

## Perspectives: Sixth Batch EDP on Managing Corporate Debtors as Going Concern Under CIRP (For IPs)

*Launched on October 07, 2020, the Executive Development Program (EDP) is one of the flagship initiatives of IIPCI to build the capacity of insolvency professionals (IPs) on various dimensions of the insolvency ecosystem.*

*The “06th Batch EDP on Managing Corporate Debtors as Going Concern Under CIRP (For IPs)” was organized by the IIPCI on 22nd – 26th February 2022. This 30 hours Program was spread over five days and had a CPE 20-hour credit for participants. The Inaugural Session of the program was graced by Shri Amit Harlalka, Deputy Director and Deputy Chief Financial Officer at ArcelorMittal Nippon Steel India; as the Guest of Honor, and Shri Anil K. Agarwal, President-Cosmos Group and Past President-ASSOCHAM, the Chief Guest. Based on their vast experience, they presented a highly insightful account of the insolvency process from their perspectives. Here we present a brief version of their views. **Read on to know more...***

I was actively involved in the acquisition of Essar Steel through the IBC process. Here, I really learned the nuances and details of the IBC processes. So far, we have acquired five assets through IBC processes out of which three were through resolution plans and two were through liquidation processes. Thus, we gained experience of IBC processes, understanding the nuances of how it works, the challenges, and the good work that the insolvency professionals put into the whole journey of the insolvency process to ensure that the company or corporate debtor is hand-held from start to the end.

When you work as a CFO, you are required to have a strong technical knowledge of your assignment/s in hand and coordinate with various professionals such as Chartered Accountants (CAs), legal experts, regulatory experts etc. One of the backdrops on which a successful process could be launched is - to have a strong technical knowledge of what an IP should be doing from a regulatory perspective. You should have a strong team, whether small or a big depending upon the size of the IBC process, to help and assist you in taking care of all the nuances so that you are able to focus on your role as the Chief Executive Officer (CEO) of the Corporate Debtor. IBC processes come up with highly versatile roles. Today, you may be required to play role of the CEO of a steel manufacturing company. After one year you move to become the CEO of a pharmaceutical manufacturing company, and so forth. So, the journey is quite exciting. This requires you to have a comprehensive view beyond your technical knowledge, and the most important area in

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this process is communication - communication with various stakeholders and most importantly with the management team. The success of the corporate debtor rises with the management team. So, it is very important that you are able to identify key sources in the existing management team, communicate with them, give them assurance, and put your trust on them. Because they will be the team whom you could rely on for smooth operations of the business. Your communication with them becomes very important channel to ensure that the objectives for the going concern are met, and the business is properly supported. Communication with the CoC or the lenders' forum is equally important because you have to ensure that the interests of the CoC members and the lenders are protected, and the value is maximised for better recovery. So proper design of communication material, regular follow-up in terms of meetings with them, and understanding the nuances are equally important. Also, communication with the employees of the company is needed to ensure that they are not leaving the ship. This is because the moment the IBC process starts, there is a lot of insecurity in the whole organisation, and it is important to ensure that this insecurity is taken care of.

Once the process moves forward, the communication becomes very critical in working with the prospective resolution applicant as well. This is where value-maximisation happens. Here, the role of a resolution professional is to ensure that data-room or data provided for due diligence is adequate, and provides insight into the business to the prospective resolution applicant, showcases the company's value and the opportunities that the prospective buyer can bring in. Therefore, communication with the management team, CoC members, prospective resolution applicants, and employees become a critical factor to ensure that the IBC processes run smoothly. From a CA's or legal expert's perspective, once you are appointed as an RP you are no longer a functional or a technical expert but supposed to run the whole business as its CEO. So, you need to ensure that you understand the business, industry in which you are operating, and add value to that business.

**The most important area in this process is communication - communication with various stakeholders and most importantly with the management team.**

This would require professional training for which all of you, including myself, will have to go through. As I went through the curriculum of this program for next four and a half days and it is very exhaustive, interesting and covers all the aspects. In addition, you need to develop an understanding of the business by studying more about it. Some businesses are very capital intensive like the steel industry. The nuances of the steel industry are very different from the nuances of a pharmaceutical company, and those of the engineering company are different from the manufacturing set up. So, to have some sense of business, is critical for you to help the management team in taking appropriate decisions and to save the company as a going concern but not at the expense of long-term vision or long-term sustainability of the company. I would just give you an example of Essar Steel - there was mining license allotted to Essar Steel in 2017 just before the company went into the IBC. As per the regulations these mines were supposed to be opened within five years of getting the license and a bank guarantee of some amount had to be put in a certain time frame. Then the company



went into insolvency. Any normal RP might have taken a stand that this was not important for a going concern at that point of time. But in this case the RP went out of the box. He convinced the banks to submit a huge amount of bank guarantee to protect these mines in the interest of value maximisation. The banks also understood and got convinced that it was important for the future of the company. This helped the company to garner higher evaluation. This is one example where a long-term perspective was taken by the RP who was running the operations. Since past six months, we have started operating those mines and realize their immense value for the business.

IT is the heart of the operations in today's world. When you look at various facets of the company you people need take care of the IT and assets equally during the CIRP period. Lastly, I would like to point out that there are various facets of a Corporate Debtor.

All I wanted to give was a business perspective and an insight into the huge responsibility that you people carry once you become an IRP/ RP of a Corporate Debtor. It is very challenging role because a very wide-ranging area of expertise is required. With your knowledge, qualifications, degrees, and programs like this, I think, you would be well-prepared to take this challenge. Please remember, every assignment will be a new one because every business is different, and every company is different.

As Dr. Ashok Haldia mentioned, the IBC processes has added tremendous value to the country's economy through wealth-creation, putting the non-functioning assets into operation and converting non-productive assets into productive ones. It is really contributing to the wealth creation in India. I would really congratulate all of you and hope you will continue to do that and keep going forward.



**Anil K. Agarwal**  
 Chief Guest  
 President, Cosmos Group and  
 Past- President  
 ASSOCHAM.

I highly appreciate IIIPI for what it is doing for the country – providing training to young IPs from various professional background such as CAs, company secretaries, advocates, and the management professionals; to become a successful Resolution Professional (RPs). Today, we are talking about how to run a company as a going concern. Let me now give you the perspective from the other side. You might remember the Satyam Computer Services' episode which happened in 2008, much before the IBC came into being in 2016.

At that time, the Ministry of Corporate Affairs (MCA), Government of India, decided for the first time how to let the company and associated firms not go down into liquidation or be closed. It was for the first time, the government decided to take over a company. Subsequently, the Satyam Group was taken over and professionals were appointed to run its operations. I was among the four professionals who were nominated by the Government in the Board of one of firms under Satyam Group.

At that time, the firm had contracts with various vendors amounting about ₹ 10,000 crores which were of national and international importance. They were related to the government as well as private corporations and had diversified portfolio such as roads, airports, metros, railways, seaports, irrigation, water, power generation plants, power transmission lines, etc. There were almost 20 private sector and government sector banks with their thousands of crores of money being stuck. Besides, thousands of employees, hundreds of sub-contractors and suppliers, the company also had government obligations in the form of income tax, sales tax, VAT, court cases etc.

As soon as we took over the charge, we set up sector wise divisions and divided jobs among us. These sectors were - ongoing business contracts under execution, obligations, human resource planning (technical, administration, legal

and financial), statutory compliances, regulatory compliances, legal, and banking & finance. We also appointed a special team to secure the assets of the company and recover the maximum amount that we could from the process. These divisions were placed under an Admin Team Leader which was asked to make weekly, bi-weekly, and monthly presentations.

We personally started to negotiate with the buyers, suppliers, sub-contractors, financial institutions, and the government authorities. We put special emphasis on the fund-flow position of the company to continue business with them. We ensured that the assets are not deteriorated. Besides, we ensured that the debtors paid their dues to the company. There were several instances when debtors abruptly denied. Who are you? We have no money. Come next week. These were responses. But we continued to hammer them. Finally, we were able to resolve the cases and get the money into the system. We also met the creditors and evolved a process to pay their dues and claims. We prepared a Corporate Debtor Restructuring (CDR), which was one of the largest CDRs, and convinced ICICI Bank, IDBI Bank, State Bank of India and 20 other banks to agree to the CDR plan.

Finally, we started to look for a new promoter, which was the most important job that the government had assigned to us. We were able to identify two leading corporations. Meanwhile, we approached a retired judge of the Supreme Court to get the process vetted independently thereby ensuring transparency. After vetting all the available records, he recommended the proposal of Infrastructure Leading & Financial Services (IL&FS) as more suitable. In our monthly reports to the Company Law Board (CLB) and MCA, we apprised the matter to the authorities. Thus, within six months we were able to find investors/promoter for the company. Subsequently, CLB passed the order and company was handed over to IL&FS.

In the process of our working, we were able to do many things like continuation of the execution of the orders, secure the assets, realise the money from the debtors, met leading state government officials and functionaries to ensure they continue with the order book, streamline the human resources and ensuring their best performance, and



arrange payments of most of the creditors, contractors, and suppliers. We appointed law firms to take up the legal cases in the courts, completed the statutory and obligatory compliances, successfully managed the CDR, coordinated with the original promoters to resign from the company and convince them to accept IL&FS as the new promoter. We convinced the IL&FS to hold at least 37% of the equity, bring in ₹ 55 crores as liquidity support and continue at least for two years at the helm of management. We also coordinated with SEBI, Income Tax, Sale Tax and other statutorily authorities to finally bring the company back on the track as going concern.

For me, personally it was a great learning experience. As in the ICAI, presidency in the ASSOCHAM, is for one year. ASSOCHAM has over 50 committees, and each of the committee is chaired by an industry leader of the concerned sector such as steel, cement, glass, taxation, international taxation, and international businesses etc. Thus, in about a year's time you have great learning experience of varied businesses. What I want to say is that my experience with ASSOCHAM, ICAI, FICCI continued to help me in giving something back to the society. We are very happy and feel proud that we could



save the company which otherwise would have been closed. Of course, we received a lot of appreciations and compliments from the CLB and the MCA.

I am very happy that the IIIPI, through this EDP, is providing training to the IPs on how to work across the sectors. Whether you become an RP for a pharma company, textile company, or steel company, you need to hone your skills in communication and negotiation. You should see that you are able to pass on the company as a going concern to a new promoter or to resolve it in the best manner or best interest of the lenders and the company.

Thank you and best wishes to all of you.

