

# As firms opt for pre-IBC resolution, insolvency lawyers, RPs shift focus

**Janaki Krishnan**  
 Mumbai

Lawyers who had once built up their practice on bankruptcy cases under the Insolvency and Bankruptcy Code are no longer finding it lucrative, with cases under the IBC slowing down. They have shifted their focus to other areas, such as cyber-crime and digital fraud or other aspects of the resolution framework.

Resolution professionals are also scarce, with financial creditors asserting their superior rights and relegating RPs to the position of custodians rather than decision-makers.

The legal ecosystem built around debt resolution through IBC is fraying as designated courts encourage claimants and complainants to seek resolution through other routes. "Pre-IBC restructuring market has seen an uptick with private credit players funding special situ-

ations," said Siddharth Srivastava, Partner at Khaitan & Co.

## OTS BACK IN VOGUE

"Banks and financial institutions are also ensuring timely OTS (one time settlement) along with the restructuring market also emerging as a lucrative avenue. Also, with mediation being introduced by the IBBI as a pre-resolution mechanism, lawyers have multiple alternatives sub-practice areas to explore within the overall insolvency framework," he added.

Creditors have realised that debt resolution frameworks prevalent prior to IBC were at least certain, and timelines were not prolonged. "So there is credit enhancement for them in terms of recovery," said Akshat Khetan, Founder, AU Corporate Advisory and Legal Services.

The core purpose for enacting IBC – maximisation of asset value and enhancing

time value of money – was not being met.

"This is counterproductive for the adjudicating authority because it shows the weakening spine of the institution that due to inefficiency, non-staffing, issues with regards to appointment and multiplicity of litigations within litigations, these cases are not coming up for the purposes of resolution but only liquidation," Khetan said.

In November last year, rating agency ICRA flagged the lower number of cases admitted to IBC, attributing it to stressed assets being at multi-year lows and improving credit profile of companies. It also pointed to the steep haircuts lenders had to take due to the delays emerging from litigations.

Till March 2024, over 28,800 applications for initiation of CIRPs of corporate debtors, having underlying default of ₹10.22 lakh crore, were withdrawn before their admission.