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## PRE-PACK IBC FOR MSMEs: INNOVATION OR ILLUSION?

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### INTRODUCTION

Micro, Small and Medium Enterprises (“MSME”) are the “backbone of India’s economy” and the legislature has taken various initiatives to the benefit of these enterprises for better development and growth. One of the initiatives taken by the legislature is introducing Pre-Packaged Insolvency Resolution Process (“PPIRP”) in the Insolvency and Bankruptcy Code, 2016 (“IBC”) specifically designed for MSMEs with the intention of providing an efficient alternative insolvency resolution process under the IBC for corporate MSMEs, that ensures quicker, cost-effective and value maximising outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of their businesses, and which preserves jobs<sup>1</sup> but the question remains, is PPIRP truly an innovation, or merely an illusion?

### THE INNOVATION: WHY PPIRP WAS A PROMISING REFORM

The implementation of PPIRP in the insolvency realm in India marks a major move towards aligning with global counterparts such as UK, the USA, Canada, and Singapore.<sup>2</sup> The PPIRP is a debtor-in-possession process which enables the MSMEs to restructure their obligations without giving up control of their enterprise, facilitating a faster outcome than the conventional insolvency proceedings.<sup>3</sup> PPIRP protects the interest of the shareholders by allowing the MSMEs to retain control of their operations and delivers a collaborative approach through debtor-creditor consensus before initiation of the

<sup>1</sup> Insolvency and Bankruptcy Board of India,

<https://www.ibbi.gov.in/uploads/whatsnew/a650764a464bc60fe330bce464d5607d.pdf> accessed 18 July 2025

<sup>2</sup> Kanishka Agrawal and Saurav Singh, Critical Analysis of Pre-packaged Insolvency Resolution Process under IBC, IBC Laws ( 18 July 2025, 9:30 PM) <https://ibclaw.in/critical-analysis-of-pre-packaged-insolvency-resolution-process-under-ibc-by-kanishka-agrawal-and-saurav-singh>

<sup>3</sup> Rahul Sundaram, Understanding the Legal Provisions Governing Pre-Packaged Insolvency Resolution Process (PPIRP), (18 July 2025, 9:46 PM) <https://www.indialaw.in/blog/insolvency-bankruptcy/understanding-the-legal-provisions-of-ppirp-in-insolvency/>

proceedings which reduces adversarial proceedings, induces trust amongst the shareholders and preserves the goodwill of the entity. The following highlights the key features of PPIRP:

- **Eligibility:** PPIRP is available only to corporate debtors which are MSMEs under the MSME Act, 2006. Additionally, the debtor should not be subject to another CIRP, should not have undergone a PPIRP or CIRP within the last 3 years, and should not be a will-full defaulter. The threshold of default for PPIRP initiation should be ₹10 lakhs or more.<sup>4</sup>
- **Initiation by Debtor with Creditor Approval:** Unlike CIRP, PPIRP may be initiated by only the debtor (and not creditors), and it has to be followed by approval of 66% of unconnected financial
- **Debtor-in-Possession Model:** PPIRP is a "debtor-in-possession with creditor-in-control" model. The corporate debtor operates the business, but the process is overseen by the resolution professional and reported to the CoC.
- **Time-Bound Process:** The whole PPIRP has to be done within 120 days of the insolvency commencement date. The CoC has to sanction a resolution plan within 90 days, and 30 days are left for the approval of the adjudicating authority.
- **Public Announcement & Moratorium:** With admission, a moratorium under Section 14 is triggered, and a public announcement by the Resolution Professional (RP) is done to solicit claims. This shields the debtor from concurrent proceedings.

These distinguishing aspects render PPIRP a hybrid model that captures the speed and cost efficiency of out-of-court settlements with the legal sanctity and protection of creditors of a formal resolution process. Its time-bound and debtor-driven nature is particularly well-suited to MSMEs with a view to restoring business continuity and reconciling stakeholder interests.

## **THE ILLUSION: CHALLENGES AND CRITICISMS**

While the Pre-Packaged Insolvency Resolution Process (PPIRP) came in as a streamlined, MSME-friendly substitute to the usual CIRP, its real-world implementation has revealed serious lacunae. The following presents the challenges:

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<sup>4</sup> Insolvency and Bankruptcy Code, 2016, § 54A, No. 31, Acts of Parliament, 2016 (India)

- **Conflict with MSME Act:** Section 3 of the MSME Act, 2006 envisages a board to regulate MSME development, the lack of representation from the Board on the Sub-Committee responsible for formulating pre-pack frameworks may have failed to address the requirements of MSMEs adequately.<sup>5</sup>
- **Inconsistency with IBC Framework:** Differently from CIRP's model of creditor-in-control, PIRP keeps management with the debtor contrary to IBC provisions such as Section 27. This departure undermines the IBC's fundamental architecture.
- **Transparency Risks:** Debtors dominate the process and negotiate with creditors in private, possibly avoiding Section 29A, which prevents defaulting promoters from taking control. This increases threats of unfair transactions and erodes creditor confidence.
- **Issue with the PIRP Timeline:** There is an interpretation problem with the Section 11A of the IBC. It seeks filing of PIRP application within 14 days of filing CIRP which appears unpractical because it would involve taking all the approvals and documents.<sup>6</sup>
- **Rigid threshold:** The procedure comes out to be complex due to its rigid thresholds of 66% approval acts as a major hurdle for filing an application. Creditors might be reluctant to agree to voluntary reductions, particularly considering that pre-pack can be triggered by a default as low as Rs. 10 Lakh.<sup>7</sup>

## CONCLUSION: THE WAY FORWARD

Pre-Packaged Insolvency Resolution Process was conceptualized as a fast, affordable, and cooperative tool for MSMEs. Yet, its sparsely observed takeover and real-world challenges reflect that although the idea was avant-garde, its implementation is far from perfect. The major problems such as interference with the existing framework, departure from the IBC's key tenets, opacity, and procedural inflexibility, have undercut its potential.

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<sup>5</sup> Kanishka Agrawal and Saurav Singh, Critical Analysis of Pre-packaged Insolvency Resolution Process under IBC, IBC Laws ( 18 July 2025, 9:30 PM) <https://ibclaw.in/critical-analysis-of-pre-packaged-insolvency-resolution-process-under-ibc-by-kanishka-agrawal-and-saurav-singh>

<sup>6</sup> Urja Joshi, Balancing Formality and Flexibility: Understanding Pre-Packaged Insolvency, IBC Laws (18 July 2025, 10:22 PM) <https://ibclaw.in/balancing-formality-and-flexibility-understanding-pre-packaged-insolvency-by-urja-joshi/>

<sup>7</sup> Kanishka Agrawal and Saurav Singh, Critical Analysis of Pre-packaged Insolvency Resolution Process under IBC, IBC Laws ( 18 July 2025, 9:30 PM) <https://ibclaw.in/critical-analysis-of-pre-packaged-insolvency-resolution-process-under-ibc-by-kanishka-agrawal-and-saurav-singh>

For its true empowerment of MSMEs, the PPIRP framework needs to undergo careful overhaul. This involves framing it more in sync with the MSME Act, easing the creditor consent thresholds, demystifying statutory ambiguities such as Section 11A<sup>8</sup>, and reinforcing caution against misuse by defaulting promoters. More awareness, institutional facilitation, and stakeholder training are equally important so that the framework is not only made accessible but also works.

With focused upgrading and improved stakeholder participation, PPIRP can be transformed from a potential idea to a viable mechanism for MSME reactivation, fulfilling its initial promise of being both time-bound and value-maximising.

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<sup>8</sup> Insolvency and Bankruptcy Code, 2016, § 11A, No. 31, Acts of Parliament, 2016 (India)