

From Editor's Desk

Dear Member,

Wishing you a very happy and prosperous New Year 2022!

In the past five years, the IBC regime has matured to a level where it is increasingly winning the trust and confidence of various stakeholders. This success has been achieved through a synchronized and sustained effort of the legislature, judiciary, executive, regulators, and Insolvency Professionals (IPs) among others. The speed at which the policy makers are addressing the market needs to make the IBC relevant is visible from six legislative and many more regulatory interventions since the IBC came into being in 2016. In the context of next five years for IBC regime, better described as IBC 2.0, many procedural and substantive changes in this beneficial economic legislation are expected. The stage looks set for introducing Cross-Border Insolvency during 2022 after the public comments were sought on the draft legislation recently. The frameworks on group insolvency and individual insolvency are also on the anvil.

On the occasion of the 5th Foundation Day of IIIPI on 25th November 2021, we had an opportunity to get enlightened from the visionary ideas and valuable guidance of Hon'ble Union Minister Shri Piyush Goyal, Ministry of Commerce & Industry, Consumer Affairs, Food & Public Distribution, and Textiles. We have presented the transcript of his address as such in this edition of the journal, for the benefit of our audience.

Besides, in this edition we have presented four research articles and two successful CIRP Case Studies – Bhushan Steel Limited by Mr. Vijaykumar V. Iyer and Jalpower Corporation Limited (JPCL) by Mr. Amit Jain.

In the opening article “Section 53 of IBC, 2016: Camouflage Key Player in the Revival Process” the author has highlighted a loophole in the Section 53 which is prone to be misused for thwarting the core objectives of the IBC. The author has strongly recommended for immediate

legislative intervention to plug the same. In the second article “Prospects of Bad Bank in Indian Banking Industry: Experiences from Abroad” the author, after presenting a comparative analysis of legislative framework on Bad Banks in India with some representative developed and developing economies, has enlisted key takeaways for India. In the past, the Section 238 of the IBC has caused intense legal battles with government agencies due to overlapping legal jurisdictions. The author of the third article “Whether Imported Goods, for which no Customs Duty is paid, can be sold during CIRP/Liquidation?” has presented an analysis of legal dispute between Section 238 and Customs Act 1962, which also has superseding power. The fourth article “Importance of Communication in Insolvency Processes” analyses the importance of communication in value maximization and success of the insolvency processes under the IBC.

In this edition we are carrying the remaining part of the Statement of Best Practices: “Meetings of the Committee of Creditors Under Corporate Insolvency Resolution Process” (Joint paper by all the IPAs). Furthermore, we have dedicated a special feature on addresses of eminent speakers on the 5th Foundation Day of IIIPI.

Besides, the journal also has its regular features, i.e., Legal Framework, IBC Case Laws, IBC News, IIIPI News, Media Coverage, Services 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

Wish you all the best.

Editor