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Insolvency and Bankruptcy Code — Impact and Analysis

by Shrikumar Pillai

The Insolvency and Bankruptcy Code, 2016 (“Code”) was introduced by the Government of India (“GOI”) to address an unprecedented rise in bad loans that had severely undermined creditors’ trust. The RBI had earlier introduced multiple stressed-asset schemes — Corporate Debt Restructuring, Strategic Debt Restructuring, the Joint Lenders’ Forum, 5/25 refinancing and S4A — alongside specialised laws such as SICA 1985, RDDBFI 1993, SARFAESI 2002 and the winding-up provisions of the Companies Act, 2013. These overlapping regimes caused jurisdictional confusion and poor resolution efficiency, allowing defaulting promoters to retain control and delay resolution indefinitely.

The Code consolidated these provisions into a single, time-bound law aimed at maximising asset value, preserving going concerns, protecting creditors and balancing stakeholder interests. It has since become a catalyst for reform, improving India’s Ease of Doing Business ranking and unlocking merger-and-acquisition opportunities.

Analysis of the Code

The Code streamlined the resolution process, introduced a creditor-in-control framework, and reduced moral hazard by enabling the replacement of promoters during resolution. This raised the cost of financial distress by threatening loss of control, particularly for firms with high promoter ownership, while strengthening creditor rights, reducing risk premia and lowering borrowing costs for previously credit-rationed firms. This appears to have induced caution among promoters, who have reduced leverage to avoid breaching covenants, while viable but distressed firms have gained better access to finance.

The Code's evolution has been dynamic, shaped by market realities and judicial intervention. Section 29A, introduced in 2018, addressed the moral hazard of defaulting promoters seeking to regain control of distressed assets. The recognition of homebuyers as financial creditors in *Pioneer Urban Land and Infrastructure Ltd. v. Union of India*¹ expanded creditor protection. The Code also showed flexibility during COVID-19 through an enhanced default threshold and suspension of filings under section 10A, and the Pre-Packaged Insolvency Resolution Process for MSMEs reflects this adaptive capacity. The resolutions of Jaiprakash Associates and Jaypee Infratech moved insolvency practice beyond a purely creditor-driven model towards a homebuyer-sensitive approach, while *Anuj Jain (RP) v. Axis Bank Ltd.*² reinforced the avoidance-transaction framework under sections 43, 45, 49 and 66.

Impact of the Code

The Code has produced measurable outcomes: gross NPAs of scheduled commercial banks fell from 11.8% in 2017 to 1.8% as of March 2026, per the RBI's Financial Stability Report (June 2026).³ The threat of losing management control has driven over 30,000 cases to settle pre-admission, resolving defaults worth nearly ₹14 lakh crore.³ India has transitioned from a debtor-in-possession regime to a creditor-in-control paradigm, and resolved companies show improved credit availability, lower debt costs and stronger post-resolution sales.

The PIB's 28 May 2026 backgrounder corroborates this: by March 2026, 8,987 CIRPs had been admitted, with 1,419 corporate debtors rescued through resolution plans and several others closed via settlement, appeal, review or section 12A withdrawal.⁴ Creditors had realised approximately ₹4.32 lakh crore under approved plans — over 166% of liquidation value and roughly 95% of fair value.^{3 4} The IBC emerged as the most effective recovery channel for banks: of the ₹1,04,099 crore recovered by scheduled commercial banks in 2024-25, the IBC alone contributed ₹54,528 crore (52.4%), ahead of SARFAESI, DRTs and Lok Adalats.⁴ Loan accounts are also transitioning from "Overdue" to "Normal" status faster — average overdue duration has fallen from 248-344 days to 30-87 days, evidencing improved credit discipline.⁴

The IBBI's decadal review (Q1 FY 2026-27 newsletter) adds further texture: post-IBC recovery rates have risen from 15-20% to around 30%, timelines have shortened from 6-8 years to roughly

2 years, and S&P Global Ratings has upgraded India's insolvency framework from "Group C" to "Group B."³

Recent Reforms and Critical Challenges

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 introduces the Creditor-Initiated Insolvency Resolution Process, two-stage approval of resolution plans, asset/part-wise resolution, strengthened avoidance-transaction provisions, and enabling frameworks for group and cross-border insolvency.³ It also guarantees dissenting creditors at least the lower of liquidation value or their plan entitlement, and protects licences and regulatory approvals through implementation — both aimed at making resolution plans more enforceable.⁴ The IBBI has also floated a discussion paper on real estate insolvency, proposing project-wise ring-fencing of funds and simplified allottee claims.³

Challenges persist. Judicial delays remain acute: the statutory 180-330 day timeline is routinely breached, with average resolution now exceeding 700 days, and creditors continue to face steep haircuts in liquidation-bound cases.³ Cross-border coordination remains unresolved, as seen in the ongoing *GLAS Trust Co. LLC v. Byju Raveendran*⁵ matter. The absence of a codified group insolvency framework was evident in *State Bank of India & Ors. v. Venugopal Dhoot & Ors.*,⁶ where the NCLAT relied on substantive consolidation principles — common control, interdependence and intertwined finances — rather than statute, to treat the Videocon group's foreign assets. More recently, in *Vedanta Ltd. v. Bhuvan Madan, RP of Jaiprakash Associates Ltd.*,⁷ the NCLAT upheld the CoC's commercial wisdom in preferring a lower-NPV, higher-upfront-payment plan, affirming that value maximisation is not confined to net present value; and in *Alpha Corp Development Pvt. Ltd. v. GNIDA*,⁸ the Supreme Court lifted the corporate veil to treat a subsidiary's leasehold assets as part of the parent's resolution plan, underscoring courts' willingness to look beyond corporate form where entities are "inextricably connected."

Conclusion

The Code has strengthened investor confidence and enabled the organised exit of failed enterprises, marking a decisive shift in India's credit culture. The 2026 amendment — introducing CIIRP, sharper admission timelines, an expanded CoC role during liquidation, and a framework for group and cross-border insolvency — reflects a maturing regime responding to a

decade of implementation experience. As the Code enters its second decade, its continued evolution will remain central to sustaining entrepreneurship, credit discipline and India's ambition of becoming a Viksit Bharat by 2047.

Given the pace of reform, readers navigating an ongoing CIRP are encouraged to consult a qualified insolvency practitioner before acting on the changes discussed above, and to share their experience of the amended regime in the comments below.

Citations

1. *Pioneer Urban Land and Infrastructure Ltd. v. Union of India*, (2019) SCC.
2. *Anuj Jain (RP) v. Axis Bank Ltd. & Ors.*, Civil Appeal Nos. 8512–8527 of 2019.
3. Insolvency and Bankruptcy Board of India, *Insolvency and Bankruptcy News* (Quarterly Newsletter), Vol. 39, April–June 2026.
4. Press Information Bureau, Government of India, *India's Insolvency Framework: From Financial Distress to Structured Resolution* (Backgrounder), 28 May 2026.
5. *GLAS Trust Co. LLC v. Byju Raveendran* — ongoing cross-border insolvency proceedings (external reference; not contained in sources 3–4 above).
6. *State Bank of India & Ors. v. Venugopal Dhoot & Ors.*, CA(AT)(Ins) No. 299 of 2020 and connected appeals — reported in source 3 above.
7. *Vedanta Ltd. v. Bhuvan Madan, RP of Jaiprakash Associates Ltd. & Ors.*, CA(AT)(Ins) Nos. 552 & 553 of 2026 — reported in source 3 above.
8. *Alpha Corp Development Pvt. Ltd. v. Greater Noida Industrial Development Authority & Ors.*, Civil Appeal No. 1526 of 2023 — reported in source 3 above.
9. “Recovery,” *International Journal of Research Culture Society*, ISSN(O): 2456-6683, Vol. 8, Issue 9, September 2024, DOI: 10.2017/IJRCS/202409005.

The views expressed are personal and do not constitute legal advice. Readers should seek independent professional counsel before acting on any information contained herein.