

# Way Forward for CMAs to become Insolvency Professional & Opportunities for CMAs in IBC 2016

AS per Syllabus w.e.f. 1st July 2023

***BFSI Board***

***The Institute of Cost Accountants of India***

***22<sup>nd</sup> December 2023***

Presented by:

CMA J K Budhiraja, M.Com., FCS, FCMA

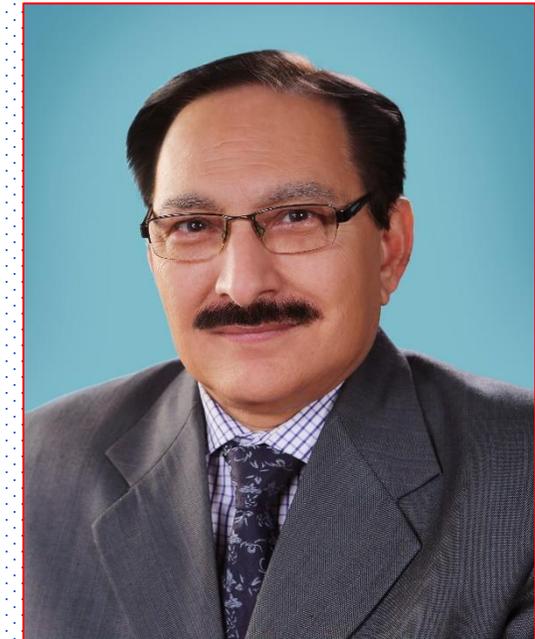
CEO, ICAI MARF,

Former CEO, Insolvency Professional Agency of ICAI & Former

Senior Director (Technical), ICAI

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Ex-Chief Executive Officer (CEO)  
Insolvency Professional Agency of  
Institute of Cost Accountants of India

Ex-Senior Director (Technical)  
The Institute of Cost Accountants of India  
Lodhi Road, New Delhi-110003

## BRIEF ABOUT CMA J K BUDHIRAJA

- *Fellow Members of The Institute of Cost Accountants of India (ICAI) and The Institute of Company Secretaries of India (ICSI);*
- *Chief Executive Officer (CEO) of ICWAI MARF and Ex-CEO of Insolvency Professional Agency of Institute of Cost Accountants of India (IPA ICAI);*
- *Ex-Senior Director (Technical), The Institute of Cost Accountants of India, HQ (Delhi Office), Lodhi Road, New Delhi-110003;*
- *In past practiced as Cost Accountant and Registered Insolvency Professional also, handled 12 cases of CIRP under IBC 2016;*
- *Ex-General Manager (Finance)/CFO, Central Electronics Ltd. (CEL); and*
- *Ex-Head (Finance)/CFO & Company Secretary, EdCIL (India) Ltd. (PSU). Also worked with National Fertilizers Ltd (NFL)-PSU, Hindustan Fertilizer Corporation Ltd (HFC)-PSU;*
- *Represented CMA Institute in Working Groups 2 & 3, constituted by MCA for drafting Rules and Regulations under IBC 2016;*
- *Ex-Member, Advisory Committee on Corporate Insolvency Process and Liquidation, constituted by Insolvency and Bankruptcy Board of India (IBBI);*
- *Ex-Member, Working Group constituted by IBBI for drafting Rules and Regulations relating to Guarantor Corporate Debtors, and Individuals having Businesses.*

# Presentation Flow

- 1. Pre-IBC 2016 position of insolvency and liquidation*
- 2. Why IBC 2016 implemented by Government*
- 3. Provisions of IBC 2016 (Code) in brief*
- 4. Amendments made in IBC 2016 after implementation.*
- 5. Advantages of Code for Banks over SARFAESI*
- 6. Who can become Insolvency Professional*
- 7. Eligibility Criteria for passing Limited Insolvency Examination (LIE)*

# Presentation Flow

8. *Analysis of New Syllabus, notified on 31<sup>st</sup> March 2023 applicable from 1<sup>st</sup> July 2023.*
9. *Elaboration on Syllabus with comparative weightage of marks in syllabus.*
10. *Registration Process for Limited Insolvency Examination.*
11. *Exam Centres at West Bengal, Orissa, Delhi, Rajasthan, Haryana and U.P.*
12. *From where to download Relevant Study Materials from WEBSITES: IPAs and IBBI.*

# Presentation Flow

- 13. Preparation Tips including Important Chapters and contents relevant for Examination.*
- 14. Important Provisions related to Corporate Insolvency Process, Liquidation, Voluntary Liquidation, Individual Insolvency, Penalties and Offences.*
- 15. Important provisions related to Pre-packaged insolvency resolution process [PPIRP)*
- 16. Opportunities under insolvency and bankruptcy code 2016 for CMAs and others*

## PRE-IBC 2016 POSITION OF INSOLVENCY AND LIQUIDATION

Corporate

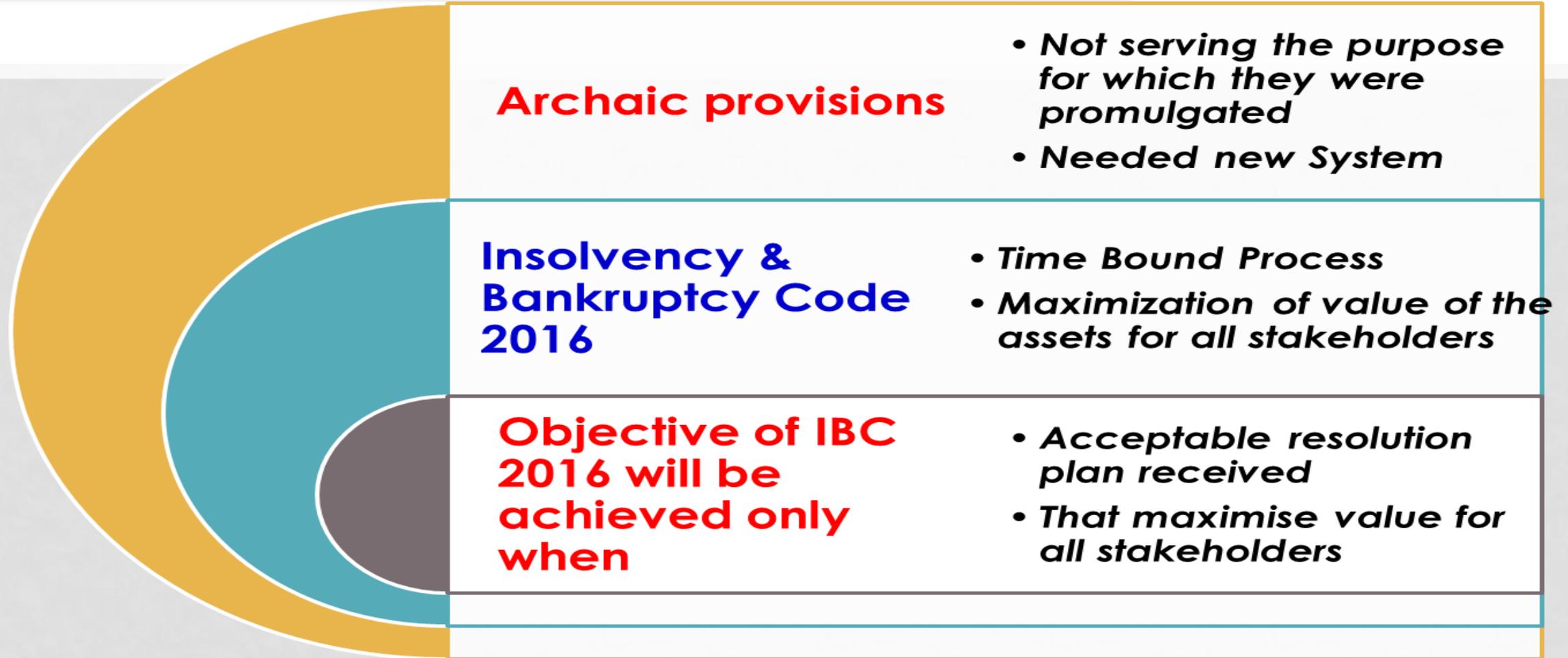
### Winding Up & Liquidation

- SICA/BIFR → High Court
- Now shifted to IBC 2016 through NCLT Appellate NCLAT

Non  
Corporate

- Individual
  - Partnership Firms
  - HUFs
  - Under Presidency Towns Insolvency Act, 1909 & Provincial Insolvency Act, 1920
- Will be shifted to IBC 2016 thro' DRT Appellate DRAT

## WHY INSOLVENCY AND BANKRUPTCY CODE 2016 IMPLEMENTED



*Resolution Plan should balance the interest of all stakeholders, realistically drawn and suggested the measure to implement it successfully*

# STRUCTURE OF IBC 2016

Part –I	Part-II	Part-III	Part-IIIA (w.e.f. 4.4.21)	Part-IV	Part-V
Preliminary	Insolvency Resolution and Liquidation for Corporate Person	Insolvency Resolution and Bankruptcy for Individual and Partnership Firms	<b>PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS</b>	Regulation of Insolvency Professionals, Agencies and Information Utilities	Miscellaneous (including XI Schedule)
	Chapter-I Preliminary	Chapter-I Preliminary	New Section 54A to Section 54P added to facilitate CIRP for MSME	Chapter-I The Insolvency and Bankruptcy Board of India	
	Chapter-II Corporate Insolvency Resolution Process	Chapter-II Fresh Start Process	Application of provisions of Chapters II, III, VI and VII to Part-II.	Chapter-II Power and Function of the Board	
	Chapter-III Liquidation Process	Chapter-III Insolvency Resolution Process		Chapter-III Insolvency Professional Agencies	
	Chapter-IV Fast Track Corporate Insolvency Resolution Process	Chapter-IV Bankruptcy Order for Individuals and Partnership Firms		Chapter-IV Insolvency Professionals	
	Chapter-V Voluntary Liquidation of Corporate Persons	Chapter-V Administration and Distribution of the Estate of the Bankrupt		Chapter-V Information Utilities	
	Chapter-VI Adjudicating Authority for Corporate Persons	Chapter-VI Adjudicating Authority for Individuals and Partnership Firms		Chapter –VI Inspections and Investigation	
	Chapter-VII Offence and Penalties	Chapter-VII Offence and Penalties		Chapter-VII Finance , Accounts & Audit	

# ACTS WHICH HAVE BEEN AMENDED

1. Indian Partnership Act, 1932;
2. Central Excise Act, 1944;
3. Income Tax Act, 1961;
4. Customs Act, 1962;
5. *Recovery of Debt Due to Banks and Financial Institution Act, 1993;*
6. The Finance Act, 1994;
7. *The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002;*
8. The Sick Industrial Companies (Special Provisions) Act, 1985;
9. The Payment and Settlement Systems Act, 2007;
10. The Limited Liability Partnership Act, 2008; and
11. The Companies Act, 2013.
12. The Presidency Towns Insolvency Act, 1909 and
13. The Provincial Insolvency Act, 1920.

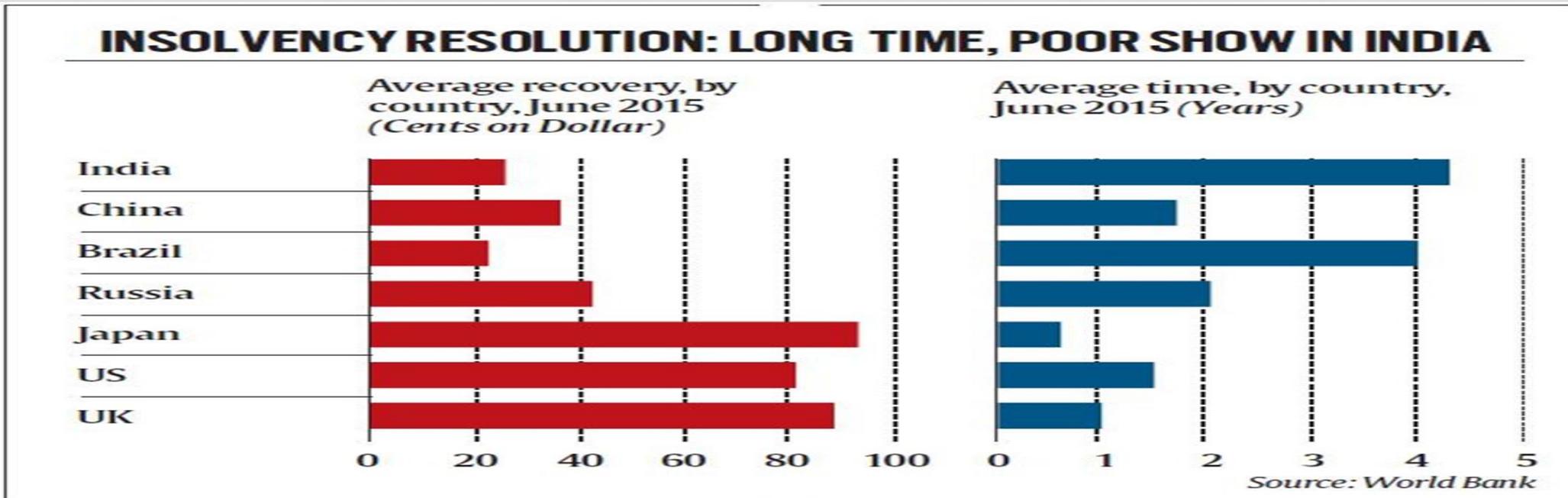
*Previously: The provisions of this Section shall have effect notwithstanding anything to the contrary contained in any other law “for the time being in force”.*

**The IBC have an overriding effect on all other laws relating to Insolvency & Bankruptcy.**

# INSOLVENCY RESOLUTION COMPARATIVE

## Multiplicity of laws has been a problem

Multiplicity of laws has been a problem in the way of banks failing to recover their loans. For example, DRTs are dealing with a backlog of Rupees 4 trillion worth of cases. For the last three financial years, less than 20% of cases taken up by various channels such as DRTs, Lok Adalats and SARFAESI courts.



# INSOLVENCY RESOLUTION COMPARATIVE

## Insolvency Resolution Time

Insolvency resolution in India took 4.3 years on an average, which is higher as compared to other countries.



# INSOLVENCY & BANKRUPTCY CODE 2016

## Time Bound Process

- 180 days Normal; **Fast Track 90 days**
- Maximum **ONE TIME EXTENSION** upto 90 days Normal; **Fast Track 45 days**
- As per Amended Act 2019: **MUST BE Completed within 330 days including time taken in legal proceedings.**

## COVID-19 Impact

- Supreme Court ordered on March 23, 2020 for exclusion of period of lockdown in computation of limitation period
- By an Ordinance dated 5.6.2020- Sec. 10A, Sections 7, 9 & 10 suspended for 6 months for default arising on or after 25th March, 2020, further extended 2 times- Upto 24<sup>th</sup> March 2021 **Now over. New cases can be filed w.e.f. 25.3.21**

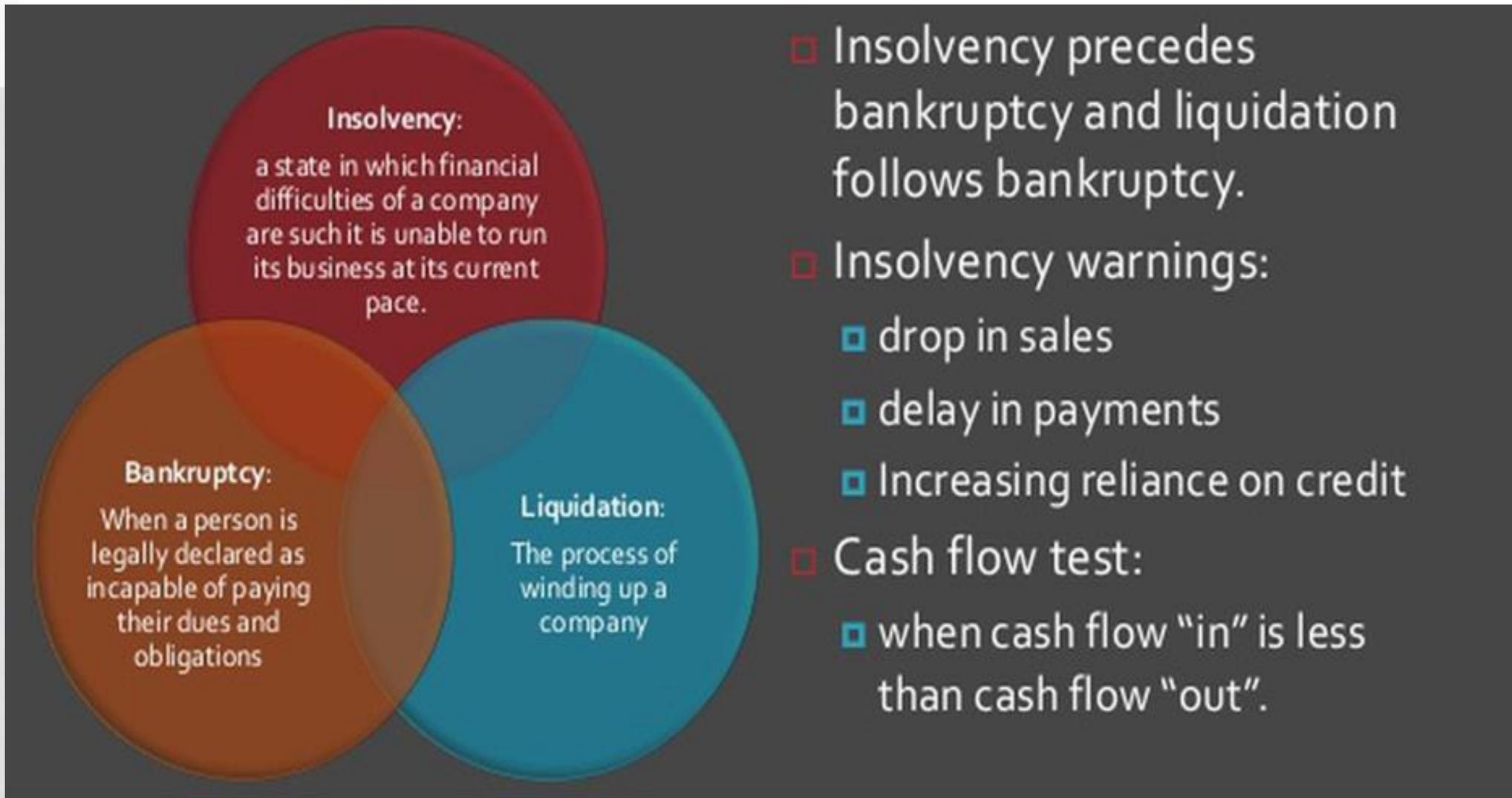
## Jurisdiction

- **NCLT**- Adjudication Authority for Corporate Persons
- **NCLAT**- Appellate Authority: Appeal against NCLT orders on sufficient cause
- **DRT**- Adjudication Authority for Individuals & Partnership Firms
- **DRAT**- Appellate Authority: Appeal against DRT orders on sufficient cause
- **Supreme Court**: Appeal against orders of NCLAT on question of Law.
- **Civil Courts**: Do not have Jurisdiction

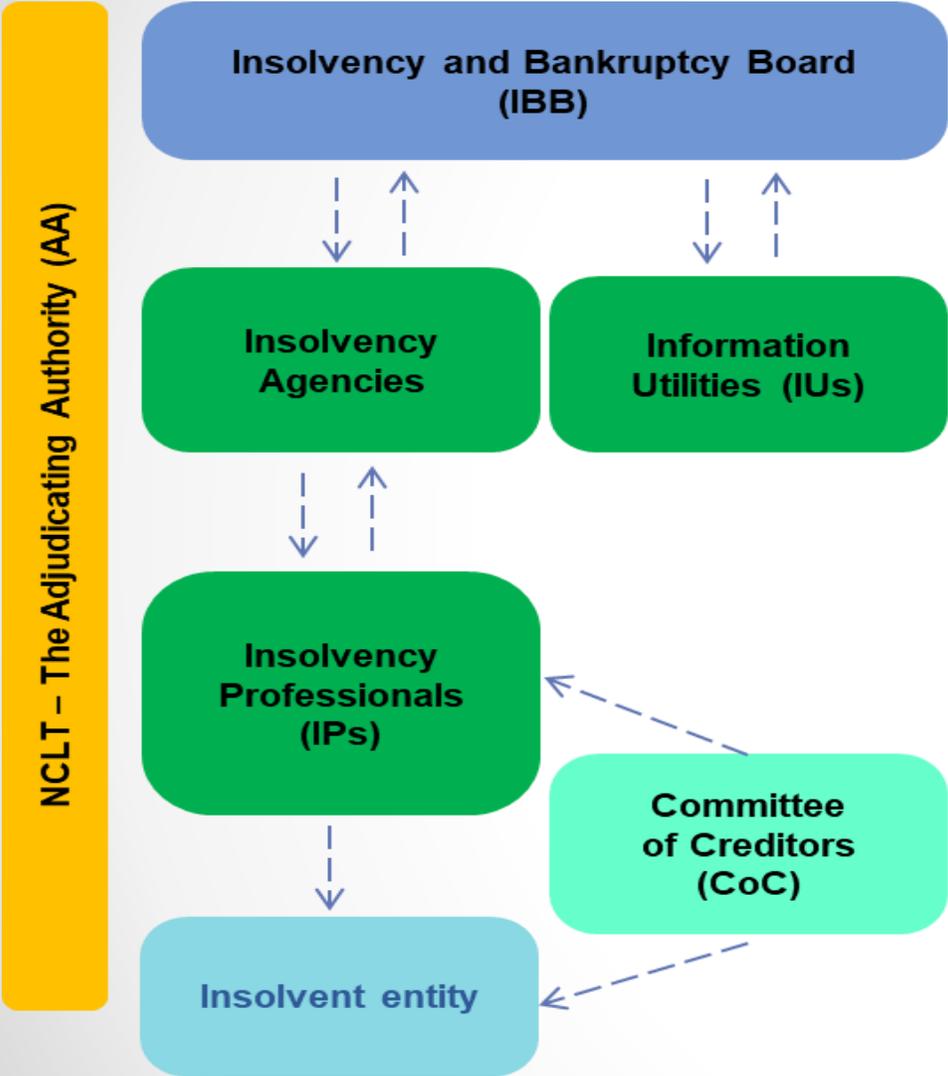
## AMENDMENTS IN CODE

- *1<sup>st</sup> Amendment: Insolvency and Bankruptcy (Amendment) Ordinance, 2017 dated 23<sup>rd</sup> November 2017 (New Section 29A inserted)*
- *Replaced by the Insolvency and Bankruptcy (Amendment) Act, 2018 dated 18<sup>th</sup> January 2018*
- *2<sup>nd</sup> Amendment: Insolvency and Bankruptcy (Amendment) Ordinance, 2018 dated 6<sup>th</sup> June 2018 (Home Buyer added; Major decisions by voting  $\geq$  66%; Sec 12A withdrawal; limitation period; Special Resolution  $\frac{3}{4}$  majority; Moratorium not applicable to personal guarantor; AR for class of creditors; Relief MSME from 29A)*
- *Replaced by 2nd Amendment Act 2018 (Gazette Notification 18th August 2018)*
- *3<sup>rd</sup> (Amendment) Act, 2019 dated 5th August 2019. (Total Time Period 330 days; AR to cast vote if  $>$  50%; Resolution to be binding on all Govt, CD, employees etc.)*
- *4<sup>th</sup> Amendment: Ordinance, 2019 dt 28.12.19; Amendment Act, 2020 dated 13th March 2020. (Appl. by at least 10% of class of creditor or 100, whichever is less; Licences not to be suspended; Prior to CIRP offences, RA not liable)*
- *5<sup>th</sup> Amendment: Ordinance, 2020 dt 5.6.2020; (new sec 10A inserted filing suspended for six months u/s **Section 7, 9 & 10 for default arising on or after 25th March, 2020, further extended 2 times- Upto 24th March 2021**)*
- ***By Notification dated 24.3.2020 in exercise of powers by Central Govt., given under S.4 of IBC has increased minimum threshold from Rs. 1 lakh to 1 crore.***
- ***New Chapter IIIA containing Section 54A to Section 54P, new sections 11A, 67A & 77A inserted in Code for implementing Pre-Packaged Insolvency Resolution Process for MSME. Minimum default Rs. 10 lakhs vide Notification number S.O. 1543(E) dated 9th April, 2021.***
- *Likewise there are amendments in relevant Regulations;*

## COMPARISON: INSOLVENCY, BANKRUPTCY AND LIQUIDATION



# INSOLVENCY AND BANKRUPTCY CODE ECOSYSTEM



**IBB** – apex body for promoting transparency & governance in the administration of the IBC; will be involved in setting up the infrastructure and accrediting IPs & IUs.

**IUs** - Centralised repository of financial and credit information of borrowers; would validate the information and claims of creditors vis-à-vis borrowers, as needed.

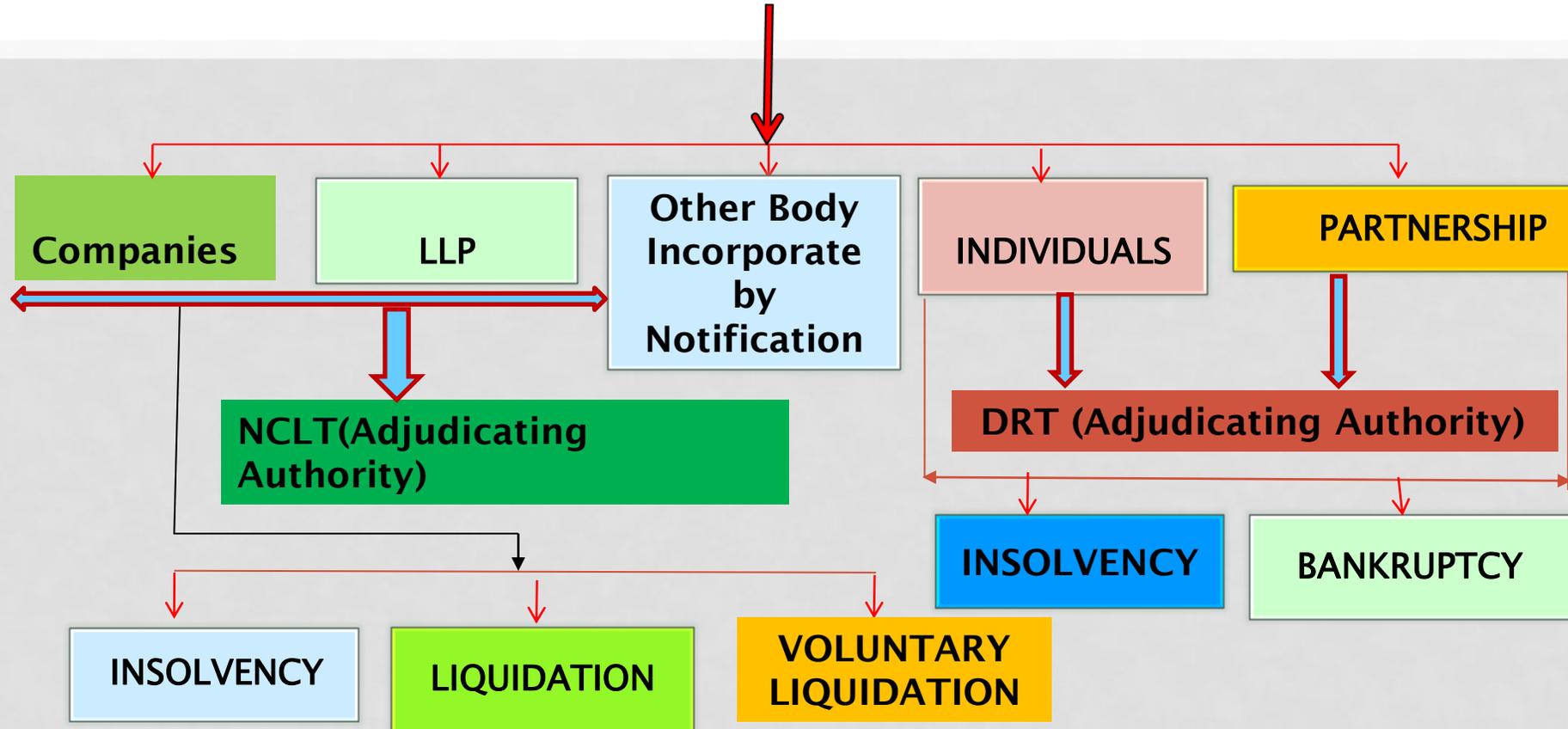
**IPAs**- professional bodies registered by the Board to promote and regulate the insolvency profession; these bodies will enrol Ips

**IPs**- Licensed private professionals regulated by the Board; will conduct resolution process; to act as Liquidator/bankruptcy trustee; appointed by creditors and override the powers of board of directors.

**Adjudicating Authority (AA)** - would be the NCLT for corporate insolvency; to entertain or dispose any insolvency application, approve/ reject resolution plans, decide in respect of claims or matters of law/ facts thereof.

**CoC**- consists of financial creditors to who will appoint and approve actions of IPs

# WHO CAN FILE APPLICATION



# CORPORATE INSOLVENCY RESOLUTION PROCESS (CIRP) UNDER THE CODE

## Default

min INR 1 crore; even a single day

## Who can file the application?

- Financial & Operational creditors (including Government & employees/workmen), and Corporate debtor

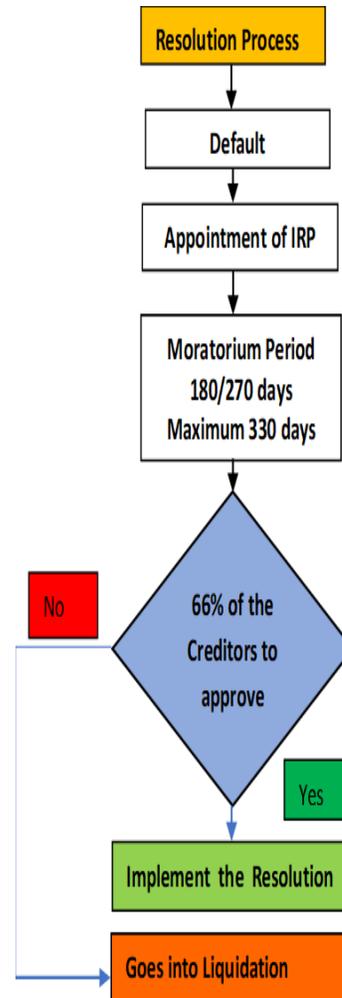
## Resolution Professional (IRP/ RP)

- Financial creditor and/ or corporate applicant shall propose the name of an IRP in the application
- All powers of the board and management shall vest with the IRP/ RP

## Moratorium

Moratorium shall prohibit:

- Institution of suits
- Transfer of assets
- Foreclosure, recovery or enforcement under SARFAESI
- Recovery of assets



## Committee of creditors (CoC)

- Consists of financial creditors only, excluding related parties
- To approve several actions of RP

## Resolution plan

The resolution plan must provide for:

- payment of insolvency resolution process costs
- repayment of the debts of operational creditors
- management of the affairs of the borrower after the plan is approved
- implementation and supervision of the approved plan

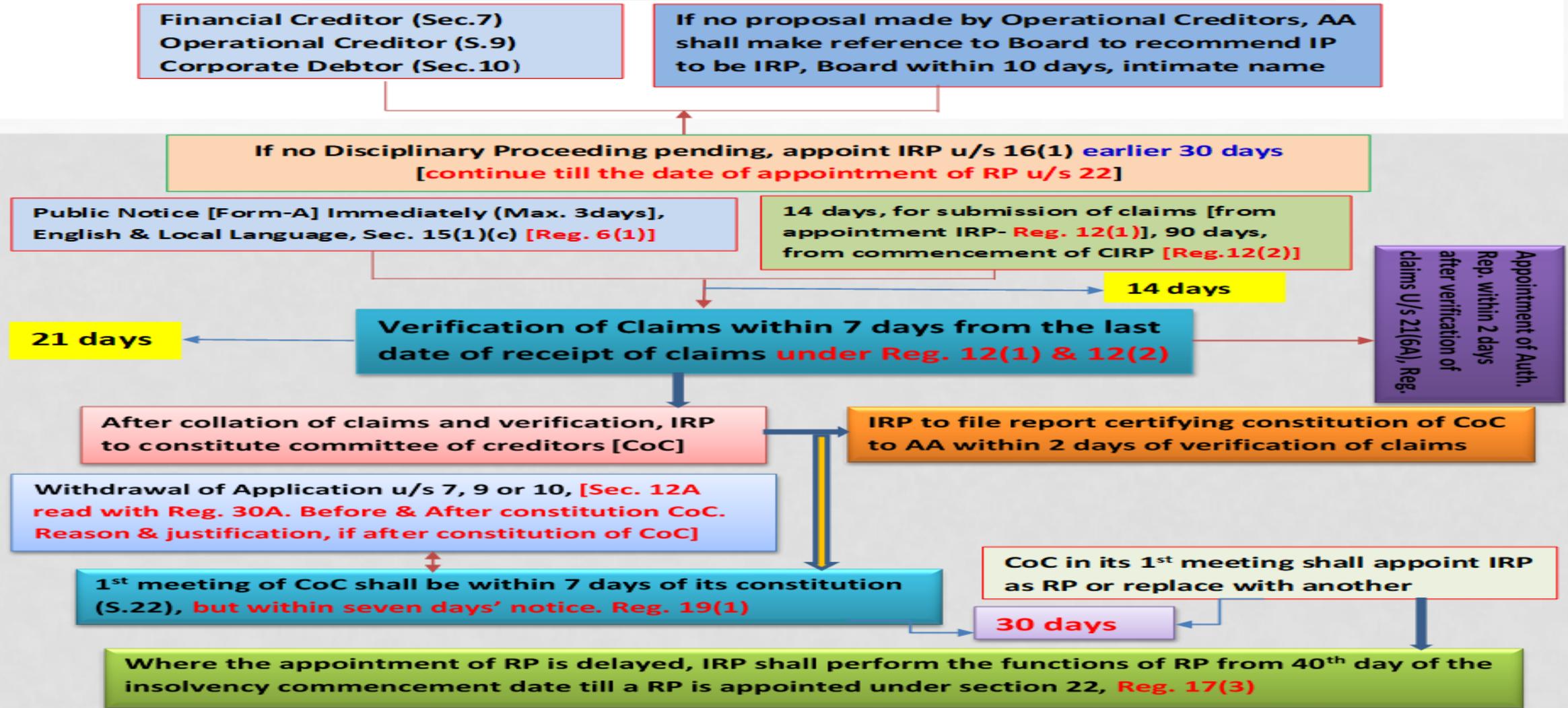
## Voting power

- Only financial creditors have voting power in the committee in the ratio of debt owed
- All decision of the committee shall be approved by 66% of financial creditors

## Fast track insolvency

- For debtors to be completed in 90 days

## Flow Chart of Activities to be done within 1<sup>st</sup> 30 days



\*AA means Adjudicating Authority  
\*IRP means Interim Resolution Professional  
\*RP means Resolution Professional

## **Advantages of Code for Bankers over SARFAESI**

- *There is a paradigm shift from the existing 'Debtor in possession' to a 'Creditor in control' regime;*
- *Provides banks with much-needed muscle to deal with NPA accounts;*
- *Enable them to realise the maximum value out of an asset once a firm is declared bankrupt;*
- *Provides swift legal process in time bound manner and resolution process and deterrent to errant promoters without the corporate debtor going into liquidation;*
- *However, the existing provisions available to Banks are fairly adequate to deal with errant promoters.*
- *The wilful defaulters' provisions of RBI limit the capacity of such promoters and their other companies to do business.*
- *Though SARFAESI makes it easier for banks to enforce collateral.*
- *SDR and S4A of RBI are aimed at change of errant managements.*

## **Advantages of Code for Bankers over SARFAESI**

- *Legal action for criminal misconduct is available, but delays the process.*
- *While the provisions exist, they are not administered with either the rigour or speed with which they should be.*
- *IBC addresses the concerns of both creditors and debtors by creating a level playing field. While SARFAESI enables the Banks to recover their dues speedily and help them to reduce NPAs, but the rights of the borrower can never be ignored.*
- *While interpreting the provisions of SARFAESI Act, 2002, the judiciary has maintained a great balance between the rights of the Banks on the one hand and rights of the borrowers on the other hand.*
- *IBC provides a new approach to accounts in default. Even if a Bank is not initiating the resolution process, the Bank may have to respond to the resolution process initiated by any other lender (or borrower). So, the bank may be dragged into the process.*

## **Advantages of Code for Bankers over SARFAESI**

- *Action of other lenders requires a high degree of preparedness by banks, and they are required to act swiftly.*
- *In view of provisions of IBC, Banks are taking the code seriously, and are preparing for it.*
- ***Section 14(1)(c) of the IBC provides** that the moratorium would apply to : "any action to foreclose, recover or enforce any security interest created by the corporate debtor in respect of its property including any action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002". Schedule 7 of the IBC amends SARFAESI.*

# WHO CAN BECOME INSOLVENCY PROFESSIONAL (IP)

## ELIGIBILITY CRITERIA

**CMA, CA & CS**

- Member of any Institute for at least 10 years-
- **Service or Practice**

**Advocate**

- Advocate **enrolled** with the Bar Council for at least 10 years

**Management**

- **Managerial experience for 15 years after receiving a Bachelor's degree**

# WHO CAN BECOME INSOLVENCY PROFESSIONAL (IP)

## ELIGIBILITY CRITERIA FOR REGISTRATION WITH IBBI

### PASSED ANY OF THE FOLLOWING EXAMINATION

#### Limited Insolvency Examination

- **Validity Period for Registration with IBBI: *within 12 months***

#### Graduate Insolvency Programme

- ***successfully completed the Graduate Insolvency Programme***

#### National Insolvency Programme

- **Not notified so far.**

**Also he or she completed pre-registration educational course for 50 hours, from IPA after his enrolment as a professional member**

# LIMITED INSOLVENCY EXAMINATION

**Examination:** Online (computer-based); objective multiple-choice questions.

**Frequency:** on every working day

**Number of Attempts:** Unlimited till you pass exam, but for each attempt you need to pay fee @ Rs. 5000/- + GST i.e. Rs. 5,900/-; If you don't pass exam and need to re-book slot, payment link will be activated 24 hours after the expiry of the earlier examination slot. (You cannot book multiple slots in one go now)

**Please Note:** *You can appear for the examination any number of times till you clear the exam. However, there shall be a cooling off period of 2- months between each consecutive attempts of such candidate, thereby making a total of 6 attempts in a period of 12 months.*

**Duration:** 2 hours.

**No. of questions:** 65 questions in two hours for a total of 100 marks. 30 questions of 1 mark each and 35 questions of 2 marks each.

**Marking system:** Negative marking of 25%.

**Passing mark:** 60%

**Mark Sheet:** temporary mark sheet on submission of examination paper

**Study Material:** No workbook or study material provided

# LIMITED INSOLVENCY EXAMINATION

## Frequency and other details

**Examination Centres:** Examination centres are available at various locations across the country.

**Registration:** can be done without payment of fee. However, before appearing in examination the enrolment is to be made:

<https://ibbi.gov.in/en/examination/limited-insolvency-examination>

**Enrolment for Exam:**

Check the availability of date and time-slot at the examination centre of your choice, please visit

[https://ibbiliexam.onlineregistrationform.org/IBBI/LoginAction\\_showCenterDetails.action](https://ibbiliexam.onlineregistrationform.org/IBBI/LoginAction_showCenterDetails.action)

**Eligibility & Validity of Certificate:** Anyone can appear in exam but registration with IBBI has criteria; **12 months from passing date**

**Examination Fee:** Rs.5900/- online (ECS/Debit/Credit Cards) on every enrolment.

**Compulsory Documents for enrolment:** PAN and Aadhar.

**Photo:** It is also necessary for enrolment.

# LIMITED INSOLVENCY EXAMINATION

## Registration on IBBI website

### Basic Registration

< Back

Applicant Name\*

(As in Aadhaar Card.)

Date of Birth\*



Please click on Calendar to select Date of Birth.

E-mail Id \*

Mobile No (only 10 digits) \*

PAN Card No \*

Confirm PAN Card No \*

Secret Question \*

Answer \*

Password \*

Confirm Password \*

(Minimum 8 and Maximum 12 characters required)

Please enter text shown in image \*

E s b B v



Submit

Cancel

Please give correct Email ID and Mobile Number. All future communications will be sent to this Email ID and Mobile number only.



## NO. OF ATTEMPTS (MADE MORE THAN ONE) AND NO. OF SUCCESSFUL ATTEMPTS

Phase	No. of Attempts (some candidates made more than one attempt)	No. of Successful Attempts	Pass % age
First Phase (Jan - Jun, 2017)	5329	1201	22.53%
Second Phase (Jul - Dec, 2017)	6237	1112	17.83%
Third Phase (Jan - Oct, 2018)	6344	1013	15.97%
Fourth Phase (Nov, 2018 - Jun, 2019)	3025	505	16.69%
Fifth Phase (July, 2019- Dec 2020)	5860	1016	17.34%
Sixth Phase (Jan 2021- Feb 2022)	2741	474	17.29%
Seventh Phase (Mar 22-Jun 2023)	1677	198	11.81%
Eighth Phase (Jul 2023- Sept 2023)	135	18	13.33%
<b>Total</b>	<b>31348</b>	<b>5537</b>	

# LIMITED INSOLVENCY EXAMINATION

## Registration with IBBI

### LIMITED INSOLVENCY EXAMINATION W.E.F 1ST JULY 2023

Home > Limited insolvency examination

#### EXAMINATION

#### Limited Insolvency Examination w.e.f 1st July 2023

> **Limited Insolvency Examination**

> Valuation Examination



Syllabus



FAQs



Register and Enroll Online



Sample Questions

# LIMITED INSOLVENCY EXAMINATION

## Registration with IBBI

- For Registration should be ready with PAN, Aadhar, your Photograph
- Fill all the registration details like Name, Date of Birth, etc, **as per their Aadhaar Card.** **In case of any mismatch in the details it will cause delay in the activation of Certificate.**
- Carry hard copy Admit Card and Valid Photo ID proof to the test centre on the date of exam.
- If you fail to produce a valid photo ID in original at the test centre during the verification activity, the candidate will be disallowed for the examination.**
- Open Office Spreadsheet (instead of MS-Excel application) will be available on demand at the test centre for calculations, to you.

# LIMITED INSOLVENCY EXAMINATION

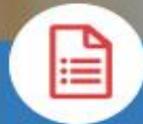
## Registration with IBBI

भारतीय दिवाला और शोधन असमता बोर्ड  
Insolvency and Bankruptcy Board of India



### INFORMATION & INSTRUCTIONS

- FAQs
- Advertisement for IBBI - Limited Insolvency Examination.



### APPLICATION REGISTRATION

- New User
- Registered Candidate
- Center Details



### ASSISTANCE

- Help Line No.: 022 62507713  
(Timing: 9:30 to 5:30 Monday to Saturday -  
Excluding Holidays)
- For Enquiries write to  
[examsupport@onlineregistrationform.org](mailto:examsupport@onlineregistrationform.org)



### IMPORTANT MESSAGES

# LIMITED INSOLVENCY EXAMINATION

## IBBI Instructions

1. Candidates are advised in their own interest to keep the User ID and Password confidential, to avoid misuse by another candidate. The User Id and Password will be required by the candidate to login at later stage for various activities like book seat, download Admit Card, view the Score card after the examination, etc.
2. Candidates have to fill all the relevant details very carefully. They can edit the details only before clicking on "Submit" button. Once the candidate has submitted the registration form, no further changes shall be permitted.
3. Candidates are required to fill all the registration details like Name, Date of Birth, etc, as per their Aadhaar Card. In case of any mismatch in the details it will cause delay in the activation of Certificate.
4. Candidates are required to reach the test centre at least 15 minutes prior to exam time. No candidate will be allowed for examination after the exam start time.
5. Candidates are required to carry hard copy Admit Card and Valid Photo ID proof to the test centre on the date of exam. If candidate fails to produce a valid photo ID in original at the test centre during the verification activity, the candidate will be disallowed for the examination.
6. Open Office Spreadsheet (instead of MS-Excel application) will be available on demand at the test centre for calculations, to the candidates. Candidates have to practice the same before coming to the test centre to avoid any inconvenience and use the separator Semicolon (;) instead of comma (,) in the formulas while using Open Office Spreadsheet.
7. Candidates are advised to provide their feedback in the Feedback Form appearing after submission of question paper.

# LIMITED INSOLVENCY EXAMINATION

## Exam Centres at West Bengal & Orissa

### West Bengal Centres: Durgapur, Howrah, Kharagpur, Kolkata, Siliguri

#### NSEIT Limited - Kolkata NJ

16 C, Bipin Pal Road, Beside State Bank of India Deshapriya Park Branch, Opposite Deshapriya Park, Kolkata, West Bengal - 700026

#### NSEIT Limited - Durgapur

M.K. Plot - Plot No. 218, 2nd floor, Secon Lane, Near - Anuradha cinema Bus stop, Opposite Radhalaya Lodge (Secon Lane), Benachity, Durgapur, West Bengal -713213

#### NSEIT Limited - Howrah

Ground Floor, 37 Abhoy Guha Road (Liluah), Beside Sangvi Dance Classes, Landmark- Behind Sohanlal Deoralia Balika Vidyalaya, Howrah, West Bengal - 711204

### Orissa- Bhadrak, Bhubaneswar

#### NSEIT Limited - Bhadrak

NH-05, House no. 6, 1st Floor, Dahani Gadia, Charampa, In front of Sanjay TVS Service Center, Bhadrak, Odisha - 756101

#### NSEIT Limited - Bhubaneswar - KT

363 & 364 , 3rd Floor, Keshab Complex, Cuttack Puri Road, Bomikhal, Rasulgarh , Landmark - Opposite ESPLANADE Mall, Near - East Point Public School, Bhubaneswar, Odisha - 751010

# LIMITED INSOLVENCY EXAMINATION

## Exam Centres at Delhi, Rajasthan and Haryana

### Delhi

#### NSEIT Limited - Delhi

2E/22, 3rd Floor, Jhandewalan Extension, Jhandewalan Metro Station, In Lane Adjacent To Central Bank Of India, Exit Point From Delhi Jhandewalan Metro Station : Gate No. 2, Opp. Bank of India - Jhandewalan Extension, New Delhi - 110055

### Rajasthan

#### NSEIT Limited - Jaipur

2nd Floor, Plot No-21, Vivek Vihar, New Sanganare Road, Landmark- Near Vivek Vihar Metro Station Pillar No-89, Above P.L. Bajaj Auto Showroom, Jaipur, Rajasthan - 302019

### Haryana

#### NSEIT Limited - Karnal UEP

SCO - 213, 2nd Floor, Above Parasram Stock Broking, Opp. Bank of Baroda, Sector 12, Urban Estate, Karnal, Haryana -132001

**Other Centres in Haryana: Rohtak, Hissar, Rewari**

### Uttar Pradesh

**Centres in UP: Agra, Allahabad, Bareilly, Faizabad, Gorakhpur, Kanpur, Lucknow, Meerut, Varanasi**

# LIMITED INSOLVENCY EXAMINATION

## I. Syllabus for Examination w.e.f. 1<sup>st</sup> July 2023

Sl. No	Coverage	w.e.f. 1 <sup>st</sup> July 23
1.	The Insolvency and Bankruptcy Code, 2016 <b>(Entire Code)</b>	04
2.	All Rules and Regulations under the Bankruptcy Code <b>(All Rules and Regulations notified under the Code till 31<sup>st</sup> March 2023)</b>	06
3.	<b>Business Laws:</b> <b>(i) The Companies Act, 2013</b> <ul style="list-style-type: none"> <li>Chapter III Prospectus and Allotment of Securities</li> </ul>	04

*Commercial's* Updated upto 15-8-2023 I-12A

## THE INSOLVENCY AND BANKRUPTCY CODE, 2016

[Act 31 of 2016, dated 28-5-2016]  
As amended by the Insolvency and Bankruptcy Code (Amdt.) Act, 2021  
(26 of 2021), dt. 12-8-2021, w.e.f. 4-4-2021  
Alongwith

- Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016
- IBBI (Salary, Allowances and other Terms and Conditions of Service of Chairperson and Members) Rules, 2016
- IBBI (Annual Report) Rules, 2018, dt. 1-5-2018 [As amended vide GSR 563(E), dt. 10-9-2020, w.e.f. 16-9-2020]
- IBBI (Form of Annual Statement of Accounts) Rules, 2018, dt. 1-5-2018
- IBBI (Medical Facility to Chairperson and Whole-time Members) Scheme Rules, 2019, dt. 2-8-2019, w.e.f. 5-8-2019
- I&B (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019, dt. 15-11-2019, w.e.f. 1-12-2019
- I&B (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019, dt. 15-11-2019
- I&B (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, dt. 15-11-2019
- I&B (Pre-packaged Insolvency Resolution Process) Rules, 2021 [Vide GSR 256(E), dt. 9-4-2021, w.e.f. 9-4-2021]
- IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016  
[As amended vide Not. No. IBBI/2022-23/GN/REG. 101, dt. 31-10-2022, w.e.f. 31-10-2022]
- IBBI (Insolvency Professional Agencies) Regulations, 2016 [As amended vide Not. No. IBBI/2022-23/GN/REG. 089, dt. 4-7-2022, w.e.f. 4-7-2022]
- IBBI (Insolvency Professionals) Regulations, 2016  
[As amended vide Not. No. IBBI/2023-24/GN/REG. 103, dt. 20-7-2023, w.e.f. 20-7-2023]
- IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016  
[As amended vide Not. No. IBBI/2023-24/GN/REG. 102, dt. 20-7-2023, w.e.f. 20-7-2023]
- IBBI (Liquidation Process) Regulations, 2016 [As amended vide Not. No. IBBI/2022-23/GN/REG. 094, dt. 16-9-2022, w.e.f. 16-9-2022]
- IBBI (Engagement of Research Associates and Consultants) Regulations, 2017 [As amended vide Not. No. IBBI/2022-23/GN/REG. 083, dt. 1-6-2022, w.e.f. 1-6-2022]
- IBBI (Procedure for Governing Board Meetings) Regulations, 2017 [As amended vide Not. No. IBBI/2019-20/GN/REG. 042, dt. 23-7-2019]
- IBBI (Advisory Committee) Regulations, 2017, dt. 30-1-2017
- IBBI (Information Utilities) Regulations, 2017 [As amended vide Not. No. IBBI/2022-23/GN/REG. 098, dt. 20-9-2022, w.e.f. 1-10-2022]
- IBBI (Voluntary Liquidation Process) Regulations, 2017 [As amended vide Not. No. IBBI/2022-23/GN/REG. 095, dt. 16-9-2022, w.e.f. 16-9-2022]
- Insolvency and Bankruptcy Code (Removal of Difficulties) Order, 2017
- IBBI (Inspection and Investigation) Regulations, 2017, dt. 12-6-2017 [As amended vide Not. No. IBBI/2022-23/GN/REG. 087, dt. 14-6-2022, w.e.f. 14-6-2022]
- IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017
- IBBI (Employees' Service) Regulations, 2017 [As amended vide Not. No. IBBI/2022-23/GN/REG. 090, dt. 6-7-2022, w.e.f. 6-7-2022]
- IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017, [As amended vide Not. No. IBBI/2022-23/GN/REG. 086, dt. 14-6-2022, w.e.f. 14-6-2022]
- IBBI (Mechanism for Issuing Regulations) Regulations, 2018, dt. 22-10-2018
- IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Reg. 2019, dt. 20-11-2019
- IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Reg. 2019, dt. 20-11-2019
- Companies (Registered Valuers and Valuation) Rules, 2017 [As amended vide G.S.R. 831(E), dt. 21-11-2022]
- IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021
- The Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2023, dt. 12-6-2023

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## BARE ACT

*with short comments*

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# LIMITED INSOLVENCY EXAMINATION



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# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1 <sup>st</sup> July 23
<b>3.</b> <b>(Cont.)</b>	<b>(i) The Companies Act, 2013 (Conti...)</b> <ul style="list-style-type: none"><li>• Chapter IV Share Capital and Debentures</li><li>• Chapter V Acceptance of Deposits by Companies</li><li>• Chapter VI Registration of Charges</li><li>• Chapter VII Management and Administration</li><li>• Chapter IX Accounts of Companies</li><li>• Chapter XV Compromises, Arrangements and Amalgamations</li><li>• Chapter XVII Registered Valuers</li><li>• Chapter XVIII Removal of names of the companies from the register of companies</li><li>• Chapter XX Winding-up of the companies</li></ul>	<b>04</b>

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1 <sup>st</sup> July 23
<b>3.</b> <b>Conti</b>	<b>The Companies Act, 2013 (Conti...)</b> <ul style="list-style-type: none"><li>• Chapter XXVII NCLT and NCLAT</li><li>• Chapter XXVIII Special Courts</li><li>• Chapter XXIX Miscellaneous (Punishment)</li></ul> <b>(ii) Partnership Act, 1932</b> <b>(iii) The Limited Liability Partnership Act, 2008</b>	<b>04</b>

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1 <sup>st</sup> July 23
3. (Cont.)	<p>(iv) <b>The Indian Contract Act, 1872</b> (Of Contracts, Voidable Contracts and Void Agreements (J-21, Sections 10-30); Contingent Contracts (J-21, Sections 31-36); Performance of Contract (Sections 37-61); Novation, Rescission and Alteration of Contracts (Sections 62-67); Agency; Consequences of breach of Contract (Sections 73-75); Contracts of Indemnity and Guarantee, and Surety Rights (Sections 124-127); Bailment and Pledge (Sections 148-181); Agency (Sections 182-238)</p> <p>(v) <b>The Sale of Goods Act, 1930</b></p>	04

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1 <sup>st</sup> July 23
4.	<p><b>General Laws:</b></p> <p><b>(i) Negotiable Instruments Act, 1881</b></p> <p><b>(ii) The Transfer of Property Act, 1882</b></p> <p><b>(iii) The Code of Civil Procedure, 1908 (Sections 9, 10, 11, 26-32, 38-45, 60-64, 73, 75-78, 89 and Order 21) and</b></p> <p><b>(v) The Prevention of Corruption Act, 1988 (Definition of public servant, Section 7-16 <b>read with Section 29A of the Code</b>) and the Prevention of Money Laundering Act, 2002 (Sections: 2-8, 48, 63, 67, 71, 72)</b></p>	07

## Civil Procedure Code 1908

**S.9:** Courts to try all civil suits unless barred.

**S.10** Stay of suit.

**S.11 Res judicata:** a matter that has been adjudicated by a competent court and therefore may not be pursued further by the same parties

**S. 26-32** INSTITUTION OF SUITS

**S. 38-45** COURTS BY WHICH DECREES MAY BE EXECUTED

**S. 60-64** ATTACHMENT

**S.73** Proceeds of execution sale to be rateably distributed among decree-holders

**S.75-78** INCIDENTAL PROCEEDINGS

**S. 89** Settlement of disputes outside the Court

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1 <sup>st</sup> Jan' 21
4. Cont.	<p>(v) The Recovery of Debts and Bankruptcy Act, 1993</p> <p>(vi) The Arbitration and Conciliation Act, 1996</p> <p>(vii) The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002</p> <p>(viii) The Micro, Small and Medium Enterprises Development Act, 2006: (Classification of enterprises, Advisory committee, Memorandum of micro, small and medium enterprises, Delayed payments to micro and small enterprises)</p> <p>(ix) Real Estate (Regulation and Development) Act, 2016 (Sections: 2, 4, 5, 11, 17, 18, 20, 23, 31, 34, 36, 37, 38, 40, 41, 42, 58, 59, 69, 70, 71, 79, 80, 85, 86, 88, 89, 90)</p>	07

## Prevention of Corruption Act, 1988

### S. 7-16 OFFENCES AND PENALTIES

Related to Public servant taking gratification other than legal remuneration in respect of an official act, **punishment** etc.

## Prevention of Money Laundering Act, 2002

### S. 2-8 Definitions, Offence and punishment of money-laundering, Attachment, AA & Adjudication

S.48 Authorities under Act

S.63 Punishment for false information or failure to give information, etc.

S. 67 Bar of suits in civil courts

S. 71 Act to have overriding effect.

72. Continuation of proceedings in the event of death or insolvency

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f.
<p><b>4.</b> <b>Cont.</b></p>	<p>(x) Securities Contracts Regulation Act, 1956 (Contracts and options in securities, listing of securities, Offences, penalties, and adjudication) and the following SEBI Regulations: -</p> <ul style="list-style-type: none"> <li>- Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011</li> <li>- Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015</li> <li>- Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2018</li> <li>- Securities and Exchange Board of India (Delisting of Equity Shares) Regulations, 2021</li> </ul> <p>xi) The Employees' Provident Funds and Miscellaneous Provisions Act, 1952</p>	<p><b>1<sup>st</sup> July 23</b></p> <p><b>07</b></p>

Real Estate (Regulation and Development) Act, 2016

- S. 2 Definitions**
  - S. 4** Application for registration of real estate projects.
  - S.5** Grant of registration
  - S. 11** Functions and duties of promoter
  - S.17** Transfer of title.
  - S.18** Return of amount and compensation
  - S.20** Establishment and incorporation of Real Estate Regulatory Authority.
  - S. 23** Term of office of Chairperson and Members.
  - S.31** Filing of complaints with the Authority or the adjudicating officer.
  - S. 34** Functions of Authority.
  - S. 36** Power to issue interim orders.
  - S. 38** Powers of Authority.
  - S. 40** Recovery of interest or penalty or compensation and enforcement of order, etc.
- See other Sections which are not listed here.**

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1st July 23
5.	<b>Finance and Accounts</b> (Corporate Finance, Financial Analysis, Liquidity Management, Tax Planning and GST)	02
6.	<b>General Awareness</b> (Constitution of India, Right to Constitutional Remedies; provisions of Union Judiciary; provisions of High Courts in the States; Rights of Workmen under Labour Laws; Economy; Financial Markets; Basic concept of Valuation and <b>Forensic Audit</b> )	02

## Finance and Accounts

1. Ratio Analysis
2. Balance sheet & Profit & Loss Account
3. Cash Flow Statement
4. Basic EPS, Diluted EPS
5. Working Capital
6. Capital Expenditure
7. Debt Factoring, Credit Factoring
8. Income Tax
9. GST: Payment Liability, Returns, Interest and Penalties
10. Stock Market: Inter Market, Primary Market, Secondary Market
11. RBI Credit Policy, Repo Rate, Reverse Repo Rate, Basic Bank Rate, Lending Rate, Statutory Liquid Ratio, Cash Reserve Ratio, Monetary Policy, Bill of Exchange etc.

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f.
7.	<b>Case Laws- Important decisions of Supreme Court and High Courts, Decisions of NCLAT and NCLT relating to Corporate Insolvency Resolution, Corporate Liquidation, Voluntary Liquidation and Fast Track Resolution Process. <i>There will be <u>five</u> questions carrying <u>ONE</u> marks each. (List of Important cases given in Syllabus- Annexure-I) Case Laws up to 31<sup>st</sup> March 2023)</i></b>	<b>1st July 23</b>  <b>05</b>

## How to Study CASE LAWS

1. List down who were the major parties, and what they want the court to do.
2. IBBI gives the summary of important case laws, which can be downloaded from their website.
3. Summary let you know the basics of what happened, the issue before the court, and how the court resolved that issue.
4. The summary can be helpful, but don't use it as a substitute for an initial read-through of the case.
5. You will find a story of a dispute between two parties – but not all of the facts and circumstances surrounding this dispute will be important to the holding of the case.
6. To analyze case law, you must determine which parts of the story are relevant to the issue presented to the court that made the decision.
7. Highlight facts the court found most important and make the note for retaining in your memory.

# LIMITED INSOLVENCY EXAMINATION

## What should I do if I forget the Case Law

- 1. You may think that you have forgotten the case laws studied by you.**
- 2. You keep yourself calm and cool for sometime, when you shall read the question, surely you will recall the matter.**
- 3. Practice to Keep Case Laws In mind.** There is no actual trick to remember case laws, except studying smartly and studying repeatedly.
- 4. It is better to understand and remember fewer amounts of cases perfectly than vaguely know about many. So study the case laws which you feel interest you most.**

# LIMITED INSOLVENCY EXAMINATION

Sl. No	Coverage	w.e.f. 1st July 23
8.	<p><b>Case Studies:</b></p> <p>There will be comprehensions each narrating a case and there will be questions based on the narrative:</p> <p>(a) Case study on Corporate Insolvency Resolution Process &amp; Liquidation Process <b>(10 questions x 2 marks each = 20 marks)</b></p> <p>(b) Case study on Corporate Insolvency Resolution Process &amp; Liquidation Process <b>(10 questions x 2 marks each = 20 marks)</b></p> <p>(c) Case study on Pre-Packaged Insolvency Resolution process <b>(4 questions x 2 marks each = 08 marks)</b></p> <p>(d) Case study on Individual Insolvency Resolution and Bankruptcy <b>(4 questions x 2 marks each = 08 marks)</b></p> <p>(e) Case study on Business and General Laws given at Sl. No 3 &amp; 4 <b>(4 questions x 2 marks each = 08 marks)</b></p> <p>(f) Case study on Business and Professional Ethics <b>(3 questions x 2 marks each = 06 marks)</b></p>	70

## LIMITED INSOLVENCY EXAMINATION

*Note: Wherever any law (an Act of Parliament or any Rule/Regulation) is referred to in the syllabus, the same shall be taken as in force as on 31st March 2023. This means that any amendment in such laws, Acts or Rules/Regulations effected after 31st March 2023 shall be ignored.*

# LIMITED INSOLVENCY EXAMINATION

**15. 'A' transfers a garden to B for his life, with a proviso that, in case B cuts down a particular neem tree, the transfer shall cease to have any effect. B cuts down the tree. Decide the case in the light of the Transfer of Property Act, 1882**

- a) B loses his life interest in the garden.
- b) B does not lose his life interest in the garden.
- c) No such provision is made under the Transfer of Property Act, 1882.
- d) The transfer will become void-ab-initio.

Ans. (a)

**18. As per the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, what constitutes a 'non-performing asset'?**

- a) An asset of a borrower which has been classified by a credit rating agency as doubtful.
- b) An asset or an account of a borrower which has been classified by a bank as sub-standard or doubtful or loss asset.
- c) An account for which a borrower has refused to repay.
- d) An asset of borrower's subsidiaries company which has failed to repay any of its debt.

Ans.(b)

# LIMITED INSOLVENCY EXAMINATION

**22. Basic Earnings per Share (EPS) is calculated as \_\_\_\_\_.**

- a) Net profit /total number of shares
- b) (Net profit - preferred dividend)/weighted average number of outstanding shares
- c) (Net profit - Preference Share Capital) /Average shares outstanding
- d) (Net profit - Dividend) /Total shares outstanding

Ans.(b)

**26. The Hon'ble Supreme Court, in Mobilox Innovations (P) Limited v Kirusa Software (P) Limited case, has interpreted the expression "\_\_\_\_\_".**

- a) Operational Creditor
- b) Existence of Dispute
- c) Time value of money
- d) Doctrine of Repugnancy

Ans.(b)

# LIMITED INSOLVENCY EXAMINATION

**27. In the matter of \_\_\_\_\_, the Supreme Court held that the NCLT and the NCLAT have no jurisdiction and authority to analyse or evaluate the commercial decisions taken by the CoC.**

- a) Union of India v Association of Unified Telecom Service Providers of India Etc.
- b) K. Kishan v Vijay Nirman Company Pvt. Ltd.
- c) State Bank of India v Ms. Metenere Limited
- d) K. Sashidhar v Indian Overseas Bank & Ors.

Ans. (d)

**28. In which case it was held by the High Court that a Corporate Debtor would not be liable for any offence which was committed prior to the commencement of CIRP?**

- a) Rajiv Chakraborty, Resolution Professional of EIEL Vs. Directorate of Enforcement
- b) Tata Steel BSL Ltd. v UOI
- c) Tharakan Web Innovations Pvt. Ltd. Vs. NCLT Kochi Bench & Anr.
- d) Univalu Projects Pvt. Ltd. Vs. The Union of India

Ans. (b)

# LIMITED INSOLVENCY EXAMINATION

**51. The Hon'ble Supreme Court, in Mobilox Innovations (P) Limited v Kirusa Software (P) Limited case, has interpreted the expression “\_\_\_\_\_”.**

- a) Operational Creditor
- b) Existence of Dispute
- c) Time value of money
- d) Doctrine of Repugnancy

Ans.(b)

**52. In the case of Sree Metaliks Limited and another v Union of India, it was held by Hon'ble Calcutta High Court that\_\_\_\_\_.**

- a) section 7 of the IBC, 2016 is unconstitutional
- b) section 7 of the IBC, 2016 must be read with the Section 424 of the Companies Act, 2013
- c) the National Company Law Tribunal and National Company Law Appellate Tribunal have to adhere to the principles of natural justice barring exceptional circumstance
- d) the principles of natural justice are expressly ousted from section 7 of the Code

Ans. (c)

# LIMITED INSOLVENCY EXAMINATION

**53. In which of the following case, Hon'ble NCLT has upheld that 'shareholder has a right to decide whether approving or disapproving the decision be proceeded with the Corporate Insolvency Resolution Process under Section 10 of the IBC. Such right does not stand curtailed by Deed of Pledge.'?**

- a) Edelweiss Asset Reconstruction Co. Ltd. v Synergies Dooray Automotive Ltd. & Ors.
- b) Consolidated Engineering Co. & Anr. v Golden Jubilee Hotels Pvt. Ltd.
- c) Export Import Bank of India & Anr v Astonfield Solar (Gujarat) Pvt Ltd & Anr
- d) Tata Steel Limited v Liberty House Group Pvt. Ltd. & Ors.

Ans. (c)

**54. In which of the following case, Hon'ble NCLT has held that 'Since, the attachment order passed by the court under Prevention of Money Laundering Act is hit by the provisions of Section 14 of IBC and considering the overriding effect of IBC under Section 238 of the Code, the attachment order under PMLA Act is a nullity and non-est in law and hence it will not have any binding force'?**

- a) SREI Infrastructure Finance Limited v Sterling SEZ and Infrastructure Limited
- b) State Bank of India v ARGIL
- c) Affinity Finance Services Pvt Ltd v Kiev Finance Limited
- d) Small Industries Development Bank of India v Tirupati Jute industries Limited

Ans. (a)

# LIMITED INSOLVENCY EXAMINATION

**55. In which of the following cases, Hon'ble NCLAT has interpreted upon the powers of the Liquidator and held that 'the liquidator shall verify claims of all the creditors, take into custody and control of all the assets, property, effects and actionable claims of the 'corporate debtor', carry on the business of the 'corporate debtor' for its beneficial liquidation etc. as prescribed under Section 35 of IBC'?**

- a) M/s Era Infra Engineering Ltd. v Prideco Commercial Projects Pvt. Ltd.
- b) S. C. Sekaran v Amit Gupta & Ors.
- c) Consolidated Engineering Co. & Anr. v Golden Jubilee Hotels Pvt. Ltd.
- d) Gammon India Limited v Neelkanth Mansions and Infrastructure Pvt. Ltd.

Ans. (b)

# LIMITED INSOLVENCY EXAMINATION

**Attempt Questions 31-40 based upon the following case study/transaction analysis:**

**Mr. X holds the first meeting of his team as Interim Resolution Professional of Jumpee Cosmetics Limited (“Jumpee”). An application was made to the Adjudicating Authority by a joint lending forum, led by Kuber Bank who are owed Rs.1.3 crore, which was satisfied that a default had occurred (Jumpee had not made any repayments on the principal debt for six months, having also defaulted for three months towards the end of last year).**

**The Adjudicating Authority communicated the order under section 5(a) of the IBC, 2016 (“the Code”) and sent notice of commencement of the corporate insolvency resolution process.**

**Richie, one of the senior members of X's team asks to see X privately and reveals at the meeting that his cousin is on the board of Jumpee. He explains that they have not seen each other socially for more than five years and have not discussed this matter. Richie is a forensic accountant, and a skilful strategist and X is very keen for him to remain on the team.**

**Jumpee deals in cosmetics for reconstructive surgery or as an alternative for surgical intervention and thus, holds several licenses for live animal research and the blending of volatile chemical compounds and the current status of the licenses needs to be ascertained.**

# INSOLVENCY AND BANKRUPTCY BOARD OF INDIA (IBBI)



भारतीय दिवाला और शोधन अक्षमता बोर्ड  
**Insolvency and Bankruptcy Board of  
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Invitation of application for 12th Advanced Workshop for IPs to be held on 15th July, 2021

## What's New

- 08 Jul, 2021 In the matter of Mr. Anupam Tiwari, Insolvency Professional
- 07 Jul, 2021 2nd National Online Quiz on Insolvency and Bankruptcy Code, 2016 from 1st August, 2021 - 31st August, 2021
- 07 Jul, 2021 Invitation of application for 12th Advanced Workshop for IPs to be held on 15th July, 2021
- 05 Jul, 2021 Topics to be covered in upcoming Basic Workshops: Collation of preferences from IPs.

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Meeting of Advisory Committee on Corporate Insolvency & Liquidation

# ACT, RULES AND REGULATIONS

## LEGAL FRAMEWORK

- > ACT
- > RULES
- > REGULATIONS
- > CIRCULARS
- > NOTIFICATIONS
- > FACILITATION
- > GUIDELINES
- > BY OTHER AUTHORITIES

Subject

Date

APPLY

RESET

Date	Subject	PDF(English)	PDF(Hindi)
12 Aug, 2021	The Insolvency and Bankruptcy Code (Amendment) Act, 2021		
12 Aug, 2021	The Insolvency and Bankruptcy Code, 2016 (Upto 12.08.2021)		
26 Jul, 2021	Bill - The Insolvency and Bankruptcy Code (Amendment) Bill, 2021 (as introduced in Lok Sabha)		
05 Apr, 2021	Corrigenda - The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021		
04 Apr, 2021	The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021		
04 Apr, 2021	The Insolvency and Bankruptcy Code, 2016 (Upto 04.04.2021)		
23 Sep, 2020	The Insolvency and Bankruptcy Code, 2016 (Upto 23.09.2020)		
23 Sep, 2020	The Insolvency and Bankruptcy Code (Second Amendment) Act, 2020		
15 Sep, 2020	Bill - The Insolvency and Bankruptcy Code (Second Amendment) Bill, 2020 (as introduced in the Rajya Sabha)		
05 Jun, 2020	The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020		
05 Jun, 2020	The Insolvency and Bankruptcy Code, 2016 (Upto 05.06.2020)		
18 Mar, 2020	Extent of the Insolvency and Bankruptcy Code, 2016 to whole of India		
18 Mar, 2020	The Insolvency and Bankruptcy Code, 2016 (Upto 18.03.2020)		

# ACT, RULES AND REGULATIONS

## LEGAL FRAMEWORK

- > ACT
- > **RULES**
- > REGULATIONS
- > CIRCULARS
- > NOTIFICATIONS
- > FACILITATION
- > GUIDELINES
- > BY OTHER AUTHORITIES

Subject	Date	APPLY	RESET
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Date	Subject
22 Nov, 2022	<a href="#">The Companies (Registered Valuers and Valuation) Amendment Rules, 2022</a> 
22 Nov, 2022	<a href="#">The Companies (Registered Valuers and Valuation) Rules, 2017 (upto 22-11-2022)</a> 
09 Apr, 2021	<a href="#">The Insolvency and Bankruptcy (pre-packaged insolvency resolution process) Rules, 2021</a> 
24 Sep, 2020	<a href="#">The Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 (upto 24-09-2020)</a> 
24 Sep, 2020	<a href="#">The Insolvency and Bankruptcy (Application to Adjudicating Authority) (Amendment) Rules, 2020</a> 
16 Sep, 2020	<a href="#">The Insolvency and Bankruptcy Board of India (Annual Report) Amendment Rules, 2020</a> 
16 Sep, 2020	<a href="#">The Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2020 (Amended upto 16-09-2020)</a> 
27 Nov, 2019	<a href="#">Corrigenda dated 27.11.2019 to Notification vide G.S.R. 852 (E), dated 15.11.2019 of Ministry of Corporate Affairs</a> 
15 Nov, 2019	<a href="#">The Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019</a> 
15 Nov, 2019	<a href="#">The Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019.</a> 
15 Nov, 2019	<a href="#">The Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Guarantors) Rules, 2019</a> 

# ACT, RULES AND REGULATIONS

## LEGAL FRAMEWORK

- > ACT
- > RULES
- > **REGULATIONS**
- > CIRCULARS
- > NOTIFICATIONS
- > FACILITATION
- > GUIDELINES
- > BY OTHER AUTHORITIES

## Historical Regulations

Subject

Date

APPLY

RESET

Date	Subject	PDF(English)	PDF(Hindi)
18 Sep, 2023	IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Amended upto 18.09.2023)		
18 Sep, 2023	IBBI (Insolvency Professionals) Regulations, 2016 (Amended upto 18-09-2023)		
18 Sep, 2023	IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (Amended upto 18-09-2023)		
20 Jul, 2023	IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Amended upto 20.07.2023)		
20 Jul, 2023	IBBI (Insolvency Professionals) Regulations, 2016 (Amendment upto 20-07-2023)		
31 Oct, 2022	IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (Amended upto 31.10.2022)		
28 Sep, 2022	IBBI (Insolvency Professionals) Regulations, 2016 (Amended upto 28-09-2022)		
20 Sep, 2022	IBBI (Information Utilities) Regulations, 2017 (Amended upto 20.09.2022)		
20 Sep, 2022	IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (Amended upto 20.09.2022)		

# SERVICE PROVIDERS AND THEIR STATISTICS.

- **Total Insolvency Professional Registered as on 17<sup>th</sup> December 2023 are 4,370**
- **IPAICAI 417 Enrolled/ 385 Registered with IBBI AFA 246-Position on 17.12.2023**
- **Total Insolvency Professional Entities Recognized as on 17<sup>th</sup> Dec 2023 are 162, De-recognized 46, after de-recognition now are 116 as on 17<sup>th</sup> Dec 2023**

Way Forward to become IP

## INSOLVENCY PROFESSIONALS AGENCIES (IPAs)

Home > Insolvency Professionals Agencies (IPAs)

Regulations

S. No.	IPA Registration No.	Name of IPA	Address of IPA	Website of IPA	Name of Chief Executive Officer (CEO)/Managing Director (MD)	Contact Details
1	IBBI/IPA/16-17/01	Indian Institute of Insolvency Professionals of ICAI	1st Floor, ICAI Building, Indraprastha Marg, New Delhi-110002	<a href="http://www.iiipicai.in">www.iiipicai.in</a>	Sh. Rahul Madan (MD)	0120-3045960 md[dot]iiipi[at]icai[dot]in
2	IBBI/IPA/16-17/02	ICSI Institute of Insolvency Professionals	3rd Floor, ICSI House 22 Institutional Area, Lodhi Road New Delhi-110003	<a href="http://www.icsiip.in">www.icsiip.in</a>	Dr. Prasant Sarangi, Chief Operating Officer (Designate)	45341071, 45341018 md[dot]iip[at]icsi[dot]edu
3	IBBI/IPA/16-17/03	Insolvency Professional Agency of Institute of Cost Accountants of India	4th Floor, CMA Bhawan, 3 Institutional Area, Lodhi Road, New Delhi New Delhi-110003	<a href="http://www.ipaicmai.in">www.ipaicmai.in</a>	Sh. G S Narasimha Prasad (MD)	01124666141/01202975803 99020 27031 ipa[dot]md[at]ipaicmai[dot]in

Regulations

S. No.	IU Registration No.	Name of IU	Address of IU	Website of IU	Name of MD & CEO of IU	Contact Details
1	IBBI/IU/01	National E-Governance Services Limited	Regd. Office: Gresham Assurance House, 4th Floor, Sir PM Road, Fort Mumbai -400001  Administrative Office: Nos. 81-6-48/1-1, The Estate, A Wing, Fifth Floor, 121,	<a href="http://www.nesl.co.in">www.nesl.co.in</a>	Shri Debajyoti Ray Chaudhuri	md[at]nesl[dot]co[dot]in 022 - 22721383 080 - 35305543

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# PREPARATION TIPS

**Obtain Clarity for syllabus-  
Applicability**

**Highlight  
important Paras**

**Code-04%  
Rules/Reg.- 06% Total  
10%**

**Read and keep Re-  
Reading Bare Act**

**Solve  
Sample Paper(s)**

**Focused on Syllabus  
and don't confuse  
with Amendments  
after 31<sup>st</sup> March 2023**

**Business Laws-04%  
General Laws- 07%  
Case Laws & Misc. 09%  
Case Studies- 70%**

# PREPARATION TIPS

**Case Laws for July '23 decided upto 31st March'2023**  
**NCLT/ NCLAT, SC & HC**  
**5 questionx1 mark each**  
**=5 marks**

**Comprehension on CIRP/ Liquidation**  
**TEN Questions 2 marks each 20 marks/**  
**percent**  
**TEN Questions 2 marks each 20 marks/**  
**percent= 40 marks**

**Pre-Packaged IRP**  
**4 questions x 2marks = 8 marks**  
**Individual Insol. Res. and Bankruptcy**  
**4 questions x 2marks= 8 marks**

**Business and General Laws**  
**4 questions x 2 marks = 8 marks**  
**Business and Professional Ethics**  
**3questions x 2 marks= 6 marks**

**Including Case Laws**  
**75 marks**  
**5+40+8+8+8+6**

**How to read case laws already given before this slide and comprehension needs practice**

# PREPARATION TIPS

*Case Laws for July '23 decided upto  
31<sup>st</sup> March'2023*

*NCLT/ NCLAT, SC & HC*

*5 question=1 mark each =5 marks*

*Comprehension on CIRP/  
Liquidation*

*TEN Questions 2 marks each  
20 marks/ percent*

*TEN Questions 2 marks each  
20 marks/ percent= 40 marks*

*Comprehension on  
Individual I & B*

*FOUR @ 2 marks each 8  
marks/ percent*

## July'23

## Syllabus

**Total Marks/  
Percent for IBC  
Code, Rules &  
Regulations,  
Case Laws &  
Case Studies-**

**85% or 85  
marks**

## PREPARATION TIPS

**Important Chapters in various Acts explained while explaining the Syllabus**

**Finance and Accounts : Ratio Analysis; Liquidity Management; Taxation: IT & GST**

**General Awareness & Constitution of India**

***Constitution of India: Right to Constitutional Remedies; provisions of Union Judiciary; provisions of High Courts in the States***

**Economy, Financial Markets, Basic Concept of Valuation & Forensic Audit**

***Rights of Workmen under various Labour Laws;***

## PREPARATION TIPS

✓ It has been seen that the questions now a days are more focussed and very specific to requirements. Read 2-3 times provisions related to:

1. *Interim Resolution Professional incl. replacement by COC*
2. *Resolution Professional and duties*
3. *Submission and verification of claims including time line for each.*
4. *Resolution Applicant and Resolution Plans including disqualification of Resolution Applicant.*
5. *The Acts amended by IBC 2016 particularly Limitation Act 1963 was not amended initially but it was amended later vide Amendment.*
6. *Time period for Preferential, over/ under valued Transactions, Fraudulent and Extortionate Transactions (PUFE)- Section 43,45, 50 & 66.*
7. *Managing of Affairs of Corporate Debtor.*
8. *Constitution of Committee of Creditors & its powers, also of OC.*
9. *% age of approval of decisions- 51% and 66% (Before amendment- 75%)*

## PREPARATION TIPS

### ✓ Contin....

10. *Time for completion of Normal CIRP and Fast Track CIRP including extension period (One time only) by Adjudicating Authority.*
11. *Appeal against the order of NCLT & NCLAT; IBBI, IPA, IU*
12. *Procedure applicable for Special Courts under IBC [Criminal Procedure Code 1973]*
13. *Disciplinary Committee of IBBI their composition, Procedure, Time for completion and submission of Inspection Report etc.*
14. *Filing of claims by financial creditors, operational creditors, workmen including filing of claims of workmen by a representative.*
15. *Difference between Resolution Plan & Repayment Plan including distribution mechanism.*
16. *Difference between enrolment and Registration of IP*
17. *Eligibility for registration with IBBI of IP, IPA & IU*

## PREPARATION TIPS

**Contin...**

18. *Code of Ethics for Insolvency Professionals, number of assignments that can be taken by IP and independence with respect to various activities*
19. *Conditions for Voluntary Liquidation.*
20. *Read questions two to three times.*
21. *Don't jump to answer the question immediately unless you have completely read the options as there may be other better options available.*
22. *Read carefully the questions which may be having word "Not" and you have not noticed by you while reading and jumped to answer the question, for example:*

**Example:** *The option to sell the assets of a corporate debtor by means of private sale under the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016 is not available, but you ignored 'not' and answered the question considering the option as available.*

## COMMON MISTAKES- EXAMPLES

3. A resolution professional shall file an application to the Adjudicating Authority to extend the period of fast track resolution beyond \_\_\_\_\_ days, if instructed to do so- by a resolution passed at a meeting of the committee of creditors.

- a) 45
- b) 90
- c) 180
- d) 270

Ans. (b)

16. Who amongst the following is eligible for registration as an insolvency professional?

- a) A banker with 10 years of professional experience.
- b) An advocate with 10 years of professional experience.
- c) An MBA graduate with 10 years of managerial experience.
- d) A graduate with 10 years of managerial experience.

Ans. (b)

34. The arbitration agreement as defined in section 7(2) of the Arbitration and Conciliation Act, 1996 may be \_\_\_\_\_.

- a) in form of contract and a separate agreement
- b) in form of contract and a written agreement
- c) in the form of an arbitration clause in a contract or in the form of a separate agreement
- d) in the form of an implied oral agreement.

Ans.(c)

27. Who enrolls an individual as its professional member?

- a) Insolvency and Bankruptcy Board of India
- b) Registered Valuer Organisation
- c) An Insolvency Professional Agency
- d) Indian institute of Corporate Affairs

Ans.(c)

## PERSONAL GUARANTORS TO CORPORATE DEBTORS

- Central Government, vide a notification dated November 15, 2019, appointed December 1, 2019 as the date for commencement of the provisions of the Code relating to PGs to CDs.
- Code classifies individuals into three classes, namely, personal guarantors (PGs) to corporate debtors (CDs), partnership firms and proprietorship firms, and other individuals, to enable implementation of individual insolvency in a phased manner.
- Code also notified the Application to *Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors Rules, 2019* and the Application to *Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors Rules, 2019* on the same date.

## PERSONAL GUARANTORS TO CORPORATE DEBTORS

- These Rules provide for the process and forms of making applications for initiating insolvency resolution and bankruptcy proceedings against PGs to CDs, withdrawal of such applications, forms for public notice for inviting claims from the creditors, etc.

## FINANCIAL SERVICE PROVIDERS

- *Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 dated 15<sup>th</sup> November, 2019.*
- *The rules apply to such financial service providers or categories of financial service providers, as may be notified by the Central Government under section 227 of IBC 2016.*
- *MCA also notified the Reserve Bank of India (RBI) to be the **'Appropriate Regulator'** [clause (a) of sub-rule (1) of rule 3 of the Rules.*
- *Vide notification dated November 18, 2019 specified Category of FSPs {rule 2 of the Rules}- Non-banking finance companies (which include housing finance companies) with asset size of Rs.500 crore or more, as per last audited balance sheet*
- ***Are Banks covered under these Rules?***
- *No, it has been specifically mentioned not to take banks into its ambit.*

## ROLES AND RESPONSIBILITIES OF INTERIM RESOLUTION PROFESSIONAL

- Manage operation of the corporate debtor as a going concern
- Public announcement
- Collection / Collation /verification and determination of claims
- Constitute a committee of creditors
- Holding first meeting of CoC
- Preparation of partial information memorandum
- Take immediate custody and control of all the assets
- Monitor assets of the corporate debtor
- Determine financial position of corporate debtor
- Collect all information relating to the assets, finances and operations of the corporate debtor.

## ROLES AND RESPONSIBILITIES OF RESOLUTION PROFESSIONAL

- Conduct entire CIRP
- Manage the operations of corporate debtor
- Preserve and protect the assets of the corporate debtor including continued business operations
- Represent and act on behalf of the corporate debtor including Court cases
- Raise interim finances subject to the approval of the CoC
- Update list of claims
- Prepare information memorandum
- Invite prospective lenders, investors, and any other person to put forward resolution plans
- Providing access of information to resolution applicant
- Check resolution plan for compliance with the code & present to CoC.
- Submit resolution plan approved by CoC to NCLT
- Send copy of order of NCLT approving/ rejecting resolution plan to participants and resolution applicants

**INELIGIBILITY UNDER SECTION 29A added by Amendment Act 2018 (w.e.f. 23-11-2017)**

***As a consequence of inclusion of section 29A in the Code, persons who have contributed to the defaults of the corporate debtor or are undesirable due to incapacities as specified in the section or are a 'related party' to another defaulting party, are prevented from gaining control of the corporate debtor by them.***

**A person shall not be eligible to submit a resolution plan, if such person, or any other person acting jointly or in concert with such person –**

- 1. Is an undischarged insolvent;***
- 2. Is a willful defaulter in accordance with the guidelines of the RBI issued under the Banking Regulation Act, 1949;***
- 3. Has an account which is non-performing asset classified as per RBI guidelines and at least a period of 1 year has lapsed from the date of such classification;***

**INELIGIBILITY UNDER SECTION 29A added by Amendment Act 2018 (w.e.f. 23-11-2017)**

4. Has been **convicted for any offence** punishable with imprisonment for 2 years or more;
5. Is disqualified to act as a **director** under the Companies Act, 2013;
6. Is **prohibited by the SEBI** from accessing the securities markets;
7. Has been **a promoter or in the management or control** of a corporate debtor in which a preferential transaction, undervalued transaction, extortionate credit transaction or fraudulent transaction has taken place and in respect of which an order has been made by the Adjudicating Authority under this Code;
8. Has **executed an enforceable guarantee in favor of a creditor** in respect of a corporate debtor against which an application for insolvency resolution made by such creditor has been admitted under this Code.

## PREFERENTIAL, UNDERVALUED AND EXTORTIONATE TRANSACTIONS [SEC. 43, 45, 50 & 66]

**Avoidance of transactions** - to be treated as void and will be reversed

- ‘**Preferential transactions**’ (put creditor in beneficial position as compared to corporate debtor)
  - **Look back period** - two years for related parties and one year for non-related party
- ‘**Undervalued transactions**’ (gift/ transfer at significantly lesser value)
  - **Look back period** - two years for related parties and one year for non-related party
- ‘**Extortionate transactions**’ (result in financial/operational debt for corporate debtor)
  - **Look back period** - two years preceding the commencement of insolvency
- ‘**Transactions defrauding creditors**’ (gift/ transfer at significantly lesser value)
  - **No look back period**

# RESOLUTION PLAN

- Preparation of Information Memorandum for formulating a Resolution Plan
- Providing to Resolution Applicant access to all relevant information
- Resolution Applicant will submit a Resolution Plan to the Resolution Professional prepared as per Information Memorandum
- Examination of Resolution Plan
- Presentation of RP to CoC for Approval
- **Submitting** Resolution Plan to Adjudicating Authority
- **Adjudicating Authority may by order approve** the Resolution Plan
- **Moratorium Period ends**
- ***RP will be binding on the Corp. Debtor, its Employees, Members, Creditors, Guarantors & other Stakeholders***
- **If Resolution Plan not approved or**
  - Not ready within 180 days or
  - Adjudicating Authority rejects the Resolution Plan
- ***It will pass a Liquidation Order.***
- RP will act as a Liquidator and all the powers of the Board of Directors will vest with the Liquidator

# OFFENCES AND PENALTIES

## Adjudication, Offences and Penalties

- NCLT – Adjudicating authority in relation to insolvency resolution/ liquidation for corporate persons/ corporate debtors **including personal guarantors thereof**
  - Appeal against the order approving resolution plan could be filed on the grounds of contravention of laws, material irregularity, non-compliance with the statute etc
  - Appeal lies before the NCLAT followed by the Supreme Court for orders issued by NCLT
  - Penalties (Sec 68 - 77) prescribed for:
    - Concealment of property **3 Years-5 years, Rs. 1 L - 1 Cr**
    - Undertaking transactions defrauding creditors **3 Years-5 years, Rs. 1 L - 1 Cr**
    - Misconduct in course of corporate resolution **3 Years-5 years, Rs. 1 L - 1 Cr**
    - Falsification of Books of corporate debtor **3 Years-5 years, Rs. 1 L - 1 Cr**
    - False representation to creditors **CD 3 Years-5 years, Rs. 1 L - 1 Cr Crs. & Others 1yr-5 yr, Rs 1 L – 1 Cr.**
    - Contravention of moratorium or resolution plan **1 Year-5 years, Rs. 1 L - 1 Cr**
    - Non-disclosure of dispute or repayment of debt by operational creditor
- Imprisonment for a term of **1-5 years** + Monetary penalty in the range of **INR 100,000 - 10,000,000**
- **Insolvency Professional contravening the provisions of this Code** liable for imprisonment upto 6 months and monetary penalty in the range of INR 100,000 – 500,000

# LIQUIDATION PROCESS UNDER THE CODE

## Liquidation order

Liquidation order will be passed if:

- CIRP ends
- Plan not submitted to NCLT
- Plan not approved
- Decided by CoC
- Plan not properly implemented

## Liquidation steps

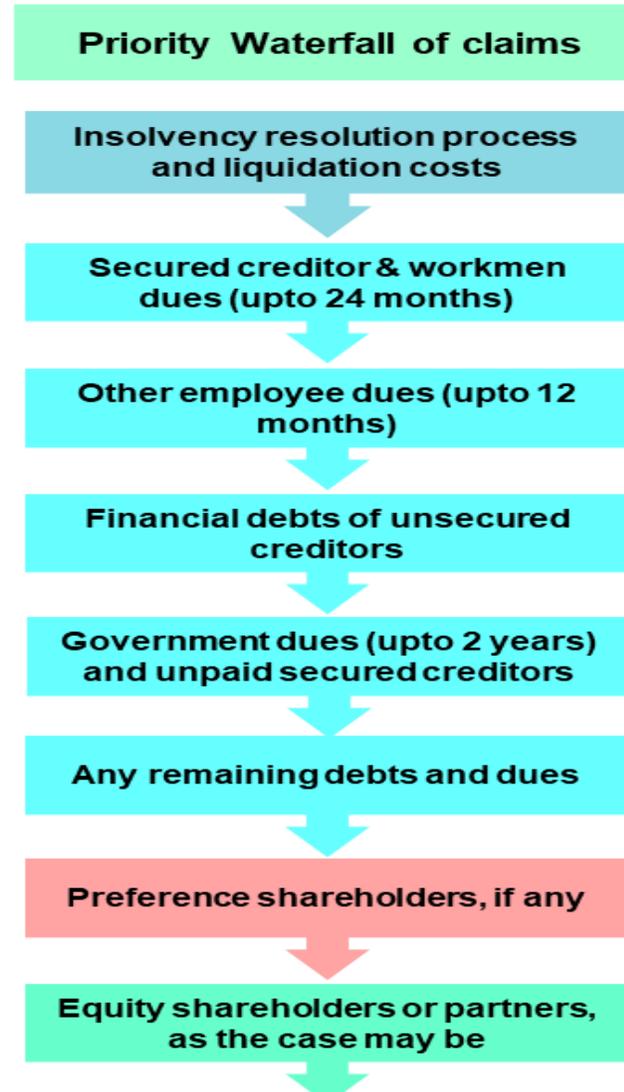
- Appointment of liquidator
- Formation of liquidation estate
- No legal proceeding by or against the debtor
- Consolidation of claims
- Distribution of assets
- Dissolution of debtors (to be completed within 2 years)

## Liquidator

Liquidator shall:

- Form liquidation estate
- take custody & control of all assets
- consolidate, verify, admit and determine value of creditors claims
- Carry on the business for its beneficial liquidation

Way Forward to become IP



## Reporting

- Preliminary report – within 30 days from the date of the order;
- Progress report – within 15 days after end of every period of 3 months from the date of order

## Insolvency and liquidation cost

- Insolvency cost include interim funding, cost of running the debtor as going concern (eg rent or salary of employees), cost of IP etc
- Liquidation cost include any cost incurred by liquidator during liquidation period

## Secured creditor in liquidation

Secured creditor has the option to:

- enforce and realise the security outside the Code, or
- relinquish its security interest and receive proceeds as defined in the priority of claim
- Distinction between rights of different class of secured creditors (first vs second charge, fixed vs floating charge) not clarified

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# LIQUIDATION ESTATE

## Liquidation Estate – Inclusions and Exclusions

### Inclusions [Sec 36(3)]

- Any assets over which the corporate debtor has ownership rights
- Assets that may/ may not be in possession of the corporate debtor, including encumbered assets
- Tangible assets (movable/ immovable)
- Intangible assets (such as IPs), securities, financial instruments, insurance policies, contractual rights
- Assets subject to determination of ownership by Courts
- Assets recovered through proceedings for avoidance of transactions
- Asset in respect of which secured creditor has relinquished security interest
- Any other property vested in the corporate debtor on the insolvency commencement date
- All realization proceeds of liquidation

### Exclusions [Sec 36(4)]

- Assets in the possession of corporate debtor but owned by third parties
- Assets in security collateral held by financial service providers
- Personal assets of shareholder or partner of corporate debtor
- Assets of subsidiaries (Indian/ foreign) of the corporate debtor
- Any other assets as may be specified by the IBBI

Compared with existing law, the ambit of excluded assets under the Code has been expanded

# VOLUNTARY LIQUIDATION

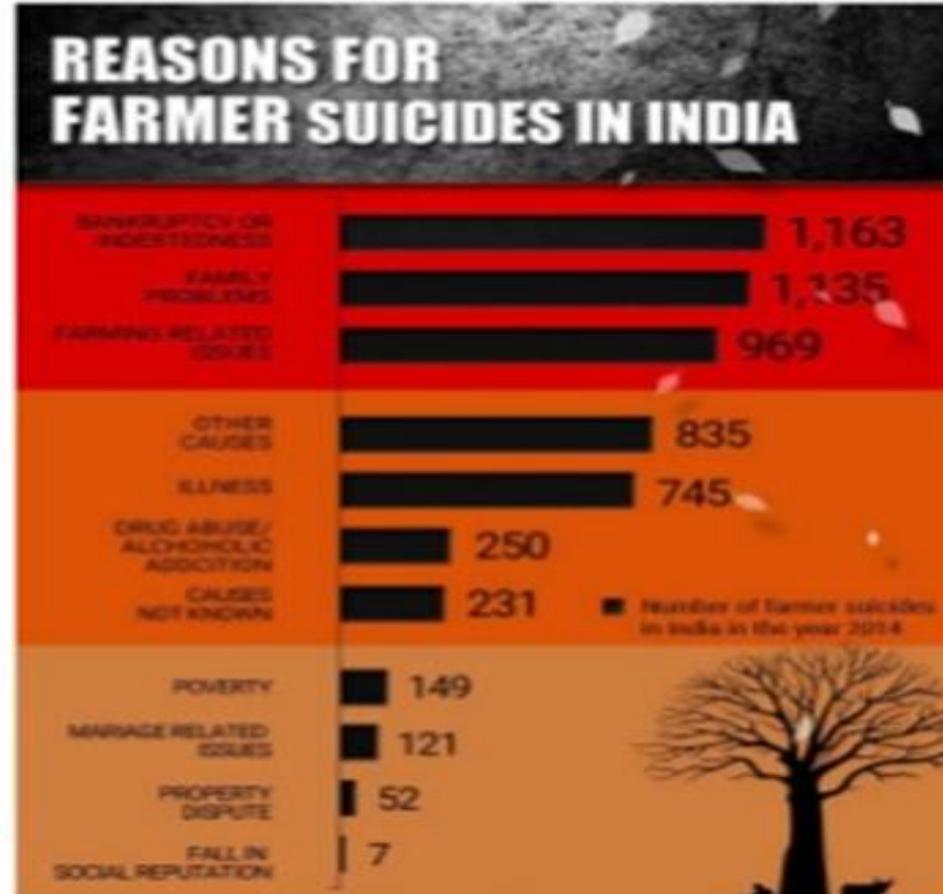
## Voluntary Liquidation

- May be initiated by the corporate debtor even without existence of default
- Declarations from majority of directors needed, to be verified by an affidavit of solvency
- Special resolution of members needs to be passed within 4 weeks of declaration by directors
- Resolution to be approved by creditors representing 2/3rd value of debt within 7 days of the members resolution
- RoC and the Board to be notified of the decision to voluntarily liquidate within 7 days of passing such resolution and subsequent approval by the creditors
- Liquidation process shall commence from date of passing resolution
- Liquidator to make application to NCLT for dissolution
- NCLT to pass an order dissolving the corporate debtor from the date of such order
- Copy of such order to be forwarded to the RoC within 14 days from the date of order

# FRESH START

## Fresh Start – Eligibility and Process

- Target group – For indigent, Bottom-of-the-pyramid individuals with little or no money and assets
  - Gross income < INR 60,000
  - Assets < 20,000
  - Qualifying Debt <35,000
  - No dwelling unit/ home ownership
  - Once in a lifetime
- Akin to one time waiver of debt, based on adjudication
- Not automatic – DRT exercises discretion - admission, discharge order at the end of moratorium period
- Creditors can challenge
- Discharge from only 'qualifying debts' - unsecured, upto INR 35,000
- Moratorium + Completion time – 6 months
- Decision of the Resolution professional - Appealable before the DRT



# INDIVIDUAL INSOLVENCY & BANKRUPTCY

## Insolvency Resolution and Bankruptcy

### ➤ Insolvency Resolution Process (Sec 94 – 120)

- Negotiated repayment plan for restructuring debts/ affairs
- Resolution Professional to supervise the implementation of repayment plan
- Trigger of Bankruptcy - Not automatic
- Only failure to comply can lead to Bankruptcy
- Maximum time period - 6 months

### ➤ Bankruptcy Process (Sec 121 – 178)

- Last resort
- Liquidation of estate of the Bankrupt
- Public notice inviting claims from creditors
- Discharge in a year
- Priority of payment of debts



## PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS [PPIRP]

- *PPIRP is another reform carried out by Government after Insolvency and Bankruptcy Code 2016 to ease the financial distress of Micro, Small and Medium Enterprises (MSME) whose businesses have been impacted NOT ONLY by COVID-19 pandemic but by other reasons also.*
- *As compared to CIRP, PPIRP is quicker, more flexible, cost effective, time effective, and less disruptive to businesses. Maximum overall period allowed for PPIRP is 120 days with a timeline of 90 days for submission of Resolution Plan to Adjudicating Authority by Resolution Professional after approval of Committee of Creditors.*
- *To facilitate its implementation MCA notified Rules: Insolvency and Bankruptcy ((pre-packaged insolvency resolution process) Rules, 2021 dated 9<sup>th</sup> April 2021 and IBBI notified Regulations: The Insolvency and Bankruptcy Board of India (Pre-packaged Insolvency Resolution Process) Regulations 2021 dated 9<sup>th</sup> April 2021.*
- **Minimum Default Amount for initiation of PPIRP is Rs. 10 lakhs** vide Notification number S.O. 1543(E) dated 9th April, 2021.

## Conditions for initiating Pre-packaged [Section 54A]

### Conditions for Initiating Pre-packaged Insolvency Resolution Process (Section 54A)

- Corporate Debtor must be classified as MSME [Section 54A (1)] and has committed a default (Section 54A (2): Rs. 10 Lakhs vide S.O. 1543(E) dated 9<sup>th</sup> April, 2021;
- Corporate Debtor has not undergone pre-packaged insolvency resolution process or completed CIRP during the period of three years preceding the initiation date [Section 54A(2)(a)];
- Corporate Debtor is not undergoing a CIRP [Section 54A(2)(b)];
- **No order of liquidation** against the said Corporate Debtor is passed by Adjudicating Authority [Section 54A(2)(c)];
- Corporate Debtor is eligible to submit a resolution plan under section 29A [Section 54A(2)(d)]; *(It may be noted that (Section 240A is related to exemption to MSME and applies to PPIRP and hence, Section 29A(c) and (h) shall not apply) (c)NPA for >12months and not repaid by CD; (h) Guarantee*
- Financial Creditors having at least 10% of total financial debt, have to propose name of Resolution Professional [Regulation 14 of PPIRP]. Written Consent of Resolution Professional will be in **Form P1 of PPIRP Regulations**.

## Conditions for initiating Pre-packaged [Section 54A]

- **Approval of Res. Professional** → Financial Creditors of the Corporate Debtor (*not being its related parties*), representing not less than 66% in value of the financial debt, have approved the name of Resolution Professional (**Terms of Appointment in Form P3 of PPIRP Regulations**) and filing of an application for Pre-pack proposal [**Form P4 of PPIRP Regulations**];
- **Declaration** → Majority of Directors / Partners to declare (**in Form P6 – PPIRP Regulation 16**): that, *PPIRP shall be initiated within 90 days; initiation of application is not to defraud any person; and name of the Insolvency Professional proposed & approved by Financial Creditors will be appointed as Resolution Professional [Section 54A(2)(f)].*
- **Special Resolution** → In case of a company, the members of Corporate Debtor have passed the Special Resolution or in case of LLP  $\frac{3}{4}$  of total number of partners approved the Resolution, to initiate PPIRP [**Section 54A(2)(g)**].
- **Prior to approval** → Financial Creditors shall be provided with **(a) Declaration; (b) Special Resolution; and (c) Base Resolution Plan [Section 54A (3)]**
- **Initiation of PPIRP** → CD shall file an application for **initiating PPIRP within 90 days** from the date of approval received from the Financial Creditors.

### CoC of Operational Creditors

*(a) If Corporate Debtor does not have financial debt or all the Financial Creditors are related - **Unrelated Operational Creditors shall substitute such Financial Creditors.** In this case Committee of Creditors shall consist of (a) 10 largest Operational Creditors (OC) in value or in case less than 10, with those OCs; (b) a representative of Worker; and (c) a representative of employees.*

# Before initiation of Pre-packaged [Section 54A]

## General Meeting

CD shall convene **General Meeting** to obtain the **special resolution** of shareholders for initiation of PPIRP (**S.54A(2)(g)**)

## Base Resolution Plan

CD shall prepare **Base Resolution Plan** which shall be **provided to the FCs** before they vote on approval for initiation of PPIRP (**S.54A(3)**)

## Consent of FC

CD shall require the **consent of FC**

- ✓ to propose and approve the **name of RP**
- ✓ to approve the **initiation of PPIRP** (**Form P4**) (**Reg. 14**)

Terms of appointment (**Form P3**) to specify fee payable for the period:

- before PPIRP – during PPIRP
- Managing affairs of CD (**Reg.14**)

## Duties of IP

- **Commences** from the date of FCs' **approval for name** of the IP proposed to be appointed as RP
- Prepare **Report in Form P8 (Reg.17)** on whether:
  - ✓ CD meets the **eligibility and conditions** for initiation in S.54A; and
  - ✓ **Base Resolution Plan** confirms to the **requirements of S.30 (1) and (2)**
- Ascertain class(es) of creditors, select Authorized Representative & inform the applicant (**Reg. 15**)

## Duties of IP ceases [S. 54B(2)]

- (a) If CD fails to file an application for initiating PPIRP within the time period as stated under the declaration; OR*
- (b) Application for initiating PPIRP is admitted or rejected by the AA;*

# Normal CIRP Vs PPIRP

Parameter (changes highlighted)	Normal CIRP	PPIRP
<b>Objective (Same in both case)</b>	Resolution through a resolution plan	Resolution through a resolution plan
<b>Applicability (Same)</b>	Companies and LLPs	Companies and LLPs
<b>Initiation of process (Default amount deferent)</b>	Default by CD above Rs.1 crore (w.e.f. 24.3.2020) application filed with AA before 24.3.2020 with mini. Default Rs. 1 lakh (no effect)	CD being MSME, Minimum default of Rs.10 lakh [S.O. 1543(E) dated 9th April, 2021]
<b>Initiation by (only by CD being MSME)</b>	FC, OC, or CD	CD, with consent of 66% of unrelated FCs
<b>Management of the CD (Mix control)</b>	IRP/RP-in-possession with creditor-in-control	Debtor-in-possession with creditor-in-control. <b>BOD not suspended, CD in control unless breach in conduct of affairs: Fraudulent/gross mis-management.</b>
<b>Role of Insolvency Professional (RP is monitor and not CEO)</b>	Initially IRP proposed by the applicant (in case OC, IRP to be proposed is not mandatory) and then approval of RP by the CoC; Managing affairs of the CD and conducting the CIRP	RP, approved with consent of 66% of unrelated FCs. RP to Conduct the process.
<b>Claim collation (RP to confirm)</b>	IRP to invite and collate the claims	CD to provide list of claims. RP to confirm.
<b>Information memorandum (Draft prepared by CD)</b>	Prepared by RP	Draft prepared by CD and finalised by RP
<b>Moratorium (Limited)</b>	Moratorium under section 14	Limited Moratorium

# Normal CIRP Vs PPIRP

Parameter (change highlighted)	Normal CIRP	PPIRP
<b>Interim finance (Same)</b>	Yes	Yes
<b>Avoidance transactions (Same)</b>	Yes	Yes
<b>Valuation (No third valuer)</b>	By two valuers, if <b>two estimates of a value are significantly different, RP may appoint another registered valuer.</b>	By two valuers, there is no provision for third valuer
<b>IRPC (operation running cost not included)</b>	Includes cost of running operations as going concern	Does not include cost of running operations
<b>Invitation for resolution plans (BP and first right to CD)</b>	Public process	First right of offer to promoters, Swiss Challenge
<b>Ineligibility for resolution plan [being MSME clauses (c) &amp; (h) not applicable S.240A]</b>	Section 29A to applies	Section 29A to apply, f clauses (c) and (h) of section 29A shall not apply to the resolution applicant.
<b>Early closure of process (Yes, but process different)</b>	Under section 12A, on request of the applicant	With approval of 66% of voting share; Suo moto by CoC
<b>Approval of resolution plan by CoC (Same)</b>	66% of voting share	66% of voting share

# Normal CIRP Vs PPIRP

Parameter (change highlighted)	Normal CIRP	PPIRP
Consequence of termination of process (option to initiate CIRP)	No termination allowed	Closure without outcome; Option to initiate CIRP
Binding outcome (Same)	Resolution plan binding	Resolution plan binding
Regulatory benefits (Same)	Yes	Yes
Clean Slate, post resolution (Same)	Yes	Yes
Role of IRP/RP and AA	Relatively more	Relatively less
Timeline	180 days till approval of resolution plan by the AA, one time extension: 90 days, 330 days by IBC Amendment Act 2019 (w.e.f. 16.08.2019)	90 days for filing of resolution plan with the AA plus 30 days for the AA to approve it. <b>No provision for extension of time.</b>
Cooling off between resolution process (3 years)	12 months between two CIRPs	Three years between two Pre-packs

## OPPORTUNITIES UNDER INSOLVENCY AND BANKRUPTCY CODE 2016

**A. After registration & AFA, act as Insolvency Professional to be:**

Fee Range for class of creditors, for AR per meeting of CoC

10-100 Rs. 15,000

101-1000 Rs. 20,000

More than 1000 Rs. 25,000

- (a) *Interim Resolution Professional (For Corporate & Individual and Partnership Firm) New PPIRP- Pre-Packaged Insolvency Resolution Process for Corporate Debtor being MSMEs (Ordinance dated 4<sup>th</sup> April 2021, Rules & Regulations dated 9<sup>th</sup> April 2021)*
- (b) *Resolution Professional (For Corporate & Individual, Partnership Firm)*
- (c) *Liquidator (For Corporate)*
- (d) *Voluntary Liquidator (For Corporate)*
- (e) *Bankruptcy Trustee (For Individual and Partnership Firm)*
- (f) *Authorised Representatives of Class of Creditors (with at least 10 financial creditors). Class of creditors may be Home or Flat Buyers; securities holders; depositors; Debenture holders or other financial creditors owning the financial debt.*

## OPPORTUNITIES UNDER INSOLVENCY AND BANKRUPTCY CODE 2016

**Filing & Appearance  
Opportunities for  
CMAs in NCLT/NCLAT**

**B. Filing of Application with NCLT on behalf of Client under Section 7, 9 or 10; Appearance and Pleading before NCLT.**

**C. Filing of Application with NCLT/ Adjudicating Authority on behalf of Client U/s 19(2), PUFEE (43, 45, 50 & 66) and other sections of IBC 2016.**

**D. Filing of Appeals, Review Petition and appearance with NCLAT on behalf of Client U/s 19(2), PUFEE (43, 45, 50 & 66) and other sections of IBC 2016.**

**E. Assistance to IRP/RP for various work (On remuneration).**

**As Insolvency  
Professional**

**F. Assistance to Creditors: Appear as Authorised Representative S. 24(5), preparation of claims (Form B, C, CA, D, E, F, FA, G, & H):**

## OPPORTUNITIES UNDER INSOLVENCY AND BANKRUPTCY CODE 2016

**Section 432 of Companies Act, 2013-** A party to any proceeding or appeal before the Tribunal or the Appellate Tribunal, as the case may be, may either appear in person or authorize one or more chartered accountants or company secretaries or cost accountants or legal practitioner ...

**FORM 12 NCLT for Authority**

**FORM NO. NCLT. 12**  
**(see rule 45)**  
**Memorandum of appearance**

To  
The Registrar,  
National Company Law Tribunal, ..... Bench,  
In the matter of ..... Petitioner.

V.  
.....Respondent  
(C.P. NO. ....of 20.....)

Sir,  
Please take notice that I, AB, Company Secretary in practice/ practising Chartered Accountant/ practising Cost Accountant, duly authorised to enter appearance, and do hereby enter appearance, on behalf of ..... petitioner/ opposite party/ Registrar/ Regional Director/ Government of ..... in the above-mentioned petition.

\*A copy of the resolution passed by the Board of Directors authorising me to enter appearance and to act for every purpose connected with the proceedings for the said party is enclosed, duly signed by me for identification.

Yours sincerely,

Dated ..... day of .....                      Address:  
Enclosure: as aforesaid                      Tele No.:

## OPPORTUNITIES UNDER INSOLVENCY AND BANKRUPTCY CODE 2016

**Opportunities for CMAs, THERE IS NO NEED TO BE Insolvency professional**

**G. Assistance IRP/RP for the work (On remuneration): Managing Affairs, Interim Finance, Accountant, verification claims: CIRP/Liquidation, Secretarial etc.**

**H. Assistance to Resolution Applicants (On remuneration): Preparation of documents for eligibility, Resolution Plan, Due diligence, attend COC for presentation etc.**

**Opportunities for CMAs- Forensic Audit**

**I. Other Opportunities for Professionals: Forensic- PUFÉ, Valuation, Advisory-PUFÉ**

**Opportunities for Non-Professionals**

**J. Opportunities for non professionals (Non-CMA, MBA and others): Secretarial-Notice, minutes, Forms: A, G, H and Monitoring Voting Process etc.**

**Opportunities in  
PPIRP for CMAs as  
Insolvency  
Professional**

***Prior to Filing of Application with AA***

***(a) Preparation of Base Resolution Plan***

***(b) Finalizing The List of Claims***

***(c) Advising the Promoters to prepare for:***

- ***Declaration as required under PPIRP***
- ***Draft Special Resolution for Shareholders/ Partners***
- ***Prepare Information Memorandum for Base Resolution Plan***
- ***Filing Application for Avoidance of Transactions***

*Thank  
you*



**Ex-CEO, IPA of Institute of Cost  
Accountants of India**

**Ex-Senior Director (Technical)  
The Institute of Cost Accountants of India**

**J K Budhiraja  
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