October 01, 2016, the Insolvency and Bankruptcy Board of India (IBBI) was given a mandate to commence the corporate insolvency proceedings by 01 December, 2016, in just 60 days. This mandate could not have materialised if the professional institutes had not come forward.
2. Insolvency Professional Agencies (IPAs) are agents of IBBI and indirectly of the Government. Thus, IPAs can ensure the transmission of laws thereby helping the policies to achieve objectives.
3. In terms of hierarchy, IPAs constitute sixth layer of delegation after the Parliament, government, ministers, bureaucracy, and independent regulatory agencies such as IBBI and SEBI, etc.
4. IIP of ICAI (IIPI) is a wholly owned subsidiary of ICAI. It is also the largest IPA in the country with over 63% share of membership across the three IPAs.
5. It takes considerable effort and time to build reputation. We at IBBI have strived to build and safeguard the reputation of the insolvency profession to ensure that it becomes the most enviable profession in the country. IPAs should continuously focus on ethics.
6. IIPI has displayed its commitment in building the capacity of its members by conducting contemporary programmes and webinars. An agency like IPA has to guide its members from time to time. For this, they also develop best practices from the experiences gained by their members.
7. The IIPI also has taken many initiatives to publish its study materials and guides for its members. However, ultimately it depends on the members who have to actually follow the guidelines/best practices, and to give their output.
8. Nowadays the most important challenge for the IPs is to complete the process within the timeline prescribed under the code.
9. I urge IIPI, to conduct some more programmes taking inputs from IPs who despite challenges, completed the CIRP within the timeline. If they can share their experiences which they have gained out of the process, it would be useful for other professionals.

Special Address

Shri Sudhaker Shukla

WTM, IBBI

1. IBC 2.0 would bring procedural reforms and in this direction, we are looking to consolidate new ideas to unleash the reforms under IBC in future.
2. IBC has witnessed six legislative interventions and 74 regulatory interventions. That is the speed with which we are addressing the market needs and striving to remain relevant in the market.
3. On the reform front, discussion paper on Cross-Border has been made available on the website. Deliberations by Insolvency Law Committee (ILC) and K P Krishnan Committee have been captured in the background paper of such discussion paper. We are trying to include personal guarantors within the regime of Cross-Border.
4. Second big step which we are thinking is consolidation process which is basically related to 'enterprise group'. Currently 'enterprise group' does not find mention in the Code, though a judgment can facilitate this. It requires more churning of ideas to come out with an incredible regime on this front.
5. CoC members, representing banks or other creditors, are not within the purview of IBBI. However, issuance



of guidelines in the form of code of conduct are expected shortly. It is felt that there should be a mechanism in place where CoC related complaints can be addressed.

6. RBI's Committee has recommended participation of ARCs as an RA in CIRP with some limitations. This is a welcome step since RAs during Covid times were shying away from the market.
7. Currently, there are two PDAs (Platform for Distresses Assets) made available for IPs and professionals. My request to professional members would be to use these platforms extensively, either National e-Governance Services or Mjunction Services.

Special Address

Shri Swaminathan J.

MD, SBI

(Risk, Compliance and SARG)

1. As we endeavour to provide freedom of entry and ease of doing business there must be a framework for an orderly resolution as well if the business is considered unviable. In this context, the advent of IBC, 2016 is a welcome step by the Government.
2. Compliments to IBBI and IIPI for having brought in an ecosystem for successful implementation of a stellar legislation like this in a short period of five years. Though, for a legislation of this nature five years is too short a period, the success that we have managed to achieve, is incredible.



3. The coordination between Committee of Creditors (CoC) and IP is the need of the hour. Both have same objective i.e., the orderly resolution of the corporate debtor and therefore, should work hand in hand. CoC should be represented by senior officials who have proper understanding of the IBC.

4. IIPPI has documented some of the successful resolutions in the form of a book which has been released today. There is a lot to learn from such compilation.
5. I am aware that ICAI, IIPPI, IBA, the banks, and other stakeholders have been investing a lot in terms of conducting webinars and training programmes for continuous skill building. This is something which, for this industry, will never be enough. The more we handle, the more we learn that the outcomes are going to be better.
6. Coming to the aspect of balancing rights of stakeholders, I think transparency, consistency, and ethical way of conducting ourselves must be the

cornerstone for all our actions.

7. It is important that CoC as a forum and RP together have a deeper understanding of the underlying business. I am not faulting the CoC for pursuing the recovery or pursuing the interest of the financial creditors but what we have got to understand is at the end of the day it is a resolution process through which recovery happens. It's not the other way round.
8. Lastly, setting up a new business is fine but then preserving a business that has got into stress and reviving it is indeed a noble service. Because, you are preserving employment, you are preserving economy – it is a great opportunity for all of us to nurture the economy to its health.

Special Address

Shri C. Scott Pryor

**Professor, School of Law, Campbell University
United States of America (USA)**

1. USA's bankruptcy system is quite different from the IBC. It is more judicially driven, and it is far more interested in bringing all the stakeholders together. It does that through a complex process of classification of creditors, voting, and then ultimately tabulation of those votes, and then significant hearings before the bankruptcy court with respect to confirmation of a bankruptcy plan.
2. In the year 2012 onwards, financial creditors began taking a lead and institutional creditors developed much more refined way of pre-packaged form of chapter 11, Bankruptcy.
3. In the USA system there is nothing that corresponds directly to the IBBI but the closest would be the office of the United States Trustee (UST). The job of the UST is not to act as a trustee in the sense of representing the interest of the creditors but rather as a trustee of the bankruptcy process itself. UST can interfere in the restructuring plan if some creditors are not convinced or have not understood the plan in the right context.
4. I would recommend and suggest that the Pre-Packaged insolvency is a fine way of having a successful and less expensive restructuring operation. But it takes a sophisticated resolution professional and sophisticated



financial creditors. Besides, it also requires the willingness on the part of financial creditors and leading operational creditors to take a self-imposed haircut and apply the savings to apply to other operational creditors.

5. In the USA, individual bankruptcy, or Chapter 7 bankruptcy, has proved to be very successful as a means of providing an individual, help in crisis that can take place due to an uninsured or unexpected illness, job loss or divorce, etc. In other words, creditors of the individual debtors of the US fully understand that their individual debtors may seek bankruptcy relief. This has been of a great help during the Covid-19 pandemic in the USA.
6. At some point when the Covid crisis resolves itself, the Government of India should go forward to notify individual insolvency. I hope! It can be done successfully.

Special Address

Shri Paul Bannister

Head (Policy), Insolvency Service
Government of the United Kingdom (UK)

1. It is fascinating to watch from distance the positive approach and strengthening of the Indian Insolvency Legal Framework which is going through the latest pre-pack insolvency resolution regime. More importantly how the Indian insolvency practitioners' community is using the tools provided by the framework to greater effect in rescuing businesses and returning assets to the creditors. It is also very impressive to see the ever-increasing number of Insolvency Professionals who are registered with the Indian regulators.
2. Most of the economies, in response to Covid pandemic, implemented very similar types of measures that covered both fiscal and regulatory aspects. Many of these measures have now expired and the average effects of the national lockdown restrictions continue to affect businesses' ability to really bounce back strongly.
3. In the UK, there has been further restrictions on creditors in enforcing their debts and slowing collection of loans given by government to firms. In addition, we are seeing schemes introduced to deal with commercial debts.
4. You may be aware that the UK is developing an arbitration scheme to help landlords come to agreements with their commercial tenants to deal with nearly seven billion pounds worth of payable debts. Of course, government has a vital role to play in this but so do insolvent practitioners and their regulators.



5. In the UK, we have introduced a new company-moratorium which keeps businesses free from creditor's enforcement actions up to 20 business days. Another rule requires insolvency practitioner to act as the monitor to ensure the rules of the moratorium are followed. It is interesting to note how insolvency practitioners are grappling with the new legislative rules.
6. Industry and stakeholders look upon us as the regulators to ensure that the standards are maintained and enforced where necessary. It gives investors the confidence in their money and their investments. I look at the Indian regulatory regime with increasing confidence, which has increased to the level of world's most developed insolvency regimes. IIPI should be proud of its development and achievements.
7. To cooperate and help each other is the way to go in coming years – there is always more to do to respond to ever increasing challenges, but I know you will rise to these.

Special Address

Shri A K Bhattacharya

Executive Director
Business Standard (Newspaper)

1. With every passing year, the IBC has strengthened itself. This happens to be the 50th year of India's first institutional effort at tackling industrial sickness. The birth of the Industrial Reconstruction Corporation of India (IRCI) took place in 1971 in Calcutta (Kolkata), which later became the capital of sick industries in India.
2. My fear for IBC, is that the process itself is facing a challenge. As a completely new regulatory structure, IBC regime should be given a fair trial and full support



from everyone concerned without which it will go back to the IRCI way.

3. All of us should be on guard in tackling and resisting those politically inspired changes in the IBC regime,

which has the best promise and the best chance of succeeding. The way the law has been framed has given a kind of legal cover and a transparent mechanism where professionals are being encouraged.

4. IBBI is one of the few regulators which not only regulates the professionals but also the market and utilities as well. This structure should remain intact and should be improved upon. Besides, there should be focus on capacity building and creating more IPs.
5. The loopholes lying between regulation and IPs should be addressed in the sense that the IPs do not lose their professional autonomy and their accountability to the regulator.

6. Businesses are changing and so are business models. I am sure the nature of the sickness shall also change. We are talking about e-commerce and companies that deal in cryptocurrencies etc. Where do they go when they get sick? So, is there a scope for IPAs to focus more on skills upgrade so that they stay in tune with the changing world.
7. The haircut is not as much of a concern as the time by which you resolve it. If you can bring down the time of the resolution process to the level as stipulated in the law, my reading is that the haircut will cease to be a controversy.

Vote of Thanks

CA. Rahul Madan

MD-IIPI

1. Given the public interest as the overarching theme, the success of Insolvency Profession stands on the pillars of trust, transparency, and ethical conduct of the stakeholders.
2. In this direction, IIPI actively focusses on development of ethical standards and best practices to be followed by members.
3. Covid has caused havoc to economies worldwide which has also made all of us to be more mindful of public interest, innovative, and technology savvy.
4. New frameworks may be announced soon on Individual Insolvency, Cross-Border, Group Insolvency. However, more needs to be done on the fronts of mediation, arbitration, and out of court frameworks. Notification of PPIRP is a step forward in this direction.
5. In future, continuous quality improvement, learning from past mistakes, following best practices, and ethical conduct by the stakeholders are the way to go. It



is my firm belief that if we all as stakeholders focus attention on the right inputs in terms of our thought processes and our actions, the output in the form of resolution with value maximisation will surely come through.

6. We have taken note of the valuable suggestions made by eminent speakers and shall ensure to implement them at IIPI to the best of our ability, to strengthen the IBC ecosystem. With these positive thoughts I express heartfelt gratitude to our chief guest Hon'ble Minister, and dignitaries for being with us and sharing their words of wisdom.