



THE HINDU

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Is IBC an effective resolution tool?

Why was the Insolvency and Bankruptcy Code introduced in 2016? Has IBC changed borrower behaviour and credit discipline? What are the key challenges affecting IBC's effectiveness? What does the Bhushan Steel verdict mean for resolution certainty?

EXPLAINER

Sanjay Vijayakumar

The story so far:

More than eight years have passed since the enactment of India's Insolvency and Bankruptcy Code (IBC). According to data from the Insolvency and Bankruptcy Board of India (IBBI), creditors have realised ₹3.89 lakh crore under the framework, with a recovery rate of over 32.8% against admitted claims.

Why was the IBC enacted?

India enacted the IBC, its first comprehensive bankruptcy law, in 2016 to improve the overall corporate insolvency resolution process. Shifting control from debtors to creditors, the IBC introduced a time-bound resolution mechanism to streamline bankruptcy proceedings, reduce judicial delays, and improve creditor recoveries. According to current provisions, a maximum timeline of 330 days is allowed to find a resolution for a company admitted into the insolvency resolution process. Otherwise, the company goes into liquidation.

Is IBC a preferred route for debt recovery?

As per the Reserve Bank of India report on Trend and Progress of Banking in India released in December 2024, the IBC emerged as the dominant recovery route, accounting for 48% of all recoveries made by banks in the Financial Year 2023-24. The realisation under IBC is more than 170.1% as against the liquidation value. Resolution plans, on average, are yielding 93.41% of the fair value of the Corporate Debtors (CDs), IBBI said.

Further, 1,276 cases have been settled through appeal, review, or settlement, and 1,154 cases have been withdrawn under section 12A. The Code has referred 2,758 companies for liquidation, as per IBBI data. Nearly 10 companies are being resolved against five going into liquidation.



Crucial action: India enacted the IBC, its first comprehensive bankruptcy law, in 2016. GETTY IMAGES

Has IBC been an effective recovery mechanism?

Akshat Khetan, Founder, AU Corporate Advisory and Legal Services, pointed out that IBC has changed the underlying credit culture. As the Supreme Court once observed, "the defaulter's paradise is lost" and the Code has created a credible threat that ensures timely repayment.

On the recovery rate of 32.8%, Mr. Khetan pointed out that it must be interpreted in light of the distressed nature of the assets that come into the IBC process, often after years of erosion.

As the National Company Law Appellate Tribunal has rightly remarked in one of its rulings, "IBC is not a recovery mechanism; it is a resolution framework." Compared to legacy systems, where recovery rates were often below 20% with timelines extending into decades, a 32.8% realisation is a leap forward, he said.

The provisions of the IBC have prompted debtors to take early action in distress situations, marking a shift in their behaviour. National Company Law Tribunal (NCLT) data show that 30,310 cases were settled prior to admission, covering underlying defaults worth ₹13.78 lakh crore till December 2024.

A study by the Indian Institute of Management, Bangalore, said IBC has injected discipline in the credit allocation process and has prompted borrowers to

adhere to stipulated payment schedules. The gross non-performing assets of the scheduled commercial banks have declined from a peak of 11.2% in March 2018 to 2.8% in March 2024. A part of that reduction is attributable to resolution processes enabled under IBC, it said.

The study also indicated a 3% reduction in the cost of debt for distressed firms post-IBC, compared to non-distressed firms, indicating an improved credit environment for distressed firms. The IBC has had a positive impact on corporate governance, reflected in the increased proportion of independent directors on the boards of companies resolved under the Code.

What are the major challenges?

In a recent report, India Ratings and Research said that judicial delays and post-resolution uncertainties continue to affect confidence in the IBC framework.

Even when resolution applicants are ready and the Committee of Creditors has granted approval, delays at the NCLT continue to push recovery timelines. In several cases, such delays result in extended litigation or failed implementation, increasing the risk of liquidation for a viable asset that requires timely execution, it said.

The future insolvencies also raise questions about the Code's readiness to

handle non-traditional enterprise defaults. While the IBC is legally broad enough to accommodate various resolution strategies, key commercial elements such as intellectual property valuation, treatment of employee dues, and tech continuity require a clearer treatment under the framework to make it future-ready, India Ratings said.

To enhance its effectiveness, India must invest in strengthening tribunal infrastructure, allow for pre-packaged insolvency, and establish jurisprudential guardrails to protect *bona fide* commercial decisions from post-resolution uncertainty, Mr. Khetan said.

Does the SC verdict on Bhushan Steel pose a challenge to IBC?

The recent developments in the Bhushan Power and Steel Ltd. case have reignited concerns around the finality of resolution outcomes and the predictability of the framework.

While the decision upholds compliance standards, its timing and implications highlight the need for judicial clarity and faster adjudication to sustain investor confidence in the process in the long term, India Ratings said.

By questioning a transaction that had been closed and operational for years, it risks unsettling the core principle of commercial certainty. If resolution applicants fear judicial reversals even after significant investment, they may hesitate to bid, undermining the IBC's very purpose. The Bhushan verdict thus underscores the need for legal sanctity once a resolution plan is approved and implemented, Mr. Khetan said.

The IBC is not merely a piece of economic legislation, it is the backbone of India's credit ecosystem. Its future lies in striking a fine balance between judicial oversight and economic pragmatism. As India aspires to become a \$5 trillion economy, robust and predictable insolvency mechanisms are indispensable. The Code must remain nimble, continually evolving to meet emerging realities while ensuring that commercial wisdom is not second-guessed endlessly, he said.

THE GIST

➤ The IBC, enacted in 2016, introduced a time-bound mechanism shifting control from debtors to creditors, with a 330-day limit to resolve insolvency cases.

➤ It has changed the underlying credit culture by injecting discipline in credit allocation, prompting early action by borrowers, and reducing gross NPAs from 11.2% (2018) to 2.8% (2024).

➤ Despite rescuing companies and emerging as the dominant recovery route, the IBC faces judicial delays, post-resolution uncertainty, and concerns over handling new-age business models.