



# The Indian Journal for Research in Law and Management

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Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

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## THE TREATMENT OF PERSONAL GUARANTORS IN CORPORATE INSOLVENCY RESOLUTION: A CRITICAL ANALYSIS OF AMENDMENTS

~ *Bhuvan Raj A*

### 1. ABSTRACT

The handling of personal guarantors under the Insolvency and Bankruptcy Code<sup>1</sup> has caused constant changes in recent years, especially following regulatory and judicial changes from and after 2023. The changes made in 2023, and other changes by the Insolvency and Bankruptcy Board of India (IBBI) after 2023, were aimed at stating procedural uncertainty concerning the insolvency resolution process regarding personal guarantors to corporate debt. However, these changes have led to additional considerations and raised crucial points concerning the balance of creditor rights and the fundamental protections of a guarantor.

This paper offers a comprehensive, critical analysis of the post-2023 treatment of personal guarantors, and their relationship within the ecosystem of the IBC. It will analyse how the amendments were aimed to improve procedural efficiency, professional independence, and creditor enforcement, and review the wider implications on individual rights, due process, and whole fairness of the insolvency framework and regime. This will also include an investigation of recent jurisprudence from the National Company Law Tribunal (NCLT)<sup>2</sup> and National Company Law Appellate Tribunal (NCLAT) and the Supreme Court, under the lead of the significant interim order in *Dilip B. Jiwrajka*<sup>3</sup> which, has largely transformed the interpretive approach of the Code.

Through an examination of statutory analysis, case law and commentary on public policy, this paper assesses whether the post- amendment regime is able to achieve its intended purpose of

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<sup>1</sup> Insolvency and Bankruptcy Code, 2016

<sup>2</sup> *Lalit Kumar Jain v. Union of India*

<sup>3</sup> *Dilip B. Jiwrajka v. Union of India, 2024*

harmonising corporate and personal insolvency procedures, or whether it inappropriately favours creditor activism and/or is a circumstance of aggressive creditor action.

In summary, while this paper contends that the reform process has facilitated greater legal clarity and encouraged creditor confidence, it nevertheless has opened the door to underlying constitutional and procedural tensions, particularly with increasing hesitation on the part of the judiciary in being mechanically enter cases. Finally, this paper concludes with recommendations for improving fairness, transparency, and consistency in the treatment of personal guarantors, considering the nuances of domestic case law and from comparative perspectives in the insolvency sphere.

## 2. INTRODUCTION

The consideration of personal guarantors within Indian insolvency law has significantly transitioned from a fragmented regime under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920 to a unified regime under the IBC. Before 2016, creditors had to pursue two different actions against both their corporate debtor and its guarantors. This led to an inefficient, redundant, and inconsistent treatment of two separate creditors' actions.

The principle of the IBC was to amalgamate the fractured legislative scheme<sup>4</sup>. The IBC extended coverage of personal insolvency provisions to individuals, and by extension to personal guarantors, through section 2(e) and Part III of the Code. However, the central government only issued a notification in November 2019 on those sections concerning personal guarantors to bring personal guarantors under the scope of the IBC (i.e., the unique relationship between the restructuring of a corporate debtor<sup>5</sup> and personal liability). The Supreme Court addressed this new legislation in *Lalit Kumar Jain v. Union of India*,<sup>6</sup> and validated the government's notification bringing personal guarantors under the provisions of the IBC, as well as confirmed the jurisdiction of the NCLT to hear such matters. Ultimately, this also established that a guarantor's liability is independent and is not discharged simply because a resolution plan for the corporate debtor is accepted. However, certain ambiguities remained.

The post 2023 years have thus brought about significant changes, both regulatory and judicial, with respect to personal guarantors. The courts made a fundamental decision addressing the scope of the moratorium, if a guarantor's liability continues to follow a corporate resolution, and if multiple claims can be made against the same guarantor. Now, with the intervention by

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<sup>4</sup> The Insolvency and Bankruptcy Code

<sup>5</sup> Insolvency and Bankruptcy Code 2016 (IBC), s 3(8).

<sup>6</sup> *Lalit Kumar Jain v. Union of India* (2021)

the Supreme Court in the case of Dilip B. Jiwrajka, we must understand the changes in the assessment of admission by the courts, at the admission stage itself. These developments indicate a changing and maturing legal aspect, attempting to balance the policy objectives ensuring recoveries from the creditor, financial discipline support and also to protect constitutional rights. These contradictory judicial directions have prompted re-examination of fairness, proportionality, and the threshold for initiating insolvency against individuals—especially where a guarantor is liable to become insolvent for debt elements that were restructured or satisfied under a corporate insolvency plan.

### **3. THE AMENDMENTS:**

The Insolvency and Bankruptcy Board of India (IBBI) implemented the 2023 amendments to ameliorate systemic deficiencies and procedural uncertainties that had arisen since personal guarantors were added to the scope of the Insolvency and Bankruptcy Code (IBC)<sup>7</sup>. The objective of the amendments was to supplement transparency, procedural discipline and professional independence, which are three critical components of the integrity of India's insolvency regime. The handling of personal guarantor proceedings within and amongst overlapping jurisdictions prior to the amendments was a factor contributing to uncertainty about the role of resolution professionals (RPs)<sup>8</sup> as well as their independence. In some instances, the same RP or an entity associated with the RP was dealing with the corporate debtor's insolvency and the personal guarantor's insolvency which led to concerns of potential bias and diminished confidence in the impartiality of the process. The 2023 amendments eliminated ambiguity on the "independence" of resolution professionals by stipulating that the RP appointed for a personal guarantor could not have a direct or indirect professional relationship with the corporate debtor or the RP for the corporate debtor. The amendments solidified a neutral and credible process that aligned India with jurisdictions and "best practices" in the UK and Singapore. Another significant change was an overhaul of repayment plans to include strict timelines for submission, evaluation, and approval of repayment plans by creditors. The objective of emphasizing time-constrained processes was to avoid delays and misuse of the process, which would push insolvency toward a tool for resolution rather than extended litigation. The second change related to strengthened requirements relating to disclosures. While the prior requirement was merely that the RP report any perceived conflict

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<sup>7</sup> Insolvency and Bankruptcy Code 2016 (India).

<sup>8</sup> Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations 2019.

of interest, the new provisions also required RPs to communicate with creditors and sureties throughout the process. In addition to strengthening fiduciary duty among RPs, the reforms fostered trust and relational recovery. The second amendment increased oversight authority of the National Company Law Tribunal (NCLT)<sup>9</sup>, which must not only be concerned with whether repayment plans meet required procedures, it must also now evaluate if those repayment plans are fair, practical, and equitable to all concerned parties. The introduction of oversight provisions ensure that tribunals act more as gate-keepers of justice and not simply forums of process. Together, the amendments to the law in 2023 moved the personal guarantor framework in India toward international day and modern standards similar to principles articulated by UNCITRAL and the World Bank's Principles for Effective Insolvency Regimes. Overall, the amendments to the personal insolvency framework represent a movement from a reactive process under complete control by creditors, to a much more layered, stable, fair, and predictable process and framework that attempts to weigh the competing interests of financial discipline and human justice.

#### **4. JUDICIAL DEVELOPMENTS POST-2023**

After the year 2023, courts and tribunals began to actively engage with the amended provisions. In *State Bank of India v. Mahendra Kumar Jalan*<sup>10</sup> the NCLT Delhi clarified that approval to a corporate resolution plan does not automatically discharge personal guarantors from liability, unless the resolution plan otherwise specifies, and reaffirmed the broad principle in *Lalit's case*. In *ICICI Bank v. Prakash Chhabria (2024)*<sup>11</sup> the Supreme Court similarly reaffirmed that proceedings against personal guarantors can still be pursued while the corporate debtor is in a resolution process.

The Courts have reaffirmed the principle of coextensive liability in common law via section 128 of the Indian Contract Act, 1872. Specifically, the personal guarantors remain liable for the corporate debtor's obligations until the contract discharges or the resolution plan discharges.

However, in 2024, an alarming counter-trend surfaced with an interim order from the Supreme Court in *Dilip B. Jiwrajka v. Union of India*, where the Court stayed the insolvency process against the personal guarantor, and remarked that the NCLT initiated insolvency "mechanically" and failed to apply its judicial mind to whether or not there was a "real" default, based on the terms of the guarantee. The ruling introduced some note of caution into the legal

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<sup>9</sup> Insolvency and Bankruptcy Code 2016 (India), s 106.

<sup>10</sup> *State Bank of India v. Mahendra Kumar Jalan (2023)*,

<sup>11</sup> *ICICI Bank v. Prakash Chhabria (2024)*,

process, and emphasized that a clear, legally enforceable debt under the guarantee deed must exist, and not just that the corporate debtor had defaulted.

## **5. CRITICAL ANALYSIS OF THE POST-2023 REGIME**

The personalized guarantor insolvency regime established in 2023 represents a significant step toward procedural modernization and institutional clarity within India's evolving insolvency regime<sup>12</sup>. While the amendments address some fundamental weaknesses, they also highlight an enduring imbalance between creditor enforcement and the rights of the guarantor. An equitable examination of the reforms, their strengths, and their weaknesses suggests that the reforms are indeed twofold – one of the new structures of procedural rigor, but still not improving inequality with respect to substance.

### **5.1 STRENGTHS**

#### **(a) Procedural Symbolism:**

The reforms of 2023 have increased the procedural efficiency and consistency of insolvency procedures for personal guarantors. After the previous incoherence in timelines and determination of jurisdiction led to inconsistent tribunal interpretations, adjournments and unnecessary delays reducing the timeliness objective of the Code, the amendments present a clearer course of procedural action - notice, hearing, admission and repayment plan submitted - all within a fixed timeframe. The procedural symbolism will restore predictability in stages of insolvency and loosen judicial discretion<sup>13</sup> amongst NCLT benches. The changes yield procedural integrity relative to norms and reinforce creditor and guarantor perception of stability in the system.

#### **(b) Independence of Resolution Professionals:**

One of the curative achievements of the 2023 regime is institutionalization of independence of Resolution Professionals (RPs). Previously, the same RP frequently undertook the insolvency of both the corporate debtor and the guarantor, posing a risk of conflicts of interest or perceived bias. To alleviate this concern, Regulation 7A now stipulates that an RP appointed for a personal guarantor must be entirely independent of both the corporate debtor and the RP acting on the behalf of the corporate debtor. The design of the Independence Rule serves to create an extra

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<sup>12</sup> Insolvency and Bankruptcy Code 2016 (India), Preamble.

<sup>13</sup> Insolvency and Bankruptcy Code 2016 (India), s 97(4).

layer of neutrality, raise a standard for the consideration of the guarantor's estate, and preserve the role of ethical governance. Thus, the Independence Rule has become a means of ensuring procedural fairness, transparency, and public confidence in the insolvency process.

(c) Consistent Jurisdiction:

By establishing a consolidated jurisdiction with the National Company Law Tribunal (NCLT), the amendments have successfully removed any earlier overlaps of civil courts, DRTs, and NCLTs. Consolidated jurisdiction<sup>14</sup> establishes consistency in adjudicating interlinked liabilities of corporate debtors and their guarantors. It also facilitates consideration of repayment frameworks, creditor claims, and asset assessments to be considered in a collective session, versus individually, thereby leading to greater efficiency by not segmenting processes or delaying cycles. This advancement in administration represents monumental institutional progress towards more cohesive insolvency administration and in furtherance of India's aim of developing an insolvency ecosystem that is more coherent and integrated.

(d) Improved Creditor Confidence:

The reforms appear to have increased creditor confidence due to particular changes to improved reliable outcomes in enforcing guarantees. A plainly defined procedural and jurisdictional structure facilitate creditors to recover amounts owed more promptly, which is expected to improve more responsible lending discretion for lenders. Simultaneously, the viable prospect of personal bankruptcy proceedings dissuades promoters<sup>15</sup> from reckless borrowing or strategic defaulting. Therefore, the 2023 scheme strengthens financial discipline in the credit ecosystem and enhances stability in corporate lending and borrowing habits.

## 5.2. WEAKNESSES

(a) OVER EXTENSION OF CREDITOR POWER:

While the procedural advances are obvious, the regime remains lender biased. Creditors can pursue personal guarantors, even if only partially recompensed from the corporate debtor, creating duress. Often the personal guarantor is subjected to multiple civil claims, arbitration claims and insolvency filings at the same time - generating a coercive asymmetry and

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<sup>14</sup> Insolvency and Bankruptcy Code 2016 (India), ss 60(1), 60(2) & 60(3).

<sup>15</sup> The Bankruptcy Law Reforms Committee (BLRC) Report, which formed the blueprint for the IBC.

undermining robust process. The absence of a proportionality safeguard allows the regime to be abused and offends the purpose of insolvency law, which is rehabilitative in nature.

(b) UNCERTANTY AROUND THE EFFECT OF DISCHARGE OF LIABILTIY:

The unresolved questions involve the implications of a corporate debtor's approved resolution plan on the liability of the guarantor. The Insolvency and Bankruptcy Code (IBC) does not provide any evident statutory direction as to whether the approved corporate resolution plan extinguishes or reduces the guarantor's obligations and liability. Certain Courts have found that the guarantor's liability survives the discharge resolution, others find it extinguished, now, even after approval. This doctrinal uncertainty leads to varying results in Court, promotes further litigation and lessens predictability for creditors and guarantors.

(c) Lack of Protection for Guarantors:

While the amendments enhance lien rights, there is still futility in attempting to protect personal guarantors on a level field. Guarantors, unlike other corporate debtors, have no recourse to a formal means of negotiation, mediation, or debt restructuring <sup>16</sup>prior to admission into an insolvency process. They lack avenues for rehabilitation, an obligation to disclose valuations, and a set timetable for a hearing. The combination of all of these factors can lead to an inequitable treatment of personal guarantors, denying them a meaningful opportunity for a recovery path.

(d) Possibility of Aggregate Proceedings:

These amendments reduced the duplication related to proceeding in the same jurisdiction under a single authority that is the NCLT, but the possibility of aggregate proceedings remains even with this reform. Without a single insolvency registry, creditors can still take separate proceedings, including bankruptcy proceedings on the same guarantor in a different jurisdiction. This duplicative litigation still places a burden on the judiciary and adds costs and uncertainty for other stakeholders. The need for an integrated, digital registry or case tracking is therefore necessary for true coordination and to avoid further litigation.

## 6. COMPARATIVE PERSPECTIVES

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<sup>16</sup> Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations 2019, reg 18.

A comparison of international insolvency systems indicates that countries around the world generally take more balanced and fair approaches in dealing with personal guarantors than the Indian law. The UK is an example of a country that imposes notable differences between the insolvency of corporations and the bankruptcy of individuals under the Insolvency Act, 1986. While creditors are able to pursue the recovery of corporate debt, guarantors who often offered personal guarantees to secure the corporate loan are sheltered from personal liability by the processes defining a bankruptcy regime that has a primary focus on eventual discharge. Following completing a repayment plan or fulfilling the terms of the bankruptcy order, the guarantor will have residual liability automatically released. While the rights of creditors remain protected, the principle of economic rehabilitation<sup>17</sup> remains in support of the understanding that the insolvency law is a tool for financial reset rather than an indefinite punishment. The UK framework is hence premised on the philosophy of equitable balance (fair compensation for creditors; genuine opportunity for the individual to reintegrate with the financial system).

The United States Bankruptcy Code takes care of personal guarantors by providing robust procedural and substantive protections, especially under Chapter 7<sup>18</sup> and Chapter 13<sup>19</sup>.

The law provides for an automatic stay when an application is filed in bankruptcy court that, in effect, stops all collection activity and any legal action against the debtor, including obligations to pay based on a personal guarantee. This mechanism prevents harassment of individuals, which also allows them to actively participate in discussions about potential solutions. Under Chapter 13 specifically, a personal guarantor has the opportunity to reorganize the debts implicated in their personal guarantee using a Chapter 13 repayment plan approved by the bankruptcy court, rather than relying on creditors to evaluate their income and ability to pay. At the successful conclusion, the debtor receives a complete discharge of their debts and is free to re-establish financial stability. Therefore, the U.S. framework focuses on rehabilitation, rather than punishment, and recognizes that insolvency serves as a social and economic correction process, not a punitive process for the individual. The philosophy of the U.S. Bankruptcy Code recognizes that many business failures, especially for a personal guarantor associated with corporate debts, were driven by systemic forces or market-based conditions beyond their control.

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<sup>17</sup> The World Bank, \*Principles for Effective Insolvency and Creditor/Debtor Regimes\* (2016) [D.1-D.3].

<sup>18</sup> United States Bankruptcy Code, 11 USC S 701–784 (2012).

<sup>19</sup> United States Bankruptcy Code, 11 USC S 1301–1330 (2012).

Elements of India's insolvency process remain strongly creditor-sided, even with the positive 2023 amendments, as the bankruptcy process remains focused on recovery of debtor obligations instead of the rehabilitation of individuals.

Guarantors are still subjected to both personal responsibility and reputation damage, often without an easily identifiable process for negotiation, mediation, or discharge, following the resolution. India does not have discharge provisions available to guarantee personal liability, nor repayment plans that are designed based on individual capacity, an independent body that supervises treatment of legal subjects, as is found in the UK and U.S. Additionally, there are no mediation mechanisms in place prior to an insolvency that may promote settlement in advance of institutional proceedings, and instead within India, the condition of insolvency becomes a reference point for sanctions rather than negotiation.

In consideration of best practices, India might adopt something less and more hybrid than a fuller insolvency approach, combining fairness with financial discipline. Adding mandatory pre-insolvency negotiation if mediation could produce settlement prior to formal adjudication would also be helpful, that includes means to legally effect a discharge post repayment or accept formal resolution of the approved resolution plan as an outcome. Also, the degree of liability should be proportionate to the creditor debt settled along with the obligations approved as a settlement towards the corporate debtor<sup>20</sup>. This step should promote internalize with the international norm, while also promoting and preserving creditor consistency of outcome, while working as efficiently as possible while contributing to the procedural grounds. The fundamental problem remains the balance of a modern insolvency system- safeguarding the trust of financial functions, while protecting personal guarantors in their lives from otherwise being rendered to financial death due as their relation to corporate defaults.

## **7. POLICY RECOMMENDATIONS**

The amendments to the Insolvency and Bankruptcy Code in 2023 have improved India's insolvency structure, but still show significant asymmetry between creditors' enforcement and debtors' protection with respect to personal guarantors. In order to achieve a sustainable and equitable solution, targeted policy measures will be required.

(a) Clarification of the Effect of Corporate Resolution on Guarantees.

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<sup>20</sup> Insolvency and Bankruptcy Code 2016 (IBC), s 3(8).

One pressing gap in the post-2023 framework is the ambiguity regarding the effect of the resolution plan of a corporate debtor on the liability of its guarantors. The Code does not currently provide clear statutory guidance on whether the approved resolution plan extinguishes, reduces, or retains the liability of the guarantor. This ambiguity has resulted in both uncertainty and inconsistent judicial interpretation which leads to unpredictability and extended litigation. As a result, either Parliament or the IBBI should introduce a clear statutory<sup>21</sup> appeal to the inference that once a resolution plan has been fully implemented with creditors having received their agreed value, corresponding to the said value, the guarantee sure liability should be discharged to the same extent. This represents fairness and prevents double recovery, whilst aligning the Indian framework with global standards of proportional liability.

(b) Implement Pre-Filing Settlement Processes:

To reduce adversarial proceedings and foster early resolution of disputes, it is important to have required mediation or negotiation before filing—between creditors and guarantors, pre-filing will lead to an admission framework, per the Pre-Packaged Insolvency Resolution Process<sup>22</sup> (PPIRP) for MSMEs, where creditors and guarantors are now more likely to reach outcomes that are mutually agreeable to parties, furthering the interests of the general court-wide renovation in an admissibility proceedings - saving valuable judicial time. The introduction certainly serves the goal of helping people through the insolvency process by avoiding litigation at times and negotiating, suggesting concessions instead, while reducing reputational distress, and additional financial strain on guarantors.

(c) Increase Procedural Protections and Transparency:

The timeline amendments made in 2023 have offered expediency, but additional amendments are needed to the protection of a guarantor's rights. The legislation should include provisions on fixed hearing times, predefined notice, and attendance at all material timeframes in the process. Further, a mechanism for appeal of peculiar personal guarantor decisions should be enshrined in the legislation to enforce judicial accountability and procedural due process. Disclosure provisions of the form of documentation to be sought/sent—for the valuation of assets, and notice of the payment plan, should be detailed to avoid abuse of the process to

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<sup>21</sup> Insolvency and Bankruptcy Code 2016 (India).

<sup>22</sup> Insolvency and Bankruptcy Code 2016 (India), ss 54A–54P

greater transparency and assuage stakeholders on rights and obligations for a greater procedural consequence.

(d) Uniform Valuation and Repayment Framework:

The approaches to valuation of assets, and preparation of the payment plan situations related to the guarantor are inconsistent, sometimes even arbitrary. There is limited means for users across other complex financial situations <sup>23</sup>that borrowed money, and assumed liability. The IBBI should establish uniform valuation standards and repayment plans based on the guarantor's income, asset category, and ability to pay. Such standardization would not only promote fairness but also limit the scope for arbitrary and biased discretion of resolution professionals.

(e) Prevent Hearing Multiple Proceedings through a Centralized Registry:

India currently faces a persistent twin proceeding problem—it urgently needs a centralized digital insolvency registry that captures all pending cases of guarantors, debtors, and creditors. The registry could curtail the filing of multiple applications, help with case assignment across NCLTs, and serve to require creditors to work together rather than as competitors. An all-in-one registry, available to all stakeholders, would improve overall efficiency, reduce delays, and enhance systemic transparency.

Together, these policy solutions could support coherence, equity, and fairness in the treatment of personal guarantors so that the insolvency regime becomes one that accommodates both asset recovery for creditors while also rehabilitating the individual's economic situation.

## **8. IMPLICATIONS FOR STAKEHOLDERS**

The 2023 regulations and suggested adjustments have serious ramifications for three fundamental groups—creditors, guarantors, and resolution professionals. Each occupies a separate (but interdependent) role within the structure of insolvency.

### **Creditors:**

The reforms have undoubtedly given creditors greater confidence by providing certainty of process, a unified jurisdiction, and predictable enforcement measures. Creditors are now able

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<sup>23</sup> The World Bank, \*Principles for Effective Insolvency and Creditor/Debtor Regimes\* (2016) [2.2, 3.2, 4.1].

to pursue recovery with greater legal certainty as compared to previous regimes and stave off the potential loss associated with unsecured lending. On the flip side, this also places a duty on creditors to restrain themselves. A creditor's aggressive exercise of insolvency provisions against a guarantor after the corporate debt has been dealt with will likely raise red flags from the bench and damage creditor reputation. Thus, creditors will need to balance their recovery objectives while extending fair treatment and ethical enforcement.

For Personal Guarantors:

The amendments confer a greater obligation upon guarantors as it relates to the seriousness of providing a personal guarantee for a corporate or business debt. Individuals will now need to do their diligence prior to signing a personal guarantee to understand their potential financial exposure. At the same time, they will have greater procedural awareness with timeframes and transparency. But if there is no reform to create a structured rehabilitation and discharge process, then guarantors will be financially encumbered perhaps in perpetuity. It is important for guarantors to become more legally literate, take action when they engage resolution professionals, and take action with respect to a proposed plan or plans if they want to protect their rights and limit losses.

## **9. CONCLUSION**

Following the 2023 amendments, the legal status of personal guarantors under the Indian insolvency framework is at a pivotal moment. These amendments have improved, among other things, procedural integrity and professional independence, and have brought India's insolvency framework closer to international best practices of accountability and transparency. However, the legal framework is still creditor oriented. The broader policy goal of balanced insolvency governance continues to be undermined by the lack of a clear statutory regime for the discharge of guarantors, limited mediation options (as compared to comparable jurisdictions), and inequities in the procedural aspects of the insolvency regime.

In comparison, other insolvency regimes (notably the UK and US systems) have incorporated compassion with order—treating an economic failure as an event that can be corrected rather than a permanent marking on the person. For India to achieve its goal of being a modern insolvency jurisdiction, it must adopt this rehabilitative ethos while at the same time ensure

that it has the necessary fiscal prudence<sup>24</sup>. The introduction of pre-insolvency regime, improvements in the transparency of valuations/comparative valuations, clear statutory rules for the discharge of guarantees, and centralized registry for insolvency processes are all important next steps to achieve balance.

In the end, we must see the insolvency process is not only a mechanism to enforce debt, but a mechanism for economic justice which balances both the rights of creditors, and the dignity and re-start for individuals. accordingly, a new responsive insolvency regime for personal guarantors should seek to ensure fairness, efficiency, and humanization. The 2023 amendments pave the way, but the vision of a fair insolvency regime in India is still a work in progress which requires on-going refinement and experiences, judicial sensibilities<sup>25</sup>, and policy experimentation's

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<sup>24</sup> Bankruptcy Law Reforms Committee, \*The Report of the Bankruptcy Law Reforms Committee\* (Volume I: Rationale and Design, Ministry of Finance, November 2015) 25-32.

<sup>25</sup> Dilip B Jiwrajka v Union of India, W.P.(C) No. 461 of 2024