

Business India

THE MAGAZINE OF THE CORPORATE WORLD

June 12-25, 2023

- **RUSSIA'S RUPEE PROBLEM**
- **VA TECH WABAG**
- **INDEGENE**
- **SIEGWERK INDIA**



INSOLVENCY AND BANKRUPTCY CODE

Resembles a scrapyard

mergers, and other methods. The second objective is to maximise the value of the assets of the corporate debtor, and the third objective is to promote entrepreneurship, increase the availability of credit, and balance interests. Considering these factors, it is certainly not a futile exercise in principle.

“The IBC was introduced in India in 2016 to provide a time-bound process for resolving insolvency in businesses and individuals. The most important drawback of IBC is that the core purpose is defeated as the pace of resolution is very slow. Several cases have been dragging on for years leading to delays in the resolution process, resulting in a loss of value for the assets of the debtor,” says Paanse adding: “Another drawback is that IBC disproportionately favours the interests of creditors over the insolvent entity and its stakeholders. The fee charged by professionals engaged in the insolvency resolution process is too high and not affordable by small business. Last but not least, the integrity of those involved plays a very significant role.” He suggests that the IBC process can work well only if the resolution professionals, the lenders who form the committee of creditors and the NCLT bench all have the same goal in mind – to maximise the value at which the asset is sold.

Recent data from the IBBI March 2023 newsletter indicates that the average duration for case resolution has increased significantly, reaching a high of 632 days for OCs in FY22-23, up from 528 days in FY21-22 and 458 days in FY20-21, and a high of 613 days for FCs, up from 531 days and 463 days, respectively.



IBC has fallen woefully short in its primary objective of fetching recovery for creditors involved. The processes and recovery resemble a scrapyard

Akshat Khetan
Founder, AU Corporate Advisory
Legal Services

“Since inception, out of 6,571 admitted insolvency cases, a mere 678 have had their resolution plans approved, fetching creditors 32 per cent of their total claims. That means creditors including banks faced a deep loss of 68 per cent at the aggregate level in these 678 cases. Within these cases too, recovery is patchy and only a handful of them have faced a reasonable value. About 2,030

cases ended up in liquidation and these were largely cases that had languished in the early insolvency regime. The hope of recovery was abysmal to start with. That said, a bunch of fresh cases too has gone into liquidation owing to a long timeline leading to deep erosion of asset value,” says Khetan.

The share volume of recovery would take decades to be settled; thus, creditors like banks, institutions and investors dreaded approaching quasi-judicial bodies which were entangled in lengthy procedures, and inordinate delays and had been delivering extremely poor outcomes for years.

A piece of bad news

The first insolvency resolution under this code was submitted by auto ancillary company Synergies-Dooray Automotive Ltd on 23 January 2017 for a debt outstanding of ₹972.15 crore and the order was passed by the NCLT Hyderabad bench on 14 August 2017.

However, the first approved bad-loan resolution plan under the newly formed IBC resulted in an undesired resolution and came as a piece of bad news for the company’s creditors as the recovery approved was a mere 6 per cent or ₹54 crore. They had to take a haircut of 94 per cent.

According to a senior banker who has dealt with cases in both the pre- and post-IBC era, the first case was a shocker. A related party of the defaulter’s company walked away with the company, leaving the creditors with a 94 per cent haircut. There was a significant conflict of interest, but the plan was approved.

The banker says: “Everyone who

Name of Corporate debtor	CIRP Commencement Date	NCLT Resolution approval date	Total Admitted Claims (₹ crore)	Liquidation Value (₹ crore)	Total realizable amount (₹ crores)	Total Haircut (% terms)
Videocon Industries	Jun-2018	Jun-2021	64,838	2,568	2,962	95%
Jet Airways (India)	Jun-2019	Jun-2021	15,432	2,555	1,183	92%
Reliance Infratel	May-2018	Dec-2020	42,394	4,340	4,267	90%
Alok Industries	Jul-2017	Mar-2019	30,707	4,433	5,052	83.55%
Aircel	Mar-2018	Jun-2020	36,102	1,606	6,660	82%
Amtek Auto	Jul-2017	Jul-2020	12,848	1,543	2,619	80%
Monnet Ispat and Energy	Jul-2017	Jul-2018	11,478	2,365	2,457	77.69%
Ruchi Soya Industries	Dec-2017	Jul-2019	12,146	2,391	4,223	65%
Electrosteel Steels	Jul-2017	Apr-2018	13,958	2,900	5,320	62%
Bhushan Power & Steel	Jul-2017	Sep-2019	47,902	9,514	19,895	58%
DHFL	Dec-2019	Jun-2021	87,248	26,850	37,167	57%