



**INDIAN INSTITUTE OF INSOLVENCY PROFESSIONALS OF ICAI**  
**इंडियन इन्स्टीट्यूट ऑफ इनसोल्वेंसी प्रोफेशनल्स ऑफ आई.सी.ए.आई.**

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**PRESS RELEASE**

**Diversion of Assets could reduce Value Realization from Corporate  
Debtor: Shri. Sudhaker Shukla, WTM, IBBI**

**New Delhi/ 29.03.2023**

Indian Institute of Insolvency Professionals of ICAI (IIPI) organized an International Conference (Virtual) on “Avoidance Transactions under IBC-Improving Outcomes” on Wednesday, 29<sup>th</sup> March 2023. The domain experts from India, the United Kingdom, Singapore, and Hong Kong shared their experiences and best practices related to avoidance transactions and avoidance proceedings in their respective jurisdictions. On this occasion, a publication titled “Avoidance Transactions Under IBC 2016-Improving Outcomes” which is based on the Report of a Study Group constituted in this regard by IIPI was also released.

Speaking as the Chief Guest, Shri. Sudhaker Shukla, Whole Time Member (WTM) of the Insolvency and Bankruptcy Board of India (IBBI) highlighted the role of Insolvency Professionals in tracing avoidance transactions of the Corporate Debtor (CD) and its importance in value realization of the CD during resolution or liquidation. “Creditors should be alert all the time as promoters have access to balance sheet so are well informed about the financial condition of the company. If there is large gap in initiation of the process, the erring management may be incentivised to put the value away,” said Shri. Sudhaker. He further added that the framework for Avoidance Transactions has been streamlined in India but there are still some grey areas for which the Ministry of Corporate Affairs (MCA) is working to sort out through amendments in near future. He informed that as per the data with IBBI, so far 847 Avoidance Transactions applications have been filed amounting to ₹2.82 lac crore out of which 143 cases have been settled and ₹0.05 lac crore has been clawed back, which is very less and major concern for all of us.

Addressing the Conference as Guest of Honour, Mr. Paul Bannister, Head-Policy, Insolvency Services, Government of UK, described the six kinds of Avoidance Transactions. He informed that the UK government is also reviewing its framework for Avoidance Transactions to make it more effective. He further added that the Office Holders of Insolvency Process to be incentivized to go after Avoidance Transactions.

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Earlier, in his Inaugural Address, IIPI Chairman Dr. Ashok Haldia highlighted the importance of tracing various kinds of Avoidance Transactions *viz.* Preferential, Undervalued, Fraudulent and Extortionate in value maximization of CDs undergoing different processes under the IBC, 2016. He emphasized that we not only need to work on improving Art and Science of forensic audit but also to streamline forensic audit.

The Inauguration Session was followed by Special Address and Panel Discussion.

Delivering the Special Lecture, Shri. Patibandla Satyanarayana Prasad, Hon'ble Member (Judicial), NCLT, Delhi expressed his concern on low recovery under Avoidance Transactions and suggested that the RPs should carefully go through the forensic audit report and conduct independent evaluation of the forensic report. He also suggested that the institute should develop a 'Model Checklist for Avoidance Transactions' for RPs.

In his Special Lecture, CA. Rajesh Sharma, Former Hon'ble Member, NCLT highlighted the interests and incentives of various stakeholders such as promoters, creditors, and CoC in the context of Avoidance Transactions.

The Panel Discussion was moderated by CA. Gyan Chandra Misra, Insolvency Profession, Chairman, CIBC-ICAI & Director, IIPI. In the Panel Discussion, Ms. Kanika Kitchlu-Connolly, Insolvency Lawyer & Partner, TLT LLP, London; Ms. Veronica Chan, Solicitor, Tanner De Witt, Hong Kong; Ms. Shreya Prakash, Foreign Associate, BlackOak LLC, Singapore; C A. Sumit Binani, Insolvency Professional-India, C A. Anuj Jain, Insolvency Professional- India Shared their practical experiences including the scope of mediation in the context of Avoidance Transactions. Concluding the Panel Discussion, CA. Misra assured the panellists that their suggestions will be taken care of by the institute.

Presenting Vote of Thanks, CA. Rahul Madan said that the deliberations of the conference will go a long way in augmenting framework for Avoidance Transaction. IIPI will do the needful to pursue the suggestions with policy makers.

### **About IIPI**

Indian Institute of Insolvency Professionals of ICAI (IIPI), promoted by The Institute of Chartered Accountants of India (ICAI) is the largest IPA in India under the aegis of Insolvency and Bankruptcy Board of India (IBBI) with about 63% Insolvency Professionals as its Members. Website: <https://www.iiipicai.in/>

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