



सत्यमेव जयते

भारतीय दिवाला और शोधन अक्षमता बोर्ड

Insolvency and Bankruptcy Board of India

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# Insolvency and Bankruptcy News

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*"The early harvest through the IBC process has been extremely satisfactory. It has changed the debtor - creditor relationship. The creditor no longer chases the debtor. In fact, it is otherwise."*

*-Hon'ble Finance and Corporate Affairs Minister on 'Two Years of Insolvency and Bankruptcy Code (IBC)', Facebook, 3<sup>rd</sup> January, 2019*



Women's Day, 8<sup>th</sup> March, 2019

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## Individual Insolvency: The Next Big Thing

*After having passed several milestones in corporate insolvency, it is time to chart the route for individual insolvency with clear phasing, sequencing, timing and destination.*

In the two years since the enactment of the Insolvency and Bankruptcy Code, 2016 (Code), the entire ecosystem comprising the Adjudicating Authority (AA), the Insolvency and Bankruptcy Board of India (IBBI), Insolvency Professional Agencies (IPAs), Insolvency Professionals (IPs), Information Utilities (IUs), Registered Valuers Organisations (RVOs) and Registered Valuers (RVs) has been in place. The provisions relating to corporate insolvency resolution, including fast track resolution, corporate liquidation and voluntary liquidation have been operationalised with considerable success. The behavioural changes, as anticipated from the Code, are clearly visible on the ground. It is time now to focus on the next big thing, the individual insolvency.

Individual insolvency framework pursues the objectives enshrined in the Code. It prevents creditors from harming the debtor by racing to be the first to recover their dues, and thereby facilitates resolution of insolvency. It facilitates an individual to get in and get out of business, undeterred by honest business failure, and thereby promotes entrepreneurship. It increases creditor's expected returns and thereby promotes availability of credit. It does not take away future income of the debtor after fresh / earned start and thereby does not undermine incentive to work. It relieves the debtor of the burden of debt and isolates minimum assets for his subsistence, while improving the prospects of realisation for creditors, thereby ensuring fairness and equity. These objectives are extremely important in the Indian context, where proprietorship and partnership firms have significant contribution to income and employment, and informal financial creditors (FCs) account for a significant share of credit.

### Vis-à-vis Erstwhile Framework

In case of default by an individual, a creditor typically had two remedies - against the person of the debtor and / or against his property. Historically, the remedy was directed against the person. In ancient times, the creditor had the liberty to take the debtor, and often his family, into debt slavery. Reportedly, Genghis Khan used to hang the debtor who became bankrupt for the third time. The 19<sup>th</sup> century insolvency enactments provided considerable relief to debtors from harassment, while allowing creditors relief against the property of the debtor. A recent research ('Bombay's People 1860-98, Insolvents in the City' by Asiya Siddiqui) evidences that 85% of the 20,980-odd petitioners, who filed for bankruptcy in Mumbai between 1860 and 1898, got protection from arrest or detention.

Two subsequent enactments, namely, the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920, are in force today. The Code makes several improvements over these two enactments. With its focus on rehabilitation of the debtor as opposed to adjudging him as insolvent, the Code: (a) provides an objective trigger for initiation of insolvency resolution process instead of relying on the commission of an 'act of insolvency'; (b) mandates a moratorium which provides a breathing space for the debtor and creditors to negotiate a repayment plan; (c) uses independent and qualified professionals to assist the stakeholders and the AA in conduct of processes; (d) prescribes a linear process, in which

bankruptcy typically follows the failure of the insolvency resolution process; (e) enables automatic discharge instead of requiring that discharge be granted by the AA on the satisfaction that the insolvent has conducted himself well in the run up to and during insolvency; (f) provides a more comprehensive regime, including a debt relief in the form of 'fresh start', and keeps certain assets of the debtor beyond the reach of creditors for the subsistence of the debtor.

### Part III

Part III of the Code provides for three processes for individual insolvency resolution, on default of a threshold amount:

(a) **Fresh Start Process:** This is available only to those debtors who have an annual income  $\leq$  Rs.60,000, assets  $\leq$  Rs.20,000, debts  $\leq$  Rs.35,000 and do not have a dwelling unit. Only the debtor can file an application for fresh start for discharge of his debt. A resolution professional (RP) examines the application and submits a report to the AA, recommending acceptance or rejection of the application. On consideration of the report of the RP, the AA passes an order, either admitting or rejecting the application. If the application is admitted, the creditors have an opportunity to object to the process on limited grounds. On conclusion of the process, the AA passes an order for the discharge of the debtor or revokes the admission of the application. The discharge order writes off the unsecured debts, allowing the debtor to start afresh, subject to an entry in the credit history.

(b) **Insolvency Resolution Process:** This provides a framework for the debtor and creditors to collectively renegotiate a repayment plan under the supervision of an RP. The debtor or a creditor may make an application for initiation of the process. If the application is admitted by the AA, a public notice is issued inviting claims from all creditors. The debtor then prepares a repayment plan, in consultation with the RP. If the plan is approved by 75% of the voting share of the creditors, and thereafter by the AA, the RP supervises its implementation. On execution of the repayment plan, the AA issues a discharge order releasing the debtor from its liability in terms of the plan, and the debtor gets an 'earned start'.

(c) **Bankruptcy Process:** If resolution process fails or repayment plan is not implemented, the debtor or creditor may make an application for the initiation of bankruptcy process. If the application is admitted, the AA passes a bankruptcy order and appoints a bankruptcy trustee, followed by an invitation of claims from creditors. The bankruptcy trustee investigates the affairs of the bankrupt, realises the estate of the bankrupt and distributes the proceeds in accordance with the priority provided in the Code. He submits a report of administration of the estate of the bankrupt to the committee of creditors for approval. On expiry of one year from the bankruptcy commencement date or within seven days of the approval by the committee of creditors, the bankruptcy trustee applies for a discharge order and the AA passes a discharge order. This discharge order releases the debtor from the bankruptcy debt. The bankrupt, however, suffers certain disabilities during the period of bankruptcy process.

## Vis-à-vis Corporate Insolvency

Individual insolvency framework differs from that of corporate insolvency on many aspects:

(a) Corporates are artificial persons with a broadly uniform structure. The Code provides a uniform process for resolution of their insolvency. It, however, categorises individuals into three categories and expects customised processes for resolution of each of the categories.

(b) There is no automatic debt relief in case of corporate entities. Individual insolvency, however, offers a fresh start process which grants automatic debt relief for a set of debtors where chance of recovery is low as compared to the efforts involved. While a corporate resolution process may yield into liquidation process, fresh start process never yields into bankruptcy process.

(c) A corporate entity and its business can be re-organised or liquidated and sold in bits and pieces. The business, if any, of an individual can be re-organised. The individual cannot, however, be liquidated or sold.

(d) Commencement of liquidation is automatic on failure of corporate resolution process. However, it is not so in the case of individual insolvency. A fresh application needs to be made either by the debtor or a creditor for commencement of the bankruptcy process, after failure of resolution process.

(e) Only on completion of liquidation, a corporate is dissolved. The bankruptcy process does not affect or is not affected by the existence of the debtor. It is not closed even on the death of the debtor.

(f) The Code does not envisage an RP to supervise the implementation of resolution plan for corporates. However, he supervises implementation of repayment plan under the individual insolvency.

(g) The National Company Law Tribunal is the AA for insolvency of corporate entities and personal guarantors to corporate entities undergoing corporate processes. The Debt Recovery Tribunal is the AA for insolvency of individuals.

## Phasing

The Code envisages insolvency resolution of three categories of individuals, namely, personal guarantors to corporate debtors (CDs), partnership firms and proprietorship firms, and other individuals. Each category is unique and needs a separate dispensation for resolution of its insolvency. A category may have several sub-categories, each of which may require customised process. Further, the stakeholders need guidance on how to use the insolvency processes to their advantage. Given the scale of the country with 1.3 billion citizens, the road to implementing the insolvency regime for individuals is an uphill one and the learning curve is very steep. An appropriate phasing and sequencing of implementation of individual insolvency is essential, in sync with the legislative intention.

In the first phase, the provisions of the Code dealing with insolvency and bankruptcy of personal guarantors to corporates may be implemented. This would complement the corporate insolvency regime and put personal guarantors and corporate guarantors on a level playing field. The provisions of the Code dealing with insolvency of partnership and proprietorship firms may be implemented in the second phase. In the third phase, the provisions of the Code dealing with insolvency of other individuals may be implemented. This would enable learnings from earlier phases for design of the dispensation for subsequent phases and to have all stakeholders on board for the efficient implementation of Part III of the Code.

Dr. M. S. Sahoo



Chairperson, Whole Time Members and Officers as on 31<sup>st</sup> March, 2019

# IBBI Updates

## Governing Board

The Government appointed Dr. Rajiv Mani, Joint Secretary and Legal Adviser, Department of Legal Affairs, Ministry of Law and Justice as *ex-officio* Member in the IBBI vice Mr. G. S. Yadav, vide notification dated 26<sup>th</sup> February, 2019. Dr. Mani is the Group Head looking after advisory work of various Ministries, including Ministry of Finance and Ministry of Corporate Affairs. He is responsible for the legislative initiatives in the ease of doing business environment and fast-tracking adjudication of the commercial disputes. He is a Ph. D. in constitutional law.



Dr. M. S. Sahoo welcomes Dr. Rajiv Mani

Ms. Suman Saxena, Whole-time Member (WTM) had submitted her resignation on account of personal reasons. The Government accepted, vide notification dated 13<sup>th</sup> March, 2019, her resignation with effect from 8<sup>th</sup> October, 2018.

## Cooperation Agreement with IFC

The IBBI signed a Cooperation Agreement with the International Finance Corporation (IFC), a member of the World Bank Group, on 6<sup>th</sup> March, 2019 in Delhi. The Agreement was signed by Mr. K. R. Saji Kumar, Executive Director, IBBI and Mr. Jun Zhang, Country Manager, IFC India. It envisages technical assistance by IFC, up to 30<sup>th</sup> June, 2021, for (a) Workshops and Training for IPs and Officers of the IBBI, (b) Train the Trainers for Workshops for IPs, (c) Development of National Insolvency Programme, and (d) Insolvency and Valuation Examinations.



IBBI signs Cooperation Agreement with IFC on 6<sup>th</sup> March, 2019

## MoU with SEBI

The IBBI signed a Memorandum of Understanding (MoU) with SEBI on 19<sup>th</sup> March, 2019. The MoU was signed by Mr. Ritesh Kavdia, Executive Director, IBBI and Mr. Anand Baiwar, Executive Director, SEBI in Mumbai.

It envisages (a) sharing of information and resources, (b) periodic meetings to discuss matters of mutual interest, (c) cross-training of staff, (d) capacity building of IPs and FCs, and (e) enhancing level of awareness among FCs.



IBBI signs MoU with SEBI on 19<sup>th</sup> March, 2019

## Strategy Meet

The IBBI organises an annual Strategy Meet for formulating a strategic action plan to guide its efforts and resources towards its objectives. Senior officers participated in the third strategy meet on 22<sup>nd</sup> and 23<sup>rd</sup> March, 2019 at The Energy and Resources Institute RETREAT in Gurugram to formulate the Strategic Action Plan for 2019-20 that outlines its objectives, strategies, specific actions and tasks.



At Strategy Meet in Gurugram on 22<sup>nd</sup>-23<sup>rd</sup> March, 2019

## Employee Workshop

A workshop on 'Valuation in Securities or Financial Assets' was conducted by Mr. Ram Mohan Bhawe on 19<sup>th</sup> January, 2019.



Workshop on 'Valuation in Securities or Financial Assets' on 19<sup>th</sup> January, 2019

## Distinguished Speakers

The following distinguished speakers delivered talks and interacted with the officers of IBBI:

- Mr. Bryan Marsal, Chief Executive Officer and Co-founder, Alvarez and Marsal on 'The Lehman Brothers and Group Insolvency' on 19<sup>th</sup> February, 2019.
- Ms. Helen M. Hicks, Global Valuation Leader, Pricewaterhouse Cooper (PwC) on 'Business Valuation' on 19<sup>th</sup> February, 2019.
- Mr. Andrew J. R. Wollaston, Partner and the Global Head of the Restructuring Practice, EY on 'A case study on Nortel: Cross Border and Group Insolvency' on 5<sup>th</sup> March, 2019.
- Mr. Gregory Wallace, Senior Managing Director, Global Independence and Conflicts, and Deputy Global Managing Director, Regulatory, Deloitte Touche Tohmatsu Limited on 'Financial Reporting and Corporate Failure' on 18<sup>th</sup> March, 2019.
- Mr. U. K. Chaudhury, Senior Advocate on 'Challenges for Regulator and the IBC Ecosystem' on 22<sup>nd</sup> March, 2019.
- Mr. Satish Kumar Gupta, Resolution Professional on 'Experiences as the Resolution Professional of Essar Steel (India) Limited' on 23<sup>rd</sup> March, 2019.



Talk by Mr. Bryan Marsal on 19<sup>th</sup> February, 2019



Talk by Ms. Helen M. Hicks on 19<sup>th</sup> February, 2019



Talk by Mr. Andrew J. R. Wollaston on 5<sup>th</sup> March, 2019



Talk by Mr. Gregory Wallace on 18<sup>th</sup> March, 2019



Talk by Mr. U. K. Chaudhury on 22<sup>nd</sup> March, 2019



Talk by Mr. Satish Kumar Gupta on 23<sup>rd</sup> March, 2019

## Legal and Regulatory Framework

### Central Government

#### Applicants for CIRP

Section 7 of the Code allows an FC, or any other person on behalf of the FC, as may be notified by the Government, to file an application for initiation of CIRP. The Government on 27<sup>th</sup> February, 2019, notified the persons who may file an application, on behalf of the FC, as under:

- a guardian;
- an executor or administrator of an estate of an FC;
- a trustee (including a debenture trustee); and
- a person duly authorised by the Board of Directors of a Company.

## Adjudicating Authority Rules

The Government amended the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 on 14<sup>th</sup> March, 2019 to modify the forms to enable application for initiation of fast track CIRP and to require submission of details of the CD relevant for determination if fast track is available for its resolution.

## Insolvency Law Committee

The Government reconstituted the Insolvency Law Committee as a Standing Committee on 6<sup>th</sup> March, 2019, with Secretary, Ministry of Corporate Affairs as its Chairperson. The Committee will analyse the functioning and implementation of the Code, identify issues impacting the efficiency and effectiveness of corporate insolvency resolution and liquidation framework and make suitable recommendations to address them. It will also study the insolvency resolution and bankruptcy framework for individuals and partnership firms and make recommendations for implementation.

## NCLT Benches

The Government constituted a bench of NCLT at Indore for Madhya Pradesh and another one at Amravati for Andhra Pradesh, on 8<sup>th</sup> March, 2019.

## Committee on Valuation Matters

The Committee constituted by the Central Government to advise on valuation matters under rule 19 of the Companies (Registered Valuers and Valuation) Rules, 2017 submitted its first report to the Government on 27<sup>th</sup> February, 2019.

## IBBI

### Voluntary Liquidation Process Regulations

The IBBI amended the IBBI (Voluntary Liquidation Process) Regulations, 2017 on 15<sup>th</sup> January, 2019. Regulation 6 provides that an IP shall be eligible to be appointed as a liquidator, if he, and every partner or director of the IPE of which he is a partner or director is independent of CD. The amendment clarifies that a person shall be considered independent of the CD if he has not been an employee or proprietor or partner of a firm of auditors or secretarial auditors. It also clarifies that the stakeholders are required to submit proof of claims on or before 30<sup>th</sup> day from the liquidation commencement date.

### CIRP Regulations

The IBBI amended the (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 on 24<sup>th</sup> January, 2019 to provide that:

- (a) the request for resolution plans shall require the resolution applicant (RA), in case its resolution plan is approved by the committee of creditors (CoC), to submit a performance security;
- (b) the RP shall attach the evidence of receipt of performance security while submitting the resolution plan to the AA for approval;
- (c) the performance security shall be forfeited if the RA, after approval of the plan by the AA, fails to implement or contributes to the failure of implementation of the plan;
- (d) the resolution plan shall include a statement as to whether the RA or any of its related parties has failed to implement or contributed to the failure of implementation of any resolution plan approved by the AA under the Code at any time in the past; and
- (e) the creditor, who is aggrieved by non-implementation of a resolution plan approved by the AA, may apply to the AA for appropriate directions.

### Charter of Responsibilities

The Code read with Regulations made thereunder has demarcated responsibilities of an IP and of the CoC in the CIRP and assigned certain responsibilities to them jointly. The emerging jurisprudence is bringing further clarity on their respective roles in a CIRP. For education of

stakeholders about their roles and responsibilities, the IBBI issued an indicative charter of their responsibilities, prepared in consultation with the three IPAs.

### Working Group on Individual Insolvency

The Working Group (WG) on Individual Insolvency, under the Chairmanship of Mr. P. K. Malhotra, former Law Secretary, submitted its report on bankruptcy processes for personal guarantors to CDs, along with draft bankruptcy rules and regulations.

### Working Group on Group Insolvency

The IBBI constituted a WG on Group Insolvency under the Chairmanship of Mr. U. K. Sinha, former Chairman, SEBI on 17<sup>th</sup> January, 2019 with a mandate to submit a report recommending a complete regulatory framework to facilitate insolvency resolution and liquidation of CDs in a group.



Meeting of the Working Group on Group Insolvency on 26<sup>th</sup> March, 2019

### Appointment as Administrators

The IBBI issued the 'Guidelines for appointment of IPs as Administrators under the SEBI (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018', prepared in consultation with the SEBI, on 26<sup>th</sup> March, 2019 to govern the preparation of a Panel of IPs for appointment as Administrators. The Panel is valid for six months and a new Panel will replace the earlier one every six months.

### Other Authorities

#### Reserve Bank of India

In relaxation of the end-use restrictions under External Commercial Borrowings (ECBs) framework, the RBI, vide circular dated 7<sup>th</sup> February, 2019, allowed RAs under a CIRP to raise ECBs from recognised lenders, except the branches/overseas subsidiaries of Indian banks, for repayment of rupee term loans of the target company under the approval route. Accordingly, the RAs, who are otherwise eligible borrowers, can forward such proposals to raise ECBs, through their authorised dealer bank, to the RBI for approval.

## Orders

A brief on select decisions of judicial and quasi-judicial authorities during January - March, 2019 is as under:

### Supreme Court

#### Vijay Kumar Jain Vs. Standard Chartered Bank & Ors. [Civil Appeal No. 8430/2018]

The Supreme Court (SC) held that resolution plans need to be provided to

members of the suspended Board of Directors of the CD, as they have a right to participate in the meetings of the CoC. It observed: “Therefore, a combined reading of the Code as well as the Regulations leads to the conclusion that members of the erstwhile Board of Directors, being vitally interested in resolution plans that may be discussed at meetings of the committee of creditors, must be given a copy of such plans as part of “documents” that have to be furnished along with the notice of such meetings.”

**Forch India Ltd. Vs. Edelweiss Assets Reconstruction Co. Ltd. [Civil Appeal No. 818/2018]**

While considering whether the CIRP can continue, while winding up petition under section 433 (e) of the Companies Act, 2013 is pending before the High Court (HC), the SC held that CIRP is an independent proceeding which must be decided in accordance with the Code. It observed: “Though, we are not interfering with the Appellate Tribunal’s order dismissing the appeal, we grant liberty to the appellant before us to apply under the proviso to Section 434 of the Companies Act (added in 2018), to transfer the winding up proceeding pending before the High Court of Delhi to the NCLT, which can then be treated as a proceeding under Section 9 of the Code.”

**Swaraj Infrastructure Pvt. Ltd. Vs. Kotak Mahindra Bank Ltd. [Civil Appeal No. 1291/2019]**

The SC considered the issue as to whether a secured creditor can file a winding up petition on the basis of a recovery certificate issued by the DRT. It observed: “We may only end by saying that cases like the present one have to be decided by balancing the interest of creditors to whom money is owing, with a debtor company which will now go in the red since a winding up petition is admitted against it. It is not open for persons like the appellant to resist a winding up petition which is otherwise maintainable without there being any bona fide defence to the same. We may also hasten to add that the respondent cannot be said to be blowing hot and cold in pursuing a remedy under the Recovery of Debts Act and a winding up proceeding under the Companies Act, 1956 simultaneously. .... When secured creditors like the respondent are driven from pillar to post to recover what is legitimately due to them, in attempting to avail of more than one remedy at the same time, they do not “blow hot and cold”, but they blow hot and hotter.”

**Swiss Ribbons Pvt. Ltd. & Anr. Vs. UoI & Ors. [WP (Civil) No. 99/2018 with connected matters]**

Several petitions were filed assailing the constitutional validity of various provisions of the Code. While dismissing these petitions, the SC made several important findings and rulings as under:

- (a) The Code is for reorganisation and insolvency resolution of CD in a time-bound manner. It ensures revival and continuation of the CD by protecting it from its own management and from liquidation.
- (b) The Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the CD as a going concern.
- (c) There is an intelligible differentia between the FCs and operational creditors (OCs) which has a direct relation to the objects sought to be achieved by the Code. Classification between FCs and OCs is neither discriminatory, nor arbitrary, nor violative of Article 14.
- (d) “Claim” gives rise to “debt” only when it is “due” and “default” occurs only when “debt” becomes “due and payable” and is not paid by debtor. This is why FC proves default and OC claims a right to payment of liability. When this is kept in mind, the differentiation in triggering of insolvency resolution process by FCs and OCs becomes clear.
- (e) The NCLAT has, while looking into viability and feasibility of resolution plans approved by the CoC, always gone into whether OCs are given roughly the same treatment as FCs, and if they are not, such plans are either rejected or modified so that the OCs’ rights are safeguarded.
- (f) Regulation 30A(1) of the CIRP Regulations is not mandatory but is directory for the simple reason that on the facts of a given case, an

application for withdrawal may be allowed in exceptional cases even after issue of invitation for expression of interest under regulation 36A.

- (g) RP has no adjudicatory powers. He has administrative powers as opposed to quasi-judicial powers. He is a facilitator of the resolution process, whose administrative functions are overseen by the CoC and by the AA.
- (h) An RA has no vested right for consideration or approval of its resolution plan and, therefore, no vested right is taken away by section 29A.
- (i) The experiment conducted in enacting the Code is proving to be largely successful. The defaulter’s paradise is lost. In its place, the economy’s rightful position has been regained.

**K. Sashidhar Vs. Indian Overseas Bank & Ors. [Civil Appeal No. 10673/2018]**

While dismissing the appeals against the common order of NCLAT, the SC observed:

- (a) The word “may” in section 30(4) is ascribable to discretion of CoC to approve or reject resolution plan. RP is not required to express opinion on matters within the domain of FCs, to approve or reject resolution plan. IBB cannot, under section 196, directly or indirectly regulate the manner of exercise of commercial wisdom by FCs during the voting on resolution plan. AA has no jurisdiction to evaluate commercial decision of CoC much less to enquire into the justness of rejection of plan by dissenting FCs.
- (b) If resolution plan is approved by CoC, it is obligatory for RP to submit it to AA. If plan is rejected by not less than 25% of voting shares of FCs, RP is under no obligation to submit it under section 30(6) to AA. The legislative intent is to uphold the opinion of the minority dissenting FCs. On receipt of the plan, the AA is required to satisfy itself that the plan approved by CoC meets the requirements specified in section 30(2). Upon receipt of a “rejected” resolution plan, the AA is not expected to do anything more; but is obligated to initiate liquidation process under section 33(1).

**Jai Balaji Industries Limited Vs. State Bank of India & Ors. [Civil Appeal No. 1929/2019]**

The SC noted that no notice was served upon the appellant as required under rule 48 of the NCLAT Rules and an opportunity of hearing was not provided to the appellant while passing the impugned order. It set aside the said order and remanded the matter back to NCLAT with a direction to dispose of the matter as expeditiously as possible after affording an opportunity of hearing to the parties.

**Rai Bahadur Shree Ram and Company Pvt. Ltd. Vs. Rural Electrification Corporation Ltd. & Ors. [Civil Appeal No. 1484/2019]**

An appeal was filed against the order of the NCLAT which had held that without initiating CIRP against the principal borrower, it is open to the FC to initiate CIRP under section 7 against the corporate guarantors, as the creditor is also the FC qua corporate guarantor. The SC dismissed the appeal.

**Reliance Infrastructure Limited Vs. State of Maharashtra and Ors. [Civil Appeal No. 879/2019]**

While considering the validity of tariff regulations framed by the Maharashtra Electricity Regulatory Commission, the SC held that the power to frame regulations is of a legislative nature. It observed: “The Court, while exercising its power of judicial review, can step in where a case of manifest unreasonableness or arbitrariness is made out. Similarly, where the delegate of the legislature has failed to follow statutory procedures or to take into account factors which it is mandated by the statute to consider or has founded its determination of tariffs on extraneous considerations, the Court in the exercise of its power of judicial review will ensure that the statute is not breached. However, it is no part of the function of the Court to substitute its own determination for a determination which was made by an expert body after due consideration of material circumstances.”



## High Courts

### **Cushman and Wakefield India Private Limited Vs. Union of India & Anr. [WP(C) 9883/2018 and connected matters]**

While dismissing four petitions seeking declaration of rule 3(2) of the Companies (Registered Valuers and Valuation) Rules, 2017 as unconstitutional for violating Articles 14, 19(1)(g) and 301 of the Constitution of India, the HC observed that the objective and intention behind the impugned rule is clearly to introduce higher standards of professionalism in valuation industry, specifically in relation to valuations undertaken for the purpose of Companies Act, 2013 and the Code. This rule obviates the possibility of conflict of interest on account of diverging interests of constituent / associate entities which resultantly shall undermine the very process of valuation. Accordingly, it held: *“..making eligible only companies other than subsidiary companies, associate companies and joint ventures for the purpose of registration as valuer, a separate class has been carved out based on classification which is founded on intelligible differentia and as such the Rule cannot be faulted.”*

### **Liberty House Group Pte Ltd. Vs. State Bank of India & Ors. [CS (COMM) 1246/2018 & IAs No. 16056/2018 and connected matters]**

The plaintiff sought injunction restraining SBI from invoking / encashing / forfeiting bank guarantee relief in respect of bid bond guarantee (BBG). The HC noted that that the BBG has arisen from a transaction in the ambit of the Code. The HC held: *“Since the questions raised in these suits arise out of or in relation to insolvency resolution and the NCLT has jurisdiction to entertain the same. The jurisdiction of this Court will also be barred by Section 231 of the Code...”* It further observed that if forfeiture is held bad in law, it will put all CIRPs at naught, with non-serious applicants submitting resolution plans for consideration and after such plans are approved, not abiding therewith, leading to wastage of time and delaying the CIRP, making liquidation the only alternative and causing wastage of assets and loss to the creditors and to the economy of the country. Accordingly, it rejected the suits, noting that the plaintiff, by instituting the suits, has delayed the receipt of payment under the BBG by nearly over three months. In the interest of equity, it directed the plaintiff to pay Rs.25 lakh as cost on each of the two suits to SBI.

### **Tayal Cotton Pvt. Ltd. Vs. State of Maharashtra & Ors. [Criminal WP No. 1437/2017, Order dated 6<sup>th</sup> August, 2018]**

The issue was whether moratorium prohibiting institution of proceeding under section 14 of the Code applies even to a criminal proceeding. The HC held: *“These words will have to be interpreted ejusdem generis with the words 'suits' used earlier thereto. So interpreted, the word 'proceedings' used therein and even the words 'order' and 'in Court of law' will have to be interpreted as a proceeding arising in the nature of a suit and orders passed in such proceedings and suits. Apart from the fact that the Legislature has not conspicuously used the words 'criminal' as an adjective to the word 'proceedings' and as an adjective to the noun 'Court of law', it must be assumed that the Legislature in its wisdom has consciously omitted to use such adjectives since it must have intended to prohibit only the suits and execution of the judgments and decrees or a proceeding of the like nature. Therefore, applying this principle of interpretation, one cannot put any other interpretation on this provision contained in Section 14 of the Code except that it only prohibits a suit or a proceeding of a like nature and does not include any criminal proceeding.”*

## National Company Law Appellate Tribunal

### **S. C. Sekaran Vs. Amit Gupta & Ors. [CA (AT) (Insolvency) No. 495 & 496/2018]**

Appeals were filed by the management of the CD against the liquidation order passed by the AA, following the failure of resolution. It was stated that the liquidator is supposed to keep the CD as a 'going concern' even during the period of liquidation and can take steps under section 230 of the Companies Act, 2013. The NCLAT directed: *“.. we direct the 'Liquidator' to proceed in accordance with law. He will verify claims of all the creditors; take into custody and control of all the assets, property, effects and actionable claims*

*of the 'corporate debtor', carry on the business of the 'corporate debtor' for its beneficial liquidation etc. as prescribed under Section 35 of the I&B Code.... Before taking steps to sell the assets of the 'corporate debtor(s)' (companies herein), the Liquidator will take steps in terms of Section 230 of the Companies Act, 2013. The Adjudicating Authority, if so required, will pass appropriate order. Only on failure of revival, the Adjudicating Authority and the Liquidator will first proceed with the sale of company's assets wholly and thereafter, if not possible to sell the company in part and in accordance with law. .. The 'Liquidator' if initiates, will complete the process under Section 230 of the Companies Act within 90 days...”*

### **Ferro Alloys Corporation Ltd. Vs. Rural Electrification Corporation Ltd. [CA (AT) (Insolvency) No. 92/2017 with connected matters]**

On the issue of initiating CIRP against the corporate guarantor, without initiating the process against the principal debtor, the NCLAT observed that the provisions of the Indian Contract Act, 1872 will govern inter-se rights, obligations and liabilities of a guarantor qua FC, in absence of any express provision providing for the same in the Code. It held that it is not necessary to initiate CIRP against the principal borrower before initiating CIRP against the corporate guarantors. Without initiating CIRP against the principal borrower, it is always open to the FC to initiate CIRP under section 7 against the corporate guarantors, as the creditor is also the FC qua corporate guarantor.

### **Dr. Vishnu Kumar Agarwal Vs. M/s Piramal Enterprise Ltd. [CA (AT) (Insolvency) No. 346/2018]**

The issue was whether CIRP can be initiated against two corporate guarantors simultaneously for the same set of debt and default. The NCLAT noted that an FC cannot file claim for the same debt in two separate CIRPs and therefore, two applications cannot be admitted against the same default. It held that there is no bar in the Code for filing simultaneously two applications under section 7 against the principal borrower as well as the corporate guarantor or against two guarantors. However, once an application filed under section 7 is admitted against either principal borrower or corporate guarantor, the second application by the same applicant for the same set of claim and default cannot be admitted against the other. Further, though there is a provision to file joint application under section 7 by FCs, no application can be filed by them against two or more CDs on the ground of joint liability.

### **Sanjay Kumar Ruia Vs. Catholic Syrian Bank Ltd. & Anr. [CA (AT) (Insolvency) No. 560/2018]**

The NCLAT considered the following issues in this matter:

- Whether CoC has jurisdiction to replace the RP after completion of 270 days? The NCLAT held that after completion of 270 days, the CoC ceased to exist and thereby they have no jurisdiction to replace RP. Even if the decision to replace RP is taken prior to 270 days, in the absence of any order passed by the AA, such decision cannot be entertained on completion of 270 days.
- Whether AA is empowered to decide the resolution cost, including the fee payable to the RP? The NCLAT held that on combined reading of section 30 of the Code with regulations 31, 34 and 38 of CIRP Regulations, it is clear that the CoC is required to determine the resolution cost to be incurred by RP, including his fee. The AA has no jurisdiction to decide the resolution cost, including the fee of the RP.
- Whether a CIRP under section 7, 9 or 10 can be converted as fast track CIRP under section 55 of the Code? The NCLAT answered it in negative.

### **M/s Prasad Gempex Vs. Star Agro Marine Exports Pvt. Ltd. & Ors. [CA (AT) (Insolvency) No. 291/2018]**

The NCLAT considered whether the RP has jurisdiction to decide claim of a creditor. It noted that it is open to a person to file a suit or an application against the CD after expiry of moratorium. It held: *“We allow the appellant to file claim in terms of sub-section (6) of section 60 of the Code before the*

appropriate court of law or may file appropriate application against the corporate debtor, if the resolution plan is approved and do not take proper care of the applicant. In case the resolution plan is not approved and the order of liquidation is passed, in such case, it will be open to the appellant to file claim before the liquidator in accordance with the provisions as referred to above and the liquidator will decide the claim under section 40 of the I & B Code.”

**Tata Steel Limited Vs. Liberty House Group Pte Ltd. & Ors. [CA (AT) (Insolvency) No. 198/2018]**

The CoC gave equal opportunity to all three RAs to submit improved financial offer. Instead of filing an improved financial offer, the appellant filed an IA before the NCLAT for restraining the RP and the CoC from considering improved financial offer. The NCLAT noted that the process document does not curtail the powers of the CoC to maximise value and as per the process document, the CoC has absolute discretion, but without being under any obligation, to update, amend or supplement the information, assessment or assumptions and right to change, update, amend, supplement, modify, add to, delay or otherwise annul or cease the resolution process at any point in time. It observed: “Therefore, granting more opportunity to all the eligible Resolution Applicants to revise its financial offers, even by giving more opportunity, is permissible in law. However, all such process should be complete within the time frame.”

The NCLAT observed that the CoC is entitled to approve or reject a resolution plan, only after considering its feasibility and viability. Therefore, the voting shares of members of the CoC, who are not present in the meeting either directly or through video conferencing and thereby not considered its feasibility and viability, shall not be counted.

**Asset Reconstruction Company (India) Ltd. Vs. GPT Steel Industries Ltd. [CA (AT) (Insolvency) No. 151/2019]**

The Appellant submitted that his application under section 7 of the Code was pending consideration before the AA since 1<sup>st</sup> March, 2018. The NCLAT expressed dismay that a limited enquiry has been converted into a full dressed trial. It observed that pre-admission proceedings cannot be permitted to protract, and the AA should be alive to the object sought to be achieved by the Code and ensure that all efforts to derail the process are frustrated. It advised that the AA should pass an appropriate order preferably within two weeks failing which it may send for the records of AA and pass appropriate order.

**Mr. Sharad Sanghi Vs. Ms. Vandana Garg & Ors. [CA (AT) (Insolvency) No. 461/2018 and connected matters]**

The resolution plan initially received approval of 62.66% voting share. Subsequently, some creditors who had not voted, voted later or who had dissented, later assented, resulting in 81.31% of voting share in favour of resolution plan. The RP submitted the resolution plan before AA for approval and requested to exclude certain period. The AA rejected the prayer and passed order of liquidation on the ground that total period of 270 days had expired on the day when the last voting took place and before expiry of period only 62.66% voting was in favour of resolution plan, which was less than the required 75% of voting share. Regulation 26(2), which has been repealed, prohibited change of vote once it was cast. The NCLAT held: “... as we have already held that the ‘Resolution Process’ took place within 270 days and the ‘Committee of Creditors’ had the jurisdiction to change its opinion in favour of the ‘Resolution Plan’ to make it a success and Regulation 26(2) being directory which also stands deleted, we set aside the impugned order and hold that the ‘Resolution Plan’ being in conformity with Section 30(2) warranted approval by the Adjudicating Authority.”

In this matter, an FC contended that the resolution plan has only distinguished between secured and unsecured but did not recognise first charge holder and second charge holder. The NCLAT observed that this submission cannot be accepted at the stage of resolution. All the FCs are treated to be similar, if similarly situated.

**Pr. Director General of Income Tax & Anr. Vs. M/s Synergies Dooray Automotive Ltd. & Ors. [CA (AT) (Insolvency) No. 205/2017 and connected matters]**

The NCLAT considered whether the ‘Income Tax’, ‘Value Added Tax’ or other statutory dues, such as ‘Municipal Tax’, ‘Excise Duty’, etc., come within the meaning of ‘Operational Debt’ and whether the Central Government, the State Government or the legal authority having statutory claim, come within the meaning of OC. It held that operational debt in normal course means a debt arising during the operation of a CD. Only when the CD is operational and remains a going concern, the statutory liability, such as payment of Income Tax, Value Added Tax etc., will arise. As the ‘Income Tax’, ‘Value Added Tax’ and other statutory dues arising out of the existing law, arises when the CD is operational, such statutory dues have direct nexus with operation of the CD. Therefore, all statutory dues, including ‘Income Tax’, ‘Value Added Tax’ etc. come within the meaning of operational debt. Consequently, ‘Income Tax Department of the Central Government’ and the ‘Sales Tax Department(s) of the State Government’ and ‘local authority’, who are entitled to dues arising out of the existing laws, are OCs.

**MSTC Limited Vs Adhunik Metalliks Ltd. & Ors. [CA (AT) (Insolvency) No. 519/2018 and connected matters]**

The appellant, RA submitted that it made best efforts to implement the resolution plan and is continuing to do so, however, the implementation suffered due to multiple factors beyond its control. It further submitted that the implementation is subject to receipt of approval from the Competition Commission of India (CCI) and, therefore, the effective date for implementation of the plan should be the date of receipt of CCI’s approval. The NCLAT observed that the RA knows the mandate of section 30 (2) (f) that the resolution plan shall not be against any of the provisions of the existing law and, therefore, did not accept the submission that the effective date of plan is the date of approval by CCI.

MSTC submitted that the payment made by the RP has been appropriated towards the old dues and the claims in respect of supply during moratorium outstanding which should be included in the resolution process cost. The NCLAT noted that the claim of Rs. 108.36 crore made by MSTC relates to supply made prior to the insolvency commencement date. It held that any amount due to the OCs prior to the date of insolvency commencement date cannot be appropriated during the moratorium period.

**Y. Shivram Prasad & Ors. Vs. S. Dhanapal & Ors. [CA (AT) (Insolvency) No. 224 & 286/2018]**

The AA passed the impugned order of liquidation as CoC did not find any resolution plan viable and feasible. The promoters submitted that they should have been given an opportunity to settle the dues. While rejecting the said submission, the NCLAT clarified that settlement can be made only at three stages, namely, before admission, before constitution of CoC and in terms of section 12A of the Code and such stages were over in this instant matter. It, however, observed that during the liquidation process, it is necessary to take steps for revival and continuance of the CD by protecting it from its management and from a death by liquidation. It held: “... we hold that the liquidator is required to act in terms of the aforesaid directions of the Appellate Tribunal and take steps under Section 230 of the Companies Act. If the members or the ‘Corporate Debtor’ or the ‘creditors’ or a class of creditors like ‘Financial Creditor’ or ‘Operational Creditor’ approach the company through the liquidator for compromise or arrangement by making proposal of payment to all the creditor(s), the Liquidator on behalf of the company will move an application under Section 230 of the Companies Act, 2013 before the Adjudicating Authority i.e. National Company Law Tribunal, Chennai Bench, in terms of the observations as made in above. On failure, as observed above, steps should be taken for outright sale of the ‘Corporate Debtor’ so as to enable the employees to continue.”

## National Company Law Tribunal

### **In the matter of Orchid Pharma Limited [MA/92/2018 in CP/540/IB/CB/2017]**

The RP filed an application under sections 43 and 66 of the Code. The AA noted that the application has not been filed with definite information showing the CD has made a payment in preference to other creditors or did fraudulent trading. It observed that the transaction does not satisfy the test under section 43 for the reason that it has been entered into beyond a period of 2 years and the beneficiary is not related to the CD. It further observed that the transaction does not satisfy the test of section 66 that it is to defraud creditors or for fraudulent purpose. Accordingly, it dismissed the application as misconceived.

### **In the matter of M/s. Karpagam Spinners Pvt. Ltd. [MA/99/2018 in TCP/225 (IB)/2017]**

The Regional Provident Fund Commissioner filed an application seeking the first priority to EPFP dues over all other dues as envisaged in section 11 (2) of the EPF&M Act, 1952, and direction to RP to accept claim of EPFO as a charge on liquidation process. Relying upon the judgments of the SC in Pr. Commissioner of Income Tax vs. Monnet Ispat and Energy Ltd. and M/s Innoventive Industries Ltd Vs. ICICI Bank, the AA held: "...the verification and admission of the claim of the applicant viz, EPFO has been correctly been recorded by the liquidator vide his statement of verification, admission, rejection and determination of quantum of claim dated 23.04.2018. Therefore, the application filed by the applicant viz, EPFO is devoid of merits and stands rejected."

### **Small Industries Development Bank of India Vs. Tirupati Jute Industries Limited [CP (IB) 508/KB/18 and connected matters]**

The AA noted that the resolution plan, which has been submitted for its approval, is subject to extinguishment of all claims (except criminal proceedings) against the CD, exemption of all taxes/dues by the Government/local authorities, and closure of all proceedings pending against the CD relating to such dues. The AA rejected the plan and ordered for liquidation. It observed that such a plan should not have been approved by the CoC, as it was not consistent with the provisions of section 30(2)(e) of the Code. It also observed that the RP did not give correct advice when he submitted the plan for approval of CoC and therefore, it would not be proper to appoint him as the Liquidator.

### **Asset Reconstruction Company (India) Pvt. Ltd. Vs. Shivam Water Treaters Pvt. Ltd. [CP (IB)-1882/MB/2018]**

While submitting the status report, the RP stated that the officers of the CD did not hand over the required documents and the information to him, deliberately did not extend co-operation to him, and created hindrance in the CIRP. Noting that Mr. Gaurav Dave, Mrs. Ami Dave, and Mr. Vishal Dave failed to provide information and extend cooperation to the RP, the AA imposed a penalty of Rs. 10 lakh on each of them under section 70 of the Code. In its earlier order dated 2<sup>nd</sup> January, 2019 in this matter, the AA had clarified that the IRP is acting as an officer of the Court and any hindrance in the working of the CIRP will amount to contempt of court.

### **Edelweiss Asset Reconstruction Company Ltd. Vs. Bharati Defence and Infrastructure Ltd. [MA 170/2018 in CP 292/I&B/NCLT/MAH/2017]**

The RP filed an application seeking approval of the resolution plan submitted by an RA, who is an FC with 82.7% voting share in the CoC. The plan provided that the RA will sell the CD in two years. It noted that the plan does not give due consideration to the interest of all stakeholders, seeks several exemptions, and contains a lot of uncertainties and speculations. It provides for generation of income from ongoing operations and no upfront money is brought in by the RA. The AA also noted that the RA has proposed to hold majority equity in the CD, run its operations, enhance its value and over a period endeavour to find a suitable investor/buyer for the same. Relying on the judgement in the matter of Binani Industries Limited, the AA observed:

"... resolution plan is for insolvency resolution of the Corporate Debtor as a going concern and not for the addition of value and intended to sale the Corporate Debtor". It observed that RA is essentially extending the CIRP period to find an investor, which is not the intention of the legislature. It further observed: "If the ultimate object in the resolution plan is to sell the company, then it can be achieved by sale as a going concern during the liquidation process." Accordingly, it rejected the resolution plan and ordered for liquidation of the CD with following directions:

"...we direct that the Liquidator shall endeavour to sell the Corporate Debtor company as a going concern.

...The maximum period applicable for trying the sale on a going concern basis of the Corporate Debtor will be only six months from the date of the order.

In case the efforts to sell the company as a going concern fails during the stipulated period of six months, then the process of the sale of the assets of the company will be undertaken by the liquidator as prescribed under Chapter- III of IBC, 2016 and the relevant regulations of IBBI."

The AA also took a serious view of the misconduct of three unsuccessful RAs. It imposed a cost of Rs.20 lakh on each of the three un-successful RAs, namely, ARCS Ship Build Services Pvt Ltd., Mr Ricky Nathaniel and Geotech Investment and Holding LLC as provided under section 235A of the Code. To develop a robust insolvency ecosystem which discourages not genuine/non-serious players, who drag on the proceedings unnecessarily, causing loss to the valuation of assets, loss of employment, it directed the IBBI to frame suitable guidelines in this regard.

### **Essar Steel Asia Holding Ltd. & Ors. Vs. Satish Kumar Gupta & Ors. [IA 430/2018 in CP (IB) 39&40/NCLT/AHM/2017]**

The applicant sought a direction to the RP as well as the CoC to consider the settlement plan dated 25<sup>th</sup> October, 2018 and facilitate withdrawal of application if settlement plan is approved by the CoC. They made the offer of settlement invoking the substantial right of redemption as per section 91 of the Transfer of Property Act, 1882. The AA observed that in terms of Article 300A of the Constitution of India, no one shall be deprived of his property except by authority of law. It is a settled legal position that there are reasonable restrictions in the right of property and such right to property can be curtailed. The AA noted that the SC, in exercise of its powers under Article 142 of the Constitution, has defined the scope by limiting jurisdiction of the RP and the CoC to consider or otherwise any subsequent application. It held that consideration of settlement plan may dilute the direction of the SC. It further held that there are specific provisions for settlement of debts under section 12A of the Code. Consideration of an application for settlement under section 60(5) of the Code may amount to deviation from the expressed statutory provisions. It is a settled legal position that if a particular thing is not allowed to do directly, it cannot be done indirectly. Accordingly, it rejected the application as not maintainable.

### **In the matter of Amar Remedies Limited [MA 524/2018 in CP (IB) 1053 (MB)/2017]**

The applicant filed an application under section 10 of the Code, suppressing the material facts that liquidation order had been passed in a winding-up petition against the CD. The AA observed: "...The corporate applicant suppressed this material fact, knowing it to be material, and filed the petition under section 10 and in contravention of Rule 10 of Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016. The alleged act of the corporate applicant is punishable under section 77(a) of the Insolvency and Bankruptcy Code 2016." Accordingly, it directed the Registrar of Companies to lodge prosecution against the applicant under section 77(a) of the Code. It rejected application with costs of Rs.10 lakh, which shall be paid by the applicant into the account of the Prime Ministers National Relief Fund.

### **Corporation Bank Vs. Amtek Auto Ltd. & Ors. [CA 567/2018 in CP (IB) 42/Chd/Hry/2017]**

The FCs filed an Application for a declaration that the RA, Liberty House

Group PTE Ltd. and its promoters have knowingly contravened the terms of the resolution plan, having failed to implement the same and for the reinstatement of the CoC to run the CD, as a going concern. The AA held that the RA is not capable of implementation of resolution plan. It allowed the application and excluded the time from the date when Decan Valuers Investors LP, the only other RA, submitted its plan upto the date of the receipt of this order from the CIRP period. It observed: “No matter if the corporate debtor ultimately has to face liquidation, but the permission to restart the process, make advertisement and invite fresh plans etc., would defeat the very mandate of Section 12 of the Code. The Committee of Creditors can only discuss the Resolution Plan which was submitted by DVI (Decan Valuers Investors LP) only by exclusion of certain period of time while calculating 270 days.” It, however, granted liberty to any member of the CoC or the RP to file a complaint before the IBBI or the Central Government with a request to file a criminal complaint.

#### **SREI Infrastructure Finance Limited Vs. Sterling SEZ and Infrastructure Limited [MA 1280/2018 in CP 405/2018]**

The RP sought a direction to the Enforcement Directorate to release the attachment on all the assets and properties of the CD. The AA observed: “The purpose and object of IBC is for resolution of the Corporate Debtor by maximizing the value that can be received by the Creditors and stake holders. The IBC provides for timelines within which the resolution has to be arrived at. The PMLA’s object is also to recover the property from wrong doers and compensate the affected parties by confiscation and sale of the assets of the wrong doer apart from imposing punishment. Here the beneficiaries are the creditors of the Corporate Debtor. The criminal proceedings before PMLA will take a longer time and by the time there will be an erosion in the value of assets. However, considering the overriding provisions of Section 238 of IBC which is the later legislation, when compared to the earlier legislation of PMLA, the provisions of IBC will prevail and hence considering the economic interest of the beneficiaries, the IBC will provide solution at the earliest to the Corporate Debtor as well as to the Creditors.” Accordingly, it ordered: “...the attachment order dated 29.05.2018 and the Corrigendum dated 14.06.2018 issued by Respondent and as confirmed by the Adjudicating Authority under PMLA Court is a nullity and non-est in law in view of Sections 14(1)(a), 63 and 238 of IBC and the Resolution Professional can proceed to take charge of the properties and deal with them under IBC as if there is no attachment order.”

#### **Asset Reconstruction Company (India) Limited Vs. Viceroy Hotels Ltd. [IA 344 in CP (IB) 219/7/HDB/2018]**

The AA considered the issue whether resolution for conducting forensic audit requires approval by 66% of voting power. The AA held that this does not fall under section 28(1)(m) of the Code. Therefore, it requires approval by a voting of not less than 51% of FCs.

#### **Videocon Industries Ltd Vs. State Bank of India & Ors. [MA 1300/2018 in CP (IB)-02/(MB)/2018]**

The RP filed an application against a notice issued by the Union of India (UoI) demanding 100% of sale proceeds invoices in favour of the Government for recovery of US\$314 million together with interest towards unpaid Government share of ‘Profit Petroleum’. The UoI contended that ‘Profit Petroleum’ is an asset of the Government, and out of the ambit of section 14 of the Code, therefore, the moratorium is not applicable in recovering its own asset. While holding that moratorium is applicable, the AA observed: “At the most, the Ministry of Petroleum can lodge its claim of any legally enforceable right of recovery to the appointed Resolution Professional, being not rendered remediless, as prescribed under The Code.”

#### **M/s Andhra Bank Vs. M/s Sterling Biotech Limited [CP (IB) 490 (MB)/2018]**

The CoC approved the resolution for withdrawal by 90.32% of voting power, based on an OTS. Accordingly, the applicant FC submitted a petition under section 12A of the Code for withdrawal of the application. While considering the application, the AA observed that RP had asked the CoC members to provide him with details of (i) the OTS offer, (ii) sources of

funds, (iii) timeframe for payment to each lender, (iv) compliance with RBI norms, and (v) whether the interests of all stakeholders/CoC members have been provided for under the OTS offer. The applicant had responded that in case the AA seeks any information relating to the OTS, including source of funds, time frame etc., the applicant and CoC would address all such queries posed by AA. The AA observed:

*“It is pertinent to mention that the promoters of the Corporate Debtor are absconder and we often get the news from the newspaper that various Government agencies like Enforcement Directorate, CBI, and other agencies are unable to trace the Promoters of the Corporate Debtor.*

*It is also pertinent to mention that in OTS proposal dated 8.8.2018, it is stated that “the group is exploring to raise funds for OTS proposal from some private group of financial/strategic investors. The same will be used to repay as OTS amount to nationalised banks.”*

*“It is also important to mention that OTS proposal ...is from Mr. Farhad Daruwalla who has signed on behalf of Sandesara Group. ....It is also important to point out that the Corporate Debtor is Sterling Biotech Ltd., no proceeding under IBC, 2016 has been initiated against Sandesara Group. How the proposal submitted by Sandesara Group is accepted by the Financial Creditors creates suspicion when the promoter/ Director is absconder and Enforcement Directorate and CBI is searching them...”*

#### **Indian Overseas Bank Vs. Gopala Krishna Raju (Apna Scientific Supplies Pvt. Ltd.) [MA/154/2019 in CP/811/IB/2018]**

The AA observed that IRP repeatedly flouted its orders to personally appear. It found that he even refused to conduct second CoC meeting on being requested by the FC. It held: “This is nothing but the abdication of duties by the IRP, which is serious in nature...the IRP...is held unfit person for being given any assignment under the provisions of the I&B Code, 2016 as Resolution Professional. Hence the IBBI is directed to remove the name of the IRP from the panel of the Insolvency Professionals list.” It replaced the IRP and imposed a fine of Rs. 20,000/- for wilful disobedience of orders.

#### **State Bank of India Vs. ARGL Limited. [(IB)-531 (PB)/2019]**

Application was filed by the Central Board of Indirect Taxes and Customs to get their claim admitted which was rejected by the RP for filing of the claim belatedly. The AA held: “It is strange situation which is adopted by the RP because in the books of accounts the governmental dues are always reflected...First of all, as a matter of fact as the first step the IRP/RP has to prepare the list in accordance with the books of accounts and then invite the claims otherwise the dues reflected in the books of accounts would be rendered completely meaningless...”

#### **Prag Distillery Private Limited [MA 267/2018 in CP (I&B) 1067-NCLT-MB-2017]**

Application was filed by the RP under section 43, 49, 60(5) and 66 of the Code against 5 directors of the CD and the same was being pursued by the Liquidator of the CD. The AA held: “...it is clear that the impugned assets were transferred to the holding company with an intent to protect the value of the assets. However, there is no consideration received by the Corporate Debtor against the said transfer, and the assets were not sold but only transferred to the holding company for its utilisation. Had the assets not being transferred, there was a risk of them getting wasted and spoiled. It is not disputed that the ownership of the assets is still with the Corporate Debtor and they are part of the liquidation estate of the Corporate Debtor. The respondents have submitted that the holding company agree to transfer the machinery back to the Corporate Debtor. Given the circumstances above, it is directed that the assets of the Corporate Debtor shall be returned and restored to the Corporate Debtor by the holding company within one month from the date of this order.”

#### **Bombay Stock Exchange Vs. Asahi Infrastructure & Projects [CP No. 1718/IBC/NCLT/MB/MAH/2017 & MA 216/2018]**

The issue was whether non-payment of listing fees is an ‘operational debt’ entitling the claimant to initiate CIRP. The AA held: “...SEBI being a regulatory body of the Operational Creditor, the dues above said are not the ‘operational’

dues or 'contractual' dues. Rather they come under the ambit of 'Regulatory' dues as they can be recovered only under the set guidelines prescribed by SEBI." It further held: "...the regulatory authority i.e. SEBI is already empowered to execute not only its recovery mechanism, but also enshrined with power to punish the defaulter, hence, the insolvency proceedings shall not be gainful either to the Regulator or the Exchange. As a consequence, the debt in question can also be categorised under the head "Regulatory Dues". The debt in question thus falls within the ambit of "Regulatory Dues". Therefore, as a sequel, need not be treated as an operational debt."

**State Bank of India Vs. Castex Technologies Limited [CA 364/2018 & 592/2018 in CP (IB) No. 116/Chd/Hry/2017]**

Application was filed by the State Bank of India, one of the FCs on behalf of the CoC under section 30 read with section 31 and 60 (5) of the Code for permitting CoC to withdraw the application as RA (Liberty House Group) was unable to comply with the requirement of furnishing performance guarantee and also for excluding the time period spent in negotiating with them from CIRP period. The AA held: "... we are of the view that there is a clear default by the LHG in not complying with the essential terms and conditions of the Lol and the process memorandum." It observed: "... We are of the opinion that exemplary costs should be imposed upon the respondent-LHG for making mockery of the entire system of CIR Process, for which the strict timelines are provided by the Code in completion of the whole process, LHG seems to have submitted the resolution plan with the highest bid has committed the default in complying with the essential terms of the plan and Lol and has come up with some excuse or the other to avoid it." While imposing a cost of Rs. 10 lakhs upon the RA for not implementing the resolution plan approved by the CoC, the AA allowed exclusion of the period for counting 270 days for completion of the CIRP.

**Standard Chartered Bank and another Vs. Essar Steel India Ltd. [I.A. 431/2018 in CP (IB) 39 and 40 of 2017 & other IAs]**

The AA considered several IAs along with the application of the RP seeking approval of resolution plan. While approving the resolution plan submitted by the RA, ArcelorMittal India Pvt. Ltd., the AA suggested as under:

*"Therefore, by following the above-stated judicial precedence on Wednesbury Principle of unreasonableness and doctrine of proportionality, which is now the law of land as per Article 141 of the Indian Constitution, this Adjudicating Authority can very well advise to the RP and the CoC to relook in to its decision(s) and consider for making apportionment/ distribution of amount on pro-rata basis on all admitted claim of all financial creditors including the present applicant and it can work out for a reasonable formula for percentage of payment that may be 85% pro-rata basis among all financial creditors and remaining 15% may be distributed among the Operational Creditor/ other stakeholders on pro-rata basis of their admitted dues/claims...."*

*Hence, we propose and advise to the CoC that it should make apportionment of 85% of the amount of Rs. 42,000 crore received from the Resolution Applicant as upfront payment for pro rata basis distribution among all the financial creditors and, if such formula is worked out and decision is taken, substantial interests of Standard Chartered Bank can also adequately be protected as it would get considerable amount rather than 1.7% as offered by the CoC.*

*We further suggest that rest of the amount, i.e. 15% of the amount of Rs. 42,000 crore, which comes to Rs. 6300 crore, may be distributed among other operational creditors and other stakeholders, who are going to receive nil amount, because the Resolution Applicant has made additional provision of Rs. 196 crore meant only for those operational creditors whose debt value is less than Rs. 1 crore. Hence, such amount of 15% can be paid to other operational creditors who are having debt value of Rs 1 crore and above on the basis of their verified/admitted/undisputed claim, so that they could be able to receive minimum 50% of their principal dues."*

The AA also made following observations:

- (i) The RA cannot demand reliefs and concessions as a matter of right for successful implementation of a resolution plan or cannot seek issuance of directions to an authority for any waiver from payable tax dues of the CD or seeking exemption from tax levies, fees, transfer charges, transfer premium, etc. However, it is always open to the RA to approach the competent statutory authority of the appropriate Government for seeking such reliefs and concessions in accordance with law.
- (ii) OCs have no locus to demand a copy of resolution plan, participate in proceedings of CoC or oppose the resolution plan, where their claims are less than 10% of total debts owed by the CD.
- (iii) The RP is only required to collate the information, verify claims and update information. He is not vested with powers to adjudicate the claims, which can be dealt with and decided by a competent court / authority.

**In the matter of Hind Motors India Limited [CA 138/2017 in CP (IB) No.06/CHD/2017, Order dated 12<sup>th</sup> September, 2017]**

The AA noted that the CD has no liquid assets and hence it is difficult to meet the expenses of liquidation. Accordingly, it clarified the expenses of the public announcement and for service of process etc. incurred by the liquidator shall be reimbursed by the Union Bank of India presently and the same shall be part of liquidation cost.

**Insolvency and Bankruptcy Board of India**

**In the matter of Mr. Vasudeo Agarwal, IP (Order dated 7<sup>th</sup> January, 2019)**

The Disciplinary Committee (DC) noted that Mr. Agarwal did not do anything, which an RP is required to do, except having one meeting of the CoC and submitting two progress reports. It, however, noted that Mr. Agarwal was appointed as IRP after about 140 days of the commencement of the CIRP, when everything was not in order. Keeping in view the stage of the CIRP when Mr. Agarwal was appointed and the difficulties he encountered, the DC took a lenient view and imposed, on him, a monetary penalty equal to 100% of the total fee payable to him as IRP and as RP in the CIRP of the CD.

**In the matter of Mr. Sandip Kumar Kejriwal, IP (Order dated 28<sup>th</sup> January, 2019)**

The DC found that Mr. Kejriwal did not discharge any of his statutory responsibilities as IRP or RP either to manage the operations of the two CDs as going concern under section 20 of the Code or to conduct the resolution processes of the two CDs under section 23 of the Code. It imposed on Mr. Kejriwal a monetary penalty equal to 100% of the total fee payable to him as IRP and as RP in the CIRPs and directed him to undergo the pre-registration educational course.

**In the matter of RV Registration (Order dated 6<sup>th</sup> February, 2019)**

XYZ had submitted an application seeking a certificate of registration as a RV in the asset class 'Plant and Machinery'. The IBBI observed that serious criminal proceedings were pending against the applicant under the Indian Penal Code, 1860, which adversely impacts his reputation and makes him a person not 'fit and proper' to be eligible for registration as a valuer. It observed: *"It is, therefore, imperative that only individual with absolute integrity and unblemished reputation is registered as a valuer. As a profession is known by the individuals practicing it, the members of the profession must inspire confidence of the stakeholders and the society at large. They have a collective responsibility to build and preserve the reputation of the fledgling valuation profession. It is, therefore, necessary that an individual, whose reputation is doubtful, is kept out of the profession."*

## In the matter of Ms. Bhavna Sanjay Ruia, IP (Order dated 21<sup>st</sup> February, 2019)

The DC found that Ms. Bhavna Sanjay Ruia consented to act as IRP of 15 CIRPs even though she had absolutely no experience whatsoever and no capacity. The applications for her appointment as IRP in these cases were filed by her husband, Mr. Ruia and, in the process, she compromised her independence, integrity and impartiality. Further, Ms. Ruia contracted to act as IRPs for exorbitant fees. The DC noted that her registration was earlier suspended. It, therefore, cancelled the registration of Ms. Ruia and debarred her from seeking fresh registration or providing any service under the Code for a period of 10 years.

# Corporate Processes

The data used in this section relating to corporate processes are provisional. These are getting revised as further information is received from IPs or the information in respect of a process changes.

## Insolvency Resolution

It is about two years since the provisions relating to CIRP came into force on 1<sup>st</sup> December, 2016. As presented in Table 1, about 1800 CDs have been admitted into CIRP by the end of March, 2019. Of these, 152 have been closed on appeal or review or settled; 91 have been withdrawn; 378 have ended in liquidation and 94 have ended in approval of resolution plans.

Table 1: Corporate Insolvency Resolution Process (Number)

Quarter	CIRPs at the beginning of the Quarter	Admitted	Closure by				CIRPs at the end of the Quarter
			Appeal/ Review/ Settled	Withdrawal under Section 12A	Approval of Resolution Plan*	Commencement of Liquidation	
Jan - Mar, 2017	0	37	1	0	0	0	36
Apr - Jun, 2017	36	129	8	0	0	0	157
July - Sept, 2017	157	232	18	0	2	8	361
Oct - Dec, 2017	361	147	38	0	7	24	439
Jan - Mar, 2018	439	195	20	0	11	59	544
Apr - Jun, 2018	544	246	20	1	14	51	704
Jul - Sept, 2018	704	238	29	27	32	86	768
Oct - Dec, 2018	768	275	7	36	14	77	909
Jan - Mar, 2019	909	359	11	27	14	73	1143
<b>Total</b>	<b>NA</b>	<b>1858</b>	<b>152</b>	<b>91</b>	<b>94</b>	<b>378</b>	<b>1143</b>

\*These exclude 3 resolutions which have since yielded into liquidation  
Source: Compilation from website of the NCLT

Sectoral distribution of CDs under CIRP is presented in Table 2.

Table 2: Sectoral Distribution of CDs under CIRP as on 31<sup>st</sup> March, 2019

Sector	No. of CIRPs		
	Closed	Ongoing	Total
<b>Manufacturing</b>	324	448	772
Food, Beverages & Tobacco Products	30	63	93
Chemicals & Chemical Products	30	45	75
Electrical Machinery & Apparatus	27	43	70
Fabricated Metal Products	23	27	50
Machinery & Equipment	38	45	83
Textiles, Leather & Apparel Products	52	75	127
Wood, Rubber, Plastic & Paper Products	33	47	80
Basic Metals	67	73	140
Others	24	30	54
<b>Real Estate, Renting &amp; Business Activities</b>	128	231	359
<b>Construction</b>	59	143	202
<b>Wholesale &amp; Retail Trade</b>	81	99	180
Hotels & Restaurants	19	33	52
Electricity & Others	12	35	47
Transport, Storage & Communications	20	30	50
Others	72	124	196
<b>Total</b>	<b>715</b>	<b>1143</b>	<b>1858</b>

The distribution of stakeholders who triggered resolution process is presented in Table 3. OCs triggered 50% of the CIRPs, followed by about 40% by FCs and remaining by CDs.

Table 3: Initiation of Corporate Insolvency Resolution Process

Quarter	No. of CIRPs Initiated by			Total
	Operational Creditor	Financial Creditor	Corporate Debtor	
Jan - Mar, 2017	7	8	22	37
Apr - Jun, 2017	58	37	34	129
Jul - Sept, 2017	101	92	39	232
Oct - Dec, 2017	69	64	14	147
Jan - Mar, 2018	89	84	22	195
Apr - Jun, 2018	129	99	18	246
Jul - Sept, 2018	138	84	16	238
Oct - Dec, 2018	161	98	16	275
Jan - Mar, 2019	168	172	19	359
<b>Total</b>	<b>920</b>	<b>738</b>	<b>200</b>	<b>1858</b>

The status of CIRPs as on 31<sup>st</sup> March, 2019 is presented in Table 4.

Table 4: Status of CIRPs as on 31<sup>st</sup> March, 2019

Status of CIRPs	No. of CIRPs
Admitted	1858
Closed on Appeal / Review/ Settled	152
Closed by Withdrawal under section 12A	91
Closed by Resolution	94
Closed by Liquidation	378
Ongoing CIRP	1143
> 270 days	362
> 180 days ≤ 270 days	186
> 90 days ≤ 180 days	247
≤ 90 days	348

Note: 1. The number of days pending is from the date of admission.

2. The number of days pending includes time excluded by the Tribunals.

## Withdrawal under section 12A

Till March, 2019, a total of 91 CIRPs have been withdrawn under section 12A of the Code. The distribution of claims and reasons for withdrawal in these CIRPs are presented in Table 5.

Table 5: Claim Distribution and Reasons for withdrawal

Amount of Claims Admitted* (Amount in Rs. crore)	No. of CIRPs
≤ 01	34
> 01 ≤ 10	21
> 10 ≤ 50	11
> 50 ≤ 100	05
> 100 ≤ 1000	03
> 1000	02
Reason for Withdrawal**	No. of CIRPs
Full settlement with the applicant	21
Full settlement with other creditors	05
Agreement to settle in future	04
Other settlements with creditors	29
Corporate debtors not traceable	02
Corporate debtor struck off the Register	01
Applicant not pursuing CIRP due to high cost	02
Others	14

\* Data awaited in 15 CIRPs

\*\*Data awaited in 13 CIRPs.

## Resolution Plans

It is seen that about 52.87% of the CIRPs, which were closed, ended in liquidation, as compared to 13.14% ending with a resolution plan. However, it is important to note that 75% of the CIRPs ending in liquidation (283 out of 378) were earlier with BIFR and or defunct (Table 6). The economic value in most of these CDs had already eroded before they were admitted into CIRP.

**Table 6: CIRPs Ending with Orders for Liquidation**

State of Corporate Debtor at the Commencement of CIRP	No. of CIRPs initiated by			
	FC	OC	CD	Total
Either in BIFR or Non-functional or both	99	117	67	283
Resolution Value ≤ Liquidation Value	113	134	67	314
Resolution Value > Liquidation Value	30	15	19	64

Note: 1. There were 33 CIRPs, where CDs were in BIFR or non-functional but had resolution value higher than liquidation value.  
2. Where liquidation value was not calculated, it has been taken as '0'.

Till December, 2018, 82 CIRPs had yielded resolution plans, of which 3 CIRPs had moved into liquidation later. In effect, till December 2018, a total of 79 CIRPs had yielded in resolution plans as presented in the last newsletter. One more CIRP was later reported as yielding in resolution plan during that period, as presented in Part A of Table 7. During this quarter, 14 CIRPs yielded resolution plans with different degrees of realisation in comparison to the liquidation value as presented in Part B of Table 7. Realisation by FCs in comparison to liquidation value in respect of the CD is 157%, while the realisation by them in comparison to their claims is 24%. Till March, 2019, realisation by FCs in comparison to liquidation value in respect of the CD is 194%, while the realisation by them in comparison to their claims is 43%.

**Table 7: CIRPs Yielding Resolution**

(Amount in Rs. crore)

Sl. No.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Total Admitted Claims of FCs	Liquidation Value	Realisable by FCs	Realisable by FCs as % of their Claims Admitted	Realisable by FCs as % of Liquidation Value
<b>Part A: Prior Period (Till 31<sup>st</sup> December, 2018)</b>										
1	Adhunik Alloys & Power Ltd.	No	23-08-2017	07-12-2018	FC	756.71	174.97	397	52.46	226.90
<b>Part B: January - March, 2019</b>										
1	Venky Hi-Tech Ispat Ltd.	Yes	08-05-2018	08-01-2019	FC	31.7	8.8	11.2	35.33	127.27
2	BSR Diagnostics Ltd.	No	29-09-2017	22-01-2019	FC	150.06	55.42	45.44	30.28	81.99
3	Merchem Ltd.	Yes	15-01-2018	23-01-2019	OC	278.66	86.52	109.82	39.41	126.93
4	Sunil Ispat & Power Ltd.	Yes	31-07-2018	08-02-2019	FC	338.9	19.89	30.5	9.00	153.34
5	Naachair Paper Boards Pvt. Ltd.	No	20-12-2017	08-02-2019	OC	42.56	14.71	0.88	2.07	5.98
6	Swadisht Oil Pvt. Ltd.	No	15-05-2017	13-02-2019	OC	58.66	44.09	58.66	100.00	133.05
7	Fortune Pharma Pvt. Ltd.	Yes	28-08-2017	20-02-2019	CD	31.43	17.21	16.99	54.05	98.72
8	Bafna Pharmaceuticals Pvt. Ltd.	No	16-07-2018	01-02-2019	OC	49.23	28	34.46	70.00	123.07
9	Darjeeling Rolling Mills Pvt. Ltd.	No	28-08-2018	01-03-2019	OC	5.30	2.32	5.30	100.00	228.45
10	Alok Industries	No	18-07-2017	08-03-2019	FC	29523.86	4433	5052	17.11	113.96
11	Essar Steel India Ltd.*	No	02-08-2017	08-03-2019	FC					
12	Subburaj Spinning Mills Pvt. Ltd.	No	03-04-2018	12-03-2019	OC	83.68	26.39	19.95	23.84	75.60
13	Dhanalaxmi Paper Mills Pvt. Ltd.	No	29-05-2018	26-03-2019	FC	95.89	23.44	37.79	39.41	161.22
14	Jyoti Structures Limited	No	04-07-2017	27-03-2019	FC	7364.52	1023.25	3684	50.02	360.03
<b>Total (January - March, 2019)</b>						<b>38054</b>	<b>5783</b>	<b>9107</b>	<b>24</b>	<b>157</b>
<b>Total (Till March, 2019)</b>						<b>173359</b>	<b>38443</b>	<b>74497</b>	<b>43</b>	<b>194</b>

\* The claims and realisable amount of FCs is not included as apportionment between FCs and OCs is under consideration by NCLAT.  
Defunct: Not Going Concern/ Erstwhile BIFR

## Liquidation

Till 31<sup>st</sup> December, 2018, a total of 302 CIRPs had yielded liquidation as presented in the last Newsletter. Three more CIRPs were later reported as yielding in liquidation during that period, as indicated in Part A of Table 8. During the quarter January-March, 2019, 73 CIRPs ended in liquidation, taking the total CIRPs yielding liquidation to 378. The details of the CIRPs ending in orders of liquidation during the quarter is reported in Part B of Table 8.

**Table 8: CIRPs yielding Orders for Liquidation**

Sl. No.	Name of CD	Defunct (Yes / No)	CIRP Initiated by	Date of Commencement of CIRP	Date of Liquidation Order
<b>Part A: Prior Period (till 31<sup>st</sup> December, 2018)</b>					
1	United India Shoe Uppers Pvt. Ltd.	Yes	OC	31-07-2017	21-06-2018
2	SDS Steels Pvt. Ltd.	Yes	FC	02-04-2018	30-07-2018
3	DDS Steel Rolling Mills Pvt. Ltd.*	Yes	FC	06-03-2018	18-07-2018
<b>Part B: January - March, 2019</b>					
1	Gupta Infrastructure (India) Pvt. Ltd.	Yes	FC	01-02-2018	02-01-2019
2	Sheth Metal Pvt. Ltd.	No	FC	06-06-2018	07-01-2019
3	Uthrakaliyamman Infrastructures Pvt. Ltd.	No	FC	14-05-2018	07-01-2019
4	Powercon Projects and Associates Ltd.	No	OC	10-07-2018	08-01-2019
5	Kingfisher Industries Pvt. Ltd.	No	CD	20-03-2018	09-01-2019
6	Notion Ink Design Labs Pvt. Ltd.	No	FC	24-04-2018	09-01-2019
7	Kamla Landmarc Motors Pvt Ltd	No	FC	16-08-2017	10-01-2019
8	Bharati Defence & Infrastructure Ltd.	Yes	FC	06-06-2017	14-01-2019
9	Auspice Trading Pvt. Ltd.	No	OC	24-04-2018	21-01-2019
10	Royal Hygiene Care Pvt. Ltd.	Yes	CD	16-04-2018	21-01-2019
11	Antony Projects Private Limited	Yes	OC	15-11-2017	22-01-2019
12	SMD Infra Ventures Pvt. Ltd.	No	FC	03-04-2018	25-01-2019
13	Bharat Medicare Pvt. Ltd.	Yes	CD	18-04-2018	28-01-2019

14	Surana Power Ltd.	Yes	OC	19-02-2018	28-01-2019
15	Leather World (I) Ltd.	No	FC	13-06-2018	29-01-2019
16	Savemax Wholesale Club Pvt. Ltd.	No	OC	28-03-2018	30-01-2019
17	KCT Steels Pvt. Ltd.	No	FC	23-07-2018	31-01-2019
18	Stratus Foods Pvt. Ltd.	No	OC	10-04-2017	31-01-2019
19	Integrated Caps Pvt. Ltd.	No	OC	06-03-2018	01-02-2019
20	Servomax India Pvt. Ltd.	No	OC	22-02-2018	04-02-2019
21	Sri Chandra Moulisvar Spinning Mills Pvt. Ltd.	No	OC	07-06-2018	04-02-2019
22	Subburaj Cotsping Mills Pvt. Ltd.	No	OC	20-03-2018	04-02-2019
23	Tavrida Electric India Pvt. Ltd.	Yes	OC	02-08-2018	04-02-2019
24	Reid & Taylor India Ltd. (RTIL)	Yes	FC	10-04-2018	05-02-2019
25	Infinitas Energy Solutions Pvt. Ltd.	Yes	FC	18-09-2017	06-02-2019
26	Baadl Technologies Pvt. Ltd.	Yes	OC	10-04-2018	08-02-2019
27	Deleo Construction Pvt. Ltd.	Yes	FC	09-07-2018	08-02-2019
28	Summer India Textiles Mills Pvt. Ltd.	Yes	FC	13-06-2017	08-02-2019
29	Talwar Agencies Pvt. Ltd.	Yes	OC	06-08-2018	08-02-2019
30	Acasia Tele Services Pvt. Ltd.	No	OC	20-03-2018	11-02-2019
31	Sacon Steels Pvt. Ltd.	No	CD	02-05-2018	11-02-2019
32	Impex Metal & Ferro Alloys Ltd.	Yes	FC	09-03-2018	12-02-2019
33	JHV Distillers and Sugars Mills Pvt. Ltd.	No	FC	08-05-2018	12-02-2019
34	Value Makers International Private Limited	Yes	FC	08-03-2018	12-02-2019
35	Great United Energy Pvt. Ltd.	No	OC	26-06-2018	13-02-2019
36	Sadhbhawana Impex Pvt. Ltd.	No	FC	21-08-2018	13-02-2019
37	Tirupati Jute Industries Ltd.	Yes	FC	22-01-2018	13-02-2019
38	SBQ Steels Ltd.	No	FC	29-12-2017	14-02-2019
39	Senthil Paper and Boards Pvt. Ltd.	Yes	FC	14-11-2017	14-02-2019
40	Sharnam Industries Pvt. Ltd.	No	FC	04-05-2018	14-02-2019
41	Farmville Agrovet Ltd.	No	OC	01-08-2018	14-02-2019
42	Best Textiles Ltd.	Yes	OC	03-04-2018	18-02-2019
43	JV Strips Ltd. & Ors.	Yes	OC	13-04-2018	18-02-2019
44	Nimit Steel & Alloys Pvt. Ltd.	Yes	FC	23-04-2018	18-02-2019
45	Global Coke Limited	No	CD	10-05-2018	19-02-2019
46	Praiseworthy Infra Pvt. Ltd.	No	FC	03-08-2018	19-02-2019
47	Logix Express Pvt. Ltd.	No	FC	30-11-2017	20-02-2019
48	Sainath Texport Ltd.	Yes	OC	16-04-2018	20-02-2019
49	Polychroic Petrochemicals Pvt. Ltd.	Yes	CD	15-09-2017	20-02-2019
50	Arient Scientific Pvt. Ltd.	Yes	OC	16-11-2017	21-02-2019
51	Jai Laxmi Lighting Industries Pvt. Ltd.	Yes	OC	26-04-2018	21-02-2019
52	Brainer Trade & Fin-Tech Pvt. Ltd.	Yes	CD	25-07-2018	22-02-2019
53	Mahabir Techno Ltd.	Yes	OC	30-10-2018	22-02-2019
54	Swastik Spinners India Pvt. Ltd.	Yes	CD	22-03-2018	22-02-2019
55	Gemini Communication Ltd.	Yes	FC	20-06-2018	26-02-2019
56	Kamla Real Estate Hub Pvt. Ltd.	Yes	FC	16-08-2017	27-02-2019
57	Network TeleLink Pvt. Ltd.	No	OC	20-04-2018	28-02-2019
58	Skyline Capital P Ltd	Yes	FC	06-10-2017	28-02-2019
59	Rukmani Infra Projects Pvt. Ltd.	No	OC	10-05-2018	01-03-2019
60	Maa Sherawali Ispat Pvt. Ltd.	Yes	OC	03-08-2018	01-03-2019
61	Metaphor Exports Pvt Ltd	Yes	FC	19-01-2018	07-03-2019
62	LEO Duct Engineers & Consultants Ltd.	No	CD	21-03-2018	08-03-2019
63	NCML Industries Ltd.	No	FC	07-11-2017	08-03-2019
64	Concur Marketing Pvt. Ltd.	No	OC	02-03-2018	11-03-2019
65	Ram Dev International Ltd.	Yes	OC	08-02-2018	12-03-2019
66	Namdhari food International Pvt. Ltd.	No	FC	30-08-2017	13-03-2019
67	Unicare Pharma Ltd.	Yes	OC	11-06-2018	13-03-2019
68	Millennium Wires Pvt. Ltd.	No	FC	30-08-2018	14-03-2019
69	Elevated Mercantile Pvt. Ltd.	No	OC	05-06-2018	15-03-2019
70	Florind Shoes Pvt. Ltd.	No	OC	10-09-2018	25-03-2019
71	Berhampur Finance & Leasing Pvt. Ltd.	No	OC	13-09-2018	25-03-2019
72	Jay Polychem India Ltd.	Yes	OC	13-04-2018	25-03-2019
73	Enviro Bulkk Handling Systems Pvt. Ltd.	No	OC	04-12-2017	27-03-2019

\* Direct Dissolution of CD ordered.  
Defunct: Not Going Concern/ Erstwhile BIFR



The status of liquidation process as on 31<sup>st</sup> March, 2019 is presented in Table 9.

**Table 9: Status of Liquidation Process as on 31<sup>st</sup> March, 2019**

Status of Liquidation	Number
Initiated	378
Final Report submitted	16
<b>Closed by Dissolution</b>	<b>6</b>
<b>Ongoing</b>	<b>362</b>
> 360 days	72
> 270 days ≤ 360 days	51
> 180 days ≤ 270 days	84
> 90 days ≤ 180 days	82
≤ 90 days	73

The details of 6 liquidations closed are given in Table 10.

**Table 10: Details of Closed Liquidations**

(Amount in Rs. crore)

Name of CD	Date of Order of Liquidation	Amount of Admitted Claims	Liquidation Value	Sale Proceeds	Amount Distributed to stakeholders	Date of Order of Dissolution
Abhayam Trading Limited	17-11-2017	11.14	0.85	0.85	0.71	14-03-2018
Dev Blessing Traders Private Limited	26-10-2018	5.81	0	NA	0	08-02-2019
Ghotaringa Minerals Limited	31-08-2018	4662.89	0	NA	0	22-02-2019
Zeel Global Projects Private Limited	07-05-2018	1.28	0	NA	0	31-12-2018
DDS Steel Rolling Mills Private Limited	18-07-2018	NA	0	NA	0	18-07-2018
SDS Steels Private Limited	30-07-2018	NA	0	NA	0	30-07-2018

'0' means an amount below two decimals.

NA means Not realizable / Saleable or no asset left for liquidation

## Twelve Large Accounts

Resolution of 12 large accounts were initiated by banks as directed by RBI. Together they had an outstanding claim of Rs.3.45 lakh crore as against liquidation value of Rs.73,220.23 crore. Of these, resolution plan in respect of six CDs have been approved. Due to failure of implementation of approved resolution plan in Amtek Auto Limited, the process has restarted. Other accounts are at different stages of the process. The outcome of six large accounts that ended with resolution plans is presented in Table 11.

**Table 11: Six Large Accounts**

(Amount in Rs. crore)

Name of Corporate Debtor	Claims of Financial Creditors Dealt Under Resolution			Realisation by all Claimants as a Percentage of Liquidation Value	Successful Resolution Applicant
	Amount Admitted	Amount Realised	Realisation as Percentage of Claims		
Electrosteel Steels Ltd.	13175	5320	40.38	183.45	Vedanta Ltd.
Bhushan Steel Ltd.	56022	35571	63.50	252.88	Barnipal Steel Ltd.
Monnet Ispat & Energy Ltd.	11015	2892	26.26	123.35	Consortium of JSW and AION Investments Pvt. Ltd.
Essar Steel India Ltd.	49473	*	*	266.65	Arcelor Mittal India Pvt. Ltd.
Alok Industries Ltd.	29523	5052	17.11	113.96	Reliance Industries Limited, JM Financial Asset Reconstruction Company Ltd., JMFARC - March 2018 - Trust
Jyoti Structures Limited	7365	3684	50.02	386.75	Group of HNIs led by Mr. Sharad Sanghi

\*Apportionment between FCs and OCs is under consideration by NCLAT.

Note: Due to failure of implementation of approved resolution plan in Amtek Auto Limited, which was earlier included in the completed list, the process has restarted.

## 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 March, 2019, 383 corporate persons initiated voluntary liquidation, the details of which are given in Table 12.

**Table 12: Voluntary Liquidations as on 31<sup>st</sup> March, 2019**

(Amount in Rs. crore)

Quarter	No. of Corporate Persons	Paid-up Capital	Assets	Outstanding Credit	No. of Final Reports Submitted	No. of Dissolution Orders Passed
Apr-Jun, 2017	13	179	40	9	-	-
Jul-Sep, 2017	38	195	340	8	-	-
Oct-Dec, 2017	56	67	180	14	4	1
Jan-Mar, 2018	66	354	220	8	6	1
Apr-Jun, 2018	41	992	333	39	21	3
Jul-Sep, 2018	55	201	105	18	2	1
Oct-Dec, 2018	31	62	18	1	29	12
Jan-Mar, 2019	83	287	150	136	35	23
Total	383	2337	1386	233	97	41

While 383 cases of voluntary liquidations were admitted till 31<sup>st</sup> March, 2019, the reasons for these initiations is available for 360 cases, which are presented in Table 13. Details of status of voluntary liquidation cases are presented in Tables 14. Final reports in respect of 97 voluntary liquidations have been submitted by 31<sup>st</sup> March, 2019. Dissolution orders have been passed in respect of 41 liquidations details of which are presented in Table 15.

**Table 13: Reasons for Voluntary Liquidation**

Sl. No.	Reason for Voluntary Liquidation	No. of Corporate Persons
1	Not carrying business operations	201
2	Commercially unviable	58
3	Running into losses	10
4	No revenue	18
5	Promoters unable to manage affairs	5
6	Purpose for which company was formed accomplished	5
7	Contract termination	5
8	Miscellaneous	58
<b>Total</b>		<b>360</b>

**Table 14: Phasing of Voluntary Liquidations**

Status of Liquidation	Number of Liquidations
Initiated	338
Final Report Submitted	97
<b>Closed by Dissolution</b>	<b>41</b>
<b>Ongoing</b>	<b>286</b>
> 360 days	96
> 270 days ≤ 360 days	31
> 180 days ≤ 270 days	51
> 90 days ≤ 180 days	35
≤ 90 days	73

Table 15: Realisation under Voluntary Liquidation

(Amount in Rs. crore)

Sl. No.	Name of Corporate Person	Date of commencement	Date of Dissolution	Realisation of Assets	Amount due to Creditors	Amount paid to creditors	Liquidation Expenses	Surplus
1	Thea Jewels Pvt. Ltd.	10-05-2017	18-05-2018	1.49	-	-	0.08	1.41
2	Shree Autotech Forge Pvt. Ltd.	31-05-2017	16-01-2019	0.38	-	-	0.03	0.35
3	NKC Telecom Pvt. Ltd.	09-06-2017	19-07-2018	2.31	0.26	0.26	0.04	2.01
4	Online Scrips (India) Pvt. Ltd.	26-06-2017	12-02-2018	1.02	0.08	0.08	0.10	0.84
5	Kokuyo Furniture India Pvt. Ltd.	29-06-2017	07-01-2019	3.80	0.91	0.91	0.09	2.80
6	Super Traditional Metal Crafts (Bombay) Pvt. Ltd.	03-07-2017	02-11-2018	2.90	0.02	0.02	0.03	2.85
7	Raay Hospitality Pvt. Ltd.	03-07-2017	11-12-2017	0.64	-	-	0.03	0.61
8	Ujjivan Social Services Foundation	11-07-2017	09-05-2018	0	-	-	0	0
9	RAD MRO Manufacturing Pvt. Ltd.	31-07-2017	01-01-2019	3.88	-	-	0.50	3.38
10	Goal India Foundation	18-08-2017	04-09-2018	0	-	-	0	0
11	Vibhu Poperty Developers Pvt. Ltd.	26-08-2017	16-05-2018	14.08	0.18	0.18	0.14	13.76
12	Konfiaance Jewellery Pvt. Ltd.	28-08-2017	14-01-2019	0.97	0.01	0.01	0.03	0.93
13	Elnet Software City Ltd.	01-09-2017	05-12-2018	0.05	0.02	0.02	0	0.03
14	Gucci India Pvt. Ltd.	21-09-2017	04-04-2018	0	-	-	0	0
15	Flurry Analytics India Pvt. Ltd.	22-09-2017	04-09-2018	0.05	-	-	0.05	0
16	Nippe Toyama India Pvt. Ltd.	28-09-2017	18-01-2019	4.81	0.55	0.55	0.50	3.76
17	Jaichandi Energy & Natural Resources Development Pvt. Ltd.	04-10-2017	01-02-2019	0.97	-	-	0	0.97
18	Good Minerals Development Pvt. Ltd.	04-10-2017	12-02-2019	1.29	-	-	0	1.29
19	Touchstone Commodities Pvt. Ltd.	07-10-2017	09-08-2018	0.47	-	-	0.02	0.45
20	Premium International Impex Pvt. Ltd.	16-10-2017	01-02-2019	1.90	-	-	0.16	1.74
21	Kimley Horn Consulting & Engineering India Pvt. Ltd.	27-10-2017	30-01-2019	0.41	-	-	0.10	0.31
22	Cloud One Enterprises Pvt. Ltd.	02-11-2017	17-12-2018	0.88	-	-	0.02	0.86
23	Green Channel Foundation	11-11-2017	05-09-2018	0.01	-	-	0.01	0
24	Erasmic Investment Ventures Pvt. Ltd.	17-11-2017	27-10-2018	0.14	-	-	0.05	0.09
25	Lifewatch Healthcare India Pvt. Ltd.	18-11-2017	26-10-2018	0.52	0.30	0.30	0.19	0.03
26	KWS Research and Development Pvt. Ltd.	27-11-2017	12-03-2019	1.37	0.14	0.14	0.06	1.17
27	Hans Properties & Infrastructures Pvt. Ltd.	27-11-2017	10-04-2018	15.49	0.01	0.01	0.16	15.32
28	Macleane-Fogg (India) Trading Pvt. Ltd.	11-12-2017	13-03-2019	0.25	-	-	0.14	0.11
29	Ess Aar Threads Pvt. Ltd.	14-12-2017	29-08-2018	0.17	0	0	0	0.17
30	Fiona Infosystems Ltd.	18-12-2017	30-08-2018	0.05	-	-	0	0.05
31	Trafi Application Pvt. Ltd.	18-12-2017	14-09-2018	0.02	-	-	0.02	0
32	Crate & Barrel International Sourcing India Pvt. Ltd.	22-12-2017	27-02-2019	1.18	0	0	1.18	0
33	Chokhani Global Express Ltd.	25-12-2017	10-01-2019	0.09	0	0	0.09	0
34	ABN AMRO Business Services India	27-12-2017	30-11-2018	2.19	-	-	0.66	1.53
35	Yamuna Coal Company Pvt. Ltd.	27-12-2017	19-03-2019	0.94	0.01	0.01	0.02	0.91
36	Lawn Infrastructure Pvt. Ltd.	27-12-2017	13-06-2018	0.02	-	-	0.01	0.01
37	Purcell Design and Heritage Consultants Pvt. Ltd.	30-12-2017	04-09-2018	0.03	-	-	0.03	0
38	Wahler Automotive India Pvt. Ltd.	29-01-2018	06-02-2019	0.05	-	-	0.02	0.03
39	Rhapsody Foods & Beverages Pvt. Ltd.	29-01-2018	02-01-2019	0.02	-	-	0.01	0.01
40	Anushta Mall Management Company Pvt. Ltd.	26-02-2018	02-11-2018	0.10	-	-	0.03	0.07
41	Team8 Solutions Pvt. Ltd.	05-03-2018	09-01-2019	2.80	0.05	0.05	0.32	2.43

## Service Providers

### Insolvency Professionals

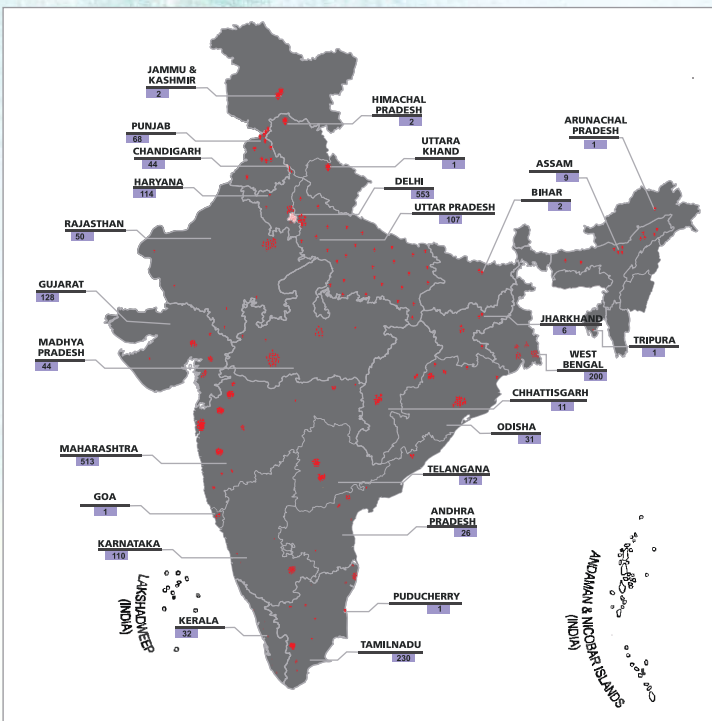
An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP is authorised to provide services as such under the Code. The details of IPs registered as on 31<sup>st</sup> March, 2019, IPA-wise, is presented in Table 16. A geographical distribution of IPs as on 31<sup>st</sup> March, 2019 is presented in Figure 1.

Table 16: Registered IPs as on 31<sup>st</sup> March, 2019

(Number)

City / Region	Indian Institute of Insolvency professional of ICAI	ICSI Institute of Insolvency Professionals	Insolvency Professional Agency of Institute of Cost Accountants of India	Total
New Delhi	305	196	51	552
Rest of Northern Region	221	131	38	390
Mumbai	276	88	24	388
Rest of Western Region	196	88	25	309
Chennai	92	57	10	159
Rest of Southern Region	246	131	35	412
Kolkata	141	31	15	187
Rest of Eastern Region	44	14	5	63
Total Registered	1521	736	203	2460
Cancellations	1	3	0	04
Registered as on 31 <sup>st</sup> March	1520	733	203	2456

Figure 1: Geographical Distribution of IPs as on 31<sup>st</sup> March, 2019



Of the 2460 IPs registered till date, registrations of four IPs have been cancelled after due disciplinary process. The registrations and cancellations of IPs, quarter-wise, till 31<sup>st</sup> March, 2019 are presented in Table 17.

Table 17: Registration and cancellation of registration of IPs

Quarter	No. of IPs		
	Registered	Cancelled	At the End of the quarter
Jan-Mar, 2017	96	0	96
Apr-Jun, 2017	450	0	546
Jul-Sep, 2017	561	0	1107
Oct-Dec, 2017	217	0	1324
Jan-Mar, 2018	488	0	1812
Apr-Jun, 2018	71	1	1882
Jul-Sep, 2018	154	1	2035
Oct-Dec, 2018	253	1	2287
Jan-Mar, 2019	170	1	2456
<b>Total</b>	<b>2460</b>	<b>4</b>	<b>2456</b>

An individual with ten years of experience as a member of the ICAI, ICSI, ICMAI or a Bar Council or an individual with 15 years of experience in management is eligible for registration as an IP on passing the Limited Insolvency Examination. Table 18 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on 31<sup>st</sup> March, 2019.

Table 18: Distribution of IPs as per their Eligibility

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1257	114	1371
Member of ICSI	398	66	464
Member of ICMAI	136	11	147
Member of Bar Council	147	17	164
Managerial Experience	301	13	314
<b>Total</b>	<b>2239</b>	<b>221</b>	<b>2460</b>

## 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 IBBI has been shared with the AA, disclosing whether any disciplinary proceeding is pending against them. While the database is currently being used by various benches of AA, in a few cases, IBBI receives references from the AA and promptly responds to the AA. Till 31<sup>st</sup> March, 2019, a total of 323 IRPs have been replaced with RPs, as shown in Table 19.

Table 19: Replacement of IRP with RP as on 31<sup>st</sup> March 2019

CIRP initiated by	No. of CIRPs	
	Where RPs have been appointed	Where RP is different from the IRP
Corporate Applicant	178	78
Operational Creditor	657	159
Financial Creditor	579	86
<b>Total</b>	<b>1414</b>	<b>323</b>

## Insolvency Professional Entities

During the quarter under review, five IPEs were recognised and 13 were de-recognised. As on 31<sup>st</sup> March, 2019, there are 48 IPEs. The details of recognised IPEs are given in Table 20.

Table 20: Recognised IPEs as on 31<sup>st</sup> March, 2019

Quarter	No. of IPEs		
	Recognised	De-recognised	At the end of the quarter
Jan-Mar, 2017	3	0	3
Apr-Jun, 2017	14	0	17
Jul-Sep, 2017	22	1	38
Oct-Dec, 2017	18	0	56
Jan-Mar, 2018	19	0	75
Apr-Jun, 2018	1	3	73
Jul-Sep, 2018	4	4	73
Oct-Dec, 2018	3	20	56
Jan-Mar, 2019	5	13	48
<b>Total</b>	<b>89</b>	<b>41</b>	<b>48</b>

## Insolvency Professional Agencies

IPAs are frontline regulators and responsible for developing and regulating the profession of IPs. There are three IPAs registered in accordance with the provisions of the IPA Regulations. IBBI meets MDs / CEOs of IPAs on 7<sup>th</sup> of every month to discuss the issues arising from the IP profession and to energise them to discharge their responsibilities. The IPAs are conducting pre-registration educational course for prospective IPs and roundtables and seminars, workshop and webinars for building capacity of IPs. They are monitoring disclosures by IPs in respect of relationship and fee and expenses of CIRPs and disseminating the same on their respective websites. The Inspecting Authority appointed by the IBBI conducted annual inspection of the IPAs during the quarter, in accordance with regulation 3(1) of the IBBI (Inspection and Investigation) Regulations, 2017.

## Information Utility

There is one information utility, namely, the National E-Governance Services Limited (NeSL). The IBBI meets the MD & CEO of the IU along with the CEOs of IPAs every month to discuss the issues related to receipt and authentication of financial information. The Inspecting Authority appointed by the IBBI conducted annual inspection of the IU during the quarter, in accordance with regulation 3(1) of the IBBI (Inspection and Investigation) Regulations, 2017. Table 21 provides details of the registered users and information with NeSL, as informed by them.

**Table 21: Details of Information with NeSL** (Number except as stated)

At the end of quarter	Creditors having agreement with NeSL		Creditors who have submitted information		Debtors whose information is submitted by creditors		Loan records on-boarded		User registrations by Debtors		Loan records authenticated by Debtors		Amount of underlying debt (Rs. crore)	
	Fcs	OCs	Fcs	OCs	Fcs	OCs	Fcs	OCs	Fcs	OCs	Fcs	OCs	Fcs	OCs
June, 2018	66	NA	21	105	69184	52	191247	105	1024	10	1364	05	NA	NA
Sep, 2018	85	NA	40	144	836302	135	1222737	207	5111	10	6079	32	2016708	530
Dec, 2018	108	NA	68	140	980724	202	1438390	280	10247	44	10065	35	2732805	1094
Mar, 2019	173	NA	114	169	1266445	230	1955230	316	15085	63	13762	37	4114988	16224

## Registered Valuers

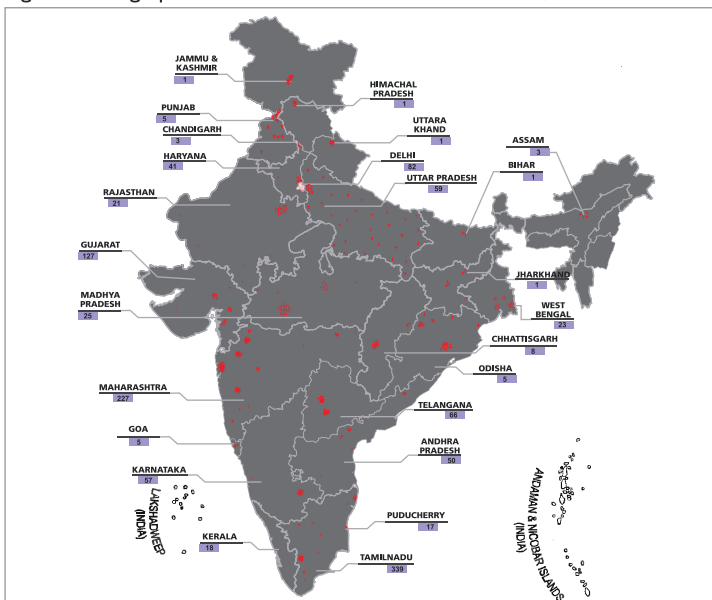
RVOs are frontline regulators for the registered valuers (RVs). They are responsible for development and regulation of the profession of RVs. The Companies (Registered Valuers and Valuation) Rules, 2017 notified under the Companies Act, 2013 provide a comprehensive framework for development and regulation of the valuers and recognition of RVOs. At the end of 31<sup>st</sup> March, 2019, 11 entities have been recognised as RVOs. There are nine RVOs in each asset class, namely, Land and Building, Plant and Machinery and Securities or Financial Assets.

A fit and proper person, who is enrolled with an RVO as a valuer member and has the required qualification and experience and has passed the Valuation Examination of the relevant asset class, is registered as a valuer. Only RVs are authorised to undertake valuations required under the Companies Act, 2013 and the Code. The details of RVs, RVO-wise, as on 31<sup>st</sup> March, 2019, is given in Table 22. A geographical distribution of RVs as on 31<sup>st</sup> March, 2019 is presented in Figure 2.

**Table 22: Registered Valuers as on 31<sup>st</sup> March, 2019** (Number)

Registered Valuers Organisation	Asset Class			Total
	Land & Building	Plant & Machinery	Securities or Financial Assets	
Institution of Estate Managers and Appraisers	32	0	1	33
IOV Registered Valuers Foundation	499	66	15	580
ICSI Registered Valuers Organisation	0	0	28	28
ICAI Registered Valuers Organisation	NA	NA	178	178
The Indian Institution of Valuers	39	8	4	51
ICMAI Registered Valuers Organisation	5	6	58	69
PVAI Valuation Professional Organisation	108	17	0	125
CVSRTA Registered Valuers Association	98	24	NA	122
Association of Certified Valuers and Analysts	NA	NA	0	0
CEV Integral Appraisers Foundation	0	0	NA	0
Divya Jyoti Foundation	0	0	0	0
<b>Total</b>	<b>781</b>	<b>121</b>	<b>284</b>	<b>1186</b>

**Figure 2: Geographical Distribution of RVs as on 31<sup>st</sup> March, 2019**



## Complaints and Grievances

The stakeholders may file a grievance or a complaint against a service provider under the IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017. Besides this, grievances and complaints are received through the Centralised Public Grievance Redress and Monitoring System (CPGRAMS), Prime Minister's Office, MCA and other authorities. The receipt and disposal of grievances and complaints till 31<sup>st</sup> March, 2019 is given in Table 23.

**Table 23: Receipt and Disposal of Grievances and Complaints till 31<sup>st</sup> March, 2019**

Complaints and Grievances received	Received	Disposed	Under Examination
Complaints under the Regulations	129	51	78
Through CPGRAM/PMO/MCA/Other Authorities	339	290	49
Through Other Modes	715	382	333
<b>Total</b>	<b>1183</b>	<b>723</b>	<b>460</b>

## Examinations

### Limited Insolvency Examination

The IBBI has been conducting the Limited Insolvency Examination since 31<sup>st</sup> December, 2016. It reviews the Examination continuously to keep it relevant with evolving needs of the market. After successfully completing three phases of the Examination, it commenced the fourth phase of the Examination on 1<sup>st</sup> November, 2018. The Examination is available on a daily basis from various locations across the country. The details of the Examination are given in Table 24.

**Table 24: Limited Insolvency Examination**

Phase/Period	No. of Attempts (some candidates made more than one attempt)	No. of Successful Attempts
First Phase (January - June, 2017)	5329	1202
Second Phase (July - December, 2017)	6237	1112
Third Phase (January - October, 2018)	6344	1011
Fourth Phase (November - December 2018)	625	116
Fourth Phase (January - March 2019)	961	162
<b>Total</b>	<b>19496</b>	<b>3603</b>

The IBBI published the revised syllabus, format, etc. of the Examination under regulation 3(3) of the IBBI (Insolvency Professionals) Regulations, 2016 on 30<sup>th</sup> March, 2019 for the examinations to be conducted from 1<sup>st</sup> July, 2019.

### Valuation Examinations

The IBBI, being the authority under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for the asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial assets on 31<sup>st</sup> March, 2018. It is a computer based online Examination available from several locations across India. The details of the Examinations are given in Table 25.

**Table 25: Valuation Examinations**

Phase/Period	No. of Attempts (some candidates made more than one attempt) in Asset Class			No. of Successful Attempts in Asset Class		
	Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First Phase (Mar - Dec, 2018)	6727	1011	2129	1231	189	280
First Phase (Jan - Mar, 2019)	2742	654	2367	517	135	427
<b>Total</b>	<b>9469</b>	<b>1665</b>	<b>4496</b>	<b>1748</b>	<b>324</b>	<b>707</b>

# Building Ecosystem

## IP Workshops

IBBI has been organising two-day workshops for the newly registered IPs, with a view to build their capacity. During the quarter, IBBI organised two such workshops, the 13<sup>th</sup> and 14<sup>th</sup> in the series. The 13<sup>th</sup> workshop with 23 IPs was held on 1<sup>st</sup> - 2<sup>nd</sup> February, 2019 at Coimbatore. The 14<sup>th</sup> workshop with 27 IPs was held on 8<sup>th</sup> - 9<sup>th</sup> March, 2019 at Kolkata.



13<sup>th</sup> Workshop for IPs in Coimbatore on 1<sup>st</sup> - 2<sup>nd</sup> February, 2019



14<sup>th</sup> Workshop for IPs in Kolkata on 8<sup>th</sup> - 9<sup>th</sup> March, 2019

## Webinars

With a view to provide clarity on various issues, the IBBI participated in two webinars. The ICSI IIP organised a webinar on 12<sup>th</sup> January, 2019 on 'Judicial/Regulatory Interpretations under the Insolvency and Bankruptcy Code, 2016'. Three IPAs organised a webinar on 25<sup>th</sup> March, 2019 to respond on queries relating to (a) Charter of Responsibilities of IPs and CoC, (b) Ease of Doing Business Survey, and (c) Graduate Insolvency Programme.

## Graduate Insolvency Programme

Subject to meeting other requirements, an individual is eligible to seek registration as an IP if he has completed Graduate Insolvency Programme (GIP). A WG constituted by the IBBI submitted its report recommending the structure, content and delivery mechanism for the GIP. The report is available on the website of the IBBI. It has recommended a 24-month programme consisting of an intensive residential class room component of 12 months and a hands-on internship component at the cutting edge of practice of 12 months.

## CoC Workshop

The IBBI, jointly with the State Bank of India and the Indian Institute of Corporate Affairs, organised a two-day workshop on "Committee of Creditors: An Institution of Public Faith" on 15<sup>th</sup> - 16<sup>th</sup> February, 2019 in Mumbai. The workshop was unique and first of its kind for the benefit of the FCs. 28 senior officers (General Managers and Executive Directors) of major scheduled commercial banks participated in the workshop.



Workshop on "Committee of Creditors: An Institution of Public Faith" on 15<sup>th</sup> and 16<sup>th</sup> February, 2019

## Study Material for Valuation Examinations

The IBBI, being the authority under the Companies (Registered Valuers and Valuation) Rules, 2017, publishes the syllabus, format and frequency of the Valuation Examinations and conducts the Examinations for all the three asset classes. In order to facilitate the candidates to prepare for the Examinations, the Centre for Valuation Studies, Research and Training Association (CVSRTA) has developed study materials for two asset classes, namely, (a) Land and Building, and (b) Plant and Machinery, as per the syllabus of the Examinations. These study materials are available on the website of IBBI at <https://www.ibbi.gov.in/resources/ipa-rvo> for free download by the users.

## National Valuation Symposium

The IBBI and the CVSRTA jointly organised a 'National Valuation Symposium' on 23<sup>rd</sup> February, 2019 at Ahmedabad. The valuation professionals and experts discussed in depth the issues they are encountering in conducting valuations required under the Companies Act, 2013 and the Code. They also discussed several issues in the emerging regulatory framework for valuation professionals as well as the way forward for valuation education and profession and valuation standards. Dr. Sahoo, Chairperson, IBBI released the study material developed by CVRSTA as per syllabus of the Valuation Examination in the asset class 'Land and Building' on the occasion.



National Valuation Symposium in Ahmedabad on 23<sup>rd</sup> February, 2019

## Roundtables

The IBBI organised two roundtables on 1<sup>st</sup> February, 2019 and 27<sup>th</sup> February, 2019 in Mumbai and Delhi respectively, in association with three IPAs and SiPI, on “Sale of Corporate Debtor or Business of Corporate Debtor as a Going Concern under Liquidation” for appreciation of the issues. Hon'ble Mr. Justice S. J. Mukhopadhaya along with other members of the NCLAT addressed the participants at the roundtable held in Delhi.



Roundtable on Liquidation in Delhi on 27<sup>th</sup> February, 2019

The IBBI and Society of Insolvency Practitioners of India (SiPI) organised a roundtable on “Insolvency and Bankruptcy Code, 2016: Looking Ahead – Global Learning, Local Application” on 15<sup>th</sup> - 16<sup>th</sup> March, 2019 in New Delhi. The Roundtable tracked developments in the insolvency landscape over the last two years and deliberated upon the challenges faced to identify opportunities and think about the road ahead. Hon'ble Mr. Justice S. J. Mukhopadhaya, Chairperson, National Company Law Appellate Tribunal; Hon'ble Mr. Justice Arjan K. Sikri, Former Judge, Supreme Court of India; Dr. M. S. Sahoo, Chairperson, IBBI; Mr. Sanjeev Sanyal, Principal Economic Adviser, Ministry of Finance, and other distinguished practitioners addressed the participants. Dr. Paul J. Omar, Professor, De Montfort University; Mr. Ranesh Ramanathan, Partner, Kirkland Ellis, USA; Mr. Rob Caven, Partner, Grant Thornton, UK; Professor C. Scott Pryor, Campbell University; Mr. Terry Kan, Partner, Shinewing Specialist Advisory Services, Hong Kong; and Mr. Michael Murray, Murray Law Offices, Australia shared the latest global developments and best practices on various themes of the Roundtable.



IBBI- SiPI Roundtable, 15<sup>th</sup> March 2019

## Advisory Committees

The Technical Committee on IUs met on 5<sup>th</sup> March, 2019. The Advisory Committee on Service Providers met on 14<sup>th</sup> March, 2019. The Advisory Committee on Corporate Insolvency and Liquidation met on 19<sup>th</sup> March, 2019. They deliberated various issues relating to processes and services under the Code.



Advisory Committee meeting on Corporate Insolvency and Liquidation on 19<sup>th</sup> March, 2019



Meeting of Advisory Committee on Service Providers on 14<sup>th</sup> March, 2019

## Advocacy and Awareness

### International Conference

In association with the IBBI, and Delaware Law School (USA), the ICFAI Law School, Hyderabad organised a three-day International Conference on “Insolvency and Bankruptcy Laws: Global Response” from 1<sup>st</sup> to 3<sup>rd</sup> March, 2019 at ICFAI Campus, Hyderabad. Mr. Injeti Srinivas, Secretary, MCA inaugurated the Conference. In the Conference, 40 research papers covering the entire gamut of insolvency and bankruptcy legal framework and ecosystem were presented.



International Conference in Hyderabad on 1<sup>st</sup> to 3<sup>rd</sup> March, 2019

### National Conclave

The IBBI, jointly with ICSI IIP, ICSI RVO, IPA of ICAI, and ICAI RVO, organised a ‘National Conclave on Corporate Insolvency and Valuation’ in Pune, Maharashtra on 8<sup>th</sup> January, 2019. Dr. Navrang Saini, WTM, IBBI; Mr. Makarand Lele, President, ICSI; Mr. Amit Apte, President, ICAI; Dr. S. K. Gupta, MD & CEO, IPA of ICAI; and Ms. Alka Kapoor, CEO, ICSI addressed at the Conclave. The publication “IBC Judicial/Regulatory Rulings for Stakeholders - A Handbook” prepared by the ICSI IIP was released on the occasion.



National Conclave on Valuation in Pune on 8<sup>th</sup> January, 2019

### United Nations Investment Committee

The United Nations Investments Committee (UNIC) holds meetings at various locations globally in order to better support investment decisions of the United Nations Joint Staff Pension Fund. At their invitation, Dr. M. S. Sahoo, Chairperson, IBBI addressed the members of the UNIC in its meeting on 18<sup>th</sup> February 2019 at Delhi on “Overview of the new bankruptcy law and its impact”.

### Interactive Meet with Bankers

The IBBI, jointly with ICSI IIP, organised “IBC - An Interactive Meet with Bankers” at New Delhi on 5<sup>th</sup> March, 2019. Dr. (Ms.) Mukulita Vijayawargiya, WTM, IBBI discussed the role and responsibilities of FCs, RP and other stakeholders in a corporate insolvency resolution process.



Interactive Meet with Bankers in Delhi on 5<sup>th</sup> March, 2019

### IBBI-BMA Conference

In association with IBBI, the Baroda Management Association organised a conference on Insolvency and Bankruptcy Code in Baroda on 8<sup>th</sup> March, 2019 on the theme “Changing Indian Corporate Horizon”. Distinguished professionals participated in this conference.



IBBI – BMA Conference in Baroda on 8<sup>th</sup> March, 2019

### Awareness Programme

The IBBI organised an Insolvency and Bankruptcy Awareness Programme at Vadodara in association with the three IPAs on 19<sup>th</sup> January, 2019. Mr. H. P. Chaturvedi, Hon’ble Member (Judicial), NCLT, Ahmedabad, while inaugurating the Programme, detailed the role of AA in CIRP and liquidation processes under the Code.

In association with the IBBI, the Faculty of Law, University of Lucknow organised an awareness programme on 22<sup>nd</sup> February, 2019. Stakeholders, including students, professionals and business persons participated in the programme.



Awareness Programme in Vadodara on 19<sup>th</sup> January, 2019

Western India Regional Council (WIRC) of Institute of Company Secretaries of India, along with Navi Mumbai Chapter of WIRC, organised a program on "Insolvency and Bankruptcy Code, 2016 – Experience so far: Learnings, opportunities and way ahead" on 31<sup>st</sup> March, 2019 in Mumbai. Dr. Navrang Saini, Whole Time Member, IBBI inaugurated the program.



Insolvency and Bankruptcy Code, 2016 – Experience so far: Learnings, opportunities and way ahead held on 31<sup>st</sup> March, 2019

**Essay Competition**

In order to create awareness about the insolvency and bankruptcy regime amongst the students of higher education, the IBBI is promoting essay competitions by various Institutes of Learning. The National Law University, Delhi in collaboration with the IBBI, organised an Essay Competition on "Emerging issues under the Insolvency and Bankruptcy Code, 2016". Mr. Debaranjan Goswami was adjudged the winner of the competition while Mr. Shubham Jain and Mr. Vishvesh Vikram were declared joint winners in the competition.

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**THE GRADUATE INSOLVENCY PROGRAMME**

Registration Opens : 01 March 2019 | Registration Closes : 15 May 2019



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