SEPTEMBER 2024

THE INSOLVENCY PROFESSIONAL

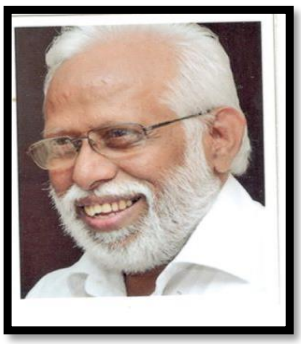
Your Insight Journal

INSOLVENCY PROFESSIONAL AGENCY
OF 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 thefrontline regulator registered with Insolvency and Bankruptcy Board of India (IBBI). With the responsibility to enroll there under solvency Professionals (IPs) as its members in accordance with provisions of the Insolvency and Bankruptcy Code 2016, Rules, Regulations and Guidelinesissued 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.

BOARD OF DIRECTORS



DR. JAI DEO SHARMA
CHAIRMAN & INDEPENDENT DIRECTOR

DR. DIVYA SHARMA
INDEPENDENT DIRECTOR

SHRI P. N. PRASAD
INDEPENDENT DIRECTOR

CMA SURAJ PRAKASH
INDEPENDENT DIRECTOR

CMA BIBHUTI BHUSAN NAYAK
SHAREHOLDER DIRECTOR

CMA ASHWIN G DALWADI
SHAREHOLDER DIRECTOR

CMA (DR.) ASHISH P. THATTE
SHAREHOLDER DIRECTOR

CMA MANOJ KUMAR ANAND
SHAREHOLDER DIRECTOR

MR. G.S NARASIMHA PRASAD
MANAGING DIRECTOR

OUR PUBLICATIONS

IBC AU-COURANT

LATEST UPDATES ON INSOLVENCY AND BANKRUPTCY

THE INSOLVENCYPROFESSIONAL
YOUR INSIGHT JOURNAL

IBC DOSSIER
Bulletin on Landmark Judgments

CASEBOOK

TABLE OF CONTENTS

BOARD OF DIRECTORS

MESSAGE FROM THE DESK OF MANAGING DIRECTOR

Dear professional,

Greetings to you from all of us in Insolvency Professional Agency of the Institute of Cost Accountants of India (IPA-ICMAI). This journal is one of the publications regularly published by the Publications Division of IPA-ICMAI. This journal seeks to carry interesting articles and opinions that not just inform but provide an enlightened insight into issues of vital interest in the domain of insolvency and bankruptcy, corporate restructuring and rejuvenation and related subjects. The profession of IPs, being still in infancy, is continuously evolving with numerous court rulings from various courts apart from regulatory changes and hence demands a high level of attention of IPs in the midst of assignments and related preoccupations.

Professional development happens through continuous professional education including updates on changes in code, relevant laws and regulations as also new case laws. The equally important side of professional development is expression of a professional's knowledge and experience and competent sharing with fellow professionals. The professional strength we gain and the satisfaction from the intellectual exercise in working for and preparing an opinion/ article shall drive us to be active participants in professional development activities.

I welcome your comments, observations and critique on the published articles in this journal. Your response will contribute to better understanding of the issues in the articles as also better appreciation of different perspectives. I welcome you to contribute with your updates that would help our fellow IPs and opinions from your experiences that all of us can benefit from. Such responses will also be published in the journal in future to generate a healthy discussion and as also an expression of the appreciation of the author.

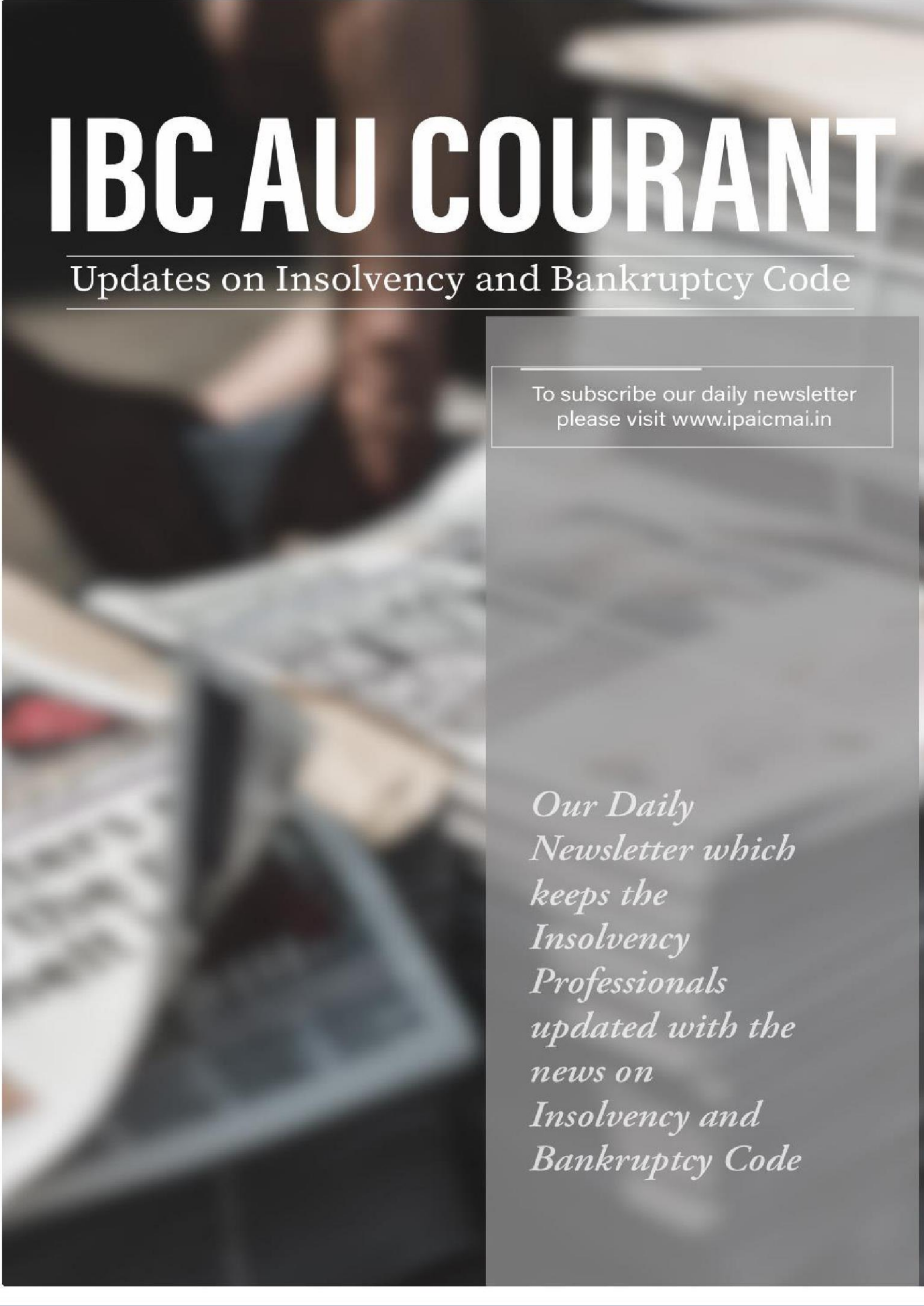
Your rejoinder/ response/ feedback may be sent to publication@ipaicmai.in.
The coming month ushers in the festive season across the country starting with Navaratra/ Dasara. All of my colleagues at IPA-ICMAI join me in wishing happy celebrations on the occasion of Navaratra, Dasara, Durga Puja, Saraswati Puja, Ayudha Puja and Vijayadashami to all our readers.

Wish you all happy reading.

Mr. G.S. Narasimha Prasad
Managing Director

PROFESSIONAL DEVELOPMENT INTIATIVES

SEPTEMBER 2024	
Date	**Events**
September 6th, 2024	**Executive Development Program on "Successful Implementation of Resolution Plan."**
September 13th, 2024	**Workshop on "Understanding The Waterfall Mechanism (Section 53 of IBC, 2016.)."**
September 23rd, 2024	**Webinar on IU's Technology Solutions for IPs**
September 27th, 2024	**Seminar on Insolvency Revolution: Preparation for the Unknown**
September 29th, 2024	**Workshop on Judicial Pronouncements under IBC, 2016**



IBC AU COURANT

Updates on Insolvency and Bankruptcy Code

To subscribe our daily newsletter
please visit www.ipaicmai.in

Our Daily Newsletter which keeps the Insolvency Professionals updated with the news on Insolvency and Bankruptcy Code

ARTICLES

INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

RESHAPING INSOLVENCY SOLUTIONS: ANALYZING THE NEED FOR INFORMAL CORPORATE RESCUE STRATEGIES IN INDIA

Mr. Sameer Rastogi
Insolvency Professional

Abstract

Globally, modern banking and business practices have used a number of tactics throughout the years to deal with financially challenged businesses and the loans and obligations they hold. Many factors, such as the size of the business, the level of difficulty, the vulnerability of certain creditors, and its prospective viability, among others, affect the final decision and its actions. The particular insolvency regime concerned is a significant factor that influences how simple it is to execute one alternative over another. Thus, a creditor-oriented system makes it easier for the lenders to take charge of the legal process and take measures to recover their debts, which might ultimately lead to the winding up of the bankrupt company. Conversely, a government that helps debtors usually succeeds in regaining the company.

Keywords: Corporate rescue, informal insolvency, India, business restructuring, out-of-court settlements, insolvency and bankruptcy code (IBC), creditor-debtor negotiations.

INTRODUCTION

The term "corporate rescue" refers to a significant intervention that is required to prevent a company from failing in the end, to revive businesses that are about to collapse economically, and to save economically viable units to increase production capacity, create jobs, and to continue rewarding capital and investment. Rescue operations include going above and beyond the typical management reactions to business difficulties, and they may be carried out via both official and informal legal channels[1]. The assumption that severe corrective action is performed during a company crisis is fundamental to the rescue concept. All these perspectives essentially agree with the idea that informal rescue techniques should be used in rescue operations instead of being limited to official processes[2]. Globally, modern banking and business practices have used a number of tactics throughout the years to deal with financially challenged businesses and the loans and obligations they hold. Many factors, such as the size of the business, the level of difficulty, the vulnerability of certain creditors, and its prospective viability, among others, affect the final decision and its actions. The particular insolvency regime concerned is a significant factor that influences how simple it is to execute one alternative over another[3]. Thus, a creditor-oriented system makes it easier for the lenders to take charge of the legal process and take measures to recover their debts, which might ultimately lead to the winding up of the bankrupt company. Conversely, a government that helps debtors usually succeeds in regaining the company[4].

[1] Kastrinou, A. (2016) Comparative Analysis of the Informal Pre-Insolvency Procedures of the UK and France. Int. Insolv. Rev., 25: 99–118. doi: 10.1002/iir.1247.

[2] James H.M. Sprayregen & Tarun Warriar, The IBC and Interim Finance: Potential Developments Based on DIP Lending Experience, Legal Era (Dec. 12, 2017), https://www.legaleraonline.com/articles/ the-ibc-and-interim-finance-potential-developments-based-on-dip-lending-experience.

[3] Julian Chung & Gary Kaplan, An Overview of Debtor in Possession Financing, in Lending & Secured Finance Laws and Regulations 2021 120 (Thomas Mellor ed., 2021).

[4] Chen, T. W., Azmi, R., & Rahman, R. A. (2021). Theories of corporate insolvency: A philosophical

The current economic downturn has led to many loan defaults and business difficulties. Considering that the current situation is the consequence of a systematic breakdown rather than isolated incidents, closing businesses does not seem to be the appropriate course of action. What is often sought is saving businesses and giving them new life—as long as they remain viable[5]. There are two types of rescue mechanisms: official and informal. A court-led or supervised procedure would be part of the official rescue process, which eventually results in the firm being saved by actions like debt restructuring and management changes[6].

India is one of the youngest countries to enter the informal debt restructuring market. Before 2001, there was no organized structure in place to accelerate non-formal debt restructurings and other business rescue procedures. The Board of Industrial and Financial Reconstruction (BIFR) was given permission to oversee the reorganization process by the Sick Industrial Companies Act, 1985, which established the legal framework for the recovery of financially troubled Indian enterprises[7]. Nonetheless, the BIFR's contribution to the procedure was and is still very inadequate. As a result, the Reserve Bank of India (RBI)'s Corporate Debt Restructuring (CDR) mechanism was used to institutionalize informal rescue via debt restructuring in 2001[8]. This platform, which was mostly based on the London principles, has seen a lot of usage recently. The Reserve Bank of India has released a number of circulars about the CDR process. Regarding corporate rescue processes, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests (SARFAESI) Act of 2002 was another positive move. The Act facilitated the establishment of Asset Reconstruction Companies (ARC) in India, primarily focused on managing non-performing debts that were obtained from secured creditors[9].

INFORMAL CORPORATE RESCUE MECHANISMS

Informal corporate rescue process focuses on business reorganization outside official statutory bankruptcy proceedings. Such methods provide indebted firms with a flexible chance to fix their problems outside the inflexible, complex, and sometimes time-consuming statutory bankruptcy processes. Informal corporate rescue processes are via informal 'workouts', 'pre-packs' and 'debt for equity swaps', cherry-picking and purchase and assumption[10].

An informal workout refers to a voluntary out-of-court restructuring process in which a financially troubled firm and its creditors arrange to modify their debts. Essentially, the creditors reach a consensus on a "coordinated approach" by attempting to collaborate in order to come up with a group solution that serves their shared interests. There are noticeable differences in how exercises are implemented in various

analysis of the corporate rescue mechanisms under the Companies Act 2016. UUM Journal of Legal Studies, 12(2), 167-202. https://doi.org/10.32890/uumjls2021.12.2.8.

[5] Vijaykumar V. Iyer et al., Performance Analysis of M/s Binani Cement Limited, Indian Inst. of Insolvency & Prof. of ICAI (Jan. 2020), https://www.iiipicai.in/images/PDF/CASE-STUDY-BINANI-CEMENT.pdf.

[6] LawTeacher. November 2013. Informal Corporate Rescue Mechanism. [online]. Available from: https://www.lawteacher.net/free-law-essays/finance-law/informal-corporate-rescue-mechanism.php?vref=1 [Accessed on 15 August 2024].

[7] Sachin Gupta & Varsha Banerjee, India: Restructuring & Insolvency Laws & Regulations, Int'l Comp. Legal Guides (May 05, 2020), https://iclg.com/practice-areas/restructuring-and-insolvency-laws-and-regulations/india.

[8] Pandya, Param, Corporate Insolvency and Corporate Recue in India - An Economic Analysis (May 1, 2015). Available at SSRN: https://ssrn.com/abstract=2970582 or http://dx.doi.org/10.2139/ssrn.2970582.

[9] Shikha N. Takeover through Scheme of Arrangement: A Changing Trend in the UK. Vikalpa. 2013;38(1):87-103.doi:10.1177/0256090920130107.

[10] Finch, V. (2009). Corporate Insolvency Law: Perspective and Principles (2nd ed.). UK: Sweet and Maxwell.

jurisdictions, but they nonetheless share several key traits[11].

PRE-PACKS

This essentially entails a pre-insolvency phase of discussion with a potential buyer of an insolvent company's operations. The assets that the buyer needs will be decided upon, and the selling price of the company will always be determined with reference to an impartial appraisal. When a subsequent administration is made, the buyer receives ownership of the company together with all agreed-upon assets, goodwill, contracts, staff, and similar items. Pre-packs may include the selling of the company to a third party or a "phoenix" sale in which the former directors take control the newly formed company[12].

DEBT FOR EQUITY SWAP

A debt for equity exchange might be implemented as an informal company rescue strategy. This is the situation in which a creditor consents to swap a loan for an equity stake in the business in the anticipation of a higher return down the road. It is a technique that may allow an acceptable agreement to be struck with creditors. This strategy, however, may be limited since it may be costly and time-consuming to negotiate because the approval of most [13]creditors and the company's shareholders is often needed[14].

PURCHASE AND ASSUMPTION

This is the process by which an investor or other corporation buys the assets of a failing business and takes on its obligations, often for an auction price. The assumed company is dissolved by a judicial sale of its assets and liabilities to the buying company or investor through a judicial accent rather than through regular winding up procedures. The transaction is completed by means of a properly signed Deed of Purchase and Assumption by the parties, resolutions endorsing the deal, or, in the event of a government company or a company bought or taken over by a regulatory body, a government white paper. There are many options for the ease of purchase and assumption in connection with bank reorganization: buy and assumption for the whole bank, purchase and assumption for a portion of the bank, purchase and assumption for loss sharing, and bridge bank[15].

CHERRY PICKING

Similar to Purchase and Assumption, but with one key difference: the investing company or buying company is not assuming full liability for the failing business; instead, it is permitted to examine the failing business's assets, operations, and books in order to identify any aspects that it could integrate into its own operations and save costs[16].

NEED FOR INFORMAL CORPORATE RESCUE MECHANISMS IN INDIA

[11] Sui-Jim Ho & Surya Kiran Banerjee, Indian Bankruptcy Code—How Does it Compare?, 8 Emerging Markets Restructuring J. 51, (2018)

[12] Maksym Iavorskyi et al., Resolving Insolvency - New Funding and Business Survival, Doing Bus. (2016), https://www.doingbusiness.org/content/dam/doingBusiness/media/Annual-Reports/English/DB16-Chapters/DB16-CS-RI.pdf.

[13] Manaswita Nakwaal, Maximisation of Value of Assets under the Insolvency & Bankruptcy Code, 2016, Indian Rev. Advance Legal Res. (Oct. 01, 2020), https://www.iralr.in/post/maximisation-of-value-of-assets-under-the-insolvency-bankruptcycode-2016.

[14] Vishwanath Nair, As Banks Deny Working Capital to Insolvency Cases, Resolution Professionals Turn to Funds, Bloomberg Quint (Aug. 28, 2017), https://www.bloombergquint.com/business/2017/08/28/as-banks-deny-working-capital-to-insolvencycases-resolution-professionals-turn-to-funds.

[15] Nwafor, Anthony. (2017). The goal(s) of corporate rescue in company law: A comparative analysis. Corporate Board: role, duties and composition. 13. 20-31. 10.22495/cbv13i2art2.

[16] Megha Mittal, Interim Financing Becomes Effective and Attractive, in IBC: Ushering in a New Era 150 (Megha Mittal ed., 2019).

To modernize India's debt settlement system, the Insolvency and Bankruptcy Code (IBC), 2016, a historic piece of legislation, was put into effect. The old insolvency rules were superseded, and a unified framework for handling stressed assets was established. Resolution of distressed assets has undergone major changes because of the IBC, which has had a major influence on the business sector[17].

The financial system's overall health is directly impacted by the prompt settlement of stressed assets. Without a deadline, the process of resolving stressed assets would often take years, piling up non-performing assets (NPAs) on the balance sheets of banks and other financial organizations. Consequently, this would impact the credit flow and cause the rate of economic growth to decelerate. The financial system has been less affected by stressed assets because of the IBC's time-bound approach, which has drastically shortened the time required for their resolution[18].

Additionally, the Insolvency and Bankruptcy Code (IBC) stipulates a moratorium period that stops creditors from pursuing recovery actions against an insolvent corporation throughout the insolvency process. By conducting the resolution process more systematically and effectively, this helps to preserve the value of the company's assets. This is beneficial to the financial system because it fosters investor and creditor confidence, both of which are necessary for the financial markets to run smoothly[19].

Bringing India into line with its international equivalents, such as the United Kingdom, the United States, Canada, and Singapore, is a major step forward with the introduction of a pre-packaged insolvency system[20]. Particularly, the implementation of a PPIRP presents good possibilities for the MSME sector, emphasizing their rehabilitation during economic problems such as those presented by the COVID-19 epidemic. But there are still issues that need to be resolved, such voluntary haircuts and judicial intervention that impedes the 120-day deadline[21]. Pre-packs that are implemented should gradually, focus on properly managing enterprises first and then expanding to smaller organizations with simpler debt arrangements to maximize their effectiveness[22]. Transparency issues, particularly with operational creditors' participation, might be minimized by requiring their presence in negotiating procedures and establishing a window for complaints. Additionally, imposing a minimum compensation for operational creditors equivalent to liquidation rights under Section 53 of the Code might assure justice[23]. Given the current backlog of CIRP applications, the effectiveness of PPIRPs depends on supplementary actions to improve the ability of adjudicating authorities to manage applications[24]. Although pre-packs provide

[17] Avinash Kumar Khard, Rescue Financing: Helping Hand for Entities in Distress, Indian Bus. L. J. (Feb. 03, 2019), https://law.asia/rescue-financing-helping-hand-entitiesdistress/.

[18] van Zwieten, Kristin, Corporate Rescue in India: The Influence of the Courts (July 1, 2014). Journal of Corporate Law Studies, Vol. 1, 2015, Forthcoming, Oxford Legal Studies Research Paper 37/2014, Available at SSRN: https://ssrn.com/abstract=2466329.

[19] Ajanta (P.) Ltd., In re [2017] 77 taxmann.com 232 (Gujarat); also, Aditya Birla Money Mart Ltd., In re [2016] 76 taxmann.com 270 (Gujarat)]. Also see Cello Pens (P.) Ltd., In re [2017] 83 taxmann.com 399 (NCLT - Ahd.)

[20] Buljevich, E.C. (2005). Cross Border Debt Restructuring: Innovative Approaches for Creditors, Corporates and Sovereigns. (Euromoney Institutional Investor PLC, 2005) Chapter 1 at 1.

[21] Don Weinland, Global Investors Sidestep Indian Bankruptcy with Rescue Finance, Fin. Times (Jan. 02, 2019), https://www.ft.com/content/6059445a-0d82-11e9-ac dc-4d9976f1533b.

[22] Dr. Neeti Shikha & Urvashi Shahi,Restructuring in COVID-19: Reinventing the old wheel, The Daily Guardian (11th July,2020) https://thedailyguardian.com/restructuring-in-covid-reinventing-the-old-wheel/

[23] Ashwin Bishnoi, The Indian Insolvency & Bankruptcy Code 2016: No More a "Wait and Watch" Space for Private Equity, 22 EMPEA Legal & Reg. Bull. 7 (2017).

[24] Dinesh Unnikrishnan, Explained: Why Pre-Packaged Insolvency Resolution is Great for MSME Borrowers, Money Control (Apr. 05, 2021), https://www.moneycontrol.com/news/business/explaine

a productive alternative for resolving financially troubled enterprises, changes to the Code and strong regulatory structures are essential. It is, therefore, vital to modify the pre-pack processes to fit the Indian environment, recognizing its supplemental function alongside the current bankruptcy resolution structure rather than a total replacement[25].

CONCLUSION

If a company's financial crisis is identified early on, it may be remedied swiftly via an informal rescue that benefits both creditors and debtors, rehabilitating it without the need for the official bankruptcy procedure. What matters is that the firm should have a workable business plan and a turnaround specialist, sometimes known as the "company doctor," who can provide guidance on the best course of action to pursue in order to save the company sooner and boost its chances of success. Informal rescue methods often entail voluntary agreements between the debtor and some or all of its creditors. These discussions are often facilitated by the banking and business sectors and usually urge for the troubled enterprises to undergo some kind of reorganization. Informal rescue provides a variety of potential rewards since it is quicker and cheaper than official rescue and gives a lot of anonymity, therefore maintaining the goodwill and status of the organization. Informal rescue negotiations provide more flexibility since the terms and circumstances of the rescue may be altered throughout the negotiation process. This is not the case with the official rescue procedure. Informal rescue has shortcomings in addition to its many positive aspects. The first flaw is the need for unanimity, which is necessary if the rescue is to be successful (such as in the event of a workout or settlement with the lenders). The consent of all parties whose privileges are at risk is usually necessary. The absence of a formal moratorium is the second flaw. Consequently, creditors who object to the method are free to stop the unofficial rescues by starting official bankruptcy processes, such as liquidation. But implementation in the Indian environment might be highly problematic for both regulatory (IBBI) and adjudicating authorities (NCLT) as the market and the business trends are quite volatile in nature. An unofficial rescue is consequently a delicate mechanism that depends on everyone's participation because of this danger. It is evident, however, that a prompt completion of an informal rescue always has tangible benefits for both creditors and debtors.

Authority determines that the corporate debtor is liable for liquidation it may order for liquidation of the corporate debtor.

d-why-pre-packaged-insolvency-resolution-is-great-for-msmeborrowers-6729901.html.

[25] Neeti Shikha,The Changing Trend of Schemes of Arrangement and Approaches towards Its Efficacy,Indian J. Int'l Econ. L., 2011.

From Distress to Success: The IBC's Transformative Role in Business Recovery

CA Bimal Sharma
Insolvency Professional

SYNOPSIS

This article explores the recent legal and legislative developments in India's Insolvency and Bankruptcy Code (IBC), 2016, highlighting key amendments, judicial interpretations, and the introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP). It analyzes the impact of these changes on stakeholders, particularly operational and financial creditors, while addressing ongoing challenges such as delays, litigation, and the need for clarity regarding personal guarantors. The article emphasizes the importance of continuous reform, technology integration, and stakeholder education to enhance the effectiveness of the IBC. Ultimately, it underscores the code's potential as a cornerstone for economic stability and growth in India.

ARTICLE

The Insolvency and Bankruptcy Code (IBC), 2016, has fundamentally transformed India's approach to corporate insolvency and bankruptcy, establishing a structured framework for resolving financial distress. This article provides an indepth analysis of recent legal and legislative developments within the IBC framework, elucidating their implications for stakeholders and the broader insolvency ecosystem. Since its introduction, the IBC has undergone significant refinements aimed at streamlining the insolvency resolution process and enhancing its efficacy. The core objective of the IBC is to foster entrepreneurship, strike a balance between creditor and debtor interests, and facilitate timely resolution of insolvency cases. Recent amendments and judicial interpretations have played a crucial role in shaping the implementation of this legislation, reflecting an ongoing commitment to adapt to the evolving economic landscape. The IBC has seen notable amendments, particularly through the Insolvency and Bankruptcy Code (Amendment) Acts of 2017, 2019, and 2021. These amendments addressed critical issues, such as the eligibility of resolution applicants, the timeliness of resolution processes, and the treatment of operational creditors. The 2021 amendment, for example, clarified eligibility criteria for resolution applicants, effectively disqualifying those with a record of default from participating. This reform aims to prevent opportunistic takeovers, thereby safeguarding the interests of creditors. However, while these measures enhance accountability, they also introduce complexities that may deter potential investors, particularly in a market where entrepreneurial risk-taking is essential for innovation. Despite these advancements, significant challenges remain. The definition of "related parties" continues to be a gray area, often leading to disputes that complicate the resolution process. Such ambiguities can be exploited, allowing certain entities to manipulate outcomes in their favor. Furthermore, while the IBC mandates strict timelines, the reality is that many cases suffer from delays, undermining the legislation's efficacy and frustrating stakeholders. For instance, a substantial proportion of cases still exceed the mandated resolution period of 330 days, with numerous instances of extensions being granted under various pretexts.

Statistics underscore both the achievements and the challenges faced by the IBC. As of March 2023, around 4,000 corporate insolvency resolution cases had been initiated, with approximately 1,200 resolved successfully, yielding an average recovery rate of 45%. While these numbers indicate progress, the fact that nearly 70% of cases remain unresolved highlights the systemic issues that need addressing. Moreover, the average recovery rates, though improving, still fall short when compared to global standards, raising questions about the effectiveness of the process in maximizing creditor recoveries. A significant recent development is the introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP) through the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021. This mechanism offers a more efficient pathway for resolving insolvencies, particularly for small and medium enterprises (SMEs). By allowing stakeholders to negotiate a resolution plan before formal proceedings commence, the PPIRP aims to minimize contention and preserve the going concern value of distressed businesses. This is particularly vital for SMEs, which often lack the resources for prolonged insolvency battles. Furthermore, the flexibility afforded by PPIRP may encourage more businesses to engage proactively in the resolution process, fostering a culture of preemptive action rather than reactive measures. Recent amendments have also focused on enhancing the treatment of operational creditors, addressing long-standing concerns regarding their marginalization in the resolution process. The IBC now stipulates that operational creditors must receive equitable treatment alongside financial creditors. This change acknowledges the crucial role operational creditors play in the business ecosystem and aims to create a more balanced approach to insolvency resolutions. However, while the intent is commendable, it is crucial to ensure that the rights of financial creditors are not unduly compromised in this pursuit of equity. The potential for operational creditors to secure a greater share of the assets could deter financial institutions from extending credit, leading to tighter lending conditions that may stifle business growth. Judicial interpretations have also been instrumental in clarifying the application of the IBC. Landmark judgments from the National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT) have set critical precedents. In *Apex Frozen Foods Ltd. v. S. S. S. Industries*, the NCLAT ruled that resolution applicants with outstanding dues should be disqualified, reinforcing the legislative intent to ensure that only credible applicants engage in the resolution process. This ruling also reflects a broader judicial commitment to upholding the integrity of the insolvency process, although it has sparked debates about the potential chilling effect on genuine investors who may be deterred by stringent disqualification criteria. The Supreme Court's ruling in *Innoventive Industries Ltd. v. ICICI Bank* emphasized that initiating corporate insolvency resolution proceedings does not hinge on the determination of the debt amount. This landmark judgment underscores the urgency of the resolution process and reflects a broader commitment to timeliness, which is essential for preserving the value of distressed assets. However, the judiciary's role also highlights the persistent issue of litigation within the IBC framework. Lengthy legal battles can stall the resolution process, leaving creditors and other stakeholders in a state of

uncertainty. The need for clearer guidelines and stricter enforcement mechanisms cannot be overstated; ensuring that disputes are resolved swiftly is vital to maintaining the integrity and effectiveness of the IBC. Recent developments also point to an increasing recognition of the need for clarity regarding personal guarantors within the IBC framework. The Supreme Court's ruling in *K. S. Dhingra v. State of Haryana* clarified that personal guarantors are subject to the IBC's provisions. While this alignment offers creditors an additional avenue for recovery, navigating the complexities involved remains challenging. A more streamlined process for addressing claims against personal guarantors would greatly benefit stakeholders and enhance recovery prospects, particularly in cases where corporate defaults are linked to individual guarantors who may have personal assets available for settlement. The necessity for continuous education and awareness among stakeholders about their rights and responsibilities under the IBC is another critical area requiring attention. Engaging creditors, debtors, and the legal community through targeted educational initiatives can demystify the insolvency process and promote a more informed approach. Public awareness campaigns can also foster understanding of the IBC's provisions, ultimately leading to better compliance and stakeholder participation. The enforcement of IBC provisions also presents challenges. Although the legislative framework is robust, real-world implementation often falls short. Instances of non-compliance and significant delays in resolution processes can undermine the IBC's intended impact. Strengthening the regulatory framework and ensuring rigorous enforcement are vital steps toward enhancing the credibility of the insolvency process. Regulatory bodies such as the Insolvency and Bankruptcy Board of India (IBBI) must continue to adapt their oversight mechanisms to ensure compliance while fostering an environment conducive to healthy business practices. The increasing role of technology in insolvency resolution should not be overlooked. Digital tools and platforms can enhance the efficiency and transparency of the resolution process. For instance, online systems for submitting claims and tracking proceedings can streamline interactions between stakeholders, thereby reducing administrative burdens. Additionally, leveraging data analytics can provide insights into financial health and help identify potential insolvency situations early on, allowing for proactive interventions. The adoption of blockchain technology for recording transactions could also provide an immutable record, enhancing trust among stakeholders. The cross-border insolvency framework is another area ripe for development. As globalization continues to reshape the economic landscape, a cohesive approach to cross-border insolvency becomes essential. Establishing a robust framework for handling cross-border cases can facilitate smoother resolutions and protect the interests of creditors across jurisdictions. This is particularly relevant as Indian businesses increasingly engage in international trade, necessitating frameworks that account for multi-jurisdictional issues. Initiatives like the Model Law on Cross-Border Insolvency, adopted by the United Nations Commission on International Trade Law (UNCITRAL), can serve as a reference point for developing India's own cross-border insolvency framework. Collaboration between the IBC and other regulatory frameworks is crucial for creating a cohesive insolvency regime. Coordinating the IBC with tax laws, labor

laws, and other statutory regulations can help minimize conflicts and enhance the overall effectiveness of insolvency proceedings. Addressing overlaps between different regulatory frameworks is essential to facilitate smoother resolutions and streamline the process for all stakeholders involved. For example, aligning labor law provisions with the IBC could help ensure that employee claims are addressed in a manner that maintains workforce morale and business continuity during resolution processes. Regular review and reform of the IBC are imperative in light of the evolving business environment. Continuous engagement with stakeholders and feedback mechanisms can help identify areas for improvement and drive necessary reforms. The dynamic nature of the economy requires that the IBC adapts to changing realities and emerging challenges. A periodic review of the IBC, involving input from industry experts, practitioners, and affected parties, can provide valuable insights into its practical application and effectiveness. Moreover, enhancing the quality of data related to insolvency cases is critical. Accurate data on recovery rates, resolution timelines, and the performance of various resolution professionals can inform better decision-making for stakeholders. Establishing a comprehensive database would enable regulators to monitor trends and identify best practices, ultimately leading to improved outcomes in insolvency resolutions. The creation of industry benchmarks based on collected data could provide stakeholders with valuable insights into what constitutes a successful resolution process. In summary, while the IBC has made significant strides since its inception, ongoing vigilance and proactive measures are essential to address the challenges and loopholes that persist. Fostering a collaborative environment among stakeholders and investing in capacity building and education will be crucial for the IBC to fulfill its intended purpose of promoting a resilient and sustainable economy. Ultimately, the success of the IBC hinges on its ability to adapt to the changing needs of the economy and the challenges posed by a rapidly evolving business environment. With a focus on stakeholder engagement, regulatory coordination, and the effective use of technology, the IBC can truly realize its vision of facilitating a healthy business environment where enterprises can thrive while also providing a robust mechanism for addressing insolvency challenges. As the IBC continues to evolve, the insights gained from its application in practice will be invaluable in shaping a framework that not only meets the needs of today but also anticipates the challenges of tomorrow. The commitment of all stakeholders will be essential in this journey, ensuring that the IBC not only serves as a mechanism for resolving insolvency but also as a catalyst for economic growth and stability in India

CASE LAWS

INSOLVENCY PROFESSIONAL AGENCY
OF INSTITUTE OF COST ACCOUNTANTS OF INDIA

SECTION 33 - CORPORATE LIQUIDATION PROCESS - INITIATION OF - LIQUIDATION OF CORPORATE DEBTOR

Amit Ahirrao v. Anagha Anasingharaju [2024] 164 taxmann.com 63 (NCLAT- New Delhi)

Where corporate debtor had only one valuable asset i.e. immovable property, in such case, sale of corporate debtor as going concern could not be accepted and liquidator was to proceed to sell assets of corporate debtor and fix reserve price as per average of two valuation reports received during CIRP process and, therefore impugned order passed by NCLT liquidating corporate debtor was to be upheld.

Corporate Insolvency Resolution Process (CIRP) was initiated against the corporate debtor, based on an application filed by a respondent no.2-financial creditor. Thereafter, Committee of Creditors (CoC) issued Form G through Resolution Professional (RP), but no resolution plan was submitted and, CoC unanimously resolved to liquidate corporate debtor, leading to RP filing for liquidation, which NCLT had approved. The appellant challenged NCLT's order, arguing that they attempted to settle with financial creditors, but creditors were only interested in liquidation. It was further alleged that liquidator should take steps to sell asset as going concern. It was noted that last date for submitting resolution plan was 26.02.2022, which date was extended till 09.03.2022, however, RP did not receive any plan till time of meeting.

Held that no error was committed by CoC in taking decision of liquidation when no resolution plan was received by RP in-spite of extending date. Claim of the appellant that sale should be conducted as going concern could not be accepted, as CoC in its meeting had categorically noted that the corporate debtor was not a going concern and immovable property which had been valued by valuers was only asset of the corporate debtor. Therefore, liquidator was to proceed to sell assets of the corporate debtor and fix reserve price as per average of two valuation reports received during CIRP process, impugned order passed by NCLT was to be upheld

Case Review: CS Anagha Anasingaraju v. Virtue Infra and Entertainment (P.) Ltd. [2024] 164 taxmann.com 62 (NCLT -Mum.), affirmed

---

SECTION 31 - CORPORATE INSOLVENCY RESOLUTION PROCESS - RESOLUTION PLAN - APPROVAL OF

Regen Powertech (P.) Ltd. v. Veeral Controls (P.) Ltd. [2024] 164 taxmann.com 91 (NCLAT - Chennai)

Where appellant-Resolution Professional (RP) filed an application before NCLT seeking directions for respondents to contribute a sum to corporate debtor's assets, however, resolution plan had already been approved by NCLT, RP became functus officio and he had no locus standi to file any application on behalf of corporate debtor.

CIRP was initiated against the corporate debtor and, the appellant was appointed as Resolution Professional (RP). RP discovered that respondents had raised fake invoices without supplying materials, fraudulently encashed letters of credit, and siphoned off funds. The appellant filed an application before NCLT seeking directions for respondents to contribute Rs. 1.56 crores with interest to the corporate debtor's assets. Respondents argued that since a resolution plan was already approved, RP lacked locus standi to file application. NCLT dismissed said

application on ground that RP was functus officio after resolution plan's approval. It was noted that CIRP had attained finality and that RP became functus officio and he could not file/prefer/pursue any application on behalf of the corporate debtor and it was responsibility of new Management of the corporate debtor to file such an application.

Held that RP could only provide mechanism to benefit the corporate debtor till resolution process was completed, however, RP could not proceed any further, after resolution plan was approved by NCLT. In terms of resolution plan from approval date, Committee of Creditors/Financial Creditors should take application under section 66 to its logical conclusion and, therefore, RP, had no 'locus standi' in subject matter and impugned order did not suffer from material irregularity.

Case Review : Regen Powertech v. Veeral Controls (P.) Ltd. [2024] 164 taxmann.com 90 (NCLT-Chennai), affirmed.

SECTION 35 - CORPORATE LIQUIDATION PROCESS - LIQUIDATOR - POWERS AND DUTIES OF -

Sundaresh Bhat v. Insolvency and Bankruptcy Board of India [2024] 164 taxmann.com 147 (Delhi)

Where liquidator of a company was suspended by respondent-IBBI for period of two years on ground that he had appointed a firm, in which he himself was a partner, to provide support services and had paid excess fee, actual motive of liquidator behind appointing said firm was to increase his own fee by circumventing Regulation 4 of Liquidation Regulations, 2016 and, therefore, impugned order of suspension of liquidator was to be upheld.

Petitioner was appointed as Interim Resolution Professional (IRP) for the corporate debtor. Later, NCLT directed the corporate debtor to undergo liquidation and petitioner was acting as Liquidator. Meanwhile, the petitioner received a notice of inspection regarding liquidation assignment and, thereafter, a Show Cause Notice (SCN) was issued by the respondent-IBBI, alleging that the petitioner paid an excess fee to a support service i.e., BRAL, in which petitioner was a partner. IBBI found the petitioner guilty of charges and suspended petitioner's registration for two years. Petitioner filed instant writ petition to set aside order of suspension of registration.

Held that since liquidator appointed 'BRAL', a firm in which he was a partner, to provide support services and allowed said firm to raise bills higher than fee of liquidator himself, act of liquidator was contrary to intent of liquidation process. Motive of petitioner behind appointing 'BRAL' was to increase his own fee by circumventing Regulation 4 of Liquidation Regulations, 2016. Since petitioner was guilty of paying excess fee to a support service, in which petitioner himself was a partner, instant Court was not inclined to set aside order of suspension of registration of petitioner.

Case Review : Sundaresh Bhat, In re [2024] 164 taxmann.com 146 (IBBI), affirmed

I. SECTION 35 - CORPORATE LIQUIDATION PROCESS - LIQUIDATOR - POWERS AND DUTIES OF II. SECTION 5(8) - FINANCIAL DEBT

Canara Bank v. Bhagyanagar Hotels (P.) Ltd. - [2024] 164 taxmann.com 202 (NCLAT - Chennai)

Where corporate debtor failed to adhere to to terms MoU entered with operational creditor for payment of outstanding amount due and cheques issued by corporate debtor were also

dishonoured, debt and default had been proved and, therefore, NCLT and NCLAT rightly admitted application filed under section 9 by operational creditor.

i. Regulation 9(C) of Liquidation Regulations mandates cooperation from relevant persons for conducting liquidation and if such cooperation is not provided, Liquidator can seek relief from NCLT; where CIRP petition led to a liquidation order, after which liquidator sought to evict appellant from corporate debtor's premises and recover unpaid rent, appellant's occupation post-lease expiration was unlawful, impugned order passed by NCLT ordering appellant to vacate and pay arrears was justified.

CIRP petition filed against corporate debtor was accepted, leading to a liquidation order. The liquidator then filed an application before NCLT sought to evict the appellant from premises of the corporate debtor and recover unpaid rent. Further, liquidator argued that lease deed, valid from 30-9-2017 for five years, had expired on 30-9-2022 and, the appellant was neither vacating nor paying rent. The appellant claimed a long-term occupation since 1993 under an Agreement of Sale and stated it had invested significantly in property development. Liquidator disputed this, citing financial statements showing the corporate debtor's investments. However, NCLT vide impugned order held that respondent's continued occupation post-lease expiration was wrongful, ordering them to vacate and pay arrears to liquidator. The appellant challenged NCLT's order on ground that NCLT was not a Civil Court and ,hence, it did not have `Jurisdiction', to try `Suits of a Civil Nature. It was noted that after expiry of subsequent Registered Lease Deed, the appellant was in `Unlawful Possession' of `Subject Property'.

Held that Regulation 9 (C) of Liquidation Regulations, clearly mandates, cooperation from persons, in regard to conduct of Liquidation and, if such a cooperation / assistance is not extended liquidator can prefer a petition before NCLT as per Regulations for necessary reliefs. Premises/land in possession of the appellant was an asset of the corporate debtor, which came within purview of Liquidation Estate as per section 36A. After lapse of lease period, the appellant company's possession became unlawful, in subject property, then, it could not be in Law to oppose an application filed by Liquidator before NCLT. In view of facts, directions, issued to the appellant to vacate and handover vacant physical possession of premises' and that in default Liquidator was at liberty to approach NCLT for necessary further directions, and that arrears of rent was to be paid by the appellant to liquidator till date of handing over of physical possession were free from legal errors.

ii. Where petitioner bank sanctioned working capital facilities to respondent No.1, in which corporate debtor, acting as a guarantor and executing loan security documents, during corporate debtor's liquidation, liquidator sought to evict respondent No.1 and recover unpaid rent, however, petitioner bank claiming exclusive charge over superstructures on corporate debtor's land, sought to be impleaded in main appeal, since petitioner was not a necessary party to appeal, NCLT dismissed their petition, as their involvement as a stakeholder did not warrant their inclusion.

The petitioner bank sanctioned Working Capital Facilities to respondent No.1 and respondent No.2-corporate debtor was acting as corporate guarantor, executed loan security documents. Thereafter, respondent No.1 entered into a Composite Hypothecation Agreement acknowledging loan liability and created an Equitable Mortgage over Superstructure by depositing Title Deeds Corporate Guarantee. Meanwhile, liquidation commenced against the corporate debtor and liquidator filed an application before NCLT seeking to evict respondent no.1 from premises of the corporate debtor and recover unpaid rent.

NCLT vide impugned order allowed said application and directed the respondent no. 1 to vacate and pay arrears to liquidator. Petitioner filed instant appeal before NCLT seeking to be impleaded as proposed respondent no. 2 in main appeal, claiming exclusive charge over Superstructures built by respondent no.1 on the corporate debtor's land further argued that corporate debtor's role as a guarantor did not make Superstructures its property. It was noted that petitioner was a member of the corporate debtor's Stakeholders Committee and just because petitioner had given loans in pursuance of Superstructures, it would not qualify to get itself `impleaded', in main appeal. It was further noted that when application was filed before NCLT on behalf of and with consent and consideration of Members of Stakeholders Committee (including petitioner) but no steps were ever

SECTION 3(12) - CORPORATE INSOLVENCY RESOLUTION PROCESS - DEFAULT

Rita Malhotra v. Orris Infrastructure (P.) Ltd. - [2024] 164 taxmann.com 232 (NCLAT- New Delhi)

Where appellants had applied for office space with corporate debtor under assured return scheme, appellants held status of allottee and having filed section 7 application they were mandatorily required to comply with threshold limit under second proviso to section 7(1).

Respondent-corporate debtor floated a scheme to develop/construct a commercial building/complex. Appellants under assured investment return plan, applied for office space under an assured return scheme and entered into an agreement with the corporate debtor which guaranteed monthly assured return on investment. The corporate debtor breached agreement and failed to make payment towards return on investment and petition under section 7 was filed by the appellants against the corporate debtor. However, a settlement was reached between parties and petition was withdrawn in view of cheques issued for payment till June 2019 but the corporate debtor defaulted again, leading the appellants to revive CIRP petition. NCLT vide impugned order rejected said application on ground that an application should be filed jointly by not less than one hundred allottees or not less than 10 per cent of total number of allottees creditor of same class and instant application was filed by only 2 allotees out of 504 allottees and, therefore, appellants did not satisfy threshold for filing application under section 7. Appellants challenged NCLT's order on ground that they were claiming an amount which had become due and payable on account of Monthly Assured Return (MAR) Plan and, therefore, threshold provided under second proviso to section 7(1) was not applicable.

Held that on a plain reading of provisions contained in section 2 of RERA Act, a commercial space/unit allottee is covered under purview of 'allottee' under RERA and by virtue of Explanation (ii) to section 5(8)(f) same interpretation is to be adopted for an 'allottee' under IBC. NCLT had correctly held that even a commercial space or unit allotted to Assured Returns Class of Creditors was also covered in ambit of an allottee. Appellants could not be said to go out of definition of 'allottee' merely because they were part of MAR plan or that they should be treated in a different category wherein they were not required to comply with second proviso to section 7(1). Appellants continued to hold status of 'allottees' and having filed section 7 application, they were mandatorily required to comply with second proviso to section 7(1). Since parameters of section 7 application had not been complied with, section 7 application was non-maintainable and, thus, appeal was to be dismissed.

Case Review : Ms. Rita Malhotra v. Orris Infrastructure (P.) Ltd. [2023] 154 taxmann.com 471 (NCLT - New Delhi), affirmed.

SECTION 96 - INDIVIDUAL/FIRM'S INSOLVENCY RESOLUTION PROCESS - INTERIM-MORATORIUM

Sanjay Dhingra v. IDBI Bank Ltd. - [2024] 164 taxmann.com 233 (Delhi)

Where on default of repayment by principal borrower, lender bank took action under SARFEASI Act against property mortgaged by petitioner-personal guarantor, meanwhile, insolvency proceedings under section 95 were initiated against petitioner, mere fact that possession of said property was taken over by bank under SARFAESI proceedings, prior to commencement of IBC proceedings, would have no effect on interim moratorium applicable in terms of section 96.

Borrower company availed loan facilities from respondent bank and petitioner created personal guarantee by mortgaging its immovable property i.e. secured assets. Since borrower defaulted to repay debt, respondent, enforced its security interest against said property under SARFAESI Act and a Receiver was appointed for taking over possession of said property. Receiver issued possession notice to the petitioner and possession was taken over by the respondent.

Meanwhile personal insolvency proceedings under section 95(1) of IBC were initiated against the petitioner, as a personal guarantor, before NCLT. The petitioner filed instant writ petition against steps initiated by respondent and sought to quash/set aside said notices issued by Court Receiver.

The petitioner contended that in terms of section 96(1), proceedings pending in respect of any debt, would be deemed to be stayed and respondent could not invoke provisions of SARFAESI Act against the petitioner. It was noted that no sale process was commenced with respect to said property by the respondent and process under SARFAESI Act was not complete.

Held that mere fact that possession of said property was taken over by respondent under SARFAESI proceedings, prior to commencement of IBC proceedings against the petitioner, would have no effect on interim moratorium applicable in terms of section 96. Once interim moratorium came into play on account of insolvency proceeding against the petitioner, the respondent could not proceed any further in proceedings under SARFAESI Act, however, as and when interim moratorium would be lifted, respondent could proceed under SARFAESI Act and the petitioner would be at liberty to approach DRT. Therefore, instant writ petition was to be disposed of.

SECTION 220 - INSPECTION AND INVESTIGATION OF INSOLVENCY PROFESSIONALS, AGENCIES AND INFORMATION UTILITIES - DISCIPLINARY COMMITTEE - APPOINTMENT OF

CA V. Venkata Siva Kumar v. Disciplinary Committee Insolvency and Bankruptcy Board of India [2024] 164 taxmann.com 260 (Madras)

Where petitioner was appointed as liquidator of a corporate debtor, however, on date of appointment, he did not possess valid

Authorization for Assignment (AFA) as per IBBI holding Regulations, order of Disciplinary Committee of IBBI holding petitioner guilty of professional misconduct and imposing penalty on him was justified.

MSPG issued a work contract in favour of the corporate debtor, following which the corporate debtor appointed respondent as a sub-contractor to provide engineering services. The respondent had submitted a Bank Guarantee in terms of the contract between the corporate debtor and the respondent. Subsequently, the corporate debtor was brought under liquidation proceedings and the appellant was appointed as a liquidator. The respondent in the liquidation process had filed their claim before the Liquidator, which also included a refund of guarantee amount paid. However, liquidator had rejected the claim of the respondent on ground that amount had been paid against bank Guarantee without raising any objections. The respondent filed an application before NCLT seeking directions for Liquidator to accept their claim. NCLT vide impugned order had allowed said application of the respondent. Aggrieved by impugned order, the appellant filed instant appeal on ground that the respondent had defaulted in discharge of its obligations under contract and due to delayed submissions of drawing and design documents by the respondent, entire project of MSPG had been delayed and the corporate debtor had rightly invoked bank guarantee of the respondent having suffered losses. It was noted that there was no material placed on record by the appellant which showed that the corporate debtor had on any occasion denied making payments against invoices raised by the respondent, which showed that the corporate debtor was satisfied with level of services performed by the respondent and, thus, liquidator had not brought on record any substantive evidence that invocation of Bank Guarantee by MSPG was attributable to deficiency in work on part of the respondent, liquidator was to have summarily rejected claim of the respondent.

Held that since there was no communication regarding balance or pending work and there were no specific grievances with regard to inferior quality of work and, therefore, NCLT rightly held the respondent was entitled to refund bank guarantee paid by it.

Case Review: Tata Consulting Engineers Ltd. v. Sunil Hitech Engineers Ltd. [2024] 163 taxmann.com 311 (NCLT -Mum.) (para 20) affirmed See Annex

SECTION 5(21) - CORPORATE INSOLVENCY RESOLUTION PROCESS - OPERATIONAL DEBT

Vaibhav Aggarwal v. Sunil Sachdeva [2024] 164 taxmann.com 313 (NCLAT-New Delhi)

Tenancy and lease rent dues fall in category of operational debt as defined under section 5(21); where a lease agreement was executed between lessor and corporate debtor but corporate debtor failed to pay rental dues and GST as per lease agreement, impugned order passed by NCLT admitting application under section 9 and initiating CIRP was justified.

A lease agreement was executed between lessors i.e., Late 'RS', Late 'CS' and lessee i.e., respondent No. 2-corporate debtor for a property in New Delhi with a lease term of 12 years from 28-8-2016 to 27-8-2028 - After 'RS' and 'CS' passed away, their son 'SS' claimed to be their legal heir - Thereafter, due to non-receipt of rent and GST, 'SS' issued a notice to corporate debtor for Rs. 52.64 lakhs, followed by a termination notice, claiming a default amount of Rs. 85.44 lakhs - Despite these notices, no payments were made - Consequently, 'SS' issued a demand notice under section 8 and filed a section 9 application before NCLT, which was admitted by NCLT - Appellant,

authorised representative of corporate debtor, filed appeal before NCLAT - It was noted that corporate debtor had been irregular in payment of rent since 10-3-2017 and no payment towards rent and GST was made since 30-8-2018 -

Held that tenancy and lease rent dues fall in category of operational debt as defined under section 5(21). Operational creditor was consistently pressing for release of outstanding amount and there was nothing on record to show that the corporate debtor had objected or controverted claims raised by the operational creditor prior to issue of section 8 demand notice. The corporate debtor had raised various grounds of pre-existing disputes, however, there was no real and substantial pre-existing dispute which could thwart admission of section 9 application against the corporate debtor and, therefore, impugned order passed by NCLT admitting section 9 application was justified.

Case Review : Sunil Sachdeva v. Haldiram Fincap (P.) Ltd. [2024] 164 taxmann.com 312 (NCLT - New Delhi), affirmed.

GUIDELINES FOR ARTICLE

The articles sent for publication in the journal "The Insolvency Professional" should conform to the following parameters, which are crucial in selection of the article for publication:

✓ The article should be original, i.e., not published/broadcasted/hosted elsewhere including any website. A declaration in this regard should be submitted to IPA ICAI in writing at the time of submission of article.

✓ The article should be topical and should discuss a matter of current interest to the professionals/readers.

✓ It should preferably expose the readers to new knowledge area and discuss a new or innovative idea that the professionals/readers should be aware of.

✓ The length of the article should be 2500-3000 words.

✓ The article should also have an executive summary of around 100 words.

✓ The article should contain headings, which should be clear, short, catchy, and interesting.

✓ The authors must provide the list of references if any at the end of article.

✓ A brief profile of the author, e-mail ID, postal address and contact numbers and declaration regarding the originality of the article as mentioned above should be enclosed along with the article.

✓ In case the article is found not suitable for publication, the same shall not be published.

✓ The articles should be mailed to "publication@ipaicmai.in".