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Insolvency framework in India and abroad

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Abstract
The objective of the Insolvency and Bankruptcy Code is to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time bound manner. An effective legal framework for timely resolution of insolvency and bankruptcy will not only encourage entrepreneurship but will also improve Ease of Doing Business and facilitate more investments leading to higher economic growth and development.
India's Corporate Insolvency Resolution Process (CIRP) under the Insolvency and Bankruptcy Code, 2016 (IBC) has significantly reformed the country's insolvency regime by introducing a structured, time-bound, and creditor-driven resolution process. However, when compared to global insolvency frameworks, particularly Chapter 11 of the U.S. Bankruptcy Code and Administration under the UK Insolvency Act, 1986, key differences in approach and effectiveness emerge.
The U.S. model is debtor-in-possession, allowing companies to retain control during restructuring, fostering business continuity and flexibility in resolution plans. In contrast, CIRP follows a creditor-in-control model, where management is displaced and replaced by a Resolution Professional (RP), ensuring transparency but sometimes limiting restructuring agility. The UK administration process, while creditor-focused, provides greater flexibility through mechanisms like pre-pack administration, which is still evolving in India.

Keywords: Bankruptcy, financial failure, insolvency, liquidation, The Insolvency and Bankruptcy Code, 2016

Introduction

The word "bankruptcy" is widely believed to have originated from an Italian phrase "bancarotta"-" banca" means bench and "rotta" means broken. The objective of the bankruptcy process is to create a platform for negotiation between creditors and external financiers which can create the possibility of such rearrangements. A sound bankruptcy process is one that helps creditors and debtors realize and agree on whether the entity is facing financial failure and business failure. This is important to allow both parties to realize the maximum value of the business in the insolvency. A sound legal framework provides procedural certainty about the process of negotiation, in such a way as to reduce problems of common property and reduce information asymmetry for all economic participants.
The objective of the bankruptcy process is to create a platform for negotiation between creditors and external financiers which can create the possibility of such rearrangements.
Creditors put money into debt investments today in return for the promise of fixed future cash flows. But the returns expected on these investments are still uncertain because at the time of repayment, the seller (debtor) may make repayments as promised, or he may default and does not make the payment. When this happens, the debtor is considered insolvent. Other than cases of outright fraud, the debtor may be insolvent because of

- **Financial failure:** a persistent mismatch between payments by the enterprise and receivables into the enterprise, even though the business model is generating revenues, or

- **Business failure:** which is a breakdown in the business model of the enterprise, and it is unable to generate sufficient revenues to meet payments. Often, an enterprise may be a successful business model while still failing to repay its creditors.

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Insolvency, Bankruptcy and Liquidation

The words **"**Insolvency**"** and "Bankruptcy" are generally used interchangeably in common parlance but there is a marked distinction between the two. Insolvency and bankruptcy are not synonymous.
The term "insolvency" notes the state of one whose assets are insufficient to pay his debts; or his general inability to pay his debts. The term "insolvency" is used in a restricted sense to express the inability of a party to pay his debts as they become due in the ordinary course of business.
The word "bankruptcy" is the condition of insolvency. It is a legal status of a person or an entity who cannot repay debts to creditors. The bankruptcy process begins with filing of a petition in a court or before an appropriate authority designated for this purpose. The debtor's as sets are then evaluated and used to pay the creditors in accordance with law.
Therefore, while insolvency is the inability of debtors to repay their debts, the bankruptcy, on the other hand, is a formal declaration of insolvency in accordance with law of the land. Insolvency describes a situation where the debtor is unable to meet his/her obligations and bankruptcy occurs when a court determines insolvency, and gives legal orders for it to be resolved. Thus, insolvency is a state and bankruptcy is the conclusion. In case of insolvency, one

cannot payoff the debts, whereas in the case of bankruptcy, a court order states as how an insolvent person or business has to pay off their debts-by way of selling their assets or erasing the debt that cannot be paid.

The term insolvency is used for individuals as well as organisations/corporates. If insolvency is not resolved, it leads to bankruptcy in case of individuals and liquidation in case of corporates.

Section 79(4) of the Insolvency and Bankruptcy Code, 2016 defines the term "bankruptcy" as the state of being bankrupt.

According to Section 79(3) of the Code, "bankrupt" means

a. a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126;
b. each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm; or
c. any person adjudged as an undischarged insolvent.

Liquidation, on the other hand, in its general sense, means closure or winding up of a corporation or an incorporated entity through legal process on account of its inability to meet its obligations or to pay its debts. In order to clear the indebtedness, the assets are sold at the most reasonable rates by a competent liquidator appointed in this regard.

Insolvency Framework in UK, USA and India
United Kingdom

In England, the Act of Parliament of 34 & 35 Henry VIII, c4 is regarded as the first legislation on the subject. Promulgated in 1542 under the reign of Henry VIII, it was a strict and creditor supportive legislation enacted mainly for the benefit of creditors. This Act of 1542, was in fact akin to a criminal statute directed against men who indulged in wasteful expenditures and then refused to pay off debts incurred during the course of extravagance. The 1542 Act looked upon the debtors as offenders. There was no provision for the discharge of debtors and even future earnings of the debtors were not exempt from execution for the debt.

The early bankruptcy laws of England were an instrument of debt-collection and aimed at seizing the debtor's assets against the strong protections to private property offered by the Common law, since medieval times.

In the beginning of the eighteenth century, these strict and creditor supportive medieval laws began to lose its punitive nature. That is why a few authors maintain that the first real bankruptcy laws in England were 4 Anne, c. 17(I705), and 10 Anne, c.15(1711) as unlike earlier statutes which looked upon debtors as offenders, the highlighting feature of the Statutes of Anne was the discharge of the bankrupt who conformed to the provisions of the law. While the additional rights given to the bankrupt under the 1705 Act were significant yet the Act was passed for the sole benefit of the creditors. In contrast, the primary focus of modern insolvency laws is not elimination of insolvent entities but on their rehabilitation and continuation of their business.

The Current Regulatory Framework in UK

The Insolvency Act, 1986 and the Insolvency Rules, 1986 regulate the insolvency framework is the United Kingdom. The Insolvency Act, 1986 was enacted on the recommendation of the Cork Review Committee Report on Insolvency Law and Practice (1982). Prior to the enactment of the Insolvency Act, 1986, the law relating to insolvency in the UK was fragmented and was contained in the Bankruptcy Act, 1914, the Deeds of Arrangement Act, 1914, the Companies Act, 1948 and parts of the County Courts Act, 1959. They Acts were supplemented by the principles of common law and equity.

The Act of 1986 consolidated all

- enactments relating to company insolvency and winding up,
- enactments relating to the insolvency and bankruptcy of individuals, and
- all other enactments bearing on these two subject matters, including the functions and qualification of insolvency practitioners, the public administration of insolvency, the penalisation and redress of malpractice and wrong doing, and the avoidance of certain transactions at an under value.

The Insolvency Act, 1986 deals with the insolvency of individuals and companies and is divided into the following three groups.

- Group 1 deals with Company Insolvency;
- Group 2 deals with Insolvency of Individuals; and
- Group 3 deals with Miscellaneous Matters Bearing on both Company & Individual Insolvency.

The Insolvency Act, 1986 introduced the following three new procedures in order to explore the possibility of bringing a burdened company back to life as a viable entity. These measures in the UK Insolvency Act, 1986 represent an attempt to emulate the 'rescue culture', a characteristic of the corporate sector in the US.

1. **'Company Voluntary Arrangements' (CVAs):** It provides away where a company in financial difficulty can come to a binding agreement with its creditors. It is are negotiation by a company of the payments due to all of its creditors, or other form of financial restructuring, and is subject to creditors meeting and approval of 75% of the creditors present and voting.

2. **'Administration':** In this second option, an administrator is appointed by a court to suggest proposals to deal with the company's financial difficulties. This option offers companies a breathing space as the creditors are restrained from taking any action during this period. It is designed to hold a business together while plans are formed, either to put in place a financial restructuring plan to rescue the company, or to sell the business and assets, to produce better results for the creditors, than a liquidation.

3. **'Administrative Receivership':** This third option permits the appointment of a receiver by certain creditors (normally the holders of a floating charge).

United States of America

America being a colony of the United Kingdom, followed the English bankruptcy system and like the UK system, American bankruptcy laws involved imprisonment until debts were paid or creditors agreed for the release of the debtor. There was no uniform law in America as bankruptcy laws differed from State to State. Some of these American states became in famous as debtor's havens because of their unwillingness to enforce commercial obligations.

The lack of uniformity in bankruptcy and debt enforcement laws adversely affected business and commerce between the states. Article I, Section 8, Clause 4 of the United States Constitution as adopted in the year 1789, made provision for the grant to Congress the power to establish uniform bankruptcy law throughout the United States.

The Congress enacted temporary bankruptcy statutes in 1800, 1841 and 1867 to deal with economic recessions. The Acts of 1800 and 1841 vested jurisdiction in the federal district courts. The district court judges were given the power to appoint commissioners or assignees to take charge of and liquidate a debtor's property. However, these laws were temporary measures and were repealed as soon as economic conditions stabilized.

There was not a permanent bankruptcy law in the United States of America until 1898, when the National Bankruptcy Act was enacted. This Act of 1898 was later amended in 1938 to provide for the rehabilitation of a debtor as an alternative to liquidation of assets. The National Bankruptcy Act, 1898 governed bankruptcy in the United States for 80 years until 1978, when after a thorough review of the then existing law and practice, the Bankruptcy Reform Act, 1978 was enacted.

The Bankruptcy Reform Act, 1978 superseded the National Bankruptcy Act, 1898 and established bankruptcy courts in each district and made provisions for the appointment of separate bankruptcy judges.

The Current Regulatory Framework in USA

"Bankruptcy Code", a federal law, governs bankruptcy in the United States of America. It is a uniform federal law that governs all bankruptcy cases in America. The Bankruptcy Code was enacted in 1978 by § 101 of the Bankruptcy Reform Act, 1978 and is codified as title 11 of the United States Code. The procedural aspects of the bankruptcy process are governed by the Federal Rules of Bankruptcy Procedure (Bankruptcy Rules).

Six basic types of bankruptcy cases are provided for under the Bankruptcy Code.

Chapter 7 titled "Liquidation": In Chapter 7 Bankruptcy, a court-appointed trustee or administrator takes possession of non-exempt assets, liquidates these assets and then uses the proceeds to pay creditors. He shall be accountable for all the property received and has the right to investigate the financial affairs of the debtor. He shall also file accounts of the administration of the estate with the United States Trustee and the Court.

Chapter 9 titled "Adjustment of Debts of a Municipality": Chapter 9 Bankruptcy proceedings provides for reorganization which is available to municipalities. In Chapter 9 Bankruptcy proceedings a municipality (which includes cities, towns, villages, counties, taxing districts, municipal utilities, and school districts) get protection from creditors and a municipality can pay back debt through a confirmed payment plan.

Chapter 11 titled "Reorganization": Unlike Chapter 7 where the business ceases operations and a trustee sell all of its assets, under Chapter 11 the debtor remains in control of its business operations and repay creditors concurrently through a court-approved reorganization plan. Generally, it is a debtor in possession regime. Section 1106 of the Bankruptcy Code requires the trustee, where appointed, to file a plan "as soon as practicable" or, alternatively, to file a report explaining why a plan will not be filed or to recommend that the case be converted to another chapter or dismissed.

Chapter 12: was added to the Bankruptcy Code in 1986. It allows a family farmer or fisherman to continue to operate the business while the plan is being carried out.

Chapter 13: enables individuals with regular income to develop a plan to repay all or part of their debts.

Chapter 15: was added to the Bankruptcy Code in 2005. It provides mechanism for dealing with insolvency cases involving debtors, claimants and other interested parties involving more than one country. Under Chapter 15 are presentative of a corporate bankruptcy proceeding outside the country can get access to the United States courts.

Historical developments of Insolvency Laws in India

The law of Insolvency in India owes its origin to English law. India being a colony of the United Kingdom, followed the English insolvency system. In India, the earliest provisions relating to insolvency can be traced to sections 23 and 24 of the Government of India Act, 1800. These sections conferred insolvency jurisdiction on Supreme Court at Fort Williams (Calcutta), Madras and Recorder's Court at Bombay as the need for an insolvency law was first felt in Presidency Towns of Calcutta, Bombay and Madras where the British majorly carried on their trade. These Courts were empowered to make rules and grant relief to insolvent debtors.

Later insolvency courts were established in the Presidency-Towns when Statute 9 was passed in 1828. This Act of 1828 marks the beginning of special insolvency legislation in India. The insolvency court had a distinct existence although the court was presided over by a Judge of the Supreme Court. The Act of 1828 was originally intended to remain in force for a period of four years, but subsequent legislation extended its duration up to 1848. The Provisions of the Indian Insolvency Act was passed in 1848 and remained in force until the enactment of the Presidency Towns Insolvency Act, 1909. Later Provincial Insolvency Act was passed in 1920.

The Presidency Towns Insolvency Act, 1909 and Provincial Insolvency Act, 1920 were two major enactments that dealt with personal insolvency but the two differ in respect of their territorial jurisdiction. While Presidency Towns Insolvency Act, 1909 applied in Presidency towns of Calcutta, Bombay and Madras, the Provincial Insolvency Act, 1920 applied to all provinces of India. These two Acts were applicable to individuals as well as partnership firms.

Insolvency law usually has a two-fold purpose-(i) to give relief to the debtor from the harassment of creditors whose claims he is unable to meet, and (ii) to provide a machinery by which creditors who are not secured in the payment of their debts are to be satisfied.

The Insolvency and Bankruptcy Code, 2016 [5] has repealed both the Presidency Towns Insolvency Act, 1909 and the Provincial Insolvency Act, 1920.

Before the enactment of the Insolvency and Bankruptcy Code, 2016 [5], the provisions relating to insolvency and bankruptcy were fragmented and there was no single law to deal with insolvency and bankruptcy in India. Before the enactment of the Insolvency and Bankruptcy Code, 2016 [5] the following Acts dealt with insolvency and Bankruptcy in India:

- The Presidency Towns Insolvency Act, 1909
- Provincial Insolvency Act, 1920
- Indian Partnership Act, 1932
- The Companies Act, 1956
- The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)
- The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (RDDBFI Act)
- The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act, 2002)
- The Companies Act, 2013.

Under the Constitution of India 'Bankruptcy & Insolvency' is provided in Entry 9 of List III (Concurrent List) in the Seventh Schedule to the Constitution. Hence both the Centre and State Governments are authorised to make laws on the subject.

Government Committees on Bankruptcy Reforms

Various committees were constituted from time to time by the Government to review the existing bankruptcy and insolvency laws in India. These committees analysed the laws and suggested reforms to bring the law in tune with ever evolving circumstances. Following is a snapshot of various committees constituted along with the outcome:

4SL	Year	Committee/Commission	Recommendations/Outcome
1	1964	Third Law Commission	Third Law Commission was established in 1961 under the Chairmanship of Justice J L Kapur. It submitted 26th Law Commission Report in 1964 proposing amendments to the Provincial Insolvency Act, 1920.
2	1981	Tiwari Committee	Following the recommendations of the Tiwari Committee, the Government of India enacted the Sick Industrial Companies (Special Provisions) Act, 1985, (SICA) in order to provide for timely detection of sickness in industrial companies and for expeditious determination of preventive and remedial measures.
3	1991	Narasimham Committee I	The government enacted Recovery of Debts Due to Banks and Financial Institutions (RDDBFI) Act, 1993.
4	1998	Narasimham Committee II	The committee's recommendations led to the enactment of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI), 2002.
5	1999	Justice Eradi Committee	Recommended setting up of a National Company Law Tribunal (NCLT) and proposed repeal of SICA.
6	2001	NL Mitra Committee	Proposed a comprehensive bankruptcy code.
7	2005	J J Irani Committee	The Committee proposed significant changes to make the restructuring and liquidation process speedier, efficient and effective and accordingly amendments were made to (RDDBFI) Act, 1993 and (SARFAESI), 2002.
8	2008	Raghuram Rajan Committee	Proposed improvements to credit infrastructure.
9	2013	Financial Sector Legislative Reforms Commission	Recommended changes in Indian Financial Sector.
10	2014	Bankruptcy Law Reforms committee (BLRC)	Reviewed the existing bankruptcy and insolvency framework in the country and proposed the enactment of Insolvency and Bankruptcy Code as a uniform and comprehensive legislation on the subject.

Need for a New Law

Before the enactment of the Insolvency and Bankruptcy Code, there was no single law in the country to deal with insolvency and bankruptcy. There were multiple overlapping laws and adjudicating forums dealing with financial failure and insolvency of companies and individuals in India. The framework for insolvency and bankruptcy was inadequate, ineffective and resulted in undue delays in resolution. The legal and institutional framework did not aid lenders in effective and timely recovery or restructuring of defaulted assets and causes undue strain on the Indian credit system.

Prior to the enactment of the Insolvency and Bankruptcy Code, the provisions relating to insolvency and bankruptcy for companies were made in the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debt Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Companies Act, 2013. These statutes provided for creation of multiple fora such as Board of Industrial and Financial Reconstruction (BIFR), Debt Recovery Tribunal (DRT) and their respective Appellate Tribunals. Liquidation of companies was handled by the High Courts. Individual bankruptcy and insolvency were dealt with under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920.

The liquidation of companies was handled under various laws and different authorities such as High Court, and Debt Recovery Tribunal had overlapping jurisdiction which was adversely affecting the debt recovery process.

As per World Bank data in 2015, insolvency resolution in India took 4.3 years on an average, which was way higher when compared to other countries such as United Kingdom (1 year) and United States of America (1.5 years). These delays were caused due to time taken to resolve cases in courts, and confusion due to a lack of clarity about the current bankruptcy framework.

Objects and Reasons for the IBC, 2016

The Statement of Objects and Reasons for the IBC reads as follows:

There is no single law in India that deals with insolvency and bankruptcy. Provisions relating to insolvency and bankruptcy for companies can be found in the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 and the Companies Act, 2013. These statutes provide for creation of multiple fora such as Board of Industrial and Financial Reconstruction (BIFR), Debts Recovery Tribunal (DRT) and National Company Law Tribunal (NCLT) and their respective Appellate Tribunals. Liquidation of companies is handled by the High Courts. Individual bankruptcy and insolvency is dealt with under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920 and is dealt with by the courts. The existing framework for insolvency and bankruptcy is inadequate, ineffective and results in undue delays in resolution, therefore, the proposed legislation.

The objective of the Insolvency and Bankruptcy Code, 2016 is to consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals in a timebound manner for maximisation of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the priority of payment of government dues and to establish an Insolvency and Bankruptcy Fund, and matters connected therewith or incidental thereto. An effective legal framework for timely resolution of insolvency and bankruptcy would support development of credit markets and encourage entrepreneurship. It would also improve Ease of Doing Business, and facilitate more investments leading to higher economic growth and development.

In the case of Independent Sugar Corporation Ltd. {Appellant(s)} Vs. Girish Sriram Juneja & Ors {Respondent(s)}, Civil Appeal No. 6071 of 2023, 2025 INSC 124, Judgement dated January 29, 2025, Hon'ble Supreme Court of India emphasised the Policy Underlying the IBC. Apex Court said that the BLRC report notes and acknowledges that the failure of a few business plans is integral to the process of the market economy. When business failure occurs, the best outcome for society is to have a rapid renegotiation between the financiers to finance a going concern using new arrangements of capital and restructured management. The re-negotiating process is known as the "Corporate Insolvency Resolution Process". The primary object of this effort, briefly stated, is the value maximization of the corporate debtor. The CIRP keeps the corporate debtor as a going concern and runs on the theory that the value of the business is worth more than the realisation of the piecemeal distribution of assets. However, if this objective cannot be achieved, the best outcome for society is the rapid liquidation of a failing corporate debtor. When such statutory arrangements are put into place, the market process of creative construction, on the one hand, and creative destruction, on the other hand, will work smoothly with greater competitive vigour.

BLRC lays emphasis on a strong and mature market economy. This involves well-drafted modern laws that replace the laws of the preceding 100 years and high-performance institutions which enforce these new laws. The Committee has the end word to provide one critical building block of this process with a modern Insolvency and Bankruptcy Code and the statutory design associates institutional infrastructure, which reduces delays and transaction costs. The BLRC, through the IBC, compartmentalized the functions and duties of RP, CoC and the Adjudicating Authority.

The report recommended assessing the viability of a corporate debtor and noted that the economic purview presented an advantage by calling for the assessment of the viability of an enterprise or a project. An enterprise that has fastened financial failure is considered as a viable enterprise and there is possible financial rearrangement that can earn the creditors a higher economic value in contrast to shutting down such an enterprise. On the contrary, if the cost of financial re-arrangement required to keep the enterprise going is higher than the non-performance value of future expected cash flows, then the enterprise is considered unviable or bankrupt and is better shut down as soon as possible.

After taking note of the emerging Indian economy, the best practices of resolution and liquidation in other economies and the model code of UNCITRAL, the report has recommended the following guiding principles to the Parliament for a new Code. Broadly, the objects sought to be achieved by the IBC are (i) provision of certainty in the market to promote efficiency and growth, (ii) maximization of value of assets, (iii) striking a balance between liquidation and reorganisation, (iv) ensuring equitable treatment of similarly situated creditors, (v) provision of timely, efficient and impartial resolution of insolvency, (vi) preservation of the insolvency estate to allow equitable distribution to creditors, (vii) ensuring a transparent and predictable insolvency law that contains incentives for gathering and dispensing information, (viii) recognition of existing creditor rights and establishment of clear rules for ranking priority of claims, and (ix) establishment of a framework for cross-border insolvency.

Conclusion

As India aspires to establish itself as a global manufacturing powerhouse and investment hub, it is imperative that it is able to provide a reliable, robust and competitive business environment for both domestic and international stakeholders. In essence, the introduction of the Green Channel route, which strives to create a level-playing field and enable new entrants to effectively compete with established players in the Indian market, is a significant step in that direction. However, to ensure that entities operate with utmost confidence in the sanctity and fairness of India's legal and regulatory system, the objectives of the IBC and the Competition Act must also necessarily be in harmony with one another.

Within that context, while the IBC's primary objective is the timely resolution of stressed assets with maximised value realisation for the stakeholders, the significant delay seen in the present case is both unfortunate and regrettable. Nevertheless, expeditious resolution cannot come at the cost of disregarding statutory provisions. Providing relief for stressed assets must necessarily align with the statutory framework, as adherence to legal principles is fundamental to a fair and just resolution process.

Where the provisions allow for dilution or departure from the intended scheme of the IBC or the Competition Act, it is the responsibility of the legislature to rectify such inconsistencies through appropriate legislative measures, and the judiciary should not normally venture into the legislative domain.

Further, the indispensability of procedural safeguards as an integral component of a just legal order must be given its due weight, especially as procedural requirements are not mere formalities to be circumvented for expediency, but substantive protections designed to ensure fairness and transparency. In that light, the procedural lapses with respect to objections to the proposed combination and the consequent divestiture modification proposed within the framework of the Competition Act, 2002, seriously vitiated the integrity of the process. It is therefore reiterated and reinforced that adherence to procedural propriety is non-negotiable and that the ends cannot justify the means.

By upholding the mandatory nature of the statutory provision and emphasising upon the critical importance of procedural safeguards, the principle of rule of law is upheld in alignment with global best practices which underscore fairness, predictability and transparency. Such an approach not only reinforces the integrity and credibility of the legal framework but also highlights India’s commitment to fostering a regulatory environment, which is conducive to both business and innovation. Additionally, it also ensures the protection and enforcement of rights in an equitable manner, free from bias or favouritism.

Therefore, a balance between the need for expeditious relief and adherence to the statutory framework must necessarily be maintained, in order to ensure that the objectives of both, the IBC and the Competition Act are met in a manner that supports India's long-term economic aspirations.

References

1. A Handbook on Insolvency and Bankruptcy Code. Institute of Directors, New Delhi, 2019.
2. Alam SH. Law on Insolvency and Bankruptcy. University Book House Pvt Ltd., Jaipur, 2026.
3. Futane GS, Hadole KSP, Yadav WK. Insolvency and Bankruptcy Code. Notion Press, Chennai, 2022.
4. IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016.
5. Insolvency and Bankruptcy Code, 2016.
6. Jain DK. Guide to Insolvency and Bankruptcy Code. Bharat Law House, New Delhi, 2024.
7. Myneni SR. Law of Insolvency and Bankruptcy. Allahabad Law Agency, Faridabad, 2017.
8. www.ibbi.gov.in
9. www.indiacode.nic.in
10. www.legislation.gov.uk
11. www.lexology.com