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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJLAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

AN ANALYSIS OF THE ROLE OF THE INSOLVENCY AND BANKRUPTCY CODE (IBC), 2016 IN RESOLVING CORPORATE INSOLVENCY

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Abstract:

The Insolvency and Bankruptcy Code (IBC), 2016 aims to provide a time-bound and efficient framework for resolving the financial distress of the Companies, Insolvency and Bankruptcy in India and to improve the recovery of dues. The IBC, 2016 is the umbrella legislation for all entities in India for both corporate and individuals. It establishes the two process that is insolvency process and the liquidation process. The Corporate Insolvency and Resolution Process was introduced under the Insolvency and Bankruptcy Code (IBC), 2016. It enables insolvent companies to restructure their debts through the CIRP process. This Research paper examines how the IBC resolve the corporate insolvency, the creditor-debtor dynamic, the impact of judicial decisions and the functions of the Corporate Insolvency Resolution Process (CIRP) to resolve defaulting companies' debts and time-bound manner.

Keywords: IBC, CIRP, Moratorium, Creditors, Insolvency Resolution Professionals, Corporate Insolvency, Liquidation.

INTRODUCTION:

Insolvency and Bankruptcy Code (IBC), 2016[1] is a legal framework to enhance the Indian insolvency and bankruptcy resolution process. It is an integrated legal structure to oversee the resolution process of Corporates, Individuals and Partnership firms. This code ensure that speedy and more efficient mechanism for recovery of debts from corporate and non-corporate entities. Before the enactment of this code, the Indian insolvency process will be delay in resolutions, ineffective and inadequate.

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[1] *Insolvency and Bankruptcy Code*, No. 31 of 2016, **INDIA CODE** (2016)

There is no single law in India deal the insolvency and bankruptcy problems. Provision relating to the insolvency and bankruptcy for the companies that can be found in various legislations. The existing laws, includes Sick Industrial Companies (Special Provision) Act, 1985, the Recovery of Debt Due to Banks and Financial Institutions Act, 1993, the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Companies Act, 2013. These statutes will contain multiple mechanism to solve the insolvency issues through DRT, BIFR, NCLT and Appellate tribunals.

Recognized that the existing system need more effectiveness and unified structure to resolve insolvency issues. In 2014, setup a ***Bankruptcy Law Reform Committee (BLRC) headed by the Dr. T.K. Viswanathan***,[2] examine the existing the insolvency laws and recommend improvement to the insolvency framework.

Based on the recommendation of Bankruptcy Law Reform Committee (BLRC), the government introduced the Insolvency and Bankruptcy Code in Parliament 2015. Following the discussion and various stakeholders recommendations the INSOLVENCY AND BANKRUPTCY CODE, 2016 was enacted on 28th May in 2016. This code replaced the existing Insolvency Laws and give effective legal framework for the insolvency and bankruptcy proceedings in India.

The Corporate Insolvency regime in India has introduced the CIRP to resolve the corporate debts, time-bound manner and other solutions and main aim of this code is to avoid the liquidation process. This code contains the two heads i.e., Insolvency Resolution and Liquidation for Corporate Persons (Corporate Insolvency) and Insolvency Resolution and Bankruptcy for Individual and Partnership Firms (Personal insolvency). This Research Paper is focus on the Corporate Insolvency.

This Research aim to explore that legal framework of CIRP, judicial interpretations, contemporary challenges and functions of the corporate insolvency resolution process to evaluate its effectiveness. This study adopt the critical approach to identify the Mechanism of resolution

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[2] **Bankruptcy Law Reform Comm., Ministry of Fin., Gov't of India**, *The Report of the Bankruptcy Law Reform Committee* (2015)

process of corporate insolvency in positive and negative aspects and the challenges by examine at every stage of the CIRP from the initial stage to final approval of resolution plan.

The number of cases filed under the Insolvency and Bankruptcy code continuously raising and the code will be helped to resolve the many cases. According to the report by the Reserve Bank of India, *on March 21, 2025 approximately total 1,194 companies have been successfully resolved under the IBC framework. Through these cases, creditors have realised an amount of ₹3.89 lakh crore which is over 170% of the liquidation value and more than 93% of the fair value of these companies, as assessed at the time of admission into the IBC process.*[3]

CORPORATE INSOLVENCY RESOLUTION PROCESS:

The Insolvency and Bankruptcy Code, 2016 (IBC) has introduced Corporate Insolvency Resolution Process (CIPR) a mechanism to resolve the Corporate Insolvency issues in time-bound manner. This process start at the stage when an individual or entity control over the company assets to recover the unpaid debts. The Corporate Insolvency Resolution Process provide any Corporate Debtor default any debts of the Creditor, the Creditor may apply to the NCLT that is Adjudicating Authority for initiating the CIRP process or the Corporate Debtor itself initiate the CIRP process.

On the basis of application the CIRP process will be start. *The moment of Adjudicating Authority is satisfied that the default is occurred then the application of CIRP must be admitted unless it is incomplete. The Debt + Default equal to admission of application means the debt and default of the corporate debtor based on the application of creditor or the debtor itself the NCLT will be admissible.*[4] Once the CIRP process will start all other proceeding will be stop that is called Moratorium Period.

Before the corporate insolvency resolution process, the Sick Industrial companies Act and major acts were combined into a single framework converted into Insolvency and Bankruptcy Code,

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[3] Press Information Bureau, Ministry of Corporate Affairs, (Aug. 18, 2025), available at Press Release: Press Information Bureau, https://www.pib.gov.in/PressReleasePage.aspx?PRID=2157539&utm_source=chatgpt.com&reg=3&lang=2

[4] *Innoventive Industries Ltd. v. ICICI Bank* (2017) 9 SCC 783

2016 (IBC). Based on the Acts there is No resolution plan successfully impleaded within the time of framework. So, the Company face the Liquidation process at the earlier stages. Based on the reasons the IBC introduced the CIRP process.

INITATION OF CIRP PROCES:

Under the Insolvency and Bankruptcy Code, 2016 *Section 6 to 10 initiation of the Corporate Insolvency Resolution Process*. Initially the code apply to the matters relating to the insolvency of the corporate debtor's where the minimum amount of the default will be one lakh. After the Central Government issue a notification *in the exercise of the power conferred by the proviso to section 4 of IBC code, the Central Government exercise hereby specifies one core rupees is a default of amount for the purpose of the said section*.[5] The increasing of default amount will be benefit to the small companies like MSMEs (Medium Small Micro enterprise) it will be struggling during the COVID period. The minimum default amount, which is necessary for the both financial creditor and operational creditor to initiate the Corporate Insolvency Resolution Process against the Corporate Debtor.

The Corporate Insolvency Resolution Process will be initiated by the 3 peoples:

- Initiated by the Financial Creditor
- Initiated by the Operational Creditor
- Initiated by the Corporate Debtor

INITATION BY THE FINANCIAL CREDITOR:

A Financial Creditor either by itself or with other financial creditor may file an application for initiation of Corporate Insolvency Resolution Process against the corporate debtor before the National Company Law Tribunal (NCLT) when the default of debt has occurred. A *Homebuyer is also Financial Creditor* may file an application under *Section 7 of the IBC code*. The application will be include proof of default of debts and other relevant documents shall be furnished by the Financial Creditor. Once the application is submitted before the NCLT the NCLT receive the

[5] MCA Notification No. S.O. 1205(E) dated 24.03.2020
https://www.scconline.com/blog/post/2020/04/17/increase-in-the-threshold-amount-for-insolvency-under-ibc/
https://ibclaw.in/notification-no-s-o-1205e-dated-24-03-2020-ibc

information and concerning the default arise and appoint as an interim Resolution Professional to initiate the CIRP process. In ***State Tax Officer v. Rainbow Papers Ltd.,***[6] the Supreme Court held that government tax dues backed by a statutory charge constitute secured debt under the IBC and must be treated at par with other secured creditors in the resolution process.

INITATION BY THE OPERATIONAL CREDITOR:

Operational Creditor means who provide the goods and services. An Operational Creditor may enter into an agreement with corporate debtor to supply to the goods and services, may initiate the CIRP process under *section 9 of the IBC code.* The Operational Creditor must serve a Demand Notice to corporate Debtor, the corporate Debtor fail to respond or settle the due to operational creditor within the period the operational creditor filed an application before the NCLT. Once the application is submitted before the NCLT the NCLT receive the information and concerning the default arise and appoint as an Interim Resolution Professional (IRP) to initiate the CIRP process.

INITATION BY THE CORPORATE DEBTOR:

As per *section 10 of IBC code 2016* Corporate Debtor itself initiate the CIRP process under the IBC. The Corporate Debtor may file the application before the NCLT. The NCALT held that the Adjudicating Authority must admit the application filed by the Corporate Debtor to initiate the CIRP proceedings if it is satisfied that the default is arise, application is complete, the Corporate Debtor is not barred under *section 11 of IBC* based on that points the CIRP process will be initiate.[7]

ROLE OF INTERIM RESOLUTION PROFESSIONALS (IRP):

Under *Section 16 of IBC code, 2016* the Adjudicating Authority shall appoint the interim resolution Professionals within 14 days from the made of application under *Section 7, section 9 and Section 10 of IBC*. Based on the application made by the applicant adjudicating authority shall appoint the interim resolution professionals. If incase any creditors doesn't mention any name in application the NCLT shall make a reference to the Insolvency and Bankruptcy Board of India (IBBI)

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[6] *(2022)*
[7] M/s. Unigreen Global Private Limited Vs. Punjab National Bank and Others [Company Appeal (AT) (Insolvency) No. 81 of 2017]

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recommendation of an insolvency professional who may act as an interim resolution professionals.[8]

Upon the admission of CIRP application, the Interim Resolution Professionals shall manage the affairs of the Corporate Debtor Company and board of Director Powers will be suspended. IRP shall control and custody of all assets of the Corporate Debtor[9]. Duties of Interim Resolution Professionals:-

- Collect the all information relating to the assets, finance and business operations of the corporate debtor.
- Gather the all claims made by the creditor against the Corporate Debtor
- Formation of Committee of Creditors (CoC)
- Manage the assets of the corporate debtor until the Resolution Professional (RP) is appointed by the Committee of Creditors (CoC) and others.

MORATORIUM PERIOD:

After initiation of Corporate Insolvency Resolution Process (CIRP) and appointment of Interim Resolution Professionals (IRP) the Moratorium period will come into effect. According to the Insolvency and Bankruptcy Code (IBC) code, 2016 the Adjudicating Authority shall issue order of restraining the institution of suits or continuation of pending suits, transferring, encumbering, alienating or disposing of any assets of corporate debtor, any legal actions for the recovery of debts, enforcement of security interest, sale or transfer of assets, termination of contracts, *including any action under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002*[10] the following proceedings for certain period stop, until the completion of the Corporate Insolvency Resolution Process. However the Adjudicating Authority until shall approve the resolution plan or liquidation order the moratorium period shall continue. Once the CIRP process initiate that matter should be kept in abeyance till the moratorium period was over.[11]

[8] K. J. Vinod v. Registrar, National Company Law Tribunal, 2025 SCC OnLine Mad 4840, decided on 13-08-2025
[9] IDBI Bank v. Jaypee Infratech Ltd. (2018) – NCLAT
[10] Indian Overseas Bank v. RCM Infrastructure ltd., 2022 SCC OnLine SC 634, decided on 18.05.2022]
[11] State Bank of India vs. Electrosteel steel Ltd C.P (IB) 361, 2017

The Oxford Dictionary define the term of MORATORIUM PERIOD *A legal authorization to debtors to postpone the payment*[12] Delay in performing an obligation or taking an action legally authorized or simply agreed to be temporary[13]. At the moment of admitted of CIRP application the moratorium period will comes into effect. *Alchemist Asset Reconstruction Company Ltd Vs. M/s. Hotel Gaudavan Pvt. Ltd. & Ors,*[14] Supreme Court (SC) held that the effect of Section 14(1) (a) is that the arbitration that has been instituted after the aforesaid moratorium is non est in law. The Moratorium Period under the Indian Constitution will not affect any suit pending before the Supreme Court under the Article 32 or where the order passed under the Article 136 or High Court under the Article 226.[15]

The Moratorium period under the Criminal proceedings cannot be barred, the Supreme Court observed that the no bar contain any proceedings under the IBC, the Negotiable Instrument Act[16] approach the criminal court to seek the penal *Section 138 of NI act*. However, it is different from the civil recovery mechanism, so the criminal proceedings doesn't fall under the moratorium period.[17]

FORMATION OF COMMITTEE OF CREDITORS:

The main aim of formation of committee of creditors to control and supervise over the Corporate Insolvency Resolution Process (CIPR) and in order to make maximize amount of the corporate debtor assets and give time-bound manner. *Section 21 of IBC* deals the committee of creditors. One of the most important functions of the CIPR is formation of committee of creditors by the Interim Resolution Professional. The Committee of Creditors shall comprise all financial creditors of the corporate debtor. The committee of creditors is primary decision making body. *K. Sashidhar v. Indian Overseas Bank*,[18] the Supreme Court of India made a significant ruling regarding the authority of CoC in the approval of resolution plans under the IBC and also the decision shall be made on the basis of commercial and business oriented. On basis of above judgment the Committee

[12] https://taxguru.in/corporate-law/moratorium-insolvency-bankruptcy-code-2016.html
[13] Black's Law Dictonary
[14] *Alchemist Asset Reconstruction Company Ltd. v. M/s. Hotel Gaudavan Pvt. Ltd. & Ors.*, (AIR 2017 SC 5124**)**
[15] Canara Bank Vs. Deccan Chronicle Holdings Limited, (14th September 2017)
[16] *Negotiable Instruments Act*, No. 26 of 1881, **INDIA CODE** (1881)
[17] Ajay Kumar Radheyshyam Goenka v. Tourism Finance Corpn. of India Ltd
[18] *K. Sashidhar v. Indian Overseas Bank*, (2019) 12 S.C.C. 150 (India)

of Creditor require to approval of any decision at least 66% voting share held by the Financial Creditors. Committee of Creditor is a commercial wisdom in paramount, once the CoC approval of resolution plan the NCLT has limited role in resolution plan. The Adjudicating Authority shall review approval plan it cannot be modify the plan.

APPOINTMENT OF RESOLUTION PROFESSIONALS:

The Formation of Committee of Creditors within 7 days by majority of vote not less of 66% of the voting share of the Financial Creditors, either to resolve to appoint the Interim Resolution Professionals as a Resolution Professionals or replace the IRP by another Resolution Professional. The Resolution Professionals are protect and preserve the Corporate Debtor assets and also RP shall conduct the entire corporate insolvency resolution process. The CoC shall replace the IRP or RP at any time by majority of voting rights.[19]

PREPARATION OF INFORMATION MEMORANDUM:

The Information Memorandum is prepared by the resolution professional based on the form manner containing such relevant information as may be specified by the Insolvency Bankruptcy Board for formulation of resolution plan. The purpose of the Information Memorandum is to help the resolution applicants to create an effective resolution plan for revival of corporate debtor.[20] The term *"Resolution Applicant"* means any person who submits a resolution plan to the resolution professional. The resolution professional shall provide access to all relevant information to the resolution applicant in physical and electronic form, only after the applicant undertakes:

- To comply with the laws relating to confidentiality and insider trading;
- To protect any intellectual property of the corporate debtor it may have access to; and
- Not to share the relevant information with third parties unless the above conditions are complied with.

In paragraph 5.3.2 of the *Bankruptcy Law Reforms Committee (BLRC) Report*,[21] it was emphasized that the Resolution Professional must give the most current and accurate information about the

[19] Alok Infrastructure Ltd. v. State Bank of India (NCLAT, 2018)
[20] Asset Reconstruction Company (India) Ltd. v. Precision Fasteners Ltd. (NCLAT, 2017)
[21] **BLRC Report**, supra note 2

company and make sure it is easily accessible to those who wish to submit resolution plans.[22] The Resolution Professionals shall submit the information Memorandum in electronic form to all members of the Committee of Creditors within two weeks. After receiving of information memorandum by the members of committee of creditors or the resolution applicant shall maintain the confidentiality.[23]

SUBMISSION OF RESOLUTION PLAN:

Based on the Information Memorandum the Resolution Applicant either in individual or jointly submit their Resolution Plan to Resolution Professionals as per *Section 25(2)(h)* it invite prospective lenders, investors and any other persons to put forward resolution plans to resolution professionals. These Resolution Plan will be reviewed according to the suitability, variability and compliance with the *Insolvency and Bankruptcy Code, 2016*. Before the resolution plan filed by the Resolution Applicant, the Resolution Professionals will review the plan under *Section 29A of Insolvency and Bankruptcy Code, 2016* and disallow the disqualified applicants.

- **Prerequisites for Section 29A of IBC:**

Before the Introduction of *Section 29A of IBC*, there is no specific criteria was prescribed for resolution applicants to apply the resolution plan. Initially this code did not require any restriction to apply resolution plan, the code allowed any entity, corporate debtor's promoters, individual and related parties propose a resolution plan to the resolution applicants. Due to the lack of governing rules, the eligibility to submission of Resolution Plan will affect the basic objective of IBC, the main aim of this provision to prevent the ineligible individual or entity to submission of resolution plan, IBC is to resolve the debts of Corporate Debtors. Under *Section 29A of IBC* "A person shall not be eligible to submit a resolution plan in following:

(a) Undischarged insolvent

(b) Wilful Defaulter – Accordance with guidelines of Reserve Bank of India (RBI)

(c) Non-Performing Assets (NPA) Holders – an account of a corporate debtor under the management or control of such person or of whom such person is a promoter, classified

[22] https://lawbhoomi.com/preparation-of-information-memorandum-under-section-29-ibc/

[23] Regulation 36 of the IBBI (CIRP) Regulations, 2016:

as non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 and at least a period of one year has lapsed from the date of such classification till the date of commencement of the CIRP process of the corporate debtor

Exception: Person shall eligible to submit Resolution Plan if such the person make payment of overdue in relating to the NPA before the submission of Resolution Plan.

(d) **Convicted of certain offences**: convicted of offences in under any act or any other act at time in force.

(e) **Disqualified Directors**: any person disqualified as a director under the companies Act, 2013.

(f) **Prohibited by SEBI**: Any individual prohibited by SEBI from trading in securities or accessing of securities market.

(g) Involved in Fraudulent transactions

(h) **Foreign Disability**: Anyone subject to similar disqualifications under the laws of a foreign jurisdiction.

(i) **Connected person:** A person who is promoter or management or control over the Corporate Debtor, A person who shall be the promoter or management or control over the Corporate Debtor during the implementation of Resolution plan."[24]

In *Arcelor Mittal India Pvt Ltd v. Satish Kumar Gupta*, SC held that the Arcelor Mittal Indian Private Limited company is ineligible to submission of resolution plan under section 29A of IBC. Arcelor Mittal Indian Private Ltd company plan rejected due to the association with an entity whose account turned into non-performing assets as per section 29A(c). Indirect promoters to control or attract the entity of corporate debtor also disqualified under section 29A of IBC[25] and the related parties also disqualification under this provision.[26] Similarly *Numetal Ltd. v. Satish Kumar Gupta & Ors.* Numetal company plan was rejected due to one of the shareholder has tie become a promoter whose account was categories as a NPA, so the Numetal company plan ineligible under the Section 29A of IBC.

[24] *Insolvency and Bankruptcy Code* (Amendment) Act, No. 8 of 2018, § 4, **INDIA CODE** (2018) (substituting § 29A)
[25] **Apollo Joti LLC & Ors. v. Jyoti Structures Ltd.**
[26] Swiss Ribbons vs. Union of India

The SC, reaffirmed that in *Chitra Sharma v. Union of India*[27] case Section 29A of IBC must be strictly enforced to prevent the defaulting promoters to regaining the control of corporate debtor. The IBC introduced section 29A prevent persons who control the entity of corporate debtor either directly or indirectly, eligibility under Section 29A of IBC not only the commercial wisdom of creditors, judiciary have power to review the resolution plan but cannot made any changes in these plan.[28] *RBL Bank Ltd v. MBL Infrastructures Ltd*[29], Guarantor to the Corporate Debtor will be ineligible to the resolution applicant under the provision of IBC. *Arun Kumar Jagatranka v. Jindal Steel & Power Ltd.,*[30] SC held that prevent the individual who involved in mismanagement of entity of corporate debtor from re-entering into the resolution plan as a resolution applicant. Allowing such ineligible individuals to submit resolution plans would contradict the fundamental purpose of Sec 29A.[31] The resolution plan will be fulfil the criteria of section 29A and section 30(2) of IBC.

APPROVAL OF RESOLUTION PLAN BY CoC:

Based upon the resolution plan submitted by the resolution applicant, According to the Section 30(4) of IBC, the Committee of Creditors may approve the resolution plan by vote of not less than 66% voting share of the financial creditors. The Committee of Creditors approve the resolution plan based upon the feasibility, viability, manner of distribution and satisfied the section 29A and section 30(2) of IBC. In the case of *Committee of Creditors of Essar Steel India Limited vs. Satish Kumar Gupta and Ors,*[32] SC held that approval of resolution plan by the committee of creditors will be the commercial wisdom of the CoC, the decision of CoC will be binding to all stakeholders and limited role of the adjudicating authority. The supremacy of commercial wisdom of the CoC while approving the resolution plan is reterated.[33] Even if the respondent hadn't submitted its claim before the Resolution Professional, the approved Resolution Plan would still have been binding on the respondent.[34]

[27] *Chitra Sharma v. Union of India*, (2018) 18 S.C.C. 575 (India).
[28] *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.*, (2019) 8 S.C.C. 531 (India)
[29] *RBL Bank Ltd. v. MBL Infrastructures Ltd.*, (2018) 3 S.C.C. 567 (India)
[30] *Arun Kumar Jagatramka v. Jindal Steel & Power Ltd.*, (2021) 7 S.C.C. 474 (India)
[31] Indian Journal of Law and Legal Research Volume VII Issue I | ISSN: 2582-8878
[32] *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.*, supra note 1, at 28.
[33] K. Sashidhar vs Indian Overseas Bank and Ors,
[34] Ajay Kumar Radheshyam Goenka v. Tourism Finance Corporation of Inida Ltd, 2023 (10) SCC 545

APPROVAL OF RESOLUTION PLAN BY ADJUDICATING AUTHORITY:

The National Company Law Tribunal (NCLT) play major role handling the matters related to Corporate Insolvency Resolution Process (CIRP). According to *section 31 of IBC and Regulation 39(4) of IBBI(CIRP) Regulations, 2016* deals approval of resolution plan by NCLT is satisfied that the requirement of resolution plan under section 30(2) and approved by the committee of creditors under section 30(4) based upon the decisions under Section 31 of IBC the Adjudicating Authority shall order to approve the resolution plan that the resolution plan will be binding on the corporate debtor and its employee, member, creditor, guarantors and other stakeholder involved in that resolution plan.

Ghanashyam Mishra and son vs. Edelweiss asset reconstruction,[35] in this case Once the resolution plan is approved by the coc and adjudicating authority even a government authority cannot be revoked based on the dues doesn't include in resolution plan. On the date of such approval of resolution plan, based on the plan claims can be claim which is not a part of resolution plan shall stand extinguished and no person shall entitle to initiate or continue to any proceedings under such claim which is not a part of Resolution Plan. A submitted resolution plan is binding and irrevocable between the CoC and the Special Resolution Applicant (SRA) as per the provision and regulation of IBC.[36] Once the plan is approved before the NCLT it will be binding to entity of the corporate debtor and it can't be revocable, unless there is any controversial of section 30(2) of IBC the NCLT have limited Jurisdiction.[37]

If a CoC is rejected any resolution plan, the adjudicating authority cannot be approve the resolution plan unless approved by the majority of CoC, the NCLT held that once the CoC rejected the resolution plan Adjudicating Authority cannot be took another look the decision of the CoC to determine the viability of the plan.[38] After the order passed by the Adjudicating Authority the moratorium period under section 14 of IBC shall be cease to have effect and the Resolution Professional shall forward the all records relating to the Corporate Insolvency Resolution Process

[35] *Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, (2020) 2 S.C.C. 385 (India)
[36] Ebix Singapore (P) Ltd. v. Committee of Creditors of Educomp Solutions Ltd., 2021 SCC OnLine SC 707
[37] Kalinga Allied Industries India (P) Ltd. v. CoC (Bindals Sponnge Industries Ltd.), 2022 SCC OnLine NCLAT 1618, decided on 19-12-2022
[38] Bhaskara Agro Agencies v. Super Agri Seeds,

and the Resolution Plan to the Insolvency and Bankruptcy Board of India IBBI to be recorded. Once the Resolution Plan is approved by the CoC and Adjudicating Authority, the Adjudicating Authority doesn't have any jurisdiction to reopen, revisit the Resolution Plan.[39]

LIMITATION FOR COMPLETATION OF CIRP:

According to *Section 12 of IBC*, the CIRP process shall be completed within 180 days from the date of admission of the application to initiate the CIRP process. If any delays in proceedings under the Corporate Insolvency Resolution Process the Resolution Professional shall file an application before the NCLT to extend the period of CIRP process. Based on the application by a resolution passed at meeting of the CoC by vote of 66% of the voting shares. And also the adjudicating authority is satisfied the subject matter of the case in CIRP process is can't completed within 180 days it may by order extend the duration of the CIRP process up to 90 days beyond the 180 days.[40] *The Regulation 40 of CIRP Regulations, 2016*[41] is deals extension of insolvency resolution process.

In 2019 amendment of Insolvency and Bankruptcy Act, 2016 insert a 2 proviso under the Section 12(3) about the time limit to completion of insolvency resolution process:

- *Provided further that the corporate insolvency resolution process shall mandatorily be completed within a period of 330 days from the insolvency commencement date, including any extension of the period of corporate insolvency resolution process granted under this section and the time taken in legal proceedings in relation to such resolution process of the corporate debtor*
- *Provided also that where the insolvency resolution process of a corporate debtor is pending and has not been completed within the period referred to in the second proviso, such resolution process shall be completed within a period of 90 days from the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019.*[42]

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[39] Bank of India vs Thirupati infraproject pvt lt company IB-104(PB)/2017.
[40] Quantum Limited Vs. Indus Finance Corporation Limited [2018] ibclaw.in 08 NCLAT
[41] *Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations*, S.O. 2423(E), Reg. 40 (2016) (India)
[42] https://ibclaw.in/compliance-with-the-provisions-of-section-12-of-the-insolvency-and-bankruptcy-code-2016-ibbi/

Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta[43] in this case Hon'ble SC held that in exceptional cases time limit can be extend based upon the subject matter of the case. Ordinarily the time taken in relation to the corporate resolution process of the corporate debtor mandatorily complete the insolvency resolution process within 330 days from the date of commencement of insolvency process. This period of 330 days shall include:

- Initiation of CIRP process of 180 days,
- Adjudicating Authority extend the period of 90 days,
- Legal proceedings in relation to the CIRP of the Corporate Debtor

It is mandate the insolvency resolution process shall be completed within 330 days from the initiation of insolvency process if in case is not completed within prescribed period Adjudicating Authority shall order to Liquidation process.

FAILURE OF CIRP PROCESS:

Under the *Section 31 of IBC 2016*, once the Resolution Plan is approved the all stakeholder will be binding. Unless there is

- No Resolution Plan is approve by CoC within prescribed time,
- Resolution Plan is rejected by the Adjudicating Authority,
- The Time Limit of CIRP process is lapsed,
- CoC decided to liquidate during the CIRP process.
- Approved Resolution Plan but fails in implementation.

Based on the circumstance the entity of the corporate debtor will comes to the liquidation process. *Innoventive Industries v. ICICI Bank and Another*[44] the SC observed that moratorium passed at the time of resolution process shall be cease, from the date of liquidation order passed against the Corporate Debtor. *State Bank of India Others v. The Consortium of Mr Murari Lal Jalan and Mr Florian Fristch and another*[45] (***JET AIRWAYS***) in this case court ordered that Liquidation of *JET AIRWAYS* Company because of failure of Special Resolution Applicant to implementation of Resolution Plan approve by the Adjudicating Authority (NCLT).

[43] *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.*, supra note 2, at 28.
[44] *Innoventive Industries Ltd. v. ICICI Bank*, note supra 1 at 4
[45] **2024 INSC 852** (India: Nov. 7, 2024)

Kridhan Infrastructure private Ltd v. Venkatesan Sankaranarayan,[46] *and Kalyani Transco v. Bhushan Power & Steel Ltd. & Ors.*[47] The SC held that, delay and non-compliance of implementation of Resolution Plan are unacceptable and even after time extension, unable to raise the fund and implement the resolution plan defeat the object of the IBC code. Therefore the main aim of this code is time-bound manner to complete the CIRP process, when there is not completed within time-bound manner of the process the adjudicating authority pass an order of liquidation.

CONCLUSION AND SUGGESTIONS:

An analysis of The Insolvency and Bankruptcy Code, 2016 conclude that by presenting the unified, time-bound, credit centric frame work for resolving the Corporate Insolvency or Corporate Debts it is a transformative role in India financial ecosystem. The comprehensive analysis of the IBC's is convert the Debtor-in-Possession into Creditor-in-Control, this process exercise through the IRP. It improved the recovery rates of creditors, and reduced the long time resolution process through the CIRP process. The IBC 2016, is to resolve the debt of Corporate Debtor through the mechanism, that is Corporate Insolvency Resolution Process (CIRP) rather than to liquidate.

The implementation of IBC has helped to reviving from the distressed business, reducing the Non-Performing Assets (NPAs), and improving the investors in India. The IBC ensures that Banks, NBFCs and financial institutions control over the insolvency process, and reducing the prolonged litigation process and ineffective mechanism to complete the recovery process.

SUGGESTIONS:

Improve Timely Resolution Process of CIRP:

The Regular Timeline process of completion of Corporate Insolvency Resolution Process (CIRP) weaken the object of IBC. The Legislative and Judicial emphasis of stricter adherence to the 330-days to completion of CIRP process in exceptional cases extension will be granted to the CIRP process. In delay causing process curtail the early stage of security, needs of fast-track mechanism to disposal of corporate debtor debts.

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[46] 2021 6 SCC 94
[47] *2025 SCC OnLine SC 1010*

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Rebalancing the role of CoC:

The Commercial wisdom of Committee of Creditors is the main function of the CIRP process it is the central framework of IBC. The unchecked discretion could damage the interest of Financial Creditor and other creditors. To promote accountability, equity and transparency in decision of CoC to get the clear statutory guideline to improve the disclose requirement should be implemented.

Promoting Out-of-Court and Pre-Packaged Resolutions:

Expanding the ability of Pre-packaged resolution process and promoting the Out-of-court mechanism to reduce the workload and burden of tribunals to facilitate to speed up the resolution process, especially for the Micro Small Medium Enterprisers (MSMEs) and small entities.