

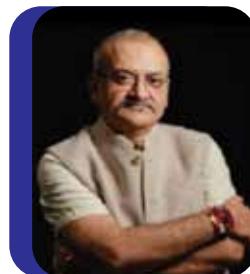
THE INSOLVENCY AND BANKRUPTCY CODE, 2016: A COMPREHENSIVE ANALYSIS WITH PRACTICAL INSIGHTS

Abstract

The Insolvency and Bankruptcy Code (IBC), 2016, has been a cornerstone reform in India's financial and corporate legal system. This article critically examines its evolution, highlighting its alignment with global standards, such as the adoption of creditor-in-control models and moves toward cross-border insolvency frameworks. It explores key judicial precedents that have shaped the interpretation and application of the Code, such as Essar Steel, Swiss Ribbons, and Jet Airways. The article also addresses real-world challenges, including procedural delays, stakeholder concerns, and uneven recovery rates. Drawing insights from regulators, courts, and insolvency professionals, the paper proposes actionable reforms to enhance the Code's effectiveness and global credibility. Through a data-backed analysis and stakeholder-driven perspective, the article emphasizes the need for institutional strengthening, faster resolution, and international harmonization to realize the full potential of IBC.

Introduction

The Insolvency and Bankruptcy Code (IBC), 2016 marked a watershed moment in India's financial legislation. It aimed to streamline and consolidate existing insolvency laws, create a time-bound resolution process, and improve recovery rates. This article evaluates the framework, real-world impact, challenges, and evolving nature of IBC while incorporating practical observations and suggestions.



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Global Alignment and Standards:

The IBC has often been praised for aligning India's insolvency framework with global standards. However, the article lacked specific examples of how these alignments are achieved. Globally recognized practices such as cross-border insolvency (based on UNCITRAL Model Law), strict adherence to timelines, and creditor-in-control models have been adopted or are under active consideration. The development of a cross-border insolvency framework in India would further elevate its global standing.

Judicial Precedents and Case Studies:

The original article mentioned the importance of judicial precedents but did not elaborate. Notable cases such as:

- ⦿ **Essar Steel India Ltd.** – This landmark case clarified the primacy of financial creditors under Section 30(4).
- ⦿ **Swiss Ribbons v. Union of India** – Upheld the constitutional validity of the IBC and reinforced its creditor-centric approach.

- ◎ **Jet Airways** – Brought up issues related to cross-border insolvency and airline sector complications.

These cases highlight the evolving jurisprudence and how courts have shaped practical implementation.

Procedural Challenges and Deeper Analysis:

While procedural delays and creditor concerns were identified, deeper analysis is vital. Delays are often caused by:

- ◎ Overburdened National Company Law Tribunal (NCLT) benches
- ◎ Tactical litigation by promoters
- ◎ Limited number of insolvency professionals

Addressing these bottlenecks through institutional reforms, digitisation of case management, and increasing NCLT capacity will strengthen IBC.

Stakeholder Perspectives:

The article previously missed insights from key stakeholders:

- ◎ Creditors seek faster resolution and maximum recovery, often frustrated by litigation and haircuts.
- ◎ Debtors view IBC as both a threat and an opportunity to restructure meaningfully.
- ◎ Insolvency Professionals (IPs) face pressure managing timelines and stakeholder expectations.

Incorporating stakeholder surveys or expert interviews would provide real-world depth.

Improved Recovery Rates – With Supporting Data:

The original article mentions improved recoveries but lacked data. As per IBBI's 2023 report:

- ◎ Average recovery rate through IBC stands at ~31%, compared to 20% under SARFAESI and 14% under DRT mechanisms.
- ◎ Total admitted claims: ₹9.3 lakh crore; Realized: ₹2.85 lakh crore.

Though better than older regimes, recoveries vary widely depending on sector and case complexity.

Behavioral Impact and Investor Participation:

IBC has triggered a significant behavioural change:

- ◎ Borrowers now treat default seriously due to the threat of losing control.
- ◎ Timely repayments and voluntary settlements before admission have increased.

Measuring This Change:

Pre-packaged insolvency schemes and increased one-time settlements outside NCLT reflect this impact.

Investor Participation:

The IBC ecosystem has attracted global investors, ARC participation, and private equity players, enhancing competition during resolution processes.

Conclusion:

While IBC has laid a strong foundation, further reforms are necessary. Improving infrastructure, addressing delays, ensuring consistency in adjudication, and embracing cross-border frameworks will help IBC mature. Inclusion of practical insights, stakeholder voices, and case references makes the understanding of IBC more complete and applicable to evolving Indian and global economic landscapes. MA

References:

1. *Insolvency and Bankruptcy Code, 2016. Government of India.*
2. *Swiss Ribbons Pvt. Ltd. & Anr. v. Union of India & Ors., (2019) 4 SCC 17.*
3. *Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta & Ors., (2020) 8 SCC 531.*
4. *State Bank of India v. Jet Airways (India) Ltd., NCLT Mumbai Bench, CP (IB)-2205/MB/2019.*
5. *IBBI Annual Report 2022–23. Insolvency and Bankruptcy Board of India.*
6. *UNCITRAL Model Law on Cross-Border Insolvency, United Nations Commission on International Trade Law, 1997.*
7. *Sengupta, R., & Sharma, A. (2022). Impact of IBC on Firm Performance in India. National Institute of Public Finance and Policy.*
8. *World Bank Group (2020). Doing Business Report.*
9. *Shah, A. & Thomas, S. (2021). Developments in India's Insolvency Reforms. Journal of Financial Regulation and Compliance, Vol. 29(3), pp. 340–355.*