

## Key Takeaways from Addresses of dignitaries in the Conference on the theme ‘Insolvency Profession – The Way forward’ organized (Physical Mode) on the occasion of the 7<sup>th</sup> Foundation Day of Indian Institute of Insolvency Professionals of ICAI (IIPI) in New Delhi on December 06, 2023.

Indian Institute of Insolvency Professionals of ICAI (IIPI), with an aim to facilitate discussions and sharing of ideas on various aspects of insolvency profession in India and get insights for the way forward, organized a Conference (Physical) on the occasion of its 7<sup>th</sup> Foundation Day in New Delhi on December 06, 2023.

Shri Sudhaker Shukla, Whole Time Member (WTM), Insolvency and Bankruptcy Board of India (IBBI) graced the occasion as Chief Guest and enlightened the gathering with his words of wisdom. CA. G. C. Mishra, Chairman, Committee on IBC-ICAI and Dr. Ashok Haldia, Chairman-IIPI Board were present as Guests of Honour and shared their ideas on various aspects of the IBC including the role of IIPI in strengthening the insolvency ecosystem. On this occasion, a publication entitled “Case Studies of Successful Resolutions and Liquidations under IBC – Series 2” based on successful resolution and Liquidation cases conducted by insolvency professional members of IIPI, was also released.



The Inaugural Session was followed by Special Addresses by Dr. M. S. Sahoo, Distinguished Professor, NLU Delhi & Former Chairperson-IBBI, Shri Sunil Mehta, Chief Executive- Indian Banking Association, and Dr. Sanjeev Gemawat, Group Counsel-Vedanta Group. Besides, a Panel Discussion was also organized in which experts from across the professional backgrounds shared their views.

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. IIPI has completed seven years of its operations. Though seven years are not a long period in the life of an organization, IIPI has contributed significantly in terms of competency, capacity, and credibility of insolvency ecosystem in India to deal with the various issues arising out of the implementation of the IBC.
2. We have worked to develop insolvency profession with a diversified set of knowledge, experience and skill sets including soft skills that enable the professionals to deal with various stakeholders while discharging their duties.
3. Besides its statutory responsibilities, IIPI has been proactively engaged in policy advocacy with Insolvency and Bankruptcy Board of India (IBBI) and Government of India. Thus, IIPI acts as interface between insolvency professionals who work on the ground and the Regulator i.e., IBBI.
4. We have been arranging international experts and providing platform for knowledge sharing between Indian IPs and their professional counterparts. Besides organizing several international seminars, webinars, and conferences with the help of insolvency experts/ institutions from the UK, USA, Australia, Singapore, South Africa, etc., we also have partnerships with INSOL International, UK.
5. As the insolvency ecosystem is changing at fast pace, the programs of IIPI needs to be comprehensive

as well as updated to deal with the issues across variety of industries to enable IPs to run the business of corporate debtors as going concerns. We have dealt with these challenges by conducting various Executive Development Programs (EDPs), Webinars and Seminars in collaboration with national and international industrial bodies, government organizations, professional associations, and institutions.

6. IBC is a dynamic law that is evolving with the changing horizons of the national economy, global economy, and technology. Therefore, IPs need to change, adopt and adapt accordingly. Besides, the IPs need to be fair, transparent and keep proper record of their communication with various authorities and stakeholders.
7. IBBI has been proactively working to resolve various issues and I hope that frameworks on Group Insolvency, Cross-Border Insolvency, Individual Insolvency, and other areas will come soon.
8. We all need to prepare for implementation of amendments in the existing frameworks and also new frameworks to be introduced in the near future. The IPAs, IPs and IPEs need to prepare in advance to rub shoulders with the modifications and changes in the IBC and IBBI Regulations.
9. I hope the outcomes of the discussions in today's program will be helpful in addressing various issues and challenges before the IPs and also provide inputs for required changes in the IBC and IBBI Regulations to facilitate better resolution of corporate debtors and also meet the expectation of various stakeholders.



## Guest of Honour

**CA. Gyan Chandra Misra**

Chairman

Committee on IBC-ICAI

1. Insolvency profession is indeed a dynamic profession, where the Insolvency Professionals are always on radar. This is because their work is related to several stakeholders and also involves dealing with various statutory agencies.
2. Insolvency professionals need to be good at using information technology. IBBI is working on Integrated Case Management System. In near future,

we will have to deal with Artificial Intelligence (AI) and other technologies.

3. The thrust areas of insolvency profession should be upcoming frameworks for Cross Border Insolvency, Group Insolvency and Individual Insolvency.
4. Today, IIPI is working not only in respect of knowledge dissemination but in terms of regulation, research and other aspects also. I am sure, IIPI shall be working to take initiatives on fronts of capacity building, technology, and regulatory framework. We can keep working together to become not only the best of the professional body but also serve the nation with the best of our capabilities.



### Chief Guest

**Sudhaker Shukla**

Whole Time Member (WTM)  
Insolvency and Bankruptcy  
Board of India (IBBI)

1. ICAI has provided a strong foundation to IIPAI to deliver what it is delivering in such a robust manner on the ground.
2. In addition to various stakeholder of the insolvency, we are now receiving queries from non-IPs and other ministries like Ministry of Textiles, Financial Services, and MSMEs on how the things are going on and what should be the way forward for distressed assets. The intensity of discussion on insolvency is increasing across various professional and sectoral backgrounds.
3. As an auditor, you are the first person to realize that the company is in some financial distress which needs to be fixed. Your audit report should have an honest reflection of those issues so that the company is saved from downhill journey. Thus, a non-IP can contribute significantly to saving a company by pointing out faults and suggesting precautionary measures to the management.
4. When you talk about reforms, there is a need for learning from best practices of foreign countries and contextualization them as per the Indian environment.
5. The best practices could be divided into two categories - (i) which are annulled or reimagined e.g., two tier regulatory system instead of single regulator, (ii) which we have developed, and other regimes are looking forward e.g., Information Utilities (IUs) and Graduate Insolvency Program (GIP). Presently, the IUs have over 5 crore records which is a unique institution in the Indian context.
6. As a Regulator, IBBI has three roles to play – Regulator of the Insolvency Profession, Regulator of the Market and Regulator of IUs. The IPAs are doing a lot, but they need to focus more on skill sets and self-reliance in their operations in moving forward so that they can manage the profession and cadre in a better way.
7. Recent studies have shown that Cross Border Insolvency may not yield the desired results without a Group insolvency framework. Therefore, both Cross Border Insolvency and Group Insolvency frameworks can be rolled out simultaneously if approval comes through.
8. Best practices of one country can't be exactly implemented in another regime. It is always context specific. There have been large deviations from UNCITRAL (United Nations Commission on International Trade Law) model in implementing Cross Border Insolvency Framework from one regime to another wherein each and every regime has carved out exceptions as per their requirements.
9. Insolvency should be ready for various upcoming challenges like Cross Border Insolvency, Digital Assets, Cryptocurrencies, Cape Town Convention, etc., to ensure that Indian insolvency ecosystem continues to excel.
10. I would like to mention 'Business Ready Framework' which the World Bank has come out with. The survey on this framework will start in October 2024. It is my request to IPAs also to sensitize you all that it would mean and what will be framework of questions and how the questions are to be responded.
11. There have been two separate free- flowing interactions of insolvency professionals with IBBI and NCLT. But that was not end of the interactions. In fact, in the last few weeks we had three seminars which were not seminar in its traditional sense but unique experience wherein the top management of IBBI was sitting in a 'classroom setting' and listening the problems from IPAs which they are facing on the ground.
12. Regarding the suggestion of discontinuing 24-hour window for voting by the CoC, we are examining whether it infringes on the rights of other stakeholders. If found not harmful; it may be implemented.
13. Regarding disciplinary action by IBBI, earlier we were in the process of transition so small mistakes were overlooked but now stricter scrutiny is conducted. However, it does not mean that everything is punishable buy we definitely take action where it is warranted as it is in the very interest of the profession.



**Special Address**  
**Shri Sunil Mehta**  
 Chief Executive  
 Indian Banking Association

1. On the occasion of the 7<sup>th</sup> Foundation Day, my congratulations to IIIPI on this momentous day. I also compliment IIIPI for conducting this conference for capacity building, creating awareness, finding resolutions and playing a basic coordination role with the various stakeholders for building efficiency to the IBC processes.
2. IBC is a landmark legislation by the Government which had brought a lot of financial discipline in the corporate sector leading to running corporate debtors as going concern and providing ease of the exit from the business.
3. Insolvency Professionals play a very pivotal role in this entire ecosystem. They work as the driver of the CIRP, run the affairs of the Corporate Debtor, address the issues related to the promoter/s, coordinate with the CoC and finally encourage the investors for Resolution Plan. Thus, the resolution involves a teamwork and efforts from all the stakeholders of the ecosystem.
4. Insolvency Professionals need to develop skills and capacities to face the challenges. This is because it is a herculean task for a single person to replace the entire board of company and shoulder their responsibilities.
5. We have taken various issues with the Ministry of Corporate Affairs (MCA) and IBBI so that Insolvency Professional Entities (IPEs) could act as IPs. The fee structure has been incentivized for faster resolution of corporate debtors.
6. We have also taken up with the MCA and IBBI various issues which cause delays and need to be plugged to expedite admission of CIRP cases. We are deliberating on these issues with our Stressed Assets Management Committee.
7. As per the data of IBBI, more than 70% of the cases are going for Liquidation and that is the cause of concern. The basic objective of the IBC is neither recovery nor Liquidation but keeping the corporate debtor as a going concern.
8. The bankers and IPs can work together in some areas such as preventing cartelization so that people do not take undue advantage of the process, creating greater transparency into the system, creating a market for the stressed assets, and encouraging investors to receive more resolution applicants.
9. These kinds of workshops will give us a scope for brainstorming and understanding on what we can do at our level and policy advocacy with the MCA and IBBI to improve the resolution of financially stressed corporate debtors in the country.
10. IIIPI has the 63% of IPs as its members so has major responsibility to play in nurturing an environment of transparency, building capacity of IPs, formulating standards, and increasing efficiency by creating a better understanding across the stakeholders.



**Special Address**  
**Dr. M. S. Sahoo**  
 Distinguished Professor, NLU Delhi  
 & Former Chairperson, IBBI

1. I still remember the small and glittering function in 2016, in which I had joined Hon'ble Financial Minister Shri Arun Jaitly, who is regarded as the Father of Insolvency in India, to congratulate IIIPI as the first registered Insolvency Professional Agency (IPA) under the IBBI. Thus, IIIPI also became the first registered entity under the IBC. Today, I against congratulate IIIPI on its 7<sup>th</sup> Foundation Day.
2. According to the architect of the IBC, IPs are the first pillar. It is our duty to make this pillar stronger. There are only about 4,000 IPs today out of which only about 2,000 have AFAs. However, in just seven years, you can see the impact these IPs have made in comparison to other older professions.
3. Insolvency Profession has performed exceptionally well. This is because in a market led insolvency regime on the ground, the IPs rose to the occasion to apply the law, extend the professional support, and help in the resolution of the Corporate Debtors in distress.



4. In every case when the law is applied by an IP, there are plenty of agencies who examine it and contribute to improvement of the ecosystem. The insolvency profession has emerged as a robust institution to which the IBC ecosystem is proud of. Thus, IP stands for the “Intellectual Property” of the insolvency regime.
5. The Delhi High Court on 20<sup>th</sup> November 2023, in the case of Ms. Puja Meghnani, said that “an Insolvency Professional in fact has become the heart and brain of the company undergoing insolvency process”. Furthermore, the Hon'ble Supreme Court in another case has acknowledged the 'pivotal role' an Insolvency Professional plays in the effective function of the insolvency process and significant contribution she makes to the efficiency of the process. We must respect this endorsement and try to live up to their expectations.
6. Insolvency Profession stands on two pillars – competence and conduct. We have a systematic process in place for capacity building of insolvency professionals. However, it requires a transformative journey in the next decade primarily arising from three sources, namely, (i) changing regulatory environment, (ii) evolving economic landscape and (iii) technological advancement.
7. There is huge increase in the pre and post CIRP work. IPs are emerging as restructuring professionals. IPAs need to prepare IPs for these emerging opportunities.
8. The insolvency ecosystem has reasonably matured, and this is high time to move beyond CIRP such as Group Insolvency, Pre-Pack for all corporates, and other value-added features. These will require sophisticated skills.
9. The future of insolvency profession will see a great emphasis on global collaboration, standardization of procedures, development of uniform regulations etc. The IPs who are in sync with these developments will to be able to provide services across the world and IPAs should emerge as facilitators for such IPs who can provide insolvency services to other countries.
10. Lastly, the reputation of the profession is very important. We need to preserve the reputation and also enhance it further. The IP may face several conflicting demands, but s/he must rise for the law and not compromise on any ground.



**Special Address**  
**Dr. Sanjeev Gemawat**  
 Group Counsel, Vedanta Group

1. IBC per se is close to our heart particularly in view of the experiences in the past several years in terms of various issues and challenges.
2. IBC is indeed a revolutionary law. When this law came, we believed that there was a law with definite timelines, responsibilities fixed with various stakeholders, and also addressing the socio-economic problems of the country because it was not a recovery tool but a revival related framework.
3. This is one of the finest legislations in the post-independence period which has created such a professional discipline. More importantly, the members of ICAI are leading the insolvency profession. We have not seen any profession that has progressed so much in just seven years period.
4. In terms of meeting the timelines prescribed under the IBC, insolvency professionals have done exceptionally well. However, there have been avoidable delays on the part of Committee of Creditors (CoC) and the Adjudicating Authorities, that are the causes of concern.
5. Insolvency Profession is the profession wherein the professionals follow a Code of Conduct, follow the rules and regulations, are part of a professional institute, and work to protect the public money.
6. There are only two kinds of issues that go before Adjudicating Authority for adjudication, *firstly*, whether the claims have been admitted or not? and *secondly*, whether the distribution of proceeds have been done rights or not? If the insolvency professionals do proper homework on these two aspects of every case, the delays can be reduced.
7. The IBC ecosystem stands on two aspects, commercial wisdom of the CoC and judicial wisdom

of the Adjudicating Authority. Can the CoC's commercial wisdom and professional wisdom be structured in such a way that we can avoid delays happening at the level of judicial wisdom?

8. Under the IBC, insolvency professionals are the authority to approve whether a particular thing is in compliance with the law or not? If the signature of a Chartered Accountant is valid for auditing Account

books, why the IBC requires another authority to review it? The way things are moving, tomorrow, insolvency professional may emerge as the final authority on many things.

9. We need to make a list of the issues which do not require interference or adjudication by the Adjudicating Authority and can be decided at the level of insolvency professionals.

### Panel Discussion

**Chairperson:** CA Gyan Chandra Misra, Chairman, Committee on IBC - ICAI

#### Panellists:

- Shri Rajesh Sharma, Hon'ble Former Member, NCLT
- Shri Arun Yadav, Chief General Manager (SARG), SBI
- Shri Debajyoti Ray Chaudhuri, Managing Director, NeSL (IU)
- Adv. Nilesh Sharma, Partner, RRR Legal Advisors LLP
- CA. Avil Menezes, Insolvency Professional
- CA. Hitesh Goel, Insolvency Professional



1. Resolution Professional (RP) is the hub of the entire CIRP process and except the RP, all other stakeholders, including promoters, the creditors, CoC etc., are most of the time are on the opposite sides. To put all of them on the same table and bring a resolution is not an easy task for the RP. The moment he starts working, he is subject to many complaints by rival groups.
2. Innovative ideas are essential to tackle the issues confronting the Adjudicating Authority, particularly the extensive litigation it deals with. The considerable caseload across various benches poses a formidable challenge in efficiently disposing of cases and ensuring responsible outcomes.
3. Integrating mediation into this system holds promise. Although initially voluntary, mediation could be an asset in handling Section 7 and Section 9 applications. NCLT orders can facilitate immediate referral to a mediator, potentially resolving 20% to 30% of these cases. Mediation could effectively address issues, especially regarding interests, in running companies.
4. The Government is expected to take appropriate decision on Cross-Border Insolvency but before that we should focus on Group Insolvency. If implemented simultaneously, these two processes will benefit lenders. Besides, substantial amount of homework is required for individual insolvency.

5. IUs have integrated case management systems that comprehensively cover every aspect of the insolvency resolution process. IUs are also collaborating with IBBI to potentially enable auto-generation of Forms through the platform. This would streamline the process, reducing redundant data entry. Besides, there is a proposal to integrate the National Company Law Tribunal (NCLT) systems into the platform.
6. In a recent judgment, the Supreme Court dismissed a bunch of petitions challenging various provisions of the IBC and affirmed their constitutional validity. There is a need for further efforts by IIIPI to train more professionals to meet the demands of expanding insolvency profession. It is also recommended that insolvency professionals coordinate with insolvency professional entities for better services.
7. Unfortunately, the PUFÉ transactions tend to be neglected, as resolution professionals and adjudicating authorities prioritize fresh cases and approval of resolution plans. To address these issues, specialized benches dedicated to avoidance applications could be established. Furthermore, exploring mechanisms for mediation and settlement in avoidance applications can be beneficial.
8. CIRP and Liquidation process are largely a participative and consultative process among all the stakeholders wherein the Resolution Professional has been bestowed with the responsibility of driving seat. Here, competence is not the sole concern; the conduct also plays a crucial role.
9. Challenges may arise in communication between the CoC and the Resolution Professional. These challenges can be addressed by engaging meaningfully with various stakeholders. Properly managing claims, reaching out to prospective resolution applicants, and preparing comprehensive information are essential for success.
10. The Corporate Debtor's business is a significant stakeholder in the entire CIRP process. It has its own ecosystem, impacting employees and livelihoods. In the larger interest of the process, it's essential to treat promoters with respect, acknowledging their achievements and explaining that the goal is to ensure the company's survival and continuity of the business.
11. With the IP being appointed within an institution as IPE, it enhances the chances of securing work. The collective representation and capabilities of the IPE become more visible, which positively impacts evaluations by banks and boosts confidence in the Committee of Creditors (CoC).
12. The RPs of real estate companies are required to collect huge data from various agencies in a short period of time. However, the law does not provide much guidance or mandate to those agencies and authorities to understand the insolvency process and give it priority. Cooperation from the ex-management is crucial, and the responsibility should be clearly placed on them to provide all data, appear before the agency, and answer queries.
13. It is crucial to recognize that not all aspects of implementation occur within the initial 180 days. Therefore, the insolvency professional should remain actively engaged till the conclusion of the entire resolution process. There is also a need to consider the applicant's perspective, especially public sector banks, which may benefit from engaging professionals early in the process.



### Vote of Thanks

**Rahul Madan**

Managing Director, IIIPI

1. At the outset, on this occasion of the 7<sup>th</sup> Foundation Day of IIIPI, I am very thankful to the Chief Guest and all the dignitaries for carving out time to enlighten us and also the professional members who have joined us for deliberation and interaction.
2. In fact, continuous dialogues, engagement, and interaction across various stakeholders is truly a hallmark for IBC regime.
3. In context of today's conference "Insolvency Profession: The Way Forward", I believe through the insolvency profession has gained a lot, it is still the nascent stage.
4. Despite several challenges, the profession has gained momentum and is certainly moving forward with a lot of confidence.
5. The question before us today is, how and what can be done to improve the efficacy of this profession. The views shared by various dignitaries certainly provide us the much-needed insights.