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PRE-PACK INSOLVENCY AS A STRATEGIC TOOL FOR MSME FINANCIAL DISTRESS IN INDIA

~ *LK Rajnandini & Sima Dandapat*

ABSTRACT

According to millions of small-scale entrepreneurs in India who are part of the rapidly expanding economic development, a business is not simply a legal entity, but also provides local workers with pride, is an investment of their lives, and represents a legacy passed down through generations. Although the conventional legal approach has often seemed like a cold and sterile surgical procedure rather than a real solution for MSMEs facing financial difficulties, this paper describes a fundamental change to this approach by examining the "Pre-Packaged Insolvency" movement, which replaces the "creditor-centric" approach that has often resulted in the founder being removed from the business. In contrast, the PPIRP acts as a specialized legal 'life raft' designed to help 'save' the dream along with the debt of the dream. The process also acknowledges a basic reality about each entrepreneur, founder and dreamer—they are often the best "ship captains" in a storm because of their dedication and superior knowledge regarding what it takes to bring forth success from their 'ships'. A Pre-Pack offers a significant opportunity to diminish the stigmatised association of "bankruptcy" with cooperative, confidential negotiations between the MSME and its bank(s) before ex parte submission to the National Company Law Tribunal (NCLT) a public forum of continuing litigation. The Pre-Pack protects the vulnerable reputation of the MSME, allowing an MSME's owner to agree with their respective lender(s) prior to the filing of an application for the NCLT, at which point an MDB will admit to their insolvency, causing an immediate cessation of credit lines and the loss of committed customers. The PPIRP serves as a stopgap until either a payment schedule or "haircut" has been agreed to, thus allowing the machines to continue operating and preventing employees from losing their jobs. The PPIRP is arguably the most "human" part of "The Act" in that it will avoid the difficult loss of employment that is often experienced with a standard liquidation or hostile takeover. The "Swiss Challenge" refers to a competition in which

MSME owners fear being outbid for their rescue plan. This puts pressure on the founder to be honest about the business, while the creditor should consider more than just simple percentages when determining whether to approve a rescue plan; they need to consider the societal benefits of the business continuing to operate. As of 2026, the legal system could be considered a "masterpiece of empathy"; however, the ignorance of court procedures and the ongoing fear of waiting for the court system to process their case has limited its ability to deliver justice.

1. INTRODUCTION

MSMEs form the backbone of the Indian economy and provide jobs for 110 million and contribute 30% of India's GDP¹. Additionally, MSMEs contribute to entrepreneurship, economic growth and social stability but are often highly leveraged and have little equity. The Covid-19 pandemic and liquidity shocks have had a significant impact on MSMEs, compounding challenges they faced before the pandemic, such as cash flow issues and non-performing loans (NPA). Due to the rising number of defaulting MSMEs in India, there is an urgent need for an efficient insolvency framework to assist financially viable MSMEs in resolving their debts quickly and cost-effectively. The 2021 revision of the IBC included a new Prepackaged Insolvency Resolution Process (PPIRP) for corporate MSMEs that will provide an expedited, value-maximising alternative to the traditional process of Corporate Insolvency Resolution Process (CIRP)², which takes 330 days. The length, complexity and disruption to normal business operations through traditional CIRPs often fail MSMEs. The time-period of 11-12 months of the official insolvency process takes away the control usually held by the promoter. This loss of control ('new') also adversely impacts the promoter's value in terms of their network of contacts and business acumen. Research Goal: This research analyses the manner in which a new PPIRP framework is able to respond to the unique characteristics associated with insolvencies of MSMEs, and how this framework provides an effective mechanism for the corporate rescue of MSMEs that experience financial distress.

2. CONCEPTUAL BACKGROUND

2.1 Meaning of MSMEs

¹ Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021, promulgated on 4 April 2021.

² Insolvency and Bankruptcy Code, 2016, Chapter III-A, Sections 54A–54P, dealing with the Pre-Packaged Insolvency Resolution Process (PPIRP).

Investment and turnover benchmarks set by the Micro, Small and Medium Enterprises Development (MSMED) Act 2006 characterize Micro, Small and Medium Enterprises³ (MSMEs). Micro businesses have an investment of less than ₹1 crore and turnover of less than ₹5 crore as of 2020; small businesses have an investment of less than ₹10 crore and a turnover of less than ₹50 crore; while medium businesses have an investment of less than ₹50 crore and a turnover of less than ₹250 crore (the government also uses turnover to classify businesses under the revised Udyam Registration (2020)). Companies or limited liability partnership (LLP) companies meeting national MSME criteria may apply for a Pre-Packaged Insolvency Resolution Process (PPIRP) corporate structure. However, microbusinesses continue to represent the vast majority of the approximately 63 million MSMEs in India, and account for more than 99.5% of MSMEs.

2.2 Nature of MSME Financial Distress

Due to their dependence on borrowing and relatively small profits compared to larger enterprises, MSMEs tend to depend on more expensive sources of financing, such as informal loans or trade credit, because of limited access to official bank loan facilities. The longer payment terms imposed by their larger customers are another contributing factor to their cash flow problems. Many MSMEs do not have an established governance structure, operate as family-owned businesses with no formalised management procedures, and therefore quickly lose liquidity once an external disruption occurs, such as the COVID-19 pandemic. Intangible factors such as the owner's knowledge of the business, trade contacts, and market confidence are fundamental to their value proposition. A loss of market confidence or management control could severely impair their overall viability.

2.3 Overview of Insolvency Framework in India

IBCS (2016) - an initiative focused on better managing distressed companies with a common set of insolvency regulations in place⁴, establishing a time-bound corporate restructuring process, as well as having the same laws governing insolvency. To start a resolution process, an application to NCLT can be raised either by a debtor or a creditor under CIRP, i.e., Corporate Insolvency Resolution Process, within 334 days (the current statutory limit) if there exists an unpaid Default amount of at least ONE crore rupees. Creditor control will occur through the mechanism established by the RP (Resolution Professional), taking over all aspects of

³ Insolvency and Bankruptcy Code, 2016, Act No. 31 of 2016, Government of India.

⁴ Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021, promulgated on 4 April 2021.

management during this period, and the Committee of Creditor (CoC) will be responsible for the management of all creditor resolutions. The CIRP was originally intended to take no more than 18 months, but today it takes about 30 months or so, including time for all potential appellate activity. The focus on both a debtor-in-possession model and a creditor-controlled model assists all parties with the ultimate goal of maximising value. However, CIRP cases often take longer than originally anticipated, and some of these cases can consume several years before being resolved. For example, the Economic Survey of 2020-21 reported that the average time to settle a CIRP case was 440 days, even though the statutory limit for settling a case under CIRP is 335 days from initiation to completion.

3. PRE-PACK INSOLVENCY FRAMEWORK IN INDIA

3.1 Introduction of PPIRP (2021 Amendment)

To help with the difficulties faced by MSMEs, the Government added Chapter III-A (Sections 54A-54P)⁵ to the IBC through the Insolvency and Bankruptcy (Amendment) Ordinance, 2021 (4 April 2021) as an additional tool. Only MSMEs that are incorporated as corporations are allowed to use the new "Pre-Packaged Insolvency Resolution Process" (PPIRP). It is a hybrid insolvency process which utilises both statutory protections and pre-negotiated restructuring processes. The intended purpose of establishing this new process was to provide quicker, more efficient and cost-effective resolutions, thereby reducing the amount of time businesses are disrupted and helping to preserve jobs for MSMEs. The primary difference between the Corporate Insolvency Resolution Process (CIRP), which operates on an entirely public and adversarial basis, and the PPIRP is that the PPIRP is semi-informal: during the PPIRP, the debtor will remain in control (known as "debtor-in-possession") until the court has approved the resolution and ensured that it meets all the requirements necessary to satisfy the law.

3.2 Applicability to MSMEs

Certain standards define an MSME from an investment/turnover viewpoint. Corporate Debtors having defaulting loans of an amount of ₹10 lakh shall be considered as an MSME. Therefore, the Corporate Debtor must have more than ₹10 lakh of eligible loans. The principal amount of the defaulted loan is the amount of the actual loan between the lender (the creditor) and the debtor (the corporate debtor). Hence, only MSMEs with very low debt can be eligible for

⁵ Insolvency and Bankruptcy Code, 2016, Chapter III-A, Sections 54A–54P, dealing with the Pre-Packaged Insolvency Resolution Process (PPIRP).

PPIRP, while corporate debtors with defaulted loans of ₹1 crore or more will be subject to the corporate insolvency process (CIRP). There is a requirement to demonstrate that the Corporate Debtor has not been subject to CIRP or liquidation and/or PPIRP or CIRP within the past 3 years, which is an additional barrier to MSMEs being able to access PPIRP at all. The Corporate Debtor is required to meet the qualifications of Section 29A⁶ (not disqualified to apply for a resolution). These requirements will limit the circumstances in which PPIRP can be used by MSMEs in dire straits, meaning that PPIRP cannot be abused - this is the ultimate goal of PPIRP.

3.3 Legal Provisions under Sections 54A–54P

The PPIRP system is described in IBC Sections 54A-54P along with respective Rules/Regulations. Some key features of the PPIRP system include: Initiation of the PPIRP can only be conducted by the Corporate Debtor (by their Board or Partners). A formal application (Form 1) is made to the NCLT with a Declaration (Form P6) and supporting documentation to initiate the PPIRP. Additionally, the Corporate Debtor must submit a Board Resolution (with at least $\frac{3}{4}$ of Directors/Partners Supporting) along with the Application to propose a specific RP with the Financial Creditors (66% by value of the Creditors, must support the RP proposed).

Timeline: The PPIRP must be completed within 120 days after commencing⁷, with an optional extension of an additional 60 days from the courts if additional time is necessary. The NCLT has 30 days to approve the resolution plan once submitted by the RP to the NCLT within the first 90 days of proceeding. Therefore, the overall timeline for PPIRP is 120 + 30 days versus 330 days from the start of the CIRP.

Since the existing management continues in the day-to-day operations of PPIRP as noted in Section 54H, the RP, as the supervisor of the company by way of ensuring that the operations are conducted in accordance with applicable laws, does not remove the management or promoters, as he would if the company were insolvent in CIRP. In addition to this, Section 54J allows the CoC to appoint an RP to manage the company⁸ at any point in the PPIRP process with a 66% vote of the members of the CoC, thereby providing an additional level of creditor oversight on the company if needed.

⁶ Insolvency and Bankruptcy Code, 2016, Section 29A, concerning persons ineligible to be resolution applicants.

⁷ Insolvency and Bankruptcy Code, 2016, Section 54A, concerning the eligibility and conditions for initiating PPIRP.

⁸ Insolvency and Bankruptcy Code, 2016, Section 54C, concerning the application to initiate the Pre-Packaged Insolvency Resolution Process.

Base Resolution Plan (BRP): The Base Resolution Plan (BRP) is a unique aspect of the Pre-Packaged Insolvency Resolution Process (PPIRP). Once PPIRP begins, the debtor has two (2) days to prepare and deliver a BRP to the Resolution Professional (RP). The Committee of Creditors (CoC) will receive the BRP from the debtor, which is a turnaround proposal from the debtor. The BRP must comply with the Insolvency and Bankruptcy Code (IBC) and not negatively affect any Operating Creditors (OCs) in the trade of the debtor because the BRP must fully compensate OCs.

If the CoC determines that any OC's claim is compromised by a debtor's submission of a BRP, the RP will allow other parties to submit an Alternate Bid pursuant to Section 54N of the IBC; this is commonly referred to as a "Swiss Challenge."⁹ Other resolution applicants may also provide a Best Alternative Plan (BAP) to maximise the recovery for impacted creditors. Once given the opportunity to shed new light on the Complexities of BRP amendment, the CoC found an overwhelming majority of votes in favour (66%) of the best plan submitted to the NCLT, thereby allowing for checking of the market with the Company's new strategies.

4. PRE-PACK AS A STRATEGIC TOOL FOR MSME DISTRESS

4.1 Speed as a Strategic Advantage

Time to resolve using the PPIRP is much shorter. The entire process of the PPIRP must be completed within 120 days from when it starts (and can take an additional 30 days to meet the NCLT penalty time), compared to the 330-day deadline (maximum) of a CIRP. Much of the negotiation is occurring prior to any actual filing, due to the early building of consensus before a filing. So the insolvency process is, in other words, "pre-packaged," so it is almost entirely agreed to before the NCLT accepts the insolvency application. For MSMEs, this speed is critical because a rapid resolution (usually 3–4 months) in a viable business helps to respond to provide an opportunity to continue operation and to return those businesses to viability; whereas cash-strapped businesses will most likely go out of business if they are not resolved quickly. Therefore, faster timeframes help to preserve going concern value, because when businesses are saved, suppliers, customers, and markets will continue, in contrast to when there are long-term legal issues with businesses. There are many examples of successful PPIRP resolution time frames under the target; for instance, Sudal Industries Ltd. completed its PPIRP

⁹ Insolvency and Bankruptcy Code, 2016, Section 54H, concerning the management of the affairs of the corporate debtor during PPIRP.

in 112 days in 2023¹⁰. In contrast, small businesses may be forced to close due in large part to the delay between the start and completion of a CIRP; therefore, the PPIRP's faster timeframe is a strategic advantage to saving MSMEs prior to incurring permanent damage.

4.2 Cost Efficiency for MSMEs

PPIRP is designed to be cheaper and much less complicated than CIRP. The current management structure eliminates the need for extensive management changes and long and drawn-out court processes since the current management would continue to oversee their respective companies. The only task assigned to the RP is to supervise the operations of the company (his fees should reflect only the monitoring of operations, not taking over the operations of the company). Most tasks between creditors or from the creditors to the debtor, such as obtaining appraisals, conducting negotiations, and preparing a plan for approval, occur “out of court” prior to the filing of the RP, thereby reducing the cost of legal and administrative work.

4.3 Debtor-in-Possession Model

The DIP governance structure is a key aspect of PPIRP. It allows existing management (promoters and board members) to run the day-to-day operations of the business with oversight from a RP, unlike CIIP where control is ceded to the IRP on day one. This is a critical element for MSME's, which are predominantly management-focused companies. Promoters have a significant relationship with their customers and have a high degree of tacit knowledge regarding suppliers, clients and processes. One study found that “PPIRP recognises and rewards the honest MSME owner(s) by allowing resolution to occur while still maintaining ownership of the business”. Continuity provides an answer to the management vacuum problem. Creditors and counterparties are more likely to engage with an existing owner than with an outsider IRP. The DIP model of PPIRP protects an MSME's culturally-founded entrepreneurial spirit, its business experience and customer loyalty, and avoids value loss associated with premature owner termination.

4.4 Value Maximization Strategy

Enterprise value can be achieved via pre-negotiated resolutions developed by stakeholders. The BAR in PPIRP is determined via the exchange of information between the principal creditors

¹⁰ Insolvency and Bankruptcy Code, 2016, Section 54J, concerning the Committee of Creditors' power to vest management of the corporate debtor in the resolution professional.

of the debtor and the debtor about the debtor's possibilities and limitations. In addition, pre-crisis planning helps avoid the likelihood of liquidating assets in a fire sale and enhances predictability. On the contrary, an administrator may negatively impact the value of a business during CIRP via either administrative incompetence or the forced sale of assets. The core team of any debtor in the process of PPIRP is motivated to present viable reorganization plans because they believe in the viability of the business. The Swiss Challenge provides additional protection of value by calling for alternative bids if any unsecured creditor of any operating creditor at the time of going into CIRP is likely to lose. Thus, the maximum recovery from the Transaction will be derived. PPIRP in all actuality is designed to prevent the stripping of assets. The IBBI's pamphlet states that PPIRP has been created to maximize the "value maximizing outcomes¹¹" of the debtor with the least amount of disruption.

4.5 Confidentiality and Informality

The PPIRP offers MSMEs a particular strategic advantage due to its comparatively greater confidentiality. Whereas substantial elements of CIRP occur in public view (e.g., public record filings with the NCLT and statutory announcements), the majority of the activities that take place under PPIRP occur in private without the involvement of the court. The primary parties involved complete their initial negotiations, develop basic plans, and hold creditor meetings, all in private. The only documents resulting from these transactions that are produced for public scrutiny are the application and the approved plan¹². Therefore, the firm retains its reputation since it is doubtful that creditors will publicly disclose any knowledge of an MSME's problems, since doing so may risk losing clients or suppliers to competing firms. According to IBBI, the objective of PPIRP is "to be as least disruptive as possible¹³ to the continuity of [the] business" and "to be informal (to some extent)." In fact, one expert attests that PPIRP "will assist in protecting firm goodwill by allowing for settlement to take place without the immediate exposure of public scrutiny. Furthermore, due to the confidential nature of PPIRP, the degree of full participant involvement from all parties can be more freely shared when not in the public domain.

¹¹ Insolvency and Bankruptcy Board of India, Insolvency and Bankruptcy Board of India (Pre-Packaged Insolvency Resolution Process) Regulations, 2021, as amended.

¹² Insolvency and Bankruptcy Code, 2016, Section 54N, concerning the consideration of competing resolution plans and the Swiss Challenge mechanism.

¹³ Insolvency and Bankruptcy Board of India, The Insolvency and Bankruptcy Code, 2016, available at [India Code](#).

4.6 Business Continuity & Employment Protection

MSMEs employ nearly 110 million individuals¹⁴, making them a major source of employment across India. PPIRP works to sustain jobs by supporting the business to continue operating as a business as long as it can be supported. If a prepackaged rescue plan is successful, the company is able to continue operations with a different capital structure. If an MSME goes through bankruptcy and is liquidated, it usually closes its gates and lays off employees almost immediately upon completion of the liquidation process. According to the IBBI, a second objective of a PPIRP is to ensure that jobs are maintained and that as little disruption to ongoing operations as possible is created. For example, an MSME that manufactures a product may continue to operate under the PPIRP, continuing to pay employees and receive funds, rather than have employees idled as a result of the liquidation process. Retaining employees through PPIRP also allows the economy to continue to heal and preserves the social fabric of the country, as many small businesses are owned by, and operate in support of, local families. Therefore, through offering ongoing support (including capital) to MSMEs, PPIRP is a strategic approach to protecting the employment associated with MSMEs, and aligning social & economic objectives.

5. PRACTICAL CHALLENGES & LIMITATIONS

While PPIRP's design is promising, several challenges hinder its effectiveness:

Slow Adoption Rate: Slow growth of the PPIRP has been noted thus far; as of 30 Sep '24, there have only been 13 PPIRPs approved vs. thousands of CIRPs. IBBI states that as of 31 March '25, there have been 14 PPIRPs approved vs. 8 proposals approved, which makes it hard to see if this will become an accepted form of resolution. -

Lack of Awareness of PPIRP. Many MSME Owners and some professionals are not familiar with or are sceptical towards the (PPIRP). A recent survey indicated that "MSME stakeholders are significantly unaware of PPIRP, and view it as being new, without precedent, and not clear." If MSME businesses don't know about PPIRP, they can't utilise this mechanism to help them.

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¹⁴ Insolvency and Bankruptcy Board of India, Research Report: Reasons and Remedies for Underutilisation of PPIRP (October 2025), available through the [IIPI website](#)

Lack of Trust from Creditors. Banks and other creditors have been cautious in using PPIRP as an option because many creditors were already aware of the CIRP as being well-regulated and believe PPIRP to be less so.

Gaps in the Law/Process: There have been legal issues with PPIRP timing such that several of the NCLT benches have extended PPIRP time limits past the 120 days, which allows the courts to entertain objections at the point of admission into the process. For example, the courts intervened in an instance and extended time limits to 721 days¹⁵. In addition, small businesses are affected by the number and complexity of requirements (e.g., the number of forms and/or declarations) associated with complying with the law. Both of these issues have reduced the expected speed benefit from PPIRP.

Limited Focus: Critics argue that the current parameters of PPIRP (₹10 Lakhs - ₹1 Cr)¹⁶ have a tendency to exclude many reasonable businesses that might fit the criteria if they were given slightly larger amounts to work with. Furthermore, government officials have indicated that they will consider expanding the criteria for PPPs beyond just MSMEs as they conduct their review of PPIRPs currently being implemented throughout India. Until the government clarifies the application procedures, there will be many sound companies with accepted amounts of debt who do not qualify.

Though PPIRP is new, several cases applied 'like; -

Shree Rajasthan Syntex Ltd (Jaipur, 2023): This textile manufacturer was admitted to PPIRP in April 2023, with the resolution process completed within approximately 125 days - exceeding the expected timeframes. Creditor approval for restructuring was received shortly after their entry into PPIRP, allowing the company's operations to continue.

Sudal Industries Ltd. (Mumbai, 2023): The company was admitted into PPIRP in April 2023, and the entire process was completed in less than 112 days. The effectiveness of stakeholder collaboration in bringing the resolution of this case to a close within the timelines set forth in PPIRP demonstrates that PPIRP can provide timely resolutions if all parties work effectively together.

6. CONCLUSION

¹⁵ Insolvency and Bankruptcy Board of India, official publications and reports on the objectives of PPIRP, including value maximisation, business continuity and minimisation of disruption.

¹⁶ R3, Pre-packs, available at [R3 – Insolvency and Restructuring](#)

MSMEs play an important role in India's economic framework, driving regional growth and employment as well as innovation and creativity. They are also subject to distress due to their inherent sensitivity to financial shocks and the limited availability of credit, unpredictable market conditions and exogenous shocks. Therefore, an expeditious, efficient, non-destructive insolvency process is of critical importance. The PPIRP satisfies that need by providing an innovative, prompt and practical avenue for the rehabilitation of distressed MSMEs while protecting their underlying value and viability. PPIRPs were developed with small business requirements in mind; therefore, they are much simpler than traditional Corporate Insolvency Resolution Processes (other than being expensive and long, both of which can disrupt business operations). In addition, the unique features of PPIRPs (speed, low costs, and no disruption) make them a perfect choice for MSMEs. Compared to CIRPs, which often take 330 days to complete, PPIRPs have a maximum time frame of 120 days, thus minimizing the potential for extended uncertainty. When it comes to financial difficulties, the more time that passes often correlates to a decrease in value. Therefore, the faster a resolution is reached, the better the chance of maintaining customer trust, employee morale, and a company's overall value. Thus, the accelerated process of PPIRPs will produce the best possible outcome for all stakeholders involved.

PPIRP is one of the main components of the larger reform efforts of the Insolvency & Bankruptcy Code (IBC) enacted in 2021. The IBC was intended to establish a more “trust-based” & “market-driven” resolution process for MSMEs.¹⁷ The implementation of PPIRP is moving India toward a rescue-oriented culture of insolvency/restructure by creating a collaborative vs. adversarial approach with a goal of revitalising, not liquidating, distressed entrepreneurs. This is a landmark event for the growth of the Indian economy because it recognizes that in many cases, keeping a viable business is in the best interest of all stakeholders than destroying them through liquidation as long as liquidation occurs only as a last resort.

The PPIRP can create a new narrative around cooperative and revitalising actions, which in turn inspire businesses to look for help sooner rather than later by normalising proactive resolution and lessening fear of bankruptcy. This could create a better outcome and a stronger MSME sector.

¹⁷ Insolvency and Bankruptcy Board of India, official orders and announcements concerning the Pre-Packaged Insolvency Resolution Process, available at [IBBI](https://www.ibbi.gov.in)

