The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

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

INSOLVENCY AND BANKRUPTCY CODE 2016 – DECADE OF CORPORATE RESTRUCTURING IN INDIA

-Nivedha D. Mudaliar

ABSTRACT

After Independence, the India's development in corporate mercantile is transformed through IBC (Insolvency and Bankruptcy Code, 2016) which set up by legislative intercession enacting the laws relating to bankruptcy and insolvency which takes intensive time during the regime of insolvency but, IBC initiated laws by making obligatory within time period, unification and single creditor approach for reconciling the corporate anguish. Over a decade, the Insolvency and Bankruptcy Code assisted in recovering the NPA (Non-Performing Assets) through SCB (Scheduled Commercial banks) which as per the Reserve of India records, recovered the money from several medium such as Lok Adalat, SARFAESI Act, DRT (Debt Recovery Tribunals) and IBC by virtue of legal machinery during 2017-18 to 2023-24 among which IBC remains as preeminent in adding Rs. 46,340 crore recoveries made via banks that is 48.1% in 2023- 2024.[1] *The "Resolving Insolvency" of World Bank significantly marks the India's ranking that as enhanced to 52nd rank from 136th rank during 2015 to 2019 and also increasing the recovery from 25.7% to 71.6% by the creditors simultaneously the average time reduced from 4.3 to 1.6 years in determining the insolvency cases.*[2]

I. INTRODUCTION

The India's system of Insolvency and Bankruptcy was convoluted, fragmented and tardy prior to the IBC were the creditors relied on SARFAESI (Secularisation and Reconstruction of financial Assets and Enforcement of Security Interest Act, 2002, RDDBFI (Recovery of Debts Due to Bank and Financial Institutions Act, 1993), SICA (Sick Industrial Companies Act, 1985)

---

[1] Reserve Bank of India, Report on Trends and Progress of Banking in India 2023-24 (Dec. 26, 2024), https://ibbi.gov.in/uploads/resources/49edff1f959189d3ae2cf72582ed1611.pdf.)

[2] Abhiman Das et al., *Insolvency and Bankruptcy Reforms: The Way Forward*, 45 Vikalpa 115, 115–131 (2020).

and Companies Act, 1956 which was labyrinth stating different laws and statutes that overlap and functions separately. The statutes were isolated having no unified or single power and administration, stretching the settlement of insolvency cases up to 4.3 years having not strict time duration. The issue regarding the insolvency and bankruptcy system in India is not solely operational or implementation of laws but the entire structure and functions of the system.[3]

The Researcher Das, in this study stated that capital and assets locked can be reapportioned efficiently in the business by reorganising or dissolving from the bankrupt enterprises by balancing the supplier, employees, creditors, financial institutions and the government. A committee was also instituted by T.K Viswanathan (Ministry of Finance) called Bankruptcy Law Reform Committee, 2015 by proposing a single consolidated laws on four pillars: promotion of entrepreneurship, maximisation of value of assets, balancing of assets and availability of credits and clearance of government charges.[4]

The Insolvency and Bankruptcy Code, 2016 was established in India and took effect on 28 May 2016 by presidential consent to resolve the insolvency cases.[5] The IBC laid down the key aims and goals in the preamble to transform and amend the laws pertaining to insolvency that should be settled and addressed within definite time period which led to substantial change from “debtor-in-possession” to “creditor-in-control” model.

II. LEGAL REGIME BY LEGISLATURE AND ITS OVERRIDING EFFECT

The Insolvency and Bankruptcy Code is bifurcated into five pillars each comprising of definitions and provisions of different facets were Part I comprises of preliminary provisions, Part II regulates the corporate insolvency and liquidation, Part III comprises of bankruptcy and insolvency, Part IV institutes the Bankruptcy and Insolvency Board of India and Part V comprise of miscellaneous provisions were section 238 provides IBC’s overriding clause or non-obstante clause.[6]

The overriding clause or non-obstante clause in section 238 of Insolvency and Bankruptcy Code, 2016 which states that, notwithstanding anything when a dispute arises with any other laws inconsistently then Insolvency and Bankruptcy Code provisions will prevail.[7] As this provision overrides various statutes such as Companies Act 2013, Maharashtra Relief

[3] Id.
[4] Insolvency and Bankruptcy Code, 2016, pmbl., No. 31 of 2016, Acts of Parliament, 2016 (India).
[5] Standing Comm. on Fin., *Review of Working of IBC and Emerging Issues*, 28th Report (Dec. 2025).
[6] Insolvency and Bankruptcy Code, 2016, No. 31 of 2016, Acts of Parliament, 2016 (India).
[7] Sara Jain, *Analysing the Overriding Effect of the IBC*, 13 NUJS L. Rev. 39 (2020).

Undertaking Act 1958, SEBI Act 1992, Electricity Act 2003, Prevention of Money Laundering Act (PMLA) 2002, Real Estate (Regulation and Development) Act (RERA) 2016 when inconsistency occurs while carrying out creditor control system.[8]

The IBC has four fundamentals which are systematic and structured organisational framework, which are NCLAT (National Company Law Appellate Tribunal) that acts as appellate body, NCLT (National Company Law Tribunal) which resolves and settles the insolvency cases, IUs (Information Utilities) that validates financial details and IPAs (Insolvency Professional Agencies), it supervises and oversee the insolvency proceedings. It also avers that it is professional and systematic based on settlement as well as resolution of insolvency cases where decision making is collective that relies on creditor according to the statutes.

III. DECADE OF LEGISLATIVE REFORM: AMENDMENT PROCEDURE

Over a Decade, the legislative reform on Insolvency and Bankruptcy Code,2016 has processed six amendments relating to economy, judiciary advise and market collapse. The Section 29A of Insolvency and Bankruptcy Code (Amendment) Act,2018 institutes the disqualification of Non-Performing Assets of the loan accounts belonging to promoters from capitulating resolutions of insolvent enterprise. In *ArcelorMittal Gupta India Pvt. Ltd v. Satish Kumar Gupta 2019 2 SCC 1*[9] the Supreme Court rendered the legality and extent of section 29A. Also, definition of "financial creditor" was also amended by expanding and incorporating 'homebuyers' in projects which had effect over insolvency proceedings as that held by Supreme Court in *Pioneer Urban Land and Infrastructure Ltd. v. Union of India 2019 8 SCC 416.*[10]

The IBC was once again amended in 2019 which laid down changes that are certain and mandatory time period of 330 days in accomplishment of Corporate Insolvency Resolution Process (CIRP) so that insolvency litigation process does not carry on endlessly, also section 12A authorizes that if Committee of Creditors agree upon 90% for withdrawal and furthermore, clarified that the resolution is obligatory on State Government, Central Government and Local government.

The amendment of IBC in 2020 wherein, section 32A provides immunity from legal proceedings for offenses committed prior to resolution to corporate debt were they would not

[8] Id.
[9] ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta, (2019) 2 SCC 1.
[10] Pioneer Urban Land & Infrastructure Ltd. v. Union of India, (2019) 8 SCC 416.

be liable for offenses previously done whereby applying the “fresh slate” principle.[11] Later on, IBC was amended in 2021 with subject to section 54A to 54P that instituted Micro, Small and Medium Enterprises in PPIRP (Pre-Packaged Insolvency Resolution Process) moreover, introduced 120 days specified time period and procedure for debtor’s possession paradigm.[12]

IV. PROCEDURE AND FUNCTIONING OF CIRP (CORPORATE INSOLVENCY RESOLUTION PROCESS)

The foundation of Insolvency and Bankruptcy Code is CIRP (Corporate Insolvency Resolution Mechanism) which was instituted under section 7 through financial creditor, Section 9 through operational creditor and section 10 through corporate debtor but when dereliction committed by the company of minimum one lakh (as per march 2020- Rs. 1 crore) then CIRP is filed. If NCLT (National Company Law Tribunal) once acknowledges the application then upon section 14 a moratorium comes into effect where assets are transferred, institution is prohibited for suits and brings security interest to create stable and secure environment.[13]

If the insolvency application is accepted by NCLT (National Company Law Tribunal) then IRP (Interim Resolution Professional) is designated to look into corporate debtors matters. The Committee of Creditors (CoC) need to form during 30 days were CoC is solely of financial creditors of corporate debtors (section 21) which acts as decision making body which requires voting of not less than 66% of financial debtors to sanction the resolution (section 30(4)) and also need to fulfil the requirements such as payments under section 30; also, the creditors need to receive a minimum amount of company’s liquidation in subject to section 53. The section 33 authorises or orders liquidation when no resolution is sanctioned within specified time period.

The Waterfall mechanism in section 53 states that liquidation through company’s assets need to be distributed arising out of money acquired from sale as these statute is non-obstante provision were the assets are allocated according to Insolvency resolution costs, employee’s dues and wages for 12 months, financial creditors, workmen dues for 24 months, government dues in State and Central Government for 2 years, shareholders and remaining debts as, it is

[11] Insolvency and Bankruptcy Code (Amendment) Act, 2020, § 32A, No. 1 of 2020, Acts of Parliament, 2020 (India).
[12] Insolvency and Bankruptcy Code (Amendment) Act, 2021, §§ 54A–54P, No. 26 of 2021, Acts of Parliament, 2021 (India).
[13] Insolvency and Bankruptcy Code, 2016, §§ 7, 9, 10, 14, No. 31 of 2016, Acts of Parliament, 2016 (India).

different from the Companies Act which prioritise the liquidation costs, creditors and workmen dues over the government during distribution of assets.[14]

V. JUDICIARY: LANDMARK JUDGEMENTS FOR AIDING THE IBC

The *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta 2020 8 SCC 531*[15], is a judgement passed by the Supreme Court where judicial pronouncement is significant with subject to IBC. The NCLT (National Company Law Tribunal) and NCLAT (National Company Law Appellate Tribunal) opinions and decisions cannot be superseded with assessments done for sanctioning or dismissing of resolution interpreted by CoC. The Section 30 (2) and 61(3) of Insolvency and Bankruptcy Code laid down the grounds on which the NCLT and NCLAT can analyse and inspect over the resolution arrangement. If resolution is authorized by NCLT then "fresh slate" standard is applied extinguishing the claim over the corporate debtor. The court observed that, creditors with interests receive more payments in contrast to operational creditors.

The Supreme Court in *K. Sashidhar v. Indian Overseas Bank 2019 12 SCC 150*[16] rendered that commercial decisions in insolvency cases can be taken and authorised by CoC (Committee of Creditors) in resolution were the NCLT and NCLAT supervises over the procedures in IBC where they cannot scrutinize or interrogate over the decision taken by CoC in resolution strategy.

CONSTITUTIONAL LEGITIMACY:

In *Swiss Ribbons Pvt. Ltd v. Union of India 2019 4 SCC 17*[17] the Supreme Court affirmed IBC as constitutionally legitimate with subject to Article 14 of the Indian Constitution, upholding that operational creditors and financial creditors can be treated differently were this cannot violate their fundamental right and is legally justified. The Supreme Court in *Manish Kumar v. Union of India 2021 5 SCC 1*[18] rendered the legitimacy of section 32A which highlights the mechanism for prosecuting the offenses committed by individuals or promoters and simultaneously reviving the economic development in new corporate organisation.

[14] Insolvency and Bankruptcy Code, 2016, § 53, No. 31 of 2016, Acts of Parliament, 2016 (India).
[15]Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta, (2020) 8 SCC 531.
[16] K. Sashidhar v. Indian Overseas Bank, (2019) 12 SCC 150.
[17] Swiss Ribbons Pvt. Ltd. v. Union of India, (2019) 4 SCC 17.
[18] Manish Kumar v. Union of India, (2021) 5 SCC 1.

In *Tax Officer v. Rainbow Papers Ltd. 2023 9 SCC 545*[19] the supreme court held that statutory cost on the enterprise taken by government official is addressed as secure creditor which led to uncertainty given that government authority that receives highest preference causing disruption to waterfall operation with subject to section 53 that caused confusion over the CoC (Committee of Creditors). So, to avoid uncertainty section 53(1) (e) was amended by parliament stating no higher procedure to government even if the dues are secured or unbacked. Also, the Prevention of Money Laundering Act 2002 and Insolvency and Bankruptcy Code interaction creates issues and conflicts making it complex doctrine.

VI. NUMERICAL ACCOMPLISHMENT IN A DECADE

The Insolvency and Bankruptcy Code have significant success and challenges over the past decade where 1,194 cases are resolved via resolution successfully, 878 cases of liquidation are accomplished, 2, 430 cases are closed with settlement or withdrawal or disposed via appeal, after insolvency cases were accepted in tribunal. As 13.78 lakh crore defaults are settled prior to insolvency proceedings which has deterrent outcome of IBC.[20]

The Annual Report of 2023-24 relating to Insolvency and Bankruptcy Board of India demonstrates that 168% of liquidation was recovered by creditors via resolution strategy having greater value as if companies would have been liquidated.[21]

The macroeconomic effect of IBC is documented where IBC has set up the efficacious mechanism for Scheduled Commercial Banks in recovering loans which is identified in Standing Committee of Finance's 28th Report in December 2025. The total amount of Rs. 96, 325 was recovered by banks during 2017-18 and 2023-24 for recovery of debts in which Rs. 46, 340 crore was contributed by IBC alone namely 48.1% of recovery done. The SARFAESI (Securitisation and reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 recovered Rs. 30, 460 crore and DRT (Debt Recovery Tribunal System) recovered Rs. 16, 202 crore that was superseded by IBC.[22]

The Reserve Bank of India Report over the trends and efficiency of loans provided by bank during 2024-25 is reported by PIB (Press Information Bureau) which states Rs.1, 04, 099 crore

---

[19] Insolvency and Bankruptcy Code (Amendment) Act, 2026, No. 6 of 2026, Acts of Parliament, 2026 (India). State Tax Officer v. Rainbow Papers Ltd., (2023) 9 SCC 545.

[20] IBBI, *Newsletter (Jan.-Mar. 2025),* https://ibbi.gov.in/uploads/whatsnew/912e97d4d9f96651386541fb7059203b.pdf (last visited July 1, 2026).

[21] **.** Indian Institute of Corp. Affairs, *IBC Brief Q3 2023-24*, https://iica.nic.in/images/Report-2024/IBC-Brief-Q3-2023-24.pdf (last visited July 1, 2026).

[22] Standing Comm. on Fin., *Review of Working of IBC and Emerging Issues*, 28th Report ¶ 1.18 (Dec. 2025).

recovered by SCBs (Scheduled Commercial Banks) from several recovery procedure among which Rs.54, 528 crore was recovered by IBC single-handedly that is 52.4% of recovery done that indicates IBC recovered more than DRT, SARFAESI and Lok Adalat. The statistics of CIRP was 8, 987 cases which was acknowledged by march 2026 among which 1,419 cases were resolved and Rs. 4.32 lakh crore was recovered by creditors; representing 116.85% of liquidation cost. [23]

Before pre-pandemic in India, the World Bank Resolving Insolvency Index significantly improved from 136th in 2015 to 52nd in 2019 position in India were the creditors recovery rate increased to 71.6 cents in dollar from 25.7 cents which has dramatically changed, also the time required in resolved cases of insolvency decreased to 1.6 years from 4.3 years.

VII. CHALLENGES INCESSANT: INSOLVENCY AND BANKRUPTCY CODE

1. **TIMELINE PREDICAMENT**

   The Insolvency and Bankruptcy Code was established to resolve the cases relating to Insolvency were the Third Amendment in 2019 with subject to section 12 stated that the resolution procedure must be completed within 330 days including the time taken in litigation. Yet, the insolvency cases actually took 713 days to complete in general also 723 days are taken in average when the cases are instituted through financial creditors which means it takes the twice the stipulated period in completion of resolution procedure.

   The systemic cause for delays is NCLT benches which have inadequate strength in litigation and interlocutory petition by promoters lead to delay in legal and resolution procedure moreover, large corporate reorganisation extends the transactions and negotiations and COVID-19 disruption which delayed and halted the assigned time period of resolution procedure.[24]

2. **TRANSBOUNDARY INSOLVENCY: THE INCOMPLETE STRATEGY**

   The domestic cases of insolvency in India are managed by Insolvency and Bankruptcy Code but UNCITRAL model for Cross-Border cases of Insolvency should be adopted by India to handle the creditors, assets or procedure in relation to insolvency cases across different countries as per the Cross-Border Insolvency Rules and Regulation

---

[23] Press Information Bureau, Govt. of India, https://static.pib.gov.in/WriteReadData/specificdocs/documents/2026/may/doc2026528877901.pdf (last visited July 1, 2026).

[24] Standing Comm. on Fin., *Review of Working of IBC and Emerging Issues*, 28th Report ¶ 1.18 (Dec. 2025).

Committee in 2020. Even so, the IBC lacked to institute the insolvency process in foreign countries, organise the multiple jurisdictions of submission related to insolvency law and coordinate with authorities of foreign courts and executing the orders of insolvency in India.

The existing institutions stated by Anuradha and M.S Sahoo of IBC are IUs (Information Utilities), IPs (Insolvency Professionals), Insolvency and Bankruptcy Board of India and National Company Law Tribunal which was designed for resolving the cases related to insolvency within India which does not have provisions relating to cross-border.[25]

The IBC Amendment in 2016 introduced by parliament with subject in inserting section 240C (is notified not came into force) into the code as assented on 6th April 2026 by president which sanctions the Central Government in making laws regarding the procedure of insolvency cases in foreign, cross-border reliefs and coordination across jurisdictions.

3. **UNDERUSE OF PPIRP FOR MSMEs**

The IBC instituted the PPIRP (Pre-Packaged Insolvency Resolution Process) especially as backing for MSMs (Micro, Small and Medium Enterprises) to facilitate the process of insolvency cordial for debtors with minimum judiciary interference were having negotiations between the creditor and debtor for resolution process which can be quicker and reasonable price for resolution procedure.

The 14 PPIRP submission are acknowledged up to 31 March 2025 out of which 8 cases of insolvency are approved based on Standing Committee on Finance's 28 Report. The underutilisation recognized by Corporate Affairs Ministry are two main causes: Firstly, one bank is chosen by MSMs for borrowing which distinct from large companies that makes it easier to recover dues via SARFAESI and DRT and procedure of PPIRP is complex legally so government proposed the Insolvency and Bankruptcy Board in India to elucidate the procedure but it has not accomplished its principle of insolvency towards MSMs.[26]

VIII. INITIATIVES APPROPRIATED TOWARDS SECOND DECADE

[25] . Insolvency Law Comm., *Report on Cross Border Insolvency* (Oct. 16, 2018), https://ibbi.gov.in/uploads/whatsnew/2021-11-23-215206-0clh9-6e353aefb83dd0138211640994127c27.pdf. (last visited July 1, 2026).

[26] Standing Comm. on Fin., *Review of Working of IBC and Emerging Issues*, 28th Report §E, ¶¶ 1.57–1.62 (Dec. 2025).

In second decade, suppose the Insolvency and Bankruptcy Code aims in becoming a major and key reform then the first and foremost reform is the NCLT that lacks in personnel, expertise, resources to resolve the insolvency cases that are complex and difficult according to Standing Committee on Finance's 28th Report; so, a greater number of NCLT ought to be organised, were competent and proficient individual must be appointed as corporate finance, insolvency and for reorganisation to resolve complicated cases of Insolvency. As this could reduce the burden and delay in resolving the insolvency cases by NCLT elevating the accomplishing the resolution process within specified time period.

Secondly, the key reform that required to be done by Insolvency and Bankruptcy Code is cross-border insolvency implementation with different country's creditors, assets in diverse cross-border territory that are operated by many enterprises in various countries. The authority members of committee are recommended in enforcing UNCITRAL law which acknowledges the insolvency process in cross-border territory, coordinate and allocate the procedure, collaborate through administrators of insolvency with several countries which would give legal power to professionals of Indians.[27]

The proposal for Insolvency and Bankruptcy Code (Amendment) in 2026 mainly focused on group insolvency and CIIRP (Creditor-Initiated Insolvency Resolution Process) that enhances in operating the cross-border cases of insolvency which has remained as incomplete agenda of India. The CIRP (Corporate Insolvency Resolution Process) was one of the successful operations initiated in India which fulfils the scheduled time period of resolution process, expertise tribunals and action-oriented by creditors for insolvency procedure and PPIRP simplification during the first decade can also be effective in second decade according to, Vijay Kumar Singh's review on the IBC.[28]

IX. CONCLUSION

Over a decade, Insolvency and Bankruptcy Code has evolved fundamentally and irreversibly in resolving insolvency cases and enhancing commercial business in India by resolving insolvency cases over 1, 194 enterprises among which Rs. 3, 88, 904 crore was recovered by creditors. It also recovered 48.1% of debt loans of SCBs (Scheduled Commercial Banks)

---

[27] Id.
[28] Vijay Kumar Singh, *Modern Corporate Insolvency Regime in India: A Review*, 7 NLS Bus. L. Rev. Article 4 (2021).

leading paramount mechanism that has improved the ranking to 52nd position from 136th position of India for resolving the insolvency cases bringing structural reorganisation.[29]

The Insolvency law led to change in framework from debtor-in-control into creditor-in-possession where it also has overriding effect with subject to section 238 which ensures that contradictory provisions does not obstruct the insolvency procedure. Thus, the market-oriented, delays and ineffectual recovery of insolvency cases is replaced by IBC. The parliament enacted seven waves during 2018-2026 which acted upon the complexity, developments and judicial consideration.[30]

Thus, first decade of Insolvency and Bankruptcy Code is successful, eventually making prominent reforms that are required for second decade were the systemic failure of 330 days' time period in resolving insolvency cases, cross boundary legal framework and underutilisation of PPIRP for MSMs menace in accomplishment of IBC which remains as a challenge in India.

[29] Supra note 20, ¶6

[30] IBBI, *Understanding the IBC: Key Jurisprudence and Practical Considerations*, https://ibbi.gov.in/uploads/whatsnew/e42fddce80e99d28b683a7e21c81110e.pdf (last visited July 1, 2026).