



# IBC AU-COURANT

*Latest updates On Insolvency & Bankruptcy*

**19<sup>th</sup> September 2022**

**"Keep your face always toward the sunshine, and shadows will fall behind you"**

## ➤ **Why only 2 firms chose pre-pack insolvency resolution in a year**

India introduced the pre-packaged insolvency resolution process in April 2021 as an alternative process for MSMEs.

The IBC was enacted in 2016 to simplify insolvency and bank-ruptcy proceedings, safeguard interests of all stakeholders (the firm, employees, debtors and especially creditors), and resolve non-performing assets. From a 'debtor in possession' regime, it was a shift to a 'creditor in control' one. IBC provides for a time-bound process for resolving insolvencies. The Insolvency and Bankruptcy Board of India (IBBI) is the regulator implementing the code and overseeing the functioning of stakeholders. The IBBI last week allowed payment of performance-linked incentives to resolution professionals.

Unlike the corporate insolvency resolution process (CIRP), an informal understanding is reached with creditors before the application is filed. PPIRP begins only after 66% of financial creditors approve the proposal and the name of resolution professional. Debt resolution agreement between financial creditor and a potential investor is arrived at in consultation with the corporate debtor for which subsequent approval of the resolution plan is sought from the NCLT.

MSMEs greatly contribute to the economy, and employ a wide section of the population. The pandemic severely impacted their operations. Keeping this in mind, the unique nature of their business, and a simpler corporate structure, an alternative insolvency resolution process was designed to ensure quicker, cost-effective and value-maximizing outcomes for all.

Only two insolvency cases have been initiated under PPIRP since it was introduced: Delhi-based Loon Land Developers and Ahmedabad-based GCCL Infra-structure & Projects. The poor response has been attributed to the hesitancy on the part of financial institutions. In the case of CIRP, the haircut involved is a last resort, against a voluntary one in case of PPIRP. Data shows that between December 2016 and June 2022, a total of 5,636 CIRPs commenced, of which 3,637 have been closed.

The IBC's objective is to facilitate exit from failed units so that capital can be reallocated to better ones. However, banks are not comfortable initiating PPIRP due to voluntary haircuts. There is a fear that such a decision might be scrutinized later. This means capital will remain locked up in failed units, defeating the purpose of IBC. Voluntary haircuts mean less resources from the winding-up process, and greater scope for corrupt practices.

**Source: Mint**

**Read Full news at:** <https://www.livemint.com/politics/policy/why-pre-pack-insolvency-failed-to-find-takers-11663531286274.html>

## ➤ **Resurgent Power acquires South East UP Power Transmission Company via insolvency process**

Resurgent Power Ventures on Saturday said that it has completed the acquisition of South East UP Power Transmission Company through an insolvency process. As per the resolution plan, the transaction entailed payment for one-time settlement of outstanding debt and purchase of equity shares for a consideration of Rs 3,251 crore and payout of existing cash balance of SEUPPTCL.

The transaction has been funded through a mix of shareholder funds brought in by Resurgent Power and loans raised from State Bank of India. "Pursuant to the Letter of Intent (LOI) issued by the resolution professional of South East UP Power Transmission Company Limited (SEUPPTCL) and approval of the resolution plan by National Company Law Tribunal, Allahabad (NCLT) vide order dated June 15, 2022, Resurgent Power Ventures Pvt Ltd (Resurgent Power) has completed the acquisition of SEUPPTCL and has settled the debt of all existing creditors as per the terms of the resolution plan," a company statement said.

The transaction was part of a stressed asset resolution process run by the resolution professional under the supervision of its Committee of Creditors through a competitive bidding process under the Insolvency and Bankruptcy Code, 2016.

SEUPPTCL was incorporated as a special purpose vehicle formed by UP Power Transmission Company Limited (UPPTCL) on September 11, 2009 to implement and operate the specified intra-state transmission system for 35 years under the public-private partnership model on Build-Own-Operate Maintain & Transfer (BOOT) basis.

Pursuant to implementation of the resolution plan, SEUPPTCL has become a wholly-owned subsidiary of Resurgent Power.

SEUPPTCL has around 1,500 kilometres of transmission line (765 kV and 400 kV) and 5 sub-stations. About 900 kilometres of transmission link under the project is still to be completed.

Once the transmission project is completed, the total enterprise value will be around Rs 6,500 crore. Resurgent Power -- a joint venture based out of Singapore-- is co-

sponsored by Tata Power and ICICI Venture and it has other global reputed institutions as investors.

It was set up to acquire stressed assets in the Indian power sector. International Pte Ltd (TPIPL), a wholly-owned subsidiary of Tata Power, owns 26 per cent stake in Resurgent Power. ICICI Bank Ltd (ICICI Bank) owns 10 per cent stake in Resurgent Power and the balance 64 per cent is owned by the other global investors.

Resurgent Power owns 75.01 per cent stake in Prayagraj Power Generation Company Limited, which owns and operates a 1,980 MW supercritical power plant in Uttar Pradesh.

Praveer Sinha, CEO & MD, Tata Power, said: "In line with our aspiration to expand our transmission business, Tata Power has partnered with ICICI and other global investors in Resurgent Power, that had bid for acquiring SEUPPTCL under Corporate Insolvency Resolution Process.

"We are delighted to have completed the acquisition, allowing all creditors to maximise the recovery from this project. This asset fits our overall strategy to maximise shareholder value through growth and sound investments. After successful turnaround of Prayagraj Power and acquisition of NRSS XXXVI, this asset will add further value to and diversify the Resurgent Power portfolio."

**Source: *The Economic Times***

**Read Full news at:** <https://economictimes.indiatimes.com/industry/energy/power/resurgent-power-acquires-south-east-up-power-transmission-company-via-insolvency-process/articleshow/94264604.cms>

## ➤ **Insolvency and Bankruptcy Code changes to hasten, maximise recovery**

Multiple amendments and clarifications to the Insolvency and Bankruptcy Code by the Insolvency and Bankruptcy Board of India (IBBI) will help creditors fetch better value for distressed assets and lift sagging recovery rates, consultants and bankers said.

In separate notifications over the weekend, IBBI allowed creditors to sell part assets in case they get more value. More importantly, the regulator also announced a performance-based pay structure for resolution professionals (RPs). Both moves will have far-reaching changes to recoveries, consultants said.

In a notification, IBBI has for the first time set a minimum fixed fee for RPs. Depending on the size of claims admitted, RPs can now earn between ₹1 lakh and ₹5 lakh per month. More importantly, incentives have been built in for both timely resolution and value maximisation.

An RP is now entitled to 1% of the realisable value if the resolution plan is submitted to the National Company Law Tribunal (NCLT) in less than 165 days. Conversely, he

gets nothing if the plan is submitted after more than 330 days. The RP is also entitled to 1% of the difference between the realised value and the liquidation value as an incentive for value maximisation.

This change is effective from October 1. Consultants said the amendments will push creditors to go for better quality professionals and also put the onus on RPs to speed up the process.

"Fees should not be a constraint to get the best value. It was seen that lenders were reluctant to go for performance-based incentives and in many cases had to settle for lower realisations because of poor quality of work.

While this is a welcome move I would say that getting professional help should not be an issue and such costs should be borne separately in the resolution plan because it makes a difference both in terms of value as well as timelines," said Abizer Diwanji, head financial services EY.

IBBI has also allowed creditors to sell assets separately in cases where no resolution plan has been received for the corporate debtor as a whole, thereby maximising value. Bankers and consultants say that there have been cases where the piecemeal sale of assets was a better option.

Like in the case of DHFL which was completed last year where the retail book was much sought after for its high yield, strong asset quality and wide network. But lenders chose to sell it together with the bad loan-infested wholesale business which dragged the value down.

"There have been cases where the overall value could have been higher but it could not be achieved as all the assets of the corporate debtor were being offered to resolution applicants as a whole.

Both these changes are important and will help achieve better outcomes for all stakeholders in the insolvency process," said Shah from A&M India.

**Source: The Economic Times**

**Read Full news at:** <https://economictimes.indiatimes.com/news/economy/policy/insolvency-and-bankruptcy-code-changes-to-hasten-maximise-recovery/articleshow/94288114.cms>

