



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

[www.ibbi.gov.in](http://www.ibbi.gov.in)

# Insolvency and Bankruptcy News

The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India

July - September, 2021 | Vol. 20



**IBC**  
Developing a  
Market for  
Distressed Assets

# C O N T E N T S

<b>From Chairperson's Desk</b> .....	2
<b>IBBI Updates</b> .....	4
<b>Legal and Regulatory Framework</b> .....	5
• Central Government	
• Insolvency and Bankruptcy Board of India	
• Other Authorities	
<b>Orders</b> .....	7
• Supreme Court	
• High Courts	
• National Company Law Appellate Tribunal	
• National Company Law Tribunal	
• Insolvency and Bankruptcy Board of India	
<b>Corporate Processes</b> .....	12
• Insolvency Resolution	
• Liquidation	
• Voluntary Liquidation	
<b>Individual Processes</b> .....	19
<b>Service Providers</b> .....	19
• Insolvency Professionals	
• Information Utility	
• Registered Valuers	
• Complaints and Grievances	
<b>Examinations</b> .....	22
• Limited Insolvency Examination	
• Valuation Examinations	
<b>Building Ecosystem</b> .....	22
<b>Advocacy and Awareness</b> .....	24
<b>Abbreviations</b>	

“Since the introduction of the Insolvency and Bankruptcy Code in 2016, India has made continuous progress in the insolvency process, in terms of its speed, recovery and cost. IBC has brought about significant behavioural change and responsibility in the attitudes of the borrowers as well as promoters and has improved the business environment. Till date the Code has undergone six amendments to strengthen the framework.”

**Mr. Rajesh Verma, Secretary, Ministry of Corporate Affairs, CII National Conference, August 27, 2021**

“The Insolvency and Bankruptcy Code, 2016 has helped in balancing the interests of various stakeholders, thereby creating an optimal as well as fair ecosystem for resolving insolvency in current times. It has shifted the focus from the 'Debtor in Possession' to a 'Creditor in Control' regime.”

**Dr. Krishnamurthy Subramanian, Chief Economic Adviser, Ministry of Finance, Government of India, CII National Conference, August 27, 2021**

## IBC: Developing a Market for Distressed Assets

*"It's far better to buy a wonderful company at a fair price than a fair company at a wonderful price"*

– Warren Buffet

The smart investor perceives a range of opportunities through participation in the distressed asset markets as it provides plethora of options to enhance the value of his investments in leaps and bounds promptly. However, at macro level 'Pareto optimal' solutions elude the market as demand and supply side bottlenecks act as impediments in development of the balanced market for the stressed assets.

A 'market' is a coordinating mechanism that allows determination of price and conveys information among economic entities. A market for distressed assets does precisely so. In the absence of such markets, the risk associated with credit extension tends to crowd out funds critical for economic growth. State intervention for alleviation of this risk, by facilitating coordination among economic agents for trading of distressed assets, plays a crucial role in maintaining the financial health of an economy.

India is one of the fastest-growing, economy and the fifth largest in the world. The average growth rate over the last three decades has been about 7 percent. After the adverse pandemic impact, there is growing evidence of V shaped economic recovery. International Monetary Fund has projected the Indian economy to grow at 9.5 percent in 2021 and 8.5 percent in 2022 in its latest World Economic Outlook of October, 2021. The country has witnessed improved investment climate with enhanced competitiveness and innovation over the years. It is but natural to see a continuous flow of distressed assets into the market given the large size of the economy and its growth. This warrants effective mechanisms for their resolution. With cherished goal of achieving milestone of \$ 5 trillion economy in sight, systematic efforts are required to be in place for release of the large number of investments locked up in the stressed assets for productive usage.

### Problem of distressed assets in India

In India, the Economic Surveys shed light on the issue of the twin balance sheet problem of rising indebtedness of Indian firms and rising non-performing loans in the banking system during 2015-16. It drew attention to the state of public sector banks and some corporate houses. The primary reasons as observed by Reserve Bank of India (RBI) for spurt in stressed assets have been observed to be, inter alia, aggressive lending practices, willful default / loan frauds / corruption in some cases, and economic slowdown.

Pertinently, recent supervisory data suggests that numerous efforts made by the RBI in firming up its regulatory and supervisory agenda and the resolution mechanism founded through the Insolvency and Bankruptcy Code, 2016 (Code/IBC) are leading to fruition in resolution of non-performing assets (NPAs). As per the various issues of RBI Financial Stability Reports, there has been a substantial decline in gross non-performing asset (GNPA) ratio of scheduled commercial banks (SCBs) from as high as 11.5 percent in FY 2018 to 7.5 percent in FY 2021. There also has been an improvement in provision coverage ratio of SCBs from 66.2 percent in March, 2020 to 68.9 percent in March, 2021, according to RBI data. As of March, 2021 the total NPAs in the economy stand at ₹ 8.34 lakh crore.

Developing a market for distressed assets is important for an emerging economy like India where the corporate bond market is under penetrated and market participants are heavily reliant on loans from banks. With banks reeling under mounting NPAs, the need of the hour is to have a well-developed distressed assets market to offload these NPAs effectively.

### India's journey

India, post-independence, witnessed increased levels of credit growth and government investments which fueled the development plans. In confluence with global economic boom in the early to mid-2000s, the Indian economy experienced a rapid expansion, especially its

manufacturing sector and non-financial corporates. Monetary and fiscal policies were conducive to this expansion and credit expanded to support this boom. This increased the overall indebtedness and increased the ratio of NPAs as loan repayments dwindled.

Attempts at monitoring and regulating distressed assets were made since 1980. Committees like Tiwari Committee (1981) and Narasimham Committee (1991) were formed to address the challenge of rising distressed assets. Based on the recommendations of Narsimham Committee, Debt Recovery Tribunals (DRTs) were established. These developments first formalised a market for distressed assets in India. Measures to reduce NPAs included rescheduling and restructuring of loans, corporate debt restructuring and facilitating recovery through the Asset Reconstruction Companies (ARCs) established under Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002, Lok Adalats, DRTs, and Civil Courts.

### Need for market for distressed assets

To deal with the problem of NPAs effectively, one of the many strategies is to develop a market for distressed assets. A secondary market for NPAs would reduce the debt collection burden on banks and free up resources and capital to support new lending. It would also enhance bank's risk management strategy by providing another instrument to manage credit and market risks.

A market for distressed assets would also support corporate restructuring and expand sources of financing. It would improve secondary market liquidity for loans and attract a wider range of institutional investors to assist in corporate restructuring. In the near term, a market for distressed assets could support a faster recovery by facilitating the exit of non-viable firms and supporting the growth of viable ones. Over time, it would enable reallocation of resources towards more productive corporates and assist their reorganisation and expansion.

Distressed assets investment firms have appeared on the horizon, as part of a global asset management industry. They are adept at generating capital from sophisticated investors in specialist investment purpose vehicles. These firms have played an integral role in some of the major corporate resuscitations over the last three decades – Sunbeam-Oster, Samsonite, National Gypsum in the junk bonds predicament during 1990-91; big financial organisations in East Asia in the Asian crisis of 1997-98; and more recently General Motors, Chrysler, and Nine Entertainment (Australia).

### IBC and market for distressed assets

The enactment of the IBC has created an efficient market for resolution of distressed assets. The law has given the distressed asset investment landscape in India a legal structure, well-defined processes, responsibilities, and timelines. Distressed asset investment in India can be seen to have come of age, offering astute investors to seize the opportunities to pick 'value' assets. Such investors had largely been shying away from this space given the lack of robust and efficient regulatory framework. With the implementation of the Code and the ensuing progress in the resolution process for NPAs, there is a genuine interest amongst investors in the distressed assets investment markets with their inherent 'buy low-sell high' potential. Businesses are looking for opportunities for buying good underlying assets with potential for a turnaround, at reasonable valuations.

The Code has paved the way for investors looking for business expansion through a process which is time bound, information intensive and ends with a plan that is binding on all stakeholders. It has expanded the scope of resolutions wherein extant businesses can be acquired through mergers, amalgamations, and demergers; free of the past misdeeds of the erstwhile promoters. Capital-intensive companies from infrastructure and power

sectors that have come into corporate insolvency resolution process (CIRP) can now be bought by investors at competitive prices. Electronic platform for distressed assets, which have recently been launched by NeSL and Mjunction, with four elements: (a) market for interim finance, (b) virtual data room, (c) invitation and evaluation of resolution plans, and (d) auctions during liquidation have furthered the development of market for distressed assets.

Most recent development of provision of a simplified mechanism for resolution of stressed micro, small and medium enterprises (MSMEs) corporates in the form of pre-packaged insolvency resolution framework have set the wheels of revival and recovery in motion.

The rise in stressed assets has also prompted the establishment of a National Asset Reconstruction Company Limited (NARCL) towards building and strengthening a secondary market for NPAs. The NARCL will provide the aggregation and consolidation of stressed assets of banks worth ₹ 2 lakh crore in phases. Further, India Debt Resolution Company Ltd. is expected to resolve it as a going concern or liquidate it. This credible

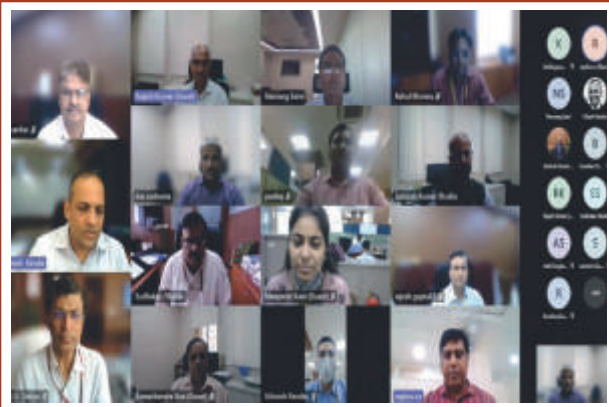
alternative is specifically targeted towards developing expertise to deal with the stressed assets and cut the procedural delays. In long run, such an initiative is expected to facilitate quick resolution of distressed assets with a view to stem the erosion of value of such assets during the process.

The RBI set up a committee under the chairmanship of Shri Sudarshan Sen to undertake a comprehensive review of the ARCs in the financial sector ecosystem and recommend suitable measures for enabling such entities to meet the growing requirements of the financial sector. The committee has suggested creation of online platforms for sale of ARCs. The committee observed that participation of ARCs in resolution process can increase the pool of potential resolution applicants (RAs) under the IBC to resolve stress. It is expected that the new set of frameworks will accelerate the turnaround of NPAs thereby improving financial health and overall growth prospects of the economy.

Going forward, the existing mechanisms and the recently suggested initiatives are expected to facilitate quick resolution of distressed assets with a view to stem the erosion of value of such assets during the process.

(Dr. Navrang Saini)

## Hindi Pakhwada



# IBBI Updates

## Human Resources

### Completion of tenure of Chairperson, IBBI

Dr. M. S. Sahoo completed his tenure of five years as Chairperson of the Insolvency and Bankruptcy Board of India (IBBI/Board) on September 30, 2021. In appreciation of his valuable contributions, in the last Governing Board (GB) meeting chaired by Dr. Sahoo on September 24, 2021, the following message of Chief Economic Advisor, Government of India was read out, 'I have known Dr. Sahoo from the time I was a youngster working for ICICI and as Executive Assistant to Chairman FIMMDA... he was at the time a very senior official at the NSE. His commitment and knowledge were aspects that had struck me at that time. Dr. Sahoo has brought the same qualities to provide impactful leadership to India's most important reform in recent times: The Bankruptcy Code. While several scaled Mount Everest after Tenzing Norgay, he is remembered to be the first. Similarly, there will be many leaders of IBBI in future. But Dr. Sahoo will remain IBBI's and thereby IBC's Tenzing Norgay. On behalf of the entire board of IBBI, I would like to wish Dr. Sahoo all the very best in everything that he endeavours hereafter together with good health and happiness for him and his entire family'.

The IBBI family bid farewell to Dr. Sahoo on September 30, 2021 and remembered his outstanding contributions as a thought leader and visionary, in a glittering farewell function. Appreciation was extended to him for laying a strong foundation for this unique regulator, in a very short time. Whole-time Members (WTMs) of the IBBI recalled his astute



Farewell Speech by Dr. M. S. Sahoo, September 30, 2021



Farewell to Dr. M. S. Sahoo, September 30, 2021

leadership and guidance, under which the IBBI has established itself as an institution of credibility, legitimacy, and repute as a regulator as envisaged under the Code. Dr. Sahoo expressed his gratitude to the IBBI family for their extra-ordinary support during his tenure in discharge of his duties. He urged all of them to extend similar cooperation to his successor.

### Interaction of Part Time Members of the Governing Board with the Employees

An interaction of senior officers of IBBI (Deputy General Manager level and above) with the Part Time Members (PTMs) of the GB of IBBI was held on July 27, 2021 through virtual mode. During the interaction, the PTMs of the GB and officers discussed various issues and gave suggestions thereon, *inter-alia*, to improve the working of IBBI as an institution and as a regulator.



Interaction with the PTMs, July 27, 2021

### Executive Director

Dr. Anuradha Guru, Executive Director, was repatriated to her parent cadre, the Indian Economic Service, after completion of her deputation period with the IBBI on July 2, 2021. GB members, in one voice, placed their strong sense of appreciation on record in respect of quality of services rendered by her particularly in the context of handling of Board matters in the most efficient manner.

### Meeting of the Standing Committee of Finance

The Parliamentary Standing Committee on Finance took oral evidence of the representatives of the Ministry of Corporate Affairs (MCA) on the subject 'Implementation of Insolvency and Bankruptcy Code - Pitfalls and Solutions' on July 7, 2021. The Secretary, other officers of MCA, Chairperson, IBBI and other officers of IBBI appeared before the Committee and gave evidence.

### Presentation to Members of Parliament

Dr. M. S. Sahoo, Chairperson, IBBI made a presentation to a group of Hon'ble Members of Parliament on July 23, 2021 on the Insolvency and Bankruptcy Code (Amendment) Bill, 2021.

### Hindi Pakhwada

IBBI celebrated *Hindi Pakhwada* from September 13, 2021 to September 19, 2021. It conducted various activities during this period to popularise Hindi as the official language of the Union of India and to promote its further use in official work. The employees participated in various activities such as quiz and poem recitation, in Hindi, with great enthusiasm and won prizes. An essay competition on the subject 'IBC: A people centered reform' and *Azadi Ka Amrit Mahotsav* was also organised and prizes were given for the best entry.

### MoU with NSE

IBBI signed a Memorandum of Understanding (MoU) with the National Stock Exchange (NSE) on August 6, 2021 for a research collaboration. The objective of the collaboration is to create a rich research ecosystem in the area of insolvency and bankruptcy in India. It will promote credible research on best practices and outcomes based on data and analytics. Insolvency and bankruptcy laws play an important role in an economy as they enable efficient and orderly allocation of productive resources and provide an effective resolution mechanism for debtors and creditors. To further the evidence-based research in the insolvency space, IBBI has collated a dynamic data set on the processes and outcomes under the Code. The synergy between IBBI and NSE will harness the research potential of both the organisations, aiding and improving evidence-based policy discourse in the country.



Signing of MoU with NSE, August 6, 2021

### MoU with IGNOU

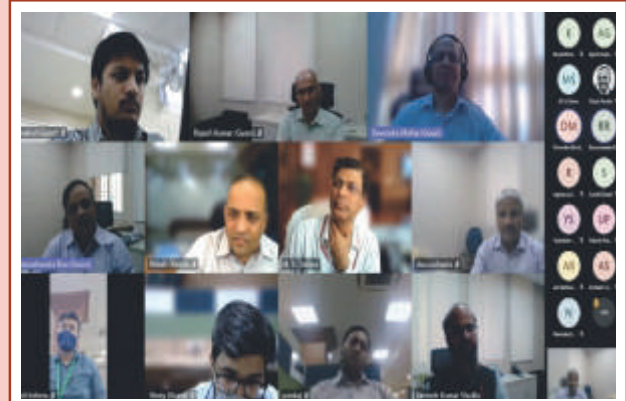
In furtherance of its advocacy drive, IBBI signed an MoU with Indira Gandhi National Open University (IGNOU) for utilising tele-lecturing facility of Gyan Darshan Channel on September 16, 2021. This collaboration aims to facilitate a manifold increase in the reach of IBBI's knowledge management initiatives by utilising the tele-lecturing facilities of IGNOU Gyan Darshan Channel for telecast of awareness programmes through distance learning mode. This will provide seamless access to sustainable and learner-centric quality awareness programmes and training to various stakeholders of IBC by using innovative technologies.



Signing of MoU with IGNOU, September 16, 2021

### Employee Trainings and Workshop

IBBI organised a workshop for its officers through e-mode, on the topic 'Green Insolvency and Bankruptcy Code' on September 10, 2021. The workshop was conducted by Mr. Devendra Mehta, Insolvency Professional (IP).



Workshop on Green Insolvency and Bankruptcy Code, September 10, 2021

The officers / members of IBBI attended the following workshops and training programmes:

Date	Organised by	Nature of the programme/Subject	No. of Officers
06-07-21 to 07-07-21	National Productivity Council	Advance Course on Preventive Vigilance	03
22-07-21 to 23-07-21	National Productivity Council	Advance course on Disciplinary Proceedings	01
01-09-21 to 02-09-21	Data Adequacy Project United Kingdom	Bilateral Workshop between India and the Government of United Kingdom (Cyber Policy Department National Security Directorate).	11
06-09-21 to 20-09-21	Forum of Indian Regulators (FOIR)	Shaping the future of regulations in the emerging digital era	02
20-09-21 (for 4 months)	Indian Institute of Corporate Affairs (IICA)	Certificate Program in Corporate Governance (Batch-B)	01

## Legal and Regulatory Framework

### Central Government

#### Report of the Insolvency Law Committee on Pre-packaged Insolvency Resolution Process.

The Insolvency Law Committee (ILC) submitted its 4<sup>th</sup> report on Pre-packaged Insolvency Resolution Process (PPIRP) framework on July 16, 2021. Building on the recommendations of the Sub-committee, in this report, the Committee has recommended the design and implementation of an alternative and effective pre-packaged insolvency resolution framework for MSMEs.

#### The Insolvency and Bankruptcy Code (Amendment) Act, 2021

The Insolvency and Bankruptcy Code (Amendment) Act, 2021 was enacted on August 12, 2021 to replace the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 which was promulgated on April 4, 2021 to amend the Code to introduce the PPIRP for corporate MSMEs.

#### Report of Standing Committee on Finance

The Parliamentary Standing Committee on Finance, under the chairmanship of Mr. Jayant Sinha, presented its 32<sup>nd</sup> report on the subject 'Implementation of Insolvency and Bankruptcy Code-Pitfalls and Solutions' on August 3, 2021. The committee elaborated extensively on the new legal regime of insolvency as an effective mechanism for resolving insolvency. It acknowledged the role of IBC in improvement of business climate in the country. Further, the report made a detailed assessment of various pillars of the IBC.

However, while appreciating the progress under the Code so far, it expressed concern on the huge haircuts being taken by the creditors in resolution processes under the Code and delays in certain resolution processes. The committee suggested that it is imperative to have a benchmark for the quantum of haircut vis-à-vis global standards. It emphasised the need to have a professional code of conduct for the committee of creditors (CoC), whose wisdom is hailed as supreme in a CIRP. The committee also suggested various administrative and technological changes for effective functioning of National Company Law Tribunal (NCLT).

## The Income-tax (24<sup>th</sup> Amendment) Rules, 2021

The Central Government, vide notification dated August 18, 2021, amended the Income-tax Rules, 1962. This amendment enables the IP discharging the duty of Interim Resolution Professional (IRP), the Resolution Professional (RP), or the Liquidator, as the case may be, to verify the income tax return in respect of a corporate debtor (CD) undergoing a CIRP or liquidation process under the IBC. It also enables the IP to appear before any income-tax authority or the Appellate Tribunal as an authorised representative of the CD.

## Appointment of Members in NCLT

The Appointments Committee of the Cabinet approved the appointment of eight Judicial Members and ten Technical Members in the NCLT for a period of five years from the date of assumption of charge of the post, or till attaining the age of 65 years, or until further orders, whichever is earliest, vide communication dated September 11, 2021.

## IBBI

### Amendments to CIRP Regulations

The IBBI amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) vide notification dated July 14, 2021 (second amendment) and September 30, 2021 (third amendment).

The second amendment enhances the discipline, transparency, and accountability in corporate insolvency proceedings by providing for the following:

(a) an IP conducting CIRP shall disclose all former names and registered office address(es) so changed in the two years preceding the commencement of insolvency along with the current name and registered office address of the CD, in all its communications and records.

(b) in addition to the registered valuers (RVs), the IRP/RP may appoint a professional, if he is of the opinion that the services of such professional are required and such services are not available with the CD. However, such appointments shall be made on an arm's length basis following an objective and transparent process. The invoice for fee shall be raised in the name of the professional and be paid into his bank account.

(c) the RP shall be required to file Form CIRP 8 on the electronic platform of the Board, intimating details of his opinion and determination in respect of avoidance transactions in respect of every CIRP ongoing or commencing on or after July 14, 2021. The IBBI also provided the format of CIRP 8 through a Circular.

The third amendment enhances the conduct, timelines, and value maximisation in a CIRP by providing for the following:

(a) to ensure the adherence to the timelines, it stipulates modifications that may be made in expression of interest (EoI), request for resolution plans (RFRP) and the resolution plan, to be restricted to once only.

(b) to promote 'value maximisation' objective of the Code and improve transparency, and sufficient freedom to choose an option for resolution, the use of challenge mechanism as an option to CoC to enable RAs to improve their plans has been provided.

### Amendments to Model Bye-Laws Regulations

The IBBI, vide notification dated July 22, 2021, amended the IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 (Model Bye-Laws Regulations) to provide that the Insolvency Professional Agencies (IPAs) shall promptly realise the monetary penalty imposed by its Disciplinary Committee (DC) and credit the same to the Fund constituted under section 222 of the Code.

### Amendments to Insolvency Professionals Regulations

The IBBI amended the IBBI (Insolvency Professionals) Regulations, 2016 vide notification dated July 22, 2021. The amendment allows individuals, among other requirements, with the following experience to apply for registration as an IP:

- (a) ten years in the field of Law, after receiving a Bachelor's degree in Law;
- (b) ten years in management, after receiving a Master's degree in Management or two-year full time Post Graduate Diploma in Management; or
- (c) fifteen years in management, after receiving a Bachelor's degree, from a university established or recognised by law or an institute approved by All India Council of Technical Education;

It also clarifies that an IP may, at any point of time, not have more than ten assignments as RP in a CIRP, of which not more than three shall have admitted

claims exceeding one thousand crore rupees each.

The amendment also provides clarity on the term 'net worth' as applicable, for seeking grant of recognitions as an Insolvency Professional Entity (IPE) along with the manner and timelines to be followed by the Board for expeditious processing of IPE applications.

### Amendments to Liquidation Regulations

Vide notification dated September 30, 2021 IBBI amended the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations) expanding the scope of mandatory consultation with stakeholders' consultation committee to cover all aspects related to sale of assets and appointment of professionals. It also provides for manner of selection of representatives of stakeholders in stakeholders' consultation committee. The amendment in the regulations further provide that the Liquidator shall not require payment of any non-refundable deposit or fee for participation in an auction, and the earnest money deposit shall not exceed 10% of the reserve price in an auction. To enhance the transparency and accountability, the Liquidator shall intimate the reasons for rejection of the highest bid to the highest bidder and report the same in the next progress report.

### Circulars

#### Filing of Form CIRP 8

Regulation 35A of the CIRP Regulations requires the RP to form an opinion on transactions covered under sections 43, 45, 50 and 66 by 75<sup>th</sup> day, make determination on such transactions by 115<sup>th</sup> day, and file an application before the Adjudicating Authority (AA) by 135<sup>th</sup> day of the insolvency commencement date. Sub-regulation (1B) of regulation 40B of the CIRP Regulations requires the RP to file Form CIRP 8 intimating details of his opinion and determination under regulation 35A, by 140<sup>th</sup> day of the insolvency commencement date. IBBI, vide a Circular dated July 20, 2021, directed that the Form CIRP 8 shall be filed on the Board's website, like other CIRP Forms.

#### Monetary Penalties imposed by IPAs

The DC of an IPA may impose monetary penalty on its professional members under clause 24(2)(d) of the Schedule to the Model Bye-Laws Regulations. To ensure the objectivity and uniformity, the IBBI issued a circular dated July 28, 2021 directing the IPAs to amend their Bye-laws to provide for the penalty structure that the DC may impose on professional members of the IPAs.

#### Auctions of Liquidation Assets

To improve the visibility for the liquidation assets being sold, expedite the process and lead to better realisations, the Board has provided an electronic platform on its website [www.ibbi.gov.in](http://www.ibbi.gov.in) for hosting public notices of auctions of liquidation assets. The IBBI Circular dated September 30, 2021 designates this platform for the purposes of clause (5) of paragraph 1 of Schedule 1 of the Liquidation Regulations. Liquidators were, therefore, directed to upload the public notice of every auction of any liquidation asset, with effect from October 1, 2021 on the website of the Board on the day of its publication in newspapers, through their designated login page.

### Guidelines

#### Amendment to the Guidelines for Technical Standards

IBBI amended the guidelines for Technical Standards for the Performance of Core Services and Other Services under the IBBI (Information Utilities) Regulations, 2017 on July 26, 2021. These guidelines provide for the usage of PAN or C-KYC in the registration process with the information utility (IU). It also provides framework for assigning unique identification number to a government department or any other agency that does not have PAN or an individual or a legal entity or a foreign entity that has not been issued any identity details. These guidelines also stipulate submission of supporting documents for the record of debt with further verification and authentication of financial information.

#### Amendment to the Online Delivery of Educational Course Guidelines

Vide notification dated September 3, 2021, the IBBI extended the IBBI (Online Delivery of Educational Course and Continuing Professional Education by Insolvency Professional Agencies and Registered Valuer Organisations) Guidelines, 2020 till December 31, 2021.

## Stock Exchanges

### Guidance notes for companies undergoing CIRP

In consultation with Securities and Exchange Board of India (SEBI), Bombay Stock Exchange (BSE) and NSE, vide guidance note dated July 9, 2021, obligated the IPs to submit the following disclosures in addition to those already prescribed under the SEBI (Listing Obligations and Disclosure Requirements) Regulations (LODR Regulations) to the stock exchanges:

- (a) Prior intimation of at least two working days regarding the date of hearing where NCLT would be considering the Resolution Plan.

(b) Disclosure of the approval of resolution plan to be made to the Exchange on oral pronouncement or otherwise of the Order on immediate basis and not later than 30 minutes.

(c) The RP shall inform through the Exchange platform any impact on the existing holders / investors of listed securities on areas such as status of listing, the value of holding of existing holders, write off/ cancellation/ extinguishment of existing equity shares/ preference shares/ debentures, etc. without any payment to such holders, where applicable.

(d) Companies/RPs are advised to be guided by the provisions of the LODR Regulations and advised to maintain the confidentiality of the resolution plan until details are not submitted on the Exchange platform.

## Orders

### Supreme Court

#### **Franklin Templeton Trustee Services Private Limited and another Vs. Amruta Garg and others etc. [Civil Appeal Nos. 498-501 of 2021 with other appeals]**

The Supreme Court (SC) held that home buyers are to be treated as creditors till the ownership rights in the property are not transferred to them, but they do not take the risks and are not entitled to benefit of profits or suffer losses, like the unit holders in the mutual funds. To equate the unit holders with the creditors will be unsound and incongruous.

#### **M/s. Orator Marketing Pvt. Ltd. Vs. M/s. Samtex Desinz Pvt. Ltd. [Civil Appeal No. 2231 of 2021]**

The SC held that where no interest is payable, the outstanding principal loan would qualify as a 'financial debt' in section 5(8) of Code. Thus, the lender of an interest free outstanding loan given for working capital requirements of the CD is eligible to initiate CIRP under the Code.

#### **Dena Bank (now Bank of Baroda) Vs. C. Shivakumar Reddy and Anr., [Civil Appeal No. 1650 of 2020]**

The SC held that (a) an application under section 7 of the Code would not be barred by limitation if there was an acknowledgement of the debt by the CD and from the date of such acknowledgement, the limitation period would get extended by a further period of three years; (b) Section 18 of the Limitation Act, 1963 cannot be construed with pedantic rigidity in relation to proceedings under the Code. An offer of One Time Settlement (OTS) of a claim, made within the period of limitation would constitute an acknowledgment of debt under section 18; (c) a judgment or decree for money or the issuance of a Certificate of Recovery in favour of the financial creditor (FC), would give rise to a fresh cause of action to initiate proceedings under section 7, if the dues of the CD under the judgment / decree / certificate of recovery or any part thereof remained unpaid.

#### **Kay Bouvet Engineering Ltd. Vs. Overseas Infrastructure Alliances (India) Private Limited [Civil Appeal No. 1137 of 2019]**

The SC observed that so long as a dispute truly exists in fact and is not spurious, hypothetical or illusory, the AA has no other option but to reject the section 9 application. It held that the AA had rightly rejected the application after finding that there existed a dispute. National Company Law Appellate Tribunal (NCLAT) has patently misinterpreted the factual as well as legal position and erred in reversing the order of the AA.

#### **Pratap Technocrats (P) Ltd. & Ors. Vs. Monitoring Committee of Reliance Infratel Limited & Anr., [Civil Appeal No. 676 of 2021]**

On the contention that treatment to operational creditor (OC) has not been fair and equitable, the SC held that the Code does not confer equity-based jurisdiction upon AA. The jurisdiction of AA with regard to the approval of a resolution plan under section 31 is limited to determining whether the requirements specified in section 30(2) have been fulfilled. The AA, owing its existence to the statute, must abide by the nature and extent of its jurisdiction as defined in the statute itself. The jurisdiction of the Appellate Authority under section 61(3), while considering an appeal against an order of the AA, is similarly structured.

#### **Anjali Rathi and Others Vs. Today Homes & Infrastructure Pvt. Ltd. and Others [SLP (C) No. 12150 of 2019]**

On plea of petitioners to attach the personal properties of the promoters of the CD, the SC observed that it would not be appropriate to issue a direction of that nature, while the resolution plan is still to be approved by the AA. Relying on its judgment in the matter of *P. Mohanraj Vs. Shah Bros. Sptat (P) Ltd.*, the SC further held that the moratorium under the Code is only in relation to the CD

and not in respect of the directors/management of the CD, against whom proceedings could continue. It clarified that the petitioners would not be prevented by the moratorium under section 14 of the Code from initiating proceedings against the promoters.

#### **Ebix Singapore Private Limited Vs. Committee of Creditors of Educomp Solutions Limited & Anr. [Civil Appeal No. 3224 of 2020 with other appeals]**

The SC held that once the resolution plan is approved by CoC and submitted to the AA after due compliance with the procedural requirements and timelines, the successful resolution applicant (SRA) cannot withdraw or modify the resolution plan. It reemphasised that the speed of resolution, as contemplated in the Code, is sacrosanct and the adjournments in the proceedings hamper the efficacy of the judicial process. It made some important findings and observations as under:

(a) Any judicial creation of a procedural or substantive remedy that is not envisaged by the statute would not only violate the principle of separation of powers, but also run the risk of altering the delicate coordination that is designed by the IBC framework and have grave implications on the outcome of the CIRP, the economy of the country and the lives of the workers and other allied parties who are statutorily bound by the impact of a resolution or liquidation of a CD.

(b) The element of privity becomes inapplicable once the AA confirms the resolution plan under section 31(1) and declares it to be binding on all stakeholders.

(c) The resolution plan, even prior to the approval of the AA, is binding *inter se* the CoC and the SRA. The resolution plan cannot be construed purely as a 'contract' governed by the Contract Act, in the period intervening its acceptance by the CoC and the approval of the AA. The ability of the resolution plan to bind those who have not consented to it, by the way a statutory procedure, indicates that it is not a typical contract.

(d) The remedies such as liquidated and unliquidated damages, restitution, novation and frustration, unless specifically provided by the Code, are not available to the SRA whose plan has been approved by the CoC and is awaiting the approval of the AA.

(e) Common law remedies of withdrawal or modification on account of frustration or force majeure are not applicable to CoC approved resolution plans.

(f) Importing principles of any other law or a statute like the Contract Act into the IBC regime would introduce unnecessary complexity into the working of the Code and may lead to protracted litigation on considerations that are alien to it.

(g) Withdrawal of the CIRP is allowed only if it upholds the interests of the CoC, is time-bound, and takes into consideration how the expenses relating to the insolvency process up to withdrawal shall be borne.

(h) The absence of any exit routes being stipulated under the statute for a SRA is indicative of the IBC's proscription of any attempts at withdrawal at its behest. The rule of *casus omissus* is an established rule of interpretation, which provides that an omission in a statute cannot be supplied by judicial construction.

(i) The framework, as it stands, only enables withdrawals from the CIRP by following the procedure detailed in section 12A of the IBC and regulation 30A of the CIRP Regulations and in the situations recognised in those provisions. Enabling withdrawals or modifications of the resolution plan at the behest of the SRA, once it has been submitted to the AA after due compliance with the procedural requirements and timelines, would create another tier of negotiations which will be wholly unregulated by the statute. Permitting such a course of action would either result in a downgraded resolution amount of the CD and/or a delayed liquidation with depreciated assets which frustrates the core aim of the Code.

(j) The NCLT and NCLAT should be sensitive to the effect of delays on the insolvency resolution process and be cognisant that adjournments hamper the efficacy of the judicial process. The NCLT and the NCLAT should endeavour, on a best effort basis, to strictly adhere to the timelines stipulated under the IBC and clear pending resolution plans forthwith. Judicial delay was one of the major reasons for the failure of the insolvency regime that was in effect prior to IBC. We cannot let the present insolvency regime meet the same fate.

#### **National Spot Exchange Limited Vs. Mr. Anil Kohli, RP for Dunar Foods Limited [Civil Appeal No. 6187 of 2019]**

The SC observed that under section 61(2) of the Code, NCLAT cannot condone the delay beyond 15 days. It held that delay in filing appeal beyond time stipulated in the Code, cannot be condoned through indirect recourse to Article 142 of the Constitution.



**K. N. Rajakumar Vs. V. Nagarajan & Ors. [Civil Appeal No. 1792 of 2021]**

The SC observed that one of the principal objects of the Code is providing for revival of the CD and to make it a going concern and every attempt has to be first made to revive the concern, with liquidation being the last resort. Further, by virtue of withdrawal of CIRP on settlement between the CD and FCs, the CD now is a going concern.

**In Re: Cognizance for Extension of Limitation [Miscellaneous Application No. 665 of 2021 in SMW(c) No. 3 of 2020]**

The SC in view of its order dated March 23, 2020 that provided for extension of limitation period w.e.f. March 15, 2020, issued the following directions-

(a) In computing the period of limitation for any suit, appeal, application or proceeding, the period from March 15, 2020 till October 2, 2021 shall stand excluded. Consequently, the balance period of limitation remaining as on March 15, 2020, if any, shall become available with effect from October 3, 2021.

(b) In cases where the limitation would have expired during the period between March 15, 2020 till October 2, 2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from October 3, 2021. In the event the actual balance period of limitation remaining, with effect from October 3, 2021, is greater than 90 days, that longer period shall apply.

(c) The period from March 15, 2020 till October 2, 2021 shall also stand excluded in computing the periods prescribed under sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

**Rajendra Narottamdas Sheth & Anr. Vs. Chandra Prakash Jain & Anr. [Civil Appeal No.4222 of 2020]**

The SC held that authorisation, having been granted by way of a power of attorney pursuant to a resolution passed by the bank's Board of Directors, does not impair the authority of such officer to file an application under section 7 of the Code and the same is maintainable. It also observed that the burden of prima facie proving occurrence of the default and that the application under section 7 is filed within the period of limitation, is entirely on the FC, and, the decision to admit an application is typically made on the basis of material furnished by the FC, but, the AA is not barred from examining the material placed on record by the CD to determine the period of limitation.

**High Courts****Ideal Surgicals Vs. National Company Law Tribunal and Ors. [WP (C) No. 8257 of 2021]**

The OC filed instant writ petition on the premise that the appeals and stay petitions are not being taken up by the NCLAT and if the resolution process is continued, the appeals before NCLAT will be rendered infructuous. The High Court (HC) of Kerala dismissed the writ petition holding that the interference by it under Article 226 of the Constitution will defeat the very objective of the Code.

**M/s. Kotak Mahindra Bank Ltd. Vs. K. Bharathi & Ors. [WP.No.12957 of 2021]**

The petitioner had sought direction to NCLT, Chennai to dispose of the application filed by it under section 60(5) of the Code. The Madras HC observed that it is for the NCLT to decide whether the matter before it ought to be decided or not, whether any injunction operates or impedes the progress of the matter before it and the parties cannot be asked to approach HC for it to hand-hold the NCLT and guide it through its proceedings. Further, the NCLT would do well to confine itself to its area of specialisation and deal with the matter in accordance with law without waiting for any advice or assistance from the HC which, in any event, is not obliged to extend.

**M/s. CFM Asset Reconstruction Pvt. Ltd Vs. Unison Hotels Private Limited and Ors. [IA No. 1 of 2021 in WP No. 22667 of 2021]**

Telangana HC ordered an interim suspension of the AA's order dated September 1, 2021 in the matter of *Viceroy Hotels Ltd.*, that rejected the resolution plan approved by CoC.

**National Company Law Appellate Tribunal****M/s. Orbit Electro Equipments Pvt. Ltd. & Anr. Vs. Mr. Kapil Dev Taneja & Anr. [CA (AT) (CH) (INS) No. 142 of 2021]**

NCLAT held that AA had exceeded its jurisdiction in remitting back the

approved resolution plan to CoC for fresh consideration as it cannot suo moto direct the reconsideration of an already approved resolution plan because after the approval of the resolution plan, the CoC becomes functus officio. It also clarified that 'under no circumstance on the failure of the approved resolution plan, CoC is empowered for fresh consideration'. and observed that the order of AA 'bristles with legal infirmities'. The matter was remitted back to AA for passing reasoned order 'de novo'.

**Digambar Anand Rao Pingle Vs. Shrikant Madanlal Zawar, Erstwhile RP of M/s. Pingle Builders Pvt. Ltd. & Ors. [CA (AT) (Ins) No. 43-43A of 2021]**

The ex-director/promoter of the CD filed this appeal against liquidation order passed by AA claiming that the CD was an MSME and that he could file a resolution plan. NCLAT observed that as the application for MSME certificate was made after commencement of CIRP, such unauthorised application, after the CIRP had started, could not have been made. It further observed that 'after CIRP was initiated former Promoter/ Director cannot suppress from IRP/RP and apply for MSME Certificate and tide over ineligibility under Section 29A'.

**Piramal Capital & Housing Finance Ltd. Vs. The Administrator, Dewan Housing Finance Corporation Ltd. & Anr. [CA(AT) (Ins) No. 467 of 2021]**

In view of the SC judgment in the *Ghanashyam Mishra* case, NCLAT substituted para (ii) of the AA's order as follows: 'All the dues including the statutory dues owed to the Central Government, any State Government or any local authority, if not part of the resolution plan, shall stand extinguished and no proceedings in respect of such dues for the period prior to the date the Adjudicating Authority was granting its approval under Section 31 could be continued'.

**Deputy Commissioner, CGST Kalol, Gujrat Vs. M/s Gopala Polyplast Ltd. [CA (AT) (Ins) No. 477 of 2021]**

The appellant contended that ₹ 1,18,336 admitted in the approved resolution plan was too insufficient considering its claim of ₹ 2,36,67,282/-. Relying upon the SC judgment in *Ghanashyam Mishra* case, NCLAT, while dismissing the appeal, held that 'the Resolution plan approved is binding on the Central Government, State Government, any local authority, Guarantors and other stakeholders. Sufficiency or insufficiency of the amount is matter of Commercial Decision of the Committee of Creditors'.

**Bank of Maharashtra Vs. Videocon Industries Ltd. & Ors. [CA (AT) (Ins) No. 503 with 505 of 2021]**

The appeal was filed against order of AA dated June 8, 2021 approving the resolution plan for 13 group companies of Videocon Group. Considering the contentions, inter-alia that (i) the dissenting FC was paid less than the liquidation value, (ii) the payment proposed is mostly in form of non-convertible debentures as against cash, (iii) there was breach of confidentiality clause with regard to liquidation value, and (iv) the resolution plan provided a haircut of almost 90-96%, the NCLAT stayed the order of AA and directed *status quo ante*.

**NTPC Limited Vs. Ram Ratan Modi, Liquidator of D C Industrial Plant Services Pvt. Ltd. [CA (AT) (Ins) No. 309 of 2021]**

During CIRP, the appellant filed the claim in Form F and list of creditors was published by the RP. Thereafter, when liquidation was ordered, appellant filed claim in Form G which was rejected by the Liquidator. The NCLAT observed that 'it was inappropriate on the part of the Liquidator to inform the Appellant in the e-mail dated 4<sup>th</sup> September, 2019 that because the corporate debtor had disputed the amount and the same did not reflect in the record of the corporate debtor, the claim filed by the Appellant was not admissible'. It was duty of the Liquidator to examine the claim as provided by Regulations and to come at 'best estimate' of the amount and give the benefit to the appellant. The Liquidator has avoided performing the duty as was required to be performed under the Code and the Regulations. Therefore, it directed the Liquidator to look into the documents and come to the 'best estimate' and give the benefit to the appellant.

**Ashique Ponnampambath Vs. The Federal Bank Limited [CA (AT) (CH) (Ins) No. 22 of 2021]**

The appeal was filed claiming that the application under section 7 was not maintainable because the loan transaction is based on an inadequately stamped Term Loan Agreement which is inadmissible in evidence. The NCLAT observed that in addition to the Term Loan Agreement, the FC relies on demand promissory note, hypothecation letter regarding deposit of title deed, a certified copy of the bank statement, and many other documents filed along with the application. Therefore, the debt and default are proved beyond doubt.

**C & C Construction Ltd. Vs. Power Grid Corporation of India Ltd. [CA (AT) (Ins) No. 781 of 2019 & other IAs]**

Relying on the SC judgment in *SBI Vs. Ramakrishnan*, the NCLAT held that the

bank guarantee issued by the bankers is the responsibility of the bankers and on invocation, the fund will go from the bank and not from the CD. However, if such bank guarantee is liquidated during moratorium, it can be restricted to the full value of the guarantee minus margin money provided by CD to the banker for taking that bank guarantee.

**Anoop Kumar Chhawchharia Vs. M/s. Emgreen Impex Limited & Anr. [CA (AT) (Ins) No. 350 of 2021]**

AA order regarding admission of CIRP of the CD was challenged inter alia on the ground that CD is a solvent company with turnover of ₹ 400 crore. The NCLAT upheld the order of AA and observed that the CD being a healthy company is not substantiated by its corresponding balance sheet as they have not filed the same. Further, this cannot be a sole basis to substantiate that it does not require to go to CIRP. High turnover with positive net worth may reflect good fund flow but it does not substantiate a good cash flow.

**Ranjit Kapoor Vs. Asset Reconstruction Company (India) Ltd. (ARCIL) & Anr. [CA (AT) (Ins) No. 542 of 2021]**

Promoter of the CD filed appeal against the order of AA that directed the RP for taking appropriate steps for inviting fresh EoL. The NCLAT observed that the appellant is not asking for liquidation order due to delay and is rather himself wanting to file resolution plan and is interested in resolution of the CD. Therefore, it remitted the matter to the AA to consider if the extension of CIRP period was to be ordered and take a decision with regard to section 12 of IBC. However, it declined to decide whether the appellant is eligible to file a resolution plan.

**Asset Reconstruction Company (India) Limited Vs. Mohammadiya Educational Society [CA (AT) (Ins) No. 495 of 2019]**

The NCLAT observed that the cooperative society is not a company or limited liability partnership (LLP) and, thus, application under section 7 against a cooperative society is not maintainable and that the Code would apply to any other person incorporated with limited liability under any law for the time being in force after they are specified by the Central Government under section 2(d) of the Code.

**Vipul Dilip Shah & Ors. Vs. Parinee Developers Pvt. Ltd. through RP Subhash Chandra Modi & Anr. [CA (AT) (Ins) No. 451 of 2021]**

A settlement deed was drawn between parties post admission of the application by the AA and RP filed the withdrawal application under section 12A. The AA dismissed the application on the grounds inter alia that the CoC has not complied with the provisions of the Code as well as the CIRP Regulations. The NCLAT set aside the order of AA and held that none of the conditions of settlement was against the provisions of Code and Regulations. CoC has taken a commercial decision by voting share of 99.9%. It is not appropriate to dismiss the application on the ground that the CoC has not taken steps in a time bound manner.

**BRS Ventures Investment Ltd. Vs. Registrar of Companies, Guwahati [CA(AT)(Ins) No. 1028 & 1042 of 2020]**

RA filed an application to increase the authorised share capital without paying any fees/stamp duty to the Registrar of Companies. The AA, while dismissing the application held that it does not see any reason that when a new company takes over CD and starts with a clean slate and take certain management decision then everything cannot be exempted at a later stage.

**Abhijit Guhathakurta RP of Videocon Group Companies [CA (AT) (Ins) No. 569 of 2021]**

An appeal was filed by the RP against the order of AA praying that certain remarks were passed against him in the order. The NCLAT observed that AA in its order has requested/suggested to the IBB and the Central Government to examine if required, to frame appropriate Regulations, Rules and or Guidelines with respect to - (i) the liquidation value and market value be kept confidential and information to be given to CoC only at the time of finalisation of the resolution plan; and (ii) to fix the maximum number of authorised representative of the applicant and held that AA has not passed any remarks against the RP.

**M/s. Unicon Buildtech Vs. Aishwarya Mohan Gahrana RP, Durha Vitrak Private Limited [CA (AT) (Ins) Nos. 517 of 2021]**

The appellant claimed that the CoC and the RP acted arbitrarily to suit the vested interests of creditors and in defiance of the objectives of the Code and rejected the resolution plan of the appellant. The NCLAT while referring to the SC judgment in *ArcelorMittal* case observed that there is no vested right of the RA to have its plan approved.

**Ankit Goyat Vs. Sunita Agarwal & Anr. [CA (AT) (Ins) No. 1020 of 2019]**

The NCLAT set aside the order of AA and held that the facts and circumstances

peculiar to the case indicate that the allottee sought benefit from a 'lucrative agreement' as he is 'securing' his money by way of the said agreement which gives him a lien over the flat. In the agreement, the home buyer was given a choice to retain or to sell the earmarked unit. In a regular Builder Buyer Agreement, the home buyer does not have this option of exercising his choice of taking or not taking the possession of the subject unit and if the buyer does not accept the possession, the earnest money deposit is forfeited. In this case, the buyer gets his money plus 25% assured return even if he chooses not to retain the apartment. This Agreement is only a camouflage of actually financing the construction of the flat. It held that the home buyer sought to benefit from this 'lucrative agreement' and is squarely covered by the ratio of the SC judgment in *Pioneer Urban Land and Infrastructure Ltd.* Referring to its decision in *Binani Industries Limited* case, the NCLAT observed that the Code is not a recovery proceeding.

**Mr. Parag Sheth IRP of Digjam Ltd. Vs. Mr. Sunil Kumar Agarwal RP for M/s. Digjam Ltd. & Ors. [CA (AT) (Ins) No. 1055 of 2020]**

The NCLAT held that section 20 (2)(b) of the Code authorises the IRP to enter into such contracts which were entered into before the commencement of CIRP. In this case, there was a new contract of insurance after the commencement of CIRP. The IRP, being fully aware that he cannot take such decision, had circulated the quotations amongst the members of CoC along with comparison of their premium amount. The above provision does not authorise the IRP to renew the insurance policy at a higher premium rate without the approval of CoC. Although, there is no limitation prescribed for filing the application for IRP's fees, there was no ground to interfere as the application was filed post approval of resolution plan.

**Mr. D.K. Mohanty Vs. M/s. Jai Balaji Industries & Anr. [CA (AT) (Ins) No. 888 of 2020]**

The NCLAT held that upon restoration of appeal under section 37 of the Arbitration & Conciliation Act, 1996, the appeal relates back to the original date of its filing. Thus, it can be safely construed that there was a dispute in existence prior to the issuance of the demand notice during arbitration proceedings. Accordingly, it set aside the admission order under section 9 of the Code.

**Ranjeet Singh Vs. M/s. Karan Motors Private Limited [CA (AT) (Ins) No. 719 of 2020]**

The AA rejected the applications of employees of CD for the reason that the admitted principal amount has already been paid by the CD, thus there is no occurrence of default. In absence of any claim between the parties, the applicants cannot claim interest at the rate of 18% through CIRP. Relying on the SC judgment in the case of *Pratap Technocrats (P) Ltd. & Ors. Vs. Monitoring Committee of Reliance Infratel Limited & Anr.*, the NCLAT observed that under Code, where there is no equity jurisdiction, both the NCLT and NCLAT are bound by the provisions of the Code while adjudicating the matters. If for delayed payment, the applicant(s) claim any interest, it will be open to them to move before a competent court for recovery, but initiation of CIRP is not the answer.

**M/s. Mohan Gems & Jewels Private Limited Vs. Vijay Verma & Anr., [CA (AT) (Ins) No. 849 of 2020]**

The NCLAT observed that from regulation 39C of the CIRP Regulations read with regulations 32, 32A and 45(3) of the Liquidation Regulations, it is clear that under regulation 39C, the CoC may recommend that the Liquidator may first explore sale of the CD as a going concern under clause (e) of regulation 32 or sale of the business of the CD under clause (f) of regulation 32. Regulation 32A provides that if the Liquidator is of the opinion that sale under clause (e) or (f) of regulation 32 shall maximise the value of the CD, he shall endeavour to sell under the said clauses. Regulation 32A(2) provides that for the purpose of sale under sub-regulation (1), the group of assets and liabilities of the CD, as identified by the CoC under regulation 32C(2) of the CIRP Regulations, shall be sold as a going concern. It held that:

a) The Code does not prevent the closure of liquidation process where the CD is sold as a going concern pursuant to regulation 32(e) following a closure report filed under regulation 45(3)(a) of the Liquidation Regulations. It would be contradictory to observe that closure of liquidation proceedings cannot be done and only dissolution is provided for under the Code. This would demolish the very spirit and objective of the Code. It can be safely construed that before the completion of 270 days, if no decision under regulation 39C of the CIRP Regulations is taken by the CoC, only regulation 32A of the Liquidation Regulations is to be followed.

b) Keeping in view the scope and spirit of the Code, read with section 54 of the Code, regulation 39C of CIRP Regulations, regulations 32(e) and (f), 32A and 45(3) of the Liquidation Regulations, the sale of the CD was carried out by the

Liquidator in accordance with the Regulations and AA, has, apart from travelling beyond its jurisdiction in making observations regarding the power and functions of framing of Regulations by IBBI, has also not appreciated the ratio laid down by the SC in a catena of judgements that the Liquidation of the CD is to be seen only as a last resort and every attempt should be made to revive the CD and to continue it as a 'going concern'.

**Maitreya Doshi Vs. Anand Rathi Global Finance Ltd. & Anr. [CA (AT) (Ins) No. 191 of 2021]**

Upholding the AA's order of CIRP against co-borrowers, the NCLAT observed that where co-borrowers jointly applied and received loan in one of their accounts, who executed documents jointly with promise to pay, the liability invoked by FC is on the basis of CD being co-borrower and not merely pledgor. A co-borrower is as much a borrower like the other entity and is fully liable to repay the loan and it is immaterial as to in which account co-borrowers received the money.

**M/s. Nitin Chandrakant Naik & Anr. Vs. Sanidhya Industries LLP & Ors. [CA (AT) (Ins) No. 257 of 2020]**

The issue, whether CIRP against CD could be treated as resolution process against personal guarantors, so as to transfer personal properties of the personal guarantors, was considered by the NCLAT which observed that after coming into force of Part-III, one would have to proceed as per Chapter III of Part III of Code. It held that there would be no need of Part-III, if properties of the PGs could be simply included in the resolution plan for the CD and disposed of directing them to sign the transfer deed. In that case, the resolution plan would be a blank cheque given to proceed even with regard to any other property of the PGs, without resorting to appropriate proceedings against the PGs of CD which is an irregular exercise of powers.

**M/s. Ergomaxx (India) Private Limited Vs. The Registrar, National Company Law Tribunal, Bengaluru Bench & Ors. [CA (AT) (CH) (INS) No. 133 of 2021]**

AA's order of rejection of section 9 application was challenged in this appeal on the ground that the order was not communicated to the Appellant through any of the mode prescribed under the NCLT Rules and besides this, the AA did not list the matter for pronouncement of order. The NCLAT held that the impugned order was never pronounced by the AA, there being a significant omission in regard to the pronouncement of an order by a 'Tribunal' and the pronouncement being an essential judicial act and hence it is declared nullity in the eye of law, apart from the crystalline fact is that the same was not listed for pronouncement and accordingly, it set aside the impugned order and directed AA to restore the main petition and to hear the matter afresh. It observed that pronouncement of an order is not an empty ritualistic formality. If a particular act is to be performed in a particular manner, then it has to be performed only in that way and not otherwise. Indeed, a procedural wrangle cannot be allowed to be shaken or shackled with. Judicial function of a 'Tribunal' is to be transparent and per contra, it is not to be conducted in an 'opaque' manner.

**Sai Peace and Prosperity Apartment Buyers Association Vs. ASK Investment Managers P Ltd & Ors. [CA (AT) (Ins) No. 252 of 2020]**

The issue, whether participation of financial institution in the management of the CD on the strength of an investor agreement, would render them related parties in terms of section 5(24)(m) and 5(24)(i) of the Code was considered in this appeal. The NCLAT, while allowing the appeal, observed that 2<sup>nd</sup> proviso to section 21(2) of the Code is not applicable in the present case and does not ensure the benefit to Respondent who is an insider of the CD having substantial interest in the ownership of the CD, and thus, is a related party and is not entitled to participate in the CoC.

**Mr. Jayesh N. Sanghrajka, Erstwhile R.P. of Ariisto Developers Pvt. Ltd. Vs. The Monitoring Agency nominated by the Committee of Creditors of Ariisto Developers Pvt. Ltd. [CA (AT) (Ins) No. 392 of 2021]**

The NCLAT held that success fees charged by a RP is more in the nature of contingency and speculative, and it is not part of the provisions of the Code and the Regulations therefore, the same is not chargeable. It observed that if the RP seeks to have success fee at the initial stage of CIRP, it would interfere with independence of RP which can be at the cost of CD. If success fee is claimed when the resolution plan is going through or after the resolution plan is approved, it would be in the nature of gift or reward. It is contrary to IBBI's Circular dated January 16, 2018. The fee has to be related to acts performed or to be performed for furtherance of the CIRP and for dues or expenses actually incurred. The role of the RP has to be like a dispassionate person concerned with performance of his duties under the Code for reasonable fees and it cannot be result oriented.

**In the matter of Mr. Sundaresh Bhat Liquidator of ABG Shipyard Limited [CA (AT) (Ins) No. 398 of 2021]**

The NCLAT observed that the laudable object with which clause 12 in Schedule I of the Liquidation Regulations was substituted is defeated by issuing circular dated August 26, 2019. When in an auction somebody has given a higher bid, if instead of 15 days, the person gets a breathing time of 90 days to make a payment, no other person gets affected. The amended clause 12 of Schedule I is an open ended provision relating to procedural law which in no way states that it will not apply to pending liquidation processes on the date of amendment. It must be held to be applicable to liquidation processes, which are pending, and the provision can be applied considering the stage of the process, irrespective of the date whether the liquidation process started before July 25, 2019 or on or after July 25, 2019 when clause 12 of Schedule I of Liquidation Regulations was substituted. This is not to say that sales already cancelled before July 25, 2019 for default of payment under earlier existing clause 12 can be reopened. Liquidators can rely on the amendment at the time of issue of Auction Notice, irrespective of date of liquidation order of the AA. The NCLAT observed that: *'The Circular dated August 26, 2019, we hold is not legally enforceable to interpret applicability. Such Circular cannot be in the nature of substituting existing Regulation in the name of guidelines. The guidelines which are inconsistent with the subordinate legislation would not be enforceable. If provision is clear, external aid, that too inconsistent, cannot be applied. The provision has to be enforced by Tribunal as it is'. It further observed that: 'Power of Board under Section 196(1)(p) or (t) to issue guidelines cannot be expanded to interpreting provisions made. That is job of Courts to interpret and apply law'.*

**Mr. Keshav Agrawal Vs. Abhijit Guhathakurta, RP of Videocon Industries Ltd. & Ors. [CA (AT) (Ins) No. 610 of 2021]**

A shareholder of CD filed appeal on the ground that the AA has, while approving the resolution plan, not ensured compliance of the provisions relating to reduction of share capital under section 66 of the Companies Act, 2013, NCLT Rules as well as the SEBI Regulations. Relying upon the SC judgment in *Jaypee Kensington Boulevard Apartments Welfare Association and Ors.*, the NCLAT observed that as per explanation to section 30(2)(e) of the Code, if any approval of shareholders is required for implementation of actions under the approved resolution plan, such approval shall be deemed to have been given. In the scheme of the Code, only the CoC is entrusted with the task of dealing with and approving the plan of insolvency resolution; and the shareholders of CD, who is already reeling under debts, have not been provided any participation in the CIRP.

**Deepak Parasuraman & Anr. Vs. SriPriya Kumar & Anr. [CA (AT) (Ins) No. 349 of 2020]**

Prior to insolvency commencement date (ICD), CD entered into two agreements with Appellant No. 2, one of which included arranging for Long Term and Working Capital Debt for the CD on payment of commission. Pursuant to this, ₹ 65 lakh as commission was received by the Appellant No. 2 from the CD in three tranches. On CIRP being admitted against the CD, RP filed application before the AA under sections 43 and 66 of the Code. AA held that the impugned transfer of the funds is for fraudulent purpose. The NCLAT upheld the order of AA on the findings that office of Appellant No. 2 is located at the residence of promoter and director of CD, and both shared a common interest in another company. Further, no invoice was raised by Appellant No. 2 on the CD for such payment and no service tax or TDS was deducted by the CD for such payment.

**Telangana State Trade Promotion Corporation Vs. A.P. Gems & Jewellery Park Private Limited & Anr. [CA (AT)(CH) (Ins.) No.54 of 2021]**

The NCLAT upheld the decision of AA that the appellant having authority to nominate directors in the CD, having control in the management of CD, can be treated as related party as the nominee directors have a vital influence in regard to the working of the CD.

**R. Velu, Vs. Invent Assets Securitisation & Reconstruction Pvt Ltd. [CA (AT) (CH) (INS) No. 38 of 2021]**

AA rejected the application filed by the RP praying for liquidation order owing to non-implementation of the resolution plan by the RA and completion of 330 days on the ground that it cannot recall its order of approval of the resolution plan and it has become functus officio post approval of the resolution plan. The NCLAT held that 330 days have expired and upon non-implementation of the plan by the RA, the AA ought to have passed the order of liquidation as the RP rightly moved the application under section 60(5). The NCLAT while setting aside the order of AA, directed it to pass liquidation order under the Code.

**Dinesh Gupta Vs. Vikram Bajaj, Liquidator M/s Best Foods Ltd. [CA (AT) (Ins) No.276 of 2021]**

Suspended director of the CD filed appeal against liquidation order, wherein the NCLAT observed that a resolution plan is not a recovery / sale / auction / liquidation. Through a resolution plan no individual is purchasing or selling the CD. The NCLAT while dismissing the appeal directed the Liquidator to explore the possibility of selling the company/business as a going concern, in order to save the livelihood of workers of the CD.

**National Company Law Tribunal****In the matter of C. Ramasubramaniam (Liquidator) M/s. Aqua Designs India Pvt. Ltd. [CA/342/CAA/2020 in CP/1022/IB/2018]**

An application was filed by the Liquidator under section 230 of the Companies Act, 2013 for approval of scheme. AA held that *'the Liquidator ought to do preliminary investigation of the scheme received by him before filing the application. Unless the person funding the scheme and the person who is willing to invest in the company are verified and only on being satisfied, the same ought to have been filed before this Adjudicating Authority for approval'*. It observed that this case is an eye opener for policy makers, regulatory body and academicians.

**Dinesh Sharma Vs. Peerless Fabrikernce Ltd. [I.A. 2458/2020, I.A. 2381/2020, M.A. 3355/2019, M.A. 351/2020 In C.P.(IB)-506(MB)/2018]**

AA observed that the conduct of the RP is sub-optimal in carrying out the CIRP and proceedings associated with it.

**State Bank of India Vs. Mathur Sabapathy Viswanathan [MA/80(CHE)/2021 in IBA/578/2019]**

July 9 Order: AA, on the application of CoC for replacement of RP on the ground of operational need, observed that the banks are keen on bringing their ex-employee as the RP or Liquidator, in most of the cases. AA suggested for placing this before IBBI to consider stricter and better regulations to run the CIRP.

July 15 Order: AA observed that it cannot be a rubber stamp to admit the decision of the CoC in the name of 'collective commercial wisdom'. Every decision needs to be as per the Rules and Regulations and spirit of the Code.

**Alpha Alternative Holdings Pvt. Ltd. & Anr. Vs. Union Bank of India & Ors. [IA/329(AHM)2021 in CP(IB) 497 of 2019]**

AA observed that the plan has not been rejected by the CoC on the findings that it is not commercially viable but it has been rejected on technical grounds. Relying on SC judgement in *CoC of Essar Steel India Limited Vs. Satish Kr. Gupta & Ors.* it directed the RP and the CoC to call the applicant and allow him to re-submit the resolution plan and to consider if the plan is commercially viable.

**Ram Niwas & Sons. Vs. M/s. Palm Developers Pvt. Ltd. [IA. 1742/ND/2021 in Company Petition No. (IB)-894(ND)/2019]**

AA, on an application filed by IBBI, observed that the IRP has neither conducted any meeting of CoC despite clear direction and vacation of stay on functioning of CoC, nor taken concrete steps for carrying forward the CIRP. A period of 309 days have elapsed against the statutory initial timeline of 180 days. It held that - *'this a case of abuse of the process of the IBC/Tribunal and in order to protect the interest of the Corporate Debtor and its stakeholders, and for furtherance of the CIR Process, it has become inevitable to grant the prayer of IBBI for replacement of the present IRP'*. AA asked the IRP to show cause as to why contempt proceedings should not be initiated against him.

**Bank of Baroda Vs. Varia Engineering Work Ltd. [IA/467(AHM)2021 in CP(IB)/149(AHM)2017]**

On an application filed by the Liquidator seeking direction to the Central Bureau of Investigation, AA observed that 'as per section 233 of the IBC, the liquidator is protected against any coercive action provided his act during CIRP is a bona fide'. The AA further clarified that IBBI is the only authority to look into and inquire into any allegation against the Liquidator when he acted during the discharge of his duties as the Liquidator.

**Sri Supriyo Kumar Chaudhuri, Liquidator of JVL Agro Industries Ltd. Vs. State Bank of India, Sarg & Ors. [IA No.19/2021, IVN. P. 02/ALD/2020 In CP No.(IB) 223/ALD/2019]**

AA, while considering the clarification sought by the Liquidator on the distribution of liquid assets, observed that the Liquidator can commence with the distribution once the list of stakeholders and asset memorandum have been filed with the AA. It further observed that *'since the corporate debtor in liquidation is not a going concern and assets which are to be distributed are in the form of liquid assets and are non saleable'*, the Code does not bar such

distribution. Accordingly, it allowed the distribution to the stakeholders as per waterfall mechanism out of the accumulated cash profits, less any applicable withholding tax.

**M/s. Advance Cargo Movers (India) Private Limited Vs. M/s. SBS Transpole Logistics Private Limited [I.A. 2084/ND/2021 in Company Petition No. (IB)-1373(ND)/2019]**

AA noted that the Liquidator has not informed the shareholders that the representative shall be unanimously nominated by all the shareholders or the representative shall be decided on the basis of majority of shareholding in number or value. Therefore, the nomination of applicant cannot be rejected by the Liquidator on the ground that said nomination was not made unanimously by all shareholders. It observed that regulation 31A(3) of Liquidation Regulations is silent on both *'the criteria as well as the process of nomination'* of a representative and advised IBBI to notify clear guidelines regarding *'criteria and process of nomination of Representatives of Stakeholders'* to avoid any ambiguity in future.

**Central Bank of India Vs. KSM Spinning Mills Limited [IA Nos. 249/2020, 659/2020, 667/2020, 707/2020, 265/2020, 266/2020, 462/2020, 466/2020, 817/2020 & 816/2020 in CP (IB) No. 250/Chd/Pb/2018]**

Applications raising allegations against the RP were filed by the suspended directors of the CD for his removal. The AA noted that a resolution plan was approved by CoC on November 13, 2020 and observed that as the CIRP has reached its finality and its approval is pending with AA, the role of RP has come to an end, and no further action is required to be taken by RP, unless the resolution plan is rejected by AA. It also observed that *'when allegations of mala fides or corruption or professional misconduct or any other sort are alleged against a RP, the same are to be adjudicated by the IBBI and basing on the orders passed by the IBBI, appropriate action would be taken by this Adjudicating Authority'*.

**BLS Polymers Limited Vs. M/s RMS Power Solutions Private Limited [Company Petition No. IB-340(ND)/2021]**

While deciding the applicability of notification dated March 24, 2020 by which the threshold limit for default was increased from ₹ 1 lakh to ₹ 1 crore, the AA observed that, once the default has occurred prior to the issuance of notification dated March 24, 2020 and demand notice was also delivered prior to that notification, the enhancement of the threshold limit is not applicable. Even in the matter where the default has occurred prior to the issuance of said notification and no demand notice was delivered prior to that notification, the same will not be applicable.

**Onemax Yarn Merchants Private Limited Vs. Nandlal Kamal Kishore Vyapaar Private Limited [IA No.529/KB/2021 in CP (IB) No.1568/KB/2019]**

On an application for exclusion of time filed by RP, AA observed that the discretion provided to it to enlarge the time for completion of CIRP is to be used sparingly and judiciously in cases where the CD is on the verge of achieving a resolution plan and it is in the interest of all stakeholders to put back CD on its feet instead of being sent into liquidation. AA dismissed the application observing that the ground adduced by the RP in the present application borders ludicrousness and the utter lack of seriousness on the part of the RP in discharging his duties under the Code is appalling.

**Milan Sanyasi Vs. Rolta BI & Big Data Analytics Pvt. Ltd. [I.A. No. 1197/2021 in C.P.No. 1370/I&BP/NCLT/MAH/2020]**

Once the CIRP is initiated, it is no longer the proceedings only between the applicant/ creditor or the CD but is envisaged to be a proceeding invoking all creditors and debtors. The intent of the Code, is to discourage individual action for enforcement or settlement to the exclusion of the general benefit to all the creditors. The proceedings under the Code is the collective proceedings in rem.

**Insta Capital Private Limited Vs. Ketan Vinod Kumar Shah [CP (IB)/1365/MB-IV/2020]**

The issue for consideration was whether a FC can initiate CIRP against the PG in the absence of any resolution process/liquidation process against the CD. AA held that an application for insolvency resolution of the PG is not maintainable unless that CIRP/liquidation is continuing against the CD. Further, filing of application seeking resolution of PG without the CD undergoing CIRP, would tantamount to vesting of jurisdiction on two course; one NCLT and another the DRT.

**In the matter of LV Shyam Sundar (RP) M/s. Ultra Tile Pvt. Ltd. IA/558(CHE)/2021 in IBA/1263/2019**

AA observed that CoC has utter disregard to the provisions of the Code and the IBBI Regulations and said: *'It is very unfortunate in the present case, to see that*

the sole member of the CoC, in the first instance without exploring the possibility of the insolvency resolution of the CD has directly pushed the CD into liquidation and the said act is being defended on the ground that the CoC has used their 'commercial wisdom' in order to arrive at such a conclusion'.

**In the matter of M/s. Siva Industries and Holdings Limited [MA/43/CHE/2021 & IA/647/IB/2020 & IA/586/CHE/2021 in IBA/453/2019]**

AA observed that it is required to be vigilant in considering the settlement plan of promoter of CD under section 12A and is required to permit only unprejudiced settlement plan to succeed. There is always a system of constant checks and balances where there must not be a capricious or arbitrary power given in the hands of CoC to accept or reject settlements. Once the CIRP is triggered in relation to a CD, the same is an order *in rem* and not *in personam* and that whether the CD is required to be wriggled out of the CIRP is to be decided by the AA by exercising its judicial wisdom and cannot be carried away by the commercial wisdom of CoC.

**State Bank of India Vs. Tantia Constructions Limited [IA No. 1840-KB-2019 in CP (IB) No. 148/KB/2018]**

On an application seeking inclusion of a claim, AA observed that there was a gross error of judgment on the part of the RP in not allowing the claim of the applicant bank when it was left remediless despite submitting claim and the same RP had acknowledged the liability in the books of accounts of the CD while functioning as RP. Therefore, it does not stand to reason as to how this claim could not be included with the dues payable to the OCs. It observed that: *'We cannot conscientiously shut the doors of justice on a litigant who has diligently pursued his remedies under the law, and who is now being rendered remediless only on account of the approval of the Resolution plan. There cannot be a situation in law where a litigant is left remediless. The Hon'ble Supreme Court's judgment Ghanashyam Mishra and Sons (P) Ltd. v. Edelweiss Asset Reconstruction Co. Ltd. can only apply to a situation where a litigant has not filed his claim or agitated his grievances in a manner known to law. It would be a travesty of justice to apply the ratio of that judgment to the facts of the present case and leave the present applicant battered, bruised and none the wiser as to what went wrong in his pursuit of justice. The Resolution Professional's obduracy in denying the applicant's claim while at the same time admitting the liability in the capacity of Resolution Professional in the books of accounts, is completely inexplicable. If accounts were subject to verification and reconciliation, then this contingency should have been provided for, especially when the RP was a chartered accountant himself'.*

**In the matter of Viceroy Hotels Ltd., [IA No. 281/2019 in CP No. IB/219/7/HDB/2017]**

AA while rejecting the resolution plan approved by CoC observed that the entire CoC and RP have bulldozed the entire resolution process to favour one RA who is apparently not eligible to submit the resolution plan under the Code. (Telangana High Court has stayed this order)

**In the matter of Wadhwa Buildcon LLP [I.A. 1450/2021 in I.A. 1035/2021 in C.P. 2946/I&B/MB/2019]**

On the issue, whether the landowners can be treated as homebuyers and FC of the CD in a joint venture, AA observed that as per the provisions of the Real Estate (Regulation and Development) Act, 2016 (RERA Act), the landowners are mandatorily classified as promoters and not as 'allottees' in a real estate project. RERA Act has distinguished and defined 'allottee' and 'promoters' very differently and they both cannot be treated as the same. It was held that landowners do not satisfy any of these prerequisites of section 5(8)(f) of the Code as under the Development Agreement, no amount was raised by the CD and no amount was ever disbursed against the consideration of 'time value of money'. AA directed the RP to reconstitute CoC.

**Nitin Jain, Liquidator of PSL Ltd. Vs. Lucky Holdings Pvt. Ltd., [IA/391(AHM)2021 in CP (IB) 37 of 2017]**

AA allowed sale of CD as a going concern in liquidation. The successful auction bidder was granted the reliefs and concessions on the parallel line of an approved resolution plan, for the issues in relation to or arising out of liquidation proceedings of a CD. It observed that there is necessity that legislature should provide necessary framework for granting reliefs and concessions in specific manner in case of sale of CD as a going concern or its businesses as a going concern under liquidation process.

**In the matter of JC World Hospitality Private Limited [Interlocutory Application No. 3857/ND/2021 in Insolvency Application No. 256-2019]**

AA while allowing the application for exclusion of time in the larger interests of homebuyers reiterated that the primary intent of the Code is resolution and not liquidation. AA warned the RP and CoC about their conduct of receiving and acting on resolution plans beyond 330 days against the permission of law.

**IBBI**

**Disciplinary Order**

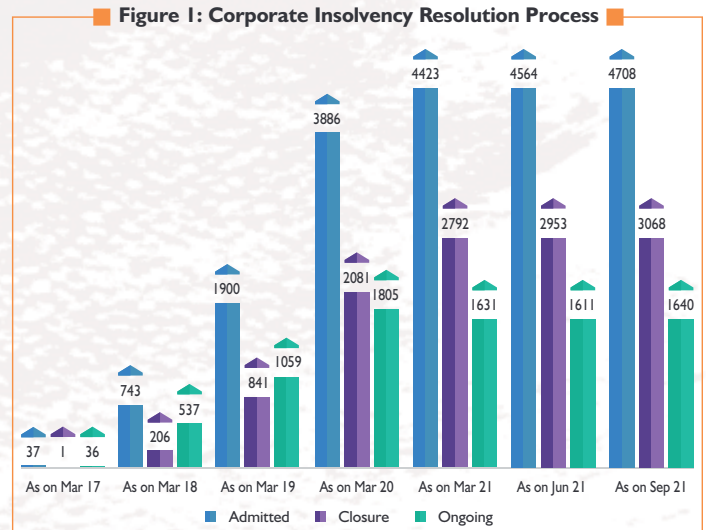
The DC has passed 6 orders in the present quarter against the IPs namely Mr. Anupam Tiwari, Mr. Prabhjit Singh Soni, Mr. Manish Kumar Gupta, Ms. Kumudini Paranjape, Ms. Charu Sandeep Desai and Mr. Pramod Kumar Sharma with a variety of directions for contraventions of the provisions of law. The contraventions included: (a) an IP abdicating his authority in favour of the CoC; (b) an IP raising invoice in the name of her Firm; (c) inclusion of legal fees of CoC in CIRP cost by IP; and (d) payment of success or recovery based fee to process advisor by IP; etc. The DC has disposed of 74 show cause notices issued against IPs till September, 2021.

**Corporate Processes**

The data provided in this section regarding corporate processes is provisional, as it is getting revised on a continuous basis depending on the flow of updated information as received from IPs or the information in respect of process changes. For example, a process may ultimately yield an order for liquidation even after approval of resolution plan or may ultimately yield resolution plan even after an order for liquidation.

**Insolvency Resolution**

The provisions relating to CIRP came into force on December 1, 2016. Since then, a total of 4708 CIRPs have commenced by the end of September, 2021, as presented in Figure 1. Of these, 3068 have been closed. Of the CIRPs closed, 701 have been closed on appeal or review or settled; 527 have been withdrawn; and 421 have ended in approval of resolution plans (Figure 2). Thus, CIRPs being closed as withdrawn or resolved constitute 1649 cases against 1419 cases, which have ended in orders for liquidation. Sectoral distribution of CDs under CIRP is presented in Figures 3-6.



These CIRPs are in respect of 4593 CDs. Source: Compilation from website of the NCLT and filings by Insolvency Professionals.

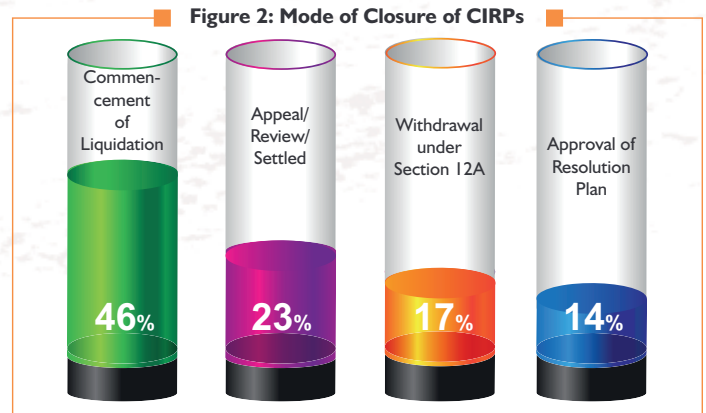


Figure 3: Sectoral Distribution of CIRPs: Admission

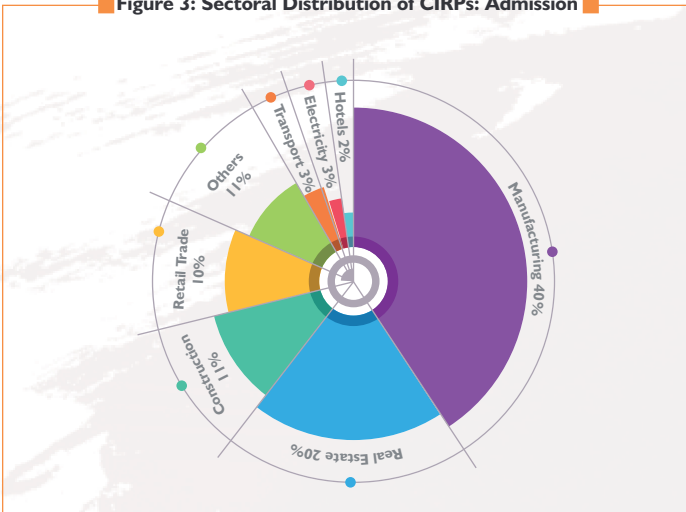


Figure 4: Sectoral Distribution of CIRPs: Appeal/Review/Settled/Withdrawn

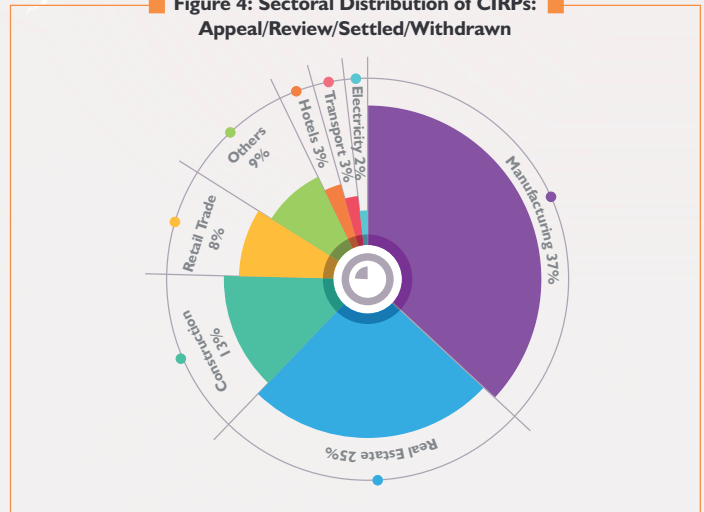


Figure 5: Sectoral Distribution of CIRPs: Resolved

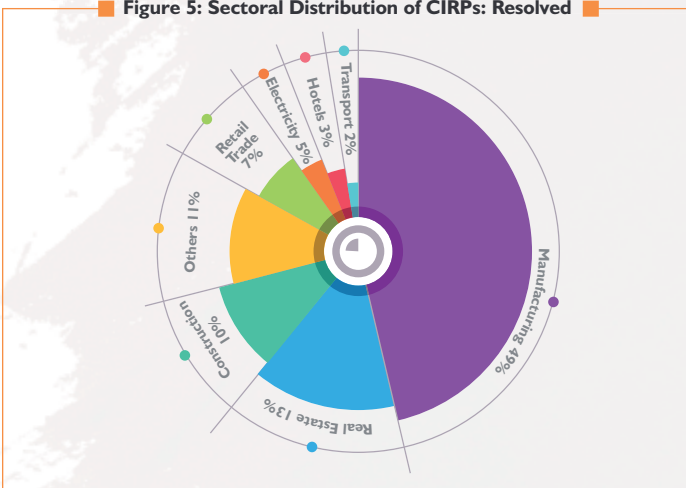
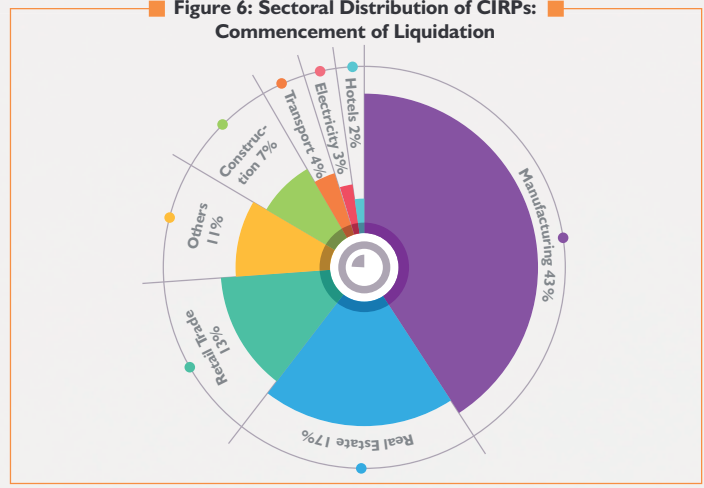


Figure 6: Sectoral Distribution of CIRPs: Commencement of Liquidation



The distribution of stakeholder-wise initiation of CIRPs is presented in Figure 7. OCs triggered 50.91% of the CIRPs, followed by about 42.88% by FCs and remaining were initiated by the CDs. However, about 80% of CIRPs having an underlying default of less than ₹ 1 crore were initiated on applications by OCs while about 80% of CIRPs having an underlying default of more than ₹ 10 crore were initiated on applications by FCs. The share of CIRPs initiated by CDs is declining over time. They usually initiated CIRPs with very high underlying defaults.

The outcome of CIRPs, initiated stakeholder-wise, as on September 30, 2021 is presented in Figures 8-10. Of the closed, OC initiated CIRPs, about 54% of CIRPs initiated by OCs were closed on appeal, review or withdrawal. Such closures accounted for about 71% of all closures by appeal, review or withdrawal.

Figure 7: Stakeholder-Wise Distribution and Trends of Initiation of CIRPs

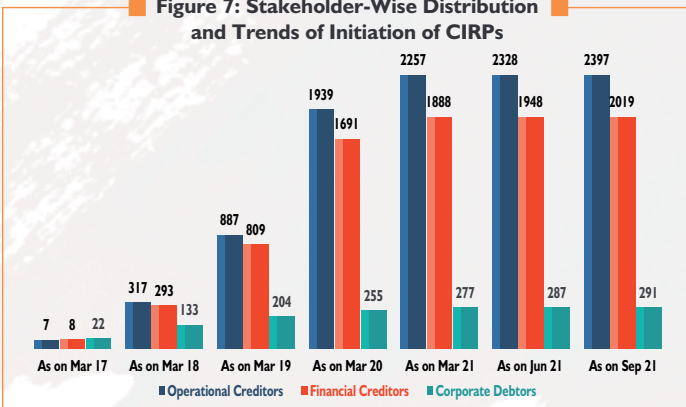


Figure 8: Distribution of Closed CIRPs - Initiated by CDs

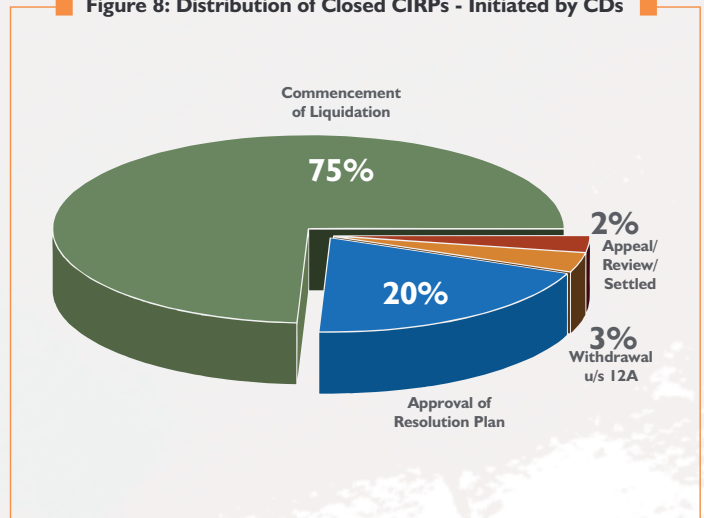


Figure 9: Distribution of Closed CIRPs - Initiated by FCs

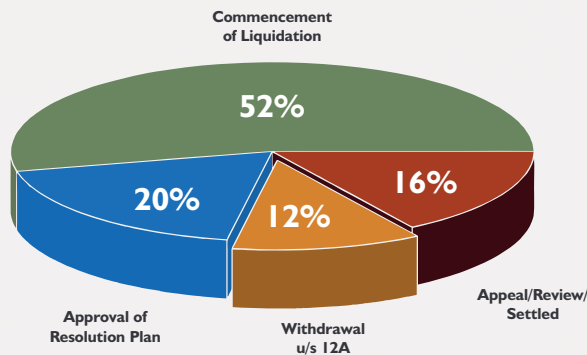
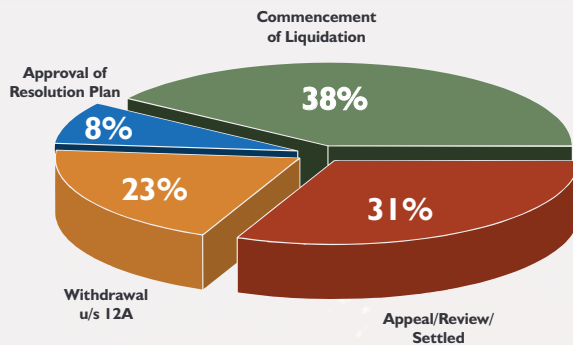
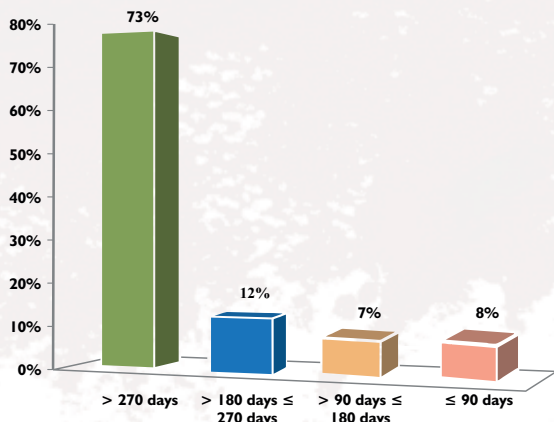


Figure 10: Distribution of Closed CIRPs - Initiated by OCs



The status of ongoing CIRPs as on September 30, 2021 in terms of time taken is presented in Figure 11.

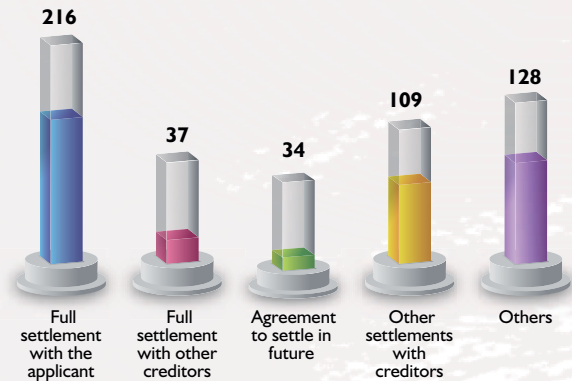
Figure 11: Timeline: Ongoing CIRPs



### Withdrawals under Section 12A

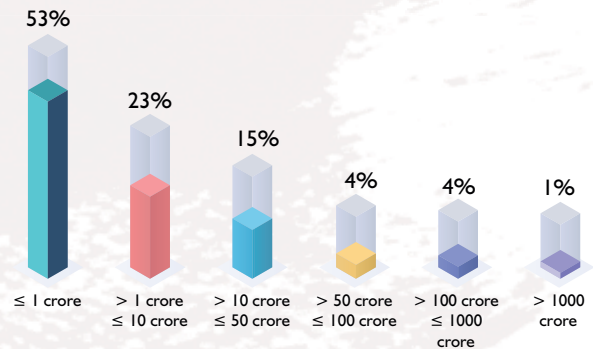
Till September, 2021, a total of 527 CIRPs have been withdrawn under section 12A of the Code. The reasons for withdrawal and distribution of claims in these CIRPs are presented in Figures 12 and 13. Almost three fourth of these CIRPs had claims of less than ₹ 10 crore.

Figure 12: Reasons for Withdrawal of CIRPs



\* Data awaited in three cases.

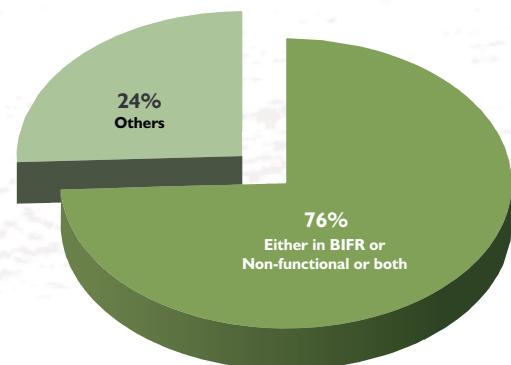
Figure 13: Distribution of CIRPs Withdrawn (as per Admitted Claims)



### Resolution Plans

About 46% of the CIRPs, which were closed, yielded orders for liquidation, as compared to 14% ending up with a resolution plan. However, 76% of the CIRPs ending in liquidation were earlier with Board for Industrial and Financial Reconstruction (BIFR) and / or defunct (Figure 14). The economic value in most of these CDs had almost completely eroded even before they were admitted into CIRP. These CDs had assets, on average, valued at less than 7% of the outstanding debt amount.

Figure 14: CIRPs ending with Order of Liquidation: State of CD at the Commencement of CIRP

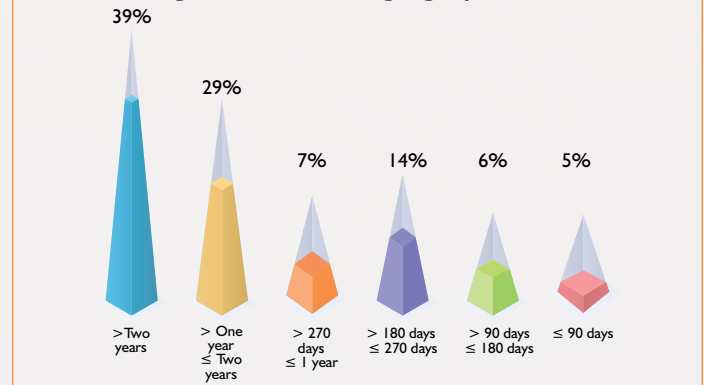


Till June, 2021, 396 CIRPs had yielded resolution plans as presented in the last newsletter. 12 more CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table 1. During July - September, 2021, 16 CIRPs yielded resolution plans with different degrees of realisation as compared to the liquidation value as presented in Part B of Table 1. Three CIRPs that had yielded resolution earlier were ordered for liquidation. During the quarter, realisation by FCs under resolution plans in comparison to liquidation value is 112.34%. Till September 30, 2021, realisation by FCs under resolution plans in comparison to liquidation value is 166.57%, while the realisation by them in comparison to their claims is 35.89%. It is important to note that out of the 421 CDs rescued through resolution plans, 137 were in either BIFR or defunct.

## Liquidation

Till June, 2021, a total of 1349 CIRPs had yielded orders for liquidation, as presented in the previous Newsletter. 13 more CIRPs were later reported as yielding orders for liquidation during that period. During the quarter July - September, 2021, 57 CIRPs ended in orders for liquidation, taking the total CIRPs ending in liquidation to 1419, excluding 12 cases where liquidation orders have been set aside by NCLT / NCLAT / HC / SC. Of these, final reports have been submitted in 264 cases. There are 1155 ongoing liquidation processes, whose status as on September 30, 2021 is presented in Figure 15.

Figure 15: Timeline: Ongoing Liquidations



Till June 2021, 153 liquidation processes were closed by dissolution / going concern sale / compromise or arrangement as presented in the last newsletter. Dissolution of three more CDs, which happened during the earlier period were reported later, as presented in Part A of Table 2. During July - September, 2021, 08 more liquidation processes were closed, taking total number of closures by dissolution / sale as going concern / compromise or arrangement to 164. The details of the same are presented in Table 2. At the end of September, 2021, 151 liquidations were closed by dissolution, 6 by going concern sale and 7 by compromise / arrangement.

Table 1: CIRPs Yielding Resolution Plans

Sl.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Amount (in ₹ crore)			Realisable by FCs as % of Admitted Claims	Realisable by FCs as % of Liquidation Value
						Admitted Claims of FCs	Liquidation Value	Realisable by FCs		
<b>Part A: For Prior Period (Till June 30, 2021)</b>										
1	Segno Ceramics Private Limited	-	22-11-19	17-03-21	OC	-	-	-	-	-
2	Gandhamardhan Sponge Industries Pvt Ltd	Yes	04-10-19	25-03-21	FC	4.86	18.00	4.86	100.00	26.98
3	Riddhi Siddhi Cotspin Private Limited	Yes	01-01-20	31-03-21	FC	29.93	3.61	3.38	11.29	93.63
4	Francis Remedies (India) Private Limited	No	09-08-19	05-04-21	FC	4.42	6.17	5.12	115.84	82.98
5	Lanco Thermal Power Limited	No	09-05-19	26-04-21	FC	33331.03	131.85	136.25	0.41	103.34
6	Jadoun International Private Limited	No	02-03-20	03-05-21	OC	5.32	0.39	0.95	17.86	243.59
7	Prithvi Ferro Alloys Private Limited	Yes	08-08-19	03-05-21	FC	190.22	59.11	56.28	29.59	95.21
8	Earth Infrastructure Limited	Yes	06-06-18	08-06-21	FC	1361.05	533.79		₹ 0.45 crore to Secured FC and constructed units to unsecured FCs i.e. homebuyers	
9	Syncom Healthcare Limited	No	14-08-19	14-06-21	FC	31.91	12.68	12.81	40.14	101.03
10	Swati Udyog Pvt Ltd	No	26-11-19	16-06-21	FC	90.08	13.76	13.24	14.70	96.22
11	Topman Exports Limited	No	14-10-19	22-06-21	FC	190.73	12.99	17.00	8.91	130.87
12	Piyush Shelters India Private Limited	Yes	14-05-20	25-06-21	FC	73.63	88.70	8.61	11.69	9.71
<b>Part B: For July - September, 2021</b>										
1	Indira Priyadarshini Hydro Power Private Limited	No	12-12-19	02-07-21	OC	33.79	3.51	2.54	7.52	72.36
2	Alps Pharmaceuticals Private Limited	Yes	06-11-19	06-07-21	FC	38.84	5.97	6.18	15.91	103.51
3	JBB-Everest Buildtech Private Limited	No	03-12-18	14-07-21	OC	53.06	37.09	48.21	90.86	129.98
4	Panyam Cements and Mineral Industries Limited	No	05-05-20	15-07-21	FC	386.1	85.46	90.25	23.37	105.60
5	Appu Hotels Limited	No	25-01-19	16-07-21	FC	434.56	569.33	389.56	89.65	68.42
6	Cyclo Transmission Limited	No	18-12-18	16-07-21	FC	20.20	10.53	8.59	42.51	81.56
7	Anil Special Steel Industries Limited	Yes	05-03-18	16-07-21	OC	84.83	18.67	28.20	33.24	151.04
8	Surya Manufacturing Private Limited	Yes	21-11-19	28-07-21	OC	28.28	6.93	6.27	22.17	90.48
9	Epower Energy (India) Private Limited	No	12-07-19	05-08-21	OC	17.75	11.88	15.53	87.49	130.72
10	IREO Fiveriver Private Limited	Yes	13-12-18	06-08-21	OC	408.51	135.28	335.36	82.09	247.90
11	Jagannath Sponge Private Limited	Yes	22-04-19	06-08-21	CD	91.43	6.62	8.75	9.57	132.18
12	KVK Energy and Infrastructure Private Limited	No	21-01-20	06-08-21	FC	428.47	0.03	15.1	3.52	50333.33
13	Samyu Glass Private Limited	No	18-10-19	13-08-21	FC	106.34	27.94	34.32	32.27	122.83
14	ABT (Madras) Private Limited	No	04-12-19	03-09-21	FC	548.40	238.25	314.50	57.35	132.00
15	Shriram Cement Limited	No	20-09-19	20-09-21	OC	21.04	5.45	6.00	28.52	110.09
16	Polygold Pre-Cured Systems Private Limited	No	16-03-20	20-09-21	FC	6.72	12.77	6.78	100.89	53.09
<b>Total (July - September, 2021)</b>						<b>2654.33</b>	<b>1161.67</b>	<b>1305.01</b>	<b>49.17</b>	<b>112.34</b>
<b>Total (Till September, 2021)</b>						<b>685739.48</b>	<b>147739.63</b>	<b>246086.34</b>	<b>35.89</b>	<b>166.57</b>



Table 2: Details of Closed Liquidations

Sl.	Name of CD	Date of Order of Liquidation	Amount (in ₹ crore)				Date of Order of Dissolution / Closure
			Admitted Claims	Liquidation Value	Sale Proceeds	Distributed to Stakeholders	
<b>Part A: For Prior Period (Till June 30, 2021)</b>							
1	Nagarjuna Oil Corporation Limited**	11-12-18	10277.73	650.00	600.00	560.00	18-03-21
2	Kusalava Batteries Private Limited	29-04-19	1.16	1.30	1.53#	1.46#	25-06-21
3	Neutrino Power Systems Private Limited	14-12-18	11.54	1.49	0.28^	0.10^	30-06-21
<b>Part B: January - March, 2021</b>							
1	Integrated Caps Private Limited	01-02-19	44.48	14.51	22.39	20.19	01-07-21
2	Spectacular Media Marketing Private Limited**	07-12-20	34.96	0.22	0.28	0.19	07-07-21
3	Saru Agro Foods Limited*	03-08-21	0.20	NA	NA	NA	03-08-21
4	Penguin Umbrella Works Private Limited	14-02-20	9.71	NA	NA	NA	05-08-21
5	GNB Technologies (India) Private limited	08-11-19	NC	NA	NA	NA	06-08-21
6	TVC Retail Limited	18-09-19	0.26	NA	NA	NA	07-09-21
7	Jalaram Cotton & Proteins Limited	09-04-18	79.58	17.61	17.61^	17.50^	13-09-21
8	Keshav Sponge & Energy Private Limited	14-11-17	96.56	39.22	54.22	51.43	21-09-21
<b>Total (July - September, 2021)</b>			<b>265.75</b>	<b>71.56</b>	<b>94.50</b>	<b>89.31</b>	<b>NA</b>
<b>Total (Till September 2021)</b>			<b>29473.49</b>	<b>1443.93</b>	<b>1403.26</b>	<b>1323.07</b>	<b>NA</b>

\*\* Compromise or arrangement under section 230 of the Companies Act, 2013.

# Unsold assets valued at ₹ 1.26 crore were distributed to the equity shareholders.

^ Secured creditors decided not to relinquish the security interest.

NA means Not realisable/ saleable or No asset left for liquidation or Not applicable.

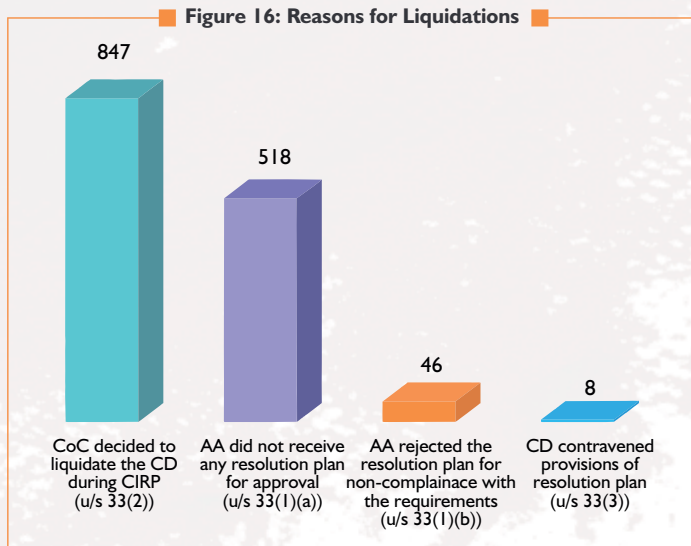
\* Direct Dissolution; Claims pertain to CIRP period.

NC means no claims received during CIRP / liquidation process.

### Sale as Going Concern

Till September 30, 2021, six CDs, namely, M/s. Emmanuel Engineering Private Limited, M/s. K.T.C. Foods Private Limited, M/s. Southern Online Bio Technologies, M/s. Smaat India Private Limited, M/s. Winwind Power Energy Private Limited, and M/s. Topworth Pipes & Tubes Private Limited were closed by sale as a going concern under liquidation process. These six CDs had claims amounting to ₹ 4325.16 crore, as against the liquidation value of ₹ 290.03 crore. The Liquidators in these cases realised ₹ 336.76 crore and the companies were rescued.

As on September 30, 2021, 1419 orders for commencement of liquidation have been passed. The AA passes an order for liquidation under four circumstances. The details of liquidation in these circumstances are presented in Figure 16.



Regulation 12 of the Liquidation Regulations requires the Liquidator to make a public announcement calling upon stakeholders to submit their claims as on the liquidation commencement date (LCD), within 30 days from the LCD. The details of the claims admitted by the Liquidators in 1245 liquidations, for which data are available, are presented in Table 3.

### Avoidance Transactions

The Code read with Regulations require the RPs and Liquidators to file applications for avoidance of transactions, with the AA seeking appropriate directions. 558 avoidance applications have been filed with the AA till September 30, 2021, as presented in Table 4.

### Twelve Large Accounts

Resolution of 12 large accounts were initiated by banks, as directed by RBI. They had an aggregate outstanding claim of ₹ 3.45 lakh crore as against liquidation value of ₹ 73,220 crore. Of these, resolution plan in respect of nine CDs were approved and orders for liquidations were issued in respect of two CDs. Thus, CIRPs in respect of two CDs and liquidation in respect of two CDs are ongoing and are at different stages of the process. The status of the 12 large accounts is presented in Figure 17.

Table 3: Claims in Liquidation Process

Stakeholders under Section	Number of Claimants	Amount (in ₹ crore)			
		Admitted Claims	Liquidation Value	Sale Proceeds#	Distributed to Stakeholders
<b>264 Liquidations where Final Report Submitted</b>					
52	28	927.72	151.91	156.91	155.66
53 (1) (a)	NA	NA			108.71
53 (1) (b)	1591	38,884.69			1607.97
53 (1) (c)	836	53.27			1.86
53 (1) (d)	287	1496.46			29.67
53 (1) (e)	215	2506.61	1860.47	1802.18#	12.62
53 (1) (f)	1106	1881.33			34.92
53 (1) (g)	-	-			-
53 (1) (h)	101	27.96			2.83
<b>Total (A)</b>	<b>4164</b>	<b>45778.04</b>	<b>2012.38</b>	<b>1959.09#</b>	<b>1954.24</b>
<b>Ongoing 981 Liquidations*</b>					
53 (1) (a)					
53 (1) (b)	37911	523952.78			
53 (1) (c)	30074	1279.87			
53 (1) (d)	11991	112842.52			
53 (1) (e)	1060	28083.78	35190.80 **	Not Applicable	Not Applicable
53 (1) (f)	1979396	36002.08			
53 (1) (g)	18	277.73			
53 (1) (h)	106088	3535.02			
<b>Total (B)</b>	<b>2166538</b>	<b>705973.78</b>			
<b>Grand Total (A+B)</b>	<b>2170702</b>	<b>751751.82</b>	<b>37203.18</b>		

# Inclusive of unclaimed proceeds of ₹ 4.85 crore under liquidation.

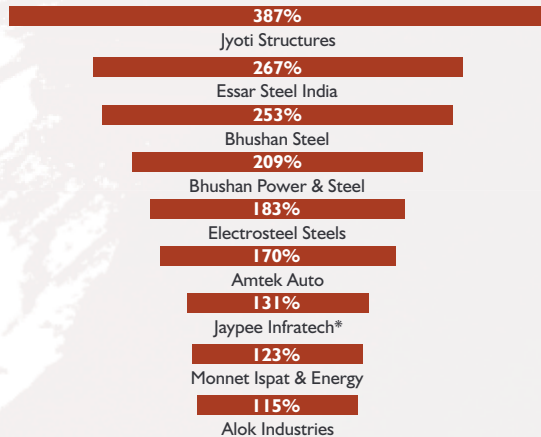
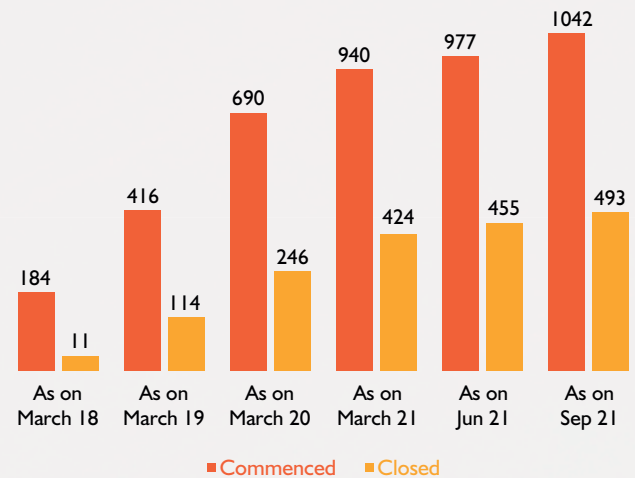
\* Data for other liquidations are not available.

\*\* Out of 1155 ongoing cases, liquidation values of only 1086 CDs are available. The aggregate liquidation value of 725 CDs estimated during liquidation process is ₹ 35190.80 crore and that of 361 CDs for which estimate made during CIRP is ₹ 11739.18 crore.

**Table 4. Avoidance Transactions in Corporate Insolvencies**

(Amount in ₹ in crore)

Year of Filing / Disposal	Application filed during CIRP period in case of CIRPs closed by						Application filed during Liquidation period in case of Liquidations		Application filed during CIRP period in case of ongoing CIRPs	
	Approval of Resolution Plans		Orders for Liquidation		Otherwise					
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
<b>Applications Filed</b>										
2017 - 18	11	11936.80	12	5651.78	0	0	0	0	1	128.59
2018 - 19	47	17052.12	84	34408.60	10	1520.17	18	22395.73	22	9396.59
2019 - 20	47	11171.55	69	14912.94	6	303.30	18	5896.76	51	7726.12
2020 - 21	13	1006.90	32	2720.45	7	1207.42	10	1198.72	83	13625.29
Apr - Jun, 2021	0	0	0	0	0	0	1	4.54	6	115.84
Jul - Sep, 2021	0	0	0	0	0	0	1	0.65	9	3086.61
<b>Total</b>	<b>118</b>	<b>41167.37</b>	<b>197</b>	<b>57693.77</b>	<b>23</b>	<b>3030.89</b>	<b>48</b>	<b>29496.40</b>	<b>172</b>	<b>34079.04</b>

**Figure 17: Realisation by the Claimants as % of the Liquidation Value**

**Figure 18: Commencement of Voluntary Liquidations**


\*The resolution plan of RA Suraksha Realty has been approved by the CoC and awaits approval of the AA.

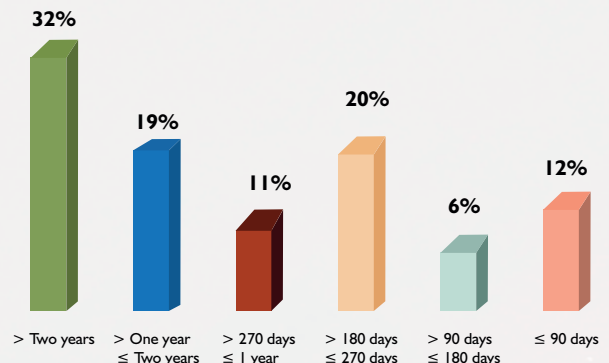
## Resolution of FiSPs

On an application filed by the RBI to initiate CIRP against Dewan Housing Finance Corporation Ltd, the AA admitted the application on December 3, 2019. Mr. R. Subramaniakumar was appointed as the Administrator. This is the first financial service provider (FiSP) admitted for resolution under the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019. The AA, vide order dated June 7, 2021, approved the resolution plan submitted by Piramal Capital and Housing Finance Ltd.

## Voluntary Liquidation

A corporate person may initiate voluntary liquidation proceeding if majority of the directors or designated partners of the corporate person make a declaration to the effect, that (i) the corporate person has no debt or it will be able to pay its debts in full, from the proceeds of the assets to be sold under the proposed liquidation, and (ii) the corporate person is not being liquidated to defraud any person. At the end of September 30, 2021, 1042 corporate persons initiated voluntary liquidation (Figure 18). Final reports in respect of 483 voluntary liquidations have been submitted and ten processes have been withdrawn by September 30, 2021. The status of 549 ongoing voluntary liquidations is presented in Figure 19.

Of the 1042 corporate persons that initiated voluntary liquidations till September 30, 2021, the reasons for these initiations are available for 869 cases, which are presented in Figure 20. Most of these corporate persons are small entities. 548 of them have paid-up equity capital of less than ₹ 1 crore. Only 112 of them have paid-up capital exceeding ₹ 5 crore. The corporate persons, for which details are available, have an aggregate paid-up capital of ₹ 6237 crore (Table 5).

**Figure 19: Timeline of Ongoing Voluntary Liquidations**

**Table 5: Details of 1032 Voluntary Liquidations (Excluding Ten Withdrawals)**

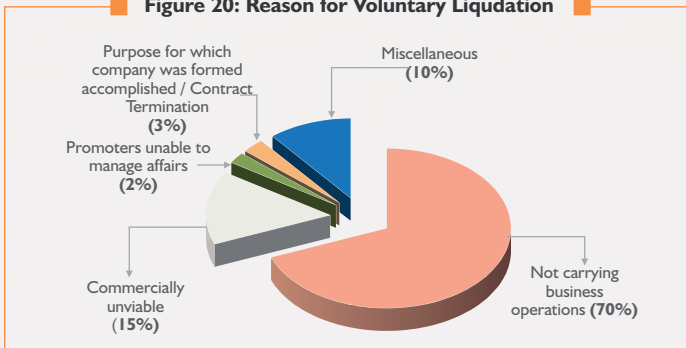
Details of	No. of Liquidations	Amount (in ₹ crore)				
		Paid-up Capital	Assets	Outstanding Debt	Amount Paid to Creditors	Surplus
Liquidations for which Final Reports submitted	483	1713*	3747	26	26	3416
Ongoing Liquidations	549	4524#	2185#	**		
<b>Total</b>	<b>1032</b>	<b>6237</b>	<b>5932</b>	<b>**</b>		

\* Paid up capital is not available in case of one company as it is a company limited by guarantee.

\*\* For ongoing liquidations, outstanding debt amount is not available.

# Paid up capital and assets of 394 and 385 cases, respectively, are available.

Figure 20: Reason for Voluntary Liquidation



It was reported in the last newsletter that dissolution orders were passed in respect of 241 voluntary liquidations. Dissolution orders in respect of 4 more voluntary liquidations, which were issued during the earlier period, were reported later, as indicated in Part A of Table 6. During the quarter July - September, 2021, dissolutions orders in respect of 12 voluntary liquidations were issued taking the total dissolutions to 257. These 257 corporate persons owed ₹ 11.51 crore to creditors and through voluntary liquidation process, they were paid full amount.

Table 6: Realisations under Voluntary Liquidations

Sl.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Amount (in ₹ crore)				
				Realisation of Assets	Due to Creditors	Paid to Creditors	Liquidation Expenses	Surplus
<b>Part A: Prior Period (Till June 30, 2021)</b>								
1	Capitaland India Private Limited	27-11-18	25-02-20	0.18	-	-	0.18	-
2	SCA Hygiene Products India Private Limited	04-12-19	24-12-20	9.83	-	-	1.70	8.13
3	I23RF Images India Private Limited	25-11-19	02-02-21	-	-	-	-	-
4	Nahar Trading Co Private Limited	10-08-20	09-06-21	1.14	-	-	0.02	1.12
<b>Part B: July - September, 2021</b>								
1	EJM India Aircraft Management Private Limited	15-12-17	16-07-21	0.86	0.67	0.67	0.19	-
2	Changyou.Com India Private Limited	11-06-18	16-07-21	2.41	0.26	0.26	0.35	1.80
3	Angalaparameswari Finance Private Limited	02-09-19	20-07-21	2.00	-	-	0.01	1.99
4	Banjar Hospital Private Limited	23-10-19	23-07-21	0.82	0.06	0.06	0.02	0.74
5	Manashi Trillion Construction Private Limited	04-11-20	23-07-21	0.04	0	0	0.03	0.01
6	Maryn Industries Private Limited	04-11-19	03-08-21	0.03	0	0	0.01	0.02
7	Edgen Murray (India) Private Limited	16-08-17	05-08-21	1.30	-	-	0.11	1.19
8	Renaissance Softlabs Private Limited	23-10-19	05-08-21	1.21	-	-	0.03	1.18
9	Jaishreshyam Nirman Private Limited	10-04-19	06-08-21	1.44	0	0	0.03	1.41
10	Adrienne Information Suppliers Private Limited	13-12-17	11-08-21	0.18	-	-	0.01	0.17
11	Andromeds Derivative Strategies Limited	22-01-19	13-09-21	5.43	-	-	0.02	5.41
12	DSM Sobisco Foods Limited	30-03-19	22-09-21	0	-	-	0	-
<b>Total (July - September, 2021)</b>				<b>15.72</b>	<b>0.99</b>	<b>0.99</b>	<b>0.81</b>	<b>13.92</b>
<b>Total (Till September, 2021)</b>				<b>2902.39</b>	<b>11.51</b>	<b>11.51</b>	<b>33.43</b>	<b>2857.42</b>

## Time for Conclusion of Processes

The average time taken for completion of various processes is presented in Table 7.

Table 7: Average Time for Approval of Resolution Plans/Orders for Liquidation Time (In days)

Sl.	Average time	As on March, 2020		As on March, 2021		April to September, 2021				
		No. of Processes Covered	Time (in days) Including excluded time	No. of Processes Covered	Time (in days) Including excluded time	No. of Processes Covered	Time (in days) Including excluded time			
<b>CIRPs</b>										
1	From ICD to approval of resolution plans by AA	238	413	377	360	467	408	61	706	584
2	From ICD to order for Liquidation by AA	939	309	NA	1288	352	NA	131	601	NA
<b>Liquidations</b>										
3	From LCD to submission of final report under Liquidation	126	307	NA	247	415	NA	17	596	NA
4	From LCD to submission of final report under Voluntary Liquidation	239	322	NA	415	384	NA	68	478	NA
5	From LCD to order for dissolution under Liquidation	71	284	NA	144	404	NA	20	672	NA
6	From LCD to order for dissolution under Voluntary Liquidation	142	453	NA	233	515	NA	24	795	NA

## Corporate Liquidation Accounts

The Regulations require a Liquidator to deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon into the corporate liquidation account before he submits an application for dissolution of the corporate person. It also provides a process for a stakeholder to seek withdrawal from the said account. Similar provisions exist for voluntary liquidation processes. The details of these accounts at the end of September, 2021 are presented in Table 8.

Table 8: Corporate Liquidation Accounts as on September 30, 2021 (Amount in ₹ lakh)

Period	Opening Balance	Deposit during the period	Withdrawn during the period	Balance at the end of the period
<b>Corporate Liquidation Account</b>				
2019 - 20	0.00	476.26	0.21	476.05
2020 - 21	476.05	116.18	0.00	592.23
Apr - Jun, 2021	592.23	9.66	0.00	601.89
Jul - Sep, 2021	601.89	15.12	0.00	617.01
<b>Corporate Voluntary Liquidation Account</b>				
2019 - 20	0.00	109.70	0.00	109.70
2020 - 21	109.70	112.06	0.00	221.76
Apr - Jun, 2021	221.76	3.05	0.00	224.81
Jul - Sep, 2021	224.81	23.42	0.00	248.23

## Pre-packaged Insolvency Resolution Process

The Central Government enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2021 on August 11, 2021 which was deemed to have come into force on April 4, 2021 introducing the PPIRP for corporate MSMEs. On April 9, 2021, the Central Government notified the Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021 prescribing the manner and form of making application to initiate PPIRP and the IBBI notified the IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021. The Regulations provide for manner of carrying out certain processes and tasks under PPIRP. The first application for PPIRP was admitted in the matter of GCCL Infrastructure & Projects Ltd. on September 14, 2021 by NCLT Ahmedabad.

## Summary of Outcomes

(a) The primary objective of the Code is rescuing lives of CDs in distress.

The Code has rescued 421 CDs till September, 2021 through resolution plans, one third of which were in deep distress. However, it has referred 1419 CDs for liquidation. The CDs rescued had assets valued at ₹ 1.48 lakh crore, while the CDs referred for liquidation had assets valued at ₹ 0.52 lakh crore when they were admitted to CIRP. Thus, in value terms, around 74% of distressed assets were rescued. Of the CDs sent for liquidation, three-fourth were either sick or defunct and of the firms rescued, one-third were either sick or defunct.

(b) The realisable value of the assets available with the 421 CDs rescued, when they entered the CIRP, was only ₹ 1.48 lakh crore, though they owed ₹ 7.94 lakh crore to creditors. The resolution plans realised ₹ 2.55 lakh crore, which is around 172% of the liquidation value of these CDs. Any other option of recovery or liquidation would have recovered at best ₹ 100 minus the cost of recovery/liquidation, while the creditors recovered ₹ 172 under the Code. The excess recovery of ₹ 72 is a bonus from the Code. Though recovery is incidental under the Code, the FCs recovered 34.24% of their claims, which only reflects the extent of value erosion by the time the CDs entered CIRP, yet it is the highest among all options available to creditors for recovery. Resolution plans on average are yielding 84% of fair value of the CDs. These realisations are exclusive of realisations that would arise from value of equity holdings post-resolution, resolution of PGs to CDs, and from disposal of applications for avoidance transactions.

(c) The 1419 CDs ending up with orders for liquidation had an aggregate

claim of ₹ 7.38 lakh crore. However, they had assets, on the ground, valued only at ₹ 0.52 lakh crore. Till September, 2021, final reports have been submitted in respect of 264 CDs and out of them 164 have been dissolved. Many of these CDs did not have any job or asset when they entered the IBC process. These included the likes of Ghotaranga Minerals Limited and Orchid Healthcare Private Limited, which owed ₹ 8,163 crore, while they had absolutely no assets and employment. These 264 CDs together had outstanding claims of ₹ 45778 crore, but the assets valued at ₹ 2012.38 crore. ₹ 1959.09 crore were realised through liquidation of these companies.

(d) A distressed asset has a life cycle. Its value gradually declines with time if distress is not addressed. The credible threat of the Code, that a CD may change hands, has changed the behaviour of debtors. Thousands of debtors are resolving distress in early stages of distress. They are resolving when default is imminent, on receipt of a notice for repayment but before filing an application, after filing application but before its admission, and even after admission of the application, and making best effort to avoid consequences of resolution process. Most companies are rescued at these stages. Till September, 2021, 18,629 applications for initiation of CIRPs of CDs having underlying default of ₹ 5,89,516 crore were resolved before their admission. Only a few companies, who fail to address the distress in any of earlier stages, pass through the entire resolution process. At this stage, the value of the company is substantially eroded, and hence some of them are rescued, and others liquidated. The recovery may be low at this stage, but recovery in early stages of distress is much higher, and it is primarily because of the Code.

(e) The Code endeavours to close the various processes at the earliest. It prescribes timelines for some of them. The 421 CIRPs, which have yielded resolution plans by the end of September, 2021 took on an average 428 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 1419 CIRPs, which ended up in orders for liquidation, took on average 375 days for conclusion. Further, 264 liquidation processes, which have closed by submission of final reports took on an average 427 days for closure. Similarly, 483 voluntary liquidation processes, which have closed by submission of final reports, took on an average 397 days for closure.

(f) Till September, 2021, a total of 421 CIRPs have yielded resolution plans. The cost details are available in respect of 388 CIRPs. The cost works out on average 0.98% of liquidation value and 0.54% of resolution value.

## Individual Process

The provisions relating to insolvency resolution and bankruptcy relating to PGs to CDs came into force on December 1, 2019. As per the information received from IPs, 429 applications have since been filed as of September 30, 2021. Out of them, 30 applications have been filed by the debtors and 412 applications by the creditors under sections 94 and 95 of the Code, respectively. Among them 13 have been filed before different benches of Debt Recovery Tribunal (DRT) and 429 have been filed before different benches of NCLT (Table 9).

Table 9: Insolvency Resolution of Personal Guarantors

Period	Applications filed by						Total			Adjudicating Authority	
	Debtors (u/s 94)			Creditors (u/s 95)			Number	Debt Amount	Guarantee Amount	NCLT	DRT
	Number	Debt Amount	Guarantee Amount	Number	Debt Amount	Guarantee Amount					
2019 - 20	3	49.66	40.75	14	3256.87	4454.83	17	3306.53	4495.58	16	1
2020 - 21	13	1875.25	608.75	136	34023.34	24932.05	149	35898.59	25540.80	143	6
Apr - Jun, 2021	2	496.00	150.13	72	7718.68	10198.94	74	8214.68	10349.07	74	0
Jul - Sep, 2021	19	665.14	63.58	221	20729.50	21296.25	240	21394.64	21359.83	231	9
<b>Total</b>	<b>37</b>	<b>3086.05</b>	<b>863.21</b>	<b>443</b>	<b>65728.39</b>	<b>60882.07</b>	<b>480</b>	<b>68814.44</b>	<b>61745.28</b>	<b>464</b>	<b>16</b>

The data are provisional. These are getting revised on continuous basis as further information is received.  
NA: Not Available.

## Service Providers

### Insolvency Professionals

An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP needs an authorisation for assignment (AFA) to take up an assignment under the Code with effect from January 1, 2020. The IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for issuance/renewal of AFA to the concerned IPA. Thereafter, an IPA processes such applications electronically. The details of IPs registered as on September 30, 2021 and AFAs held by them, IPA-wise, is presented in Table 10.

Table 10: Registered IPs and AFAs as on September 30, 2021

City / Region	Registered IPs				IPs having AFA			
	IIPI	ICSI IIP	IPA of ICAI	Total	IIPI	ICSI IIP	IPA of ICAI	Total
New Delhi	427	264	83	774	266	187	54	507
Rest of Northern Region	453	195	68	716	288	139	42	469
Mumbai	395	146	37	578	231	93	28	352
Rest of Western Region	305	115	42	462	210	76	25	311
Chennai	139	84	13	236	86	51	8	145
Rest of Southern Region	389	211	71	671	235	137	59	431
Kolkata	213	37	23	273	145	24	16	185
Rest of Eastern Region	73	25	8	106	42	16	6	64
<b>Total Registered</b>	<b>2394</b>	<b>1077</b>	<b>345</b>	<b>3816</b>	<b>1503</b>	<b>723</b>	<b>238</b>	<b>2464</b>

Of the 3836 IPs registered till date, registrations of four IPs have been cancelled through disciplinary action, and registrations of two IPs cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, 14 IPs have passed away since their registrations. The registrations and cancellations of registrations of IPs, quarter wise, till September 30, 2021 are presented in Table 11.

Table 11: Registration and Cancellation of Registration of IPs

Year / Quarter	Registered at the beginning of the period	Registered during the period	Cancelled during the period on account of			Registered at the end of the period
			Disciplinary Process	Failing to Meet Eligibility Norms	Death	
2016 - 17 (Nov - Dec) #	0	977	0	0	0	977
2016 - 17 (Jan - Mar)	0	96	0	0	0	96
2017 - 18	96	1716	0	0	0	1812
2018 - 19	1812	648	4	0	0	2456
2019 - 20	2456	554	0	1	5	3004
2020 - 21	3004	506	0	1	5	3504
Apr - Jun, 2021	3504	169	0	0	3	3670
Jul - Sep, 2021	3670	147	0	0	1	3816
<b>Total</b>	<b>NA</b>	<b>3836</b>	<b>4</b>	<b>2</b>	<b>14</b>	<b>3816</b>

# Registrations with validity of six months. These registrations expired by June 30, 2017

An individual with 10 years of experience as a member of the ICAI, ICSI, ICMAI or a Bar Council or 10 years of experience in the field of law, after receiving a Bachelor's degree in law or 10 years of experience in management, after receiving a Master's degree in Management or two-year full time Post Graduate Diploma in Management or 15 years of experience in management, after receiving a Bachelor's degree is eligible for registration as an IP on passing the Limited Insolvency Examination.

The Graduate Insolvency Programme (GIP) is the first of its kind programme for those aspiring to take up the profession of IP as a career

(Amount in ₹ crore)

Debt data not available in 31 cases and Guarantee data not available in 114 cases.

Guarantee amount has been collated from the annexures of the applications, wherever available.

without having to wait for acquiring the specified 10/15 years of experience. The first batch of GIP (2019-2021) conducted by Indian Institute of Corporate Affairs has successfully been completed and IBBI has granted 9 registrations based on this qualification, during this quarter.

Table 12 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on September 30, 2021. Of the 3816 IPs as on September 30, 2021, 356 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 12: Distribution of IPs as per their Eligibility as on September 30, 2021

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1921	177	2098
Member of ICSI	545	112	657
Member of ICMAI	178	16	194
Member of Bar Council	212	28	240
Managerial Experience	596	22	618
GIP Qualified	8	1	9
<b>Total</b>	<b>3460</b>	<b>356</b>	<b>3816</b>

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 13 presents the age profile of the IPs registered as on September 30, 2021.

Table 13: Age Profile of IPs as on September 30, 2021

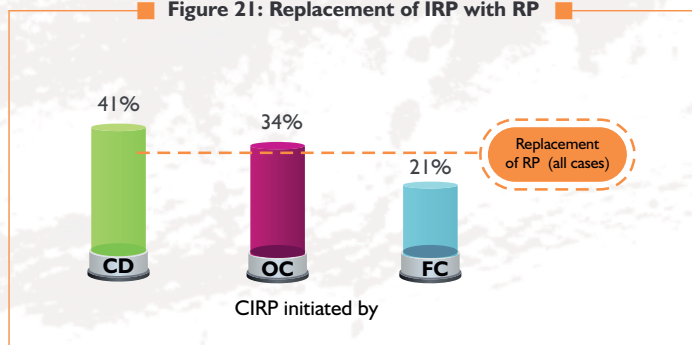
Age Group (in years)	Registered IPs				IPs having AFA					
	IIIP	ICSI IIP	IPA	ICAI	Total	IIIP	ICSI IIP	IPA	ICAI	Total
≤ 30	5	3	0	0	8	4	2	0	0	6
> 30 ≤ 40	279	71	13	363	183	49	7	7	237	
> 40 ≤ 50	848	376	55	1279	568	260	36	864		
> 50 ≤ 60	734	296	90	1120	451	212	56	719		
> 60 ≤ 70	487	300	175	962	297	202	139	638		
> 70 ≤ 80	38	27	9	74	NA	NA	NA	NA		
> 80 ≤ 90	2	4	3	9	NA	NA	NA	NA		
> 90	1	0	0	1	NA	NA	NA	NA		
<b>Total</b>	<b>2394</b>	<b>1077</b>	<b>345</b>	<b>3816</b>	<b>1503</b>	<b>723</b>	<b>238</b>	<b>2464</b>		

NA: Not Applicable

### Replacement of IRP with RP

Section 22(2) of the Code provides that the CoC may, in its first meeting, by a majority vote of not less than 66% of the voting share of the FCs, either resolve to appoint the IRP as the RP or to replace the IRP by another IP to function as the RP. Under section 22(4) of the Code, the AA shall forward the name of the RP, proposed by the CoC, under section 22(3)(b) of the Code, to IBBI for its confirmation and shall make such appointment after such confirmation. However, to save time in such reference, a database of all the IPs registered with the IBBI has been shared with the AA, disclosing whether any disciplinary proceeding is pending against any of them and the status of their AFAs. While the database is currently being used by various Benches of the AA, in a few cases, the IBBI receives references from the AA and promptly responds to it. Till September 30, 2021, as per updates available, a total of 1058 IRPs have been replaced with RPs, as shown in Figure 21. It is observed that IRPs in 42% of CIRPs initiated by CD are replaced by RPs, in 34% of CIRPs initiated by OCs and in 21% of CIRPs initiated by FCs.

Figure 21: Replacement of IRP with RP



### Insolvency Professional Entities

During the quarter under review, four IPEs were recognised and two were derecognised. As on September 30, 2021, there were 86 IPEs (Table 14).

Table 14: IPEs as on September 30, 2021

Quarter	No. of IPEs		
	Recognised	Derecognised	At the end of the Period
2016 - 17 (Jan - Mar)	3	0	3
2017 - 18	73	1	75
2018 - 19	13	40	48
2019 - 20	23	2	69
2020 - 21	14	0	83
Apr - Jun, 2021	1	0	84
Jul - Sep, 2021	4	2	86
<b>Total</b>	<b>131</b>	<b>45</b>	<b>86</b>

### Insolvency Professional Agencies

IPAs are front-line regulators and responsible for developing and regulating the insolvency profession. They discharge three kinds of functions, namely, quasi-legislative, executive, and quasi-judicial. The quasi-legislative functions cover laying down standards and code of conduct through bye-laws, which are binding on all members. The executive functions include monitoring, inspection, and investigation of professional members on a regular basis, addressing grievances of aggrieved parties, gathering information about their performance, etc., with the overarching objective of promoting best practices and conduct by IPs. The quasi-judicial functions include dealing with complaints against members and taking suitable disciplinary actions.

As on September 30, 2021, there are three IPAs registered in accordance with the Code and Regulations. The IBBI interacts with the MDs of the IPAs and the IU on the 7<sup>th</sup> of every month, to obtain feedback on areas of concern for the profession and discuss the ways and means to deal with them. In the quarter of July-September 2021, issues like disposal of grievances, use of technology in processes, conduct of IPs, concerns emanating from COVID-19, etc. were discussed. Table 15A presents the details of activities by the IPAs. Table 15B gives details of number of continuing professional education (CPE) hours earned by IPs.

Table 15A: Activities by IPAs

Period	Pre-registration Courses conducted	CPE Programmes conducted	Number of			
			Training Workshops for IPs	Other Workshops/ Webinars/ Roundtables/ Seminars	Disciplinary Orders Issued	Complaints Disposed
2018 - 19	16	-	07	100	04	11
2019 - 20	11	30	09	157	09	127
2020 - 21	14	193	66	102	42	102
Apr - Jun, 2021	08	23	07	10	04	00
Jul - Sep, 2021	03	25	12	21	04	05
<b>Total</b>	<b>52</b>	<b>271</b>	<b>101</b>	<b>390</b>	<b>63</b>	<b>245</b>

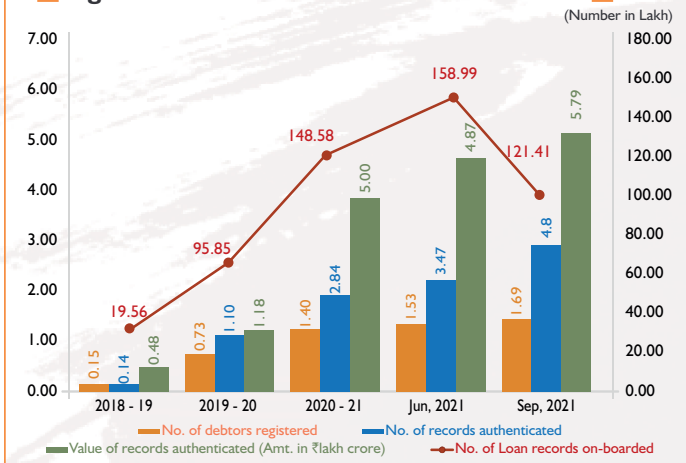
Table 15B: CPE Hours earned by the IPs

Period	Number of CPE Hours earned by members of			
	IIIP	ICSI IIP	IPA ICAI	Total
2019 - 20	1160	695	320	2175
2020 - 21	18465	8746	4402	31613
Apr - Jun, 2021	5510	2100	646	8256
Jul - Sep, 2021	1910	1314	770	3994
<b>Total</b>	<b>27045</b>	<b>12855</b>	<b>6138</b>	<b>46038</b>
<b>Average CPE hours per registered IP</b>	<b>11.3</b>	<b>11.9</b>	<b>17.8</b>	<b>12.1</b>

### Information Utility

There is one IU, namely, the National E-Governance Service Limited (NeSL) that provides authenticated financial information to the users. The IBBI interacts with the MD & CEO of the IU along with the MDs of IPAs on 7<sup>th</sup> of every month to discuss the issues relating to receipt and authentication of financial information. During interaction in this quarter, IPAs were requested to encourage their members to make use of the information stored with the IU for verification of claims during CIRP. Figure 22 provides details of the registered users and information with NeSL, as submitted by it.

Figure 22: Details of information with NeSL



Authenticated records and amount includes deemed authentication.

### Registered Valuer Organisations

The Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) made under section 247 of the Companies Act, 2013 provide a unified institutional framework for development and regulation of valuation profession. Its remit is limited to valuations required under the Companies Act, 2013 and the Code. The IBBI performs the functions of the Authority under the Valuation Rules. It recognises Registered Valuer Organisations (RVOs) and registers RVs and exercises regulatory oversight over them, while RVOs serve as front-line regulators for the valuation profession.

An individual having specified qualification and experience needs to enroll with an RVO, complete the educational course conducted by the RVO, clear the examination conducted by IBBI, before seeking registration with IBBI as an RV. There are currently 16 RVOs, Assessors and Registered Valuers Foundation being the latest RVO recognised, on March 31, 2021. The IBBI meets MDs / CEOs of RVOs on the 7<sup>th</sup> of every month to discuss the issues arising from the valuation profession, to resolve queries of the RVOs and to guide them in discharge of their responsibilities. The details of individual RVs, RVO-wise, as on September 30, 2021, are given in Table 16A. A total of 4300 individuals have registrations, two of them are registered for all three asset classes, 62 are registered for two asset classes and the balance 4236 are registered for one asset class. Till date, the registration of one RV has been cancelled.

Table 16A: Registered Valuers as on September 30, 2021 (Number)

Sl.	Registered Valuer Organisation	Asset Class			Total
		Land & Building	Plant & Machinery	Securities or Financial Assets	
1	RVO Estate Managers and Appraisers Foundation	62	12	14	88
2	IOV Registered Valuers Foundation	1323	210	153	1686
3	ICSI Registered Valuers Organisation	0	0	201	201
4	IIV India registered Valuers Foundation	155	45	49	249
5	ICMAI Registered Valuers Organisation	30	21	260	311
6	ICAI Registered Valuers Organisation	NA	NA	842	842
7	PVAI Valuation Professional Organisation	303	51	112	466
8	CVSRTA Registered Valuers Association	194	60	NA	254
9	Association of Certified Valuers and Analysts	NA	NA	2	2
10	CEV Integral Appraisers Foundation	98	31	3	132
11	Divya Jyoti Foundation	43	17	39	99
12	Nandadeep Valuers Foundation	0	0	1	1
13	All India Institute of Valuers Foundation	4	3	14	21
14	International Business Valuers Association	2	0	8	10
15	All India Valuers Association	1	0	0	1
16	Assessors and Registered Valuers Foundation	1	1	1	3
<b>Total</b>		<b>2216</b>	<b>451</b>	<b>1699</b>	<b>4366</b>

Note: NA signifies that the RVO is not recognised for that asset class.

RVs are permitted to form an entity (Partnership / Company) for rendering valuation services. There are 52 such entities registered as RVs as on September 30, 2021, as presented in Table 16B. 22 of them are registered for three asset classes, 7 are registered for two asset classes and 23 are registered for one asset class. The registration of RVs till September 30, 2021 is given in Table 17.

Table 16B: Registered Valuers (Entities) as on September 30, 2021 (Number)

Sl.	Registered Valuer Organisation	Entities Registered	Registrations in the Asset Class		
			Land & Building	Plant & Machinery	Securities or Financial Assets
1	RVO Estate Managers and Appraisers Foundation	3	3	2	2
2	IOV Registered Valuers Foundation	17	14	11	14
3	ICSI Registered Valuers Organisation	1	0	0	1
4	IIV India registered Valuers Foundation	2	2	2	1
5	ICMAI Registered Valuers Organisation	10	4	5	10
6	ICAI Registered Valuers Organisation	10	NA	NA	10
7	PVAI Valuation Professional Organisation	2	2	2	2
8	CVSRTA Registered Valuers Association	1	1	1	NA
9	CEV Integral Appraisers Foundation	1	1	1	0
10	Divya Jyoti Foundation	2	1	1	2
11	All India Institute of Valuers Foundation	1	1	1	1
12	International Business Valuers Association	2	2	2	1
<b>Total</b>		<b>52</b>	<b>31</b>	<b>28</b>	<b>44</b>

Note: NA signifies that the RVO is not recognised for that asset class.

Table 17: Registration of RVs till September 30, 2021 (Number)

Year / Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
2017 - 2018	0	0	0	0
2018 - 2019	781	121	284	1186
2019 - 2020	848	204	792	1844
2020 - 2021	409	82	446	937
Apr - Jun, 2021	95	25	86	206
Jul - Sep, 2021	84	19	91	194
<b>Total</b>	<b>2217</b>	<b>451</b>	<b>1699</b>	<b>4367</b>

Note: The registration of 1 RV has since been cancelled.

As on September 30, 2021, 1159 RVs (constituting 27% of the total RVs registered) are from metros, while 3207 RVs (constituting 73% of the total RVs registered) are from non-metro locations. The region wise detail of RVs is given in Table 18.

Table 18: Region wise RVs as on September 30, 2021 (Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	76	34	201	311
Rest of Northern Region	344	68	287	699
Mumbai	110	49	266	425
Rest of Western Region	618	123	279	1020
Chennai	110	40	131	281
Rest of Southern Region	901	116	401	1418
Kolkata	25	14	103	142
Rest of Eastern Region	32	7	31	70
<b>Total</b>	<b>2216</b>	<b>451</b>	<b>1699</b>	<b>4366</b>

The average age of RVs as on September 30, 2021 stood at 47 years across asset classes. It was 49 years for Land & Building, 53 years for Plant & Machinery and 43 years for Securities or Financial Assets. Of the 4366 RVs as on September 30, 2021, 406 RVs (constituting about nine per cent of the total RVs) are females. The age profile of RVs is given in Table 19.

Table 19: Age profile of RVs as on September 30, 2021 (Number)

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	144	7	114	265
> 30 ≤ 40	351	65	681	1097
> 40 ≤ 50	525	98	500	1123
> 50 ≤ 60	901	141	274	1316
> 60 ≤ 70	256	92	126	474
> 70 ≤ 80	37	46	4	87
> 80	2	2	0	4
<b>Total</b>	<b>2216</b>	<b>451</b>	<b>1699</b>	<b>4366</b>

### Complaints and Grievances

The IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 enable a stakeholder to file a grievance or a complaint against a service provider. Besides this, grievance and complaints are received from

the Centralised Public Grievance Redress and Monitoring System, Prime Minister’s Office, MCA, and other authorities. The receipt and disposal of grievances and complaints till September 30, 2021 is presented in Table 20.

Table 20: Receipt and Disposal of Grievances and Complaints till March 31, 2021 (Number)

Year / Quarter	Complaints and Grievances Received						Total		Under Examination
	Under the Regulations		Through CPGRAM/PMO/MCA/Other Authorities		Through Other Modes		Received	Disposed	
	Received	Disposed	Received	Disposed	Received	Disposed			
2017 - 2018	18	0	6	0	22	2	46	2	44
2018 - 2019	111	51	333	290	713	380	1157	721	480
2019 - 2020	153	177	239	227	1268	989	1660	1393	747
2020 - 2021	268	260	358	378	990	1364	1616	2002	361
Apr - Jun, 2021	79	85	120	90	287	420	486	595	252
Jul - Sep, 2021	85	75	175	199	157	114	417	388	281
<b>Total</b>	<b>714</b>	<b>648</b>	<b>1231</b>	<b>1184</b>	<b>3437</b>	<b>3269</b>	<b>5382</b>	<b>5101</b>	<b>281</b>

## Examinations

### Limited Insolvency Examination

The IBBI publishes the syllabus, format, etc., of the Limited Insolvency Examination under regulation 3(3) of the IBBI (Insolvency Professionals) Regulations, 2016. It reviews the examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed five phases of the Limited Insolvency Examination. Fifth phase of the Examination concluded on December 31, 2020 and sixth phase commenced on January 1, 2021. It is a computer based online examination available on daily basis from various locations across India. NSEIT Limited is the current test administrator. The details of the Examination are given in the Table 21.

Table 21: Limited Insolvency Examination

Phase	Period	Number of Attempts (some candidates made more than one attempt)	Successful Attempts
First	Jan - Jun, 2017	5329	1202
Second	Jul - Dec, 2017	6237	1112
Third	Jan - Oct, 2018	6344	1011
Fourth	Nov, 2018 - Jun, 2019	3025	506
Fifth	Jul, 2019 - Dec, 2020	5860	1016
Sixth	Jan - Mar, 2021	464	66
	Apr - Jun, 2021	408	89
	Jul - Sep, 2021	718	144
<b>Total</b>		<b>28385</b>	<b>5146</b>

### Valuation Examinations

The IBBI, being the Authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial Assets on March 31, 2018. It reviews the Examinations continuously to keep it relevant with the changing times. The second phase concluded on May 31, 2020 and the third phase commenced on June 1, 2020. It is a computer based online examination available from several locations across India. National Institute of Securities Management is the current test administrator. The details of the Examinations are given in Table 22.

Table 22: Valuation Examinations

Phase	Period	Number of Attempts (some candidates made more than one attempt) in Asset Class			Number of Successful Attempts in Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First	Mar, 2018 - Mar, 2019	9469	1665	4496	1748	324	707
Second	Apr, 2019 - May, 2020	3780	757	4795	380	95	656
Third	Jun, 2020	64	7	99	1	0	6
	Jul - Sep, 2020	1471	248	1781	138	14	217
	Oct - Dec, 2020	1449	404	1571	119	28	137
	Jan - Mar, 2021	1049	334	967	74	27	73
	Apr - Jun, 2021	494	158	541	37	12	57
	Jul - Sep, 2021	902	238	1095	54	17	92
<b>Total</b>		<b>18678</b>	<b>3811</b>	<b>15345</b>	<b>2551</b>	<b>517</b>	<b>1945</b>

## Building Ecosystem

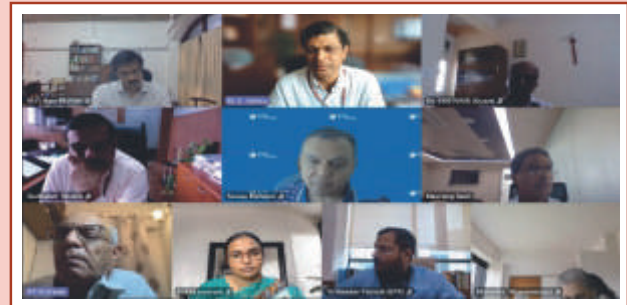
### Committees and Groups

#### Committee on Cross Border Insolvency

The 7<sup>th</sup> meeting of the Cross-Border Insolvency Rules/Regulations Committee (CBIRC) - (Phase - II) was held on July 28, 2021 through video conferencing under the chairmanship of Dr. K. P. Krishnan. The Committee discussed the issues related to the threshold for decisions, manner of opting-in after time limit, effect of group strategy, and the scenarios for ordering termination of the process.

#### Research Guidance Group

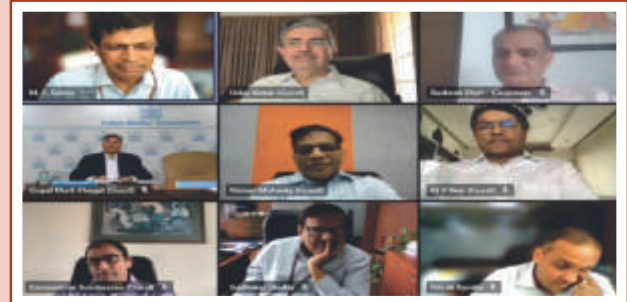
The 2<sup>nd</sup> meeting of the Research Guidance Group (RGG) was held on September 14, 2021 under the chairmanship of Dr. K. P. Krishnan. The Group deliberated upon the data availability with the Board and its usage by the researchers. The group also discussed the need for conducting conferences in collaboration with academic institutions to reach out to researchers, and to promote research in the space of insolvency and bankruptcy.



2<sup>nd</sup> Meeting of the RGG, September 14, 2021

#### Advisory Committee on Corporate Insolvency and Liquidation

The 8<sup>th</sup> meeting of the Advisory Committee on Corporate Insolvency and Liquidation took place on September 22, 2021 through video conferencing under the chairmanship of Mr. Uday Kotak. The Committee deliberated and provided its suggestions on various issues like (1) code of conduct for CoC member; (2) use of Swiss challenge in CIRP; (3) treatment of live bank guarantees and line of credit as claims in CIRP; and (4) issues related to professionals appointed in CIRP.

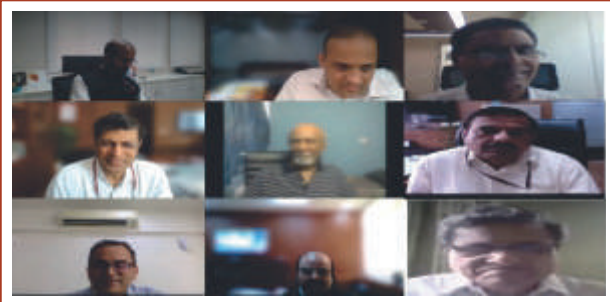


8<sup>th</sup> Meeting of the Advisory Committee on Corporate Insolvency and Liquidation, September 22 2021

#### Expert Committee on IBC-21

The IBBI constituted a Committee of Experts on March 11, 2021 to assist the Board in rendering support to finalise documentation in connection

with development of comprehensive IT system (IBC-21) for various processes and filing under the Code and regulations framed thereunder. Mr. K. V. Narayanan, Ex-Vice President, Tata Consultancy Services, Mr. Shyam Chellaramani, Principal Consultant, Tata Consultancy Services and Mr. C. Kajwadkar, IT Consultant at Concept & Knowledge Advisory are the members of the Committee. The Committee met thrice on, i.e., August 19, 2021, September 10, 2021 and September 22, 2021 and had a detailed deliberation on the project report of IBC 21.



Meeting of the Expert Committee on IBC 21, August 19, 2021

**IP Conclave**

IBBI in association with the IPAs, organised the 4<sup>th</sup> IP Conclave on September 18, 2021 in Kolkata as part of celebrating '75 years of Independence - Azadi ka Amrit Mahotsav'. It was organised in hybrid mode with participation of limited number of IPs in person with appropriate COVID-19 protocols in place, while it was accessible online to a larger audience.

Mr. H. C. Suri, Technical Member, NCLT, in his address called upon IPs to exercise full care and diligence in invitation of EoI and placing compliant resolution plans before the CoC. He urged IPs to perform their statutory obligations, adhere to the code of conduct, and facilitate disposal of matter before the AA.

Mr. Sunil Mehta, CEO, Indian Banks' Association, in his address highlighted the importance of role of an IP in a CIRP. He articulated fundamental traits expected of an IP such as integrity, credibility, and reputation. He advocated promotion of a robust and liquid market for stressed assets.

Dr. M. S. Sahoo, Chairperson, IBBI stated that the market is watching conduct and performance of IPs, based on dissemination of information about them, by IBBI and IPAs. Dr. Navrang Saini, WTM, IBBI urged the IPs to carry the message of 'Azadi ka Amrit Mahotsav' to masses and provided guidance to IPs on ethical aspects.



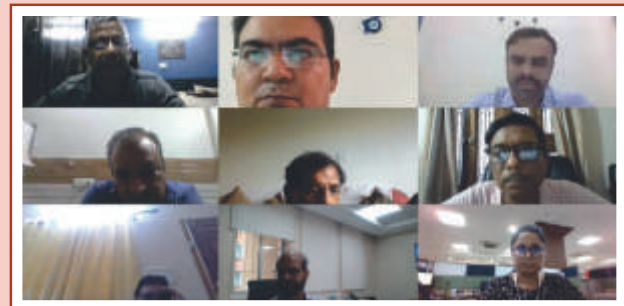
4<sup>th</sup> IP Conclave, September 18, 2021

**IP Workshops**

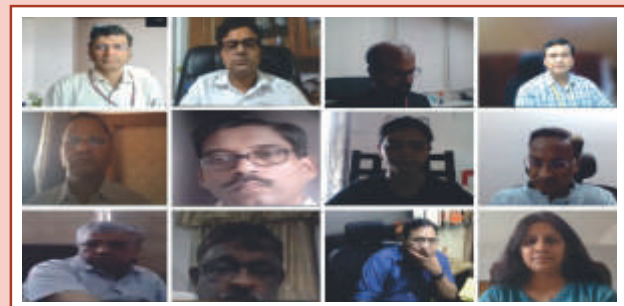
The IBBI has been organising Workshops for registered IPs with the aim to deliver specialised and deep level learning through a classroom, non-residential mode. It organised one Basic Workshop and one Advanced Workshop for the IPs during the quarter through online mode. The details of the workshops conducted till September 30, 2021, is given in Table 23.

Table 23: Capacity Building Programmes for IPs till September 30, 2021

Year / Period	Basic Workshops	Advanced Workshops	Other Workshops	Webinars	Roundtables	Trainings	Total
2016 - 17	1	-	-	-	8	-	9
2017 - 18	6	-	-	-	44	-	50
2018 - 19	7	-	-	-	22	-	29
2019 - 20	4	6	5	1	22	-	38
2020 - 21	1	2	6	29	18	2	58
Apr - Jun, 2021	3	3	-	9	-	-	15
Jul - Sep, 2021	1	1	-	6	9	-	17
<b>Total</b>	<b>23</b>	<b>12</b>	<b>11</b>	<b>45</b>	<b>123</b>	<b>2</b>	<b>216</b>



23<sup>rd</sup> Basic Workshop for the IPs, July 13, 2021



12<sup>th</sup> Advanced Workshop for the IPs, July 15, 2021

**Roundtables**

During the quarter, IBBI organised following roundtables with stakeholders as presented in Table 24.

Table 24: Roundtables during July - September, 2021

Sl.	Date	Particulars	In Association With
1	12-07-21	Delay in compliances by IPs	ICSI IIP
2	15-07-21		IIIP
3	20-07-21		IPA ICAI
4	11-08-21	Reimagining IBC with Financial Creditors	-
5	18-08-21	Reimagining IBC with Industry Experts	-
6	26-08-21	Reimagining IBC with Professionals	-
7	27-08-21	Statutory requirement of holding Annual General Meeting	IIIP
8	31-08-21	during CIRP	ICSI IIP and IPA ICAI
9	06-09-21	Reimagining IBC with Eminent Citizens	-

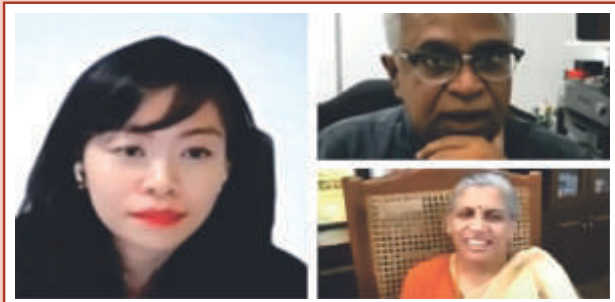


## Webinars

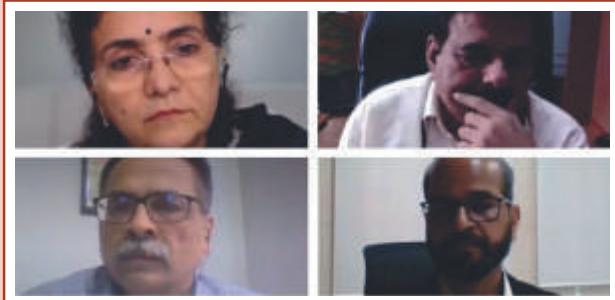
IBBI organised six webinars for benefit of IPs and other stakeholders as presented in Table 25.

Table 25: Webinars during July - September, 2021

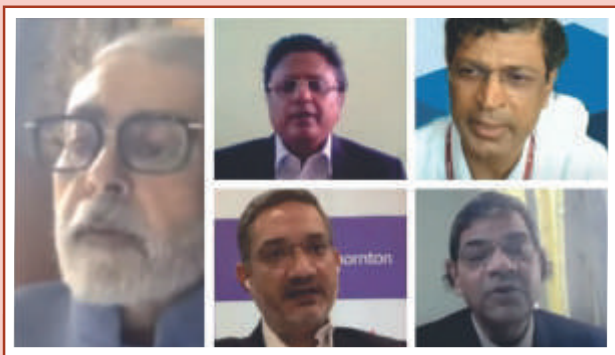
Sl.	Date	Particulars	In Association With
1	02-07-21	Avoidance/ Vulnerable Transactions: Case Management in India/Singapore	International Insolvency Institute
2	22-07-21	Interface of the SEBI's (Listing Obligations and Disclosure Requirements) Regulations and IBC	BSE
3	29-07-21		NSE
4	05-08-21		SEBI
5	26-08-21		FCDO
6	02-09-21 to 03-09-21	Insolvency and Bankruptcy Code, 2016 - 5 Years of Bankruptcy Code and Beyond	CII



Webinar on Avoidance / Vulnerable Transactions: Case Management in INDIA / Singapore, July 2, 2021



Webinar on Interface of the SEBI's (Listing Obligations and Disclosure Requirements) Regulations and IBC, July 22, 2021



Webinar on Insolvency and Bankruptcy Code, 2016 - 5 Years of Bankruptcy Code and Beyond, September 2, 2021

## Discussion Papers

The IBBI floated two discussion papers on August 27, 2021 soliciting public comments electronically by September 17, 2021 through its website.

The discussion paper on CIRP solicited comments on the issues related to CIRP like: (a) code of conduct for CoCs; (b) restrictions on request for resolution plans and use of swiss challenge in CIRP; and (c) treatment of live bank guarantees and line of credit as claims in a CIRP.

The other discussion paper on 'Strengthening Regulatory Framework of Liquidation Process' solicits comments on the issues like: (a) accountability of Liquidator; (b) matters related to sale of assets; and (c) security interest related.

## NLIU Bhopal invites applications for Graduate Insolvency Program

In furtherance of its mandate to develop the insolvency profession, the IBBI proactively engages with the industry to structure and deliver a two-year full-time course, namely, the Graduate Insolvency Programme (GIP) to produce a cadre of IPs of the highest quality and standards and is perceived as unique dispensation having no parallel in other jurisdictions. The IBBI had permitted the IICA, an autonomous body under the aegis of the MCA to launch the GIP in the year 2019. Keeping in view the successful experiment and huge demand for the course, the IBBI approved the course to also be offered by another institute viz. the National Law Institute University, Bhopal (NLIU, Bhopal) starting from academic session 2021-22. The prospectus/advertisement from prospective students, for admission in academic year 2021-23, was issued by NLIU, Bhopal on September 8, 2021.

## Advocacy and Awareness

### 2<sup>nd</sup> National Quiz on IBC

The IBBI, in collaboration with MyGov.in and BSE Investors' Protection Fund (BSE IPF), conducted '2<sup>nd</sup> National Online Quiz on Insolvency and Bankruptcy Code, 2016' from August 1, 2021 to August 31, 2021, to promote awareness and understanding of the Insolvency and Bankruptcy Code, 2016 among various stakeholders, across the country. The Quiz was open for all Indian citizens above 18 years of age, except for individuals working in IBBI, service providers registered with IBBI, BSE IPF and their immediate family members.

The Quiz received an overwhelming response as over 63,200 participants from all the States and Union Territories participated in the Quiz. Uttar Pradesh accounted for the highest participation with 13.94% of total participants, followed by Maharashtra with 11.25% and Delhi with 6.56%.

The Quiz evinced great interest from a wide range of stakeholders, including students, professionals, and employed persons alike. About 36% of the top 10% performers were students or members of chartered accountancy, company secretaryship or cost and management accountancy; and 6% are employees of banks and financial institutions.

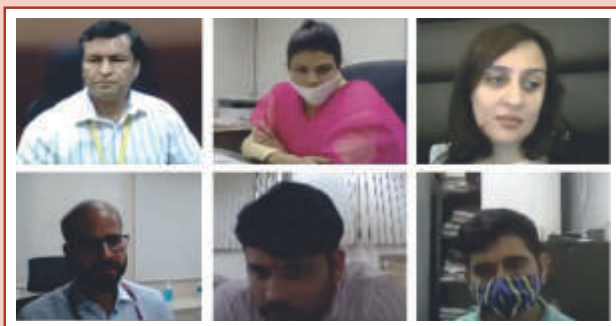
Mrs. Sunny Pallavi, a Lecturer at the R. P. P. M. College, Samastipur, Bihar emerged as the best performer and is to be awarded a Gold Medal with a cash prize of ₹ 1.00 lakh.

### Other Programmes

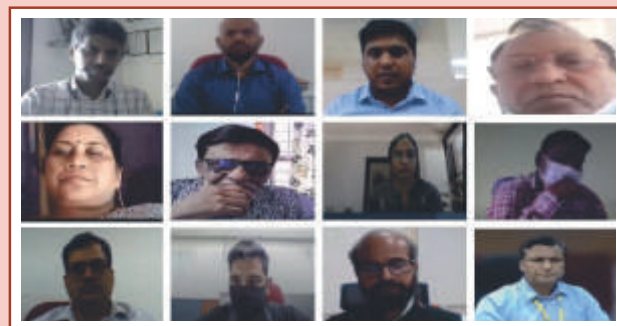
IBBI, in association with various stakeholders, organised advocacy and awareness programmes as presented in Table 26.

Table 26: Advocacy and Awareness Programme

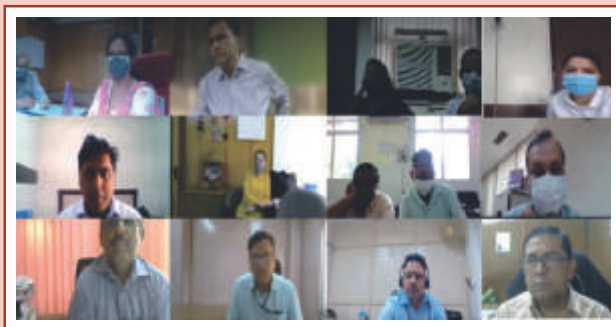
Sl.	Date	In Association With	Topic	Particulars
1	01-07-21	-	IBC, 2016	Orientation session for officers of DPIIT, Ministry of Commerce
2	16-07-21	-		Orientation programme for the officers of Rashtriya Ispat Nigam Limited
3	19-07-21	-		Orientation programme for the officers of National Informatics Centre
4	23-07-21	-		Orientation session for the officers of State Government of Tripura
5	26-07-21	-		Orientation session for the officers of State Government of Haryana
6	12-08-21	-		Workshop on IBC and Role of CoC for officials of Bank of India
7	13-08-21	-		Orientation session on IBC for officers of Central Public Sector Enterprises
8	18-08-21	-		Workshop on IBC for officials of Bank of Maharashtra
9	20-08-21	-		Orientation session for the officers of Income Tax Department - Pr. CCIT, Kolkata and Sikkim Region
10	27-08-21	-		Orientation session for the officers of Income Tax Department - Pr. CCIT, Bengaluru Region
11	27-08-21	-		Orientation session for the officers of Income Tax Department - Pr. CCIT, Chennai Region
12	01-09-21 & 02-09-21	-		Workshop on IBC for officers of Bank of Baroda
13	02-09-21 & 03-09-21	Jindal Global Law School		Launch of Jindal Global Law School Insolvency Law Working Paper Series
14	06-09-21	SIDBI	Pre-packaged Insolvency Resolution Process	Webinar on Pre-packaged Insolvency Resolution Process, for MSME Industry - North Region
15	08-09-21			Webinar on Pre-packaged Insolvency Resolution Process, for MSME Industry - South
16	08-09-21	IBA	IBBI: Shepherding Valuation Profession	Workshop on regulatory regime and other aspects of valuation profession under the Companies (Registered Valuers and Valuation) Rules, 2017
17	09-09-21	SIDBI	Pre-packaged Insolvency Resolution Process	Webinar on Pre-packaged Insolvency Resolution Process, for MSME Industry - West Region
18	17-09-21	Department of Financial Services	Individual Insolvency	Workshop for Chairpersons/Presiding Officers, members and officers of DRT and DRAT
19	22-09-21	IBA	IBBI: Shepherding Valuation Profession	Workshop on regulatory regime and other aspects of valuation profession under the Companies (Registered Valuers and Valuation) Rules, 2017
20	23-09-21	-	IBC	Workshop on IBC for officials of Union Bank of India
21	28-09-21	Department of Investment and Public Asset Management	Registered Valuers' Ecosystem under Companies (Registered Valuers and Valuation) Rules, 2017	Awareness session for officers of DIPAM on Registered Valuers' Ecosystem under Companies (Registered Valuers and Valuation) Rules, 2017



Orientation session for the officers of State Government of Haryana, July 26, 2021



Webinar on Pre-packaged Insolvency Resolution Process, for MSME Industry – South, September 8, 2021



Orientation Session on IBC for officers of Central Public Sector Enterprises, August 13, 2021



Workshop on regulatory regime and other aspects of valuation profession under the Companies (Registered Valuers and Valuation) Rules, 2017, September 8, 2021



Workshop for Chairpersons/Presiding Officers, members and officers of DRT and DRAT, September 17, 2021

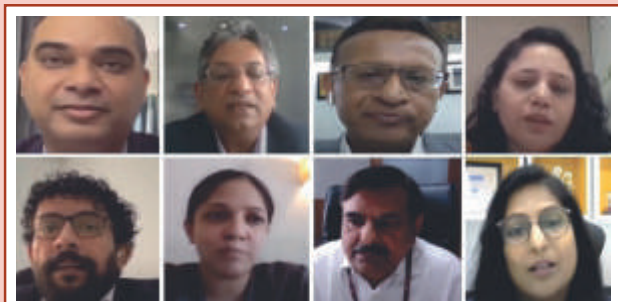


Workshop on regulatory regime and other aspects of valuation profession under the Companies (Registered Valuers and Valuation) Rules, 2017, September 22, 2021

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 27.

Table 27: Participation of Senior Officers in Programmes

Sl.	Date	Organiser	Subject	Participation
1	01-07-21	IICA	Inauguration of 3 <sup>rd</sup> Batch of GIP	Dr. Sahoo, Chairperson
2	07-07-21	IGNOU - IEPFA	Pre-packaged Insolvency Resolution Process	Mr. Gupta, CGM
3	11-07-21	ICMAI, IPAICAI and RVO ICMAI	IP Conclave - 5 Years Journey of IBC	Dr. Sahoo, Chairperson
4	13-07-21	IIPI	Impact of COVID-19	Dr. Sahoo, Chairperson
5	24-07-21	CSR Times	Insolvency and Bankruptcy Issues Vision India @75	Dr. Sahoo, Chairperson
6	05-08-21	Delhi IP Study Circle	IP the First Pillar of IBC – Journey So far & Way Ahead	Dr. Sahoo, Chairperson
7	06-08-21	ASSOCHAM	National E-Summit series on Insolvency & Bankruptcy Code and Valuation-'Pre-Packaged Process for Stressed MSMEs	Mr. Shukla, WTM
8	07-08-21	IIBF	Webinar on 'Pre-Packaged Insolvency Resolution Process'	Mr. Shukla, WTM
9	10-08-21	DTRTI Bengaluru, Income Tax Department	Special Course on Startups/MSMEs for officers of Income Tax Department	Mr. Gupta, CGM
10	18-08-21	ASSOCHAM of CoC'	National E-Summit series on Insolvency & Bankruptcy Code and Valuation-'Indian Valuation System and Resolution Plans & Commercial Wisdom	Mr. Kavdia, ED
11	19-08-21	Valocity	Digitalisation of India's Mortgage Lending and Valuation Process	Dr. Sahoo, Chairperson
12	27-08-21	CII	National Conference on '5-Years of IBC, 2017 & Way Forward'	Mr. Shukla, WTM and Dr. (Ms.) Vijayawargiya, WTM
13	28-08-21	IICA	IICA One Day Conference - Tax Aspects in Corporate Insolvency Resolution	Mr. Kavdia, ED
14	30-08-21	Sanchar TV	Insolvency and Bankruptcy (Amendment) Act, 2021	Dr. Sahoo, Chairperson
15	01-09-21	CII	5 Years of Bankruptcy Code and Beyond	Dr. Sahoo, Chairperson
16	10-09-21	IIPI and WASME	National Virtual Conference on 'Demystifying Prepack Insolvency Framework for MSMEs'	Mr. Shukla, WTM
17	12-09-21	ICSI	Foundation Day of Bhubaneswar Chapter	Dr. Sahoo, Chairperson
18	13-09-21	INSOL	The economic effects of COVID-19 - Insolvency reforms of law and practice	Dr. Sahoo, Chairperson
19	13-09-21	Centre for Policy Research	Inauguration of Know Your Regulator Series	Dr. Sahoo, Chairperson
20	15-09-21	IIPI	Executive Development Program for IPs	Dr. (Ms.) Vijayawargiya, WTM
21	17-09-21	Punjab National Bank	Pre-packaged Insolvency Resolution Framework for MSMEs	Mr. Gupta, CGM
22	26-09-21	ICMAI RVO	Valuation Standards Conclave	Mr. Gupta, CGM
23	27-09-21	National Institute of Communication Finance	National Seminar on 'Telecom Ecosystem: Challenges & Opportunities'	Mr. Gupta, CGM
24	28-09-21	Department of Investment and Public Asset Management	Awareness session for officers of DIPAM on Registered Valuers' Ecosystem under Companies (Registered Valuers and Valuation) Rules, 2017	Mr. Gupta, CGM
25	29-09-21	FOIR	Designing Regulatory Solutions: A Framework for Instrument Choice	Dr. Sahoo, Chairperson



National E-Summit series on Insolvency & Bankruptcy Code and Valuation-'Pre-Packaged Process for Stressed MSME's, August 6, 2021



National Conference on '5-Years of IBC, 2017 & Way Forward', August 27, 2021

# List of Abbreviations

AA	Adjudicating Authority
AFA	Authorisation for Assignment
ARC	Asset Reconstruction Company
ASSOCHAM	The Associated Chambers of Commerce and Industry of India
BSE	Bombay Stock Exchange
BSE IPF	BSE Investors' Protection Fund
BIFR	Board for Industrial and Financial Reconstruction
CBIRC	Cross-Border Insolvency Rules/Regulations Committee
CCIT	Chief Commissioner of Income Tax
CD	Corporate Debtor
CEO	Chief Executive Officer
CII	Confederation of Indian Industry
CIRP	Corporate Insolvency Resolution Process
CIRP Regulations	IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016
CoC	Committee of Creditors
CPE	Continuing Professional Education
CPGRAMS	Centralised Public Grievance Redress and Monitoring System
DC	Disciplinary Committee
DIPAM	Department of Investment and Public Asset Management
DPIIT	Department for Promotion of Industry and Internal Trade
DRT	Debt Recovery Tribunal
DRAT	Debt Recovery Appellate Tribunal
EMD	Earnest Money Deposit
Eoi	Expression of Interest
FC / FCs	Financial Creditor/ Creditors
FCDO	The Foreign, Commonwealth & Development Office
FOIR	Forum of Indian Regulators
FiSP	Financial Service Provider
GB	Governing Board
GIP	Graduate Insolvency Programme
GST	Goods and Services Tax
HC	High Court
IA	Inspecting Authority
IBA	Indian Banks' Association
IBBI / Board	Insolvency and Bankruptcy Board of India
IBC / Code	Insolvency and Bankruptcy Code
ICAI	Institute of Chartered Accountants of India
ICD	Insolvency Commencement Date
ICI	Index for Eight Core Industries
ICMAI	Institute of Cost and Management Accountants of India
ICSI	Institute of Company Secretaries of India
ICSI IIP	ICSI Institute of Insolvency Professionals
IGNOU	Indira Gandhi National Open University
IIBF	Indian Institute of Banking and Finance

IICA	Indian Institute of Corporate Affairs
IIP ICAI	Indian Institute of Insolvency Professionals of ICAI
ILC	Insolvency Law Committee
IP / IPAs	Insolvency Professional/ Professionals
IPA / IPAs	Insolvency Professional Agency/ Agencies
IPA ICAI	IPA of Institute of Cost Accountants of India
IPE / IPEs	Insolvency Professional Entity/Entities
IRP	Interim Resolution Professional
IU / IUs	Information Utility/Utilities
LCD	Liquidation Commencement Date
Liquidation Regulations	IBBI (Liquidation Process) Regulations, 2016
LODR Regulations	SEBI (Listing Obligations and Disclosure Requirements) Regulation, 2015
MCA	Ministry of Corporate Affairs
MD	Managing Director
Model Bye-Laws Regulation	IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016
MoU	Memorandum of Understanding
MSMEs	Micro, Small and Medium Enterprises
NARCL	National Asset Reconstruction Company Limited
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal
NeSL	National e- Governance Service Limited
NLIU	National Law Institute University
NPC	National Productivity Council
OC / OCs	Operational Creditor/ Creditors
OTS	One Time Settlement
PG / PGs	Personal Guarantor/Guarantors
PPIRP	Pre-Packaged Insolvency Resolution Process
Pr. CCIT	Principal Chief Commissioner of Income Tax
PTM	Part-Time Member
RA	Resolution Applicant
RBI	Reserve Bank of India
RERA Act	The Real Estate (Regulation and Development) Act, 2016
RP	Resolution Professional
RV	Registered Valuer
RVO	Registered Valuer Organisation
SC	Supreme Court of India
SEBI	Securities and Exchange Board of India
SRA	Successful Resolution Applicant
SIDBI	Small Industries Development Bank of India
Valuation Rules	The Companies (Registered Valuers and Valuation) Rules, 2017
WASME	World Association for Small and Medium Enterprises
WTM	Whole-time Member

Disclaimer: This Newsletter is meant for the sole purpose of creating awareness and must not be used as a guide for taking or recommending any action or decision, commercial or otherwise. The reader must do his own research or seek professional advice if he intends to take any action or decision in any matter covered in this Newsletter.