

Association of Corporate Advisers & Executives

Conclave on

# IBC *at ten*

18<sup>th</sup> April, 2026 | The Park, Kolkata

Innovation,  
Reform and  
Emerging  
Challenges.

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# ASSOCIATION OF CORPORATE ADVISERS & EXECUTIVES



## THEME SONG

# EMBRACE THE PATH OF TRUTH TO GREATNESS

The members of ACAE, in its Extraordinary General Meeting (EGM) held on February 25, 1988, approved the following theme song:

| Sanskrit Hymn (In English) |                                | English Translation                   |                                   |
|----------------------------|--------------------------------|---------------------------------------|-----------------------------------|
| Asatoma Sad-Gamaya         | Mrytyor-Maa Amritam Gamaya     | Lead me from the Untruth to the Truth | Lead me from Death to Immortality |
| Tamaso Maa Jyotir-Gamaya   | Om Shaantih Shaantih Shaantihi | Lead me from Darkness to Light        | Om Peace, Peace, Peace            |

Subsequently, this theme song was reviewed to align it with the motto of ACAE, encapsulated in its logo — “Work is Worship”. The following new theme song of the Association was approved in the EGM held on June 29, 2024:

| New Theme Song (Hindi)                                                                                           | New Theme Song (dialect in English )                                                                                                   | English Translation                                                                                                                                                   |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| निष्काम तू जो कर्म कर<br>विश्वास हो जो धर्म पर<br>हर नियति में हो गति<br>जग जीत ले तू                            | Nishkaam tu jo karm kar<br>Vishwas ho jo dharm par<br>Har neeyati mein ho gati<br>Jag jeet le tu                                       | Perform Actions with Integrity,<br>Have Faith in Righteousness.<br>Let there be Momentum in Every Intention,<br>Achieve Greatness, O you!                             |
| हो हौसला चढ़ान सा<br>हो श्वास में तूफान सा<br>मझधार को अब पार कर<br>जग जीत ले तू                                 | Ho haunsla chattaan sa<br>Ho shwaas mein toofaan sa<br>Majhdhaar ko ab paar kar<br>jag jeet le tu                                      | Let your Courage be like a Mountain,<br>Let every Breath be Courageous.<br>Cross the Tides with Honesty,<br>Achieve Greatness, O you!                                 |
| तू विश्व में उदघोष कर<br>अब हर हृदय में जोश भर<br>पहचान तू जो लक्ष्य है<br>जीवन तेरा उत्कर्ष है<br>जग जीत ले तू! | Tu vishwa mein udghosh kar<br>Ab har hriday mein josh bhar<br>Pehchaan tu jo lakshya hai<br>Jeevan tera utkarsh hai<br>Jag jeet le tu! | Declare in the world,<br>Fill every Heart with Enthusiasm.<br>Identify the Goal to be Achieved,<br>Your Life is Excellence.<br>Achieve Greatness, O you!              |
| हो सत्य निष्ठ तेरी डगर<br>हो रौशनी हर राह पर<br>अब बस यही पैगाम दे<br>सृष्टि नए आयाम ले                          | Ho satya nishth teri Dagar<br>Ho raushni har raah par<br>Ab bas yahi paighaam de<br>Srishtii naye aayaam le                            | Let Truth be your Path,<br>Let there be Light on every Road.<br>Now, Give this Message:<br>Embrace a New Dimension,<br>Achieve greatness... Achieve greatness, O you! |
| जग जीत ले तू...<br>जग जीत ले तू.....                                                                             | Jag jeet le tu... Jag jeet le tu....                                                                                                   |                                                                                                                                                                       |



### What does the cover signify?

The cover symbolizes a decade of the Insolvency and Bankruptcy Code (IBC), nurturing revival and growth rather than mere closure. The layered blue and green hands represent diverse stakeholders jointly supporting distressed businesses, while the plant rising from their palms depicts renewal, innovation, and sustainable value creation over ten years. The calm, fluid colours convey stability and hope as the ecosystem continues to evolve with new reforms and emerging challenges.

### Disclaimer

The views expressed by the authors in their articles are their own views and do not represent the views of either of IPA-ICMAI, ACAIE and IPNet or the Branches or any of its Committees.

The Associations does not accept any responsibility for the views expressed in different contributions / advertisements published in this Souvenir.

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## **INSOLVENCY PROFESSIONAL AGENCY OF INSTITUTE OF COST ACCOUNTANTS OF INDIA**

(Section 8 Company registered under the Companies Act, 2013)

### About Us

The Insolvency Professional Agency of the Institute of Cost Accountants of India is a frontline regulator registered with the Insolvency and Bankruptcy Board of India ("IBBI"), bearing registration number IBBI/IPA/16-17/03 under the Insolvency and Bankruptcy Code, 2016 ("Code"). Insolvency Professional Agency of Institute of Cost Accountants of India is a Section 8 Company incorporated under provisions of the Companies Act, 2013 and is a wholly owned subsidiary of the Institute of Cost Accountants of India.

Insolvency Professional Agency of Institute of Cost Accountants of India is vested with the power to enrol, educate, monitor and regulate the profession of the Insolvency Professionals who are enrolled as the professional members with it. The functioning of Insolvency Professional Agency of Institute of Cost Accountants of India also includes laying down the best practices, policies and standards on the different areas developed and emerging areas under the Code, redressing grievances and disciplinary proceedings against the professional members and conducting inspection of its professional members.

Insolvency Professional Agency of Institute of Cost Accountants of India has professional members enrolled with it from versatile disciplines which include CMA,CS,CA, Bankers, Lawyers, Management Experts etc. To ensure continuous growth of the professional members and as a part of continuous learning process, Insolvency Professional Agency of Institute of Cost Accountants of India has a proven track record of introducing various initiatives from time to time in the form of IBC Au-Courant (Daily Newsletter), The Insolvency Professional: Your Insight Journal (Monthly E-Journal), IBC Dossier (Bulletin on brief of landmark judgements), IBC Case Books (A detailed study of company's insolvency/liquidation process), Preparatory Education Course for Limited Insolvency Examination, Certificate Courses in various domains related to the insolvency and bankruptcy along with the routine series of webinars, roundtables, conference and workshops for the entire professional fraternity across India. Till date Insolvency Professional Agency of Institute of Cost Accountants of India also has a proven track record of conducting maximum inspection of its professional members across India with an intent of improving their performance in line with the best practices. IPA ICMAI has organized more than 500 programs in online and In-person mode PAN India since the inception of the company.





## Association of Corporate Advisers & Executives

### About Us

Established in 1960, the Association of Corporate Advisers and Executives ACAIE is one of the oldest and most respected professional associations in Eastern India. Based in Kolkata, ACAIE represents a diverse and dynamic community of over 1200 members, comprising corporate professionals, practitioners, industrialists, and business leaders across various domains including accounting, taxation, legal, corporate affairs, and financial services.

Since its inception, ACAIE has played a pioneering role in creating a collaborative platform that brings together corporates and professionals to foster shared growth, knowledge exchange, and progressive development. Over the years, our events have been honoured by the presence of several distinguished national leaders, policymakers, academicians, and industry stalwarts, including Bharat Ratna Late Sri Jayaprakash Narayan, Late Shri Somnath Chatterjee, Bharat Ratna Late Shri Pranab Mukherjee, Shri Keshari Nath Tripathi, Dr. Arvind Panagariya, Dr. Amit Mitra, Dr. Sambit Patra, Shri Sachin Pilot, Late Shri B. K. Birla, Shri Y. C. Deveshwar, Shri B. M. Khaitan, Shri R. S. Agarwal, Shri Sanjiv Goenka, Shri Harshavardhan Neotia, Shri T. V. Mohandas Pai, Shri M. J. Akbar, Smt. Meenakshi Lekhi, Dr. Parthasarathi Shome, Shri Anurag Thakur, Shri Babul Supriyo, Dr. Shashi Panja and Shri Piyush Goyal, among other eminent luminaries who have made profound contributions to the nation's progress.

ACAIE continues to be at the forefront of addressing the evolving challenges of the corporate and professional world, particularly in today's rapidly changing legal, technical, and global business environment. Through its wide range of initiatives such as seminars, conferences, workshops, conclaves, and fellowship programs, the Association actively promotes knowledge dissemination, professional excellence, and meaningful networking.

In line with its forward looking vision, ACAIE has continuously evolved its membership profile, infrastructure, and knowledge resources. The vision initiative "ACAIE Looking Beyond 50 Years" marked a significant milestone in its journey, complemented by the inauguration of its modern office infrastructure in 2011.

Further strengthening its commitment to recognizing excellence, ACAIE in association with The Economic Times launched the prestigious ET Bengal Corporate Awards, which has successfully celebrated and honored outstanding achievements in the corporate sector of Bengal.

With a rich legacy and a progressive outlook, ACAIE remains dedicated to empowering professionals and contributing to the growth of the corporate ecosystem.





# National Network for Insolvency Professionals

## About Us

IP Net is a pioneering national initiative by Tranzission that brings together Insolvency Professionals (IPs) across India on a unified platform to promote collaboration, knowledge sharing, and professional growth. With a vision to build a strong and connected community, IP Net offers a comprehensive ecosystem with access to resources, practical tools, legal updates, and continuous learning through webinars, events, and peer engagement. It addresses common challenges in the insolvency domain by enabling professionals from diverse regions to share real-world experiences, enhance expertise, and stay updated with evolving regulations.

IP Net is led by Dr. Ashish Makhija, President, a respected figure in the insolvency and bankruptcy field whose experience and commitment to professional development provide strong leadership. The initiative is supported by a National Executive Committee of ten members, including Insolvency Professionals and experts from related fields nominated by Tranzission, who guide strategy and key initiatives in line with IP Net's objectives.

To ensure effective regional engagement, IP Net operates through five zones: East (headed by Rajiv Kumar Agarwal), West (Udayraj Patwardhan), North (Sandeep Chitkara), South (Suhasini Ashok), and Central (Teena Saraswat Pandey). Demonstrating its commitment to continuous learning, IP Net has completed over one year of weekly sessions, conducting 76 webinars held every Saturday.

Beyond virtual initiatives, IP Net also organizes physical seminars for deeper engagement. This is its second such seminar, conducted with ACAE and the Insolvency Professional Agency of Institute of Cost Accountants of India, following the first successful seminar in New Delhi.



# PROGRAMME AT A GLANCE

Conclave on  
**IBC**  
Innovation Reform and  
Emerging Challenges *at ten*



| Time          | Sessions                                                                                                                                      | Guests / Speakers                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|---------------|-----------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 09:00 - 09:45 | Registration & Networking                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 09:45 - 10:45 | Inaugural Session                                                                                                                             | Chief Guest: <b>Shri Indevar Pandey</b><br>Hon'ble Member (Technical), NCLAT<br>Guest of Honour: <b>Shri Ravinder Maini</b><br>Executive Director, IBBI                                                                                                                                                                                                                                                                                                 |
| 10:45 - 11:15 | Breaking the Deadlock - The Enforcement Directorate - IBBI framework for Restitution of Attached Assets in CIRP                               | Moderator : <b>Adv. IP Ram Ratan Modi</b><br>Mentor, IBC Committee, ACAE<br>Regulator's Insight: <b>Shri Ravinder Maini</b><br>Executive Director, IBBI<br>Legal Insight: <b>Adv. Sandeep Bajaj</b><br>Founder, PSL Law Chambers                                                                                                                                                                                                                        |
| 11:15 - 11:30 | Tea Break                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 11:30 - 12:15 | Aviation Sector : Interplay between Cape Town Convention & The Protection of Interests in Aircraft Objects Act, 2025: Harmonization & Hurdles | Legal Insight: <b>Sr. Adv. Rohit Kapoor</b><br>Former Member (Judicial), NCLT, Kolkata Bench<br>Technical Insight: <b>CA IP Ashish Chhawchharia</b><br>Partner, Grant Thornton Bharat                                                                                                                                                                                                                                                                   |
| 12:15 - 13:00 | Real Estate Sector : Projectwise CIRP - Segregating Claims and Assets to Ensure Last-Mile Delivery                                            | Legal Insight: <b>Adv Ramya Hariharan</b><br>Founder Partner, Citadel Law Chambers<br>Technical Insight: <b>CA. IP Udayraj Patwardhan</b><br>Insolvency Practitioner, Regional Director - West - IP Net                                                                                                                                                                                                                                                 |
| 13:00 - 13:45 | Panel of Judicial Members: A Decade of Resolution: Judicial Expectations and the Evolving Role of Ips                                         | Moderator: <b>CA IP Jitendra Lohia</b><br>Esteemed Panelists:<br><b>Smt. Bidisha Banerjee</b><br>Hon'ble NCLT Member (Judicial)-HOD, Kolkata<br><b>Shri Cheekati Radha Krishna</b><br>Hon'ble NCLT Member (Judicial), Kolkata<br><b>Ms. Rekha Kantilal Shah</b><br>Hon'ble NCLT Member (Technical), Kolkata                                                                                                                                             |
| 13:45 - 14:30 | Lunch Break                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 14:30 - 15:00 | Disciplinary Proceedings - Regulations, Responsibility & Redressal                                                                            | <b>Dr. Ashish Makhija</b> , President IP Net                                                                                                                                                                                                                                                                                                                                                                                                            |
| 15:00 - 16:00 | Panel discussion: Synchronizing Stakeholder Interests to Maximize Economic Value and Corporate Longevity                                      | Moderator: <b>CA IP Subodh Kr. Agrawal</b><br>Past President, ICAI<br>Esteemed Panelists:<br><b>IP G S Narasimha Prasad</b><br>Managing Director, IPA ICAI<br><b>Mr. Poonkoman Rangasamy</b><br>State Bank of India, DGM-SAMB II, Kolkata<br><b>Mr. Sanjib Patwari</b><br>Promoter, Rashmi Group<br><b>CA. IP. Nitin Daga</b><br>Insolvency Practitioner, Chairperson<br>IBC Committee, ACAE<br><b>Adv. P V Shiju</b><br>Managing Partner, IndiaLaw LLP |
| 16:00 - 17:00 | IBC Amendments: Key Changes and Practical Insights                                                                                            | Legal Insight: <b>Adv. Ajay Shaw</b><br>Partner, DSK Legal<br>Technical Insight: <b>Dr. IP Mamta Binani</b><br>Past President, ICSI                                                                                                                                                                                                                                                                                                                     |
| 17:00 - 17:15 | Vote of Thanks                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

Conclave on

# IBC

Innovation, Reform and  
Emerging Challenges

*at ten*



## Our Distinguished Guests & Speakers

### Inaugural Session



**Chief Guest**  
**Shri Indevan Pandey**  
Hon'ble Member (Technical) NCLAT



**Guest of Honour**  
**Mr. Ravinder Maini**  
Executive Director, IBBI

### Hon'ble Members, NCLT, Kolkata Bench



**Smt. Bidisha Banerjee**  
Hon'ble Member (Judicial-HOD)  
NCLT, Kolkata Bench



**Shri Cheekati Radha Krishna**  
Hon'ble Member (Judicial)  
NCLT, Kolkata Bench



**Ms. Rekha Kantilal Shah**  
Hon'ble Member (Technical)  
NCLT, Kolkata Bench

### Speakers / Panelists



**Sr. Adv. Rohit Kapoor**  
Former Member, NCLT



**Dr. Ashish Makhija**  
Managing Attorney  
AMC Law Firm



**Mr. Poonkoman Rangasamy**  
DGM & BH, SAMB II, SBI, Kolkata



**IP G S Narasimha Prasad**  
Managing Director - IPA - ICAI



**Mr. Sanjib Patwari**  
Promoter - Rashmi Group



**CA. IP Subodh Kr. Agarwal**  
Past President, ICAI



**CA. IP Ashish Chhawchharia**  
Partner, Grant Thornton Bharat



**CA. IP Udayraj Patwardhan**  
Insolvency Practitioner



**Dr. IP Mamta Binani**  
Past President, ICSI



**Adv. Sandeep Bajaj**  
Founder, PSL Law Chamber



**CA. IP Nitin Daga**  
Insolvency Practitioner  
Chairperson, IBC Committee, ACAE



**Adv. Ramya Hariharan**  
Founder  
Citadel Law Chambers



**Adv. Ajay Shaw**  
Partner, DSK Legal



**Adv. P. V. Shiju**  
Managing Partner, Indialaw LLP



**R R Modi**  
Advocate, Calcutta High Court  
Mentor, IBC Committee, ACAE



**CA. IP Jitendra Lohia**  
Insolvency Practitioner

# Conclave on **IBC** *atten* Innovation, Reform & Emerging Challenges



## Organisers & Event Committee

Insolvency Professional Agency of Institute of Cost Accountants of India (IPA-ICMAI)



CA IP Kamal Nayan Jain  
Director



IP G S Narasimha Prasad  
Managing Director



Ms. Karishma Rastogi Varshney  
Secretary & Compliance Officer

## Association of Corporate Advisers & Executives (ACAE)



CA. Niraj Kumar Harodia  
President



Adv. IP R R Modi  
Advocate, Calcutta High Court  
Mentor, IBC Committee



CA. IP Nitin Daga  
Chairperson  
IBC Committee



Adv. Tannya Baranwal  
Co-chairperson  
IBC Committee

## IP Net



Dr. Ashish Makhija  
President



CA. IP Udayraj Patwardhan  
Regional Director - West



CA. IP Rajiv Kumar Agarwal  
Regional Director - East

## Support Committee



CA. IP Rashmi Chhawchharia



CMA IP Sandeep Singh



CA. Anshika Khaitan



CS IP Harmeet Kaur



# Messages

## EDITORIAL AND CONFERENCE CHAIRMAN - ACAE IBC COMMITTEE



**Mr. Daga is an accomplished Insolvency Professional and practising chartered accountant with over 15 years of diversified experience in corporate restructuring, stressed asset resolution, insolvency processes, and capital market transactions.**

*Dear Esteemed Professional Colleagues,*

It is with great pride and pleasure, I welcome you all at the conclave on “IBC at Ten: Innovation, Reform & Emerging Challenges” — an exclusive seminar dedicated to the evolving landscape of insolvency in India. As we enter the 10<sup>th</sup> year of the Insolvency and Bankruptcy Code, 2016, this occasion marks not merely a milestone, but a moment of reflection, recognition, and renewed commitment towards strengthening the insolvency ecosystem. I would also like to express my appreciation to our esteemed joint organizers, the Insolvency Professional Agency of Institute of Cost Accountants of India (IPA-ICMAI) and IP Net, as well as to the entire organizing team for their invaluable and immeasurable support, whose unwavering dedication and meticulous efforts have made this conclave possible. I also express my heartfelt gratitude to the President of Association of Corporate Advisers & Executives for reposing trust in me to curate and lead this significant initiative.

On this occasion, I am delighted to present our flagship Souvenir, thoughtfully curated in alignment with the theme of this conference. This publication brings together a rich collection of articles contributed by senior and active professionals in the insolvency domain, offering diverse perspectives, and practical insights on the subject.

This conclave convenes an eminent and diverse assembly of professionals, thought leaders, and key stakeholders, including respected members from the Insolvency and Bankruptcy Board of India (IBBI), the National Company Law Appellate Tribunal (NCLAT), the National Company Law Tribunal (NCLT) and, IPA-ICMAI. The participation of banks, financial institutions, and policymakers further enriches this platform, fostering meaningful dialogue, exchange

of insights, and exploration of forward-looking solutions. The collective wisdom of this distinguished gathering will undoubtedly contribute to shaping the next phase of reforms under the Code.

As professionals entrusted with the responsibility of navigating this framework, we play a pivotal role in upholding its integrity, efficiency, and credibility. Our unwavering commitment to ethical standards, professional excellence, and continuous learning remains fundamental to sustaining stakeholders’ trust and confidence.

I am confident that the deliberations on critical themes – including innovation in insolvency processes, evolving jurisprudence, sector-specific challenges such as real estate and aviation, and emerging best practices will offer valuable perspectives and actionable insights.

May this event serve as a catalyst for constructive discourse and progressive reform, further strengthening the foundations of the insolvency regime and contributing to a more resilient and robust economic future.

Let us move forward together, continuing to innovate, reform, and reinforce the insolvency ecosystem. I wish you all an engaging, insightful, and enriching experience at the conclave.

Warm regards,

**CA (IP) Nitin Daga**  
Chairman - IBC Committee, ACAE

## FROM THE DESK OF ACAE'S PRESIDENT

“धर्मो रक्षति रक्षितः”

**(Dharma protects those  
who protect it)**

This timeless wisdom resonates deeply with the spirit of the Insolvency and Bankruptcy Code, which over the past decade has upheld the principles of fairness, discipline, and accountability in our economic system. As we celebrate “IBC @ Ten”, we are not merely marking a milestone; we are reaffirming our collective commitment towards a more transparent, resilient, and responsible corporate India.

It is indeed a matter of immense pride for me to welcome you all to this prestigious Conclave.

The Association of Corporate Advisers & Executives (ACAE), a 65-year-old institution, stands today as a vibrant and evolving professional body, enriched by the wisdom and legacy of 33 respected Past Presidents whose blessings and guidance continue to inspire us. Today, ACAE is not just an association it is a family of over 1,800 professionals, united by a shared vision of excellence, ethics, and nation-building.

At ACAE, we strongly believe:

“न हि ज्ञानेन सदृशं पवित्रमिह विद्यते”

(There is nothing more purifying than knowledge)

This Conclave is a reflection of that belief bringing together stalwarts from the judiciary, regulatory bodies, industry, and the professional fraternity to deliberate on the evolving landscape of insolvency law, emerging challenges, and the way forward.

I would like to place on record my heartfelt appreciation for the IBC

Committee of ACAE. A special word of gratitude to our Mentor, CA. R. R. Modi, Our Past President whose constant guidance and blessings continue to shape ACAE's journey.

I extend my sincere thanks to CA. Nitin Daga, Chairman, for his vision and tireless efforts in conceptualising this Conclave, and to Co-Chairperson Tanya for her dedicated support in ensuring its successful execution.

I also express my deep gratitude to all dignitaries from IBBI, NCLAT, NCLT & ICAI - IPA whose presence adds immense value and credibility to this platform. My heartfelt thanks to all our distinguished speakers for sharing their knowledge and insights with the fraternity.

Dear delegates, if you are not yet a part of the ACAE family, I warmly invite you to join us in this journey of professional growth, knowledge sharing, and meaningful networking. Together, we can build a stronger and more impactful professional ecosystem.

I also encourage all of you to stay connected with us and be part of our continuous learning initiatives by following ACAE on our social media platforms.

As we move forward, let us carry this thought:

“उद्यमेन हि सिद्ध्यन्ति कार्याणि न मनोरथैः”

(Success comes through effort, not merely by wishes)



Let us collectively strive to strengthen the insolvency framework and contribute meaningfully to India's growth story.

Wishing the Conclave grand success.

Warm regards,

**CA. Niraj Kr. Harodia**

*President*

*Association of Corporate Advisers & Executives (ACAE)*



## SHRI INDEVAR PANDEY, HON'BLE MEMBER (TECHNICAL) NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

I am pleased to be associated with "IBC at Ten: Innovation, Reform & Emerging Challenges." As we enter the 10th year of the Insolvency and Bankruptcy Code (IBC), this forum provides a valuable opportunity for stakeholders to come together and reflect upon the journey of the Code and its impact on strengthening India's financial ecosystem.

Over the past decade, the IBC has emerged as a transformative reform, fundamentally reshaping the insolvency and restructuring landscape in India. It has instilled greater discipline in credit markets, enhanced transparency in processes, and contributed to a more structured and time-bound mechanism for resolution of stressed assets.

The strength of the IBC lies in prompt response from stakeholders to evolving conditions. Legislature has been prompt in bringing requisite amendments in legislative framework based on feedback from implementation; the Judiciary has played a vital role in dynamic evolution of the code through judicial interpretation and practical application; The Ministry of Corporate Affairs and IBBI have played a key role by promptly

bringing in Rules and Regulations for effective implementation of the Code. The role of adjudicating authorities and appellate forums has been crucial in clarifying legal principles, ensuring consistency, and upholding the objectives of the Code.

As we stand at this important juncture, it is equally essential to acknowledge the challenges that have surfaced in implementation – be it delays, evolving complexities, or the need for greater institutional capacity. The upcoming amendments to the Code are a step in the right direction, aiming to address these concerns, streamline procedures, and further strengthen the insolvency ecosystem.

This conclave is both timely and relevant, as it enables deliberation on the progress achieved thus far, while also addressing the practical challenges being faced in implementation. In light of the evolving jurisprudence and the upcoming amendments to the Code, such discussions assume greater importance in ensuring that the framework remains robust, efficient, and responsive to emerging needs.

I am confident that the exchange of ideas on key aspects such as innovation in insolvency processes, evolving

jurisprudence, real estate insolvency, and innovative approaches to resolution will contribute meaningfully to the continued strengthening of the insolvency regime.

I commend the organisers for their efforts in bringing together such a distinguished gathering of professionals and experts. I extend my best wishes for the success of this event and hope that the deliberations will lead to constructive insights and progressive reforms in the insolvency framework.

Warm regards,

A handwritten signature in blue ink, appearing to read 'Indevar Pandey'.

**Shri Indevar Pandey**  
*Hon'ble Member, NCLAT, New Delhi*



**B. V. BALARAM DAS,  
HON'BLE MEMBER (JUDICIAL)  
NATIONAL COMPANY LAW TRIBUNAL,  
NEW DELHI**

I am happy to learn that a Conclave on the Insolvency and Bankruptcy Code (IBC) is being organised by the Insolvency Professional Agency of Institute of Cost Accountants of India on April 18, 2026 at Kolkata. Such platforms provide a useful opportunity for stakeholders to deliberate on the evolving insolvency framework and its role in strengthening the financial ecosystem.

Since its inception, the IBC has brought significant changes to insolvency resolution in India by promoting transparency, accountability and time-bound processes. The recent passage of the Insolvency and Bankruptcy Code (Amendment) Bill, 2025 is another important step towards further streamlining the framework, reducing delays and addressing practical challenges.

I am sure that the discussions at the conclave will lead to meaningful exchange of ideas and constructive suggestions for continued improvement of the insolvency regime.

I convey my best wishes for the success of the event.

A handwritten signature in blue ink, consisting of stylized initials and a long horizontal stroke.

**B. V. Balaram Das**

*Hon'ble Member, NCLT, New Delhi  
President*



## SMT. BIDISHA BANERJEE HON'BLE MEMBER (JUDICIAL) & HOD NATIONAL COMPANY LAW TRIBUNAL, KOLKATA

It gives me immense pride and pleasure to be associated with this confluence on the ***"Insolvency and Bankruptcy Code at Ten: Innovation, Reform & Emerging Challenges"*** – a milestone that signifies both achievement and the promise of the continued progress .

As a Judicial member and HOD of the NCLT, Kolkata Bench, I firmly believe that the journey of the IBC embodies the spirit of transformation and resilience, continually adapting to the evolving needs of our economy. I have witnessed first-hand how the IBC has transformed the landscape of insolvency resolution, fostering transparency, accountability, and innovation in our financial ecosystem.

As we gather for this conclave marking a decade of the Insolvency and Bankruptcy Code, it is imperative to reflect upon the transformative journey of the IBC over the past ten years. The Code has not only revolutionised insolvency resolution processes but has also instilled greater confidence and discipline among market participants. Together, let us embrace innovation, champion reforms, and confront emerging challenges with unwavering dedication to justice and the rule of law and remain steadfast in our pursuit of excellence.

While the IBC is still in its nascent form, the daily challenges faced by the NCLT benches continue to shed light on areas requiring improvement. These ongoing experiences will undoubtedly usher in new reforms in the Code in the days to come, ensuring that it remains responsive and robust to meet emerging needs ensuring that the Code addresses new challenges and remains a beacon of hope and progress for India in the years to come .

I would like to commend the organisers of this IBC conclave for their stellar efforts in bringing together such a distinguished gathering of professionals and experts under one roof. May this landmark anniversary inspire all stakeholders—regulators, professionals, and participants—to uphold the highest standards, collaborate for reforms, and nurture a robust insolvency regime that serves the nation's interests.

I extend my best wishes for the conclave's resounding success and lasting impact on the insolvency and bankruptcy landscape in India.

Warmest Wishes,

**Smt. Bidisha Banerjee**

*Judicial Member, NCLT, Kolkata*

## SHRI G S NARASIMHA PRASAD

### MANAGING DIRECTOR, IPA- ICMAI



**IPA-ICMAI continues to foster professional development and meaningful engagement, supporting initiatives that strengthen the insolvency ecosystem.**

I am delighted to be associated with the upcoming Seminar on the Insolvency and Bankruptcy Code (IBC), being held on 18th August, 2026 at The Park, Kolkata. This platform offers an important opportunity for all stakeholders - professionals, regulators, industry leaders, and policymakers to come together and reflect upon the remarkable journey of the IBC and its impact on strengthening India's financial ecosystem.

Since its inception, the IBC has transformed the landscape of insolvency resolution in India, bringing in transparency, accountability, and momentum to the process of corporate restructuring. It has not only enhanced investor confidence but also reinforced the foundation of ease of doing business in our country.

This seminar is both timely and relevant, as it allows the participants to review the progress made so far, deliberate upon the practical challenges faced on the ground, and exchange ideas for further strengthening the framework, particularly within days of the Hon'ble President of India recently approving the Insolvency and Bankruptcy Code (Amendment) Bill, 2025, with the aim to speed up resolution timelines, reduce litigations, clarify legal ambiguities and modernise insolvency processes. I believe that the discussions in this conclave will significantly contribute towards deeper appreciation of the ensuing changes and hence improved realization of the objectives of the code.

IPA-ICMAI, as the frontline regulator of Insolvency Professionals (IP)

continually looks to opportunities to better engage the professionals and facilitate professional development through in-person programs. As such, we are happy to join the efforts of the organizers in putting up this Conclave that brings such a distinguished gathering together and wish the Conclave great success. May the interactions and deliberations in the Conclave lead to new insights, constructive recommendations, and a stronger insolvency resolution regime for the future.

A handwritten signature in blue ink, appearing to read 'G S Narasimha Prasad', written over a light blue textured background.

**Mr. G S Narasimha Prasad**  
MD, IPA-ICMAI

## CA IP KAMAL NAYAN JAIN DIRECTOR, IPA- ICAI

**The Insolvency and Bankruptcy Code (IBC) has emerged as one of the most transformative reforms in India's economic landscape, fundamentally reshaping the framework of corporate distress resolution.**



### *Dear Friends,*

Over the past decade, it has not only strengthened creditor confidence but has also instilled discipline, transparency, and accountability across the corporate ecosystem.

As we reflect on this journey, it becomes equally important to acknowledge that with evolution comes complexity. The dynamic nature of business, cross-border transactions, sector-specific challenges, and increasing stakeholder expectations have brought forth new dimensions that demand continuous innovation and thoughtful reform within the IBC framework.

The theme of this Conclave "Innovation, Reform & Emerging Challenges" is both timely and relevant. It provides a vital platform for thought leaders, judicial luminaries, insolvency professionals, policymakers, and industry experts to deliberate upon critical issues such as judicial expectations, regulatory developments, real estate insolvencies, cross-border implications, and the emerging paradigm of creditor-led and out-of-court resolutions.

Such discussions are instrumental in shaping the future course of insolvency law in India. They not only help bridge practical gaps but also contribute to building a more robust, efficient, and globally aligned insolvency ecosystem.

I am confident that this Conclave will foster meaningful dialogue, exchange of insights, and collaborative thinking, thereby enriching the professional community and strengthening the IBC regime further.

I extend my best wishes for the grand success of this initiative and congratulate all the organizers for bringing together such an eminent gathering of minds.

A handwritten signature in blue ink, appearing to read 'Kamal Nayan Jain'.

**CA (IP) Kamal Nayan Jain**  
Director, IPA-ICAI

## DR. ASHISH MAKHIJA

### PRESIDENT IPNET

*Dear Readers,*

It is a privilege to mark IBC at Ten - a decade that has redefined India's approach to insolvency and credit discipline.

The IBC has moved from a bold reform to a functioning system that drives accountability and value. Its evolution reflects both resilience and the willingness to adapt. As new amendments and reforms take shape, the focus is clearly shifting toward speed, efficiency, and global alignment, perfectly echoing the theme of this conclave.

I appreciate the efforts of IPA-ICMAI, ACAE, and IP Net in bringing together a platform that goes beyond discussion and pushes for clarity, consistency, and better practice.

At the center of this framework are professionals. Our role is not passive - we shape outcomes, set standards, and build trust in the system every single day.

Forums like this matter. They challenge thinking, sharpen perspectives, and move the ecosystem forward.

Looking ahead, I am confident that the IBC will continue to mature, supported by progressive reforms and the unwavering commitment of the professional community. The next decade holds immense potential for refinement, inclusivity, and global alignment.

I extend my sincere appreciation to all organizers, speakers, sponsors, and participants for their valuable contributions in making this event a success.

Wishing the conclave great success and meaningful deliberations.

Let us continue to collaborate, innovate, and strengthen the insolvency ecosystem for a more resilient economic future.

**Dr. Ashish Makhija**

*Advocate & Insolvency Professional*



## ADV. R R MODI MENTOR - ACAE IBC COMMITTEE

*Dear Friends*

“IBC at 10” has  
been designed  
to benefit the  
participants

by packaging therein the brainstorming deliberations on Judicial Expectations, Evolving Role of IPs, Bisecting the judicial trends in Real Estate Insolvency, Analysis of Cape Town Convention in harmony with The Protection of Interests in Aircraft Objects Act, 2025, Current trends in Clean Slate Theory in the midst of ED's attachment of assets, update on Disciplinary proceedings, Scintillating Panel discussion on synchronisation of stakeholders interests, Navigating the IBC 2.0 including out of court resolution framework. It is a brilliantly packed knowledge capsule event. I sincerely hope that all participants will be immensely benefited from this event. The speakers panel includes the rarest of rare pearls in IBC domain including some past and present judicial members. All in all, it will be an exciting event.

Looking forward to be with you all at IBC at 10 at The Park on 18th April 2026.

Yours Sincerely

**R R Modi**

*Advocate, Calcutta High Court*



## Adv TANNYA BARANWAL CO-CHAIRPERSON - ACAE IBC COMMITTEE



- Advocate and Associate Partner at INDIALAW LLP, Kolkata,
- Specialising in insolvency, banking, and commercial litigation, with regular appearances before the NCLT and High Courts.
- Co-Chairperson of the IBC Committee, ACAE, actively contributing to dialogue, collaboration, and excellence in the insolvency ecosystem.

*Dear Professional Colleagues,*

It is a matter of great privilege to present this message on the occasion of the Conclave on "IBC at Ten - Innovation, Reform & Emerging Challenges."

The journey of the Insolvency and Bankruptcy Code over the past decade marks a defining chapter in India's economic and legal landscape. What began as a bold reform has progressively matured into a robust and evolving framework, fostering credit discipline, enabling value maximization, and strengthening stakeholder confidence.

As we commemorate ten years of its implementation, it is both timely and essential to reflect upon its achievements while critically engaging with the challenges that lie ahead. This Conclave serves as a thoughtful forum for such reflection and dialogue. By bringing together professionals

from diverse domains, including law, accountancy, and insolvency practice, it seeks to encourage meaningful deliberations on contemporary issues, emerging trends, and the future trajectory of the Code. The range of discussions envisaged underlines the need for continuous adaptation and collaborative problem-solving in an increasingly complex insolvency ecosystem.

As a practicing Advocate and Co-Chairperson of the IBC Committee of ACAE, I firmly believe that professionals bear a significant responsibility in shaping both the practice and perception of the Code. Our role extends beyond technical execution to upholding the highest standards of integrity, independence, and professional excellence, thereby reinforcing trust in the process.

I am confident that the insights

shared and perspectives exchanged during this Conclave will contribute meaningfully to the ongoing discourse and help in further strengthening the insolvency framework in India.

I take this opportunity to extend my sincere appreciation to the organisers, distinguished speakers, and all stakeholders whose efforts have made this Conclave possible.

Wishing the Conclave every success.

Warm regards,

A handwritten signature in blue ink, appearing to read 'Tannya'.

**Tannya Baranwal**

Advocate  
Associate Partner,  
INDIALAW LLP - Kolkata



# Profiles



**Shri Indevar Pandey**

*Hon'ble Member  
(Technical), NCLAT, New  
Delhi*

Shri Indevar Pandey, IAS (Retd.) is currently serving as Technical Member at the National Company Law Appellate Tribunal, New Delhi. A 1988 batch IAS officer of the West Bengal cadre, he has over three decades of extensive experience in public administration.

He holds a B.Tech from NIT Calicut, an M.Tech from IIT Bombay, an MBA from the University of Birmingham, and an M.Phil from Punjab University.

He previously served as Secretary to the Government of India in the Ministry of Women and Child Development, where he led the nationwide rollout of the Poshan Tracker, earning the National E Governance Award 2024 and the Prime Minister's Award for Excellence in Public Service. He also held key roles in the Ministry of Minority Affairs, Department of Administrative Reforms, and the Ministry of Development of North Eastern Region.

In the Government of West Bengal, he served as Additional Chief Secretary and Principal Secretary in key departments, including Public Works and Forest and Environment, and earlier held important positions with the Government of India, including Secretary to the Lok Sabha Speaker.

With rich administrative and policy experience, he brings valuable expertise to his current role.



**Sri Ravinder Maini**

*Executive Director, IBBI*

Shri Ravinder Maini took charge as Executive Director (ED), Insolvency and Bankruptcy Board of India (IBBI), New Delhi on 29th November 2024. Immediately before joining as ED, he was serving as Director (ITA-II), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, Government of India.

Mr. Ravinder Maini is an Indian Revenue Service Officer of 2005 Batch. He has completed 19 years of service in various capacities. He is B. Tech. and also has a degree in Law.



**Smt. Bidisha Banerjee**

*Hon'ble Member (Judicial)  
& HOD, NCLT, Kolkata*

Smt. Bidisha Banerjee is a distinguished Judicial Member and the first woman Head of Department (HoD) of the National Company Law Tribunal (NCLT), Kolkata Bench. With a career spanning over three decades and she holds a distinction of being one of the youngest Judicial Members in the country at the age of 41.

She has previously served as a Judicial Member of the Central Administrative Tribunal (CAT) for eleven years, where she achieved the remarkable milestone of disposing of over 17,000 cases across the Kolkata, Patna, and Ranchi benches. Before her elevation to the bench, she was a prominent advocate and served as Standing Counsel for the Indian Railways from 2006 to 2010. Today, she is widely respected for her deep understanding of corporate insolvency law and her nuanced handling of matters under the Insolvency and Bankruptcy Code (IBC). Her journey reflects not only professional excellence but also quiet resilience and dedication to justice, making her an inspiring presence on the bench and a significant contributor to India's evolving insolvency jurisprudence.



**Sri Cheekati Radha Krishna**

*Hon'ble Member  
(Judicial), NCLT,  
Kolkata*

Shri Sh. Cheekati Radha Krishna completed B.A. degree in Political Science (Hons) from Shri Venkateshwara College, Delhi University in 1985. In 1988, he completed his bachelor degree of Law from Shri Krishnadevaraya University, Anantapur, Andhra Pradesh in the year 1988.

He started his practice in Hon'ble High Court of Andhra Pradesh and Hon'ble Supreme Court of India from 1988 to 1997. In 1997, He was appointed as a Government Advocate in Central Agency Section, Department of Legal Affairs, Ministry of Law and Justice, Government of India. He appeared and conducted litigation in Hon'ble Supreme Court of India on behalf of Central Government Ministries.

In 2012, he was appointed as Deputy Legislation Counsel in Legislative Department, Ministry of Law and Justice, Government of India for drafting, scrutinising and vetting of principle and sub-ordinate legislations of different Administrative Ministries. Participated in budget making, imparted legislative training to officers coming from different states. Functioned as director in Railway Board for Dedicated Freight Corridor Corporation for drafting, scrutinizing and vetting of land acquisition notifications.

As a Joint Secretary, he was the head of GST notifications during budget session.

He was a practising Advocate in Hon'ble Supreme Court of India from September 2024 till his joining in the Hon'ble NCLT, Kolkata.

In January 2025, he was appointed as a Member (Judicial) in National Company Law Tribunal, Kolkata.



**Ms. Rekha Kantil Shah**

*Hon'ble Member  
(Technical), NCLT, Kolkata*

Ms. Rekha Kantil Shah is a qualified Chartered Accountant, LLB and registered Insolvency Professional, with additional academic credentials in finance, law and taxation, including a Diploma in IFRS from ACCA, UK and a Master's in Business Finance from ICAI.

With 27 years of progressive experience, she has developed expertise in audits, financial planning, budgeting, regulatory compliance, automation, finalisation of accounts, and the Insolvency and Bankruptcy Code, 2016. She held senior roles in the Assurance divisions of Price Waterhouse Coopers and Grant Thornton, working on audits of large multinational companies, and also gained exposure in taxation and representation before appellate authorities.

During her practice as an insolvency professional, she handled CIRP and liquidation assignments and supported large mandates. As a regular faculty, she delivered numerous lectures at institutions such as ICAI, ICSI, IIIPI and IBBI. She was also a co-author of the ICAI publication Handbook on Resolution Plan and contributed articles to professional journals. She was associated with IBC-related committees and drafting groups under ICAI and IIIPI, contributing to guidelines on peer review, quality assurance, valuation, and strengthening the role of insolvency professionals. Her work in the IBC domain earned recognition and appreciation.

She now serves as a Technical Member at the National Company Law Tribunal (NCLT, Kolkata), where she brings her extensive practical experience and domain expertise to the adjudicatory process.



**Shri Rohit Kapoor**  
Senior Advocate,  
Supreme Court of India

Shri Rohit Kapoor is a Senior Advocate at the Supreme Court of India and serves as a Fellow and Arbitrator with the Indian Council of Arbitration (ICA), New Delhi. He is also an empanelled Arbitrator with the India International Arbitration Centre (IIAC), New Delhi, and a Member of the Expert Settlement Council. He has previously served as Member (Judicial) and Head of Department at the National Company Law Tribunal (NCLT). In addition to his arbitration work, he is an experienced Mediator and has also held the position of Former Additional Advocate General.

With a distinguished career spanning several decades, he has developed deep expertise in corporate laws, insolvency matters, and commercial dispute resolution. He has appeared in numerous high-stakes matters before constitutional courts and tribunals, contributing significantly to the evolution of jurisprudence in these areas. He is widely respected for his balanced approach, combining legal acumen with practical insight in resolving complex disputes.



**Dr. Ashish Makhija**  
Advocate & Insolvency  
Professional

Shri Ashish Makhija, is widely recognized for his deep, nuanced, and authoritative command over the Insolvency and Bankruptcy Code, as well as the broader framework of corporate and commercial laws in India. With extensive practical experience and a strong grasp of legal intricacies, he has consistently contributed to the effective interpretation and application of insolvency and corporate regulatory mechanisms.

A distinguished trainer and highly impactful speaker, Mr. Makhija is known for his ability to simplify complex legal concepts and present them with remarkable clarity and precision. His sessions are valued for their practical insights, real-world relevance, and engaging delivery, particularly in the areas of insolvency law and corporate regulation, where he continues to guide professionals and stakeholders.

In addition to his professional and academic contributions, he has authored sixteen highly respected publications, each reflecting his depth of knowledge and commitment to advancing legal understanding. Through his writings, training, and professional engagements, Mr. Makhija has established himself as an influential and trusted voice in India's insolvency, commercial, and corporate law landscape.



**Shri Poonkoman Rangasamy**  
DGM & BH, SAMB II,  
Kolkata

Shri Poonkoman Rangasamy is a seasoned banking professional with over two decades of experience at the State Bank of India, having joined the organization in 1998. Currently serving as Deputy General Manager and Branch Head at SAMB II, Kolkata, he brings extensive expertise in corporate credit and stressed asset management.

With a strong foundation in corporate credit since 2010, his core area of specialization lies in handling complex credit portfolios and managing high value corporate relationships. Over the years, he has held several key positions within the Bank, including serving as AGM and Case Lead Officer.

He also brings valuable international exposure, having served as Manager for Credit and Relationship at SBI's Antwerp Branch in Belgium from 2016 to 2021, where he was actively involved in managing global client relationships and credit operations.

His rich experience, both domestic and international, combined with his deep understanding of corporate credit, makes him a distinguished professional in the banking sector.



**Shri G S Narasimha Prasad**

*Managing Director of  
Insolvency Professional  
Agency of Institute of  
Cost Accountants of  
India*

Shri G S Narasimha Prasad is Master of Business Laws (MBL) From National Law School University of India, Bangalore (NLSUI), CAIIB from Indian Institute of Banking & Finance, 1992 B.Sc. (Mathematics) from Bangalore University, 1984, Diploma in Financial Analysis from ICFAI, 1993, Diploma in Business Administration from IGNOU, 1995

A registered Insolvency Professional (IP), consultant, trainer, experienced Banker and entrepreneur on the panel of registered IPs with State Bank of India (SBI), Punjab National bank (PNB), Canara Bank, Karnataka Bank Ltd. and Exim Bank apart from NCLT with extensive exposure to Corporate Insolvency Resolution Process (CIRP) and related activities

Stressed accounts management in the corporate and MSME segment in the second largest bank, Corporate Banking at functional, regional and leadership levels, Leadership roles at all levels from a desk, branch, region, and business group level, Sound conceptual and practical basis built through hands on exposure and through development of training programs and e-learning modules in the domain of stressed loans management, Professional Development through building teams, mentoring young professionals in credit and trade finance, training in banking areas of trade finance, foreign exchange and credit, Developing & managing credit portfolio & corporate banking business. Setting up and running new business from concept to profitable commercial operation to winding up, Design, content development and delivery of training programs, both online and classroom, in areas of banking credit, risk, trade finance and general banking, International experience managing the back office and computer systems of a full – fledged dealing room in SBI.



**Shri Subodh Kumar Agrawal**

*Chartered Accountant  
and Insolvency  
Professional, Past  
President EIRC-ICAI*

Shri Subodh Kumar Agrawal is a member of Institute of Chartered Accountants of India as well as Institute of Chartered Accountants of Australia. He also qualified IP professional and registered with IBBI.

He has got more than 35 years of experience in various audits, IBC Matters, SEBI matters, corporate law matters, financial services and Insolvency.

He has been very active and has served as (a) Chairman of Eastern Regional Council (EIRC) of ICAI in 2006 and also has been (b) President of ICAI for the year 2013. He has served on the various national committees of RBI/ SEBI/ MCA/ CAG/ NACAS, Quality Review Board (QRB) constituted under the Chartered Accountants Act and also served on the Board of Insurance Regulatory Development Authority (IRDA).

On International front he has been (i) President of South Asian Federation of Accountants (SAFA) an apex body of SAARC, (ii) Board Member of Confederation of Asian and Pacific Accountants (CAPA) and also (iii) Member of Small and Medium Practitioners Committee of International Federation of Accountants (IFAC), New York.

He was Chairman of Advisory Committee of IIIPICAI till Jan 2025. And also associated with Chamber of Commerce.

On the academic front he got 10<sup>th</sup> all India rank in CA Final Exam held by The Institute of Chartered Accountants of India.

Has delivered lectures in various seminars, symposia's and conferences organized by EIRC, ICAI various study circles, IBBI and other organisations on Insolvency and other Professional topics etc.



**Shri Sanjib Kumar Patwari**

*Promoter, Rashmi Group*

Shri Sanjib Kumar Patwari, a second generation entrepreneur and son of Mr. Sajjan Kumar Patwari, is a key force behind the growth of the Rashmi Group, one of Eastern India's leading integrated steel conglomerates. With a Master's degree in Commerce and extensive industry experience, he has driven the Group's expansion across iron and steel, ferroalloys, cement, power, and mining, bringing a strong blend of financial discipline, operational excellence, and strategic vision.

Under his leadership, the Group has grown from Rs. 2,200 crore in FY 2014 to over Rs. 40,000 crore in FY 2026, while significantly strengthening its production capacity and integrated operations. He has also led major acquisitions, expanding the Group's footprint and contributing to employment generation for over 50,000 people. Committed to sustainable growth and social responsibility, he actively supports community and environmental initiatives, and holds key positions in leading industry bodies.



**Shri Ashish Chhawchharia**

*CA (IP) Partner Grant Thornton Bharat LLP*

Shri Ashish Chhawchharia leads the Debt & Special Situations offering and heads the Eastern region practice for Grant Thornton in India. He is a Chartered Accountant and qualified Insolvency Professional with over 29 years of professional experience.

He has substantial experience in offering debt advisory services, financial and operational restructuring, interim management, M&A, due diligence, post-merger integration as well as advising on insolvency and liquidation matters including cross-border.

Ashish has led engagements across India on behalf of major lending institutions, funds and ARCs such as SBI; ICICI; IDBI; ARCIL, Edelweiss, Varde and ARES. Some large cases handled by Ashish includes companies like Jet Airways, IL&FS, Essar Steel, Sintex, Reliance Capital and SREI. He has advised financial investors and trade buyers with focus on companies in stress or special situations.

His sector experience includes industry verticals such as metals & mining; energy; banking and capital markets, aviation, manufacturing, healthcare, hospitality and real estate & infrastructure. Previously, he has served as CEO of a UK based manufacturing corporation having operations in several countries.

He is a member of INSOL International and executive committee of INSOL India and sits on or chairs various expert committees on stressed assets resolution including FICCI, CII and ICC. Ashish is also a YPO International member.



**Dr. Mamta Binani**

*Advocate and Insolvency Professional*

Smt. Mamta Binani has been the National President of the Institute of Company Secretaries of India in the year 2016 and is now the President of the MSME Development Forum, West Bengal and North East and is the first registered Insolvency Professional of India.

She is working for empowerment of women constantly and believes in inter dependence. She has been continuously working in the Governance advocacy space particularly in restructuring, corporate laws and IBC and turn around of stressed assets. She is working as a professional for the last 30 years now. She has been endowed with very many prestigious awards and accolades. She has given more than 4500 discourses on professional and social topics and is a regular writer and thought leader. She is an independent director in large corporates and believes furiously in dedication, consistency with honesty and never giving up, come may what occurs. Family and relationships are her strengths and she imbibes the same in her peers and juniors.



**Shri Udayraj  
Patwardhan**

*Insolvency Professional  
Regional Head (West) - IP  
Net*

Shri Udayraj Patwardhan has handled over 48 assignments as Resolution Professional and Liquidator, plus 150+ as advisor, managing a debt portfolio exceeding INR 25,000 Crore.

#### **Professional Experience**

Udayraj serves as partner in Palnitkar and Patwardhan (est. 1999), Sumedha Management Solutions Pvt Ltd (an Insolvency Professional Entity), and Via Jure Advisors Pvt Ltd. Over the past seven years, he has become a prominent speaker at forums like IBBI, IPAs, and banks, recognized by the World Bank as a Master Trainer for the Insolvency and Bankruptcy Code. He also acts as visiting faculty at Maharashtra Police Academy on topics including PMLA, Benami Properties Act, Black Money Act, audits, and frauds in co-operative societies.

#### **Education**

He holds a B.Com (rank holder, Pune University), Master of Business Finance (rank holder), and LLB. As a Fellow Chartered Accountant (FCA), he brings deep financial and legal expertise to his practice.

#### **Specializations**

Udayraj excels in management consultancy, corporate advisory, financial and commercial advisory. His strategic focus includes corporate expansion, mergers and acquisitions, succession planning, commercial litigations, and arbitrations.



**Shri Sandeep Bajaj**

*Advocate and Founder  
of PSL (Formerly  
Pamasis Law  
Chambers)*

Shri Sandeep Bajaj began his practice in 2007 and has since built a leading law firm with offices in Delhi, Mumbai, Chandigarh, and an overseas reference office in China. With extensive experience across civil and corporate laws, he has advised private enterprises, government agencies, and the Union of India on high-stake commercial disputes involving billions of rupees. Under his leadership, PSL has grown into a 40+ member team recognized for excellence in corporate, restructuring, and insolvency matters. He has worked extensively on the Insolvency and Bankruptcy Code, 2016, representing complex cases before the Hon'ble Supreme Court, NCLAT, and NCLT. Widely regarded as an expert in insolvency law, he regularly advises resolution professionals, liquidators, and financial institutions on banking, lending, and recovery-related disputes.



**Shri Ajay Shaw**

*Partner - DSK Legal*

Shri Ajay Shaw is a partner at DSK Legal and has 24 years of experience as a lawyer. Ajay has briefly worked with Ashurst's infrastructure team at their London office.

Ajay is recognized for his expertise in the areas of insolvency and restructuring, and advisory and transactional work pertaining to corporate funding, project funding and structured funding. He has vast experience in matters pertaining to resolution of distressed assets as well as restructuring under the informal routes / formal routes. Ajay advises both domestic and foreign clients on various facets of infrastructure and energy projects, inbound and outbound investments, mergers and acquisition, partnership/joint ventures.

Ajay has been recognized as a "Highly Regarded" lawyer by IFLR1000 and as a "Leading Individual" by Legal500 Asia-Pacific. He's also a ranked lawyer by Asialaw Profiles and Benchmark Litigation. He has been ranked by Business Today as the top 10 most influential restructuring and insolvency lawyers in India for 2023.

Ajay has a bachelor's degree in law from ILS Law College, University of Pune and is enrolled with the Bar Council of Maharashtra and Goa. He has various publications on diverse subjects to his credit including publications in the Mint, Economic Times, Financial Express, Bloomberg Quint, Business Standard, Hindu Business Line, Indian Infrastructure, international journals and websites.



**Adv. Ramya  
Hariharan**

*Founder, Citadel Law  
Chambers*

Smt. Ramya Hariharan is a seasoned corporate lawyer with over two decades of experience advising on complex, high-value transactions and strategic matters.

Her practice spans corporate, mergers and acquisitions, banking and finance, insolvency and restructuring, projects, and dispute resolution, with a strong focus on cross-border transactions and structured deals. She is known for her ability to combine legal expertise with commercial insight, and regularly advises clients on navigating regulatory complexity and executing strategic objectives.

Ramya has extensive experience in public and private M&A, representing both buy-side and sell-side clients, including strategic and financial investors. Her work includes cross-border acquisitions, strategic investments, and corporate restructurings, including schemes of arrangement and transactions under the Insolvency and Bankruptcy Code, 2016.

In the financing space, she has advised on a broad range of transactions, including project finance and structured financing mandates with an aggregate value exceeding INR 70 billion, acting for both lenders and borrowers.

Prior to founding Citadel Law Chambers, Ramya held senior positions at leading Indian law firms, including Shardul Amarchand Mangaldas, and served as a Partner at Argus Partners and HSA Advocates, where she led significant mandates across practice areas.

She serves on the boards of several listed and unlisted companies, including Tata Group companies, and is widely recognised for her contributions to the legal profession.

Ramya has been:

- Named among the Top 100 Lawyers in the Forbes Legal Powerlist (2021-2023)
- Ranked as a Leading Individual (City Focus) by Legal 500 Asia Pacific (2024–2026)
- Recognised among the Top Women Legal Consultants by CEO Insights

Her firm, Citadel Law Chambers, has been consistently ranked as a Leading Law Firm (City Focus) by Legal 500 Asia Pacific (2024–2026) and featured in the Forbes Legal Powerlist as a Top Law Firm.



**Shri Nitin Daga**

*Chartered Accountant &  
Insolvency Professional*

Shri Nitin Daga is an accomplished Insolvency Professional and Practising Chartered Accountant with over 15 years of diversified experience in corporate restructuring, stressed asset resolution, insolvency processes, and capital market transactions. He began his professional journey under the mentorship of renowned Merchant Banker Mr. Vijay Chandak, gaining strong exposure to SEBI-regulated assignments including takeovers, mergers, amalgamations, delistings, preferential issues, rights issues, and NCD issuances. His early grounding in capital markets laid the foundation for his expertise in complex corporate transactions and regulatory frameworks.

In 2009, he joined the Gujarat NRE Group, where he took on key responsibilities across finance, legal, secretarial, insurance, and commercial functions. He rose to become the Chief Financial Officer in 2016 and later gained extensive first-hand experience in Corporate Insolvency Resolution and liquidation processes when the company underwent insolvency. Since starting independent practice in 2020, he has developed a strong niche in stressed-asset resolution and has successfully handled CIRP mandates, liquidation assignments, resolution plans, and restructuring schemes under Section 230 of the Companies Act, 2013, for over 40 reputed corporates. He has successfully handled more than 9 no. of cases as IRP/ RP/Liquidator and has been engaged in over 25 stressed-asset resolution processes by various renowned Resolution Applicants, assisting them in evaluating and taking over Corporate Debtors.



**Shri Shiju PV**  
*Managing Partner,  
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Shri Shiju PV is the Managing Partner of IndiaLaw LLP and a key force in shaping the firm's strategic direction and growth. He established the firm's non-litigation practice, which he continues to lead with a focus on quality, innovation, and client-centricity.

Shiju heads the Corporate, M&A, and Insolvency & Bankruptcy verticals and brings extensive experience in complex domestic and cross-border transactions. He regularly advises acquirers, investors, and promoters on mergers and acquisitions, private equity investments, and joint ventures across a broad range of industries.

A pioneer of the firm's Insolvency and Bankruptcy practice, Shiju has led numerous high-profile matters under the IBC, representing lenders, promoters, resolution applicants, and liquidators. His strategic counsel has helped position IndiaLaw LLP as a leading player in insolvency and restructuring.

Shiju been recognized as a "Leading Partner" by Legal 500 Asia-Pacific 2026 and as a "Recommended Lawyer" in the Legal 500 Asia-Pacific 2026 rankings. He has also been acknowledged as a "Notable Practitioner" by IFLR1000 in its 2025 rankings.

He has also been instrumental in establishing the firm's highly regarded real estate practice and has a strong track record in infrastructure and project advisory. Shiju has advised on large-scale PPP projects, concession agreements, and EPC contracts, including drafting model concession agreements for government authorities.

An alumnus of the National Law School of India University, Bangalore, Shiju is widely recognised for his legal acumen, commercial insight, and visionary leadership in driving IndiaLaw LLP's continued success.



**Shri Jitendra Lohia**  
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He has also provided management consultancy and played a key role in transforming NGO MFIs into NBFCs. His past assignments include serving as Fund Manager under the Kolkata Urban Services for Poor project funded by DFID, and as consultant to government bodies in West Bengal and Arunachal Pradesh. A former President of the Association of Corporate Advisers and Executives and the Lions Club of Calcutta, he has actively contributed as a speaker, author, and editor in professional forums, particularly on subjects related to insolvency and corporate laws.



**Shri Ram Ratan Modi**  
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Shri Ram Ratan Modi is currently practising as an Advocate at Calcutta High Court. Earlier he practised as a chartered accountant for more than 30 years and had done audit of Navaratna companies. He was an empanelled Quality reviewer with Quality Review Board. He has also done international law and WTO course of ICAI. He was earlier a guest member of Central Council committee on WTO of ICAI. He was a guest faculty associated with Eastern Management Institute, COP course at St Xaviers College, ISWBM.

He specialises in Corporate Matters, Civil disputes, Writs, Commercial disputes, SARFAESI, Testamentary, Arbitration, IBC and Tax matters etc.

Most importantly, Mr Modi is the patron member and past president of ACAE.

# CONCLAVE ON IBC AT 10

Innovation, Reform & Emerging Challenges 18th April, 2026, The Park, Kolkata









# Articles

# SUPREME COURT LIMITS IBC'S "SPECTRUM"



**Mr. Sunil Fernandes is a Supreme Court designated Senior Advocate. Views are personal.**

**The Government of India objected to the TSRs invoking remedies under the IBC and subjecting Spectrum Rights to CIRP and consequently transferring the same to the successor entity/SRA.**

The recent Supreme Court decision in *State Bank of India vs. Union of India & Ors.*, [Civil Appeal No. 1810 of 2021, dated 13.02.2026 – “**Spectrum Case**”] contains an interesting interplay between a host of Telecom Laws and Regulations on one hand and the Insolvency and Bankruptcy Code 2016 (“**IBC**”) on the other.

The Spectrum Case had an interesting origin. In a separate litigation [Union of India v AUSPI – (2020) 3 SCC 525], the Supreme Court accepted the Government of India’s (“**Gol**”) stand on the definition of the Adjusted Gross Revenue (“**AGR**”) in the License Agreements between the Department of Telecommunications (“**DoT**”) and the Telecom Companies/Service Providers (“**TSRs**”). Earlier, the TSRs paid a “fixed” License Fee and later, with the coming into force of the New Telecom Policy (NTP) 1999, the TSRs were permitted to migrate to a “revenue sharing” model. However the quantum of the revenue to be shared remained a legally contentious issue for several years, till the Supreme Court decided it in favour of the Gol and against the TSRs in the AUSPI case.

The AUSPI judgment substantially raised the financial liabilities of the TSRs but they pleaded that they were legally incapable of paying on account of their invocation of remedies under the IBC. Quite ingeniously, some of the TSRs applied for Voluntary Insolvency Process under Section 10 of the IBC before the National Company Law Tribunal (“**NCLT**”), which formally admitted the Section 10 petition and consequently the Corporate Insolvency Resolution Process (“**CIRP**”) of the TSRs commenced.

A “Moratorium” under Section 14 was imposed, freezing all legal actions against such Section 10 Petitioners (referred to as “**Corporate Debtors**” under the IBC) including recoveries of the License Fees on account of AGR. The CIRP culminated in the

selection of a Successful Resolution Applicant (“SRA”) who would be the successor entity, to take over the Corporate Debtor in its entirety including the Spectrum Rights under the License Agreements with the DoT. The Gol objected to the TSRs invoking remedies under the IBC and subjecting Spectrum Rights to CIRP and consequently transferring the same to the successor entity/SRA. The Supreme Court has upheld the Gol’s stand in the Spectrum Case and held that “Spectrum” is a scarce and precious national resource, whose ownership shall always vest with the Gol, under the ‘public trust’ doctrine. “Spectrum” was held not to be an ‘asset’ owned by TSR as its ownership continues to vest with the Gol even during the CIRP and therefore there could not be an assignment/trading of Spectrum Rights under the CIRP of the IBC.

The IBC, it is widely believed, is one of the two flagship economic reform legislations of the present government (the other being the Goods and Services Tax – GST). This judgment perhaps fails to appreciate the true import of the insolvency process under the IBC and the unique position that IBC holds in the pantheon of economic laws of the country at present.

Our country has suffered immensely for lack of an effective Insolvency Law. The earlier iterations of the various insolvency laws that were enshrined in several legislations and statutory bodies like the Provincial Insolvency Laws, SICA, BIFR, AAIFR, DRT, SARFAESI, could only provide minimal degrees of success to the Insolvency Resolution Process, which was painfully slow and notoriously sparse in recoveries of monies. The successful resolution and consequent rehabilitation of distressed corporate entities remained a pipe dream.

The IBC was enacted in 2016 to precisely address and remedy the endemic systemic flaws. In less than a decade of its existence, it has undeniably proved to be a far more effective law for resolution and rehabilitation than its predecessors – a game changer in a vexed and highly contentious arena of Insolvency Law, clawing back thousands of crores into the system and successful resolution of thousands of insolvent companies.

When a TSR undergoes a CIRP, the dues owned to the Gol are not ‘wiped out’ but form part of the ‘Operational Debt’ of the TSR/Corporate Debtor. The Gol’s anxiety may have stemmed from the fact that the IBC in its present form, does not give priority in payments of Operational Debt owed to the Gol, as it does to the payment of Financial Debt which is typically owed to Banks, NBFC, ARCs and FIs.

The successor entity i.e. the SRA seamlessly steps into the shoes of the Corporate Debtor/TSR after successful conclusion of the CIRP. The SRA does not get a better/higher title than the Corporate Debtor/TSR. Therefore, under the Telecom License Laws, Regulations and Agreements, if the Spectrum is owned by the Gol and the TSRs have a mere license to use/operate – then the SRA rights too will be strictly confined to its use and operation only. The ownership of the ‘Spectrum’ does not change hands. It continues to vest with Gol and the SRA as the Successor of the TSR will not have any ownership rights over the Spectrum.

Lastly, the question remains as to what happens to the thousands of crores of unpaid license fee by the TSR/Corporate Debtor to the Gol/DoT. The answer is that treatment to the DoT cannot be any different to the unpaid government dues owed to the Income Tax, GST Department, Customs, Excise

or any dues owned to Municipal/Urban/Local Bodies and Departments of the Government. All of them, DoT included, have to be compliant with the “Waterfall Mechanism” of payment of dues under Section 53 of the IBC. There is no cause or reason for any special treatment to the AGR/License fee dues owed to the Gol/DoT in the absence of any specific statutory provision either under the IBC or under the Telecom Laws.

The need of the hour is to strengthen the Insolvency Resolution Processes under the IBC – which is already a highly contentious and litigious process. There has to be clarity and certainty on the acquisition of rights of the Corporate Debtors, which would encourage more and more Resolution Applicants to invest their time, money and resources in the CIRP of the IBC and aim to be selected as the SRA. Excluding assets like Spectrum would have a chilling effect on the commercial participation of Prospective Resolution Applicants. The Supreme Court ought to interpret the IBC in a manner that encourages successful resolution and rehabilitation of distressed Corporate Debtors, strengthens IBC rather than read it down. After all, this was the original parliamentary intent in enacting the IBC. The Supreme Court must ring-fence the IBC with protective guardrails to ensure it does not meet the same fate of its predecessor statutes and must give the requisite judicial support that IBC urgently and eminently needs.

### Sunil Fernandes

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# A DECADE OF IBC - EMERGING JURISPRUDENTIAL CLARITY ON THE INTERPLAY BETWEEN INSOLVENCY RESOLUTION AND ASSET ATTACHMENT UNDER THE PMLA



**Adv. Mayank Biyani**

**Adv. Sandeep Bajaj**

**The aim of law is to settle conflicts. But what happens when laws conflict?**

## Introduction

The present Article seeks to examine most crucial subject in the realm of law and public policy "Emerging Jurisprudential Clarity on the Interplay Between Insolvency Resolution and Asset Attachment under the PMLA". The present Article endeavours to analyse interplay of the IBC and PMLA depending on the timeline in which proceedings are instituted.

In a nutshell, IBC aims to address India's longstanding challenges in dealing with Corporate Insolvency and Bankruptcy. The primary purpose of Insolvency Resolution is to ensure the realisation of debts and credit extended by stakeholders. At its core, IBC introduces a unified and time-bound insolvency resolution process for Corporate Debtors.

The PMLA, on the other hand, was enacted in 2002 and is crucial in combating Financial Crimes. The PMLA aims to prevent money laundering and provides for the confiscation of property derived from such activities.

At first glance, these statutes appear to operate in entirely different domains.

What then gives rise to the increasing instances of conflict observed in recent times? The answer lies in the concept of Asset Attachment.

However, complexities arise when attached property belongs to a company undergoing CIRP or goes into CIRP subsequent to the attachment, wherein moratorium is operation and/or involves third-party interests.

To understand the treatment of a property attached while the same may be subject to the CIRP, understanding the chronology is of the utmost importance. As a corollary to the same, three distinct situations arise.

1. What happens if the Attachment Order precedes the Corporate Insolvency Resolution Process (CIRP)?
2. What is the legal validity of Attachment by the Enforcement Directorate after the initiation of CIRP proceedings or during the Liquidation?
3. And lastly, what will be the fate of the attached property,

after the approval of Resolution Plan or the Sale of Asset under Liquidation, as the case may be?

The questions may seem perplexing on their own. Fortunately, the same has been a matter of discussion in a catena of judgements before various authorities.

## I. Effect of Pre-CIRP Attachment by Enforcement Debtor of the Assets of Corporate Debtor

In May 2019, where the NCLAT, in matter of Varrsana Ispat Limited versus Deputy Director, Director of Enforcement, 2019 SCC OnLine NCLAT 236, observed that the attachments were made prior to initiation of the CIRP, therefore no advantage of Section 14 of the IBC can be derived. The decision of the NCLAT in Varrsana Ispat Limited (Supra) gained approval of the Hon'ble Supreme Court in July of the same year with the Hon'ble Supreme Court refusing to entertain an Appeal i.e. Civil Appeal No.5546 of 2019.

However, the position was muddled when the NCLAT took a

view different from what was held in Varrsana Ispat Limited (Supra), in the matter of The Directorate of Enforcement versus Manoj Kumar Aggarwal, Company Appeal (AT) (Ins.) No.575 of 2019, wherein NCLAT while affirming the order passed by NCLT and observed that “there is no conflict between PMLA and IBC and even if a property has been attached in the PMLA which is belonging to the Corporate Debtor, if CIRP is initiated, the property should become available to fulfil objects of IBC till a resolution takes place or sale or liquidation of asset occurs in terms of Section 32A”. It is vital to note that Hon’ble Supreme Court has issued Notice in the Civil Appeal bearing Diary No.642 of 2022 filed by ED challenging NCLAT Judgment in Manoj Kumar Aggarwal (Supra).

In order to settle the controversy/ conundrum created by NCLAT’s Judgment in Varrsana Ispat Limited (Supra) and Manoj Kumar Aggarwal (Supra), 3 Judge Bench of NCLAT in matter of Kiran Shah vs Enforcement Directorate, Kolkata, Company Appeal (AT) (Ins.) No. 817 of 2021 affirmed the verdict in Varrsana Ispat Limited (Supra) and held that decision in Manoj Kumar Aggarwal (Supra) runs contrary to the ‘Principle of Stare Decisis’. Ergo, NCLAT held that the NCLT under IBC has no power to intervene in matters that fall under the purview of the Authority under PMLA. With regards to the objectives of the Legislation, NCLAT held that the objectives, text, and shape of the IBC and PMLA are distinct and different, and there is no inconsistency between both Legislations. Therefore, both Legislations can be invoked simultaneously without one necessarily having to precede over the other, and an Appeal

against any decision of the Adjudicating Authority of the PMLA lies before the Appellate Tribunal constituted under PMLA and pending the same, the Attachment of the property is sound in law. Thus, unless the Hon’ble Supreme Court decides to the contrary in the pending Appeal under Manoj Aggarwal (Supra), the position as laid down in Varassana Ispat Limited (Supra) and Kiran Shah (Supra) stands as prevailing law.

## II. Attachment by ED during CIRP proceedings or during Liquidation

Earlier, the second scenario does not seem as clear. In recent past, a moot question that came up for the consideration before the

Hon’ble Supreme Court in the matter of Ashok Kumar Sarawagi Vs. Enforcement Directorate and Anr., SLP (Civil) Diary No. 30092 of 2022, was whether the order passed by ED for provisional attachment of the assets of a Corporate Debtor post initiation of the CIRP would be valid or not. The Hon’ble Supreme Court has issued notice to ED, thereby, directing parties to maintain status quo, and in the interim allowed the CIRP to continue in accordance with IBC on “as is whereas is basis” and “whatever there is basis”. However, in view of the fact that the Petitioner has challenged the PAO before the PMLA Appellate Authority, the SLP (Civil) Diary No. 30092 of 2022 was dismissed as withdrawn.

## IBC aims to address India’s longstanding challenges in dealing with Corporate Insolvency and Bankruptcy.



At the same time, this truce is seemingly fleeting. The reason being that the Delhi High Court, in the matter of Deputy Director Directorate of Enforcement Delhi v. Axis Bank, Criminal Appeal No.143 of 2018, observed that the government exercising powers under PMLA to confiscate proceeds of crimes cannot be said to be a creditor. Hence, under the PMLA, a person alleged of the offence of money-laundering cannot be said to acquire the status of debtor. Moreover, any proceeding initiated under the PMLA is not subject to challenge under proceedings undertaken under the IBC. Thus, the IBC does not overrule the PMLA, and the statutes have no 'overriding effect' over one another.

Further affirming the position laid down in Axis Bank (Supra) the Delhi High Court in the matter of Rajiv Chakraborty versus Directorate of Enforcement, W.P. (C) No. 9531 of 2020, observed that the IBC and PMLA are different in nature. The subject matter of both the legislations are inherently different and therefore, can operate parallelly without having the need to override each other. Additionally, with reference to the application of moratorium and the subsequent position of the PMLA with respect to this aspect, the Court noted that notwithstanding the ongoing CIRP, the ED can exercise its power in lieu of sections 5 and 8 of the PMLA keeping in mind the NCLAT Judgment in Kiran Shah (Supra).

The jurisprudential position has now been further clarified by the Supreme Court in S. Rajendran v. Deputy Commissioner of Income Tax (Benami Prohibition) & Ors., 2026 INSC 187, which, although arising in the context of the Prohibition of Benami Property Transactions Act, 1988 lays down principles of broader applicability.

The Hon'ble Supreme Court authoritatively held that the moratorium under Section 14 of the IBC is designed to shield the Corporate Debtor from creditor-driven recovery actions and to preserve the estate for an orderly resolution process. However, it does not extend to restraining sovereign actions in rem, such as attachment or confiscation proceedings initiated under penal statutes.

The Supreme Court underscored that such proceedings are not in the nature of debt enforcement but are instead founded upon the State's sovereign authority to act against property tainted by illegality. Accordingly, assets alleged to constitute proceeds of crime do not enjoy immunity merely by virtue of the commencement of CIRP. The protection of the moratorium cannot be invoked to insulate such assets from statutory action.

When read holistically, the above authorities indicate that, during the subsistence of CIRP or Liquidation, the ED is not denuded of its statutory powers under the PMLA. Attachments effected in exercise of such powers may validly continue, notwithstanding the moratorium under Section 14.

### III. Fate of Assets of Corporate Debtor after approval of Resolution Plan/Sale of Assets in Liquidation

The reason this scenario becomes interesting enough to be considered is the complex interplay of the supposed aim of PMLA and the goal of realisation of value of debts under the IBC. This scenario came before NCLAT for consideration in the matter of JSW Steel Limited and Ors. versus Mahender Kumar Khandelwal and Ors., Company Appeal (AT) (Ins) No.957 of 2021, wherein, after approval of Resolution Plan, an Attachment Order was passed

by the ED. NCLAT left the matter to be decided by the Central Government as to whether to provide immunity against the prosecution to the Corporate Debtor and SRA.

Later, the Central Government through the Ministry of Corporate Affairs intervened to resolve the issue and immediately, an Ordinance was promulgated by the President of India, inserting Section 32A in the IBC. In furtherance thereof, NCLAT observed that, "A plain reading of Section 32A (1) and (2) clearly suggests that the Directorate of Enforcement/other investigating agencies do not have the powers to attach assets of a 'Corporate Debtor', once the 'Resolution Plan' stands approved and the criminal investigations against the 'Corporate Debtor' stands abated. Section 32A of the 'I&B Code' does not in any manner suggest that the benefit provided thereunder is only for such resolution plans which are yet to be approved. Further, there is no basis to make distinction between a resolution applicant whose plan has been approved post or prior to the promulgation of the Ordinance."

Consequently, in Nitin Jain Liquidator PSL Limited v. Enforcement Directorate, 2021 SCC OnLine Del 5281, the Delhi High Court held that once the Liquidation process is approved under the IBC, the ED's power to attach assets under Section 5 of the PMLA ceases on account of the provisions contained in Section 32A of the IBC which provides for extinguishing of all criminal liability for past actions after the Resolution Plan has been approved under Section 31. The Court emphasised that while Section 32A of the IBC provides a statutory bar on Asset Attachment during the Liquidation process, it does not serve as an escape route for individuals engaging in money laundering activities. Thus, the

judgement in Nitin Jain (Supra) does give primacy to the time bound process provided under the IBC, but it does not restrict the power under the PMLA to prosecute private individuals of a company for crimes of money laundering.

With respect to the institutional Authority for release of attached Assets, the Bombay High Court in the matter of Shiv Charan and Ors. v Adjudicating Authority and Anr., Writ Petition (L) No.9943 of 2023 along with Writ Petition (L) No.29111 of 2023, while adjudicating on the issue of whether the NCLT has the jurisdiction to direct the ED to release properties under Section 32A of the IBC has held that on analysis of the scheme of law contained in Section 32A and Section 60(5) of the IBC, both of which are non-obstante clauses, the scope of the power of the NCLT in directing release of

property in pursuance of the mandate under Section 32A is appropriate and does not travel beyond the IBC.

In continuation of this evolving jurisprudence, the NCLAT in Vantage Point Asset Management Pte. Ltd. v. Gaurav Misra (RP) and Anr., Company Appeal (AT) (Ins.) No. 1495 of 2025 had taken a view that once a Resolution Plan is approved and the statutory conditions under Section 32A stand satisfied, any subsisting attachment over the assets of the Corporate Debtor loses its legal force automatically, by operation of the statutory mandate itself. Crucially, the NCLAT held that such cessation does not require the Successful Resolution Applicant to undertake any independent or parallel proceedings before the PMLA authorities for release of the attached assets.

Recently, the position regarding the institutional Authority for release of attached Assets once against stands refined by the Hon'ble Supreme Court in S. Rajendran (Supra) holding that the jurisdiction of fora under the IBC cannot be expansively interpreted so as to encroach upon domains governed by public law, particularly where the subject matter concerns attachment, confiscation, or vesting of property pursuant to sovereign statutory powers. It has been emphasised that such proceedings, being in rem and rooted in penal consequences, fall within the exclusive domain of the specialised authorities constituted under the respective statutes and cannot be subjected to adjudication by the NCLT/ NCLAT in exercise of their insolvency jurisdiction.



## Conclusion

In conclusion, the interplay between the IBC and PMLA presents a complex legal landscape as the power of the Authorities under PMLA to attach assets under Section 5 of the PMLA is affected as and when Section 32A of the IBC comes into the play. Based on the jurisprudence till date the entire issue can be summarized in following 4 points –

- A. The prevailing Legal Position, as affirmed by the NCLAT in Varassana Ispat Limited (Supra) as well as Kiran Shah (Supra), indicates that attachments made prior to the initiation of CIRP cannot be overridden by the provisions of the IBC till the time Section 32A of IBC comes into play.
- B. The situation becomes more intricate when considering the actions of the Enforcement Directorate (ED) during CIRP or Liquidation. The law as it prevails today is that ED is well within its jurisdiction to attach the assets of Corporate Debtor during the CIRP and Liquidation, however, having said that Resolution Professional/ Liquidator are also bound by the statute to carry on CIRP/Liquidation irrespective of the attachment by ED.
- C. The fate of attached Assets after post-approval of a Resolution Plan or Sale of Asset during Liquidation, subject to condition therein, raises critical questions about the objectives of both Legislations. However, the introduction of Section 32A into the IBC has provided clarity, indicating that once a Resolution Plan is approved or the asset is Sold during the Liquidation to third party, the ED's ability to attach assets or to continue with the attachment ceases, thereby prioritizing the IBC's goal of debt recovery over the PMLA's objective of preventing the dissipation of alleged ill-gotten gains.
- D. Lastly, on jurisdiction qua the release of the attached assets, the recent Judgment of Hon'ble Supreme Court in S. Rajendran (Supra) has materially clarified the legal position thereby, holding that that adjudicatory fora under the IBC cannot exercise jurisdiction over matters falling within the public law domain, including attachment, confiscation, and vesting of property under penal statutes.



**Binay Singhania**

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## Creditor-Initiated Insolvency Resolution Process (CIIRP) - inserted wef 6 April 2026

IBC has reached a juncture with the passage and notification of IB Code (Amendment) Act, 2026. It represents the most significant overhaul of IB Code (IBC) since its inception. Introduction of Chapter IV-A, establishing the Creditor-Initiated Insolvency Resolution Process (CIIRP) is pivotal.

### The Evolution of Insolvency Resolution - Stepping towards Autonomy

The genesis of CIIRP lies in the recognition of systemic inefficiencies within standard CIRP framework. The 2026 amendments directly address delays. Act introduces CIIRP as a “market-led” initiation pathway that bypasses the need for an initial judicial order for commencement. This shift moves the Indian framework closer to the “administration” models of the United Kingdom and the “debtor-in-possession” (DIP) model of the United States, albeit with unique Indian safeguards.

### Structure of the CIIRP: Chapter IV-A (Sections 58A to 58K)

The legislative architecture of CIIRP is contained within the newly inserted Chapter IV-A of the Code.

### Eligibility and Applicability Thresholds

The availability of CIIRP is not universal. According to Section 58A, the process is restricted to corporate debtors belonging to notified classes, which the Central Government may define based on factors such as asset size, income thresholds, class of creditors, or total quantum of debt.

To ensure procedural integrity and prevent the overlapping of insolvency mechanisms, the law provides clear reciprocal bars. CD cannot enter CIIRP if it is already undergoing CIRP, pre-packaged insolvency (PPIRP), or liquidation. Furthermore, a “cooling-off” period is mandated: a company that has undergone a resolution process (CIRP, PPIRP, or CIIRP) within the preceding three years is ineligible for a new CIIRP. Conversely, Section 11 is amended to prevent CD from initiating a CIRP for twelve months after a resolution plan has been approved under Chapter IV-A.

**Act introduces CIIRP as a “market-led” initiation pathway that bypasses the need for an initial judicial order for commencement.**

### The Out-of-Court Mechanism

The most radical departure from the CIRP model is out-of-court commencement of CIIRP. The initiation process is governed by Section 58B and involves a series of creditor-led steps<sup>1</sup>:

- 1. Creditor Consensus:** The process must be initiated by “notified classes” of financial creditors. The initiating creditor must obtain the approval of FC holding at least 51% of the total financial debt by value.
- 2. Debtor Representation:** Before formally triggering the process, the initiating creditor must serve a 30-day notice to CD. This period allows the debtor to settle the outstanding dues or submit a representation against the initiation.
- 3. Review and Confirmation:** FC must review any representation received from the debtor. If they decide to proceed, the 51% approval must be reconfirmed.
- 4. Commencement Trigger:** Once consensus is reached, the creditors appoint a Resolution Professional (RP). The CIIRP is deemed to commence on the date the RP makes a public announcement of the initiation, which is then communicated to the NCLT and the IBBI.

Creditors can commence insolvency without an initial judicial decree, the amendment eliminates the months of delay. Judicial involvement is more of supervisory role, with the NCLT only intervening on not following procedure.

### Governance and Oversight: The Hybrid Debtor-in-Possession

CIIRP introduces a paradigm shift in management control. Under Section 58F, existing promoter of CD remain in charge of day-to-day operations.

### Resolution Professional acts as Gatekeeper

Although the board remains in possession, RP in a CIIRP is vested with significant supervisory and “veto” powers to safeguard creditor interests. The duties and powers of the RP under Section 58E and 58F include.

- Meeting Oversight:** The RP has the statutory right to oversee the Board of Directors meetings or committees of the corporate debtor.<sup>3</sup>
- Veto Authority:** The RP is empowered to veto any resolution passed by the board that they believes to be detrimental to the interests of the creditors or the

successful completion of the resolution process

- **Information Management:** The RP is responsible for calling for claims, collating them, and preparing the Information Memorandum

- **Reporting:** The RP has to submit periodic reports to the IBBI and the NCLT, ensuring that the process is followed the statutory timelines.

This structure seeks a “middle ground” between the complete displacement of management and unregulated debtor control. It places a heavy burden on the RP to act as a supervisor rather than an operational manager.

| Feature                             | Corporate Insolvency Resolution Process (CIRP) | Creditor-Initiated Insolvency Resolution Process (CIIRP) |
|-------------------------------------|------------------------------------------------|----------------------------------------------------------|
| <b>Primary Statutory Basis</b>      | Chapter II (Sections 7, 9, 10)                 | Chapter IV-A (Sections 58A to 58K) <sup>1</sup>          |
| <b>Initiation Trigger</b>           | Judicial Order (NCLT Admission)                | Public Announcement by RP (Out-of-court)                 |
| <b>Management Control</b>           | Creditor-in-Control (Management suspended)     | Debtor-in-Possession (Board remains in place)            |
| <b>Consensus for Initiation</b>     | Not required for unilateral FC/OC application  | 51% of financial debt by value                           |
| <b>Timeline for Completion</b>      | 180 days (extendable to 330 days)              | 150 days (extendable by 45 days)                         |
| <b>Moratorium Commencement</b>      | Automatic upon Admission                       | Upon Application by RP to NCLT                           |
| <b>Resolution Professional Role</b> | Operates and manages the company               | Supervisory oversight and veto power                     |
| <b>Conversion Opportunity</b>       | Leads directly to Liquidation if failed        | Converts to CIRP if failed or uncooperative              |

### Procedural Timelines and the Compressed Resolution Window

Speed is the defining characteristic of CIIRP. The process is capped at 150 days, with a single possible extension of 45 days. This is significantly shorter than the standard 330-day outer limit for CIRP. The rationale is that CIIRP is designed for “early-stage” distress where the business is still viable and has not yet undergone the severe value erosion which is usually seen in CIRP cases.

### Moratorium Dynamics in CIIRP

Unlike moratorium during CIRP admission, the stay on legal proceedings in CIIRP is not automatic. The RP must proactively apply to the NCLT for a moratorium under Section 58G, the 2026 amendment specifies that the moratorium shall commence from the date of the RP’s application, rather than the date of the NCLT’s order.

### The Failure and Conversion Mechanism: Built-in Safety Valves

New framework recognizes that a “Debtor-in-Possession” model is susceptible to abuse or delay. Consequently, Chapter IV-A includes robust provisions for the mandatory conversion of a CIIRP into a standard CIRP under specific contingencies, as outlined in Section 58D and Section 58H:

- **Failure to Approve Plan:** If no resolution plan is approved by the Committee of Creditors (CoC) within the 150-day statutory period.

- **Creditor Rejection:** If the CoC, at any stage, resolves by a 66% vote to transition the case to a standard CIRP.
- **Management Non-Cooperation:** If the RP reports to the NCLT that the board or promoters are failing to cooperate, providing false information, or hindering the resolution process
- **NCLT Rejection:** If the NCLT rejects the final resolution plan approved by the CoC.

This conversion mechanism ensures that the company does not remain in a “perpetual limbo” under promoter control if the out-of-court mechanism is not yielding results.

### IBBI Guidelines for CIIRP Implementation and Regulatory Provisions

The operational success of CIIRP depends heavily on the regulatory framework provided by the IBBI.

### Electronic Reporting and Forms

The IBBI has introduced a suite of electronic forms to ensure transparent record-keeping throughout the CIIRP process.

### Implications for Bankers and Financial Institutions

For the banking sector and Asset Reconstruction Companies (ARCs), CIIRP represents a significant expansion of their toolkit for handling distressed assets.

### Binay Singhania

CA & Insolvency Professional



## Conclusion

### The New Era Under Insolvency

The introduction of CIIRP represents a structural debtor in control insolvency —prioritizing commercial wisdom and speed over the traditional reliance on judicial adjudication at the admission stage.

## ARBITRATION VS. INSOLVENCY UNDER IBC: HARMONISATION, CONFLICT & THE WAY FORWARD



**The interface between arbitration and insolvency under the Insolvency and Bankruptcy Code, 2016 has, over the past decade, emerged as one of the most debated areas of Indian commercial law.**

The interface between arbitration and insolvency under the Insolvency and Bankruptcy Code, 2016 has, over the past decade, emerged as one of the most debated areas of Indian commercial law. While both frameworks aim to facilitate efficient resolution of disputes and preservation of economic value, they operate on fundamentally different legal philosophies. Arbitration, governed by the Arbitration and Conciliation Act, 1996, is rooted in contractual freedom, resolving disputes in personam. Insolvency proceedings, on the other hand, are statutory, and in rem in nature, designed to balance the interests of all stakeholders through a time-bound resolution process. The conflict between these two becomes pertinent when contractual disputes subject to arbitration intersect with the insolvency process.

The moratorium under Section 14 of the Code represents the immediate point of conflict. Traditionally, the moratorium has been interpreted as a blanket prohibition on proceedings against the corporate debtor, including arbitration. However, recent judicial developments indicate a shift. Hon'ble Supreme Court of India has, in recent pronouncements, clarified that arbitral proceedings are not automatically rendered void merely because they continue during the moratorium period, particularly where such proceedings do not directly threaten the assets of the corporate debtor. This approach reflects an attempt to balance the sanctity of arbitration agreements with the protective framework of insolvency law. It also underscores a broader judicial trend of harmonisation rather than exclusion.

At the pre-admission stage of insolvency proceedings, the courts have consistently adopted a pro-arbitration stance. It is now well settled that the insolvency framework is not intended to serve as a substitute for debt recovery. Where a genuine dispute exists between the parties, especially one that falls within the scope of an arbitration agreement, the initiation of proceedings under Section 9 of the Code is liable to be rejected. The emphasis has been on preserving contractual remedies and preventing the misuse of insolvency as a coercive mechanism.

The position undergoes a significant transformation once insolvency proceedings are admitted. Upon commencement of the corporate insolvency resolution process, the primacy of the insolvency regime becomes evident. The clean slate doctrine ensures that once a resolution plan is approved, all claims not forming part of the plan stand extinguished. In *Electrosteel Castings Ltd. v. UV ARC* (2025), the Supreme Court reaffirmed that claims which are not included in the resolution plan do not survive post-approval. This has far-reaching consequences for arbitration, as pending arbitral claims or even awards may be rendered unenforceable if they are not accounted for in the resolution plan.

Despite these broad principles, several grey areas continue to persist in practice. One recurring issue concerns the continuation of pending arbitral proceedings during the insolvency process. While courts have permitted such proceedings in limited circumstances, much depends on whether the outcome of arbitration would have a material impact on the assets of the corporate debtor. The role of the resolution professional becomes crucial in such situations, particularly in deciding whether to participate in arbitral proceedings and how to treat contingent or disputed claims arising therefrom. Similarly, the treatment of counterclaims and set-offs often creates friction between arbitral tribunals and the insolvency framework, as both seek to assert control over the same subject matter.

Another area of concern is the handling of not readily realisable assets and residual disputes post-resolution. In many cases, unresolved contractual disputes are pushed into arbitration after the conclusion of the insolvency process, leading to uncertainty regarding their treatment and enforceability. The absence of a clear statutory framework governing such situations has resulted in inconsistent and uncertain approaches.

The institutional dimension of this conflict further complicates the landscape. The coexistence of multiple forums often leads to overlapping jurisdiction and, at times, conflicting outcomes. Delays and procedural inefficiencies exacerbate these challenges, particularly in a system already burdened with a significant volume of insolvency cases. The need for coordination between adjudicatory and arbitral institutions is urgent but not getting the due recognition.

Notwithstanding these challenges, Indian jurisprudence is gradually evolving towards a set of harmonisation principles. A stage-based approach has emerged, wherein arbitration

is given primacy prior to the admission of insolvency proceedings, while the insolvency framework prevails thereafter. The distinction between in personam and in rem proceedings continues to guide the determination of arbitrability, ensuring that matters central to insolvency remain within the exclusive domain of the adjudicating authority. At the same time, courts have demonstrated a willingness to preserve arbitration agreements and minimise judicial interference, provided that such preservation does not undermine the objectives of the Code.

From the perspective of a resolution professional, the intersection of arbitration and insolvency presents a complex set of practical challenges. Managing parallel proceedings, evaluating disputed claims, and safeguarding the interests of the committee of creditors require a careful balancing of legal and commercial considerations. There is also the concern of parties invoking arbitration to delay or derail the insolvency process. These realities highlight the need for clearer regulatory guidance and a more structured approach. The principles emerging from the judicial guidance often lack enforceability and applicability.

As the Code completes a decade of its implementation, the time is ripe for a more coherent and integrated framework between these two very important commercial laws.

Legislative intervention could not play a role in clarifying the status of arbitral proceedings during insolvency, the treatment of arbitral awards, and the handling of residual disputes. The development of a structured mechanism for dealing with not readily realisable assets, including the role of arbitration therein, would significantly enhance certainty. Institutional coordination between insolvency tribunals and arbitral bodies must also be strengthened, possibly through formal protocols or guidelines. Additionally, the introduction of fast-track arbitration mechanisms tailored to insolvency-related disputes could help align timelines and improve efficiency. A distinct mechanism can be developed wherein, the IRP is obligated to refer certain specified claims or disputes to the arbitration, for clarity, which shall operate in a time bound manner, under the umbrella of IBC.

Ultimately, the relationship between arbitration and insolvency need not be viewed as adverse. Both regimes serve important and complementary functions within the commercial ecosystem. The challenge lies in ensuring that they operate in a manner that is coherent, and aligned with the broader objective of value maximisation. The evolving jurisprudence, led by the Supreme Court of India, reflects a conscious move towards such harmonisation. However, sustained efforts in the form of legislative refinement and institutional innovation will be essential to fully realise this vision.

**Harmeet Kaur**

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# GROUP INSOLVENCY UNDER THE INSOLVENCY AND BANKRUPTCY CODE, 2016: A LEGISLATIVE MILESTONE



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India's Insolvency and Bankruptcy Code, 2016 ("Code") was built upon a fundamentally entity-centric foundation – one corporate debtor, one resolution process, one outcome. Yet India's corporate reality has never been so simple. The business landscape of the country is dominated by intricate group structures in which holding companies, subsidiaries, and associate entities share management, assets, cash flows, contractual obligations, and financial exposures in ways that render clean separation not merely impractical, but commercially unviable. When financial distress strikes one entity within the group, the cross-default ramifications rarely respect corporate boundaries.

As the Code completes a decade, it offered no statutory response to this reality for the better part of its existence. Insolvency proceedings against group entities ran on parallel, entirely independent tracks each with its own Resolution Professional, its own Committee of Creditors ("CoC"), and its own timeline producing fragmented outcomes that consistently fell short of what a coordinated resolution could have achieved. The amendments, however, hope to close that gap decisively going forward.

The Insolvency and Bankruptcy Code (Amendment) Bill, 2025 ("Bill") was introduced in the Lok Sabha on August 12, 2025, and subsequently referred to a Select Committee, which submitted its report on December 17, 2025. Reflecting the broad consensus that structural reform was long overdue,

the Amendment was passed by the Lok Sabha on March 30, 2026, and by the Rajya Sabha on April 01, 2026 both without opposition. The Bill received the assent of the Hon'ble President of India on April 06, 2026, thereby becoming law. Implementation is expected shortly, and when operational, it will fundamentally alter the architecture of corporate insolvency in India for group companies.

The inadequacy of the status quo is perhaps most vividly illustrated by the manner in which Indian tribunals have, in the absence of any statutory framework, been compelled to improvise. Procedural consolidation through common bench hearings has been relatively routine; substantive consolidation – the pooling of assets and liabilities across entities – has been attempted in exceptional circumstances through the exercise of inherent powers, most visibly in *State Bank of India v. Videocon Industries Ltd. & Ors.* (NCLT Mumbai, 2019).

The Bill now builds on this judicial foundation by introducing a clear statutory framework, thereby enhancing certainty, consistency, and institutional robustness in the treatment of group insolvencies.

Under the existing fragmented approach, operationally intertwined assets – shared manufacturing facilities, common receivables, intra-group loan arrangements – were evaluated and disposed of in isolation, invariably realising values far below what a consolidated enterprise approach



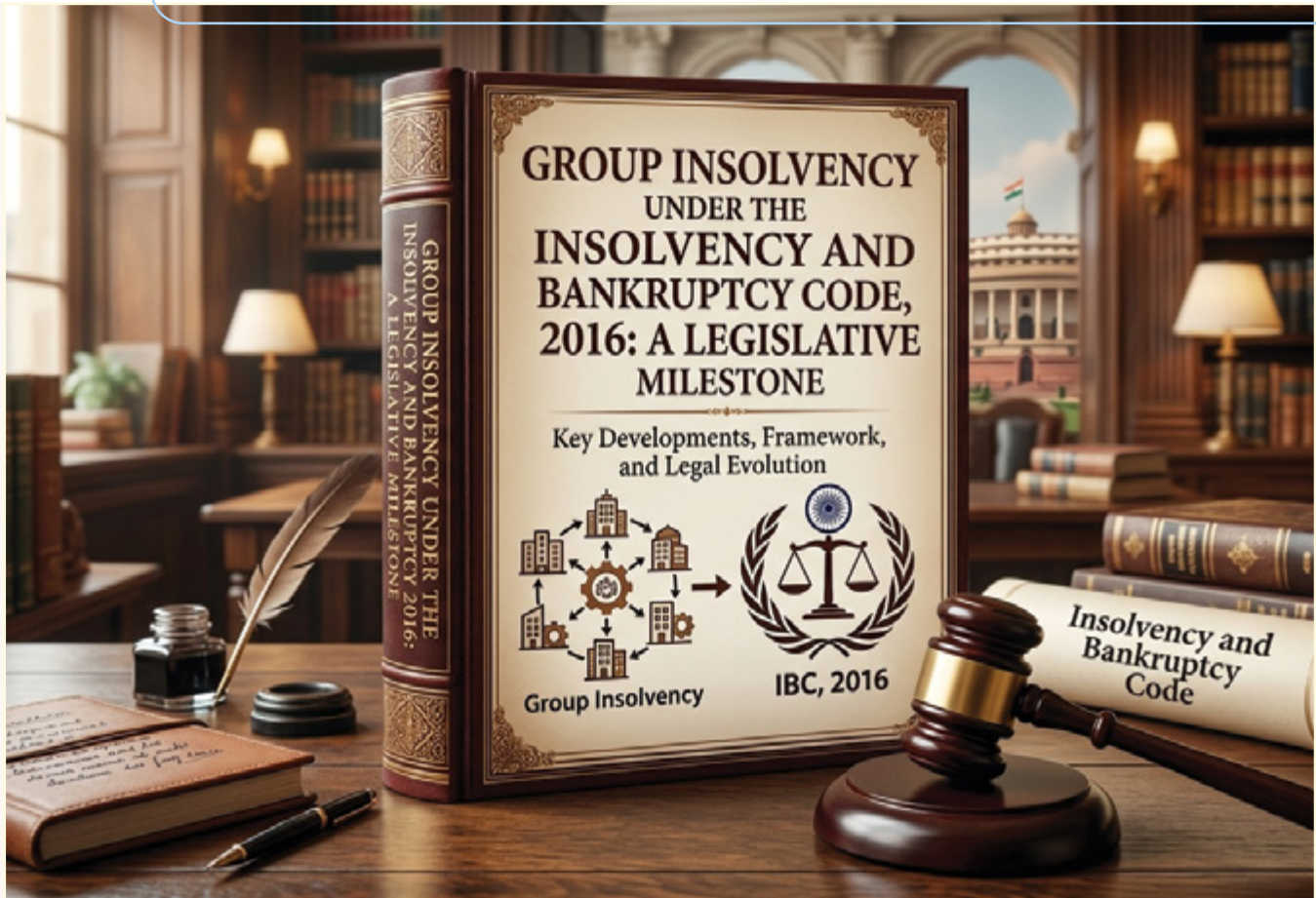
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**Chapter VA, inserted by the Amendment through a new Section 59A, empowers the Central Government to prescribe the manner and conditions for conducting group insolvency proceedings where two or more corporate debtors forming part of a group are simultaneously in insolvency.**



would have commanded. Resolution applicants found it commercially unattractive to bid for entities whose standalone viability was contingent on the continuation of intra-group arrangements over which they had no control. Creditors with cross-group exposure faced coordination paralysis and inconsistent recoveries. The Bill addresses each of these structural infirmities through a carefully calibrated statutory framework.

Chapter VA, inserted by the Amendment through a new

Section 59A, empowers the Central Government to prescribe the manner and conditions for conducting group insolvency proceedings where two or more corporate debtors forming part of a group are simultaneously in insolvency. The framework is deliberately flexible, recognising that no two group insolvency scenarios are identical, while preserving space for individual processes where warranted. A single NCLT bench may be mandated for all group entities, eliminating the inconsistency and delay that flows from proceedings

being fragmented across multiple jurisdictions. Coordination between Resolution Professionals, CoCs, or Liquidators is formally envisaged whether through a common Insolvency Professional, joint deliberations, or binding Coordination Agreements covering information exchange, joint asset marketing, coordinated sale processes, and sequenced timelines. A Group Committee of Creditors may be constituted to serve as a collective decision-making forum on matters of common concern, while individual CoCs retain autonomy over entity-

specific issues. Mechanisms for the equitable allocation of coordination costs across group entities are anticipated, ensuring that no single creditor pool bears a disproportionate burden.

Critically, the model is UNCITRAL-aligned and focused on procedural coordination. Substantive consolidation - the full merging of assets and liabilities remains a matter for judicial determination and is not proposed by the rule's framework. This reflects a measured approach, preserving flexibility without opening the door to outcomes that could prejudice one class of creditors for the benefit of another.

The introduction of this framework also places India on a continuum with the world's leading insolvency jurisdictions. The UNCITRAL Model Law on Enterprise Group Insolvency, 2019, emphasises that coordinated resolution enhances value recovery, reduces duplication of professional effort, and ensures equitable treatment of stakeholders across the group. The

United Kingdom, the United States, and jurisdictions operating under the European Union Insolvency Regulation have long provided procedural or substantive mechanisms for group insolvency. India's alignment with these standards will materially strengthen confidence among international investors and cross-border creditors - a dimension of growing importance as Indian corporates expands its global footprint and foreign capital deepens its presence in Indian credit markets.

The framework is welcome, but its effective implementation will demand precision. The boundaries of "control" and "significant ownership" for the purposes of triggering group insolvency will require clear definition in the rules. Managing dissent and cross-claims between CoCs of different group entities will call for nuanced procedural guidance, and the coordination of timelines where entities are at different stages of their respective insolvency processes will test the operational capability of Insolvency Professionals in ways that individual CIRPs have not. These are not

reasons for hesitation but for thorough rule-drafting, in which the insolvency professional community must participate and contribute actively.

The passage of the IBC Amendment through both Houses of Parliament without opposition, followed by Presidential assent, is a powerful affirmation that India stands united behind the goal of a modern, efficient, and globally competitive insolvency framework. The IBC in itself was a game-changing Code for the country, and the introduction of statutory group insolvency provisions is not merely a technical reform it is a recognition that the Code must keep pace with the economic structures it governs. With the legislative process now complete and implementation awaited, India's insolvency ecosystem stands at the threshold of its most consequential evolution since 2016. The profession is well-positioned to rise to the occasion, and the framework, once operationalised, holds genuine promise for superior outcomes for creditors, enterprises, and the broader economy alike.



# TO BUTTRESS IBC OBJECTIVES, INSTITUTIONAL REFORMS ARE THE NEED OF THE HOURS



**Anjali Sharma**  
Advocate

A decade after the enactment of the Insolvency and Bankruptcy Code, 2016, the Code stands as one of India's most consequential economic legislations, fundamentally recalibrating creditor-debtor relations and embedding a culture of time-bound resolution.

Yet, ten years on, the most critical promise of the Code – *speed* – is increasingly under stress not because of any lack of judicial will, but because of factors such as inadequate infrastructural support, and the other factors discussed in this article.

Publicly available data underscores the scale of the challenge. As per consolidated figures available in public domain, pendency at key NCLT benches is staggering. As per the Economic Survey of India, the NCLT had 30,600 pending cases as of March, 2025. Budget allocations however, are not consonant with the need for capacity expansion.

As is plain for all of us to see, fresh filings continue unabated, adding to pendency. Needless to state, this pendency has systemic consequences. A Code designed around strict

timelines 180 days extendable to 330 days now routinely witnesses CIRPs stretching well beyond statutory limits. The Supreme Court, in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531, emphasised that timelines are central to value maximisation. Similarly, in *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*, (2019) 2 SCC 1, the Court reiterated that speed and certainty are the lifeblood of the insolvency framework. To ensure speed and certainty however, we must strengthen the hands of the Adjudicating Authority and the Appellate Tribunal with thoughtful structural reforms and capacity expansion. In fact, it is the lack of these that are the roadblocks to the pace sought to be achieved.

## STRUCTURAL SPEEDBREAKERS

Let us dive straight away into structural impediments to speed. There is yet a nagging inadequacy of bench strength. Despite a manifold increase in insolvency filings since 2016, bench strength has not proportionately expanded. Persistent vacancies further exacerbate the situation, leading to benches functioning below even the sanctioned

strength. In high-volume jurisdictions such as Delhi and Mumbai, this results in unsustainable cause lists, with a huge volume of matters per day. It is unfair to expect our benches to deal with all of that without suitable augmentation.

Equally significant is the lack of adequate infrastructure. Several NCLT benches operate with limited courtroom availability, effectively constraining the number of matters that can be heard in a day. For instance, in the Delhi bench of the NCLT, since September, 2025, all the NCLT Delhi benches are functioning only for half day because of non-availability of court rooms. Hence, these benches are physically constrained, resulting in truncated hearings and adjournments by default rather than design.

The problem is compounded by administrative deficiencies. The absence of sufficient stenographers, other trained court staff and registry personnel also directly impacts the speed of adjudication. Orders may sometimes be reserved but not pronounced due to transcription delays.

### CASE MANAGEMENT

It is also noticed that in cases before Adjudicating Authorities, there is a proliferation of interlocutory applications, particularly under Section 60(5) of the IBC, which significantly protracts timelines for disposal, while also expanding the scope of proceedings. Summary processes therefore become litigation-heavy, with disputes over claims, inter se creditor rights, and even avoidance transactions occupying substantial judicial time. Lesser latitude to interlocutory litigation, and conscious time allocation per matter are perhaps the need of the hour – much easier said than done!

### SUGGESTED REFORMS

In this backdrop, urgent reforms addressing firstly, the structural causes of delay flagged above in this article, are imperative; and for this it is the government of the day that has to show some will and urgency.

The most immediate requirement, perhaps, is a substantial augmentation of bench strength. This could be coupled with specialisation, wherein dedicated IBC benches handle insolvency matters exclusively, without being burdened by company law or oppression–mismanagement cases. The appointment process must itself be time-bound, ensuring that vacancies do not paralyse the system. Additional courtrooms, and extended working hours can significantly enhance disposal capacity. Equally critical is the strengthening of the administrative apparatus. Enhanced stenographic support, for instance, can ensure prompt transcription and order pronouncement, reducing delays that sometimes undermine the efficacy of hearings. The NCLAT also requires expansion, both in terms of benches

and capacity, to ensure that appeals do not become another layer of delay.

An improved case management module is also an urgent requirement. Whereas the Hon'ble Benches are best suited to evolve the same, fixed / rationalised time slots per matter, stricter control over adjournments, and even mandatory pre-hearing written submissions could be considered. There is also a need to curtail the proliferation of interlocutory litigation by substantially raising the threshold for issuance of notice to show cause in the same.

The cost of inaction is significant. Delay under the IBC is not a procedural inconvenience – it is value destructive. Assets depreciate, investor confidence erodes, and liquidation becomes more likely than resolution. The Code's objective is maximisation of value through timely intervention; and delay defeats that objective at its core.

The IBC, at ten, stands at a critical juncture. The legislative framework is robust; but the strengthening of the institutional machinery that gives life to the statute, requires far greater attention. Unless the systemic deficiencies of infrastructure, staffing, and case management are addressed with urgency, the Code risks losing its defining characteristic – speed.

The next decade of the IBC must therefore be a decade of institutional reform; because sans that, amending the law can at best have limited efficacy and impact. For the promise of time-bound insolvency resolution to move from legislative aspiration to operational reality, the focus on institutional reform must remain steadfast. A holistic approach, inclusive of this focus, is what will better serve to ensure that the Code achieves its objectives and lives up to its promise.

**Anjali Sharma**  
*Advocate*



# AVOIDANCE AND FRAUDULENT TRANSACTIONS UNDER IBC : EVOLVING JURISPRUDENCE AND RESPONSIBILITIES OF RESOLUTION PROFESSIONALS

## Preface

The Insolvency and Bankruptcy Code, 2016 ("IBC") was enacted as a transformative framework to address situations where a Corporate Debtor ("CD") defaults in meeting its financial obligations. Such defaults not only disrupt business continuity but also lead to significant erosion of value, adversely impacting creditors who stand to lose their legitimate dues.

Upon admission of an insolvency application, the process is placed under the supervision of the National Company Law Tribunal ("NCLT"), which appoints a Resolution Professional ("RP") to take control of the affairs of the Corporate Debtor. The RP, as an officer of the Court, is entrusted with the responsibility of managing the CD as a going concern, conducting the Corporate Insolvency Resolution Process ("CIRP"), and facilitating resolution for maximisation of value for stakeholders.

Importantly, the RP is not merely an administrator but also an investigator. The RP is duty-bound to examine the affairs of the Corporate Debtor—to look upon, beneath, and beyond the financial records - to identify transactions that may have eroded value. This includes scrutiny of Preferential, Undervalued, Fraudulent, and



**Upon admission of an insolvency application, the process is placed under the supervision of the National Company Law Tribunal ("NCLT"), which appoints a Resolution Professional ("RP") to take control of the affairs of the Corporate Debtor.**



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Extortionate (PUFE) transactions, and placing them before the Adjudicating Authority for appropriate relief, including reversal and recovery.

With the proposed IBC (Amendment) Act, 2026 (awaiting notification), along with revised CIRP Regulations and updated IBBI reporting forms, the regulatory emphasis on detection, reporting, and adjudication of such transactions has significantly increased.

Among avoidance transactions, fraudulent transactions remain the most serious, often involving deliberate intent to defraud creditors and siphon assets.

### 1. Understanding Avoidance and Fraudulent Transactions

The IBC recognizes four categories of avoidance transactions:

- Preferential Transactions (Section 43)
- Undervalued Transactions (Section 45)
- Extortionate Credit Transactions (Section 50)
- Fraudulent Transactions / Wrongful Trading (Section 66)

While the first three categories are largely objective, fraudulent transactions are intent-driven, involving deliberate acts to defraud creditors or siphon value.

PUFE provisions under the Insolvency and Bankruptcy Code, 2016 are designed to:

- Prevent value siphoning prior to insolvency,
- Ensure equitable treatment of creditors, and
- Restore the financial position of the Corporate Debtor to its true economic state.

In practical CIRP scenarios, a significant portion of value erosion is often linked to pre-insolvency related party dealings, diversion of funds, and non-arm's length transactions. Therefore, effective identification of PUFE transactions directly impacts recovery outcomes.

### Fraudulent Transactions – Legal Framework (Section 66)

Section 66 empowers the Adjudicating Authority (NCLT) to hold persons liable if:

- The business of the CD has been

carried on with intent to defraud creditors, or

- For any fraudulent purpose
- Further, under wrongful trading provisions, directors or partners may be held liable if they:
- Knew or ought to have known that insolvency was unavoidable, and
  - Failed to exercise due diligence to minimize losses to creditors

To establish a fraudulent transaction, the foremost requirement is demonstrating intent to defraud. Unlike preferential or undervalued transactions, fraud requires mens rea (intent). Indicators include diversion of funds to related parties, circular transactions lacking commercial substance, and fictitious or inflated entries. Transactions lacking a genuine business rationale, especially during financial distress, are red flags. Though no strict look-back period applies to fraud transactions, transactions near insolvency commencement date (ICD) carry higher scrutiny.

### 2. Role of Resolution Professional (RP)

The RP plays a critical role in identifying and pursuing avoidance transactions:

#### 2.1 Investigation and Identification

- Review of financial statements, bank transactions, and related party dealings
  - Forensic audit (if required)
  - Coordination with valuers and asset tracing agencies
- #### 2.2 Statutory Timelines (Regulation 35A) – Opinion, Determination and Filing

The IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, through Regulation 35A, prescribes a structured timeline:

- (a) Formation of Opinion: Under Regulation 35A, the Resolution Professional is required to form a prima facie opinion on the existence of avoidance and fraudulent transactions.
  - Timeline: Within 75 days from Insolvency Commencement Date
  - RP forms a prima facie view on existence of PUFE transactions
- (b) Determination: The Resolution Professional is required to determine the nature, extent, and impact of such avoidance/PUFE/fraudulent transactions.
  - Timeline: Within 115 days
  - Detailed analysis, quantification, and identification of beneficiaries



- (c) **Filing with NCLT** - Where the resolution professional makes a determination under sub-regulation (2) of 35A, he shall apply to the Adjudicating Authority for appropriate relief on or before the 135th day of the insolvency commencement date.

Recently, NCLTs have increasingly emphasized that:

- Avoidance transactions (Sections 43–51) and
- Fraudulent transactions (Section 66)

should be filed as separate applications, given their distinct nature. Avoidance provisions primarily focus on reversal of value, whereas fraudulent transactions under Section 66 address intent and personal liability of those involved.

#### Typical Contents of IA:

- Transaction details and timeline
- Parties involved and beneficiaries
- Supporting documents and forensic findings
- Legal provisions invoked
- Relief sought

#### 2.3 Reporting Framework with IBBI – Revised CIRP Forms

With the introduction of revised reporting forms, avoidance transactions have gained formal reporting structure that ensures continuous regulatory oversight and transparency:

- Form CP-4 captures details such as the nature of transaction, amount involved, date of filing before the Adjudicating Authority, and status of the application. The same needs to be filed on or before the 10th day of the subsequent month, after filing of application(s) with AA or disposal of application(s) by AA.
- Monthly monitoring through CP-5 - This includes updates on the status of CIRP; details of CoC meetings held; updates on litigations; details of expenses incurred; reasons for delay, if any; etc. in case of all ongoing CIRPs to be filed on or before the 10th of every month for the preceding month.

### 3. Expanding Accountability of Resolution Professionals

Earlier, regulatory focus was largely confined to non-reporting of undervalued transactions. However, the evolving jurisprudence now clearly extends the responsibility of the Resolution Professional to fraudulent transactions under Section 66 as well, thereby expanding the scope from transaction-based review to conduct-based accountability.



### Conclusion

Avoidance and fraudulent transactions lie at the heart of value preservation under the IBC. The evolving jurisprudence and regulatory framework underscore that the role of the Resolution Professional is not limited to facilitating resolution but extends to actively investigating and rectifying past irregularities.

With increased scrutiny from the NCLT and structured reporting to IBBI, the expectation is clear. The Insolvency professional must act with diligence, independence, and investigative rigor.

A proactive approach towards PUF transactions ensures that the insolvency process not only resolves financial distress but also upholds fairness, accountability, and maximisation of value for all stakeholders.

Failure to identify or report such transactions may lead to adverse observations by the NCLT, regulatory scrutiny by IBBI, and possible disciplinary action against insolvency professionals.

This marks a shift from transaction-based compliance to conduct-based accountability.

This responsibility also flows from Section 25 of the Code, which mandates the Resolution Professional to preserve and protect the value of the Corporate Debtor.

### 4. Practical Challenges in Identifying PUF Transactions

Despite clear mandates, RPs face significant challenges due to:

- Non-cooperation from suspended management (often requiring Section 19(2) intervention)
- Incomplete or manipulated records
- Complex related party structures
- Limited time under CIRP timelines
- Difficulty in proving fraudulent intent
- Asset Tracing Issues to identify assets that may be routed through multiple layers or related entities, complicating recovery

These challenges necessitate a balanced approach combining legal, financial, and forensic expertise.

### 5. Best Practices for Resolution Professionals

To effectively discharge their duties, RPs should:

- Initiate early review of transactions (well before 75 days)
- Engage forensic auditors where required. However, it is to be borne in mind that Resolution Professional has to apply his own mind in determination and should not merely follow the Transaction Auditor Report.
- Maintain detailed documentation for opinion and determination
- File separate applications for different transaction types
- Ensure consistency between NCLT filings and IBBI reporting
- Keep the Committee of Creditors informed.

**Rashmi Chhawchharia**

CA & Insolvency Professional



## BANKRUPTCY REGIME IN IBC AS OPPOSED TO CIRP



**It would be completely incorrect to say that IBC has left creditors with no mechanism to overcome the challenges.**



**The Bankruptcy Process seriously hinders the life of the person adjudicated to be Bankrupt. Section 124, IBC, imposes an interim moratorium on the date of filing the Bankruptcy application.**

**Prachi Johri**

*Adv. & AOR, Supreme Court of India*

Insolvency resolution process for individuals is a completely different ball game that insolvency resolution process for Corporate Persons. While the full extent of the IBC is yet to come into force regarding individual debtors, the Government of India has brought the provisions into force for Personal Guarantors of Corporate Debtors.

Facing prolonged challenges and stays, the constitutionality of the provisions regarding insolvency resolution for Personal Guarantors of Corporate Debtors was upheld by the Hon'ble Supreme Court in the matter of in *Dilip B Jiwrajka v. Union of India & Ors*, 2023 SCC Online SC 1530. Thus while the provisions were notified in 2019, the real test of practice came to be applied only after the aforesaid judgment dated 09.11.2023. In the small span of little over two years, various creditors have resorted to personal guarantor insolvency provisions for holding guarantors responsible and liable.

However, the fact remains that IBC is not a recovery

framework but rather intended to maximize the value of assets of the debtor. The real question therefore is, are the personal guarantors of corporate debtors persons who have accumulated personal assets or it is the case that these personal guarantors have no repayments plan to submit. The question also is the conduct of creditors, would the creditors be willing to take massive haircuts if the individual who stands as debtor cannot match the might of the corporate debtor who was the principal borrower. This issue is put to test in every personal guarantor insolvency matter. The scope of competitive bidding for assets of individuals is virtually non-existent in personal guarantor insolvency resolution.

It would be completely incorrect to say that IBC has left creditors with no mechanism to overcome the challenges. Here enters the Bankruptcy Process which may be initiated by the Creditors (Section 121 r/w Section 123, IBC) or by the Debtor himself (Section 121 r/w Section 122, IBC). It is my firm opinion that the Bankruptcy Process lies somewhere in between a conventional CIRP for corporate debtors where the Resolution Professional takes over the assets and control and the Liquidation process for Corporate Debtors where the Liquidator sells off the assets in auction on competitive bidding. While we draw comparison to insolvency and liquidation of Corporate Persons, the essential difference in the case of personal guarantors to corporate debtors is that the person who stands at the receiving end of the process is not a juristic entity but a human being, with human rights and duties.

The Bankruptcy Process seriously hinders the life of the person adjudicated to be Bankrupt. Section 124, IBC, imposes an interim moratorium on the date of filing the Bankruptcy application. The effect of admission of Bankruptcy Application

inter alia is the appointment of a Bankruptcy Trustee and vesting of the entire estate of the Bankrupt with the Bankruptcy Trustee (Section 128, IBC) including but not limited to all property belonging to and capacity to exercise and to initiate proceedings exercising powers in respect of such property (Section 155, IBC). Even 'after-acquired property' of the Bankrupt person vests in the Bankruptcy Trustee (Section 159, IBC). The 'Restrictions on the Bankrupt' are strict, mandatory and onerous including but not limited to not acting as director of any company and not travelling overseas without permission of the Adjudicating Authority (Section 141, IBC). The Bankruptcy Trustee

Adjudicating Authority has been mandated to discharge said person at the end of one year from the date of commencement of bankruptcy or within 7 days of approval of COC for completion of administration of estate, whichever is earlier (Section 138, IBC). This time period is not extendable and no proviso like the proviso to Section 12, IBC, is part of the IBC. It is this where the foresightedness of the legislature is reflected in acknowledging that despite the onerous nature of the proceedings there is finality thereto. On first glance it may appear that the guarantor who is adjudged bankrupt gets a discharge in 1 year without suffering consequences of default.

## **Facing prolonged challenges and stays, the constitutionality of the provisions regarding insolvency resolution for Personal Guarantors of Corporate Debtors was upheld by the Hon'ble Supreme Court of India**

is permitted to claw back Bankrupt persons transactions as undervalued (Section 164, IBC) and/or preferential (Section 165, IBC), and/or extortionate credit transactions (Section 167, IBC). Moreover, the proceedings do not abate even on the death of the Bankrupt person and continue as if he were alive (Section 169, IBC).

The IBC goes on to establish the in rem nature of the proceedings regarding claims from all creditors (Section 171, 172, IBC) and the priority of distribution of interim dividend (Section 174, IBC), property (Section 175, IBC) and final dividend (Section 176, IBC).

Pertinently, the IBC has interesting and different provisions when it comes to ending the Bankruptcy Process. For the Bankrupt Person, the

However, even this is provided in the IBC that the discharge is of the Bankrupt Person and not an end of the process. This crucial difference between Section 12 of the IBC for CIRP and Section 138, IBC, for Bankruptcy is where the humanity comes. The effect of discharge of the person is not to end the Bankruptcy Process as the liability under fraud continues as well as the functions of the Bankruptcy Trustee remain unaffected (Section 139, IBC). Therefore, the IBC controls that the defaulter faces consequences of default including fraudulent actions and losing his entire estate to the Bankruptcy Trustee but the releases the individual at the other end of the process from the bankruptcy debt to make a new start of his life.

The same position of law was envisioned in the previous insolvency regime. The settled position of law in the previous insolvency regime was that – “the law of bankruptcy does not expect that the debtor should always be slave of the creditors; the object is to release the debtor at an appropriate time, taking into consideration several factors referred to in section 39 of the Act” (Ref: *Re: Lav Chadha v. SICOM Ltd.* (2016 (5) Mh.L.J.) ; and *T.P. Kunhiraman v. Official Assignee* (AIR 1983 Mad 148)). This relevant and crucial aspect of automatic discharge of individual in contrast to a corporate person brings out why IBC is a complete code in itself embodying all aspects and past lessons from similar statutes.

In the case of Bankruptcy Process, “automatic discharge” does not mean discharge without the NCLT’s approval, but merely that upon completion of 1 year time period, the Bankruptcy Trustee, without any further legal process or delay and without approval of CoC or otherwise, has to mandatorily

apply for discharge of the Bankrupt to the NCLT. The NCLAT has had an opportunity to examine the issue of “automatic discharge” and the mandatory nature of 1 year timeline for the Bankruptcy Process in the matter of *Anil Syal v. Ajay Gupta & Anr, Company Appeal (AT) (Insolvency) No. 523 of 2025*. It was argued before the NCLAT that not only in the IBC but also statutes in foreign jurisdiction provide for grant of discharge after fixed time. It was argued that the Report of the Bankruptcy Law Reforms Committee, November 2015, clearly distinguished between earned discharge after fulfilment of repayment plan during insolvency resolution and discharge from bankruptcy at the end of fixed time period. The NCLAT made a finding that India has actively chosen the relief which is a combination of debt relief and earned relief given the design of two procedures. The NCLAT not only held that the discharge after 1 year is mandatory but also that if the Bankruptcy Trustee does not file the requisite application for discharge

the Bankrupt person has due locus since such person is directly affected by continuance of the bankruptcy proceedings.

Such findings and adherence to the timeline is very different from the process for juristic entities.

The proactive approach by the NCLAT to consider the human impact of proceedings on individuals is a welcome step. As such, while the creditors retain the right to distribution of property and dividend, the individual at the receiving end can start their lives afresh.

The personal guarantor/individual insolvency regime has a long way before the law is settled on various aspects but the approach of the Tribunals and courts to consider human impact is significant and deserves the attention of insolvency practitioners.

**Prachi Johri**

*Adv. & AOR, Supreme Court of India*

## The Expert’s Cheat Sheet (2016–2026)

*Key judgments for high-level debate at your conclave:*

1. **Innoventive Industries (2017):** Established the primacy of the IBC over inconsistent laws (Section 238).
2. **Swiss Ribbons (2019):** Upheld the constitutional validity of the Code; solidified the “Financial vs. Operational” creditor distinction.
3. **Essar Steel (2019):** The definitive ruling on “Commercial Wisdom”-the CoC has the final say on the distribution of proceeds.
4. **Ghanshyam Mishra (2021):** The “Clean Slate” doctrine post-approval, no past liabilities can be enforced against the successful Resolution Applicant.
5. **Satinder Singh Bhasin (2026):** Confirmed that the “100 Allottees” threshold is determined at the date of registration, and substitution of petitioners is permissible to reach that threshold.
6. **Independent Sugar Corp (2025):** Mandated that CCI approval must be obtained before the CoC votes on a plan, overturning previous discretionary practice.

# ANALYZING THE POSITION OF SECURED FINANCIAL CREDITORS WITH EXCLUSIVE CHARGE UNDER THE INSOLVENCY AND BANKRUPTCY CODE IN RELATION TO DISTRIBUTION DURING CIRP



**It analyses the statutory framework and evolving judicial interpretation to determine the quantum of payment payable to such creditors, with a focus on dissenting secured financial creditors.**

**Ramanathan Bhuvaneshwari**  
*CMA & Insolvency Professional*

## **Abstract:**

This article examines the legal position of secured financial creditors holding an exclusive charge under the Insolvency and Bankruptcy Code, 2016 ("IBC"), particularly in the context of distribution under a resolution plan during the Corporate Insolvency Resolution Process ("CIRP"). It analyses the statutory framework and evolving judicial interpretation to determine the quantum of payment payable to such creditors, with a focus on dissenting secured financial creditors. The article further traces jurisprudential developments to understand how the Courts have balanced creditor rights with the overarching objective of value maximisation and resolution.

## **Introduction:**

The rights of secured financial creditors, those holding exclusive security interests particularly dissenting creditors have been a subject of

significant debate under the IBC. The statutory framework governing their entitlements is primarily contained in Sections 30 and 53 of the Code, read with Regulation 38(1)(b) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016. While the Code recognizes the priority of secured creditors, it simultaneously subjects their recoveries to the collective resolution mechanism, thereby raising critical questions regarding the extent to which individual security interests can influence distribution under a resolution plan

## **The Perception of Law on Secured Financial Creditors having Exclusive Charge:**

The Regulation 38(1)(b) of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016<sup>1</sup> clearly explains that dissenting secured financial creditors will have priority in payment before secured financial

creditors. The Section 30(2)(b) of the IBC<sup>2</sup> gives the interpretation that dissenting secured financial creditors are entitled for the payment of debt, which shall not be less than the liquidation value that they would have received under Section 53(1) of IBC. The Section 53(1) of the IBC<sup>3</sup> clarifies that distribution of debt which is owed to the secured creditors must be equitably allocated between the workman's dues and debt owed to secured creditors. The Regulation 21A(2)(a) of IBBI (Liquidation Process) Regulations, 2016<sup>4</sup> says that the secured creditors realizing their secured interest must contribute to the insolvency resolution process costs within 90 days of liquidation commencement and workmen dues for 24 months preceding the date of liquidation commencement.

## **Judicial Interpretation on Quantum of Payment:**

Judicial pronouncements have played a pivotal role in clarifying the extent

of entitlement of dissenting secured financial creditors.

In the matter of “India Resurgence ARC Private Limited v. Amit Metaliks Limited & Anr.”,<sup>5</sup> The Hon’ble Supreme Court said that the Committee of Creditors has the discretion to decide distribution for all creditors within the same class to ensure fair and equitable treatment with regard to Section 30(4) of the IBC. The Hon’ble Supreme Court was also of the view that the proposal for payment to dissenting secured financial creditors has to be at par with the proportion offered to secured financial creditors to qualify as ‘equitable treatment’. The court rejected the contention that the dissenting secured creditors should receive more based on the value of their security interest. The court also observed that, it was never the intent of the legislature to provide dissenting secured financial creditors the entire value of the security interest that they hold as part of the payouts under the resolution plan as this would result in an inequitable scenario where secured creditors would be incentivized to vote for liquidation rather than resolution, which will defeat the objective of the code.

In case of “DBS Bank Limited Singapore v. Ruchi Soya Industries Limited & Anr.”,<sup>6</sup> the Hon’ble Supreme Court took a contrary position by taking the view that the Section 30(2)(b)

(ii) of the IBC protects the position of dissenting secured financial creditors by assuring that they are at least paid an amount equivalent to the value of their security interest with regard to Section 53(1) of the IBC. The Hon’ble Court also clarified that while it’s given that a dissenting secured financial creditor must let go of its security in a resolution, however, such dissenting secured financial creditor is entitled to the value of security to ensure protection of minority autonomy. The Hon’ble Supreme Court of India, while recognising the interpretational tension referred the issue to a larger bench for the determination on the said issue.

Subsequently, in “Paridhi Finvest Pvt. Ltd. v. Value Infracon Buyers Association & Anr.”,<sup>7</sup> The Hon’ble Supreme Court upheld the NCLAT Order, which was in consonance with the Amit Metaliks Case<sup>8</sup>. It upheld that dissenting secured financial creditors are entitled only to the minimum threshold of liquidation value under Section 53 and cannot claim a higher payout solely on account of their secured status. The Hon’ble NCLAT reiterated the primacy of the CoC’s commercial wisdom, provided the statutory minimum safeguards are met.

### Analysis:

Based on the above mentioned legal provisions and jurisprudence, it can be

seen that the position of the dissenting secured financial creditors and the quantum of payment payable to them is well protected by the law. It is clear that they are protected with the amount that should not be less than the liquidation value under Section 53(1) of the Code. The Code ensures a floor in the form of liquidation value, but not a ceiling tied to the value of the underlying security. The jurisprudence has consistently moved towards reinforcing the collective nature of insolvency resolution, where individual enforcement rights yield to the broader objective of value maximisation.

Further, there was significant uncertainty regarding how the law should be applied to decide the amount payable to the dissenting secured financial creditors which can be seen in the jurisprudence until the last decision that gave final interpretation as of today. The Hon’ble Court came to the conclusion that dissenting secured financial creditors should get the amount not less than the liquidation value and emphasized on the commercial wisdom of the committee of creditors.

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### Conclusion

The legal framework under the IBC, supported by judicial interpretation, clearly establishes that dissenting secured financial creditors are entitled to a minimum safeguard in the form of liquidation value as prescribed under Section 53. However, this entitlement does not extend to a right to recover the full value of their underlying security interest within a resolution plan. The statutory scheme, particularly Sections 30(2)(b) and Regulation 38, ensures that while their interests are protected, such protection operates only as a floor and not as a guarantee of proportionate or security-based recovery.

The Courts time and again has reinforced the primacy of the Committee of Creditors’ commercial wisdom and the collective nature of the insolvency resolution process. By rejecting claims for higher payouts based solely on exclusive security interests, the courts have emphasized equitable treatment within the same class of creditors and discouraged outcomes that could incentivize liquidation over resolution. Consequently, the IBC framework maintains a balanced approach of safeguarding dissenting secured creditors while prioritizing value maximization and the broader objectives of insolvency resolution.

1. Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, §38(1)(b).
2. The Insolvency and Bankruptcy Code, 2016 § 30(2)(b), No. 31, Acts of Parliament, 2016 (India).
3. The Insolvency and Bankruptcy Code, 2016 § 53(1), No. 31, Acts of Parliament, 2016 (India).
4. Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, §21A(2)(a).
5. India Resurgence ARC Private Limited v. Amit Metaliks Limited & Anr., (2021) 19 SCC 672.
6. DBS Bank Limited Singapore v. Ruchi Soya Industries Limited & Anr., 2024 SCC OnLine SC 3.
7. Paridhi Finvest Pvt Ltd v. Value Infracon Buyers Association & Anr., Civil Appeal (Diary) No. 14065 of 2024.



# IBC AT TEN: WHAT WORKED, WHAT DIDN'T, AND WHAT THE 2026 REFORM PACKAGE COULD CHANGE?

**Jayesh Sanghrajka**  
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## INTRODUCTION

The Insolvency and Bankruptcy Code (IBC), enacted in 2016, unified India's fragmented insolvency framework, aiming for time-bound resolution, value maximisation, and improved credit discipline. Over a decade, it

has significantly reshaped recovery processes and creditor-debtor dynamics, strengthening the position of creditors and improving institutional mechanisms for insolvency resolution. However, the effectiveness of the framework has increasingly been

tested by implementation challenges, particularly delays beyond statutory timelines and uneven recovery outcomes across cases. This article evaluates its performance, key challenges, and the significance of the 2026 reforms in enhancing future effectiveness.

## TRENDS IN CIRP OUTCOMES UNDER THE IBC (2017–2025)

**Table 1: Data on CIRP Outcomes (2017–2025)<sup>1</sup>**

| Year (as on 31 March) | CIRPs Admitted | Resolved | Liquidation | Average Time (Days – Resolution) |
|-----------------------|----------------|----------|-------------|----------------------------------|
| 2017                  | 37             | –        | –           | NA                               |
| 2018                  | 1,198          | 52       | 260         | ~270                             |
| 2019                  | 2,542          | 160      | 475         | ~300                             |
| 2020                  | 3,774          | 221      | 914         | ~330                             |
| 2021                  | 4,708          | 348      | 1,277       | ~400                             |
| 2022                  | 5,476          | 480      | 1,609       | ~500                             |
| 2023                  | 6,715          | 653      | 2,030       | ~600                             |
| 2024                  | 7,920          | ~900     | ~2,500      | ~650                             |
| 2025                  | 8,308          | 1,194    | 2,758       | ~713                             |

*Source: Compiled from various Annual Reports of the IBBI (2017–18 to 2024–25).*

Over a decade, it has significantly reshaped recovery processes and creditor-debtor dynamics, strengthening the position of creditors and improving institutional mechanisms for insolvency resolution.

As presented in Table 1, the number of Corporate Insolvency Resolution Processes (CIRPs) admitted under the IBC increased substantially from 37 cases in 2017 to 8,308 cases by March 2025<sup>2</sup>, reflecting strong institutional adoption and growing reliance on the framework. However, the data simultaneously reveal persistent

structural inefficiencies, as liquidation outcomes have consistently exceeded successful resolutions. Furthermore, the average time taken for resolution has risen from approximately 270 days in the initial years to over 700 days in recent periods, indicating significant delays and capacity constraints within the insolvency ecosystem.

## ACHIEVEMENTS OF THE IBC

### Improved Credit Discipline

A key achievement of the Insolvency and Bankruptcy Code (IBC) is the paradigm shift from a debtor-in-possession to a creditor-in-control regime. Upon admission of a Corporate Insolvency Resolution Process (CIRP), the management of the corporate debtor stands suspended and vests with the Resolution Professional. As per IBBI data, 6,382 CIRPs have been closed as of March 31, 2025, including closures through approved resolution plans, liquidation, withdrawals under Section 12A, and closures pursuant to appeal or review orders<sup>3</sup>. This reflects the emergence of a credible “settlement or resolution” framework, where the threat of insolvency proceedings incentivises early resolution outside the formal process.

### Better Recovery Outcomes

The IBC has improved recovery outcomes compared to earlier mechanisms. As per IBBI data, 1,194 CIRPs were resolved by March 31, 2025, with realisations of INR 3,88,904 crore against claims of INR 11,87,051 crore, reflecting a 32.8% recovery rate<sup>4</sup>. Realisations reached 170.1% of liquidation value, indicating effective value preservation. Large assets, particularly in the steel sector, drove recoveries, with cases such as Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta yielding approximately INR 42,000 crore<sup>5</sup>.

### Institutional Development

The IBC has facilitated the development of a comprehensive insolvency ecosystem comprising insolvency professionals, information utilities, and adjudicatory infrastructure. This institutionalisation has improved transparency and standardisation in insolvency processes. Additionally, jurisprudence from landmark cases

such as *Swiss Ribbons v. Union of India*<sup>6</sup> and *Committee of Creditors of Essar Steel v. Satish Kumar Gupta*<sup>7</sup> has reinforced key principles, including the primacy of resolution and the limited scope of judicial intervention, thereby strengthening the operational credibility of the Code.

## KEY CHALLENGES

### Delays and Time Overruns

A key challenge undermining the effectiveness of the Insolvency and Bankruptcy Code is the persistent failure to meet statutory timelines. Although Section 12 prescribes a 330-day limit for CIRP, the average resolution time increased to 713 days as of March 31, 2025, with recent cases reaching up to 853 days<sup>8</sup>. These delays stem from structural constraints within the National Company Law Tribunal, including member shortages and procedural adjournments. In *State Bank of India v Consortium of Murari Lal Jalan and Florian Fritsch* (2024), the Supreme Court has reiterated that timely resolution is central to the IBC, and delays undermine its effectiveness<sup>9</sup>.

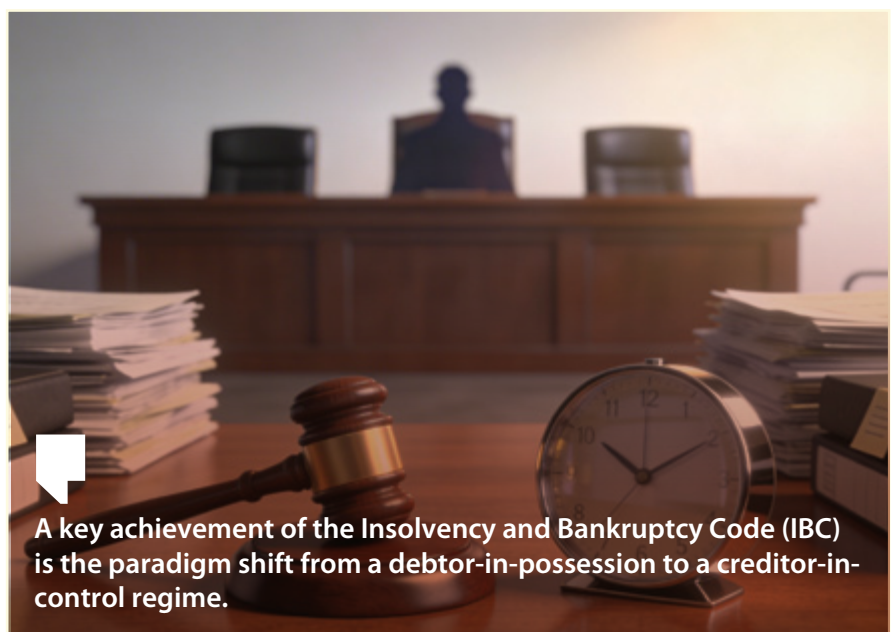
### Weak Liquidation Outcomes

The IBC framework has also exhibited

weak outcomes in liquidation, which increasingly dominates case closures. As of March 31, 2025, 2,758 CIRPs resulted in liquidation out of 6,382 closed cases, accounting for a substantial proportion of outcomes. Critically, liquidation recoveries remain extremely low, with realisations averaging only 6.03% of admitted claims, reflecting severe value erosion<sup>10</sup>. This trend suggests that Companies are often admitted into CIRP at a late stage of financial distress, when revival is no longer viable.

### Legal and Institutional Conflicts

The operational effectiveness of the Insolvency and Bankruptcy Code is constrained by conflicts with the Prevention of Money Laundering Act (PMLA), particularly due to asset attachments by the Enforcement Directorate. In *Bhushan Power & Steel Ltd*<sup>11</sup>, such attachments during CIRP created uncertainty for resolution applicants and delayed plan implementation. Although Section 32A provides conditional immunity to successful bidders, its practical enforcement remains contested, as delays in the release of attached assets continue to undermine bidder confidence and reduce value realisation<sup>12</sup>.



**A key achievement of the Insolvency and Bankruptcy Code (IBC) is the paradigm shift from a debtor-in-possession to a creditor-in-control regime.**

## THE 2026 REFORM PACKAGE

The recently introduced amendments to the Insolvency and Bankruptcy Code (Amendment) Bill, 2025<sup>13</sup> (proposed 2026 reforms). They represent a significant evolution of

India's insolvency framework. While the original IBC (2016) established a strong institutional structure focused on creditor control and time-bound resolution, its implementation over the past decade revealed persistent challenges, including delays, low

liquidation recoveries, and coordination gaps. The 2026 reform package seeks to address these issues by introducing mechanisms aimed at enhancing efficiency, flexibility, and cross-border applicability.

**Table 2: Key Changes under the IBC 2026 Reform Package (Comparative Overview)**

| Aspect                  | Pre-2026 IBC Framework                             | 2026 Amendments                                                          | Impact                                                      |
|-------------------------|----------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------------------|
| Resolution Model        | Creditor-in-control; management displaced          | Introduction of CIIRP (debtor-in-possession under creditor oversight)    | Improves flexibility and preserves business continuity      |
| Timeline for Resolution | 180 + 90 + 60 days (max 330 days, often exceeded)  | 150 days + 45-day extension under CIIRP                                  | Faster resolution, reduced delays                           |
| Admission Process       | Mandatory NCLT admission before CIRP               | Reduced reliance on tribunal admission in CIIRP                          | Minimises procedural delays                                 |
| Group Insolvency        | No formal framework                                | Introduction of group insolvency mechanisms (coordinator, joint process) | Enables coordinated resolution, reduces value fragmentation |
| Cross-Border Insolvency | Limited provisions (Sections 234–235, rarely used) | Section 240C was introduced for a structured cross-border framework      | Facilitates global cooperation and asset recovery           |



## CONCLUSION

The Insolvency and Bankruptcy Code has fundamentally transformed India's insolvency landscape by establishing a unified, creditor-driven framework that has improved recovery mechanisms and strengthened credit discipline. However, persistent challenges such as delays, weak liquidation outcomes, and legal complexities highlight gaps in implementation. The 2026 reform package marks a critical shift from merely establishing the framework to enhancing its operational efficiency and coordination. Ultimately, the success of the IBC in its second decade will depend on effective implementation, institutional capacity building, and sustained stakeholder confidence in delivering timely and predictable outcomes.

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# EXCLUDED DEBT—ASSETS: “SECLUDED” FOR PERSONAL INSOLVENCY



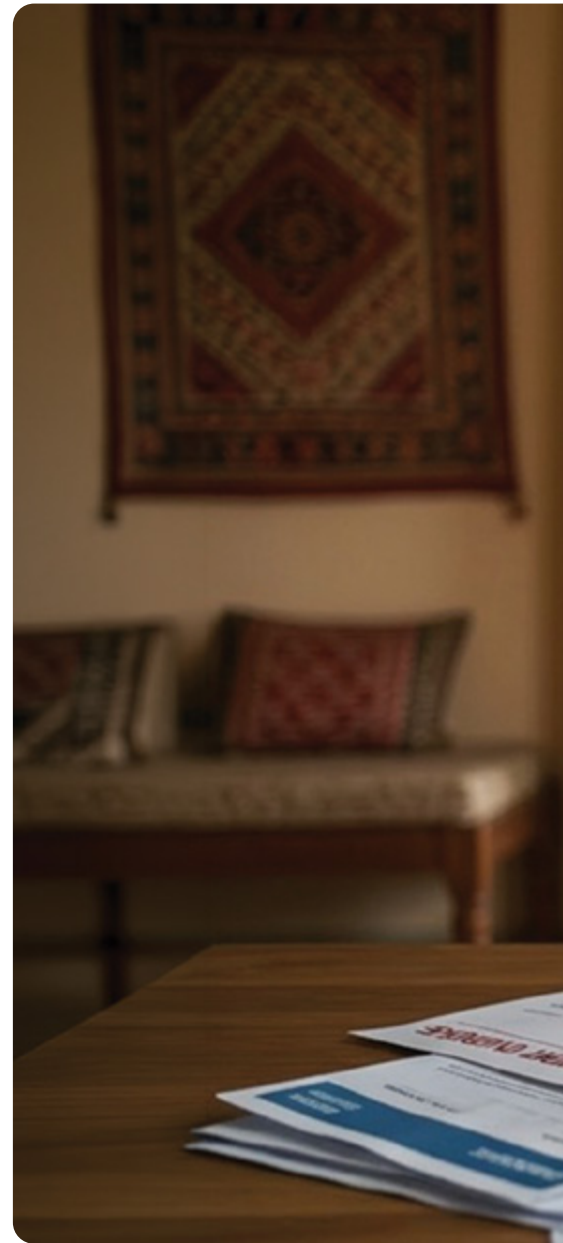
The Supreme Court of India clarified that the insolvency process for personal guarantors is consistent with principles of natural justice.

**Adv. (CA) Nipun Singhvi**



Though exhaustively defined under the Code and allied rules, their practical application raises complex interpretative and procedural challenges that merit closer scrutiny.

**Adv. Mayur Jugtawat**



## 1. Introduction

The Hon'ble Supreme Court has upheld the constitutional validity of Sections 95 to 100 of the Insolvency and Bankruptcy Code, 2016 (IBC), thereby affirming the legal framework governing personal insolvency of personal guarantors to corporate debtors. These provisions, notified with effect from 15.11.2019, provide a structured mechanism enabling personal guarantors to propose repayment plans subject to scrutiny by

creditors, resolution professionals (RP), and adjudicating authorities.

The Supreme Court clarified that the insolvency process for personal guarantors is consistent with principles of natural justice. Before admission of an application under Sections 94 or 95, the personal guarantor is entitled to a hearing under Section 100. The RP's role has been expressly defined as that of a facilitator, assisting the National Company Law Tribunal (NCLT) in determining whether an application

deserves admission.

While the judgment has triggered a surge in personal insolvency litigation, this article focuses on a relatively under-examined but critical aspect of the framework: **“excluded assets” and “excluded debts.”** Though exhaustively defined under the Code and allied rules, their practical application raises complex interpretative and procedural challenges that merit closer scrutiny.

## 2. Concept and Scope of “Excluded



## Assets”

### 2.1 Statutory Framework

Section 79(14) of the IBC defines “excluded assets” as assets that do not form part of the insolvency estate and therefore remain beyond the reach of creditors. These include:

- a. Unencumbered tools, books, vehicles, and equipment necessary for personal use or livelihood;
- b. Unencumbered household furniture and provisions

required for basic domestic needs

- c. Personal ornaments of prescribed value that cannot be parted with according to religious usage
- d. Unencumbered life insurance policies or pension plans
- e. One unencumbered dwelling unit of prescribed value

Rule 5 of the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process

for Personal Guarantors) Rules, 2019 prescribes monetary thresholds:

- Personal ornaments: up to ₹1 lakh
- Single dwelling unit: up to ₹ 20 lakhs in urban areas and ₹10 lakhs in rural areas

These exclusions are required to be disclosed in Form A and must be reflected in the statement of affairs and repayment plan prepared by the RP.

### 2.2 Purpose of Excluded Assets

Excluded assets are intended to

preserve the debtor's dignity and ensure survival during insolvency. They represent the minimum assets required for sustenance and continuity of livelihood, and are therefore excluded from the repayment plan. The objective is not to shield wealth but to prevent the insolvency process from becoming punitive or inhumane.

### 3. Comparison with SARFAESI Act and Civil Procedure Code

A comparative reading of the IBC with Section 31 of the SARFAESI Act, 2002 reveals an important overlap. SARFAESI excludes properties that are not liable to attachment under Section 60 of the Code of Civil Procedure, 1908 (CPC). Section 60 CPC contains an extensive list of assets exempt from attachment, including necessary apparel, household goods, tools of artisans, agricultural implements, residential houses of certain classes of debtors, life insurance proceeds, and protected leasehold interests.

While the CPC framework is broader, the IBC adopts a narrower and more structured approach by prescribing monetary caps. This difference creates interpretative challenges, particularly where CPC exemptions or state amendments provide wider protection than the IBC. Resolution professionals are therefore often required to harmonize these statutes to avoid inconsistency or illegality.

### 4. Personal Ornaments and Religious Usage

Rule 5 prescribes a ₹1 lakh cap for unencumbered personal ornaments, yet the term "personal ornament" is not defined under the IBC. Judicial interpretation, particularly under Section 60 CPC, becomes relevant.

High Courts have consistently held that ornaments worn by married women in accordance with religious customs such as mangalsutra, bangles, nose rings, anklets, and similar articles cannot be attached. These ornaments

are treated as part of necessary wearing apparel and possess religious and cultural significance.

Given the variability of jewellery prices and the sentimental value attached to such ornaments, valuation becomes a sensitive issue. Market value, resale value, inheritance, and religious importance must be carefully examined. The RP bears the responsibility of ensuring that exclusion of such ornaments does not cause undue hardship or violate religious protections.

### 5. Threshold Issues and Valuation Challenges

The monetary thresholds prescribed under Rule 5 are modest and subject to market fluctuations. Jewellery prices, particularly gold, are volatile and may exceed thresholds over time. Similarly, property valuations vary significantly based on location and state laws.

The absence of a uniform valuation mechanism may result in inconsistent treatment of similarly placed debtors. This makes it essential for RPs to adopt a reasoned, transparent, and well-documented approach to valuation, keeping in mind both statutory limits and equitable considerations.

### 6. Treatment of the Dwelling Unit

Rule 5 excludes one unencumbered dwelling unit within prescribed value limits. However, the Code does not define "dwelling unit," nor does it clarify whether occupation is mandatory.

Judicial interpretation under CPC, particularly clause (ccc) of the proviso to Section 60(1), indicates that protection of residential houses has historically been subject to state amendments and debtor classifications. Courts have emphasized that exemptions must be read in harmony with local laws such as the Punjab Relief of Indebtedness Act.

Applying this reasoning, Rule 5(b)

must be interpreted alongside relevant state laws governing property rights and debtor protections. Failure to do so may result in unintended benefits to debtors or prejudice to creditors. The RP must therefore examine state-specific applicability before excluding a dwelling unit from the insolvency estate.

## 7. Concept of "Excluded Debt"

### 7.1 Statutory Definition

Section 79(15) of the IBC defines "excluded debt" as liabilities that do not form part of the repayment plan. These include:

- a. Fines imposed by courts or tribunals
- b. Damages arising from negligence, nuisance, or breach of legal obligations
- c. Maintenance obligations under any law
- d. Student loans
- e. Other prescribed debts

Such debts continue to bind the debtor notwithstanding approval of a repayment plan.

### 7.2 Maintenance Obligations

Maintenance liabilities occupy a special position under insolvency law. Courts have consistently recognized that maintenance obligations arise from statutory and moral duties and cannot be avoided through insolvency.

Maintenance may arise under:

- Hindu Marriage Act, 1955
- Hindu Adoption and Maintenance Act, 1956
- Code of Criminal Procedure, 1973
- Protection of Women from Domestic Violence Act, 2005
- Maintenance and Welfare of Parents and Senior Citizens Act, 2007

These obligations are excluded debts and must be honoured irrespective of

insolvency proceedings.

### 7.3 Insurance and Retirement Benefits

The IBC explicitly excludes life insurance policies and pension plans but does not extend similar protection to provident fund or gratuity, unlike the CPC. This creates an anomaly where retirement savings, otherwise protected under execution law, may become vulnerable during insolvency.

Other insurance policies health, property, or liability insurance are not expressly excluded, despite being essential for risk mitigation. This gap highlights the need for legislative or regulatory clarification.

### 7.4 Fines and Penalties

Fines imposed by criminal courts constitute excluded debt and remain the personal liability of the debtor.

Courts may exercise discretion to remit or reduce fines considering the debtor's insolvency, but such relief is not automatic.

### 7.5 Student Loans

Student loans are excluded from discharge, reflecting public policy considerations. However, concerns arise where guarantors attempt to misuse insolvency to evade liability. The RP may assess exclusion of student loans by considering factors such as minimal standard of living, persistence of hardship, and good-faith repayment efforts.

### 8. Undue Hardship and Daily Necessity Debts

Excluded assets and debts must be assessed through the lens of "undue hardship." A rigid application of exclusions may burden debtors excessively or unfairly disadvantage creditors.

Debts incurred for daily necessities medical expenses, rent, utilities, or essential living costs may warrant special consideration depending on circumstances and jurisdiction. However, fraudulent or mala fide debts cannot be sheltered under the guise of necessity.

### 9. Special Category: Fugitive Personal Guarantors

The Fugitive Economic Offenders Act, 2018 restricts civil rights of individuals declared fugitives. Where such individuals are personal guarantors undergoing insolvency, complex questions arise regarding entitlement to excluded assets.

Since civil rights are curtailed, courts will need to determine whether fugitives can claim statutory exclusions. This area remains unsettled and is likely to evolve through judicial interpretation.

### 10. Role and Responsibility of the Resolution Professional

The RP plays a pivotal role in examining excluded assets and debts. This requires not only familiarity with the IBC but also a working understanding of civil, criminal, family, and property laws.

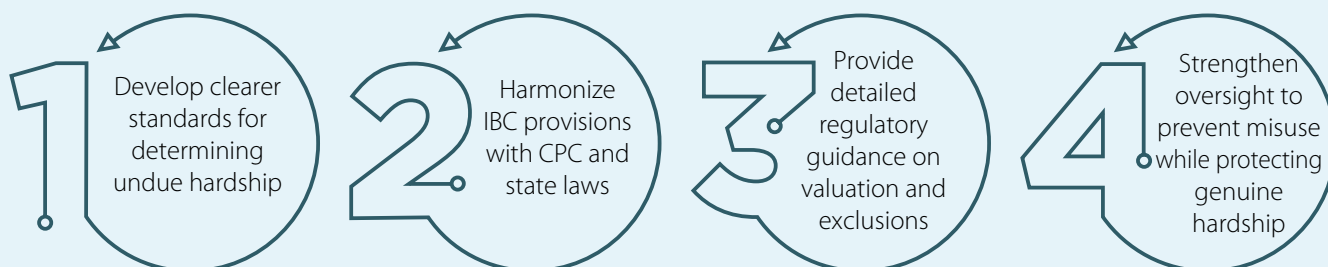
Both the debtor and the RP must ensure complete disclosure, even of assets or liabilities unrelated to the default. Failure to do so may lead to legal consequences and derail the insolvency process.



## Conclusion and Suggestions

The law governing excluded assets and excluded debts under personal insolvency is still evolving. The absence of detailed guidelines has placed significant interpretative responsibility on RPs and adjudicating authorities.

**There is an urgent need to:**



A balanced approach is essential to safeguard debtor dignity without undermining creditor rights. Ultimately, the effectiveness of the personal insolvency regime depends on predictability, fairness, and careful application of exclusions consistent with the objectives of the Code.

## NOTES

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.



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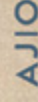
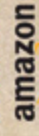
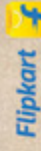


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Ramya Hariharan is the founder of the firm with over 20 years of experience advising on corporate, M&A, banking & finance, insolvency and restructuring, and projects. She is recognised by Legal 500 Asia Pacific and the Forbes Legal Powerlist.

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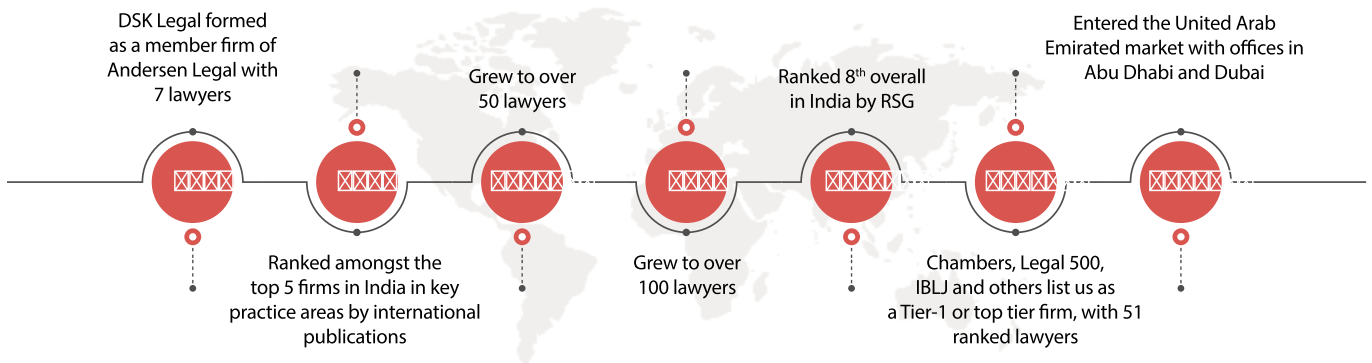
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## Highlights

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We attract the largest and most complex real estate work, including structuring real estate debt and equity investments, and represent real estate developers and associations in the most complex regulatory litigation.

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We have a large and varied international and domestic arbitration practice.

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