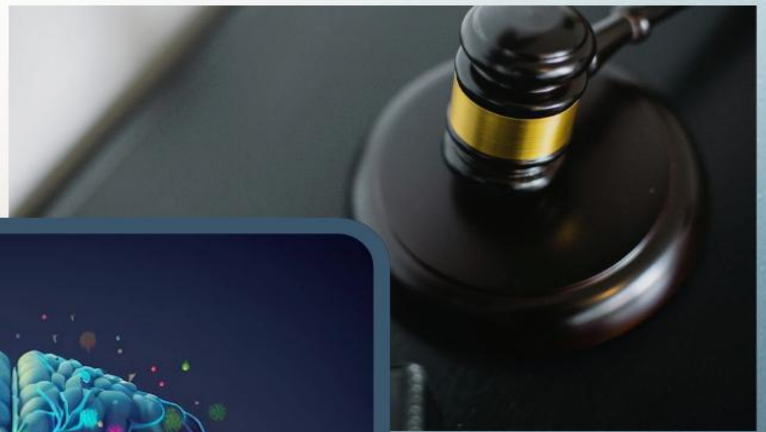
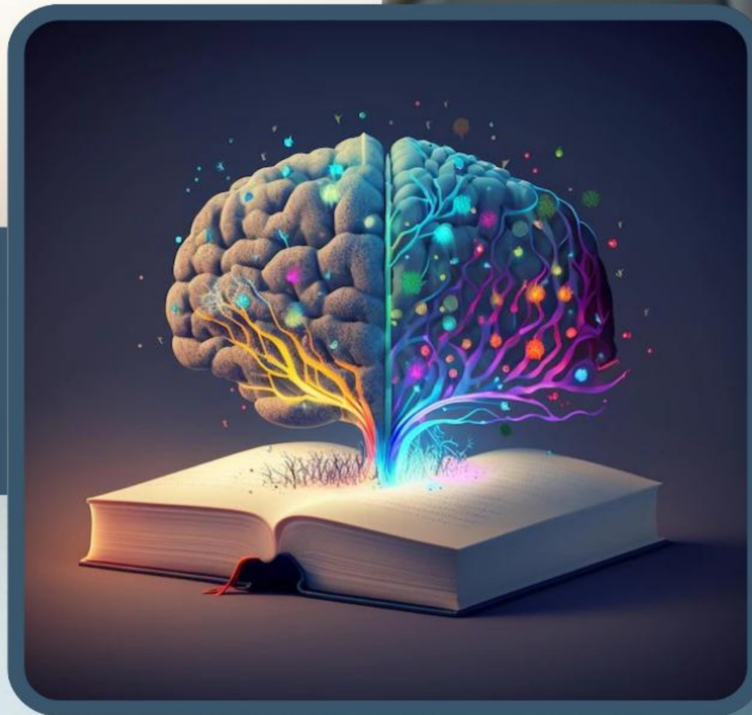
JANUARY- MARCH 2026

IPA-ICMAI

QUARTERLY DIGEST





INSOLVENCY PROFESSIONAL AGENCY OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

(SECTION 8 COMPANY REGISTERED UNDER COMPANIES ACT 2013)

PROMOTED BY THE INSTITUTE OF COST ACCOUNTANTS OF INDIA

OVERVIEW

Insolvency Professional Agency of Institute of Cost Accountants of India (IPA-ICMAI) is a Section 8 Company incorporated under the Companies Act-2013 promoted by the Institute of Cost Accountants of India. We are the frontline regulator registered with Insolvency and Bankruptcy Board of India (IBBI). With the responsibility to enroll there under insolvency Professionals (IPs) as its members in accordance with provisions of the Insolvency and Bankruptcy Code 2016, Rules, Regulations and Guidelines issued thereunder and grant membership to persons who fulfil all requirements set out in its byelaws on payment of membership fee. We are established with a vision of providing quality services and adhering to fair, just, and ethical practices, in performing its functions of enrolling, monitoring, training and professional development of the professionals registered with us. We constantly endeavor to disseminate information in aspect of Insolvency and Bankruptcy Code to Insolvency Professionals by conducting round tables, webinars and sending daily newsletter namely "IBC Au Courant" which keeps the insolvency professionals updated with the news relating to Insolvency and Bankruptcy domain.

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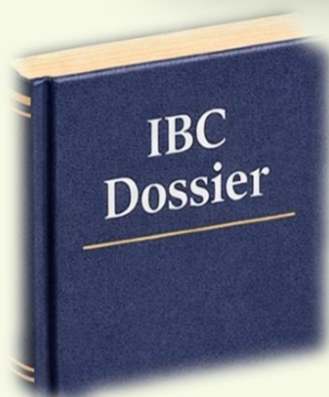

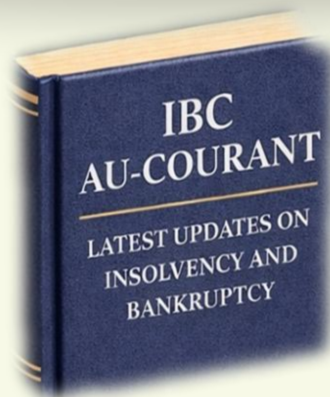

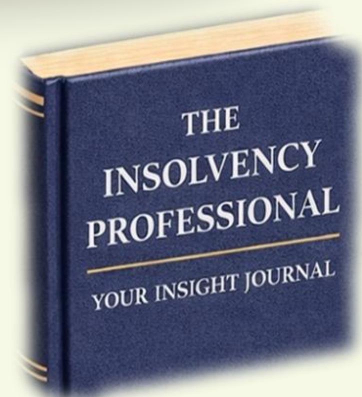

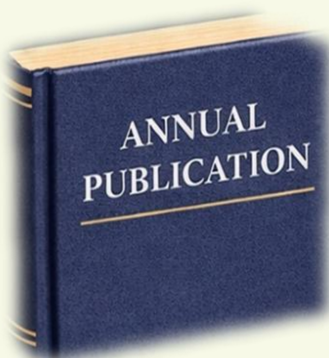

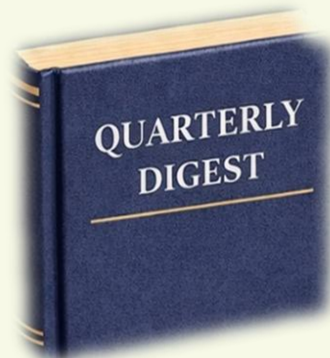

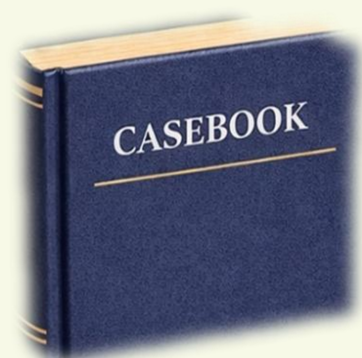

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MESSAGE FROM THE DESK OF THE CHAIRPERSON

Dear Readers,

It is both an honour and a privilege to address you for the first time as the Chairman of the Insolvency Professional Agency of the Institute of Cost Accountants of India. I assume this responsibility with a deep sense of commitment towards strengthening the insolvency profession and contributing meaningfully to the evolving insolvency and bankruptcy framework in India.

At the outset, I would like to acknowledge and appreciate the valuable contributions of my predecessor, whose leadership has played a significant role in advancing the objectives of IPA-ICMAI. I look forward to building upon this strong foundation and further enhancing the Agency's role as a key pillar in the insolvency ecosystem.

The insolvency landscape continues to evolve through regulatory refinements, judicial developments, and emerging market practices. In such a dynamic environment, the role of Insolvency Professionals is becoming increasingly critical—not only as facilitators of resolution processes but also as custodians of transparency, fairness, and stakeholder confidence. This calls for a continued emphasis on professional competence, ethical standards, and adaptability.

This Quarterly Digest reflects the depth and diversity of thought within our professional community. The articles, case analyses, and insights presented in this edition capture important developments and practical perspectives that are essential for informed practice. I commend the contributors and editorial team for their efforts in curating this valuable resource.

Going forward, my focus will be on strengthening capacity building, promoting knowledge-driven practice, and fostering greater collaboration within the insolvency ecosystem. IPA-ICMAI will continue to support its members through meaningful initiatives that enhance both technical expertise and professional integrity.

I invite all our members and readers to actively engage with the ideas presented in this journal and contribute to the ongoing discourse that shapes the future of insolvency practice in India.

Warm regards,

Dr. Bhaskar Chatterjee
Chairperson
IPA of Institute of Cost Accountants of India

MESSAGE FROM THE DESK OF THE EDITOR AND MANAGING DIRECTOR

Hello Reader,

Greetings to you from Insolvency Professional agency of Institute of cost accountants of India (IPA-ICMAI)!

Our editorial team is happy to present the first issue of THE QUARTERLY DIGEST in the new financial year to our members, professionals and all readers.

In the last quarter, IPA-ICMAI organised the third residential program – 'Unlocking the Secrets of Insolvency' at the Courtyard at the Marriott, Shillong, Meghalaya. The three days' event brought together a large number of professionals who were engaged by very senior advocates, regulators, bankers, state representatives, adjudicators, corporate leaders and other professionals sharing their deep insight on the opportunities, challenges and learnings from their hands-on experience in the IBC ecosystem, as also what foretells the ecosystem.

In this quarter, IPA-ICMAI organised two in-person certificate programs at different locations simultaneously, to test our own capacity. I am happy that both the programs in Mumbai and Jaipur were well attended and received very positive feedback from the participants. Given the requirement for IPs to mandatorily earn a minimum part of their Continuous Professional Education (CPE) hours through in-person participation, this was a test to see if IPA-ICMAI can rise up to the occasion and on this, I compliment the young team who have enthusiastically risen up to the challenge. We look forward to organising many more similar programs at various locations, also associating with the local chapters of the parent Institute as also local organisations.

The Digest is structured as a collection of the following put together in one place to help the reader get the best of the ideas presented by authors in The Insolvency Professional, the monthly journal, news updates and important judicial rulings during the past quarter. Accordingly, this edition of the QUARTERLY DIGEST carries

- select articles from the monthly journals,
- An article by contributed by Ayush Goel, Grievance Redressal Officer at IPA-ICMAI, on institutional mechanisms for accountability, grievance handling and disciplinary mechanism in IPAs,
- Important rulings of the Supreme Court, NCLAT and NCLT during the quarter
- News updates and news about activities of IPA-ICMAI.

We are enthused by the regular flow of articles by professionals and are happy to publish them through our journals, it is important that these articles also generate healthy discussion and debate that benefit all of us – the author, the responder and the publisher. Hence, we very much welcome responses of our readers to the articles published in THE DIGEST. And we will be happy to publish responses/ comments/ opinions of readers in THE DIGEST.

I compliment the editorial team of Karishma Rastogi Varshney, Ayush Goel and Neha Sen who work tirelessly to bring out THE DIGEST. I'm sure they will continue with the same zeal to keep improving the quality of THE DIGEST in terms of quality.

THE DIGEST is also coming out in limited numbers in print. If any reader wishes to have a printed copy, s/he may contact Neha Sen at publication@ipaicmai.in .

G.S. Narasimha Prasad
Editor & Managing Director

PROFESSIONAL DEVELOPMENT INITIATIVES

Your Path to

PROFESSIONAL GROWTH

ACTIVITIES BY IPA-ICMAI

S. NO	Program/ Event	No. of Programs
1	Workshop	10
2	Seminar	3
3	Certificate Training Program	2
4	Executive Development Programme	1
7	Residential Programme	1
	Total	17

ONLINE PROGRAMS

An **Executive Development Program (EDP)** titled *"Liquidation under IBC: Evolving Strategies, Compliance & Beyond"* was conducted on **January 2nd, 2026** focusing on the liquidation framework under the Insolvency and Bankruptcy Code, emerging strategies, compliance requirements, and practical challenges encountered during liquidation proceedings.

A **Workshop on Professional Ethics, Liability & Disciplinary Processes under IBBI Oversight** was held on **January 9th, 2026** emphasizing ethical responsibilities of Insolvency Professionals, regulatory expectations, disciplinary mechanisms, and risk mitigation in professional practice.

IPA-ICMAI jointly with IIIPI and ICSI IIP organized the **69th Batch of the Pre-Registration Educational Course (PREC)** in virtual mode from **January 15th to 21st, 2026** providing aspiring Insolvency Professionals with structured training on the legal, procedural, and practical aspects of insolvency practice.

A **Workshop on Sector-Specific Insolvency Challenges** was organized on **January 16th, 2026** offering insights into industry-specific issues, sectoral nuances, and tailored resolution approaches ` the IBC framework.

A Workshop on Committee of Creditors (CoC) Dynamics was conducted on January 23rd, 2026 focusing on decision-making processes, voting mechanisms, fiduciary responsibilities, and practical challenges faced by CoC members during CIRP.

A **Workshop on "Liquidation – Beyond the Last Resort** was held on **January 30th, 2026** highlighting strategic considerations, value maximization approaches, compliance imperatives, and evolving perspectives on liquidation under the Insolvency and Bankruptcy Code.

A **Workshop on "Litigation – Tactical & Strategic Control under IBC, 2016**" was conducted on **February 21st ,2026** with a focused objective to equip Insolvency Professionals with practical insights into managing litigation risks and procedural complexities within the insolvency resolution framework

A **Workshop on Personal Guarantor Insolvency – Control & Recovery Maximisation** was held on **February 28th, 2026.**

A **Workshop on Financial Modelling in CIRP & Valuation Conflicts** was conducted on **March 8th, 2026** providing participants with practical insights into financial analysis, valuation challenges, and conflict resolution mechanisms within the CIRP framework.

A **Workshop on "Use of Technology in CIRP & Liquidation**" was successfully conducted on **March 21st, 2026**. The programme focused on digital transformation under the IBC, covering key aspects such as technology platforms in CIRP, digital tools for communication and compliance, and the use of technology in the liquidation process. It also highlighted emerging technologies, case studies, practical demonstrations, and IBC case management, providing valuable insights to the participants.

IPA-ICMAI will conduct a workshop on **"Forensic & Transaction Audit under the Insolvency and Bankruptcy Code, 2016"** on **March 28th, 2026**.The session will focus on key audit aspects, identification of suspect transactions, and practical challenges faced by Insolvency Professionals, along with relevant legal and procedural insights.

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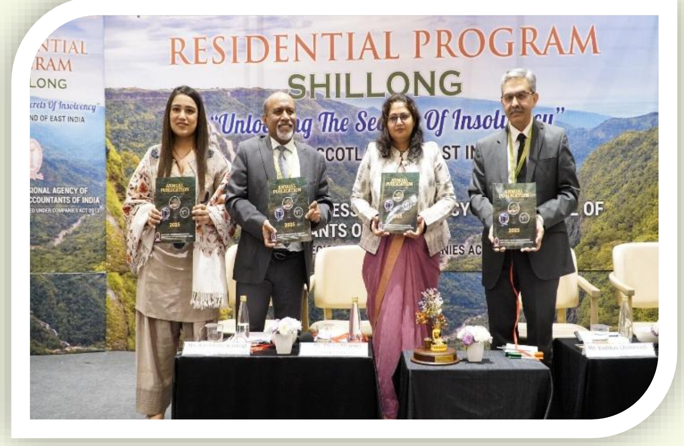
IN PERSON PROGRAMS

***IPA-ICMAI organized a Seminar on IBC in association with KIPF & IBBI** on **January 23rd, 2026** in in-person mode, deliberating on contemporary developments under the Insolvency and Bankruptcy Code and strengthening stakeholder engagement within the insolvency ecosystem.*

*The IPA-ICMAI **Residential Programme: "Unlocking the Secrets of Insolvency – The Scotland of the East"** was successfully conducted from **February 5th to 8th, 2026** in the serene city of Shillong. The programme was organised under the evolving framework of the Insolvency and Bankruptcy Code and witnessed enthusiastic participation from across the India.*



*On **March 9th ,2026 IPA-ICMAI jointly with the Professional Development & CPE Committee, ICMAI and ICMAI Registered Valuers Organisation celebrated International Women's Day: Women's Power – A Key Catalyst for Viksit Bharat 2047.***

*IPA-ICMAI in association with MIDC industries association, Nagpur, organized a **seminar on March 12th ,2026 on 'reimagining MSME survival: strategic use of insolvency framework under the insolvency and bankruptcy code, 2016.***

*IPA-ICMAI organised a Two Days **Certificate Training Program for Professionals under the IBC Ecosystem** on **March 14th & 15th, 2026** in Jaipur. The programme provided key insights into the evolving IBC framework, focusing on practical aspects and recent developments, and saw active participation from professionals.*

Two Days ***Certificate Training Program for Professionals under the IBC Ecosystem*** *organised by IPA-ICMAI in association with Edelweiss ARC and IP Foundation, held on* ***March 14th & 15th, 2026*** *in Mumbai.*

IPA-ICMAI, in association with MIDC Industries Association, organized a seminar on "Reimagining MSME Survival: Strategic Use of Insolvency Framework under the IBC, 2016" on March 12th ,2026 at Nagpur. The session emphasized the importance of timely utilization of the IBC framework for addressing financial distress, promoting business revival, and strengthening credit discipline among MSMEs. The initiative received media coverage, highlighting the growing need for awareness and effective implementation of insolvency mechanisms in the MSME sector.

TheHitavada

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'Awareness of IBC framework crucial for MSME'

Business Reporter

GREATER awareness and timely use of the provisions under the Insolvency and Bankruptcy Code (IBC), 2016 can help Micro, Small and Medium Enterprises (MSMEs) effectively address financial distress and ensure business continuity, said P Mohan, President of MIDC Industries Association (MIA).

He was speaking at a seminar on "Reimagining MSME Survival: Strategic Use of Insolvency Framework under the Insolvency and Bankruptcy Code (IBC), 2016" jointly organised by MIDC Industries Association (MIA), Nagpur and the Insolvency Professional Agency of the Institute of Cost Accountants of India (IPA ICMAI), New Delhi at MIA House in Hingna MIDC Industrial Area.

He further stated that, "Many MSMEs face financial challenges but remain unaware that structured mechanisms exist under the Insolvency and Bankruptcy Code for timely resolution and revival. The IBC should not be viewed merely as a liquidation tool but as a framework for business revival, restructuring and value preservation."

Earlier, CMA Manisha Agrawal welcomed the dignitaries and emphasized the need to create greater awareness among MSMEs about the structured insolvency mechanisms.

The seminar was inaugurated by CA Milind Kanade, who described the Insolvency and Bankruptcy Code, 2016 as a major economic reform that has introduced a transparent and time-bound framework for resolving insolvency and strengthening credit discipline. P Narasimhan, Managing Director, IPA ICMAI, New Delhi, elaborated on the role of Insolvency Professional Agencies in supporting and regulating insolvency professionals to ensure transparency and efficiency in the resolution process.

During the technical session, CA Advait Dharap explained the insolvency resolution framework under the IBC, while CMA Manisha Agrawal highlighted the Pre-Packaged Insolvency Resolution Process (Pre-Pack) introduced for MSMEs as a faster and cost-effective mechanism for restructuring financially stressed businesses.

Arun Lanjewar, Secretary, MIDC Industries Association, proposed the vote of thanks.

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2 | नागपुर, गुरुवार 19 मार्च 2026 नवभारत

MSME अर्थव्यवस्था की रीढ़

उद्योग के अस्तित्व के लिए IBC की जानकारी जरूरी

■ नागपुर, व्यापार संवाददाता. सूक्ष्म, लघु एवं मध्यम उद्योगों को वित्तीय संकट से उबरने और अपने व्यवसाय को स्थिर बनाए रखने के लिए इन्सॉल्वेंसी एंड बैंकरप्सी कोड (आईबीसी), 2016 के प्रावधानों की जानकारी और उनका समय पर उपयोग बेहद आवश्यक है. यह बात एमआईए के अध्यक्ष पी. मोहन ने कही. वे 'रीइमैजिनिंग एमएसएमई सर्वाइवल : इन्सॉल्वेंसी एंड बैंकरप्सी कोड, 2016' के अंतर्गत 'इन्सॉल्वेंसी फ्रेमवर्क का रणनीतिक उपयोग' विषय पर आयोजित सेमिनार को संबोधित कर रहे थे. सेमिनार का आयोजन एमआईडीसी इंडस्ट्रीज एसोसिएशन तथा इन्सॉल्वेंसी प्रोफेशनल एजेंसी ऑफ द इंस्टिट्यूट ऑफ कॉस्ट अकाउंटेंट्स ऑफ इंडिया, दिल्ली द्वारा संयुक्त रूप से एमआईए हाउस, हिंगना एमआईडीसी औद्योगिक क्षेत्र में किया गया. सीएमए मनीषा अग्रवाल ने कहा कि वर्तमान आर्थिक परिस्थितियों में एमएसएमई के लिए आईबीसी के तहत उपलब्ध संरचित समाधान तंत्र की जानकारी बेहद महत्वपूर्ण है.

वित्तीय दबाव का करना पड़ता है सामना

मोहन ने कहा कि एमएसएमई देश की औद्योगिक अर्थव्यवस्था की रीढ़ है लेकिन कई बार भुगतान में देरी, बढ़ती लागत और बाजार की अनिश्चितताओं के कारण उद्योगों को वित्तीय दबाव का सामना करना पड़ता है. उन्होंने कहा कि अनेक उद्योगों को यह जानकारी ही नहीं होती कि आईबीसी के तहत समयबद्ध समाधान और पुनरुद्धार के लिए प्रभावी व्यवस्था उपलब्ध है. आईबीसी को केवल परिसमापन का साधन नहीं बल्कि व्यवसाय के पुनर्गठन और पुनरुद्धार के प्रभावी ढांचे के रूप में देखा जाना चाहिए. यदि उद्योग समय रहते उचित जानकारी और पेशेवर मार्गदर्शन प्राप्त करें तो वे इन प्रावधानों का रणनीतिक उपयोग कर वित्तीय संकट से बाहर निकल सकते हैं और अपने संचालन को फिर से स्थिर बना सकते हैं. मोहन ने एमएसएमई समुदाय को इस विषय पर जागरूक करने के लिए एमआईए के साथ सहयोग करने हेतु आईपीए-आईसीएमएआई की पहल की सराहना की. उन्होंने कहा कि इस प्रकार के ज्ञानवर्धक कार्यक्रम उद्योगों को वित्तीय प्रबंधन और पुनर्गठन की दिशा में बेहतर समझ प्रदान करते हैं.

वित्तीय व्यवस्था को मजबूत करने वाला आर्थिक सुधार

- सेमिनार का उद्घाटन कर सीए मिलिंद कानाडे ने कहा कि इन्सॉल्वेंसी एंड बैंकरप्सी कोड, 2016 देश की वित्तीय व्यवस्था को मजबूत करने वाला एक महत्वपूर्ण आर्थिक सुधार है जिसने दिवालियापन समाधान के लिए पारदर्शी और समयबद्ध प्रक्रिया स्थापित की है.
- आईपीए-आईसीएमएआई, दिल्ली के प्रबंध निदेशक पी. नरसिम्हन ने इन्सॉल्वेंसी प्रोफेशनल एजेंसियों की भूमिका पर प्रकाश डालते हुए बताया कि ये एजेंसियां समाधान प्रक्रिया में पारदर्शिता और पेशेवर मानकों को सुनिश्चित करती हैं. कार्यक्रम के अंत में एमआईए के मानद सचिव अरुण लांजेवार ने आभार व्यक्त किया.

ARTICLES

INSTITUTIONAL MECHANISMS FOR ACCOUNTABILITY: GRIEVANCE AND DISCIPLINARY SYSTEMS IN INSOLVENCY PROFESSIONAL AGENCIES (IPA's)

MR. AYUSH GOEL
ASSISTANT MANAGER
IPA OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

Introduction

The enactment of the Insolvency and Bankruptcy Code, 2016 (the Code) marked a paradigm shift in India's approach to insolvency resolution. Moving away from fragmented and debtor-driven frameworks, the Code introduced a structured, time-bound, and creditor-in-control mechanism aimed at maximizing asset value while balancing the interests of all stakeholders. At the core of this framework lies the Insolvency Professional (IP), who plays a multifaceted role as an administrator, facilitator, and fiduciary. The IP is entrusted with managing the affairs of the corporate debtor, conducting the resolution or liquidation process, and ensuring compliance with the provisions of the Code and the regulations framed thereunder.

Given the centrality of the IP's role and the wide-ranging powers exercised during insolvency proceedings, the need for robust oversight and accountability becomes self-evident. The credibility of the insolvency ecosystem depends significantly on the integrity, competence, and conduct of Insolvency Professionals. Recognizing this, the regulatory architecture under the Code places substantial responsibility on Insolvency Professional Agencies (IPAs) to supervise and regulate their members. Among the most critical tools available to IPAs in fulfilling this mandate are the grievance redressal and disciplinary mechanisms. These mechanisms not only address stakeholder concerns but also ensure adherence to professional standards, thereby reinforcing trust in the insolvency regime.

Role of IPAs and Regulatory Framework

Insolvency Professional Agencies are envisaged as frontline regulators within the insolvency framework. They function as self-regulatory organizations responsible for enrolling Insolvency Professionals, monitoring their performance, and ensuring compliance with the Code of Conduct and applicable regulations. Their role is not merely administrative; it is fundamentally regulatory and supervisory in nature.

The regulatory framework governing IPAs is guided by the model byelaws issued by the Insolvency and Bankruptcy Board of India (IBBI). These model bye-laws provide a structured blueprint for the governance of IPAs, including provisions relating to grievance redressal and disciplinary proceedings. While IPAs have the flexibility to design their internal processes, they are required to ensure that their bye-laws remain consistent with the model framework. This ensures a degree of uniformity across different IPAs, thereby preventing arbitrary practices and maintaining consistency in regulatory expectations.

The importance of this uniformity cannot be overstated. In a system where multiple IPAs operate, divergent practices in handling grievances or disciplinary matters could lead to uncertainty and erosion of stakeholder confidence. By aligning their bye-laws with the model framework, IPAs contribute to a coherent and predictable regulatory environment, which is essential for the effective functioning of the insolvency ecosystem.

Grievance Redressal Mechanism

The grievance redressal mechanism represents the first and most accessible layer of accountability within the IPA framework. It serves as the primary interface through which stakeholders can raise concerns regarding the conduct, decisions, or actions of an Insolvency Professional. Given the complexity of insolvency proceedings and the multiplicity of stakeholders involved,

grievances are not uncommon. These may arise from perceived procedural irregularities, delays, communication gaps, or alleged non-compliance with legal provisions. Importantly, the grievance redressal mechanism is designed to be restorative rather than punitive. Its primary objective is to resolve concerns in a fair, transparent, and time-bound manner without immediately escalating matters into formal disciplinary proceedings. This approach recognizes that not all grievances stem from misconduct; many arise from misunderstandings, interpretational differences, or procedural ambiguities inherent in complex insolvency processes.

By providing a structured yet flexible platform for addressing concerns, the grievance redressal mechanism helps in de-escalating disputes, preserving professional relationships, and promoting a culture of dialogue and resolution. It also serves as an early warning system, enabling IPAs to identify patterns or recurring issues that may require systemic intervention.

Process of Grievance Redressal

The grievance redressal process typically begins with the submission of a complaint by an aggrieved party. The complainant is expected to provide relevant details, including the nature of the grievance, supporting documents, and the relief sought. This initial step is crucial, as the quality and completeness of the complaint significantly influence the efficiency of subsequent stages. Upon receipt of the complaint, the IPA undertakes its registration and acknowledges it to the complainant. This acknowledgment is an important aspect of procedural transparency, assuring the complainant that the matter has been formally taken on record and will be addressed in due course. It also establishes a documented trail of the grievance, which is essential for accountability.

The next stage involves preliminary scrutiny by the Grievance Redressal Officer. At this stage, the complaint is examined to determine whether it falls within the jurisdiction of the IPA and whether it is maintainable. Complaints that are frivolous, vague, or outside the scope of the IPA's authority are filtered out, thereby ensuring that the mechanism is not misused and that resources are focused on genuine grievances.

Where a complaint is found to be maintainable, the concerned Insolvency Professional is called upon to submit a response. This step is integral to upholding the principles of natural justice, as it ensures that the IP is given a fair opportunity to present their perspective and clarify any misunderstandings. In many cases, the exchange of information at this stage itself leads to resolution of the grievance.

An important feature of the grievance redressal mechanism is the possibility of mediation or facilitation. Recognizing that formal adjudication may not always be necessary, IPAs may facilitate dialogue between the complainant and the IP to arrive at a mutually acceptable solution. This approach not only saves time and resources but also fosters a cooperative professional environment.

Based on the examination of the complaint and the response received, the IPA may arrive at one of several outcomes. If the complaint is found to be unsubstantiated, it may be dismissed. In cases involving minor lapses or procedural issues, the IPA may issue advisories or guidance to the IP. However, where the grievance reveals prima facie evidence of serious misconduct or violation of statutory provisions, the matter may be escalated for disciplinary proceedings.

Disciplinary Mechanism

The disciplinary mechanism constitutes the formal enforcement arm of the IPA's regulatory framework. Unlike grievance redressal, which is primarily resolution-oriented, disciplinary proceedings are concerned with establishing accountability and imposing consequences for professional misconduct.

Disciplinary proceedings may be initiated through multiple channels. A grievance that

uncovers serious irregularities may serve as the basis for initiating proceedings. Alternatively, information may be received from regulatory authorities, judicial forums, or other credible sources. In certain cases, the IPA may also initiate proceedings Suo motu, based on its own monitoring or surveillance mechanisms.

The initiation of disciplinary proceedings is preceded by a careful examination of the available material to determine whether a prima facie case exists. This ensures that proceedings are not initiated arbitrarily and that the process is grounded in evidence and reasoned judgment.

Process of Disciplinary Proceedings

Once a prima facie case is established, a formal notice is issued to the concerned Insolvency Professional. This notice outlines the allegations, the provisions that may have been violated, and the supporting material. The IP is given a reasonable opportunity to submit a written response, thereby ensuring compliance with the principles of natural justice.

The matter is then placed before the Disciplinary Committee, which is typically composed of independent and experienced members. The Committee functions in a quasi-judicial capacity, examining the evidence, hearing the parties, and applying relevant legal and professional standards. The independence of the Committee is crucial to maintaining the credibility and fairness of the process.

Hearings may be conducted where necessary, allowing both the IPA and the IP to present their arguments, submit evidence, and clarify issues. The Committee evaluates the material on record and arrives at a reasoned decision, taking into account the nature, gravity, and impact of the alleged misconduct.

The outcomes of disciplinary proceedings can vary depending on the findings. Where the allegations are not substantiated, the case may be dismissed. In instances of minor lapses, the Committee may issue warnings or advisories. However, in cases involving serious misconduct, penalties may be imposed, including monetary penalties, suspension of membership, or cancellation of membership. These measures serve both corrective and deterrent purposes.

An important safeguard within the disciplinary framework is the provision for appeal. The availability of an appellate mechanism ensures that decisions are subject to review, thereby enhancing fairness and accountability. It provides the concerned professional with an opportunity to challenge the findings or the quantum of penalty, if warranted.

Relationship Between Grievance and Disciplinary Mechanisms

While the grievance redressal and disciplinary mechanisms serve distinct purposes, they are closely interconnected. The grievance mechanism acts as the first line of engagement, providing an opportunity for issues to be resolved at an early stage. The disciplinary mechanism, on the other hand, addresses serious violations that require formal adjudication and enforcement.

Not every grievance leads to disciplinary action, and not every disciplinary case originates from a grievance. However, the two mechanisms complement each other by creating a comprehensive framework for accountability. Together, they ensure that concerns are addressed promptly while maintaining the integrity of the profession.

Implications for Insolvency Professionals

For Insolvency Professionals, a clear understanding of these mechanisms is essential. The best way to avoid grievances and disciplinary action is through strict adherence to professional standards and regulatory requirements. This includes maintaining transparency in decision-making, ensuring proper documentation, avoiding conflicts of interest, and communicating effectively with stakeholders. It is also important to recognize that grievances do not necessarily indicate wrongdoing. In a complex and dynamic

environment such as insolvency, disagreements and misunderstandings are inevitable. A proactive and cooperative approach to addressing concerns can often prevent escalation and foster trust among stakeholders.

Institutional Effectiveness and Strategic Role

The effectiveness of grievance redressal and disciplinary mechanisms depends on their credibility, transparency, and efficiency. Stakeholders must have confidence that their concerns will be addressed impartially and, in a time-bound manner. Similarly, Insolvency Professionals must be assured that disciplinary proceedings will be conducted fairly and in accordance with due process.

Beyond their immediate functions, these mechanisms play a strategic role in shaping the regulatory culture of the insolvency ecosystem. By analyzing grievances and disciplinary cases, IPAs can identify recurring issues, provide guidance to professionals, and enhance awareness of best practices. This proactive approach helps in preventing grievances and promoting a culture of compliance and professionalism.

Conclusion

The grievance redressal and disciplinary systems within Insolvency Professional Agencies are fundamental to the accountability framework envisaged under the Insolvency and Bankruptcy Code, 2016. They serve as essential instruments for addressing stakeholder concerns, enforcing professional standards, and maintaining the integrity of the insolvency process.

Far from being mere regulatory controls, these mechanisms contribute to the development of a mature and credible professional ecosystem. By embracing transparency, ethical conduct, and continuous learning, Insolvency Professionals can not only minimize the risk of grievances but also enhance the overall effectiveness of the insolvency regime in India.

Ultimately, the strength of the insolvency framework lies not only in its legal provisions but also in the integrity and professionalism of those who implement it. The grievance redressal and disciplinary mechanisms of IPAs ensure that this integrity is upheld, thereby fostering trust, confidence, and resilience in the system.

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Why the Law Is Tightening Its Grip, and How It Affects Real Businesses

Abstract

The concept of a "Related Party" under the Insolvency and Bankruptcy Code (IBC), 2016, has evolved into one of the most decisive elements shaping India's corporate insolvency framework. While the Code originally offered a structured definition borrowed from company law, judicial interpretation has steadily expanded its scope to safeguard the integrity of the Corporate Insolvency Resolution Process (CIRP). This paper examines how courts have moved from a narrow, technical reading to a purposive, substance-over-form approach to prevent promoters, insiders, and associated entities from influencing the CoC through indirect or engineered financial arrangements. Through practical, real-life inspired examples, the article highlights how friendly loans, group structures, debt assignments, and proxy creditors are increasingly being scrutinized to detect hidden control and conflicts of interest. The analysis demonstrates how this expanded interpretation directly impacts two critical areas—CIRP eligibility and voting rights—ensuring that only independent creditors drive the resolution process. Ultimately, the evolving doctrine of "Related Party" strengthens the IBC's foundational promise: a transparent, creditor-centric, value-maximising insolvency regime that prevents back-door entry of promoters and preserves the sanctity of commercial decision-making.

A Deep Dive into How Relationships, Control and Hidden Influence Can Change the Fate of an Insolvency Case

When the Insolvency and Bankruptcy Code (IBC) came into force in 2016, it brought a wave of hope. India had lived for decades under slow, inefficient, and sometimes ineffective debt recovery systems. Sick companies continued to remain sick, dragging lenders, employees, vendors, and investors into a downward spiral. The IBC promised a new beginning clean, time-bound, creditor-driven rescue system.

But as with any law, people began to find loopholes. Promoters who had pushed companies to insolvency began searching for ways to stay involved in the process. Friendly lenders, relatives, and group companies started popping up with claims. Debt was assigned to entities just days before default. The familiar Indian "network of relationships"—strong in business, family, and society—quietly walked into the insolvency room.

The question suddenly became serious: **When does a creditor stop being a genuine creditor and become a "Related Party"?**

Because, under the IBC, this distinction can change the entire fate of a Corporate Insolvency Resolution Process (CIRP). A Related Party:

- **Cannot file for CIRP**,
- **Cannot vote in the Committee of Creditors (CoC)**,
- **Cannot influence approval or rejection of resolution plans**, and
- **Cannot act as the promoter's "unseen hand" inside the decision-making process**.

With time, courts discovered that this small phrase—*Related Party*—held enormous power. It could protect the entire CIRP from manipulation… or let it collapse if misinterpreted.

This article explores how the definition has evolved, how courts look beyond paperwork, and what this means for real companies, creditors, promoters, and insolvency professionals. And we do it through practical, relatable examples that reflect how Indian businesses really operate—not in theory, but in everyday reality.

1. Why the Definition of "Related Party" Matters So Much

To understand the importance, we must revisit a basic principle of the IBC:

The insolvency process must be decided by independent creditors who have no conflict of interest.

Not relatives.
Not friends.
Not group companies.
Not entities controlled by promoters behind the scenes

Because these insiders might:

- try to block a resolution plan that brings a new buyer,
- support a low value bid that benefits the outgoing promoters,
- try to regain control of the company indirectly,
- manipulate voting outcomes,
- or create pressure on banks using their voting share.

The IBC has only one objective: **maximum value for all creditors**. This objective collapses if insiders start crowding the CoC.

That is why the law excludes Related Parties from voting—even if they are genuine creditors in terms of financial transactions.

2. A Real-Life Inspired Story: When Business Relationships Create Trouble

To make the concept easy for everyone, let's move from legal theory to a human story.

Meet Galaxy Auto Components Pvt. Ltd.

Galaxy Auto was a respected automobile parts manufacturer supplying to several OEMs. But competition increased, and internal mismanagement made things worse. Delays, quality issues, and rising raw material costs pushed the company toward default. By late 2023, Galaxy had an overdue loan of ₹135 crore with multiple banks. Cash flow disappeared. Salaries were delayed. Vendors were not paid.

Finally, Sunrise Bank filed a Section 7 application under IBC, and the CIRP began.

When the Interim Resolution Professional (IRP) invited claims, an interesting chain of events unfolded.

The Promoter's Inner Circle Shows Up

Within a week, three unexpected financial creditors filed claims:

1. The Promoter's Uncle (Mr. R.K. Mehra)

He had given ₹18 crore as an unsecured loan during "difficult times." No interest, no formal security, just a friendly arrangement.

2. A Group Trading Company, "Mehra Commodities Ltd."

This company—fully controlled by the promoter's aunt and cousins—had purchased ₹22 crore of Galaxy's debt from a small NBFC six months before default.

3. A Finance Company Owned by the Promoter's Childhood Friend

The finance company had advanced ₹14 crore to Galaxy without proper documentation, security, or credit appraisal. The loan was approved in a single meeting of the board.

All three claimed to be "independent financial creditors."

On paper, they had loan agreements.
On paper, money had been transferred.
On paper, they passed the definition of

"financial creditor."

But the question was deeper:

Were they truly independent? Or were they extensions of the promoter?

This is where the IBC's evolving understanding of "Related Party" became crucial.

3. What Does the Law Actually Say?

Originally, Section 5(24) of the IBC defined "Related Party", largely borrowing from the Companies Act. It covered:

- directors and their relatives,
- key managerial personnel,
- holding and subsidiary companies,
- companies with common control,
- entities with significant influence.

However, promoters quickly realized that:

- If a relative doesn't directly lend but runs a separate firm,
- If a group company is held through a trust,
- If a friend buys debt from another creditor,
- If the promoter resigns before CIRP,
- If a company assigns debt to another controlled entity they could still enter the CoC indirectly.

But courts were sharp. They began applying a **purposive interpretation**, focusing on:

- who truly controls the entity,
- whether the transaction was commercially sound,
- whether the debt assignment happened to influence CIRP,
- whether the relationships showed signs of coordination,
- whether the creditor acted independently or as a proxy.

The Supreme Court's judgments, especially **Phoenix ARC**, **Anuj Jain (Jaypee)**, and **ArcelorMittal**, shaped this shifting landscape. Tribunals began looking at the "real intention" behind transactions—not just the legal form.

4. How Courts Identify a Related Party: The Practical Tests

Here are the broad tests used by courts in real cases:

Test 1: Who is the "mind" behind the entity?

Is the company genuinely independent? Or is it controlled by the promoter through:

- family members,
- trustees,
- companies with shared directors,
- common funding sources?

Test 2: Was the debt transaction commercially reasonable?

Was there:

- due diligence?
- security?
- standard interest terms?
- board approval?
- independent decision-making?

If a large unsecured loan is given casually, it raises doubts.

Test 3: Was the debt assigned just before default?

Debt assignments close to insolvency often signal strategic moves to enter the CoC.

Test 4: Did the creditor actively influence policy decisions?

Even advisory influence or participation in strategy can make an entity "related."

Test 5: Was the intention to influence the CIRP?

If yes, the entity becomes a Related Party—even if technically separate.

5. Back to Galaxy Auto: What Happened?

The IRP looked beyond documents and conducted a deep investigation. Here's what came out:

- The promoter's uncle, Mr. Mehra, had no repayment schedule, no security, and no commercial justification.
- Mehra Commodities, the debt buyer, shared multiple directors with Galaxy's promoter family.
- The childhood friend's finance company had never given a loan of such size before—this was its first-ever "big loan."

These facts were sufficient to treat them as Related Parties under the IBC.

Impact?

All three claims were admitted but their voting rights were **rejected**.

Their combined 28% voting share became **zero**.

This single step changed the entire CIRP.

Without them, Sunrise Bank and another lender, Horizon Bank, controlled 92% voting share. They selected a strong resolution applicant. They rejected a low value bid that was allegedly linked to the old promoters. They ensured transparency.

If these related entities had voting rights, the outcome would have been completely different.

6. How "Related Party" Impacts CIRP Eligibility

Many people don't realize a crucial rule:

A Related Party cannot file a CIRP application under Section 7.

Why?

Because a promoter could use a friendly creditor to push the company into insolvency deliberately, stop other creditors, and then submit a resolution plan through another friendly bidder.

This risk is real. It has happened earlier in India.
Courts saw it, understood it, and shut the door.

If Mehra Commodities or the childhood friend had tried to initiate CIRP against Galaxy Auto, their application would have been dismissed.

This ensures that only **genuine, independent creditors** can pull a company into the insolvency process.

7. Impact on Voting Rights: The Heart of the Issue

This is the most important consequence.

Even when a Related Party is admitted as a creditor:

- they sit in the meeting,
- they hear everything,
- they participate in discussions

…but their vote **does not count**.

It's like turning off their microphone at critical moments.

This prevents manipulation.
It protects banking institutions.
It preserves the sanctity of the "commercial wisdom" of the CoC.

Imagine if Mehra Commodities had voting rights:

- They could vote for a resolution plan favoring the promoter.
- They could block a genuine buyer with a 66% voting requirement.
- They could influence discussions subtly.

The law prevents this.
Their presence does not become a threat.

8. A Wider View: How This Affects the Indian Business Landscape

The expanded interpretation of "Related

Party" has major implications:

1. End of Informal, Friendly Credit

Earlier, promoters relied heavily on money from:

- relatives,
- cross-owned firms,
- sister concerns,
- family trusts,
- long-time friends.

Now these friendly loans may not secure voting rights.
They may even become suspicious in insolvency.

2. Corporate Structures Under Scanner

Complex webs of subsidiaries and associates—common in Indian business groups—are now being examined more critically.

Ownership alone is not the test. Control, influence, and behaviour are the key tests.

3. Better Protection for Banks and Independent Lenders

Now, CIRP outcomes reflect genuine commercial merit—not family strategy.

4.Greater Transparency and Documentation

Lenders are now insisting on:

- proper board resolutions,
- arm's length arrangements,
- clear security structures,
- audited financials.

This improves credit discipline in the market.

5. Promoters Lose Their Backdoor access

This might feel harsh for some, but it's essential.
IBC is designed to bring a fresh start—not allow old mistakes to repeat themselves.

9. Real-Life Patterns Observed in IBC Cases

Across major insolvency cases, the same patterns repeatedly emerged:

- Promoter resigns "just before" CIRP to avoid Related Party tag.
- Debt assigned to a sister concern to regain voting power.
- Large unsecured loans given without commercial rationale.
- Group companies suddenly appear as majority creditors.
- Friends or family-run companies buy debt at heavy discounts.
- Promoters influence lenders through indirect financing.

Courts have become wise to these tactics.

As a result, even indirect influence, hidden control, and beneficial ownership trigger the Related Party bar.

This widening net has made CIRP more honest and unbiased.

10. Another Practical Example: When "Simple Business Assistance" Becomes a Legal Trap

Consider another scenario:

Silverline Textiles Ltd.

Its promoter, Rohan, is often borrowed from his brother Priya's transport company, Apex Logistics. Apex supplied transport services but also gave short-term credit during cash flow crises.

Years later, when CIRP started, Apex claimed ₹25 crore.

On paper:

- the loan agreements existed,
- the invoices were genuine,
- the payments were real.

But the IRP noticed:

- Apex's entire business depended on Silverline,
- Rohan and Priya jointly made strategic decisions,
- the financial link was not independent,
- loans were not at arm's length.

Apex became a Related Party. Its voting rights were removed.

This example mirrors numerous real IBC cases where casual inter-company support later became a legal liability under insolvency.

11. The Emotional Side of This Transformation

For many promoters, this feels unfair.

They argue:

- "We supported the company when no bank did."
- "We gave unsecured loans out of trust."
- "We did it for survival, not manipulation."

But the law has a different responsibility.

It must protect lenders, employees, suppliers, and the overall economy.

IBC is not about emotion.
It is about fairness.

A promoter may have acted with good intentions, but once insolvency occurs, conflict of interest becomes the bigger issue.

Related Party rules ensure that decisions are unbiased, objective, and focused on value maximization.

12. The Philosophy Behind the Expanding Definition

At the core, the IBC's strengthening of the Related Party definition serves two goals:

1. Ensuring a Clean Slate for the Company

The resolution applicant should not face hidden influences from old promoters.

2. Protecting the CoC from Manipulated Voting

CoC decisions must reflect:

- commercial logic
- financial prudence
- market interest

—not emotional loyalty or personal connections. Courts have repeatedly reminded us:

IBC is a law of economic discipline. It cannot be misused for strategic re-entry by promoters.

13. What Insolvency Professionals Must Do

IPs now have a huge responsibility. They must:

- investigate ownership layers,
- seek beneficial ownership details,
- examine debt assignment timelines,
- look at decision-making patterns,
- read between the lines,
- question unusually friendly financial arrangements.

The quality of CIRP depends on the IP's vigilance.

14. What Banks and Financial Institutions Must Do

Banks must:

- identify Related Parties early,
- challenge suspicious claims,
- file objections before the NCLT,
- ensure fair CoC formation,
- avoid giving undue influence to insider entities.

Many landmark judgments emerged because banks took a firm stand.

15. What Promoters Must Learn from This

For promoters, the message is loud and clear:

- Keep business and family finances separate.
- Avoid "friendly loans" without documentation.
- Maintain arm's-length transactions.
- Do not use group companies for debt assignments.
- Never assume a relative's company will be treated as independent.

A new corporate discipline is emerging.

16. Conclusion: The Road Ahead for the IBC Ecosystem

The expanding scope of "Related Party" is not a burden—it is a shield.

It ensures:

- transparency,
- fairness,
- independence,
- commercial wisdom,
- and efficient resolutions.

With every judgment, the law becomes stronger.

With every CIRP attempt, the learning improves.

India's insolvency landscape is changing dramatically.

The blurry lines between personal relationships and business decisions are being redrawn.

The law wants clarity.

The economy demands discipline.
And creditors deserve fairness.

The stricter, broader understanding of "Related Party" is a powerful step toward that future.

It ensures that:

- those who created the problem cannot control the solution,
- those who are conflicted cannot influence decisions,
- those who are related cannot act as judges of their own cause,
- and those who want a clean recovery get a truly unbiased process.

This transformation strengthens the soul of the Insolvency and Bankruptcy Code.

- It protects companies.
- It protects creditors.
- And ultimately, it protects India's economic credibility.

HYBRID INSOLVENCY RESOLUTION PROCESSES: WHAT A CREDITOR-LED INDIAN PRE-PACK MAY LOOK LIKE

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India's insolvency ecosystem has matured significantly since the enactment of the Insolvency and Bankruptcy Code, 2016 (IBC). While the Corporate Insolvency Resolution Process (CIRP) has introduced creditor discipline, market-based resolution, and institutional credibility, experience over the last several years indicates that value erosion often begins well before formal insolvency is triggered. This has renewed policy focus on hybrid insolvency mechanisms that combine the flexibility of out-of-court restructuring with the discipline and finality of statutory processes. To tackle this problem, the IBC Amendment Bill, 2026 placed before Parliament in the budget session propose to have a new framework for Creditor Initiated Insolvency Resolution Process.

In this article I have tried to examine the rationale and for hybrid insolvency processes in India, critically evaluates the limited success of the Pre-Packaged Insolvency Resolution Process (PPIRP), analyses the proposed creditor-led insolvency framework, and argues that such a framework could serve as a credible replacement for the Reserve Bank of India's prudential resolution mechanisms. The article situates hybrid insolvency as a necessary evolution in India's resolution architecture, rather than a departure from the IBC's foundational principles.

1. Insolvency Resolution and the Question of Timing

The Insolvency and Bankruptcy Code (IBC 2016) was designed as a response to systemic delays, fragmented enforcement, and weak creditor rights that characterised India's pre-2016 insolvency regime. By shifting control from debtors to creditors upon default, the Code sought to arrest value destruction and restore credit discipline.However, empirical outcomes reveal a structural limitation: **formal insolvency is frequently initiated after economic value has already dissipated**. By the time a corporate debtor enters CIRP, businesses often face liquidity exhaustion, operational disruption, loss of key managerial personnel, and diminished enterprise value. Insolvency law, no matter how robust, cannot easily recreate lost competitive advantage. In Indian context, the loss of enterprise value is further aggravated due to the adverse impact of a public announcement of insolvency, delays in admission and the lengthy CIRP process, which is taking more than 800 days on average as per latest available public data. This timing mismatch has prompted global insolvency systems to move upstream—towards **early intervention and preventive restructuring**. Hybrid insolvency processes represent this shift.

2. Understanding Hybrid Insolvency Processes

Hybrid insolvency mechanisms occupy the space between purely contractual workouts and full-scale insolvency proceedings. They are characterised by:

- early initiation, often at the stage of financial stress or imminent default,
- limited but structured judicial involvement,
- continued management of the debtor as a going concern under debtor in possession,
- collective decision-making by creditors, and
- a statutory pathway to formal insolvency in case of failure.

The defining feature of hybrid models is not procedural novelty, but **incentive alignment**—ensuring that stakeholders act early, transparently, and collectively, while retaining access to binding outcomes.

3. Lessons from India's Experience with

Informal Resolution Frameworks

India's banking system has historically relied on regulatory and contractual mechanisms (also called workouts) to resolve stress outside courts. While frameworks such as CDR, SDR, S4A, and later the RBI's prudential norms were well-intentioned, their effectiveness was limited.

Common shortcomings included:

- lack of enforceability across dissenting creditors (holdout problem),
- absence of time-bound outcomes,
- repeated restructurings with nil or limited concessions and without genuine deleveraging,
- fear of post-facto scrutiny by various investigative or vigilance agencies, and
- delayed reporting and recognition of stress.

These frameworks often postponed insolvency rather than prevented it. Hybrid insolvency seeks to overcome precisely these weaknesses by embedding informal resolution within a statutory architecture.

Pre-Pack Insolvency: Global Experience and Its Relevance to India's Hybrid Resolution Framework

As discussed in the preceding section on **Hybrid Insolvency Resolution Processes**, the central weakness of India's current insolvency architecture lies not in its statutory design but in **late-stage intervention**. By the time CIRP is triggered, enterprise value has often eroded beyond recovery. It is in this context that global experience with pre-pack insolvency transactions assumes particular relevance, not as a standalone solution, but as a **critical implementation tool within a creditor-led hybrid framework**.

Pre-packaged insolvency processes have emerged internationally as one of the most effective mechanisms for resolving corporate distress where **speed, value preservation, and execution certainty** are paramount. Their relevance to India must be evaluated not in isolation, but as part of the broader shift towards **early intervention, creditor control, and limited judicial intrusion**, which underpin the proposed hybrid insolvency model.

1. Core Design of a Pre-Pack Transaction and Its Alignment with Hybrid Insolvency

In mature insolvency regimes, particularly under English law, a pre-pack operates through administration. Insolvency practitioners are appointed and immediately execute a sale of the business or assets pursuant to a transaction substantially negotiated prior to insolvency. While the execution appears sudden, the process is typically preceded by extensive negotiations, valuation exercises, and creditor alignment.

This design closely mirrors the **hybrid insolvency philosophy outlined earlier**—namely, that meaningful restructuring should occur **before formal insolvency destroys value**, while retaining access to statutory safeguards. The pre-pack is not an alternative to insolvency law; it is an **accelerated execution mechanism within it**. Typical pre-pack outcomes include:

- sale of the business as a going concern,
- debt-for-equity swaps through creditor credit-bidding,
- separation of viable operations from unsustainable legacy liabilities, and
- recalibration of capital and governance structures in the successor entity.

Each of these outcomes aligns squarely with the objectives identified in the hybrid insolvency section: **value preservation, creditor primacy, and economic finality**.

2. Timing and Value Preservation: The Operational Core of Hybrid Insolvency

As highlighted earlier in the hybrid insolvency discussion, timing is the single most decisive variable in distressed situations. Once liquidity tightens, suppliers harden terms, customers lose confidence, and key employees exit. Legal remedies, however robust, cannot reverse commercial decay.

Pre-packs address this challenge by **compressing resolution timelines** and avoiding prolonged public uncertainty. The moratorium associated with insolvency proceedings protects the business from disruptive enforcement actions, while immediate execution stabilises operations. This directly complements the **early-intervention objective** of creditor-led hybrid insolvency, where resolution is sought at the stage of imminent default rather than post-collapse. For Indian policymakers and practitioners, this reinforces the point that **hybrid insolvency must prioritise speed over procedural perfection**, without compromising oversight.

3. Statutory Execution and Reduced Challenge Risk

A key concern raised in debates on hybrid insolvency is the risk of misuse and post-facto litigation. Global pre-pack experience offers a valuable counterpoint.

In English pre-packs, transactions are executed by licensed insolvency practitioners acting as officers of the court. Their statutory duties—to act in the interests of creditors and obtain the best price reasonably obtainable—create a strong protective shield against later challenge. Courts are generally reluctant to interfere with commercial decisions taken by administrators who have complied with statutory and professional standards.

This feature is directly relevant to the proposed Indian hybrid framework, which similarly envisages **limited judicial involvement coupled with strong professional accountability**. Pre-packs demonstrate that reduced court supervision does not equate to reduced legitimacy—provided statutory guardrails are robust.

4. Connected-Party Safeguards and Indian Sensitivities

One of the most persistent criticisms of pre-packs, both globally and in India's PPIRP experience, relates to transfers to connected parties. Mature jurisdictions have addressed this through enhanced regulation.

In English law, pre-pack sales to connected parties are subject to heightened scrutiny, including independent valuation and evaluator oversight. The objective is not to prohibit such sales, but to ensure transparency, value justification, and creditor confidence.

This experience directly informs the **risk-mitigation architecture proposed in the hybrid insolvency section**, where promoter misuse is addressed through eligibility thresholds, disclosures, independent oversight, and automatic escalation into CIRP upon abuse. The lesson is clear: **design safeguards, do not abandon the tool**.

5. Functional Cram-Down Without Protracted Litigation

As discussed earlier, one of the limitations of both RBI's prudential framework and informal restructurings has been the inability to deal decisively with dissenting or economically irrelevant stakeholders. Pre-packs offer a practical solution. While administrators cannot unilaterally extinguish secured claims, pre-packs are often combined with:

- inter-creditor disposal mechanisms,
- schemes of arrangement,
- contractual release provisions, or
- debt exchange frameworks.

The result is a **functional cram-down**, achieved through transaction structuring rather than judicial compulsion. This aligns with the hybrid insolvency objective of **commercial resolution with legal finality**, without burdening courts with valuation disputes or prolonged hearings.

6. Structural Flexibility and Creditor-Led Customisation

Another theme emphasised in the hybrid insolvency section is the need for **structural flexibility**. Pre-packs exemplify this flexibility in practice. Consideration in pre-pack sales is not limited to cash. It may include credit bids, deferred consideration, equity instruments, or hybrid securities.

Governance arrangements, minority protections, and upside participation for legacy stakeholders can be structured within the successor entity, provided valuation discipline is maintained. This adaptability is particularly relevant for India, where sectoral diversity, group structures, and lender consortia require bespoke solutions rather than rigid templates.

Perfect. A **boxed sidebar** is exactly what ICMAI Journal editors like—tight, analytical, and pedagogical.

Below is a **publication-ready boxed sidebar**, written in a neutral but authoritative tone, explicitly cross-linked to your hybrid insolvency argument. It is designed to sit visually alongside the pre-pack section without interrupting narrative flow.

7. Why Indian PPIRP Diverged from Global Pre-Pack Models

The limited uptake of the Pre-Packaged Insolvency Resolution Process (PPIRP) under the Insolvency and Bankruptcy Code, 2016, is often attributed to market unfamiliarity or conservatism. However, a closer comparison with global pre-pack models—particularly English pre-pack administrations—reveals **structural and design divergences** that explain the outcome more convincingly.

a. Control Architecture: Debtor-Led vs Creditor-Led

Global pre-pack models are fundamentally creditor-driven. Secured creditors typically control the transaction, often through credit bidding or enforcement-backed negotiation, with insolvency practitioners executing the sale. By contrast, PPIRP vested initiative and control primarily with the corporate debtor. Creditors were positioned as reviewers rather than drivers of the process, diluting confidence and trust and undermining incentives for early engagement. This divergence runs counter to the creditor primacy that underpins both CIRP and the proposed hybrid insolvency framework.

b. Market Depth and Price Discovery

Pre-packs in mature jurisdictions operate within deep and liquid distressed M&A markets, where competitive tension—actual or credible—supports valuation integrity. India's PPIRP, particularly for MSMEs, was introduced in a market lacking sufficient distressed capital participation. The Swiss challenge mechanism therefore became procedural rather than competitive, weakening creditor comfort on value maximisation.

c. Insolvency Stigma Without Proportionate Benefit

While global pre-packs minimise public visibility through speed and limited disclosure, PPIRP retained the formal character of insolvency under the IBC. For MSMEs dependent on trade credit, licences, and reputation, the stigma and commercial consequences often outweighed the perceived benefits of the process.

d. Procedural Complexity Relative to Enterprise Size

PPIRP imposed valuation, compliance, and professional engagement requirements comparable to CIRP, without offering commensurate advantages in control or certainty. For smaller enterprises, this complexity proved disproportionate to outcomes, discouraging adoption.

e. Misalignment with Creditor Incentives

Most critically, PPIRP did not adequately address lender risk aversion arising from investigative scrutiny and accountability concerns. In global pre-pack regimes, statutory execution by insolvency professionals and well-developed jurisprudence provide comfort to creditors. PPIRP lacked comparable clarity and confidence.

The experience of PPIRP does not invalidate the concept of pre-packs or hybrid insolvency. Rather, it underscores a central lesson of this article: **hybrid insolvency mechanisms succeed only when they are creditor-led, incentive-aligned, and supported by credible statutory safeguards**. The proposed creditor-led

hybrid insolvency framework seeks to precisely correct these design shortcomings.

9. Relevance for India's Hybrid Insolvency Framework

India's experience with PPIRP underscores a critical point made earlier: **hybrid insolvency must be creditor-led to scale**. The English pre-pack model succeeds not because it is informal, but because it is **decisively creditor-driven, professionally executed, and statutorily anchored**. For India's proposed creditor-led hybrid insolvency process, pre-packs should be viewed as:

10. Proposed Creditor-Initiated Insolvency Resolution Process (CIIRP / CLRP)

I remember a session in the CAFRAL's Inaugural IBC Conference held in January 2024 at Taj Colaba, for which I was given responsibility to organise, there was a session on "Prepackaged Insolvency" moderated by Mr. Sumant Batra, a leading Insolvency advocate of India. In the panel discussion, where the panel included sone very prominent speakers, a suggestion was made that since RBI's Distress Resolution Framework failed to achieve much success, basically on account of holdout problems as well as non-binding nature of Resolution Plan approved under the framework, why not try to marry the provisions of RBI framework with a Insolvency court's binding approval, so as to make it binding on all stakeholders and enforce a cram-down feature to make it work.

The IBC Amendment Bill, 2025 introduced a creditor-initiated, largely out-of-court resolution route (variously called CIIRP / CLRP / CrIIRP) aimed at earlier, faster remediation of stressed firms. Under the proposed scheme, specified financial creditors (typically a notified class or those holding a majority of financial debt) may trigger CIIRP after issuing a statutory notice to the corporate debtor and allowing a short cure/representation period (commonly 30 days). Initiation generally requires the support of a threshold of creditors — reported at around 51% by value — and a public announcement follows if uncontested.

In the proposed framework, the control of Corporate Debtor remains materially with creditors: the debtor can remain in possession but operates under creditor supervision. This can be achieved by appointing a Chief Restructuring Officer (who is a turnaround expert) by creditors (or the CoC) or Creditors may appoint the interim/resolution professional to carry out the supervision. The process is time-bound (drafts envisage completion within ~150 days, with a short extension window), failing which the matter converts into formal CIRP.

The Adjudicating Authority (NCLT) retains a supervisory role at trigger points — for disputes, grant of moratorium if any sought by creditors and final plan approval — ensuring statutory oversight while keeping routine negotiations outside heavy judicial involvement. Safeguards include notice to the corporate debtor, independent valuations and procedural checks to deter connected-party abuse and preserve creditor-value. The main argument in favour of the framework is that it aligns incentives for debtor to share information about distress early one and for timely creditor action and offers a statutory alternative to ad-hoc regulatory forbearance. This also takes care of holdout problem and ensure approved resolution plan is binding on all stakeholders. We may have to wait for the final print but from the available draft, it seems that CAFRAL conference idea of marrying RBI framework with IBC may have reached to the conclusion through this proposed amendment.

11. Addressing the Limitations of the RBI Prudential Framework through CIIRP

The RBI's prudential framework for stressed asset resolution played a transitional role during the early years of the IBC. However, its limitations have become increasingly evident:

- it operates outside the insolvency statute,
- lacks binding finality,
- diffuses accountability across committees,
- encourages delay in recognition and decision-making, and

- often culminates in insolvency after significant value erosion.

A creditor-led insolvency process embedded within the IBC would offer a more coherent alternative—one legal framework, a unified escalation path, and clear consequences for failure. The proposed creditor-led insolvency framework represents a recalibration of India's resolution design. With the following core features:

- initiation at the stage of imminent default,
- debtor remaining in possession under supervision,
- creditors exercising strategic control over resolution,
- time-bound negotiation and restructuring, and
- structured escalation into CIRP upon failure.

This model preserves the commercial continuity of the enterprise while ensuring that creditors retain decisive influence over outcomes.

12. Implications for Insolvency Professionals

For insolvency professionals, hybrid insolvency processes will require a shift in approach:

- from post-default administration to early-stage oversight,
- from litigation management to stakeholder facilitation,
- from asset realisation to value preservation, and
- from procedural compliance to commercial judgment.

Such processes expand the professional role while demanding higher standards of independence, financial literacy, and ethical responsibility. The critical skill required by IPs for successfully managing CIIRP would be Turnaround management and Investment Banking skills.

13. Safeguards and Risk Mitigation

Concerns regarding misuse, regulatory arbitrage, and promoter opportunism are legitimate. These risks can be mitigated through:

- strict eligibility thresholds,
- enhanced disclosure requirements,
- independent oversight mechanisms,
- defined timelines, and
- automatic conversion into CIRP upon non-compliance.

Hybrid insolvency must be **conditional, supervised, and consequence-driven**.

14. Conclusion

As argued throughout this article, hybrid insolvency is not a dilution of the IBC but its natural evolution. Pre-pack insolvency, properly designed and embedded within a creditor-led hybrid framework, offers a proven method to **intervene earlier, preserve value, and deliver final outcomes**. The global lesson is unambiguous: when timing, control, and accountability are aligned, insolvency law becomes a tool of resolution rather than liquidation. For India, the challenge lies not in reinventing pre-packs, but in **integrating their strengths into a coherent hybrid insolvency architecture** consistent with the objectives of the IBC.

A well-designed creditor-led hybrid insolvency process can:

- preserve enterprise value,
- reduce judicial burden,
- improve recovery outcomes, and
- promote responsible borrower and lender behaviour.

For insolvency professionals, regulators, and creditors alike, the challenge now lies not in debating the need for such frameworks, but in ensuring their careful and disciplined implementation. In parting, we may state that as a regulator governing the subject of insolvency in India, the ld. IBBI has been utmost nimble-footed when it comes to being alive to the ever-changing dynamics of trade and trade practices when it comes to ensuing success of the fledgling insolvency regime in India. And therefore, it may be apposite for the ld. IBBI to do consider the situation envisaged above and how it may be remedied.

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Synopsis/Abstract

The Insolvency and Bankruptcy Code, 2016 (IBC) was enacted as a landmark reform to resolve insolvency in a time-bound manner, with the 180-day timeline (extendable to 330 days) as its cornerstone. This research article critically examines the pervasive practice of granting extensions beyond this statutory framework, arguing that it has fundamentally undermined the Code's efficacy. Through an analysis of adjudicatory trends, empirical data from the Insolvency and Bankruptcy Board of India (IBBI), and a comparative review of international insolvency regimes, the study identifies a systemic deviation from the principle of timeliness. The article posits that the absence of a statutory ceiling on extensions, coupled with liberal judicial interpretations of "sufficient cause," has effectively transformed the IBC from a swift resolution mechanism into a protracted civil-like proceeding. The findings reveal a significant gap between the Code's envisioned efficiency and its operational reality, where cases routinely extend to 500-700 days. The analysis concludes that without imposing a stringent, absolute outer limit on the total resolution timeline and recalibrating judicial discretion, the core objectives of value preservation and economic rejuvenation underpinning the IBC remain unattainable. The article offers targeted suggestions for legislative and judicial course-correction.

Keywords: Insolvency and Bankruptcy Code 2016, Timeliness, Corporate Insolvency Resolution Process (CIRP), Judicial Discretion, Time Extensions, Resolution Efficiency, Legislative Intent.

1. Introduction

The Insolvency and Bankruptcy Code, 2016 (IBC) emerged as a paradigm shift in India's corporate distress landscape. Its primary objective was to consolidate insolvency laws, promote entrepreneurship, and maximize the value of assets of distressed firms—all within the Corporate Insolvency Resolution Process (CIRP), capped at 180 days with a one-time extension of 90 days (later statutorily crystallized as a maximum of 330 days by the 2019 Amendment), was designed to balance the interests of debtors and creditors while ensuring economic efficiency. The underlying philosophy was clear: uncertainty and delay are destructive to asset value, and speed is of the essence.

However, a chasm has emerged between this legislative intent and ground-level implementation. The rigid timeline, intended to be the engine of the IBC, has become its most frequently amended component, not through statute, but through adjudicatory discretion. The National Company Law Tribunal (NCLT), empowered to grant extensions beyond 330 days for "sufficient cause" [Section 12(3)], has routinely allowed processes to extend into periods of 500, 700, and even over 1000 days. This practice has sparked a critical debate: has the quest for procedural comprehensiveness and consensus overridden the fundamental mandate of timeliness, thereby neutralizing the IBC's transformative potential?

This article argues that the culture of indefinite extensions has systematically vitiated the core efficacy of the IBC.

It transforms the process from a swift resolution mechanism to a drawn-out legal battle, diminishing asset value, discouraging creditor participation, and perpetuating economic inefficiency. The study delves into the rationale, scale, and impact of these extensions, situating the Indian experience within global best practices that emphasize strict adherence to timelines.

2. Statement of Problem with International Scenario

The Indian Problem: The Elastic Timeline

The problem is not the existence of an extension provision, but its application. The term "sufficient cause" remains undefined, leading to expansive interpretations. Extensions are frequently granted for reasons including: pendency of litigation, complexities in valuation, the size of the corporate debtor, the discovery of fraud, or even the need to achieve a higher resolution value. While some reasons are genuine, their collective effect has been to normalize delay. Data from the IBBI reveals that the average time for resolution in many cases far exceeds 330 days, with a significant number languishing for years. This creates a perverse incentive for recalcitrant parties to engage in tactical litigation to trigger extensions, defeating the very purpose of a creditor-in-control and time-bound process.

International Counterpoints: The Primacy of Certainty

Contrasting this with international frameworks highlights the Indian anomaly:

United Kingdom (UK): The UK's Insolvency Act 1986 does not prescribe a rigid statutory timeline for administration. However, the "light-touch" administration model and the pre-pack mechanism are designed for extreme speed, often concluding within weeks. The ethos is commercial efficiency, not judicial management of endless duration.

United States (US): Chapter 11 of the US Bankruptcy Code is often criticized for being debtor-friendly and potentially lengthy. However, it incorporates mechanisms like "debtor-in-possession" financing and strong judicial case management to expedite processes. Crucially, it does not start with a purportedly "mandatory" short timeline that is routinely ignored, setting more realistic expectations.

Singapore: Singapore's insolvency framework, particularly its judicial management process, mandates that a scheme must be approved within 180 days, with extensions granted only sparingly. The courts emphasize finality and are reluctant to allow open-ended processes.

UNCITRAL Legislative Guide on Insolvency Law: It unequivocally states that "an efficient insolvency regime should provide for speedy, efficient and impartial resolution of insolvency." It identifies delay as a key factor that destroys enterprise value and increases costs.

The international consensus underscores that predictability and finality are as important as the resolution itself. The Indian problem is the systemic erosion of a statutory timeline into a meaningless formality, creating the worst of both worlds: the illusion of speed at the outset and the reality of delay in execution.

3. Review of Relevant International Scenario Along with Literature and Background

A rich body of literature examines the tension between timeliness and thoroughness in insolvency regimes. Djankov et al. (2008), in their seminal work on debt enforcement around the world, correlate efficient recovery rates with the speed of resolution. Delay is identified as a primary contributor to the destruction of asset value, as tangible assets depreciate, intangible assets (goodwill, IP) evaporate, and skilled human capital disperses.

The "creditor-in-control" model of the IBC was inspired by the UK's administration procedure. However, as Armour and Deakin (2001) note, the success of such models hinges on preventing strategic hold-ups and ensuring that the process does not become a playground for value-eroding litigation. The Indian experience shows that without stringent judicial discipline, the model is vulnerable to such hold-ups.

Westbrook (2004) argues that a key goal of modern insolvency law is "to preserve going concern value." This preservation is intrinsically time-sensitive. The longer a company remains in limbo, the more its going-concern value bleeds away, eventually leaving only liquidation salvage value. The frequent extensions under the IBC, often justified to "maximize value," ironically may be achieving the opposite by the time a resolution plan is approved.

In the Indian context, scholars like Chakrabarti and Sen (2018) initially hailed the IBC's time-bound nature. However, subsequent empirical analyses, such as those by Bhargavi and Gupta (2021), began

documenting the rising trend of delays, attributing them to infrastructural bottlenecks at the NCLT, procedural complexities, and strategic behavior by parties. This article builds on this literature by framing the extension jurisprudence not merely as an operational hurdle, but as a fundamental subversion of legislative intent that requires a doctrinal correction.

4. How the Study is Undertaken

This research employs a mixed-methods approach:

1. **Doctrinal Analysis:**

   A detailed examination of statutory provisions (IBC, especially Sections 12, 60), relevant amendments, and key judicial pronouncements from the NCLT, NCLAT, and the Supreme Court of India (e.g., Essar Steel, Surendra Trading, Babulal Vardharji) that have shaped the jurisprudence on time extensions.

2. **Empirical & Data Analysis:**

   Analysis of publicly available data from IBBI newsletters, quarterly reports, and annual reports from 2017 to 2023. This includes tracking metrics like average resolution time, number of cases exceeding 270/330 days, and reasons cited for delays in annual reports.

3. **Comparative Legal Analysis:**

   A focused comparison with the insolvency frameworks of the UK, US, and Singapore to contextualize the Indian approach to timelines and judicial discretion.

4. **Critical Evaluation:**

   Synthesizing the above to critically evaluate whether the operational reality of the IBC aligns with its stated objectives of value maximization, time-bound resolution, and the promotion of credit culture.

5. Findings from the Study

1. **Normalization of Breach:**

   The 330-day timeline is more often breached than adhered to in complex cases. It has become a soft target, with extensions being seen as a routine procedural step rather than an exceptional relief.

2. **Vague "Sufficient Cause":**

   Tribunals interpret "sufficient cause" with wide latitude. Reasons such as "to ensure a fair process," "to allow for better bids," "pending investigation," and "large number of stakeholders" are commonly accepted, with little scrutiny on whether the cause truly warrants derailing the statutory timeline.

3. **The Liquidation Bias of Delay:**

   Prolonged CIRP often leads to a depletion of the corporate debtor's value. In numerous instances, by the time the process concludes, the only feasible outcome is liquidation, which was precisely the scenario the IBC aimed to avoid. The data shows a correlation between longer CIRP durations and a higher probability of liquidation outcomes.

4. **Erosion of Creditor Confidence:**

   The uncertainty and delay deter financial creditors, especially institutional investors, from using the IBC as a preferred tool for recovery, pushing them back towards bilateral negotiations or debt recovery tribunals, which the IBC was meant to supersede.

5. **Judicial Infrastructure as a Contributing Factor, Not the Sole Cause:**

   While backlog at NCLTs is a genuine issue, the study finds that delays are often inscribed into the process itself through serial admission of extension applications, even before the matter reaches the final hearing stage for approval of a resolution plan.

6. Analysis & Interpretation

The findings point to a critical doctrinal flaw. The IBC's design contains an internal contradiction: it mandates extreme speed but grants a discretionary safety valve ("sufficient cause") that lacks any objective standard or outer boundary. This has created a system where the exception has swallowed the rule.

The Supreme Court's judgment in Committee of Creditors of Essar Steel India Ltd. v. Satish

Kumar Gupta (2019) was a pivotal moment. While clarifying that the 330-day timeline is mandatory, it also held that delays caused by litigation beyond the parties' control should be excluded. This "exclusion" principle, though pragmatically necessary, has been operationalized by tribunals to justify extensive periods of exclusion, effectively creating a parallel, uncapped timeline.

The analysis reveals a shift in the fundamental nature of the CIRP. It is no longer a swift, collective recovery mechanism but is increasingly resembling a supervised negotiation and litigation platform. The NCLT transitions from a timeline-enforcer to a process-manager overseeing protracted battles. This changes the incentive structure: resolution applicants may low-ball initial offers, anticipating a depreciating asset base over time, while entrenched promoters may use delay as a strategy to regain control or force a lower settlement.

From an economic efficiency perspective, the cost of delay includes not just the explicit costs of administration and litigation, but the massive implicit cost of capital misallocation. Resources trapped in a non-performing, limbo-state company are denied to productive sectors of the economy, stifling growth.

7. Conclusion & Suggestions

The Insolvency and Bankruptcy Code, 2016, stands at a crossroads. Its celebrated timeline, the bedrock of its promised efficiency, has been rendered largely ineffective by a culture of open-ended extensions. To restore its efficacy, a decisive shift from discretionary delay to enforceable discipline is required.

Suggestions:

1. **Legislative Amendment: Introduce an Absolute Outer Limit:**

   The Code must be amended to impose an absolute, non-extendable outer limit for the entire CIRP from the insolvency commencement date—for instance, 420 days. Any process not concluding within this period must automatically transition into liquidation, with very narrow, explicitly defined exceptions (e.g., a national emergency). This "sunset clause" will introduce real stakes.

2. **Statutory Definition of "Sufficient Cause"**:

   Parliament should define "sufficient cause" exhaustively through an amendment or a schedule to the IBC. It should be limited to truly exceptional, external events like natural disasters or a stay order from a superior court and not include operational complexities like valuation disputes or finding buyers.

3. **Strengthened Adjudicatory Mindset:**

   The NCLT and NCLAT must internalize that granting an extension is a failure of the process and must be treated with utmost circumspection. The burden of proof for "sufficient cause" must be high and squarely on the applicant.

4. **Front-Loaded and Strict Case Management**:

   The NCLT should adopt robust case management techniques from day one of the CIRP, setting strict, non-negotiable micro-deadlines for each step (constitution of CoC, invitation of EoIs, approval of plan) within the macro timeline.

5. **Fast-Track Vertical for Delayed Cases**:

   Establish a dedicated bench or mechanism within the NCLT to exclusively hear cases that are within 60 days of the 330-day limit, to prevent them from slipping over due to hearing delays.

The promise of the IBC was a clean break from India's legacy of inefficient debt recovery. That promise can only be redeemed by restoring the sanctity of time. Without a statutory and cultural commitment to finality, the Code risks becoming just another protracted civil procedure, bearing the title of reform but delivering the outcomes of the past.

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SCHEME OF COMPROMISE AND ARRANGEMENT UNDER SECTION 230 OF THE COMPANIES ACT DURING THE CORPORATE INSOLVENCY RESOLUTION PROCESS – POSSIBLE?

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SYNOPSIS

Section 230 of the Companie Act, 2013 provides for sanction of a compromise and arrangement. The provisions of the Insolvency and Bankruptcy Code, 2016 also provides that a scheme of compromise and arrangement can be entered into by a corporate debtor enters into the stage of liquidation. The same cannot be brought into effect when the company is in corporate insolvency resolution process. The same has been confirmed by the Adjudicating Authority in the case law in 'N.K. Kuriyan v. K. Eswara Pillai and Kosamattam Finance Limited' – CP(IB)/06/KOB/2022 – NCLT, Chennai, decided on 06.03.2026.

Scheme of compromise and arrangement under Companies Act

Section 230(6) of the Companies Act, 2013 ('Act' for short) provides that where, at a meeting held in pursuance of compromise and arrangement, majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator appointed under this Act or under the Insolvency and Bankruptcy Code, 2016 ('Code' for short), as the case may be, and the contributories of the company.

Scheme of compromise and arrangement under Companies Act

Section 230(6) of the Companies Act, 2013 ('Act' for short) provides that where, at a meeting held in pursuance of compromise and arrangement, majority of persons representing three-fourths in value of the creditors, or class of creditors or members or class of members, as the case may be, voting in person or by proxy or by postal ballot, agree to any compromise or arrangement and if such compromise or arrangement is sanctioned by the Tribunal by an order, the same shall be binding on the company, all the creditors, or class of creditors or members or class of members, as the case may be, or, in case of a company being wound up, on the liquidator appointed under this Act or under the Insolvency and Bankruptcy Code, 2016 ('Code' for short), as the case may be, and the contributories of the company.

Regulation 39BA of Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 ('Regulations' for short) provides for assessment of compromise or arrangement. Regulation 39BA (1) provides that while deciding to liquidate the corporate debtor under section 33, the committee shall examine whether to explore compromise or arrangement as referred to under sub - regulation (1) of regulation 2B of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulation, 2016 and the resolution professional shall submit the committee's recommendation to the Adjudicating Authority while filing application under section 33. Regulation 39BA (2) provides that where a recommendation has been made under sub-regulation (1), the resolution professional and the committee shall keep exploring the possibility of compromise or arrangement during the period the application to liquidate the corporate debtor is pending before the Adjudicating Authority.

Conditions for compromise and

arrangement

Regulation 2B of IBBI (Liquidation Process) Regulations, 2016 provides that where a compromise or arrangement is proposed under section 230 of the Act, it shall be completed within 90 days of the order of liquidation. The liquidator shall file the proposal of compromise or arrangement only in cases where such recommendation has been made by the committee under regulation 39BA of the Regulations. the liquidator shall not file such proposal after expiry of 30 days from the liquidation commencement date. The ineligible Resolution applicants shall not be a party to such scheme. The time taken on compromise or arrangement, not exceeding ninety days, shall not be included in the liquidation period.

A conjoint reading of Section 230(6) of the Companies Act, 2013, Regulation 39BA of the CIRP Regulations, 2016 and Regulation 2B of the Liquidation Process Regulations, 2016 makes it abundantly clear that the exploration of a compromise or arrangement under Section 230 is statutorily contemplated only in the context of liquidation.

Issue

According to above section/Regulations a compromise and arrangement can be sanctioned only during or before the liquidation and not during the course of Corporate Insolvency Resolution Process. The issue to be discussed in this article is as to whether a scheme or arrangement can be sanctioned and implemented during the course of corporate insolvency resolution process, with reference to decided case law.

Case law

In **'N.K. Kuriyan v. K. Eswara Pillai and Kosamattam Finance Limited'** – CP(IB)/06/KOB/2022 – NCLT, Chennai, decided on 06.03.2026, the Corporate Debtor, Mango meadows Agricultural Pleasure Land Private Limited, established the world's first man-made Agricultural Theme Park, recognised by the Limca Book of Indian Records, showcasing biodiversity from 45 countries and ecosystems replicating natural habitats, along with depictions of Indian civilisation, customs, and art. Due to floods in 2018 and 2019 in Kerala and COVID -19, the corporate debtor was compelled to close the business for 2 years. The Corporate Debtor has to maintain the park despite no revenue at the cost of Rs.15 lakhs per month and to support 300 employees.

The second respondent, Kosamattam Finance Limited initiated corporate insolvency resolution process ('CIRP' for short) against the corporate debtor alleging default in repayment of the financial debt. Shri N.K. Kurian, the suspended director of the corporate debtor filed a writ petition before the High Court in WP © 7444 of 2022 challenging the Section 7 proceedings. The High Court disposed the writ petition by directing the writ petitioner to file objections before the Adjudicating Authority. The Adjudicating Authority admitted the Section 7 application on 25.01.2023 and appointed K. Eswara Pillai as Interim Resolution Professional.

The CIRP was initiated. As the result of the proceedings a resolution plan submitted by Torrion Impex India Private Limited was approved by the Committee of Creditors by a 98.69% vote. The applicant N.K. Kurian filed two I.A.s viz. IA(IBC)/115/KOB/2024 with the prayer to set aside the decisions taken in the meeting of the 13th Committee of Creditors' ('CoC' for short) meeting on 23.02.2024 and IA(IBC)/255/KOB/2025 with the prayer to set aside the decision of the minutes of the meeting of CoC dated 20.03.2025 and all actions and declare the same as fraudulent.

In the first IA the applicant alleged that the Resolution Applicant lacked the requisite net worth and eligibility under Section 29A, and that the process was vitiated by fraud and collusion. The said plan was subsequently withdrawn prior to the approval by Adjudicating Authority. In the 12th Committee of Creditors meeting, a proposal of compromise and arrangement under Section 230 of the Companies Act, 2013, was discussed. The said proposal was rejected without proper consideration. The applicant alleged that a similar proposal supported by Respondent No. 2, who holds the majority voting share, was approved in the 13th CoC meeting dated 23.02.2024. Therefore, the applicant filed the IA 115 of 2024 with the

prayer to set aside the decision of 13th CoC meeting.

In the second IA, the applicant alleged the resolution plan submitted before the CoC, as per the directions of Adjudicating Authority on 28.02.2025 was rejected in the 15th CoC meeting. The applicant submitted the following before the Adjudicating Authority-

- The compromise and arrangement proposed under Section 230 was not in compliance with the mandatory procedure prescribed under the Companies Act, 2013, including requirements of notice, advertisement, and approval by the requisite majority of creditors.

- The Resolution Professional and Respondent No. 2 acted in concert in advancing the proposal.

Therefore, the applicant prayed the Adjudicating Authority to set aside the impugned decisions of CoC and to pass appropriate orders.

The Resolution Professional ('RP' for short) denied the allegations of the applicant. The RP denied the allegations regarding lack of net worth. In the 5th Committee of Creditors meeting held on 21.07.2023, both revised plans were discussed and put to a vote. In the e-voting concluded on 25.07.2023, the plan of Torrion Impex India Private Limited was approved with 98.69% voting share. A Letter of Intent was issued, subject to this Adjudicating Authority's approval and submission of performance security. The RP filed an application before the Adjudicating Authority for its approval. But the Resolution Applicant withdrew its resolution plan and demanded the refund of Earnest Money Deposit already paid. The same was rejected and forfeited. New Form G was published inviting resolution plan.

The Financial Creditor submitted a resolution plan incorporating a scheme of merger and amalgamation which was approved by the CoC since there is no resolution plan submitted by a voting share of 98.69%. The RP filed IA(IBC)/119/KOB/2025 placing on record the minutes and voting results, which was allowed on 04.04.2025. The Financial Creditor further submitted that due to repayment difficulties, the Applicant himself proposed management participation by Respondent No.2, formalized through an agreement dated 30.07.2018.

With respect to the 13th Committee of Creditors meeting, Respondent No.2 contended that in the absence of viable resolution plans and after repeated publication of Form G, liquidation was the only available option. The CoC's decision is stated to be lawful.

The Adjudicating Authority heard the submissions of both the parties. The Adjudicating Authority is also to consider the third matter in CA(CAA)/03/KOB/2024, pertains to the Scheme of Compromise and Arrangement approved in the 13th Committee of Creditors meeting.

The Adjudicating Authority analysed the provisions of section 230(6) of the Companies Act, 2013, Regulation 39BA of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 and Regulation 2B of IBBI (Liquidation) Regulations, 2016. The Adjudicating Authority observed the following in regard to the above legal provisions-

- Regulation 39BA specifically mandates that while deciding to liquidate the Corporate Debtor under Section 33 of the Code, the Committee of Creditors shall examine whether to explore a compromise or arrangement, and such recommendation is to accompany the application for liquidation.

- Regulation 2B expressly provides that a compromise or arrangement under Section 230 shall be completed within 90 days of the order of liquidation under Section 33.

- Thus, the statutory framework specifically situates a scheme under Section 230 at the post-liquidation stage.

The Adjudicating Authority observed even though liquidation proceedings were sought initially the same was not proceeded. The corporate debtor is only under the CIRP and has not entered into the stage of liquidation. The Adjudicating Authority further observed that permitting a Section 230 scheme during the Corporate Insolvency Resolution Process, in the absence of a liquidation order,

would amount to conflating two distinct statutory processes and would defeat the structured scheme of the Code.

The CoC, in its 13th meeting dated 23.02.2024, proceeded to consider and approve a Scheme of Compromise and Arrangement even though no liquidation order had been passed by this Adjudicating Authority. In the absence of such a statutory requirement, the consideration of a compromise or arrangement at this stage is legally untenable and premature.

The Adjudicating Authority held that the Scheme of Compromise and Arrangement approved in the 13th CoC meeting is legally untenable at this stage, as the Corporate Debtor is still under the CIRP and not under liquidation. The statutory preconditions for invoking Section 230 in conjunction with the Code have not been satisfied. Consequently, the Adjudicating Authority held that consideration of CA(CAA)/03/KOB/2024 at this juncture is premature and cannot be sustained in law.

The said scheme was submitted by the Financial Creditor itself, which holds 98.69% of the voting share in the Committee of Creditors. The same scheme was thereafter approved by the very same Financial Creditor by exercising its overwhelming voting share, while the other member of the Committee of Creditors, holding 1.31% voting share, voted against the scheme. Thus, the Adjudicating Authority held that the approval was secured solely on the strength of the dominant voting power of the scheme proponent itself.

Then the Adjudicating Authority analysed the Memorandum of Association of the Financial Creditor. Its principal objects include carrying on Non-Banking Financial Corporation activities, acting as a depository participant, insurance composite corporate agent, mutual fund distributor, commission agent, business correspondent of banks and financial institutions, money transfer and foreign exchange services, leasing advisory and financial consultancy services, and other allied financial activities. The Corporate Debtor is also engaged in operating an agricultural theme park of a specialised and unique nature.

The Scheme, in effect, contemplates the Financial Creditor acquiring control over and continuing the business of the Corporate Debtor as a going concern. However, there is no material placed on record to demonstrate that the Financial Creditor possesses the technical competence, sectoral experience, managerial framework, or strategic alignment necessary for operating and reviving such a specialised business undertaking.

The Adjudicating Authority observes that the Code though creditor-driven, is fundamentally premised on the revival of the Corporate Debtor as a going concern through a viable and feasible plan that maximises value. The continuation of the insolvency process does not confer any special benefit on the creditor, nor does it impose any additional demerit on the Suspended Directors, except for the restrictions and limitations provided under law.

Conclusion

A scheme of compromise and arrangement cannot be entered into when the company is under CIRP. The provisions of the Act and Regulations of the Code do not allow the scheme of compromise and arrangement unless the company enters into the liquidation stage.

INSOLVENCY AND BANKCRUPTCY CODE(IBC)2016

A A Estates (P.) Ltd. vs. Kher Nagar Sukhsadan Co-operative Housing Society Ltd. [2025] 181 taxmann.com 5 (SC)

I. Where Society terminated developer's engagement under development agreements due to persistent non-performance, such termination was lawful, effective, and unrelated to developer's insolvency, and because no proprietary or contractual right survived with corporate debtor at initiation of second CIRP, NCLT lacked jurisdiction to interfere under Section 60(5)(c), as continuation of redevelopment was not significant to CIRP success.

II. Moratorium under section 14 protects only existing, enforceable, and subsisting rights; it does not protect inchoate or forfeited rights arising from default or non-performance.

The corporate Debtor, a developer, entered into a redevelopment agreement with a housing society but failed to complete project within agreed timeline. Although a supplementary agreement in 2014 extended deadline and revised compensation, redevelopment still did not begin due to disputes. CIRP proceedings were initiated twice, first in 2019 but later set aside due to settlement and again in 2022. Meanwhile, society terminated developer's contract, appointed a new developer, and executed a fresh agreement in 2023. However, due to ongoing second CIRP and moratorium under section 14, necessary permissions for new developer were revoked. Society then filed a writ petition seeking approvals, which High Court granted, leading to present appeal.

I. Held that termination was not occasioned by insolvency of the corporate debtor but by its persistent non-performance and, therefore, termination was based on legitimate grounds unrelated to insolvency. Redevelopment agreement was not sole or life-sustaining contract of the corporate debtor and, therefore, continuation of this particular redevelopment was not significant to success of CIRP. Termination of contract neither arose from insolvency nor imperiled the corporate debtor's survival and, therefore, it was a lawful termination for non-performance, falling outside jurisdiction of NCLT under Section 60(5)(c). No subsisting contractual or proprietary right survived in favour of the corporate debtor on date of initiation of second CIRP and, therefore, NCLT lacked jurisdiction under Section 60(5)(c) to interfere with such termination.

II. Held that moratorium under section 14 protects only existing, enforceable, and subsisting rights. Moratorium does not extend to inchoate or forfeited rights arising from default or non-performance. Development rights of a defaulting developer who neither secured possession nor undertook any redevelopment activity cannot be elevated to status of an 'asset' or 'property' within meaning of section 3(27). Where Development Agreement and Supplementary Agreement between the corporate debtor and society stood terminated prior to initiation of CIRP, no subsisting or enforceable right survived in favour of the corporate debtor and, thus, said agreements did not constitute ‘assets’ or ‘property’ of the corporate debtor within meaning of section 14.

SECTION 33 - CORPORATE LIQUIDATION PROCESS - INITIATION OF

Shri Karshni Alloys (P.) Ltd. vs. Ramakrishnan Sadasivan [2025] 181 taxmann.com 335 (SC)

Where appellant accepted and acted upon order of NCLT granting him extension of time to make payment for purchase of assets of corporate debtor but failed to make payment by due date, appellant could not seek to approbate and reprobate at this stage by assailing forfeiture clause in said order, having accepted and acted upon extension granted thereunder.

Corporate insolvency resolution process (CIRP) against the corporate debtor was initiated but pursuant to order passed by Adjudicating Authority, liquidation process of the corporate debtor commenced, and respondent was appointed as liquidator. The appellant made an offer of Rs. 105.21 crores to liquidator to purchase assets/plant of the corporate debtor at Raichur as a going concern. NCLT allowed application filed by liquidator and directed the appellant to pay sale consideration within 15 days from date

of receipt of said order. Appellant sought extension of time to make balance payment. NCLT granted extension of time directing the appellant to strictly comply with timelines and any deviation from same would result in forfeiture of entire amount paid by the appellant. Admittedly, the appellant failed to abide by extended timelines. However, it paid a further sum, thereby bringing total amount paid by it to Rs. 37.80 crores. Stakeholders decided to enforce forfeiture of entire payment made by the appellant. The appellant challenged forfeiture on ground that after forfeiture, assets/plant of the corporate debtor were sold for a much higher price and, thus, there was no actual loss suffered by stakeholders. NCLT dismissed application. NCLAT also dismissed appeal.

Held that NCLT was fully justified in adding forfeiture clause that if the appellant deviated from timelines as set out in order, entire amount paid by it was liable to be forfeited. Since the appellant had accepted and acted upon extension order by making further payment but failed to make full payment by due date, the appellant could not seek to approbate and reprobate at this stage by assailing forfeiture clause in said order, having accepted and acted upon extension granted thereunder. Thus, there being no merit in contentions advanced on behalf of the appellant, appeal was to be dismissed.

SECTION 5(6) - CORPORATE INSOLVENCY RESOLUTION PROCESS - DISPUTE

Saraswati Wire and Cable Industries vs. Mohammad Moinuddin Khan [2025] 181 taxmann.com 341 (SC)

Where no dispute existed on date of issuance of demand notice by operational creditor that could warrant withholding of operational debt due and payable by corporate debtor and subsequent defence of pre-existing disputes sought to be put forth by corporate debtor was mere moonshine and had no credible basis or foundation, order passed by NCLAT setting aside admission of application under section 9 by NCLT was to be set aside.

The corporate debtor placed purchase orders on the operational creditor for supply of pipes and cables for its projects. The operational creditor raised invoices, and the corporate debtor made payments on strength of said invoices. The operational creditor issued demand notice under section 8 claiming outstanding amount. The corporate debtor in its reply to said demand notice raised dispute regarding quality and quantity of goods supplied by the operational creditor. However, it was an admitted fact that even after issuance of demand notice by the operational creditor, corporate debtor continued to make payments to the operational creditor. The operational creditor filed an application under section 9. NCLT admitted said application on ground that there was no pre-existing dispute. On appeal, NCLAT set aside order of admission passed by NCLT on ground that there was a pre-existing dispute between parties as to operational creditor's debt.

Held that there was no dispute worth name existing as on date of issuance of demand notice by the operational creditor warranting withholding of operational debt due and payable by the corporate debtor. Since minor issues raised by the corporate debtor obviously did not have effect of either stopping further supplies by the operational creditor or further payments to the operational creditor by the corporate debtor, defence of pre-existing disputes sought to be put forth by the corporate debtor was mere moonshine and had no credible basis or foundation. Therefore, NCLAT having lost sight of critical facts while dislodging order of admission passed by NCLT, order of admission passed by NCLT was to be restored.

SECTION 32A - CORPORATE INSOLVENCY RESOLUTION PROCESS – PRIOR OFFENCES ETC. - LIABILITY FOR

Milan Textile Enterprises (P.) Ltd. vs. Initiating Officer, Deputy Commissioner of Income -tax [2025] 181 taxmann.com 739 (Madras)

An NCLT-approved Resolution Plan acts as an "impregnable firewall," protecting a corporate debtor's property from Benami Act attachments related to offenses committed before Corporate Insolvency Resolution

Process (CIRP).

The petitioner company purchased petition-mentioned property vide sale deed. Deputy Commissioner of Income Tax (Benami Prohibition) formed opinion that said property was being held benami by petitioner. Hence, provisional attachment order under Section 24(3) of 1988 Act was issued restraining petitioner from transferring or charging said property. Thereafter, CIRP was ordered to be initiated against the petitioner and insolvency resolution plan in respect of the petitioner was also duly approved by NCLT.

Meanwhile, Adjudicating Authority under 1988 Act confirmed attachment. The petitioner vide instant writ challenged said order on ground that no action could be taken against property of petitioner in relation to an offence committed prior to commencement of CIRP, where such property was covered under Resolution Plan which results in change in control of the corporate debtor. It was noted that section 32A talks about property of the corporate debtor and it includes and encompasses all properties of the corporate debtor whatever be their character.

Held that by virtue of section 238 of Code, provisions of IBC, 2016 will prevail over PBPT Act, 1988. Section 32A(2) read with Section 238 of IBC would stand as an impregnable shield against any action that may be taken against property of the corporate debtor; in fact, it pre-empts taking of any such action. Resolution plan approved by NCLT would act as an impregnable fire wall. Thus, instant writ petition was to be allowed on these terms.

SECTION 66 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES – FRAUDULENT OR WRONGFUL TRADING

Aaj Ka Anand Publications LLP vs. Vineeta Maheshwari [2025] 181 taxmann.com 804 (NCLAT- New Delhi)

Where there was a fraudulent design of constituting LLP to take over business of corporate debtor and execution of leave and license agreement by corporate debtor to LLP was done so as to keep assets of corporate debtor away from creditors, said transaction was to be declared as fraudulent and contribution was to be directed from LLP and suspended directors of corporate debtor.

The corporate debtor had obtained various financial facilities from SBI and other banks, Default was committed by the corporate debtor in repayment of its debt. A notice under section 13(2) of SARFAESI Act was issued to corporate debtor and its guarantors. The corporate debtor was prohibited from transferring, by way of sale, lease or otherwise, any of secured assets. State Bank of India filed an application

under section 7 on 12-4-2021 claiming a default of Rs. 248.47 crores. Subsequently, the corporate debtor and its LLP executed a deed for usage granting rights of tradename, trademark, brand name and plant and machinery for a consideration of Rs. 15 lakhs. Resolution Professional filed an application under section 66 praying for various reliefs. Adjudicating Authority after hearing parties, by impugned order had allowed application.

Held that both agreements were in violation of statutory restraint under section 13(13) of SARFAESI Act and both agreements were liable to be ignored being non-est, having been in violation to above statutory provision. Since there had been categorical pleading in application under section 66 and sufficient materials had been brought by Resolution Professional to prove ingredients under section 66(1), Adjudicating Authority had rightly returned finding that ingredients of section 66(1) were fully proved. Since sequence of events clearly indicated and proved fraudulent design of constituting LLP to take over business of the corporate debtor, execution of leave and license agreement by the corporate debtor to LLP was done so as to keep assets of the corporate debtor away from creditors. Adjudicating Authority was exercising jurisdiction under section 66, after finding transaction fraudulent and directed contribution which was in relation to recovery which had to be made from liquidation estate, there was no error in direction of Adjudicating Authority directing contribution of Rs. 1.37 crores from respondents.

SECTION 3(12) - FINANCIAL DEBT

UV Asset Reconstruction Company ltd. vs. Electrosteel Castings Ltd. [2026] 182 taxmann.com 85 (SC)

Where a promoter's undertaking merely required it to arrange infusion of funds to enable borrower to comply with financial covenants, such 'see-to-it' obligation did not amount to a guarantee under section 126 of Contract Act, and payment made as promoter did not create any guarantee; consequently, no financial debt was owed by promoter under section 3(12) of IBC and concurrent findings of NCLT and NCLAT were rightly affirmed.

ESL availed financial assistance from SREI. ECL being promoter of ESL executed a Deed of Undertaking whereby it undertook a limited obligation to arrange for infusion of funds into ESL. NCLT admitted application filed by SBI, one of lenders of ESL, under section 7 and approved resolution plan submitted by Vedanta for acquisition of ESL. SREI issued an unconditional 'no due certificate' to ESL certifying that dues owned by ESL to SREI stood fully discharged. However, SREI subsequently claimed that it had been allotted reduced amount of shares upon conversion of balance debt and executed a Deed of Assignment in favour of ARC, purporting to assign residual debt. ARC filed an application under section 7 before NCLT asserting that a residual financial debt remained payable by ESL despite implementation of resolution plan and ECL had furnished a corporate guarantee for debt of ESL. NCLT by impugned order held that entire admitted debt of ESL stood repaid and discharged in full, pursuant to approval of resolution plan, and that there was no surviving debt to be enforced against ECL.

Held that 'See to it' guarantee does not include an obligation to enable principal debtor to perform its own obligation and such an arrangement would not be a guarantee under section 126 of Indian Contract Act. Payment by ECL to the appellant was not made on account of any contractual obligation, said payment was made in its capacity as a promotor of ESL and such payment by itself did not give rise to any contract of guarantee, particularly when there was no contractual obligation of guarantee in deed of undertaking. Therefore, concurrent findings of NCLT and NCLAT that clause 2.2 of Deed of Undertaking does not constitute a contract of guarantee and that ECL cannot be treated as guarantor for financial facilities availed by ESL were to be concurred with.

SECTION 14 - CORPORATE INSOLVENCY RESOLUTION PROCESS – MORATORIUM - GENERAL

Consortium led by Syonira Invecast (P.) Ltd. vs. Employees' Provident Fund Organisation [2026] 182 taxmann.com 271 (NCLAT- New Delhi)

No assessment proceedings can be continued by EPFO after initiation of moratorium under section 14(1) of IBC and further no claim on basis of assessment carried out during moratorium period can be pressed by EPFO.

CIRP of the corporate debtor commenced on 04.07.2019, and moratorium under section 14 remained in force till 09.11.2021, when Resolution Plan came to be approved. Notwithstanding subsistence of moratorium and subsequent approval of Resolution Plan, EPFO raised demands on basis of assessment proceeding which culminated in order dated 06.04.2021. Thereafter EPFO issued a notice to the Corporate Debtor, claiming fresh dues amounting to Rs. 62.09 lakh were to be paid by the corporate debtor. Said demands were founded upon proceedings and determinations undertaken during moratorium period, and no claim in respect thereof was ever filed during CIRP.

Whether proceedings before EPFO would fall in category of "proceedings before other authority" and Section 14 (1) (a) clearly indicates a bar against initiation of proceeding by EPFO Authorities during moratorium period. When no demand could be made on basis of any inspection or assessment carried out during moratorium, there was no ground to sustain claim sought to be enforced by EPFO through its post-CIRP

notices and summons, nor there was any merit in cross appeal filed by EPFO seeking priority treatment of such claims. Thus, instant appeal against NCLT's refusal to quash EPFO's post-moratorium demands, was to be allowed.

Case Review: order of NCLT in IA No. 1745 of 2022 in C.P. No. 281/MB/C-III/2019 dated 09.10.2024, partly reversed.

SECTION 3 - CORPORATE INSOLVENCY RESOLUTION PROCESS – RESOLUTION PLAN - APPROVAL OF

Employees Provident Fund Organisation vs. Subhlaxmi Investment Advisory (P.) Ltd [2026] 182 taxmann.com 282 (NCLAT-New Delhi)

Where CIRP was initiated and moratorium imposed, EPFO's subsequent assessment proceedings and resultant claim could not be pursued or mandatorily admitted, and since RP included existing EPFO claim in information memorandum and SRA made proportionate provision, with resolution plan approved by CoC and adjudicating authority and nothing being due to EPFO as per books on CIRP commencement, EPFO's appeal challenging adequacy of plan allocation did not merit intervention.

CIRP was initiated against the corporate debtor and EPFO was duly intimated of moratorium. EPFO filed a letter-claim of about Rs. 0.50 lakh (not in prescribed form), later initiated enquiry and crystallised about Rs. 18.33 lakhs during moratorium. Resolution applicant proposed a plan of about Rs. 45 lakhs with Rs. 0.05 lakh provided towards EPFO with a contingency cap. CoC approved plan with 100 per cent voting, which was also approved by Adjudicating Authority. EPFO appealed under section 61 alleging inadequate provision.

Held that after initiation of CIRP and imposition of moratorium under section 14, no assessment proceedings can be initiated or continued by EPFO under sections 7A, 7Q and 14B of the EPF & MP Act, 1952 and no claim based on such assessment can be admitted in CIRP. Clean-slate principle under section 31 extinguishes claims not forming part of resolution plan, and EPFO's reliance on section 36(4)(a)(iii) and PF full-payment jurisprudence was inapplicable on facts. Nominal provision/contingency for PF dues is permissible when CoC exercises commercial wisdom and no employees have raised claims. Thus, approval of resolution plan was legally sustainable vis-à-vis EPFO's challenge.

Case Review: Order passed by "Adjudicating Authority (National Company Law Tribunal, Cuttack Bench, Cuttack, in IA (IB) (Plan) No. 3/CB/2024 in CP (IB) No. 14/CB/2021 dated 28-3-2025, Affirmed.

SECTION 5(7) - CORPORATE INSOLVENCY RESOLUTION PROCESS – FINANCIAL CREDITOR

Elegna Co-Op. Housing and Commercial Society Ltd. vs. Edelweiss Asset Reconstruction Company Ltd. [2026] 182 taxmann.com 384 (SC)

Where existence of a financial debt owed to financial creditor was undisputed and corporate debtor had persistently acknowledged default, NCLAT was justified in admitting corporate debtor into CIRP.

Homebuyers' societies or welfare associations cannot litigate on behalf of allottees or claim representative status before adjudicatory fora absent explicit statutory recognition or legally valid authorisation.

The corporate debtor availed loan from original lender for purpose of developing a residential-cum-commercial project.

Original lender transferred all its rights in said loan to the financial creditor. The financial creditor filed petition under section 7 seeking initiation of CIRP against the corporate debtor. NCLT dismissed

section 7 petition holding that IBC was being invoked as a recovery mechanism rather than as a tool for insolvency resolution. NCLAT, by impugned order, set aside order of NCLT and directed admission of section 7 application, thereby initiating CIRP against the corporate debtor. NCLAT, however, rejected the intervention application filed by society of home buyers, holding that the society lacked locus standi as it was not a party to the financial transaction forming the subject matter of the appeal.

Held that since existence of a financial debt owed to the financial creditor was undisputed and the corporate debtor had persistently acknowledged default, NCLAT was justified in admitting the corporate debtor into CIRP.

Held that right to initiate or participate in CIRP flows from debt transaction and statute, not from associative or representational interest. A society is a distinct juristic entity separate from its members; Unless it has itself advanced funds, executed allotment agreements, or received allotments, it cannot claim the financial creditor status. Homebuyers' societies or welfare associations are ordinarily constituted for maintenance and management of common facilities and thus, their office-bearers cannot litigate on behalf of allottees or claim representative status before adjudicatory fora absent explicit statutory recognition or legally valid authorisation. Where appellant-Society was neither a financial nor an operational creditor, no statutory right of appeal inhered in appellant.

SECTION 60 - CORPORATE PERSON'S ADJUDICATING AUTHORITIES – NATIONAL COMPANY LAW TRIBUNAL AND APPELLATE TRIBUNAL

Gloster Ltd. vs. Gloster Cables Ltd. [2026] 182 taxmann.com 565 (SC)

Where NCLT, while adjudicating GCL's application under Section 60(5) and plan approval, declared title in 'Gloster' trademark in favour of SRA without a specific, pleaded application under sections 43 or 45, such findings were beyond jurisdiction, violated principles of natural justice, and amounted to modifying the scope of the approved resolution plan, hence impermissible.

The corporate debtor was admitted into CIRP and resolution plan submitted by appellant-SRA was approved by CoC. During pendency of approval, GCL filed an application under section 60(5) seeking exclusion of rights in 'Gloster' trademark from assets of the corporate debtor. NCLT dismissed GCL's application and held that 'Gloster' trademark was corporate debtor's asset. It was also noted that transactions during BIFR restraint conferred no title, assignment dated 20-09-2017 was hit by section 43 and undervalued under section 45(2)(b), and registration dated 17-09-2018 was hit by section 14(1)(b), and approved SRA's plan. NCLAT held NCLT had jurisdiction under section 60(5)(c) but erred on assignment issue and that action under sections 43, 45, 46 and 66 could not be taken absent specific RP application with pleadings and material.

Held that while adjudicating GCL's application NCLT could not have declared title in trademark 'Gloster' in favour of SRA. Any grant of rights over and above those recognised in approved plan amounted to modification of plan. NCLT could not have resorted to enquiry under sections 43 and 45 while adjudicating GCL's application. If a transaction is sought to be set aside as preferential or undervalued, application must plead basis and put opposite party on notice. Findings of NCLT were perverse, violative of natural justice and beyond scope of enquiry.

Case Review:
Jayanta Kumar Panja v. Fort Gloster Industries Ltd. [2020] 118 taxmann.com 546 (NCLT - Kolkata), partly reversed; Gloster Cables Ltd. v. Fort Gloster Industries Ltd. (Company Appeal (AT) (Insolvency) No. 1343 of 2019) dated 25-1-2024, partly reversed.

RECENT DEVELOPMENTS IN INSOLVENCY AND BANKRUPTCY

1. **Supreme Court reiterates primacy of CoC's commercial wisdom**

   The Supreme Court of India reaffirmed that the commercial wisdom of the Committee of Creditors (CoC) in approving or rejecting a resolution plan remains paramount and is not subject to judicial review, except on limited grounds under Section 30(2) of the IBC. This judgment further strengthens the creditor-driven framework of insolvency resolution.

   Link: https://main.sci.gov.in

2. **NCLAT clarifies treatment of dissenting financial creditors**

   The National Company Law Appellate Tribunal held that dissenting financial creditors are entitled only to the minimum liquidation value as per Section 30(2)(b) and cannot claim equitable or proportionate distribution with assenting creditors. This ruling reinforces clarity on distribution mechanisms within resolution plans.

   Link: https://nclat.nic.in

3. **Supreme Court on limitation and condonation of delay in IBC filings**

   In a significant ruling, the Supreme Court of India emphasized strict adherence to limitation periods under the IBC and held that delay in filing CIRP applications cannot be condoned routinely without sufficient cause. This ensures procedural discipline and timely initiation of insolvency proceedings.

   Link: https://main.sci.gov.in

4. **NCLT permits withdrawal of CIRP post-admission under Section 12A**

   The National Company Law Tribunal allowed withdrawal of CIRP proceedings after admission, pursuant to a settlement between the parties under Section 12A of the IBC. The order highlights the flexibility within the framework to encourage settlements and value maximization. **Link:** https://nclt.gov.in

5. **Parliament passes IBC Amendment Bill, 2025**

   The Parliament of India has passed the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, introducing key changes aimed at strengthening the insolvency resolution framework. The amendments focus on streamlining the Corporate Insolvency Resolution Process (CIRP), enhancing clarity in definitions, and improving timelines for faster resolution of stressed assets.

   The Bill also seeks to address practical challenges faced by stakeholders and improve the overall efficiency and transparency of the insolvency ecosystem. While the move has been welcomed as a step toward ease of doing business, experts have expressed mixed views regarding certain provisions and their impact on the independence of insolvency professionals.

   Link: https://ibbi.gov.in/whats-new

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1. The article should be original, i.e., not published/broadcasted/hosted elsewhere, including any website. A declaration in this regard must be submitted to IPA-ICMAI in writing at the time of submission.
2. The article may be topical and address matters of current interest to professionals and stakeholders.
3. It may preferably introduce stakeholders to new knowledge areas or present innovative ideas relevant to the profession.
4. The length of the article may be 2500–3000 words.
5. The article should include an **Abstract** of approximately **200–250 words**.
6. The article should contain clear, concise, and engaging headings.
7. Authors may provide a list of references, if any, at the end of the article.
8. A brief author profile, along with e-mail ID, postal address, contact number, and the required declaration of originality, must be submitted with the article.
9. The article must adhere to ethical standards, with **plagiarism not exceeding 10%** and **AI-generated content limited to a maximum of 20% similarity**, ensuring originality of the author's work.
10. A limited number of articles (maximum 2–3) from an individual author may be considered for publication in a year.
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12. Articles may be evaluated based on **originality, relevance, clarity, and innovation**, as part of the review criteria.
13. Articles should be sent via email to: **publication@ipaicmai.in**

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    e) Footnotes: Cambria 10 -Point size
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