



INSOLVENCY PROFESSIONAL AGENCY  
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA



# IBC AU-COURANT

*Latest updates On Insolvency & Bankruptcy*

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**"A positive mindset brings positive things."**

## ➤ **Government preparing to amend insolvency law to reduce time period for resolution process**

Government is preparing to amend the insolvency law as it looks to reduce the time taken for completion of resolution process of stressed assets and prevent significant erosion of value of the assets, reported PTI citing a senior official. The amendments to the Insolvency and Bankruptcy Code (IBC), which came into force in 2016 for timely resolution of stressed assets, are expected to be introduced in the Budget session of Parliament early next year.

The corporate affairs ministry's move to amend the law also comes against the backdrop of concerns in various quarters that many of the corporate insolvency resolution processes are taking a longer time due to litigations and other issues despite a stipulated time frame in place.

The senior government official told PTI that consultations are going on with various stakeholders, including bankers and lawyers, and the changes are expected to be finalised in the coming weeks.

The focus is on how to speed up the whole resolution process by reducing the time taken. One of the options being looked at is how fast a company undergoing the resolution process can be handed over to the winning bidder as that would help in preserving the value of the assets concerned, the official said. As per IBC, a company's affairs are taken care of by an insolvency resolution professional till the winning bidder takes over.

To ensure that there is no significant value erosion, the amendments will look at putting in place provisions whereby the assets can be handed over to the winning bidder at the earliest, the official said.

On the basis of data from the Insolvency and Bankruptcy Board of India (IBBI) till the end of September this year, the ministry informed the Lok Sabha on December 12 that a total of 553 cases have been resolved under IBC and the average time taken for the resolution was 473 days.

In the current fiscal up to September, 57 cases were resolved under IBC and the average time taken was 679 days.

The higher time taken for resolution is mainly on account of associated litigation as with time, the average number of interlocutory applications has increased, which is considered to impact realisable value of assets, the ministry told the Lower House.

As per the data, it took an average of 560 days to resolve 143 cases in 2021-22, while the average time taken was 468 days to resolve 120 cases in 2020-21.

In 2017-18, 19 cases were resolved and the average time taken was 230 days, and in 2018-19, 78 cases were resolved at an average time of 326 days. In 2020-21, as many as 120 cases were resolved and the average time taken was 468 days.

The IBC time frame for the resolution process is 330 days, inclusive of time taken for litigation.

As per the IBBI data, the 517 cases that yielded resolution plans took an average of 460 days for conclusion till the end of June while the recovery rate for creditors against the claims made was around 31 per cent.

**Source: The Economic Times**

**Read Full news at:** <https://economictimes.indiatimes.com/news/economy/policy/government-preparing-to-amend-insolvency-law-to-reduce-time-period-for-resolution-process/articleshow/96319175.cms>

## ➤ **AA Shall Either Approve Or Reject The Resolution Plan, No Power To Modify It: NCLAT Delhi**

The National Company Law Appellate Tribunal ("NCLAT"), Principal Bench, comprising of Justice Rakesh Kumar (Judicial Member) and Dr. Ashok Kumar Mishra (Technical Member), while adjudicating an appeal filed in Mathuraprasad C Pandey & Ors. v Partiv Parikh & Anr., has held that when a Resolution Plan is presented before the Adjudicating Authority for approval, it is clear mandate of legislation to either approve or to reject the Resolution Plan. There is no provision under IBC which empowers the Adjudicating Authority for making alteration or modification in the Resolution Plan.

M.V. Omni Projects (India) Ltd. ("Corporate Debtor") was admitted into Corporate Insolvency Resolution Process ("CIRP") the month of August, 2019. The promoters of Corporate Debtor had submitted a Resolution Plan for the Corporate Debtor. The Resolution Professional filed an application before the Adjudicating Authority under Section 31 of Insolvency and Bankruptcy Code, 2016 ("IBC") for approval of the Resolution Plan. The Adjudicating Authority approved the Resolution Plan vide an Order dated 28.01.2021. However, while approving the Resolution Plan the Adjudicating Authority modified the Resolution Plan to the extent that, "if any

member of Resolution applicants has entered into or stand as guarantor in the individual capacity, in that event, he shall not be covered with any immunity given under the Resolution Plan."

The Successful Resolution Applicants/Promoters of Corporate Debtor filed an appeal before NCLAT, challenging the modification made by the Adjudicating Authority while approving the Resolution Plan. Decision of NCLAT The Bench opined that if a resolution plan is in compliance with Section 30 and Section 31(1) of IBC, then such resolution plan has to be approved by the Adjudicating Authority. In Section 31 of IBC the word "shall" has been incorporated with proviso that the Adjudicating Authority must be satisfied that the resolution plan has provisions for its effective implementation.

Further, Section 31(2) of IBC empowers the Adjudicating Authority to reject the resolution plan, if he is satisfied that resolution plan is not in conformity with Section 31(1) of IBC. The Bench observed that it is clear that mandate of legislation to either approve or to reject the resolution plan. However, there is no provision for making alteration or modification in the resolution plan.

The Bench held that the Adjudicating Authority to some extent exceeded its jurisdiction in modifying/altering the conditions in the resolution plan. The appeal was allowed and it is held that the modification done in the Order dated 28.01.2021 shall not be looked into or may not be taken note of.

**Source: Live Law**

**Read Full news at:** <https://www.livelaw.in/news-updates/aa-shall-either-approve-or-reject-the-resolution-plan-no-power-to-modify-it-nclat-delhi-217065>

## ➤ **IDBI Bank files insolvency plea against Zee Ent to recover Rs 149 crores**

IDBI Bank has moved the National Company Law Tribunal (NCLT) against Zee Entertainment Enterprises Ltd (ZEEL) seeking an insolvency proceeding against the media firm to recover dues of Rs 149.60 crore. IDBI Bank has claimed an amount of Rs 149.60 crore, which has been disputed by ZEEL, said a regulatory update from the media major.

IDBI Bank has filed an application under section 7 of the Insolvency and Bankruptcy Code, 2016, claiming to be a financial creditor, before NCLT for initiation of Corporate Insolvency Resolution Process against the company, it added. "The bank's purported claim arises under a Debt Service Reserve Agreement entered into by the bank and the company for the financial facility availed by Siti Networks Ltd," it said.

ZEEL is "vehemently disputing the bank's claim in other proceedings filed by the bank against the company for recovery of its alleged dues," it added further. SITI Networks, formerly known as SITI Cable Network, is a part of the Essel Group. It provides its cable

services at 580 locations and adjoining areas, reaching out to over 11.3 million digital customers In April this year, Housing Development Finance Corporation Ltd (HDFC) moved NCLT against the country's leading multi-system operator SITI Networks Ltd for alleged default of Rs 296 crore.

**Source: Business Today**

**Read Full news at:** <https://www.businesstoday.in/latest/corporate/story/idbi-bank-files-insolvency-plea-against-zee-ent-to-recover-rs-149-cr-356610-2022-12-16>



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