

Key Takeaways from Addresses of Dignitaries in the Conference (Physical) on “Developing Market for Stressed Assets in India” organized by Indian Institute of Insolvency Professionals of ICAI (IIPI) in New Delhi on 22nd September 2023.

Indian Institute of Insolvency Professionals of ICAI (IIPI), with an aim to facilitate discussions and sharing of ideas on various aspects of stressed assets market in the country, organized a Conference (Physical) on “Developing Market for Stressed Assets in India” on September 22, 2023.

Shri Ravi Mital, Chairperson, Insolvency and Bankruptcy Board of India (IBBI) graced the occasion as Chief Guest while Shri Akhil Gupta, Vice Chairman-Bharti Enterprises Ltd., CA. G. C. Mishra, Chairman, Committee on IBC-ICAI were present as Guests of Honour and shared their ideas on various aspects of the stressed assets market with insolvency professionals, lawyers, bankers, government officials, and corporate representatives. On this occasion, a publication titled “Contribution by Insolvency Professionals in Resolution under IBC” based on the report of a Study Group constituted by IIPI in this regard was also released.



The Inaugural Session was followed up with Special Addresses by CA. Subodh Kumar Agrawal, Past President-ICAI and Prof. Balagopal Gopalakrishnan, IIM, Ahmedabad. Besides, there was a “Panel Discussion” in which panellists exchanged ideas on stressed assets related issues. For wider dissemination of this intellectual discourse, we are publishing the key takeaways of the Conference in this edition. The key takeaways from addresses of dignitaries in this program, are presented below:



Welcome and Opening Address

Dr. Ashok Haldia

Chairman, Governing Board-IIPI

1. The ultimate objective of the IBC, 2016 is to reduce stress in the industries. Therefore, the role of insolvency ecosystem is not only limited to reduce delays and ensure more realization but also to avoid the stress in the industries so that the cases coming for CIRP are minimized.
2. The focus of IBC 2.0 is not only CIRP but also beyond it. Because of the IBC, settlement cases in the banks have increased. Therefore, the role of IBC and the IP in resolution of the stressed assets has become quite important.
3. We have implemented the mechanism of 'Peer Review'. Initially, for becoming a peer-reviewer, it was required for IPs to have handled 5 assignments but now it has been lowered to 3 assignments. After the learning curve is over, we will display the results

of Peer Review on IIIPI website that will be helpful in finding the right IPs thereby instilling a healthy competition.

4. We have worked out a framework on how to reduce the time and streamline the process of dealing with Avoidance Transactions. We are planning further deliberations with IBBI officials on this issue. Besides, we are working to streamline various processes at interface of NCLTs and IPs.
5. The concerns about the real estate are highly contentious. We are in touch with RERAs of various states and also held several interactions with IPs. IIIPI has set up a group of stakeholders on finding out ways to streamline the law relating to real estate and the role of RERA.
6. We have recently conducted a survey on the role/intervention of enforcement agencies during the CIRP. Presently, the cost involved in dealing with enforcement agencies is not the part of CIRP cost and that needs to be addressed.
7. We feel that the good works and achievements of the IPs needs to be highlighted. In this context, IIIPI has

brought out a publication titled “Contribution by Insolvency Professionals in Resolution under IBC” which highlights, the role of IPs right from the incipient stage to its final resolution.

8. The awareness level of CoC members may have improved over the period of time but a lot is required to be done for awareness of the CoC members in order to expedite decision making and reduce delays. We are also pursuing with the officials of the Reserve Bank of India (RBI) regarding Code of Conduct for CoC.
9. Another issue which IPs are facing is the suspension of the AFAs at the stage of issuance of SCN. Issuing 'show cause notices' in all and sundry cases such as 'non-furnishing of half yearly returns' needs to be worked out. If any case is decided under disciplinary proceedings, such action may be warranted but possibly not before such decision.
10. IPs need to see their role much beyond CIRP for developing markets for stressed assets. There is no dearth of opportunities and the ecosystem has been continuously improving.



Guest of Honour
CA. G. C. Misra
Chairman
Committee on IBC-ICAI

1. This Conference certainly provides a food for thought on how the stressed assets market has been developing in India and what will be the future of it.
2. In the current scenario the stressed assets have become one of the biggest opportunities for the investors. This is a win-win situation for both the bankers and investors.

3. Several changes have taken place and now the entire ecosystem is witnessing a situation wherein stressed assets are being catered to by various intermediaries as well like ARCs and AIFs etc.
4. India is one of the fastest growing economies in the world. The IBC is certainly playing a vital role in the economy. In the coming years, the stressed assets market will grow leaps and bounds.
5. I am sure the Conference will certainly enrich all the professionals not only to discuss the new ideas but also to join hands in the coming days. I am sure, IIIPI shall organize more such conferences in the future.



Guest of Honour
Shri Akhil Gupta
Vice-Chairman
Bharti Enterprises Ltd.

1. The topic of today's conference is extremely important but before I talk about the stressed assets,

let me congratulate the insolvency professionals for the vital role they are playing for the success of the IBC. I also complement IIIPI for playing stellar role in development of the insolvency ecosystem.

2. Introduction of the IBC has been one of the most important economic and commercial

transformations during the last decade. This is because it has changed the attitudes of several promoters in the country who believed in the syndrome of 'too big to fail' or 'the bigger defaulter you are, the safer you are'.

3. I take this opportunity to congratulate IBBI for the wonderful work they are doing. A lot has been done to streamline the process, most of which were done under the Chairmanship of Dr. M. S. Sahoo and Sh. Ravi Mital.
4. Besides bringing financial discipline in promoters, a very important role of the IBC is to make sure that there is market for distressed assets so that massive capital deployed in these companies, jobs, and

interest of all other stakeholders can be protected to the extent possible.

5. It is our duty to see that IBC fulfils the purpose of making sure that these distressed companies can be revived as going concern once again. Liquidation of a company should definitely be the last option. Therefore, there is need of a robust market for stressed assets where a potential buyer comfortably and quickly takes charge of the company on a clean slate after paying up agreed compensation to the creditors.
6. It is the right time to extend Prepack Insolvency to all cases that are covered under the IBC. If implemented properly, it would be a very significant step for developing the market for stressed assets in India.



Chief Guest
Shri Ravi Mital
 Chairperson
 Insolvency and Bankruptcy
 Board of India (IBBI)

1. Any businessman or venture capitalist will invest in a corporate debtor only if s/he is fairly certain about some profit. Recently, I shared some outcomes of the study conducted by IIM Ahmedabad (IIMA) on resolved companies, with a venture capitalist. He was surprised to know that those companies were doing well post-resolution.
2. IPs should revisit the corporate debtors, which they had resolved under the IBC, after 4 to 5 years and prepare "success stories" for publication. This will be helpful in creating a positive environment for investment in stressed assets. In its study, IIMA has calculated average performance of resolved companies but there will be companies with exceptionally good performance as well.
3. To liquidate a financially stressed company under the previous regime through high court, was a herculean task which used to take 10-15 years or more. If IBC can do something in two years, which was earlier not possible in over 5 years, it is certainly much better outcome.
4. There are cases which got admitted in 20 to 25 days but there are also cases which took 800 to 900 days.

Further, there are cases which were resolved in less than 180 days and we also have cases which are lying since 500 days. This is happening under the same set of rules and regulations. We should join hands to deal with this issue.

5. We have recently amended the Regulations to allow creditors more time to file their claims. Now the RP can compile all the claims received after due date and put them before the NCLT for consideration in one go. This will certainly reduce litigations and minimise delays.
6. Presently, the recovery rate under the IBC is about 32% which is better than all the previous regimes but there is still scope for improvement. I request you all to deliberate on 'discussion papers' issued by IBBI and provide us your suggestions for further reforms.
7. The IPs should compile the instances of delays and litigations and find out ways to minimize them. If delays are reduced, venture capitalists will be encouraged to invest in stressed assets.
8. IPs should make every possible effort to improve the insolvency ecosystem in the country which will ultimately increase the confidence of prospective bidders in the stressed assets and ensure better resolution of the corporate debtors.
9. At the end, I would like to say that IBC is the best mechanism ever. We should work for reducing delays, which would create a thriving market for stressed assets.



Special Address
CA. Subodh Kumar Agrawal
 Insolvency Professional
 Past President, ICAI

1. There are several challenges in the ecosystem. The infrastructure at the Hon'ble NCLT benches including the number of judicial and technical members require attention for reducing the delays.
2. Disposal of applications under Section 19(2), related to necessary directions to the promoters to cooperate with the IRP/RP remain pending for long, which defeats the real purpose of the provision.
3. For liquidation of a company, the Liquidator is required to prepare the list of stakeholder in 75 days and constitute the committee in 60 days, which is a tedious task as until the full list is prepared the process of constituting committee can not be

initiated. Other practical issues include requirement to estimate liquidation cost in 90 days, banks at times not coming forward to pay the liquidation cost even after legal pronouncements on the matter.

4. Several successful resolution applicants (investors) need to wait for a long time before taking over the corporae debtor due to persisting litigation.
5. The businesses coming into liquidation are generally unproductive. If these are sold as going concern, it means the assets of the company or their trade marks have some value. Thus going concern sale is always better than that in piece-meal.
6. IPs have made huge contribution in the success of the IBC. I request you all go through the publication 'Contribution by Insolvency Professionals in Resolution under IBC' and provide your suggestions, if any.



Special Address
Prof. Balagopal Gopalakrishnan
 IIM, Ahmedabad (IIMA)

1. IIMA has recently conducted a study on "Effectiveness of Resolution Process: Firm outcomes in the post-IBC period". The study looks at the performance of the firms before and after the resolution process to understand if the firms have been able to find their feet in the market.
2. Our findings showed that the average recovery rate, after adjustments, was approximately 28% at the combined level. We also conducted surveys with the management of the resolved firms with an objective to validate our empirical findings and triangulate them with the responses and perceptions of the management.
3. In this analysis, we observe that in three years since resolution, the average sales of the firms that underwent the resolution process have increased by about 76%. This significant recovery reflects an upsurge in their activity levels.

4. Findings indicate a significant increase in the profitability of these firms post resolution. Looking at the net margin, there is a noteworthy reversal, with resolved firms narrowing the gap between performing firms.
5. We observed 50% increase in the average employee expenses of the resolved firms. Looking at total employee strength, we also noted a significant reversal, with these firms essentially reaching their pre-CIRP period employee strength numbers.
6. Capex has surged by around 130%, signifying that these firms are actively capitalizing on new opportunities and investing in assets that promise future growth.
7. Over the three years since resolution, total market capitalization has increased from ₹2,00,000 crores to roughly ₹6,00,000 crores. This reflects the market's confidence in new management and the potential for future growth opportunities.

Panel Discussion

Coordinator: CA. Rahul Madan, MD-IIIPCI

Panellists:

- Shri R.R Jha, Director- Projects, Power Finance Corporation Ltd.
- Shri Raj Kumar Bansal, MD & CEO- Edelweiss ARC
- Shri Shiva Kumar Sharma, Senior Advisor- Indian Banking Association
- Adv. Girish Rawat, Partner, M/s Luthra & Luthra Law Offices
- CA. Shailendra Ajmera, Insolvency Professional
- Shri Abhilash Lal, Insolvency Professional

1. The 'resolution plan backed/participated by lender' is an emerging area which is yielding better realization for stressed assets. This idea has been explored in the power sector when the asset's perceived value is lower than its inherent worth and has resulted in successful recoveries.
2. The ARC industry has played a significant role, buying about ₹ 3,00,000 crores in debt and investing around ₹ 40,000 crores that has helped the banks and NBFCs in combating the menace of gross NPAs. However, the ARC industry, which essentially performs warehousing functions, is still facing challenges due to resource constraints.
3. NARCL promoted by the Central Government and banks themselves, should help resolve the NPAs in the corporate sector due to delays and/or lower value recoveries in the IBC.
4. We have seen a significant reduction in stress levels within the banking system. From a banker's standpoint, it is essential to manage the risks associated with these stressed assets and explore the resolution opportunities they offer. This is a critical shift in perspective.
5. Now, NPAs are being viewed as opportunity. Looking at the composition of stressed assets today, we can see a shift toward more diversified exposure, including retail, MSME, and mid-corporate segments. The dynamics of stressed assets portfolio require a comprehensive approach to resolution rather than mere recovery.



6. We are at a stage where we need to create a market for stressed assets. IIIPI's initiative is a welcome step in this direction, and ongoing discussions will hopefully lead to a framework for creating such a market. Each stressed asset should be examined carefully for which appropriate tool should be chosen such as SARFAESI, DRT, additional funding, restructuring under RBI guidelines, or IBC.
7. We need to prepare a blueprint that establishes interconnectivity between various aspects of overseas investment into stressed assets in India. Unless we create this specialized framework, facilitating stressed assets on case to case basis may lead to fragmented and ineffective efforts.
8. Real estate has its own complexities, and the IBC may not perform as effectively in this sector. Therefore, it becomes crucial for lenders to assess the specific nature of the stressed asset and the sector it belongs to when choosing the most appropriate resolution method.
9. IBC's legal framework places us in a creditor-in-possession model. However, the administrator in the UK has more authority, and legal challenges to their power are limited. In India, any stakeholder, including resolution applicants or promoters, can run to the court on various grounds.
10. In international scenarios, options like mediation, pre-pack, out-of-court settlement, voluntary arrangement, and restructuring are available to minimize court involvement. We should also tailor-made these options for Indian scenario and implement them to reduce burden on NCLTs.
11. In building a successful market for stressed assets, it's crucial to ensure the presence of sufficient number of buyers. Inviting multiple bidders is key to achieving competitive prices as it ensures healthy competition among them.
12. The IBC law is prescriptive, providing formats for various processes, from advertisements to investment memorandum which should be viewed as the minimum requirement. To make IBC more effective, we need to build upon this foundation. Empathizing with potential buyers and identifying the comparative advantages that the corporate debtor can offer are essential.
13. The Form G, though required by law, doesn't go far in attracting potential investors. Thinking 'out of the box' is necessary. Activating contacts, creative approach in soliciting potential buyers, proactively reaching out investors, transparency and honesty are vital for resolution of stressed assets.



Vote of Thanks
Rahul Madan
 Managing Director, IIIPI

1. Over the last seven years, the IBC has emerged as a game changing legislation in the context of resolving stressed assets in a time bound manner, which creates, preserves and maximises value.
2. If we look at a broader horizon, the IBC lies at the center of a jigsaw puzzle namely stressed resolution market in India. Besides, there are many other pieces such as DRT Framework, SARFAESI Framework, Corporate Debt Restructuring, Settlements outside IBC under RBI and respective banks's guidelines. We have to look at these a holistic manner and that
3. was the thought when we set out to organize this conference.
4. We have come out with a report highlighting the role of IPs across entire value chain of stressed assets' resolution which is available on IIIPI's website.
5. Today's conference is aimed at removing asymmetry of information to the stakeholders and also improving reach to the investor class because without the removal of information asymmetry the market can not develop further.
6. Hearty thanks to the dignitaries for sharing the words of wisdom that will go a long way in carving out the direction for the future.