

Analysis of Corporate Insolvency Resolution Process Under Insolvency and Bankruptcy Code, 2016

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Abstract: *The Insolvency and Bankruptcy Code, 2016 (IBC) represents a landmark reform in India's financial and corporate legal framework. The Corporate Insolvency Resolution Process (CIRP), as its central mechanism, aims to resolve corporate distress in a time-bound manner while maximizing asset value and balancing stakeholder interests. This paper critically analyses the structure, functioning, effectiveness, and challenges of CIRP. It evaluates the procedural framework, institutional roles, judicial interpretation, and practical outcomes, highlighting both achievements and limitations. The study concludes with recommendations for strengthening the CIRP mechanism in India.*

Keywords: Insolvency, Bankruptcy, NCLT, CIRP Corporate Insolvency

1. Introduction

The enactment of the Insolvency and Bankruptcy Code, 2016 marked a paradigm shift in India's insolvency regime by consolidating fragmented laws into a unified legal framework. Prior to the IBC, insolvency resolution mechanisms were inefficient, time-consuming, and lacked coordination, resulting in mounting non-performing assets (NPAs) and financial instability. The introduction of CIRP transformed the insolvency landscape by establishing a creditor-driven, time-bound resolution process.¹

The primary objective of CIRP is not mere recovery but the revival of financially distressed companies. It emphasizes value maximization, equitable distribution among creditors, and preservation of economic resources. The shift from a debtor-in-possession model to a creditor-in-control model ensures greater accountability and efficiency in decision-making.²

The stability and efficiency of a country's financial system largely depend upon the existence of a robust legal framework for dealing with insolvency and bankruptcy. In the absence of an effective insolvency regime, distressed assets tend to remain locked in unproductive enterprises, leading to capital inefficiency and economic stagnation. Prior to 2016, India's insolvency framework was characterized by fragmented legislation, procedural delays, and low recovery rates, which collectively weakened creditor confidence and adversely affected the ease of doing business.³ The enactment of the Insolvency and Bankruptcy Code, 2016 (IBC) marked a significant legal and economic reform aimed at consolidating and streamlining the insolvency process in India.

Before the introduction of the IBC, multiple laws governed insolvency and debt recovery, including the Sick Industrial Companies Act, 1985 (SICA), the Recovery of Debts Due to

Banks and Financial Institutions Act, 1993 (RDDBFI Act), and the Companies Act, 2013. However, these statutes suffered from inherent limitations such as overlapping jurisdiction, lack of coordination among institutions, and prolonged litigation. As a result, the resolution of insolvency cases often took several years, during which the value of assets deteriorated significantly.⁴ The absence of a time-bound mechanism further exacerbated the problem, leading to mounting non-performing assets (NPAs) in the banking sector.

The IBC was introduced as a comprehensive legislation to address these challenges by providing a unified and creditor-driven insolvency framework. It brought together various aspects of insolvency law under a single statute and introduced a time-bound resolution process known as the Corporate Insolvency Resolution Process (CIRP).⁵ The primary objective of the Code is not merely to facilitate recovery of debts but to ensure the revival and continuation of viable businesses, thereby preserving employment and economic value. This shift in focus from liquidation to resolution represents a fundamental change in the philosophy of insolvency law in India.

The Corporate Insolvency Resolution Process (CIRP) is the cornerstone of the IBC framework. It provides a structured mechanism through which financially distressed companies can be reorganized or resolved in a time-bound manner. The process is initiated upon the occurrence of a default by the corporate debtor and involves the participation of various stakeholders, including financial creditors, operational creditors, insolvency professionals, and adjudicating authorities.⁶ The introduction of CIRP has significantly altered the dynamics of debtor-creditor relationships by shifting control from the management of the debtor to the creditors, thereby ensuring greater accountability and transparency.

¹ Insolvency and Bankruptcy Code Process, Drishti IAS (2025).

² Shubham Kumar Tiwary, *CIRP in India's IBC: A Comprehensive Analysis*, IJLLR.

³ Bankruptcy Law Reforms Committee, *Report of the Bankruptcy Law Reforms Committee* (2015).

⁴ M. S. Sahoo, "Insolvency and Bankruptcy Code: Reforms and Challenges," (2017).

⁵ Insolvency and Bankruptcy Code, 2016, Preamble.

⁶ Sections 6–10, Insolvency and Bankruptcy Code, 2016.

One of the most notable features of the CIRP is its time-bound nature. The Code mandates that the resolution process must be completed within 180 days, extendable up to a maximum of 330 days, including any litigation period.⁷ This emphasis on strict timelines is intended to prevent delays and preserve the value of the corporate debtor's assets. However, in practice, adherence to these timelines has been a subject of concern due to judicial backlogs and procedural complexities. Despite these challenges, the introduction of statutory timelines has significantly improved the speed of insolvency resolution compared to the pre-IBC era.

Another significant aspect of the CIRP is the concept of "creditor in control," which represents a departure from the earlier "debtor in possession" model. Under the CIRP, the management of the corporate debtor is transferred to an Interim Resolution Professional (IRP) upon the admission of the insolvency application. The IRP is responsible for managing the affairs of the company, collecting financial information, and facilitating the resolution process.⁸ Subsequently, a Committee of Creditors (CoC) is constituted, which plays a crucial role in evaluating and approving resolution plans. The decisions of the CoC are based on the principle of "commercial wisdom," which has been upheld by judicial authorities as being non-justiciable except on limited grounds.⁹

The role of the adjudicating authority, namely the National Company Law Tribunal (NCLT), is also central to the functioning of the CIRP. The NCLT is responsible for admitting insolvency applications, approving resolution plans, and ensuring compliance with the provisions of the Code. The appellate authority, the National Company Law Appellate Tribunal (NCLAT), provides an additional layer of judicial oversight. While the involvement of judicial bodies ensures fairness and legality, excessive litigation has sometimes led to delays in the resolution process, thereby undermining the objective of timely resolution.¹⁰

Since its implementation, the IBC has had a significant impact on India's financial ecosystem. It has improved recovery rates for creditors, strengthened credit discipline among borrowers, and enhanced India's ranking in the World Bank's Ease of Doing Business index.¹¹ The Code has also facilitated the resolution of several high-profile insolvency cases, demonstrating its effectiveness as a legal mechanism. However, the success of the CIRP has been uneven, with a large number of cases resulting in liquidation rather than resolution. This raises questions about the effectiveness of the process in achieving its primary objective of business revival.

Despite its achievements, the CIRP faces several challenges that hinder its optimal functioning. These include delays in the resolution process, high haircuts for creditors, limited institutional capacity, and issues related to the treatment of operational creditors.¹² Additionally, sector-specific challenges, such as those faced by the real estate and

infrastructure sectors, require tailored solutions that are not adequately addressed by the current framework. The need for continuous reforms and improvements in the CIRP mechanism is therefore evident.

Furthermore, the evolving nature of insolvency law in India has led to several amendments to the IBC, aimed at addressing emerging challenges and improving the efficiency of the resolution process. These include the introduction of the pre-packaged insolvency resolution process for micro, small, and medium enterprises (MSMEs), as well as changes in the eligibility criteria for resolution applicants.¹³ Such reforms reflect the dynamic nature of the insolvency framework and the government's commitment to strengthening the CIRP mechanism.

In light of the above discussion, the Corporate Insolvency Resolution Process under the IBC represents a transformative development in India's corporate legal landscape. It has introduced a structured, transparent, and time-bound mechanism for resolving corporate distress, thereby contributing to economic stability and growth. However, the effectiveness of the CIRP depends on the efficient functioning of its institutional framework, timely resolution of cases, and continuous adaptation to emerging challenges. This research paper seeks to critically analyse the CIRP mechanism, examining its legal framework, practical implementation, and overall impact on the Indian economy.

2. Concept and Objectives of CIRP

The Corporate Insolvency Resolution Process is a statutory mechanism initiated when a corporate debtor defaults on its financial obligations beyond a prescribed threshold. It is designed to facilitate either the restructuring or liquidation of the debtor in a structured and transparent manner.¹⁴

The key objectives of CIRP include:

- Maximization of the value of assets of the corporate debtor
- Promotion of entrepreneurship and availability of credit
- Balancing the interests of all stakeholders
- Ensuring time-bound resolution

These objectives reflect the broader economic goal of maintaining financial discipline and strengthening credit markets.

3. Initiation of CIRP

CIRP can be initiated by three categories of applicants: financial creditors, operational creditors, or the corporate debtor itself. The application is filed before the National Company Law Tribunal (NCLT), which acts as the adjudicating authority.¹⁵

⁷ Section 12, Insolvency and Bankruptcy Code, 2016.

⁸ Sections 16–20, Insolvency and Bankruptcy Code, 2016.

⁹ *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2019) 16 SCC 479.

¹⁰ *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

¹¹ World Bank, *Ease of Doing Business Report* (2020).

¹² IBBI, *Insolvency Resolution Data Reports* (2023).

¹³ Insolvency and Bankruptcy Code (Amendment) Act, 2021.

¹⁴ Kotak Neo, *Corporate Insolvency Resolution Process: Meaning & Framework* (2025).

¹⁵ Taxmann, *CIRP under IBC – Key Steps & Requirements* (2025).

Upon satisfaction of default, the NCLT admits the application within a prescribed period, marking the commencement of CIRP. This stage is crucial as it triggers a moratorium, prohibiting all legal proceedings against the debtor and ensuring a calm period for resolution.

4. Key Stages in the CIRP Process

4.1 Admission and Moratorium

Once the application is admitted, a moratorium is declared under Section 14 of the IBC. This prevents creditors from initiating or continuing legal proceedings, thereby preserving the debtor's assets.

4.2 Appointment of Interim Resolution Professional (IRP)

The NCLT appoints an Interim Resolution Professional who takes control of the corporate debtor's management. The IRP collects financial information and manages the operations of the company.

4.3 Formation of Committee of Creditors (CoC)

The IRP constitutes the Committee of Creditors, consisting primarily of financial creditors. The CoC is the decision-making body responsible for evaluating resolution plans.

4.4 Resolution Plan and Approval

Resolution applicants submit plans for restructuring or revival. The CoC evaluates these plans and approves one with at least 66% voting share. The approved plan is then submitted to the NCLT for final approval.

4.5 Liquidation (if resolution fails)

If no viable resolution plan is approved within the stipulated time, the company proceeds to liquidation.

5. Time-bound Nature of CIRP

One of the most significant features of CIRP is its strict timeline. The process must be completed within 180 days, extendable up to 330 days, including litigation periods. This ensures speedy resolution and prevents erosion of asset value.¹⁶ However, in practice, delays have been observed due to judicial backlogs and procedural complexities, undermining the intended efficiency.

6. Institutional Framework

The CIRP operates through a well-defined institutional structure:

- **Insolvency and Bankruptcy Board of India (IBBI):** Regulates insolvency professionals and agencies
- **National Company Law Tribunal (NCLT):** Adjudicating authority
- **Insolvency Professionals (IPs):** Manage the resolution process

- **Committee of Creditors (CoC):** Decision-making body

This framework ensures transparency, accountability, and professional management of insolvency proceedings.

7. Judicial Interpretation and Role of Courts

Judicial interpretation has played a crucial role in shaping the CIRP framework. Courts have emphasized the "commercial wisdom" of the Committee of Creditors, limiting judicial intervention in business decisions. This principle ensures that financial decisions remain with creditors rather than courts. However, excessive litigation and appeals have contributed to delays, raising concerns about judicial overreach in certain cases.

8. Performance and Effectiveness of CIRP

The CIRP has significantly improved insolvency resolution in India. Thousands of cases have been admitted, leading to either resolution or liquidation. Studies indicate that a substantial number of cases result in liquidation, reflecting challenges in finding viable resolution plans.

Recovery rates have improved compared to pre-IBC regimes, but high haircut rates indicate that creditors often accept significant losses. Additionally, delays in resolution remain a major concern, with average timelines exceeding statutory limits.¹⁷

9. Challenges in CIRP

Despite its success, CIRP faces several challenges:

9.1 Delays in Resolution

Procedural delays and judicial backlog often extend the process beyond prescribed timelines.

9.2 High Haircuts

Creditors frequently incur significant losses, reducing the effectiveness of the resolution process.

9.3 Capacity Constraints

Limited number of insolvency professionals and NCLT benches affects efficiency.

9.4 Treatment of Operational Creditors

Operational creditors often receive lower priority, raising concerns about fairness.

9.5 Sector-Specific Issues

Uniform provisions fail to address sector-specific challenges, affecting outcomes in industries like real estate.

¹⁶ ScienceDirect, *Sectoral Insights into CIRP Outcomes in India* (2024).

¹⁷ Rajat Sharma & Bhawna Arora, *CIRP Effectiveness and Challenges* (2025).

10. Recent Developments

Recent amendments to the IBC have introduced reforms such as:

- Pre-packaged insolvency resolution process (PPIRP) for MSMEs
- Stricter eligibility criteria for resolution applicants
- Enhanced role of creditors

These changes aim to improve efficiency and address existing shortcomings in CIRP.

11. Critical Analysis

The CIRP has transformed India's insolvency regime by introducing a structured and time-bound process. Its creditor-centric approach has improved recovery mechanisms and strengthened financial discipline. However, practical challenges such as delays, low recovery rates, and institutional inefficiencies continue to hinder its full potential. The balance between judicial oversight and creditor autonomy remains delicate. While judicial intervention ensures fairness, excessive involvement can undermine the speed and efficiency of the process.

12. Conclusion

The Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 represents a significant advancement in India's corporate legal framework. It has enhanced transparency, improved recovery rates, and strengthened creditor confidence. However, for CIRP to achieve its full potential, reforms are needed to address delays, improve institutional capacity, and ensure equitable treatment of stakeholders.

A more sector-specific approach, stronger regulatory mechanisms, and technological integration can further enhance the effectiveness of the CIRP. With continuous reforms, the CIRP has the potential to become a robust tool for economic stability and corporate governance in India.