



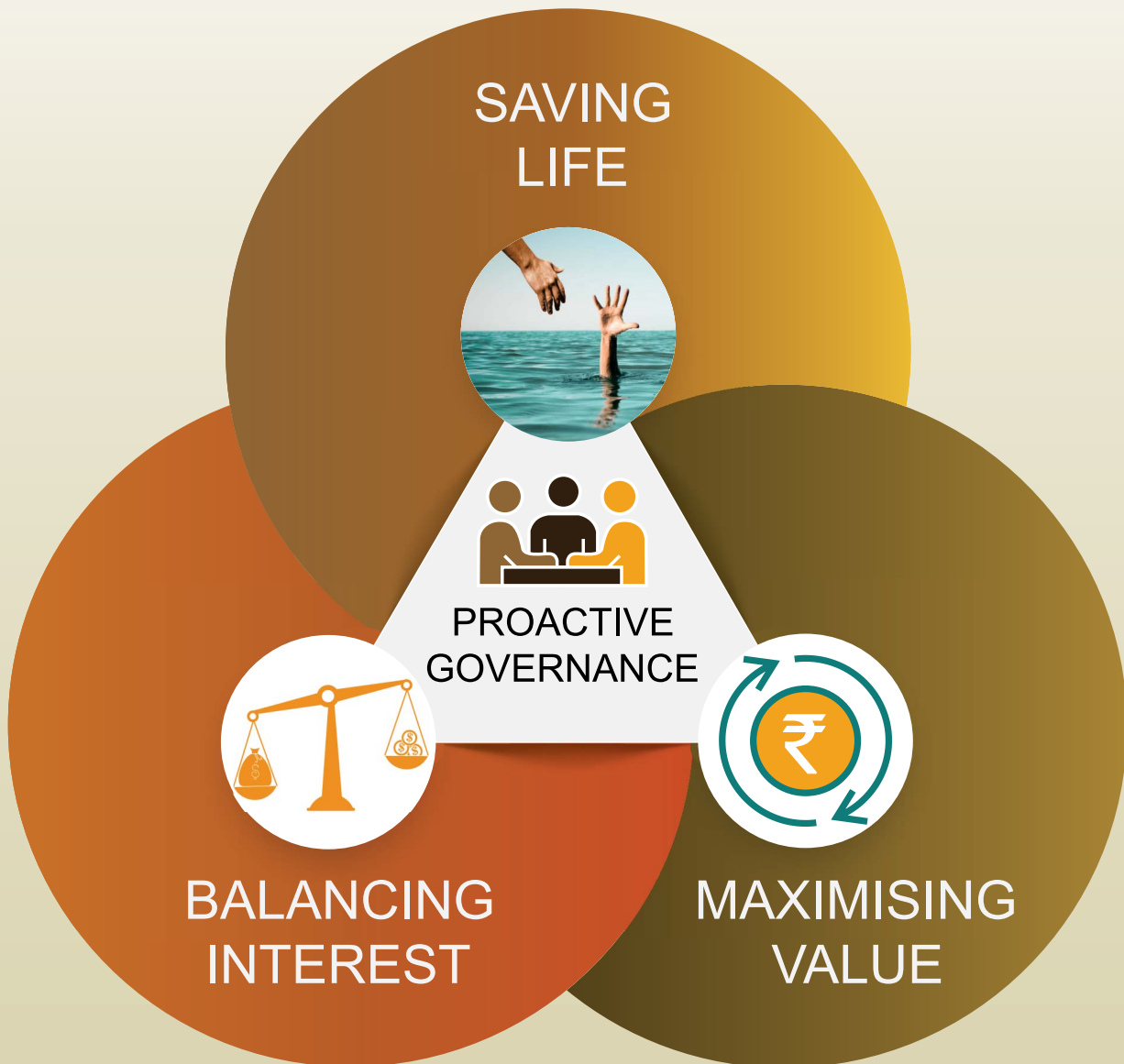
भारतीय विवाला और शोधन अकमता बोर्ड
Insolvency and Bankruptcy Board of India

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Insolvency and Bankruptcy News

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IBC: A Code for Corporate Governance

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... Now because of Insolvency and Bankruptcy Code, the return of nearly Rs. 3 lakh crore into the system has been assured.

- Hon'ble Prime Minister, Shri Narendra Modi
at the Republic Summit, 2019 on November 26, 2019.

Insolvency and Bankruptcy Code has institutionalized and professionalized corporate resolution process which is now transparent, and market led. Today when we mark the three years of IBC, with very constant real time changes which are being brought in, we have reached a stage, where we can stand up for international standards in ease of doing business.

- Hon'ble Minister of Finance and Corporate Affairs, Smt. Nirmala Sitharaman
at 3rd Annual Day of the IBBI on October 1, 2019.

With the reorganization procedure available (through the Insolvency and Bankruptcy Code, 2016), companies have effective tools to restore financial viability, and creditors have access to better tools to successfully negotiate and have greater chances to revert the money loaned at the end of insolvency proceedings.

- World Bank's Doing Business Report, 2020.

IBC: A Code for Corporate Governance

By laying down norms that seek to prevent failure of companies and rescue failing companies, the Insolvency and Bankruptcy Code, 2016 has taken corporate governance to new heights in the country.

A company is an amalgam of many stakeholders. Each stakeholder, however, has a unique objective function, with a distinct set of rights, interests, and level of engagement with the company. Consequently, the interests of one stakeholder may conflict with those of another and / or of the company. The stakeholders may work at cross purposes, and even against the interest of the company. In their drive to maximise the upside for them while enjoying limited liability, the shareholders may expose the company and other stakeholders to unlimited liabilities. Such conduct has potential to benefit a set of stakeholders, often at the cost of another, the company and the society. Persistent uneven sharing of losses and gains may endanger the life of the company.

A variety of norms such as independent directors, key managerial personnel, regulation of related party transactions, protection of minority interest, financial and secretarial audit, timely and accurate disclosures about material matters, taxes and subsidies, corporate social responsibility, etc. - collectively referred to as called corporate governance - endeavour to synchronise and balance the interests of the stakeholders, subordinate the interests of immediate stakeholders to those of the company and establish precedence of interests of the society over those of the company. Some jurisdictions have codified these norms through codes for corporate governance. India too has well-codified corporate governance norms and has been continuously raising the bar for them. The Companies Act, 2013 and SEBI regulations serve as important milestones in this direction. These norms typically apply to a company in normal times when it is managed by shareholders, represented by a Board of Directors, with assistance of a governance professional.

A company has indefinite life by law. There is, however, a continuous threat to its life from the 'market'. It loses business to others when it fails to compete with its peers. Every other company is its predator - a company swallows another company for its own growth, through a variety of hostile or friendly restructures. *Creative destruction* often destroys more companies than it creates! Consequently, the average life of S&P 500 companies has reportedly reduced from 90 years to 18 years over the last century. The average life span of publicly traded companies, taking into account acquisitions, mergers and bankruptcy, is about 10 years,¹ though longest life, a company ever lived, is 1429 years.² Thus, a company having perpetual succession now lives shorter than a human!³ The strategies of resilience and adaptation, research and development, risk management, sustainable business model, visionary leadership, preparedness for unknown unknowns, etc., minimise threat to the life of a company. There is, however, no governance norm to have such strategies, though many have these on their own volition.

The companies are modern engines of growth. They have huge resources and are very powerful. They often have organisational capital, which represents the excess of the fair value of the company over liquidation value of its assets. Closure of a company destroys its organisational capital. It

takes years of efforts to bring up a company, which can replace an existing one. Therefore, it is necessary to rescue a company, with a viable business, from premature death, and nurse it back to normal life, while also aiming for higher growth by stimulating competition and innovation and eliminating anti-competitive conduct at marketplace.

The *raison d'être* of a company is that it must live, and it must generate value and share the same equitably among stakeholders. The framework which enables a company to do so is, in essence, corporate governance. In this sense, the Insolvency and Bankruptcy Code, 2016 (IBC) serves as a 'Code' for corporate governance. Its first order objective is rescuing a company in distress. The second order objective is maximising value of assets of the company and the third order objective is promoting entrepreneurship, availability of credit and balancing the interests of all stakeholders. This order of objectives is sacrosanct.⁴ By laying down governance norms for companies in distress, the IBC has taken corporate governance to new heights in the country. Some scholars, however, consider corporate governance and insolvency arrangements as different parts of a continuum in the life of a company.⁵ The OECD advocates an effective and efficient insolvency framework to complement corporate governance framework.⁶

Saving Life

The IBC endeavours to save the life of a company in distress. It is a beneficial legislation which puts the company back on its feet, not being a mere recovery legislation for creditors.⁷ It bifurcates⁸ the interests of the company from that of its promoters / management with a primary focus to ensure revival and continuation of the company by protecting it from its own management and from death by liquidation.⁹ If there is a resolution applicant, who can continue to run the company as a going concern, every effort must be made to try and see that this is made possible.¹⁰

The IBC empowers creditors, represented by a committee of creditors (CoC), with the assistance of an insolvency practitioner, to rescue a company, when it experiences a serious threat to its life. For this purpose, the CoC can take or cause a haircut of any amount to any or all stakeholders. It seeks the best resolution from the market, unlike the earlier mechanisms which allowed creditors to find a resolution only from the existing promoters. Further, the resolution plan can provide for any measure that rescues the company. It may entail a change of management, technology, or product portfolio; acquisition or disposal of assets, businesses or undertakings; restructuring of organisation, business model, ownership, or balance sheet; strategies of turn-around, buy-out, merger, amalgamation, acquisition, or takeover; and so on.

The IBC provides a competitive, transparent market process, which identifies the person, who is best placed to rescue the company and selects the resolution plan, which is the most sustainable under the circumstances. It mandates consideration of only feasible and viable resolution plans, that too, from capable and credible persons, to ensure sustained life of the company.

1. Daemp MIG, Hamilton MJ, West GB, Bettencourt LMA (2015), "The Mortality of Companies", *Journal of the Royal Society Interface* 12(106).
 2. Kongō Gumi Co., Ltd., a Japanese construction company, which survived the Meiji Restoration and two atomic bombs, but could not survive debt and went into liquidation in 2006.
 3. The country where people live the longest is also home to some of the oldest companies in the world.
 4. Binani Industries Limited Vs. Bank of Baroda & Anr., [CA (AT) No. 82,123,188,216 & 234 -2018].
 5. Mr. Stilson Nestor at the third meeting of the Latin American Corporate Governance Roundtable, April, 2002.

6. OECD (2015), 'G20/OECD Principles of Corporate Governance', OECD Publishing, Paris.
 7. Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors., (2019) 4 SCC 17.
 8. The Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015 propose to separate promoters (Chairman) from management (Managing Director) of the company with effect from April 1, 2022. Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors., (2019) 4 SCC 17.
 9. Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors., (2019) 4 SCC 17.
 10. Arcelor Mittal India Private Limited Vs. Satish Kumar Gupta and Ors., (2019) 2 SCC 1.

This releases the company from the clutches of current management and puts it in the hands of a credible and capable management to avoid liquidation. The processes under the IBC have, up till now, rescued about 190 companies, some of which were in deep distress.

Maximising Value

The IBC safeguards and maximises the value of the company and consequently, value for all its stakeholders. First and foremost, it enables initiation of resolution process at the earliest to preserve the value, when the stakeholders have the motivation to rescue the company rather than liquidate it. It mandates resolution in a time-bound manner to prevent decline in the value with time during resolution process, reducing motivation of the stakeholders to opt for liquidation. Further, it does not envisage recovery, which maximises the value of the creditors on first-cum-first-serve basis, while bleeding the company to its death. It does not allow direct liquidation, which maximises the value for stakeholders who rank higher in the waterfall, while destroying organisational capital. Liquidation process commences only on failure of resolution process to revive the company.

The IBC facilitates resolution as a going concern to capture going concern surplus. It makes an insolvency practitioner run the company as a going concern, prohibits suspension or termination of supply of essential services, mandates continuation of licenses, permits and grants; stays execution of individual claims, enables raising interim finances for running the company, insulates the resolution applicants from the misdeeds of the company under the erstwhile management, etc. It provides for a market mechanism where the world at large competes to give the best value for the company through a resolution plan. The resolution plans have yielded about 200% of the liquidation value. It also maximises value through sale of the company or its business as a going concern, even after the liquidation process has commenced. These provisions endeavor to maximise the value of the company.

Where value has been lost on account of undesirable transactions (preferential transactions, undervalued transactions, extortionate credit transactions and fraudulent transactions) with related parties in the preceding two years or with others in the preceding one year, the IBC enables claw back of such value. It even mandates retrieval of value lost due to the failure to exercise due diligence. There is a twilight zone which begins from the time when a director knew or ought to have known that there was no reasonable prospect of avoiding the commencement of resolution process of the company till the company enters resolution process. During this period, a director has an additional responsibility to exercise due diligence to minimise the potential loss to the creditors of the company and he is liable to make good such loss. There are thus, strong deterrence measures to prevent directors and promoters from causing loss of value to the company in the run up to insolvency.

Balancing Interests

A company has two main sets of immediate stakeholders: shareholders and creditors. If debt is serviced, shareholders have complete control of the company. When the company fails to service the debt, the IBC shifts control of the company to the creditors for resolving insolvency. The IBC moved from *debtor-in-possession* model to *creditor-in-control* model, balancing the rights and powers of shareholders and creditors vis-a-vis a company.

While the control shifts to creditors, the CoC has authority to take decisions about the fate of the company. There are, however, several checks and balances to ensure that the resolution process yields fair and equitable outcomes for the various stakeholders – financial creditors (FCs) and operational creditors (OCs) and secured and unsecured creditors. The IBC prescribes several balances in a resolution process such as payment of a certain minimum amount to OCs, payment to OCs in priority over FCs, payment of a certain minimum amount to dissenting FCs, requirement of a statement as to how a resolution plan has dealt with the interests of all the stakeholders, including FCs and OCs, etc. The ultimate discretion of what to pay and how much to pay to each class or subclass of creditors is with the CoC, but its decision must reflect the fact that it has taken into account maximising the value of assets of the company and the fact that it has balanced the interests of all the stakeholders.¹¹

Proactive Governance

The IBC contributes to governance of a company even before it gets into distress. There is a credible threat that if a company defaults, and consequently it gets into resolution process under the IBC, in all probability, it would move away from the hands of current promoters / management for ever. Firstly because, the promoters may not be eligible to submit a resolution plan. Second, even if eligible, they may not submit the most competitive plan, or the creditors may choose liquidation. This prevents use of resources below their potential before resolution. The scheme of incentives and disincentives under the IBC has brought in behavioural changes on the part of every stakeholder of a company, minimising the incidence of failure, default and under-performance. In the long run, the best use of the IBC would be not using it at all. That would be the ultimate corporate governance.

Going Forward

A well governed company commands respect of the society and a premium from stakeholders. A company should be so governed that it is unlikely to have distress, and, in rare eventuality of distress, it should facilitate its resolution without loss of much time and value. This is important because the IBC shifted the focus of creditors from the possibility of recovery to the possibility of resolution, in case of default. A company prefers to keep itself resolvable all the time, should a need arise, and the market prefers to deal with a company which is resolvable. A resolvable company obtains a competitive advantage against non-resolvable companies through reduced cost of debt. The value of a company often lies in informal, off-the record arrangements or personal relationships among promoters or their family members. In such cases, prospective resolution applicants may find it hard to trace and harness the value, making resolution of the company remote. A company prefers to have value, which is visible and readily transferable to prospective resolution applicants. Similarly, a company keeps an updated information memorandum ready to enable expeditious conclusion of resolution process, if initiated. By incentivising a company to remain resolvable all the time, the IBC facilitates preparation of a sort of 'living will' for the benefit of the company as well as the society at large.

(Dr. M. S. Sahoo)



11. Committee of Creditors of Essar Steel India Limited Vs. Satish Kumar Gupta & Ors., Civil Appeal Nos. 8766-67/2019 and other petitions.

IBBI UPDATES

Governing Board

Mr. Sudhaker Shukla took charge as Whole Time Member (WTM) of the IBBI on November 14, 2019. He served as a member of the Indian Economic Service for over 34 years in various capacities across Ministries and Departments of the Government of India. His last assignment was as Chief Economic Adviser in the Ministry of Rural Development. Earlier, he served as Adviser in African Development Bank representing India, Denmark, Sweden, Norway and Finland.



Mr. Sudhaker Shukla, WTM

Mr. Shukla has been designated as WTM (Registration & Monitoring Wing). His responsibilities include Insolvency Professionals, Information Utilities, Insolvency Professional Agencies, Registered Valuers, Registered Valuers Organisations, Surveillance, Investigation and Grievance Redressal, in addition to Legal Affairs and Establishment.

Vigilance Awareness Week, 2019

IBBI observed Vigilance week from October 28, 2019 to November 2, 2019 on the theme 'Integrity – A way of life'. Dr. Navrang Saini, WTM administered oath to officers located at Jeevan Vihar office on the occasion. Mr. Debajyoti Chaudhuri, CGM administered oath to officers located at Mayur Bhawan office. IBBI received an integrity pledge certificate from the Central Vigilance Commission.



Integrity Pledge, October 28, 2019

Rashtriya Ekta Diwas

Dr. M. S. Sahoo, Chairperson administered the Rashtriya Ekta Diwas pledge



Rashtriya Ekta Diwas Pledge, October 31, 2019



Rashtriya Ekta Diwas Pledge, October 31, 2019

to officers located at Mayur Bhawan on October 31, 2019, serving to reinforce the commitment to strengthen the security, unity and integrity of nation. Dr. Navrang Saini, WTM administered oath to officers located at Jeevan Vihar office on the occasion.

Samvidhan Diwas

IBBI observed Samvidhan Diwas (Constitution Day) on November 26, 2019 to commemorate the adoption of the Constitution of India. The officers read the Preamble of the Constitution on this occasion.



Constitution Day Pledge, November 26, 2019

Parliamentary Committee

The Committee on Subordinate Legislation of the Lok Sabha took a briefing by the representatives of the Ministry of Corporate Affairs (MCA) at their sitting on November 27, 2019 to examine the Rules/Regulations framed under the Companies Act, 2013. Secretary and other officers of MCA and Chairperson, IBBI appeared before the Committee.

Third Annual Day

IBBI celebrated its Third Annual Day on October 1, 2019. Hon'ble Minister of Finance and Corporate Affairs, Mrs. Nirmala Sitharaman graced the occasion as the Chief Guest. Hon'ble Minister of State for Finance and Corporate Affairs, Mr. Anurag Singh Thakur; the Learned Solicitor General of India, Mr. Tushar Mehta; and Secretary, MCA, Mr. Injeti Srinivas were the Guests of Honour.



Third Annual Day, October 1, 2019



Third Annual Day, October 1, 2019



Hon'ble Minister of Finance and Corporate Affairs, Mrs. Nirmla Sitharaman, October 1, 2019

In her address, Hon'ble Minister of Finance and Corporate Affairs stated that the Code has created a set of professionals who help, advise and also show the path to exit when one finds it difficult to carry on a business. It has improved business climate in the country by making it easier for enterprises to exit in case of difficulties, she said. It is no more getting into a business not knowing how to get out of it, when required.



Hon'ble Minister of State for Finance and Corporate Affairs, Mr. Anurag Singh Thakur, October 1, 2019

In his address, Hon'ble Minister of State for Finance and Corporate Affairs said that the Code has provided an effective mechanism for exit and for restructuring of credit and businesses. The Code has brought about a paradigm shift in debtor-creditor relationship, shifting balance of power in favour of creditors, and consequently brought in significant behavioural changes.



Learned Solicitor General of India, Mr. Tushar Mehta, October 1, 2019

The Learned Solicitor General of India delivered the IBBI Annual Day Lecture on "IBC: Road Travelled and Road Ahead". Recognising the role of an efficient and predictable insolvency and debt resolution framework in allocation of resources, financial inclusion and availability of credit, he

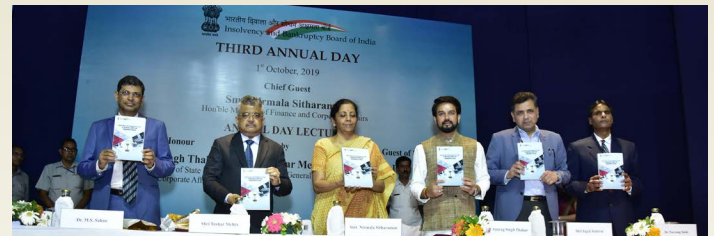


Secretary, Ministry of Corporate Affairs, Mr. Injeti Srinivas, October 1, 2019

stated that the Code strengthens the investment climate and advances economic growth.

While noting that the Code is one of the deepest economic reforms in recent times, Secretary, MCA identified individual insolvency, cross border insolvency, group insolvency and marketplace for distressed assets as the focus areas of the Ministry in near future.

Annual Publication



Release of Annual Publication of IBBI, October 1, 2019

A publication "The Insolvency and Bankruptcy Code, 2016: A Miscellany of Perspectives" was released by the Hon'ble Minister of Finance and Corporate Affairs on the occasion. This publication puts together a miscellany of perspectives on the journey of the Code from the viewpoint of practitioners, policymakers, lawyers, subject experts, and academicians.

Hindi Version of the Code

The Hindi version of the Code was also released by Hon'ble Minister of State for Finance and Corporate Affairs on the Annual Day of IBBI. This would benefit a larger number of stakeholders in the country.



Release of Hindi version of the Insolvency and Bankruptcy Code, 2016, October 1, 2019

Employee Trainings and Workshop

The IBBI organised the following workshops and trainings for its officers:

Date	Nature of Programme /Subject	Faculty
15-10-19 to 19-10-19	Refresher Course / In-depth overview of some of the most relevant issues for current insolvency policy developments in India and around the world.	IICA
20-11-19	Workshop / Prevention, Prohibition and Redressal of Sexual Harassment at Workplace	Ms. Kuljit Kaur (NGO Worker) and Ms. Bina Jain (External Expert, Internal Complaints Committee, IBBI)



Refresher Course at IICA, October 15 to 19, 2019



Talk by Ms. Kuljit Kaur and Ms. Bina Jain, November 20, 2019



Talk by Dr. Rattan Lal Koul, November 22, 2019

The officers of IBBI attended the following workshop and training programmes :

Date	Organised by	Nature of the Programme/Subject	No. of Officers
11-10-19	GeM, New Delhi	GeM Master Trainer Programme	02
11-10-19 to 12-10-19	Institution of Valuers (IOV)	Global Valuation Summit	02
30-10-19 to 01-11-19	IIM, Kolkata	Corporate Intelligence	02
08-11-19	IPA ICAI	Liquidation under IBC, 2016	02
11-11-19	CII	Resolving Insolvency in India	03
11-11-19 to 15-11-19	World Bank	Best practices in the area of insolvency and bankruptcy in the US	01
14-11-19 to 15-11-19	NLSIU, Bangalore	Conflict Resolution Technique	02
16-12-19	IBBI and Vidhi Centre for Legal Policy	Insolvency and Bankruptcy Code, 2016 – Impact on Markets and the Economy	10
19-12-19	CII	6 th Banking and Finance Summit, 2019	01



Talk by Dr. Ajit Mishra, November 25, 2019

LEGAL AND REGULATORY FRAMEWORK

Distinguished Speakers

The following distinguished speakers delivered talks and interacted with the officers of IBBI:

Date	Distinguished Speaker	Topic
11-10-19	Mr. Johnnie White, CEO, American Society of Appraisers	Building Reputation of / Trust in Valuation Profession
05-11-19	Mr. David Barnes, Global Managing Director, Deloitte	Brexit, Data Privacy and other global developments
22-11-19	Dr. Rattan Lal Koul, Professor, Amity Law School, Noida	Co-existence of Liability of Guarantor
25-11-19	Dr. Ajith Mishra, Director, Institute of Economic Growth	Role of Non-State Actors in the Economy Growth



Talk by Mr. Johnnie White, October 11, 2019



Talk by Mr. David Barnes, November 5, 2019

Central Government

Personal Guarantors to Corporate Debtors

The Code classifies individuals into three classes, namely, personal guarantors (PGs) to corporate debtors (CDs), partnership firms and proprietorship firms, and other individuals, to enable implementation of individual insolvency in a phased manner. The Central Government, vide a notification dated November 15, 2019, appointed December 1, 2019 as the date for commencement of the provisions of the Code relating to PGs to CDs.

It also notified the Insolvency and Bankruptcy (Application to Adjudicating Authority for Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Rules, 2019 and the Insolvency and Bankruptcy (Application to Adjudicating Authority for Bankruptcy Process for Personal Guarantors to Corporate Debtors) Rules, 2019 on the same date. These Rules provide for the process and forms of making applications for initiating insolvency resolution and bankruptcy proceedings against PGs to CDs, withdrawal of such applications, forms for public notice for inviting claims from the creditors, etc.

Financial Service Providers

The Central Government notified the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 (Rules) on November 15, 2019 to provide a generic framework for insolvency and liquidation proceedings of systemically important Financial Service Providers (FSPs) other than banks. The Rules apply to such FSPs or categories of FSPs, as will be notified by the Central Government under section 227 from time to time in consultation with appropriate regulators, for the purpose of their insolvency and liquidation proceedings. This will not apply to banks. This is an interim mechanism to deal with any exigency, pending introduction of a full-fledged enactment to deal with financial resolution of Banks and other systemically important FSPs.

The Rules provide that the provisions of the Code relating to the Corporate Insolvency Resolution Process (CIRP), Liquidation Process and Voluntary Liquidation Process for a CD shall, *mutatis mutandis*, apply to a process for an FSP, subject to modifications, as under:

- (a) The CIRP of an FSP shall be initiated only on an application by the appropriate regulator.
- (b) On admission of the application, the Adjudicating Authority (AA) shall appoint the individual, who has been proposed by the appropriate regulator in the application for initiation of CIRP, as the Administrator.
- (c) While conducting a proceeding of an FSP, the Administrator shall have the same duties, functions, obligations, responsibilities, rights, and powers of an insolvency professional, interim resolution professional, resolution professional or liquidator, as the case may be. He shall be appointed or replaced by the AA on an application made by the appropriate regulator in this behalf.
- (d) The appropriate regulator may constitute an Advisory Committee of three or more experts to advise the Administrator in the operations of the FSP during the CIRP.
- (e) An interim moratorium shall commence on and from the date of filing of the application for initiation of CIRP by the appropriate regulator till its admission or rejection by the AA.
- (f) The provisions of interim-moratorium or moratorium shall not apply to any third-party assets or properties in custody or possession of the FSP, including any funds, securities and other assets required to be held in trust for the benefit of third parties.
- (g) The Administrator shall take control and custody of third-party assets or properties in custody or possession of the FSP and deal with them in the manner, to be notified by the Central Government under section 227.
- (h) The license or registration which authorises the FSP to engage in the business of providing financial services shall not be suspended or cancelled during the interim-moratorium and the CIRP.
- (i) The FSP shall obtain prior permission of the appropriate regulator for initiating voluntary liquidation proceedings.
- (j) The AA shall provide the appropriate regulator an opportunity of being heard before passing an order for liquidation or dissolution of the FSP.

The Central Government in consultation with the Reserve Bank of India, on November 18, 2019, notified that the insolvency resolution and liquidation proceedings of non-banking finance companies (which include housing finance companies) with asset size of Rs.500 crore or more, as per last audited balance sheet, shall be undertaken in accordance with the above framework.

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019

The Government introduced the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 in the Lok Sabha on December 12, 2019. The Bill was referred to Standing Committee on Finance for examination and report thereon.

The President of India promulgated the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 on December 28, 2019 to further amend the Code in order to remove certain ambiguities and ensure smooth implementation, by providing for the following:

- (a) **Interim finance:** The Code enables the RP to raise interim finance to keep the CD as a going concern and such interim finance is included in the CIRP cost. Interim finance means any debt raised by the RP during CIRP. The Ordinance includes such other debt as may be notified within the ambit of interim finance.
- (b) **Initiation of CIRP:** The Code provides that a financial creditor (FC), either by itself or jointly with other FCs, may file an application for initiation of CIRP of a CD. The Ordinance provides that where creditors belong to a class, the application shall be filed jointly by not less than 100 such creditors or 10% of the number of creditors in the such class, whichever is less. Further, the Code prohibits certain persons from initiating a CIRP. The Ordinance clarifies that the said prohibition does not prevent a CD from initiating CIRP against another CD.
- (c) **Moratorium:** In order to facilitate continuation of a CD as a going concern during CIRP, the Ordinance prohibits certain actions against the CD. The Ordinance clarifies that a license, permit, registration, quota, concession, clearance or a similar grant or right given by the Central

government, State government, local authority, sectoral regulator or any other authority constituted under any other law, shall not be suspended or terminated on the grounds of insolvency, subject to the condition that there is no default in payment of current dues arising from the use or continuation of such grants during the moratorium period. Further, the Code mandates continuation of essential services to the CD during moratorium. The Ordinance provides for continuation of supply of goods and services which the IP considers 'critical' to protect and preserve the value of the CD and manage the operations of such CD as a going concern, except where such CD has not paid dues arising from such supply during the moratorium period or in such circumstances as may be specified. This would enable continuation of the CD as a going concern.

- (d) **Liability for prior offences:** The Ordinance has inserted section 32A to provide that the liability of a CD for an offence committed prior to the commencement of the CIRP shall cease, and the CD shall not be prosecuted for such an offence from the date the resolution plan has been approved by the AA, if the resolution plan results in the change in the management or control of the CD. However, every person who was a designated partner or an 'officer who is in default' or was in any manner in-charge of the conduct of the business of the CD in any manner and who was directly or indirectly involved in the commission of such offence shall continue to be liable to be prosecuted and punished for such offence committed by the CD. Similarly, no action shall be taken against the property of the CD in relation to an offence committed prior to the commencement of the CIRP of the CD, where such property is covered under a resolution plan approved by the AA, which results in change in control of the CD. These provisions are subject to the CD or any person, who may be required to provide assistance, extending assistance and cooperation to any authority investigating the offence committed prior to the commencement of the CIRP. This would encourage prospective resolution applicants to submit resolution plans undeterred by uncertainties surrounding the offence committed by the CD prior to CIRP.
- (e) **Resolution of FSPs:** The Code enables the Central Government to notify FSPs or categories of FSPs for the purpose of their insolvency and liquidation proceedings to be conducted under the Code in such manner as may be prescribed. The Ordinance clarifies that such proceedings may be conducted with such modifications and in such manner as may be prescribed. This would enable using the process under the Code with appropriate modifications for insolvency proceedings of FSPs.

IBBI

Insolvency Professionals Regulations

IBBI amended the IBBI (Insolvency Professionals) Regulations, 2016 on October 25, 2019. The amendment has refined the form for registration as an IP and form for recognition as an IPE to facilitate processing of the applications. It has introduced an annual compliance certificate by an IPE to strengthen monitoring.

Personal Guarantors Regulations

IBBI notified the IBBI (Insolvency Resolution Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (Insolvency Regulations) and the IBBI (Bankruptcy Process for Personal Guarantors to Corporate Debtors) Regulations, 2019 (Bankruptcy Regulations) on November 22, 2019. The Insolvency Regulations specify the details of the insolvency resolution process for PGs to CDs, inter-alia, including:

- (a) eligibility to act as a resolution professional for an insolvency resolution process;
- (b) manner of receipt and verification of claims of creditors;
- (c) manner of preparation of list of creditors, holding the meetings of the creditors and voting in the meeting;
- (d) contents of the repayment plan; and
- (e) procedure of filing of application for issuance of discharge order, etc.

The Bankruptcy Regulations provide details of the bankruptcy process for

PGs to CDs, inter-alia, including:

- (a) eligibility to act as a bankruptcy trustee for the bankruptcy process;
- (b) manner of preparation of reports and timeline for submission by the bankruptcy trustee;
- (c) manner of collating claims and formation of committee of creditors, holding meetings of the committee and voting in the meeting; and
- (d) manner of realisation of assets of the bankrupt and its distribution, etc.

CIRP Regulations

IBBI notified the IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2019 on November 28, 2019. Some of the amendments made by these Regulations are consequential to the Insolvency and Bankruptcy Code (Amendment) Act, 2019, which came into force on August 5, 2019. Further, in the interest of transparency and accountability in conduct of CIRPs and conduct of the IPs, and to facilitate the IBBI, the IPAs and the IPs to discharge of their statutory obligations, the Amendment Regulations require the IPs to file a set of Forms, covering the life cycle of a CIRP, online on an electronic platform hosted on the website of the IBBI at <https://www.ibbi.gov.in>. An IP shall be liable to action permissible under the Code, including refusal to issue or renew Authorisation for Assignment (AFA), for failure to file a Form or for inaccurate or delayed filing.

SEBI

Divergence in the Asset Classification

The RBI, vide notification dated April 1, 2019, mandated banks to disclose certain cases of divergence in the asset classification and provisioning in the Notes to Accounts in the ensuing Annual Financial Statements. These disclosures in respect of divergence and provisioning are in the nature of material events / information and hence, necessitate immediate disclosure. Further, this information is also price sensitive, requiring prompt disclosure. Accordingly, the Securities and Exchange Board of India (SEBI) issued a circular on October 31, 2019 requiring the listed banks to make disclosures of divergences and provisioning beyond specified threshold, as mentioned in aforesaid RBI notification, as soon as reasonably possible and not later than 24 hours upon receipt of the RBI's Final Risk Assessment Report. The disclosures are required to be made in either or both of the following cases:

- (a) the additional provisioning for NPAs assessed by RBI exceeds 10% of the reported profit before provisions and contingencies for the reference period, and
- (b) the additional gross NPAs identified by RBI exceed 15% of the published incremental Gross NPAs for the reference period.

ORDERS

SUPREME COURT

Duncans Industries Ltd. Vs. A. J. Agrochem [Civil Appeal No. 5120/2019]

The AA rejected an application under section 9 on the ground that the provisions of the Code are not applicable unless the OC seeks consent of the Central Government, in view of section 16G(1)(c) of the Tea Act, 1953, which provides that no proceeding for winding up can be initiated except with the consent of the Central Government. The NCLAT allowed an appeal against the said order holding that no permission of the Central Government is required for initiation of CIRP of the CD. The SC upheld the NCLAT judgment holding that the CIRP cannot be equated with winding up proceedings and hence no prior consent of the Central Government would be required for initiation of the proceedings under section 7 or 9.

Committee of Creditors of Essar Steel India Limited Through Authorised Signatory Vs. Satish Kumar Gupta & Ors. [Civil Appeal No. 8766-67/2019 Diary No. 24417/2019 with other Civil Appeals and WP(C)s]

While setting aside the judgment of the NCLAT and upholding the constitutional validity of the Insolvency and Bankruptcy Code (Amendment) Act, 2019, the judgement emphasises that the legislature must have free play in the joints in economic legislations. Apart from the presumption of

constitutionality, the Courts must give a certain degree of deference to the legislative judgment in economic choices. The judgement provides clarity as to the roles of various stakeholders, namely, RP, resolution applicant, CoC, and the AA and the NCLAT, qua resolution plan in a CIRP. It settled several issues as under:

Supremacy of CoC: The CoC is supreme in commercial matters relating to a CIRP. It must decide whether to rehabilitate the CD by accepting a resolution plan, and the manner of resolution. What is left to the majority decision of the CoC is the feasibility and viability of a resolution plan, which obviously takes into account all aspects of the plan, including the manner of distribution of realisations under a resolution plan among the various classes and sub-classes of creditors. Its decisions, however, must reflect that it has taken into account maximising the value of assets of the CD and that it has adequately balanced the interests of all the stakeholders. It cannot delegate its responsibility. It does not act in any fiduciary capacity to any group of creditors. On the contrary, it is to take a business decision based upon ground realities by a majority, which then binds all stakeholders, including dissenting creditors.

Jurisdiction of AA: The limited judicial review available to AA can in no circumstance trespass upon a business decision of the majority of the CoC. The residual jurisdiction of the AA under section 60(5)(c) cannot, in any manner, whittle down section 31(1) of the Code, by the investment of some discretionary or equity jurisdiction in the AA outside section 30(2) of the Code, while adjudicating a resolution plan. The AA is to decide on whether a resolution plan passes muster under the Code and there is no residual jurisdiction not to approve a resolution plan on the ground that it is unfair or unjust to a class of creditors, so long as the interest of each class has been looked into and taken care of.

Fair and equitable: Protecting creditors in general is, no doubt, an important objective. Protecting creditors from each other is also important. If an "equality for all" approach recognising the rights of different classes of creditors as part of a CIRP is adopted, secured FCs will, in many cases, be incentivised to vote for liquidation rather than resolution, as they would have better rights if the CD is liquidated. This would defeat the objective of the Code which is resolution of distressed assets. The amended regulation 38 does not lead to the conclusion that FCs and OCs, or secured and unsecured creditors, must be paid the same amounts, percentage wise, under the resolution plan before it can pass muster. Fair and equitable dealing of OCs rights under regulation 38 of the CIRP Regulations involves the resolution plan stating as to how it has dealt with the interests of OCs, which is not the same thing as saying that they must be paid the same amount of their debt proportionately. So long as the provisions of the Code and the Regulations have been met, it is the commercial wisdom of the requisite majority of the CoC which is to negotiate and accept a resolution plan, which may involve differential payment to different classes of creditors, together with negotiating with a prospective resolution applicant for better or different terms which may also involve differences in distribution of amounts between different classes of creditors. The Code and the Regulations, read as a whole, together with the observations of expert bodies and the SC's judgment, all lead to the conclusion that the equality principle cannot be stretched to treating un-equals equally, as that will destroy the very objective of the Code to resolve stressed assets. Equitable treatment is to be accorded to each creditor depending upon the class to which it belongs: secured or unsecured, financial or operational.

Subrogation: Section 31(1) makes it clear that once a resolution plan is approved by the CoC, it shall be binding on all stakeholders, including guarantors. This provision ensures that the successful resolution applicant starts running the business of the CD on a fresh slate as it were. It is difficult to accept the argument that, the part of the resolution plan which states that the claims of the guarantor on account of subrogation shall be extinguished, cannot be applied to the guarantees furnished by the erstwhile directors of the CD.

Claims: All claims must be submitted to and decided by the RP so that a prospective resolution applicant knows exactly what must be paid in order that it may then take over and run the business of the CD. A successful resolution applicant cannot suddenly be faced with "undecided" claims

after the resolution plan submitted by him has been accepted as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by it.

Profit during CIRP: The Request for Resolution Plans had provided that profits made during the CIRP would not go towards payment of debts of any creditor and therefore, this amount cannot be given to creditors.

Timeline: It upholds the sanctity of overall timeline of 330 days for a CIRP, except in exceptional cases. While taking note of the judicial adage that time taken in legal proceedings cannot possibly harm a litigant if the Tribunal itself cannot take up the litigant's case within the requisite period for no fault of the litigant, it held that the CIRP must "ordinarily" be completed within the outer limit of 330 days from the insolvency commencement date unless extended by the court on sufficient cause. Hence, the term "mandatorily" inserted in section 12 of the Code by way of Amendment Act, 2019 was struck down as being manifestly arbitrary under Article 14 of the Constitution and as being an unreasonable restriction on the right of the litigant to carry on business under Article 19(1)(g) of the Constitution.

Priority of Payment: Section 30(2)(b) is a beneficial provision in favour of OCs and dissenting FCs as they are now to be paid a certain minimum amount, the minimum in the case of OCs being the higher of the two figures calculated under sub-clauses (i) and (ii) of clause (b), and the minimum in the case of dissenting FC being a minimum amount that was not earlier payable. Prior to the amendment, secured FCs could cramdown unsecured FCs who were dissenting. But after the amendment, such FCs are now to be paid the minimum amount mentioned. The order of priority of payment of creditors mentioned in section 53 is not engrafted in sub-section (2)(b) of the said section, as amended. Section 53 is only referred to in order that a certain minimum amount be paid to different classes of OCs and FCs.

Rahul Jain Vs. Rave Scans Pvt. Ltd. & Ors. [Civil Appeal No. 7940/2019]

The NCLAT had held that the AA failed to notice that the NCLAT had declared the unamended regulation 38(1)(c) of the CIRP Regulations, which stipulated the liquidation value for dissenting FCs, as illegal. It observed that the resolution applicant did not bring the amended regulation to the notice of the AA. It modified the resolution plan to treat a dissenting FC at par with other creditors. On an appeal by a dissenting FC, the SC held that the resolution process began well before the amendment to regulation 38 and the resolution plan was prepared and approved before that event, and thus the observation of NCLAT was not justified.

Jaiprakash Associates Ltd. & Anr. Vs. IDBI Bank Ltd. & Anr. [D. No. 27229/2019 with Civil Appeal No. 6486/2019]

The order of NCLAT, which excluded 90 days from CIRP period, was appealed against. The SC noted: *"It is however, noticed from several amendments made to the I & B Code from time to time that the Legislature has also continually worked upon introducing changes to the I & B Code so as to address the problems faced in implementation of the new legislation introduced as recently as in 2016. The case on hand is classic example of how the entire process has got embroiled in litigation initially before this Court and now before the NCLT and NCLAT respectively, because of confusion or lack of clarity in respect of foundational processes to be followed by the CoC."* It held: *"That delay is attributable to the law's delay"*. It further noted that an extraordinary situation had arisen because of the constant experimentation which went about at different level due to lack of clarity on matters crucial to the decision-making process of CoC. By invoking its powers under Article 142 of the Constitution to do complete justice, it held: *"...we need to and must exercise our plenary powers to make an attempt to revive the corporate debtor (ALL), lest it is exposed to liquidation process under Chapter III of Part II of the I & B Code."* It directed to complete the CIRP within 90 days from the date of passing the order instead of the date of commencement of the Insolvency and Bankruptcy Code (Amendment) Act, 2019. It also applied the principle underlying Regulation 36B(7) of the CIRP Regulations to permit IRP to issue request for resolution plans to the two bidders (Suraksha Realty and NBCC) and / or call upon them to submit revised resolution plan(s), which can then be placed before the CoC for its consideration.

Captain Anant Dewan Vs. M/s Air India Limited [Special Leave Petition (Civil) Diary No. 31664/2019]

An OC filed application before the AA, which deferred its decision since identical disputes were pending as also the SC was seized of the disputes, and allowed the OC to seek clarification with respect to the same from the SC. The SC held: *"...issues though relatable to Section 9A of the Industrial Disputes Act, 1947 would have a vital bearing on payments to be made ultimately to the petitioner as a pilot and are pending in this Court. It is open for Air India to take this up as a defence in the application that is filed by the petitioner before the NCLT. The NCLT order, therefore, is set aside and the NCLT will now go into the Section 9 application filed by the petitioner afresh, after considering objections by the respondent."*

Hindustan Construction Company Limited & Anr. Vs. Union of India & Ors. [WP(Civil)No. 1074/2019 with other Civil Appeals]

The SC held: *"...what is clear is that NHAI is a statutory body which functions as an extended limb of the Central Government, and performs governmental functions which obviously cannot be taken over by a resolution professional under the Insolvency Code, or by any other corporate body. Nor can such Authority ultimately be wound-up under the Insolvency Code. For all these reasons, it is not possible to ... either read in, or read down, the definition of 'corporate person' in Section 3(7) of the Insolvency Code."*

M/s Embassy Property Development Pvt. Ltd. Vs. State of Karnataka & Ors. [Civil Appeal No. 9170-9172/2019]

The IRP sought the benefit of deemed extension of the mining lease beyond May 25, 2018 up to March 31, 2020. As there was no response, he filed a writ petition before the HC seeking a declaration that the mining lease should be deemed to be valid up to March 31, 2020 in terms of section 8A(6) of the MMDR Act, 1957. During the pendency of the writ, the Government of Karnataka (GoK) rejected the proposal for deemed extension, on the ground that the CD had contravened not only the terms and conditions of the Lease Deed but also the provisions of statutory Rules. The RP withdrew the writ and filed an application before the AA seeking a declaration that the lease should be deemed to be valid up to March 31, 2020. The AA directed GoK to execute Supplement Lease Deeds in favour of the CD. Aggrieved by the order of the AA, GoK moved a writ petition before the HC, which set aside the order of the AA and remanded the matter back to the AA for a fresh consideration. The AA again directed GoK to execute Supplemental Lease Deeds in favour of the CD. The GoK again moved a writ petition before the HC. While allowing the RP time to get instruction, the HC by an interim order stayed the order of the AA. The SC considered the appeal against the said interim order in this matter.

The SC held that the AA did not have jurisdiction to entertain an application against the GoK for a direction to execute Supplemental Lease Deeds for the extension of the mining lease. Since the AA chose to exercise a jurisdiction not vested in it in law, the HC was justified in entertaining the writ petition. It further held that though the AA and the NCLAT have jurisdiction to enquire into questions of fraud, they would not have jurisdiction to adjudicate upon disputes such as those arising under MMDR Act, 1957 and rules issued thereunder, especially when the disputes revolve around decisions of statutory or quasi-judicial authorities, which can be corrected only by way of judicial review of administrative action. Hence, the HC was justified in entertaining the writ petition.

Mr. Anand Rao Korada Resolution Professional Vs. M/s. Varsha Fabrics (P) Ltd. & Ors. [Civil Appeal Nos. 8800-8801/2019]

The RP filed an appeal before the SC challenging the order of the HC for auction of assets on the ground that CIRP had already commenced, the proceedings before the HC ought to be stayed. The SC observed: *"In view of the provisions of the IBC, the High Court ought not to have proceeded with the auction of the property of the Corporate Debtor..., once the proceedings under the IBC had commenced, and an order declaring moratorium was passed by the NCLT...If the assets of the Respondent No.4- Company are alienated during the pendency of the proceedings under the IBC, it will seriously jeopardise the interest of all the stakeholder"*.

State Bank of India Vs. M/s Accord Life Spec Private Limited Through Director & Ors. [Civil Appeal No. 9036/2019]

The NCLAT set aside the order of the AA approving the resolution plan

proposed by the resolution applicant for the resolution of the CD, as the resolution plan value was less than the liquidation value. The SC stayed the aforesaid order of the NCLAT in the meantime.

HIGH COURTS

Action Ispat & Power Pvt. Ltd. Vs. Shyam Metalics & Energy Limited & Ors. [Co. App 11/2019 & CM No. 31047/ 2019, CM No. 34726/ 2019]

A winding up petition was filed under sections 433(e) and (f) of the Companies Act, 1956 on the ground of CD's inability to pay its debts. The petition was admitted, and an official liquidator was appointed in respect of the CD. During the pendency of the petition and much before the passing of the winding up order on August 27, 2018, the Code came into force. An FC filed application under section 7 seeking CIRP of the CD and sought transfer of the winding up proceeding to the AA for proceeding under the Code. The appointment of the official liquidator was revoked and winding up proceedings was transferred to NCLT. The power of the company judge to transfer the proceeding was appealed against. The HC held that the company judge rightly recalled the order of appointment of official liquidator. It observed: "...the proceedings under IBC are independent and have an object different from the one envisaged under the scheme of liquidation provided in the Company Law. The former aims resolution by way of revival in a manner that benefits all stakeholders, the creditors as well as the company. Thus, the scope of the proceedings before the NCLT is wider – with the object of preserving the company and its business/ commercial activities. When transfer of winding up petition can aid in achieving the aforementioned objective, it ought to be allowed in the interest of justice. The court must be sensitive to the scheme and object of the Code; running of parallel proceedings will indeed be futile, create chaos and confusion...".

Mahender Kumar Khandelwal Vs. Insolvency and Bankruptcy Board of India and Anr. [W.P.(C) 12189/2019 & CM APPL. 49819/2019]

Disciplinary Committee (DC) of the Board, vide an order, directed Mr. Mahender Kumar Khandelwal, an IP not to accept any new assignment either as IRP or RP till he deposits the monetary penalty of Rs. 29,24,167 with the Board as well as produce evidence to the Board of deposit of Rs. 12,09,90,185 in the CD's account, by securing reimbursement of the same from members of the CoC. On a writ petition, the HC directed the CoC to deposit Rs. 12,09,90,185 with the Registry without prejudice to its rights and contentions, after noting that the IP has already deposited Rs. 29,24,167 with the Court and stayed the operation of the impugned order, in so far as it prevents the IP from accepting a new assignment in the meantime.

Kamal K. Singh Vs. Union of India and Ors. [WP (L) No. 3250/2019]

It was submitted that an application under section 7 of the Code was filed and on hearing the parties, the AA reserved the order. It was not listed on October 22, 2019 (the date of passing the order) in the cause list for 'pronouncement'. An additional cause list dated October 22, 2019 was created on November 5, 2019, which featured only one item under "Order" and was uploaded on the website of the AA. An IP took charge of the CD on November 8, 2019 on the basis of the order of the AA purportedly passed on October 22, 2019, which according to the petitioner is non est. The HC observed that the impugned order was passed in violation of rules 150 and 152 (2) of the National Company Law Tribunal Rules, 2016. While issuing writ of certiorari, it set aside the impugned order on the ground that the same is a nullity. It, however, clarified that it shall not affect the proceedings before the AA. The application under section 7 can be pursued and decided in accordance with law afresh. The HC further observed that one of the measures to make the working and functioning of the tribunals litigant friendly and effective is by placing trained staff at the disposal of the judicial members. The staff ought to be drawn from legal field and the AA lacks such a staff.

Flipkart India Private Limited Vs. Cloud Walker Streaming Technologies Pvt. Ltd. [F.R. No. 50726/2019 (WP) (GM-RES)]

The order of initiation of CIRP of the CD was challenged. It was submitted that the AA can only entertain applications wherein the debt is admittedly payable, while the application was filed for damages for which it has no jurisdiction. The HC stayed operation of the impugned order.

NATIONAL COMPANY LAW APPELLATE TRIBUNAL

Abhay N. Manudhane Vs. Gupta Coal India Pvt. Ltd. [CA(AT)(Ins) No. 786/2019]

The liquidator filed an appeal against the order of the AA rejecting an application filed by him under section 60(5) of the Code for institution of a suit or other legal proceedings on behalf of the CD under liquidation in the Courts / Tribunals. While dismissing the appeal, the NCLAT held that in terms of section 11(d), a CD under liquidation is not entitled to make application to initiate CIRP.

Note: The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 has since clarified that section 11 does not prevent a CD from initiating CIRP against another CD.

Mr. S. Rajendran, Resolution Professional of PRC International Hotels Private Limited Vs. Jonathan Mouralidarane [CA(AT)(Ins) No. 1018/2019]

On an application by an FC against the determination of claim by the RP, the AA accepted the claim. The RP challenged the decision of the AA accepting the claim. While dismissing the appeal, the NCLAT held that the RP has no jurisdiction to determine a claim. He can only collate it, based on evidence and the record of the CD or as filed by the FC. If an aggrieved person moves before the AA and, after going through the records, if it comes to a conclusion that certain claimed amount is payable, the RP should not have moved the appeal, as in any manner, he is not affected.

Jindal Steel and Power Limited Vs. Arun Kumar Jagatramka & Anr. [CA(AT) No. 221/ 2018]

An unsecured creditor of the CD preferred an appeal under section 421 of the Companies Act, 2013 against the order of the AA for taking steps for financial scheme of compromise and arrangement between the promoter and the CD through the Liquidator. The issue whether the promoter is eligible to file application for compromise and arrangement, while he is ineligible under section 29A of the Code to submit a resolution plan, the NCLAT, relying on the judgment of the SC in *Swiss Ribbons Pvt. Ltd. & Anr. Vs. Union of India & Ors.*, held that promoter, if ineligible under section 29A, cannot make an application for compromise and arrangement for taking back the immovable and movable property or actionable claims of the CD.

Note: The Liquidation Process (Amendment) Regulations, 2020 now clarifies that a person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the CD, shall not be a party in any manner to a compromise or arrangement of the CD under section 230 of the Companies Act, 2013.

DBS Bank Ltd., Singapore Vs. Mr. Shailendra Ajmera & Anr. [CA(AT)(Ins)No. 788/ 2019]

According to the Appellant, it voted against the resolution plan and in terms of amended sub-section (2)(b)(ii) of section 30, it is entitled to minimum amount as payable in the event of liquidation of the CD. However, it did not challenge the approval of the resolution plan, but challenged distribution made therein inter-se among FCs of the CD. The NCLAT held that since the appellant was not challenging the resolution plan, the question of applicability of amended section 30(2) did not arise. The manner of distribution has been prescribed under the amended sub-section (4) of section 30, which has not been given prospective effect. Therefore, the distribution cannot be alleged to be in violation of the said amended sub-section (4) of section 30. It observed that no FC, including a secured creditor, can dissent on the ground that if it dissents against the resolution plan, in spite of plan being feasible and viable and in accordance with section 30(2), just to get more amount than the other secured creditor, cannot take advantage of the amended section 30(2)(b)(ii).

Reliance Industries Ltd. Vs. Ajay Joshi & Ors. [CA(AT)(Ins)No. 942/2019]

The successful resolution applicant submitted that it has been exempted from obligations under delisting regulations by SEBI and there is no requirement of permission from SEBI. This was opposed by minority shareholders. The SEBI submitted that delisting regulations shall not apply to any delisting of equity shares of a listed entity made pursuant to a resolution plan approved under section 31 of the Code subject to certain conditions, if such plan, (a) lays down any specific procedure to complete the delisting of such share; or (b) provides an exit option to the existing public shareholders at a price specified in the resolution plan. The NCLAT held that in view of the specific plea taken by the SEBI, no further clarification is required.

JSW Steel Ltd. Vs. Mahender Kumar Khandelwal & Ors. [CA(AT)(Ins)No. 957,1034,1035,1055,1074/2019]

In its order dated October 14, 2019, the NCLAT stayed the order of attachment passed by the Deputy Director, Directorate of Enforcement (DoE) with regard to certain part of the property of the CD (Bhushan Power & Steel Limited), considering the fact that the stand taken by the DoE is contrary to the stand taken by the Government of India. It prohibited DoE from attachment of any property of the CD without its prior approval. It directed that the property already attached by them be released in favour of the RP immediately.

In its order dated October 25, 2019, the NCLAT held a prima facie view that if the assets seized by the DoE were purchased out of the proceeds of crime, the amount as may be generated out of the assets would come within the meaning of operational debt payable to the DoE for which it may file claim in terms of the Code.

Note: The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019, with effect from December 28, 2019, insulates the corporate debtor and its property from liability of offences committed prior to CIRP commencement subject to certain conditions.

M/s. B.R Traders Vs. Venkataramanarao Nagarajan & Ors. [CA(AT)(Ins)No. 189/2019 with other CAs]

One of the appellants had filed an application before the AA for directions to RP to handover certain plant and machinery owned by it, which were lying at the premises of the CD. The AA rejected the application, which was challenged before the NCLAT. It was contended that either party – CD or the appellant - was entitled to terminate the agreement if the other party entered into bankruptcy or liquidation as agreed between them. The appellant sent a termination notice to IRP, who responded that after initiation of CIRP, it was not open to the appellant to terminate the agreement as in terms of the provisions of section 20(1) of the Code, he was liable to make every endeavour to protect and preserve the value of the property of the CD and manage the operations of the CD as a going concern. The NCLAT noted that even during liquidation process, the liquidator is to ensure that CD remains a going concern. It held that if no arrangement or scheme framed under sections 230-232 of the Companies Act, 2013 becomes possible or the CD is not sold in its totality along with the employees and there is no option but to sell the assets of the CD and to distribute the same amongst the creditors in terms of section 53 read with section 52 of the Code, the appellant may ask the liquidator to return the plant and machinery at that stage.

State Bank of India Vs. Anuj Bajpai (Liquidator) [CA(AT)(Ins) No. 509/2019]

The issue was whether a secured FC, while opting out to realise the secured assets under section 52(1)(b) of the Code out of liquidation process, is barred from selling the secured assets to the promoters or its related party or the persons who are ineligible in terms of section 29A of the Code. The NCLAT held that if it comes to the notice of the Liquidator that a secured creditor intends to sell the assets to a person who is ineligible in terms of section 29A, it is always open to reject the application under section 52(1)(b) read with section 52(2) and (3) of the Code.

Note: The Liquidation Process (Amendment) Regulations, 2020 now clarifies that a secured creditor cannot sell or transfer an asset, which is subject to security interest, to any person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the CD.

Asset Reconstruction Company (I) Limited (ARCIL) Vs. Mr. Koteswara Rao Karuchola & Ors. [CA(AT)(Ins)No. 633/2018]

The AA directed the RP to revise the claim submitted by the claimant. The order was challenged before the NCLAT stating that the claimant is not an FC and there were ongoing proceedings under the PMLA, 2002. It held: "... while we hold that there is a dispute as to whether Mahal Hotel Private Limited comes within the meaning of 'Financial Creditor' or not, we hold that after constitution of the 'Committee of Creditors', without its permission, the 'Resolution Professional' was not competent to entertain more applications after three months to include one or other person as 'Financial Creditor'. Further, once a decision was taken by the 'Committee of Creditors' to call for a meeting for removal of Mr. Koteswara Rao Karuchola as an 'Resolution Professional', it was improper for him to include Mahal Hotel Private Limited as 'Financial Creditor' of the Member of the 'Committee of Creditors'." It also

noted that since money laundering case had been initiated against Mahal Hotel Private Ltd., it cannot be allowed to be a member of the CoC.

Tirumala Balaji Alloys Private Limited Vs. Sumit Binani [CA(AT)(Ins) No. 600/2018 & CA(AT)(Ins) No. 601/2018]

The AA directed the appellants to restore entire transferred amount along with 12% interest till date of realisation on an application of the RP in respect of preferential transactions. While rejecting an appeal against the said direction, the NCLAT held: "...as it is not in dispute that the promoters of the 'Corporate Debtor' hold 99.4% shareholding in 'Excello Fin Lea Limited' and 50% shareholding in 'Tirumala Balaji Alloys Pvt. Ltd.' and rest of the 50% shareholding of the 'Tirumala Balaji Alloys Pvt. Ltd.' is with the relatives of the promoters of the 'Corporate Debtor' i.e. 'Rungta Family', we are of the view that all the transactions made during the period of two years preceding date of Insolvency Commencement Date i.e., 18th July, 2017 come within the meaning of 'preferential transactions'."

Vinod Mittal Vs. Rays Power Experts & Anr. [CA(AT)(Ins)No.851/2019]

The application filed under section 9 was admitted by the AA. A shareholder / director of the CD appealed against the admission on the ground that there was a pre-existing dispute. The NCLAT found that there was a pre-existing dispute and that the AA had specifically asked for various correspondence, which was not provided by the applicant by claiming that "presently the communication is not retrievable". It observed that starting of CIRP against a functional company is a serious matter and parties cannot be allowed to play hide and seek. It imposed a cost of Rs.5 lakh on the OC and Rs.2.5 lakh on Mr. Rahul Gupta, son of a director of the OC.

Sunil S. Kakkad Vs. Parag Sheth, Resolution Professional/Liquidator & Anr. [CA(AT)(Ins) Nos. 1260-1261/2019 and CA(AT)(Ins) Nos. 1283-1284/2019]

The promoter appellant challenged the order of liquidation passed by the AA and stated that since the initiation of the CIRP, the IRP/RP has not taken any steps in accordance with the provisions of the Code within the statutory time-period. The Appellant submitted that if the whole period is excluded and certain time is allowed to re-start the process in accordance with law, it would yield a number of resolution plans. The NCLAT observed that since the time CIRP was initiated almost about two years have elapsed, it is not inclined to set-aside the order for re-starting the CIRP, even if there is some infirmity in the impugned order / process. It observed: "If the Members who are waiting in que including the Appellant Sunil S. Kakkad and M/s. Tejmalbhai & Co. are ready to provide 'Scheme' to take over the 'Corporate Debtor', move any application in terms of Section 230(a) of the Companies Act, 2013 for 'Arrangement and Scheme' and bring it to the notice of the 'Liquidator', the 'Liquidator' will consider the same and will proceed in accordance with decision of this Tribunal in Y. Shivram Prasad vs. S. Dhanapal & Ors. (supra)."

Saumil A. Bhavnagri Vs. Messers Nimit Builders & Anr. [CA(AT)(Ins) No.710/2019]

The CD moved the AA to recall the order of admission claiming that it was an NBFC (Non-Banking Finance Company) and hence could not have been admitted. The AA declined to recall the order for reasons, including that it is not vested with power to revisit the final order of admission, by way of review or recall. The NCLAT found that the CD is an NBFC and being FSP, section 7 application could not have been admitted against it. It set aside not only the impugned order but also the original order admitting the application.

Note: The Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019 notified on November 15, 2019 provides a framework for resolution of FSPs under the Code.

Tourism Finance Corporation of India Ltd. Vs. Rainbow Papers Ltd. & Ors. [CA(AT)(Ins) No. 354/2019 and other appeals]

The NCLAT disposed of four appeals with the following findings:

- (a) It was contended that the RP did not classify the appellant as a secured creditor, due to which it got less amount as compared to secured creditors. While dismissing the appeal, the NCLAT observed that whether a person is a secured or unsecured creditor is a question of fact normally determined by the RP or the CoC. It has no jurisdiction to decide the same in an appeal preferred under section 61(3) of the Code.

- (b) As regards distribution of amount in resolution plan, the NCLAT found that the CoC has made the distribution in terms of section 30(4) and it has no jurisdiction to question the distribution so made.
- (c) The Sales Tax Officer made a claim in terms of section 48 of the Gujarat Value Added Tax, 2003, which creates a first charge over the property of the CD having a security interest. The NCLAT held: *"In view of Statement of Objects and Reasons of the 'I&B Code' read with Section 53 of the 'I&B Code', the Government cannot claim first charge over the property of the 'Corporate Debtor'. Section 48 cannot prevail over Section 53. Therefore, the Appellant- 'State Tax Officer- (1)' do not come within the meaning of 'Secured Creditor' as defined under Section 3(30) read with Section 3(31) of the 'I&B Code'.* It further held that as 'Sales Tax Department filed its claim at belated stage after the plan had been approved by the CoC, the RP had no jurisdiction to entertain the same and rightly not entertained.
- (d) The Regional Provident Fund Commissioner submitted that successful resolution applicant is supposed to pay the total provident fund amount, but only a part of the amount has been allowed by the RP. The NCLAT observed that as no provision of the Employees Provident Funds and Miscellaneous Provision Act, 1952, is in conflict with any of the provisions of the Code and, in terms of section 36(4)(iii), the 'provident fund' and the 'gratuity fund' are not the assets of the CD, the application of section 238 of the Code does not arise. It directed the successful resolution applicant to release full provident fund and interest in terms of the provisions of the Employees Provident Funds and Miscellaneous Provision Act, 1952.

Amit Gupta Promoter/ Shareholder M/s. Varanasi Auto Sales Pvt. Ltd. Vs. Yogesh Gupta, Resolution Professional of M/s. Varanasi Auto Sales Pvt. Ltd. [CA(AT)(Ins)No. 903/2019]

The AA found that the appellant had failed to establish that CD was an MSME. Hence the CD is not exempted from the provisions of section 29A in terms of section 240A of the Code. The NCLAT observed that there is no reason why the prospective resolution applicant who claims eligibility on the basis that the CD is an MSME should not provide necessary Memorandum Certificate. The RP cannot go into investigations and enquiries whether or not a CD is an MSME and the AA is also not expected to make such investigations, enquiries on such evidence or give findings on such issues. It observed: *"Under the MSME Act, even if getting Memorandum Certificated for a given enterprise may be optional, if advantage is to be taken of MSME Act, the Applicant must take pains to get the Memorandum Certificate to seek benefits under IBC."*

Arcelormittal India Pvt. Ltd. Vs. Abhijit Guhathakurta, Resolution Professional of EPC Construction India Ltd. & Ors. [CA(AT)(Ins) No. 524/2019]

The Appellant submitted that approval of plan is in contravention of the mandatory requirement under the proviso to section 31(4) of the Code requiring resolution applicants to obtain approval of the CCI prior to approval by the CoC. The NCLAT held that proviso to sub-section 31(4) of Code which relates to obtaining the approval from the CCI under the Competition Act, 2002 prior to the approval of such resolution plan by the CoC, is directory and not mandatory. It is always open to the CoC, which looks into viability, feasibility and commercial aspect of a resolution plan to approve the resolution plan subject to such approval by CCI, which may be obtained prior to approval of the plan by the AA under section 31 of the Code.

JM Financial Asset Reconstruction Company Ltd. Vs. Finquest Financial Solutions Pvt. Ltd. and Ors. [CA(AT)(Ins)No.593/2019]

A secured FC filed an application under section 60(5) read with section 52 of the Code and regulation 37 of the Liquidation Process Regulations to sell off its secured assets to realise its security interest in the liquidation proceeding. The AA directed the liquidator to handover symbolic possession of the assets to the secured FC. The NCLAT held that only one secured creditor can enforce its right for realisation of its debt out of the secured assets as per section 52. It also held that the AA has no jurisdiction to entertain the

application under section 52(6) in absence of any cause of action as per section 52(5). It noted that for realisation of securing interest by a secured creditor, it has to inform the liquidator and the liquidator is required to verify such security interest and permit the secured creditor to realise it. If a secured creditor directly applies the AA for recovery of secured assets under section 52(6), such application is not maintainable. It remitted the matter to the liquidator to proceed in accordance with section 53 read with section 52 of Code.

Principal Commissioner of Income Tax Central -2, Chennai Vs. C. Ramasubramaniam, Resolution Professional for Surana Corporation Ltd. [CA(AT)(Ins) No. 1290/2019]

The Appellant submitted that in terms of the provisions of the Income-tax Act, 1961, it is a secured creditor and in terms of the Code, it is an OC. The Form B in CIRP Regulations has no provision for OC to claim that CD has created security interest. The NCLAT allowed the appellant to make a claim before the liquidator as a secured creditor.

Note: IBBI (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2019 has amended Form B and inserted "a. any security held, the value of security and its date".

Union of India, Through Serious Fraud Investigation Office (SFIO) Vs. Maharashtra Tourism Development Corporation & Anr. [CA(AT)(Ins) No. 964-965/2019]

The NCLAT considered whether the AA has jurisdiction to direct the SFIO to investigate about the fraud or siphoning of funds, if any, committed by the CD. The NCLAT held that the section 212 of the Companies Act, 2013 does not empower the NCLT or AA to refer the matter to the Central Government for investigation by SFIO even if it notices the company defrauding creditors and others. However, in terms of section 213(b) of the said Act, it can direct the Central Government to investigate through inspectors and after investigation, if case is made out, it may decide the matter to be investigated by SFIO. It held that the AA is not competent to straight away direct any investigation to be conducted by the SFIO.

V. Hotels Limited Vs. Asset Reconstruction Company (India) Limited [CA(AT)(Ins) No. 525/ 2019 and 627/2019]

The NCLAT observed that for the purpose of filing a suit or application in respect of any property or right, an acknowledgment of liability in respect of such property or right has to be made in writing duly signed by the party against whom such property or right is claimed. In this matter, the FC failed to bring on record any acknowledgment in writing by the CD acknowledging the liability in respect of debt. The NCLAT held that the Books of Account cannot be treated as an acknowledgment of liability in respect of debt payable to the FC signed by the CD.

M/s. Kotak Mahindra Prime Ltd. Vs. Mr. Bijay Murnuria & Ors. [CA(AT)(Ins) No. 47-50/2019]

The NCLAT held that it is always open to a creditor to proceed with the suit or arbitration proceeding, if pending, on completion of the moratorium. However, once a creditor files its claim before the RP and the same is considered by the successful resolution applicant and the resolution plan provides the same treatment as has been given to the other similarly situated creditors, it cannot take the benefit of section 60(6) of the Code nor can pray to pursue the suit or arbitration proceeding or to file a fresh suit or arbitration proceeding for the same claim.

NATIONAL COMPANY LAW TRIBUNAL

In the matter of SK Wheels Private Limited [MA No. 2319/2019 in CP(IB) 4301/ 2018]

The AA noted that the RP did not take any decision, even after four months of submission of claim by the applicant of his claim. It held that the action or rather inaction by the RP in not taking a decision on the claim is his abuse of the power under the Code, and contrary to justice and public policy. It directed the RP to hand over possession of the premises forthwith to the applicant and pay the amount claimed by him with a cost of one lakh rupees to the applicant.

M/s. Alpfly Private Limited [CA No. 448-C/3-ND of 2019 in C.P. IB No. in 358/ND/2018]

The IRP moved the AA stating that the application filed by the CD under section 10 of the Code was based on fraud and non-disclosure of material particulars. While holding that the application had been actuated by fraudulent and malicious intent, the AA recalled the order of admission and initiation of CIRP. It pierced the corporate veil to identify the persons behind fraudulent initiation of CIRP. It imposed a penalty of ten lakh rupees on each of the four suspended directors to be disbursed to 3280 customers of the CD on pro-rata basis. Further, all fees and expenses of the IRP shall be borne by the suspended directors.

In the matter of Aviva Life Insurance Co. India Ltd. [(IB)-1885(ND)/2019]

An OC filed an application for initiation of CIRP. The CD contested the maintainability of the application on the ground that it is an insurance company and, therefore, not covered by the Code. While admitting the application, the AA observed: "... the CD cannot use the provisions of Section 3 of the Insolvency and Bankruptcy Code, 2016 as a blanket cover to claim exclusion from IBC Proceedings on the ground that it is a financial service provider."

In the matter of Meenakshi Energy Ltd. [CP(IB) 184/7/HDB/2019]

In the application under section 7 of the Code, the CD contended that by invocation of the pledged shares, the FC and other lenders became 95% of its shareholders and thus the entire dues of the CD stood discharged. The AA admitted the application and held: "...this Adjudicating Authority has arrived at the conclusion that mere invocation of pledge of shares will not result in automatic conversion of debt into equity and repayment of debt, we hold that the Petitioner i.e., State bank of India is 'Financial Creditor' of the Corporate Debtor."

In the matter of Gee Ispat Pvt. Ltd. [CA-666/2019 in (IB)-250(ND)/2017]

The AA considered the issue whether the liquidator is required to deposit capital gains on sale of secured assets and include it in the liquidation cost and distribute the balance amongst the claimants. The AA noted that upon realisation of the liquidation estate of the CD, it has to be distributed in accordance with the waterfall mechanism under section 53. The dues towards Government, be it tax on income on or sale of properties, would qualify as operational debt and has to be dealt with accordingly. It observed: "If the capital gain is first to be provided for, and then be included as liquidation cost, it would create an anomalous situation in the Secured Creditor getting a lesser remittance than what they could have realised had they not released the security into the common corpus. It is for this purpose that the provision of Section 178 of the Code has been amended giving priority to the waterfall mechanism over government dues."

In the matter of Aircel Limited [MA-337/2018 in C.P. (IB)-298/(MB)/2018 and MA-336/2018 in C.P. (IB)-302/(MB)/2018]

The question was whether the Telecom Licence granted by the Department of Telecom (DoT) to the applicant under section 4 of the Indian Telegraph Act, 1885 can be cancelled because the latter is under CIRP. The AA observed that a resolution applicant would show interest in the business of the CD if it holds licence. Since no other valuable asset is available to the CD, no resolution applicant would show interest in its business revival. Licence is, thus, *sine qua non* for getting good resolution plan. Section 14(1)(d) of the Code prohibits recovery of any property by an owner or lessor in possession of the CD. This prohibition is also applicable to DoT. Use of licence / spectrum is akin to "essential goods or services" without which the CD cannot run its telecom business. The AA instructed the DoT not to make any attempt to cancel the CD's licence.

In the matter of M/s. Sikka Papers Ltd. & Ors. [(IB)-939(PB)/2018]

The AA directed that in all cases under the Code and company petition, the Union of India, shall be impleaded as a party respondent so that authentic record is made available by the officers of the MCA for proper appreciation of the matters. This shall be applicable throughout the country to all the benches of NCLT.

Note: The order of the AA has been stayed by the NCLAT vide its order dated December 10, 2019.

In the matter of Kiran Global Chem Limited [MA/1298/2019 in IBA/130/2019]

The RP sought permission to have access to GST Portal Account to file GST Returns during CIRP and to pay the net GST liability from the date of commencement of CIRP till its completion, notwithstanding non-payment of arrears for the period prior to CIRP. The AA observed that the Tax authority cannot raise an objection saying since no provision has been made in GST or in its software to accept such accounts, the business happening in the market after initiation of CIRP through debtor company will come to stand still and in such situation no company under CIRP can function as going concern. It directed the authorities to allow the CD to have access to its GST Net Portal Account and permit the RP to file GST Returns of the CD generated after commencement of CIRP without insisting upon payment of past dues.

In the matter of Skipper Textiles Pvt. Ltd. [CA(IB)No. 1328/KB/2019 in CP(IB) No. 1702/KB/2019]

The issue was whether the amount of uninvoked corporate guarantee could be considered as claim as per the provisions of the Code. The AA noted that claim has wider scope than debt. A claim may be due or may not be due, but debt must be a claim which is due. Application under section 7 or 9 can be filed in respect of default of debt, whereas, no such action can be taken in respect of claim unless it becomes due and payable and default occurs. It observed that even accounting and business practice do not recognise uninvoked corporate guarantee as a debt due or ascertained liability as on a particular date. Viewed from this angle uninvoked corporate guarantee cannot be considered as debt due and payable. Even if uninvoked corporate guarantee is considered as claim, the same cannot be considered for determining voting share of an FC.

In the matter of M/s. GNB Technologies (India) Private Limited [C.P.(IB) No. 167/BB/2019]

The CD filed an application under section 10 read with section 33 seeking CIRP/ liquidation. It submitted that it did not have any operations in the past five years, its liability was Rs.42.89 crore, and it did not have any assets. The AA directed liquidation of the CD without admission and appointment of IRP. It observed: "...there is hardly any possibility of any Resolution plan likely to be received during first stage of CIRP, if initiated, and thus it would be just and proper to put the Corporate Applicant Debtor under the liquidation process, in order to liquidate the Company, rather than to put it in CIRP in the first instance."

In the matter of Dewan Housing Finance Corporation Ltd. [C.P. (IB)-4258/MB/2019]

The RBI, as appropriate regulator, submitted an application to initiate CIRP against DHFL, an FSP on default in repayment of the ECB advanced by SBI, Singapore. On finding that the debt in question is qualified to be a financial debt, the AA admitted the application.

Vinod Tarachand Agrawal (M/s J R Diamonds P Limited) Vs. Registrar of Companies, Gujarat [Co. Appeal No. 53/252(3)/NCLT/AHM/2019]

Being aggrieved by an order of the RoC striking down the name of the CD from the register of companies, the liquidator filed an appeal seeking restoration of the same. While allowing the appeal, the AA observed that the name was struck off when the company was under CIRP and thereafter gone into liquidation process by an order under section 33. It held that striking off the name of the company by RoC during CIRP cannot be treated as legal and just.

Bank of India Vs. Mandhana Industries [C.P.(IB)- 1399/(MB)/2017, MA 2326/2019, MA 2124/2019]

Three applications were filed, one by the erstwhile RP claiming the CIRP costs, another filed by the successful resolution applicant challenging the resolution plan on the ground that the entire information had not been provided to them. The third application was by the CoC seeking possession of the CD and handing it over to a third party with proper maintenance to prevent any value depletion. Pending decision on merit, the AA ordered the successful resolution applicant to hand over possession of the CD to the CoC, and the CoC in turn to hand over the same to erstwhile RP and the restoration of the CIRP.

R. G. Steels Vs. Berrys Auto Ancillaries (P) Ltd. [IB-722/ND/2019]

A sole proprietary concern, as OC filed an application under section 9. The AA dismissed the application on the ground that a sole proprietary concern, not being a person under section 3(23) of the Code, cannot file application and that there is a pre-existing dispute.

M/s Concord Infrastructure Pvt. Ltd. Vs. M/s Shubhkamna Buildtech Pvt. Ltd. [CA No. 257/ND/2019 in CP No. IB-1059/ND/2018] Order dated 30.09.2019

NOIDA had executed a lease deed with the CD transferring a plot for 90 years. It filed an application before the AA to admit its lease premium as financial debt and to allow it to exercise voting rights as an FC. The AA held: "After considering various terms of the types of financial lease versus operational lease, we are of an undoubtable view that present lease deed dated 30.07.2010 is not a financial lease as per the terms laid down under guidelines of 'Indian Accounting Standards' and the applicant cannot be granted the status of financial creditor and cannot exercise voting rights on COC."

IBBI

In the matter of Mr. Mahender Kumar Khandelwal, Insolvency Professional (IP) (Order dated November 14, 2019)

The DC imposed a penalty of Rs.29 lakh on Mr. Mahender Kumar Khandelwal, IP for various lapses. It directed him to secure reimbursement of Rs.12 crore, which he paid to legal counsel of creditors on the understanding that if such payment is found irregular by the IBBI, the creditors would reimburse the same.

In the matter of Registration of IP (Order dated December 5, 2019)

Mr. X submitted an application for registration as IP claiming that he has the required managerial experience. On scrutiny it was found that he had experience in teaching, which is not the same as managerial experience. IBBI accordingly rejected his application.

CORPORATE PROCESSES

The data used in this section relating to corporate processes are provisional. These are getting revised as further information is received from IPs or the information in respect of a process changes. For example, a process may

ultimately yield an order for liquidation even after approval of resolution plan or may ultimately yield resolution plan even after an order for liquidation.

Insolvency Resolution

Since the coming into force of the provisions of CIRP with effect from December 1, 2016, 3312 CIRPs have commenced by the end of December 2019, as presented in Table 1. Of these, 246 have been closed on appeal or review or settled; 135 have been withdrawn; 780 have ended in liquidation and 190 have ended in approval of resolution plans. Sectoral distribution of CDs under CIRP is presented in Table 2.

Table 1: Corporate Insolvency Resolution Process (Number)

Quarter	CIRPs at the beginning of the Quarter	Admitted	Closure by				CIRPs at the end of the Quarter
			Appeal/Review/Settled	Withdrawal under Section 12A	Approval of Resolution Plan	Commencement of Liquidation	
Jan-Mar, 2017	0	37	1	0	0	0	36
Apr-Jun, 2017	36	130	8	0	0	0	158
July-Sept, 2017	158	235	18	0	2	8	365
Oct-Dec, 2017	365	144	40	0	7	24	438
Jan-Mar, 2018	438	196	21	0	11	59	543
Apr-Jun, 2018	543	250	22	1	14	52	704
Jul-Sept, 2018	704	242	32	27	29	87	771
Oct-Dec, 2018	771	276	10	39	18	82	898
Jan-Mar, 2019	898	376	35	22	20	86	1111
Apr-Jun, 2019	1111	300	22	24	27	95	1243
Jul-Sept, 2019	1243	565	23	18	32	153	1582
Oct-Dec, 2019	1582	561	14	4	30	134	1961
Total	NA	3312*	246	135	190**	780	1961

*These CIRPs are in respect of 3254 CDs

**This excludes 1 CD which has moved directly from BIFR to resolution and 5 resolutions which have since yielded liquidation.

Source: Compilation from website of the NCLT

Resolution of FSPs

On an application filed by the RBI to initiate CIRP against Dewan Housing Finance Corporation Ltd (DHFL), the AA admitted the application on December 3, 2019. Mr. R. Subramaniakumar was appointed as the Administrator. This is the first FSP admitted for resolution under the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, which were notified on November 15, 2019. The Administrator has the same duties, functions, obligations, responsibilities, rights, and powers of an IP undertaking a process under the Code.

Table 2: Sectoral Distribution of CDs under CIRP as on December 31, 2019

Sector	No. of CIRPs						
	Admitted	Closed				Total	Ongoing
		Appeal/Review/Settled	Withdrawal under Section 12 A	Approval of Resolution Plan	Commencement of Liquidation		
Manufacturing	1343	77	52	95	340	564	779
Food, Beverages & Tobacco Products	174	5	5	10	36	56	118
Chemicals & Chemical Products	130	9	4	16	28	57	73
Electrical Machinery & Apparatus	100	7	2	4	41	54	46
Fabricated Metal Products	80	3	6	2	26	37	43
Machinery & Equipment	155	18	9	8	31	66	89
Textiles, Leather & Apparel Products	225	10	7	9	76	102	123
Wood, Rubber, Plastic & Paper Products	154	7	7	12	29	55	99
Basic Metals	232	13	5	26	54	98	134
Others	94	6	7	8	19	40	54
Real Estate, Renting & Business Activities	665	69	40	26	126	261	404
Real Estate Activities	161	16	11	5	12	44	117
Computer and related activities	94	11	5	0	20	36	58
Research and Development	4	0	1	1	0	2	2
Other Business Activities	406	42	23	20	94	179	227
Construction	362	39	15	15	57	126	236
Wholesale & Retail Trade	328	24	11	11	97	143	185
Hotels & Restaurants	85	8	3	9	18	38	47
Electricity & Others	100	4	1	7	16	28	72
Transport, Storage & Communications	94	5	4	4	32	45	49
Others	335	20	9	23	94	146	189
Total	3312	246	135	190	780	1351	1961

Note: The distribution is based on the CIN of CDs and as per National Industrial Classification (NIC 2004).

The distribution of stakeholders who triggered resolution process is presented in Table 3. OCs triggered 49.21% of the CIRPs, followed by about 43.44% by FCs and remaining by the CDs.

Table 3: Initiation of Corporate Insolvency Resolution Process

Quarter	No. of CIRPs Initiated by			
	Operational Creditor	Financial Creditor	Corporate Debtor	Total
Jan-Mar, 2017	7	8	22	37
Apr-Jun, 2017	58	37	35	130
Jul-Sept, 2017	98	99	38	235
Oct-Dec, 2017	65	65	14	144
Jan-Mar, 2018	89	85	22	196
Apr-Jun, 2018	130	102	18	250
Jul-Sept, 2018	128	98	16	242
Oct-Dec, 2018	147	113	16	276
Jan-Mar, 2019	162	193	21	376
Apr-Jun, 2019	154	129	17	300
Jul-Sept, 2019	291	265	9	565
Oct-Dec, 2019	301	245	15	561
Total	1630	1439	243	3312

The status of CIRPs as on December 31, 2019 is presented in Table 4.

Table 4: Status of CIRPs as on December 31, 2019

Status of CIRPs	No. of CIRPs
Admitted	3312
Closed on Appeal / Review / Settled	246
Closed by Withdrawal under section 12A	135
Closed by Resolution	190
Closed by Liquidation	780
Ongoing CIRP	1961
> 270 days	635
> 180 days ≤ 270 days	247
> 90 days ≤ 180 days	537
≤ 90 days	542

Notes: 1. The number of days is from the date of admission.
2. The number of days includes time, if any, excluded by the Tribunals.

Withdrawals under Section 12A

Till December, 2019, a total of 135 CIRPs have been withdrawn under section 12A of the Code. The distribution of claims and reasons for withdrawal in these CIRPs are presented in Table 5.

Till September, 2019, 156 CIRPs had yielded resolution plans as presented in the last newsletter. Four CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table 7. During October-December, 2019, 30 CIRPs yielded resolution plans with different degrees of realisation in comparison to the liquidation value as presented in Part B of Table 7. During the quarter, realisation by FCs under resolution plans in comparison to liquidation value is 118.30%, while the realisation by them in comparison to their claims is 12.16%. Till December 2019, realisation by FCs under resolution plans in comparison to liquidation value is 197.81%, while the realisation by them in comparison to their claims is 43.15%. It is important to note that of the 190 CDs rescued under the Code, 66 were in BIFR or defunct.

Table 7: CIRPs Yielding Resolution

(Amount in Rs. crore)

Sl. No.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Total Admitted Claims of FCs	Liquidation Value	Realisable by FCs	Realisable by FCs as % of their Claims Admitted	Realisable by FCs as % of Liquidation Value
Part A: Prior Period (Till September 30, 2019)										
1	Vidharbha Iron and Steel Corporation Limited	No	12-03-18	23-08-19	CD	118.13	25.89	28.02	23.72	108.23
2	Fort Gloster Industries Limited	Yes	09-08-18	27-09-19	OC	723.89	52.32	64.20	8.87	122.71
3	Gajanan Paper Mills Private Limited	No	12-04-18	14-10-18	CD	5.84	2.59	2.00	34.25	77.22
4	Aum Structbuild Private Limited	No	12-11-18	30-09-19	OC	1.97	NA	0.00	0.00	0.00
Part B: October-December, 2019										
1	Ambey Iron Private Limited	Yes	22-03-18	14-10-19	FC	218.55	5.63	11.30	5.17	200.71
2	Kanupat Himghar Private Limited	No	15-01-19	14-10-19	FC	16.06	5.33	5.60	34.87	105.07
3	A & I Hospitality Private Limited	No	18-01-18	17-10-19	OC	13.28	14.36	11.91	89.68	82.94
4	EMC Limited	No	12-11-18	21-10-19	OC	6149.81	421.69	537.59	8.74	127.48
5	Maxim Infrastructure & Real Estate Private Limited	Yes	31-08-18	25-10-19	FC	235.69	89.20	118.39	50.23	132.72
6	Surya Chakra Power Corporation Limited	Yes	03-10-18	30-10-19	FC	169.96	1.94	9.00	5.30	463.92
7	Albus India Limited	Yes	02-01-19	05-11-19	FC	37.61	6.55	5.81	15.45	88.70
8	Ushdev International Limited	No	14-05-18	07-11-19	FC	3292.53	66.73	197.00	5.98	295.22
9	Magma Autolinks Private Limited	Yes	13-09-18	07-11-19	CD	87.70	7.40	16.52	18.84	223.24
10	Maxim Infra Venues Private Limited	Yes	13-09-18	07-11-19	CD	2.23	0.09	0.32	14.35	355.56
11	Shaveta Golden Foods Private Limited	Yes	13-09-18	07-11-19	CD	6.38	1.77	2.04	31.97	115.25
12	Tanishka Agro Ventures Private Limited	Yes	13-09-18	07-11-19	CD	3.80	0.27	1.16	30.53	429.63
13	Maharashtra Shetkari Sugar Limited	Yes	30-08-18	07-11-19	FC	469.48	68.48	102.58	21.85	149.80
14	Simrut Foods and Hospitality Private Limited	Yes	03-09-18	13-11-19	FC	6.89	0.01	5.58	80.99	55800.00

Table 5: Claim Distribution and Reasons for Withdrawal

Amount of Claims Admitted* (Amount in Rs. crore)	No. of CIRPs
≤ 01	52
> 01 ≤ 10	35
> 10 ≤ 50	19
> 50 ≤ 100	08
> 100 ≤ 1000	06
> 1000	02
Reason for Withdrawal**	
Full settlement with the applicant	37
Full settlement with other creditors	07
Agreement to settle in future	09
Other settlements with creditors	44
Corporate debtors not traceable	02
Corporate debtor struck off the Register	01
Applicant not pursuing CIRP due to high cost	02
Others	23

* Data awaited in 13 CIRPs

** Data awaited in 10 CIRPs

Resolution Plans

It is seen that about 57.74% of the CIRPs, which were closed, ended in liquidation, as compared to 14.06% ending with a resolution plan. However, it is important to note that 72.48% of the CIRPs ending in liquidation (561 out of 774 of which data is available) were earlier with BIFR and or defunct (Table 6). The economic value in most of these CDs had already eroded before they were admitted into CIRP.

Table 6: CIRPs Ending with Orders for Liquidation

State of Corporate Debtor at the Commencement of CIRP	No. of CIRPs initiated by			
	FC	OC	CD	Total
Either in BIFR or Non-functional or both	215	249	97	561
Resolution Value ≤ Liquidation Value	263	295	102	660
Resolution Value > Liquidation Value	57	31	26	114

Notes: 1. There were 53 CIRPs, where CDs were in BIFR or non-functional but had resolution value higher than liquidation value.
2. Where liquidation value was not calculated, it has not been taken into account.
3. Data of 6 CIRPs is awaited.

Sl. No.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Total Admitted Claims of FCs	Liquidation Value	Realisable by FCs	Realisable by FCs as % of their Claims Admitted	Realisable by FCs as % of Liquidation Value
15	EXIT 10 Marketing Private Limited	Yes	14-09-18	20-11-19	OC	0.00	0.18	0.00	-	0.00
16	Shaifali Rolls Limited	No	14-09-18	20-11-19	OC	342.75	14.10	16.00	4.67	113.48
17	Viz Infra Consultants Private Limited	No	28-08-18	21-11-19	FC	397.72	13.86	24.59	6.18	177.42
18	EPC Constructions India Limited	No	20-04-18	25-11-19	FC	7237.39	839.10	900.00	12.44	107.26
19	Dunar Foods Limited	No	22-12-17	26-11-19	FC	978.57	67.79	85.41	8.73	125.99
20	Ricoh India Limited	No	14-05-18	28-11-19	CD	1728.28	444.17	199.77	11.56	44.98
21	ARGL Limited	No	16-03-18	02-12-19	FC	1194.36	224.00	483.72	40.50	215.95
22	Logic Eastern India Private Limited	No	18-07-18	02-12-19	FC	14.37	7.61	7.78	54.14	102.23
23	Ciscons Projects Private Limited	No	31-01-19	12-12-19	FC	10.49	0.82	3.85	36.70	469.51
24	Aparant Iron and Steel Private Limited	No	30-11-18	13-12-19	FC	428.42	49.27	60.00	14.00	121.78
25	P Dot G Constructions Private Limited	Yes	13-07-18	13-12-19	OC	210.43	44.35	28.21	13.41	63.61
26	Gavi Siddeswara Steels (India) Private Limited	Yes	08-01-19	13-12-19	FC	156.00	19.83	20.00	12.82	100.86
27	Apex Drugs Ltd.	No	06-09-18	18-12-19	OC	197.82	10.13	13.00	6.57	128.33
28	United India Shoe Corporation Private Limited	No	31-10-18	18-12-19	OC	57.39	7.10	7.45	12.98	104.93
29	Royal Splendour Developers Private Limited *	No	04-12-17	23-12-19	FC	-	-	-	-	-
30	Infonet Asia Private Limited	No	02-08-17	27-12-19	OC	4.34	1.57	4.11	94.70	261.78
Total (October-December, 2019)						23668.30	2433.33	2878.69	12.16	118.30
Total (Till December, 2019)						351527.98	76685.79	151691.86	43.15	197.81

*Data awaited

Defunct: Not Going Concern/ Erstwhile BIFR

Note: Two CIRPs of prior period (in respect of Naachiar Paper Boards Pvt. Ltd. and Fortune Pharma Pvt. Ltd.) which had yielded resolution plans earlier, have moved into liquidation in this quarter.

Liquidation

Till September 30, 2019, a total of 587 CIRPs had yielded orders for liquidation, as presented in the previous Newsletter. 60 CIRPs were later reported as yielding orders for liquidation during that period, as indicated in Part A of Table 8. During the quarter October-December, 2019, 133 CIRPs ended in liquidation, taking the total CIRPs yielding liquidation to 780. The details of the CIRPs ending in orders of liquidation during the quarter is reported in Part B of Table 8.

Table 8: CIRPs yielding Orders for Liquidation

Sl. No.	Name of CD	Defunct (Yes / No)	CIRP Initiated by	Date of Commencement of CIRP	Date of Liquidation Order
Part A: Prior Period (till September 30, 2019)					
1	Kiev Finance Limited	No	OC	28-02-18	10-09-18
2	Asveens Forging Private Limited	Yes	FC	06-07-18	07-06-19
3	Karthik Niraman Private Limited	No	OC	13-06-18	24-06-19
4	Sakkar Container Lines Private Limited **	Yes	OC	10-10-18	17-07-19
5	Maiia Commodity Management Private Limited	No	CD	29-08-18	25-07-19
6	Jan Aahar Private Limited**	No	OC	22-03-18	05-08-19
7	Academy for Counseling and Education Private Limited*		OC	31-10-18	13-08-19
8	GTHS Retail Private Limited	No	OC	03-08-17	26-08-19
9	Liners India Limited	No	FC	30-10-18	27-08-19
10	Mew Suspensions Private Limited	No	OC	22-02-19	27-08-19
11	Arch Infra Projects Nirman Private Limited	No	OC	09-04-18	27-08-19
12	Neeru Cotton Private Limited	Yes	FC	07-08-18	03-09-19
13	Dee Ess Buhin Private Limited	Yes	FC	15-01-19	03-09-19
14	Bunt Solar India Private Limited	Yes	OC	14-06-19	05-09-19
15	Baywatch Shelters Private Limited	Yes	FC	20-03-19	12-09-19
16	Mak Power Transformers Private Limited	Yes	OC	30-11-18	16-09-19
17	Gujarat Foils Limited	No	FC	30-11-17	16-09-19
18	Diamond Shipping Company Limited	No	OC	14-03-19	16-09-19
19	Mahendra Kumar Babulal Jewels Private Limited	Yes	OC	16-11-18	17-09-19
20	Haridwar Iron & Ispat Rollings Limited	Yes	FC	22-05-18	17-09-19
21	Associated Trade Logistics Private Limited	Yes	OC	31-07-18	17-09-19
22	Quantum Coal Energy Private Limited	No	OC	15-07-19	17-09-19
23	Emgee Cables and Communications Limited	No	OC	27-07-18	18-09-19
24	TVC Retail Limited	Yes	OC	23-01-18	18-09-19
25	New Win Win Feeds Private Limited	Yes	FC	20-03-19	19-09-19
26	Shri Jalaram Rice Industries Private Limited	Yes	OC	12-04-19	19-09-19
27	Himatsingka Resorts Private Limited	Yes	FC	08-03-19	19-09-19
28	Seabird Seaplane Private Limited	Yes	FC	27-03-19	19-09-19
29	R. E. Cables & Conductors Private Limited	No	OC	05-12-18	20-09-19
30	Sandhya Prakash Limited	No	FC	14-09-17	20-09-19
31	Narayanaa Electrical Solutions Private Limited	Yes	FC	17-10-18	20-09-19
32	Sharp Graphics Private Limited	Yes	OC	12-11-18	20-09-19

Sl. No.	Name of CD	Defunct (Yes / No)	CIRP Initiated by	Date of Commencement of CIRP	Date of Liquidation Order
33	Zed Fabs India Private Limited	Yes	OC	02-02-18	20-09-19
34	Wings Travels Management (India) Private Limited	No	CD	03-12-18	20-09-19
35	Pradeep Downhole Equipments Private Limited	Yes	FC	25-10-18	20-09-19
36	Bimla Maru Fashions Private Limited	No	CD	02-05-18	23-09-19
37	Petrolube India Limited	Yes	OC	25-01-18	23-09-19
38	Woolways (India) Limited	No	FC	10-05-18	23-09-19
39	Hardik Industrial Corporation Private Limited	Yes	CD	19-02-19	23-09-19
40	API Industries Private Limited	Yes	CD	19-02-19	23-09-19
41	RA Powergen Engineers Private Limited	Yes	OC	27-03-19	23-09-19
42	Uttung Health & Wellness Private Limited	Yes	FC	20-04-18	23-09-19
43	Asha's Hospitality Facility Management Private Limited	Yes	FC	20-04-18	23-09-19
44	Seatel Electronics India Private Limited	Yes	CD	13-06-18	23-09-19
45	Birla Cotsyn (India) Limited	No	FC	20-11-18	24-09-19
46	Bhagat Ram Motors Ways Private Limited	No	CD	10-12-18	24-09-19
47	Tag Offshore Limited	No	OC	24-04-19	26-09-19
48	Hotel Reeva Private Limited	No	FC	31-10-18	26-09-19
49	Taurus Agile Technology Corporation Private Limited	Yes	FC	16-04-19	26-09-19
50	Vee Ess Forgings Private Limited	Yes	CD	04-03-19	26-09-19
51	Metal Closures Private Limited	Yes	FC	14-12-18	26-09-19
52	Harsh Polymers (India) Limited	Yes	OC	24-10-18	26-09-19
53	Praveer Constructions Private Limited	Yes	FC	15-10-18	27-09-19
54	Santosh Overseas Limited	Yes	FC	08-02-19	27-09-19
55	Moods Hospitality Private Limited	Yes	FC	30-08-18	27-09-19
56	Venkatesh Logistics Private Limited	Yes	FC	19-08-19	30-09-19
57	Sakri IT Solutions Private Limited	No	OC	07-08-18	30-09-19
58	Osaka Pharmaceuticals Private Limited	No	OC	10-10-18	30-09-19
59	Mekaster Engineering Limited	Yes	OC	04-08-17	30-09-19
60	Pincon Spirit Limited	Yes	OC	19-07-18	30-09-19
Part B: October-December, 2019					
1	ALPS Leisure Holidays Private Limited	No	FC	13-11-18	01-10-19
2	Guman Furniture and Services Private Limited	Yes	FC	01-03-19	01-10-19
3	Shri Aster Silicates Limited	Yes	OC	15-10-18	01-10-19
4	Sharp Knife Company Private Limited	Yes	FC	21-01-19	01-10-19

Sl. No.	Name of CD	Defunct (Yes / No)	CIRP Initiated by	Date of Commencement of CIRP	Date of Liquidation Order
5	Tirupati Commodities Impex Private Limited	Yes	OC	30-07-18	01-10-19
6	The Mobile Store Services Limited*		OC	20-03-18	01-10-19
7	Kohinoor Power Private Limited	Yes	OC	03-08-18	04-10-19
8	Khushi Foods Limited	Yes	OC	02-11-18	09-10-19
9	Mithiya Developers Private Limited	Yes	FC	06-12-18	10-10-19
10	Hanumesh Realtors Private Limited	Yes	FC	06-12-18	10-10-19
11	Sigma Leisure Private Limited	Yes	FC	06-12-18	10-10-19
12	Western India Metal Processors Limited	Yes	OC	13-03-19	10-10-19
13	Reliable Insupacks Private Limited	Yes	OC	26-03-19	11-10-19
14	Yag Mag Labs Pvt. Ltd.	Yes	OC	18-02-19	14-10-19
15	Provogue (India) Limited	No	FC	25-07-18	14-10-19
16	Zephyr Fabric Trading LLP	Yes	OC	03-10-18	14-10-19
17	SRS Limited	No	FC	21-08-18	15-10-19
18	Anil Printer Limited	Yes	FC	06-05-19	15-10-19
19	Enfield Gems & Jewellery Limited	Yes	FC	23-04-19	16-10-19
20	Aura Realtors Private Limited	Yes	FC	14-01-19	16-10-19
21	Yashaswini Leisure Private Limited	Yes	FC	14-01-19	16-10-19
22	OSIL Exports Limited	No	FC	31-01-18	17-10-19
23	Vedika Steels Private limited	Yes	OC	01-11-18	17-10-19
24	BS Limited	No	FC	01-11-18	17-10-19
25	Vibha Overseas Exim Private Limited	Yes	FC	05-12-18	17-10-19
26	Jejani Pulp and Paper Mills Private Limited	Yes	FC	22-06-18	18-10-19
27	Excel Glasses Ltd.	Yes	FC	26-03-19	21-10-19
28	RL Logistics Private Limited	No	FC	27-02-19	21-10-19
29	Debi Fabtech Private Limited	Yes	FC	25-04-19	21-10-19
30	Sunshine Infraengineers India Private Limited	No	OC	12-12-18	22-10-19
31	R R Leather Products Private Limited	Yes	OC	09-04-19	22-10-19
32	RRC International Freight Services Limited	Yes	FC	26-12-18	22-10-19
33	UIC Corporation Private Limited	Yes	CD	19-02-19	23-10-19
34	Monnet Power Company Limited	No	FC	23-02-18	23-10-19
35	Shree Vinayak Foods & Fabrics Private Limited	Yes	FC	21-02-18	23-10-19
36	Natconn Engineering Private Limited	Yes	FC	03-10-18	24-10-19
37	Surana Corporation Limited	Yes	FC	05-10-18	25-10-19
38	Fortuna Projects (India) Private Limited	Yes	FC	09-08-19	25-10-19
39	Macro Commerce Private Limited	No	OC	29-11-17	25-10-19
40	Victory Transformers & Swithgears Limited	Yes	FC	01-05-19	29-10-19
41	Jambu Knits Private Limited	Yes	FC	21-08-18	30-10-19
42	MAS Project Engineers Private Limited	Yes	OC	16-04-19	30-10-19
43	Moving Picture Company (India) Limited	Yes	FC	11-06-19	30-10-19
44	Taksheel Solutions Limited	Yes	OC	08-04-19	31-10-19
45	Compact Lamps Private Limited	Yes	FC	11-01-19	31-10-19
46	Satnam Agri Products Limited	Yes	CD	05-10-18	01-11-19
47	Case Cold Roll Forming Limited	No	FC	11-12-18	05-11-19
48	Maa Mahamaya Steels Private Limited	Yes	OC	29-10-18	06-11-19
49	Turbomachinery Engineering Industries Limited	No	FC	10-10-18	06-11-19
50	Sarswati Sales Private Limited	No	FC	24-06-19	07-11-19
51	Prism Infracon Limited	Yes	FC	03-07-18	08-11-19
52	U.P. Infraestate Private Limited	Yes	FC	13-12-18	08-11-19
53	GNB Technologies (India) Private Limited***	Yes	CD	-	08-11-19
54	IDEB Projects Private Limited	No	FC	29-03-19	08-11-19
55	Right Towers Private Limited	Yes	FC	24-07-19	08-11-19
56	Sterling Vehicles And General Sales Private Limited	Yes	FC	26-02-19	08-11-19
57	Smartec Build Systems Private Limited	Yes	OC	29-03-19	13-11-19
58	VNV Productions Private Limited	Yes	OC	05-04-18	14-11-19
59	Baladis Technologies Private Limited	No	CD	28-05-19	15-11-19
60	Oneworld Industries Private Limited	No	OC	16-11-18	15-11-19
61	Arjun Ispat India Private Limited	Yes	OC	02-01-19	18-11-19
62	Sahil International Private Limited	Yes	OC	21-01-19	18-11-19
63	Khullar Hospitality Private Limited	Yes	FC	08-05-19	18-11-19
64	Victory Electricals Limited	Yes	OC	10-04-19	19-11-19
65	Saurabh (India) Private Limited	Yes	OC	22-05-19	19-11-19
66	Pranee Infrastructures Private Limited	No	OC	16-07-19	20-11-19
67	Sriramagiri Spinning Mills Limited	Yes	FC	04-12-18	20-11-19
68	R.B. Rice Mill Private Limited	Yes	OC	10-05-18	20-11-19
69	Org Informatics Limited	Yes	OC	27-11-18	20-11-19
70	IE Trading Company Private Limited	Yes	OC	13-07-18	21-11-19
71	BIW Fabricators Private Limited	Yes	OC	14-01-19	22-11-19

Sl. No.	Name of CD	Defunct (Yes / No)	CIRP Initiated by	Date of Commencement of CIRP	Date of Liquidation Order
72	Sun Brushware Private Limited	Yes	FC	26-02-19	25-11-19
73	Fortune Pharma Private Limited	Yes	CD	28-08-17	25-11-19
74	Marketing Times Automobiles Private Limited	Yes	OC	14-11-18	25-11-19
75	Nagarjuna Oil Refinery Limited	No	FC	09-04-19	26-11-19
76	Deepsea Developers Private Limited	Yes	FC	18-03-19	26-11-19
77	Khairwala International Limited	Yes	OC	09-05-19	26-11-19
78	Minerva Executive Apartments Private Limited	Yes	FC	05-03-19	26-11-19
79	S3 Electrical & Electronics Private Limited	Yes	FC	03-04-19	26-11-19
80	Shree Padmavati Sortex Private limited	Yes	FC	29-03-19	27-11-19
81	Lanco Babandh Power Limited	No	FC	29-08-18	27-11-19
82	Xedon Media Private Limited	No	FC	11-03-19	28-11-19
83	Ojasvi Agritech Private Limited	Yes	OC	19-07-19	28-11-19
84	Noesis Industries Limited	Yes	OC	28-09-18	28-11-19
85	Naachiar Paper Boards Private Limited	No	OC	20-12-17	29-11-19
86	Coeeyes Software Technologies Private Limited*		OC	13-02-19	29-11-19
87	Century Communication Limited	Yes	FC	04-10-18	03-12-19
88	Satkar Terminals Limited	Yes	OC	03-09-19	03-12-19
89	Sri Maruthi Digitals Private Limited	Yes	OC	20-06-19	03-12-19
90	Era Housing And Developers India Limited	Yes	FC	08-02-18	03-12-19
91	Vipul Travels Private Limited	Yes	OC	30-04-19	03-12-19
92	Pink Rose Lingerie Private Limited	No	OC	04-02-19	04-12-19
93	Kashyap Motors India Private Limited	Yes	FC	05-03-19	04-12-19
94	Atharva Advisory Services Private Limited	Yes	FC	27-11-18	04-12-19
95	VB Power Private Limited	Yes	OC	05-02-19	04-12-19
96	Appsdaily Solutions Private Limited	Yes	OC	23-10-18	05-12-19
97	Suchetan Exports P. Ltd.	Yes	OC	09-10-18	05-12-19
98	Fibertech Infracon Private Limited	Yes	FC	17-01-19	05-12-19
99	Atrium Infocomm Private Limited	Yes	OC	10-07-19	05-12-19
100	Sristek Clinical Research Solutions Limited	Yes	OC	14-02-19	06-12-19
101	Anandtex International Private Limited	No	OC	20-02-19	06-12-19
102	Unitek Power Solutions India Limited	Yes	FC	01-01-19	06-12-19
103	Shiv Shankar Solvent Extractions Private Limited	Yes	FC	04-09-19	09-12-19
104	Bhoomi Ginning Pressing Private Limited	Yes	CD	04-04-19	09-12-19
105	STT Limited	Yes	OC	30-08-19	10-12-19
106	Bhuvana Infra Projects Private Limited	No	FC	17-01-18	10-12-19
107	Snehdaa Infrastructure Private Limited	Yes	OC	06-02-19	11-12-19
108	Bharat NRE Coke Limited	No	FC	11-03-19	11-12-19
109	Pinky Shipyard Private Limited	Yes	FC	31-07-18	12-12-19
110	Oswal Spinning and Weaving Mills Limited	Yes	FC	30-10-18	13-12-19
111	Krishnai Hospital Private Limited	No	OC	12-02-19	13-12-19
112	IDT Clothing Private Limited	Yes	OC	28-01-19	16-12-19
113	Vandana Vidhyut Limited*		FC	26-04-18	16-12-19
114	Santosh Hospitals Private Limited	Yes	CD	08-04-19	17-12-19
115	Marina Projects Private Limited	No	OC	28-02-19	17-12-19
116	Punjab Basmati Rice Limited	Yes	CD	18-02-19	18-12-19
117	Yamuna Infradevelopers Private Limited	No	FC	01-05-19	18-12-19
118	Luthra Water Systems Private Limited	Yes	FC	15-11-17	18-12-19
119	Sapphire Spinners India Private Limited	Yes	OC	25-01-19	19-12-19
120	Chincholi Sugar & Bio Industries Limited	Yes	FC	15-03-19	19-12-19
121	Maharaja Theme Parks and Resorts Private Limited	No	FC	08-04-19	19-12-19
122	Vimal Oil & Foods Ltd	No	FC	19-12-17	19-12-19
123	Mandakini Hospitality Private Limited	Yes	FC	19-02-19	19-12-19
124	Akund Buildcon Private Limited	Yes	FC	19-02-19	19-12-19
125	Gupta Dyeing and Printing Mills Private Limited	Yes	OC	06-02-19	19-12-19
126	Paramount Mills Private Limited	Yes	OC	20-03-19	19-12-19
127	Akhilesh Developers Private Limited	Yes	FC	19-02-19	19-12-19
128	Konark Power Projects Limited	Yes	FC	28-08-18	20-12-19
129	Jot Impex Private Limited	Yes	OC	14-05-19	20-12-19
130	Aqua Designs India Private Limited	No	FC	17-10-18	23-12-19
131	Rama Krishna Knitters Private Limited*		FC	13-02-19	24-12-19
132	KSS Petron Private Limited	No	CD	01-08-17	27-12-19
133	Falcon Tyres Limited*		FC	01-05-18	30-12-19

*Data awaited.

** Direct dissolution of CD ordered.

***Direct liquidation of CD ordered.

Defunct: Not Going Concern/ Erstwhile BIFR

NA: Not Available

The status of liquidation process as on December 31, 2019 is presented in Table 9.

Table 9: Status of Liquidation Process as on December 31, 2019

Status of Liquidation	Number
Initiated	780
Cancelled	4
Final Report submitted	51
Closed by Dissolution	40
Closed by Going concern sale	1
Ongoing	725
> Two years	22
> One year ≤ Two years	250
> 270 days ≤ 1 year	94
> 180 days ≤ 270 days	84
> 90 days ≤ 180 days	148
≤ 90 days	127

Till September 2019, 24 liquidation processes were closed by dissolution as presented in the last newsletter. Dissolution of 7 more CDs were later reported corresponding to that period, as presented in Part A of Table 10 and one liquidation process got closed by going concern sale. During October-December 2019, 9 more liquidation processes were closed, taking total number of dissolutions to 40. The details of the same are presented in Table 10.

Table 10: Details of Closed Liquidation (Amount in Rs. crore)

Sl. No.	Name of CD	Date of Order of Liquidation	Amount of Admitted Claims	Liquidation Value	Sale Proceeds	Amount Distributed to Stakeholders	Date of Order of Dissolution
Part A: Prior Period (till September 30, 2019)							
1	Notion Ink Design Labs Private Ltd.	09-01-19	7.71	0	0	0	09-05-19
2	Emmanuel Engineering Private Ltd. ##	04-07-18	7.8	4.62	5.93	5.21	24-06-19
3	Saakar Container Lines Private Ltd.*	17-07-19	1.98	NA	NA	NA	17-07-19
4	Impex Steel Ltd.	18-09-18	95.59	NA	NA	NA	19-07-19
5	Jan Aahar Private Ltd.*	05-08-19	0.53	NA	NA	NA	05-08-19
6	Subburaj Cotspin Mills Private Ltd.	04-02-19	8.70	0	0	0	16-09-19
7	Dev Cotex Private Limited	05-02-18	12.44	1.68	1.68	1.60	24-09-19
8	Suvarna Karnataka Cements Private Ltd.	07-03-18	43.93	2.52	2.73	2.48	26-09-19
Part B: October – December, 2019							
1	Grandmother India Design Private Ltd.	16-04-18	0.15	0	0	0	09-10-19
2	Snowblue Trexim Private Ltd.	26-09-18	5.23	0	0	0	17-10-19
3	Advantage Projects and Consultants Private Ltd.	18-12-17	1.07	0.07	0.06	0.04	01-11-19
4	Confident Solar Private Limited	04-07-18	182.32	NA	NA	NA	05-11-19
5	Dream Systems Private Ltd.	30-07-19	0.55	0	0	0	05-11-19
6	Jackonblock Facility Services Private Ltd.	24-01-18	0.62	0.03	0.02	0	06-11-19
7	Asveens Forging Private Ltd.	07-06-19	2.17	NA	NA	NA	17-12-19
8	New-Tech Forge and Foundry Limited	12-12-17	142.69	35.88	35.92	35.60	18-12-19
9	Kavya Advertising and Marketing Private Ltd.	30-08-18	1.65	NA	NA	NA	27-12-19

'0' means an amount below two decimals.

NA means Not realizable/Saleable or no asset left for liquidation.

Liquidation as a going concern

*Direct Dissolution; Claims pertain to CIRP period

The AA passes an order for liquidation under four circumstances. The details of liquidation as per each of these circumstances are presented in Table 11.

Table 11: Reasons for Liquidation #

Circumstance	Number of Liquidations	
	Where Final Reports Submitted	Ongoing
AA did not receive resolution plan for approval	26	317
AA rejected the resolution plan for non-compliance with the requirements	0	36
CoC decided to liquidate the corporate debtor during CIRP	25	195
CD contravened provisions of resolution plan	0	03
Total	51	551

Data are available for only 602 cases.

Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 requires the liquidator to make a public announcement calling upon stakeholders to submit their claims as on the liquidation commencement date, within 30 days from the liquidation commencement date. The details of the claims admitted by the liquidators in 602 liquidations, for which data are available, are presented in Table 12.

The average time taken for completion of 190 CIRPs yielding resolution is 394 days, including the time excluded by the AA. However, if the time excluded by the AA is excluded, the average time for completion of CIRPs is 364 days. The average time taken for completion of 780 CIRPs, which have yielded orders for liquidations, is 308 days (Table 13).

Table 12: Claims in Liquidation Process

(Amount in Rs. crore)

Stakeholders under Section	Number of Claimants	Amount of claims Admitted	Liquidation Value	Amount Realised#	Amount Distributed
51 Liquidations where Final Report Submitted					
53 (1) (a)					5
53 (1) (b)	226	9447			70
53 (1) (c)	75	1			1
53 (1) (d)	61	145			6
53 (1) (e)	28	233	93	96	6
53 (1) (f)	108	41			2
53 (1) (g)	0	0			0
53 (1) (h)	65	3			2
Total (A)	563	9870			92
Ongoing 551 Liquidations*					
53 (1) (a)					
53 (1) (b)	29711	324791			
53 (1) (c)	21378	1230			
53 (1) (d)	5253	84172			
53 (1) (e)	580	12600	21147		
53 (1) (f)	1951818	24082			
53 (1) (g)	0	0			
53 (1) (h)	633	834			
Total (B)	2009373	447709			
Grand Total (A+B)	2009936	457579			

* Data for other liquidations are not available.

Inclusive of unclaimed proceeds of Rs. 4.55 crore under liquidation

Table 13: Average Time for Approval of Resolution Plans/ Orders for Liquidation

Sl. No.	Average time from insolvency commencement date till	No. of CIRPs covered	Time (In days)	
			Including excluded time	Excluding excluded time
1	Approval of resolution plans by AA	190	394	364
2	Orders for liquidation by AA	780	308	NA

Twelve Large Accounts

Resolution of 12 large accounts were initiated by banks, as directed by RBI. Together they had an outstanding claim of Rs.3.45 lakh crore as against liquidation value of Rs.73,220 crore. Of these, resolution plan in respect of seven CDs have been approved and orders for liquidation have been passed in respect of two CDs. Due to failure of implementation of approved resolution plan in respect of one CD (Amtek Auto Ltd.), the process has restarted. Thus, CIRPs in respect of three CDs and liquidation in respect of two CDs are ongoing and are at different stages of the process (Table 14).

Table 14: Twelve Large Accounts

(Amount in Rs. crore)

Name of Corporate Debtor	Claims of Financial Creditors Dealt Under Resolution			Realisation by all Claimants as a percentage of Liquidation Value	Successful Resolution Applicant
	Amount Admitted	Amount Realised	Realisation as Percentage of Claims		
Completed					
Electrosteel Steels Ltd.	13175	5320	40.38	183.45	Vedanta Ltd.
Bhushan Steel Ltd.	56022	35571	63.50	252.88	Bannipal Steel Ltd.
Monnet Ispat & Energy Ltd.	11015	2892	26.26	123.35	Consortium of JSW and AION Investments Pvt. Ltd.
Essar Steel India Ltd.	49473	41018	82.91	266.65	Arcelor Mittal India Pvt. Ltd.
Alok Industries Ltd.	29523	5052	17.11	113.96	Reliance Industries Ltd., JM Financial Asset Reconstruction Company Ltd., JMFARC - March 2018 - Trust
Jyoti Structures Ltd.	7365	3691	50.12	387.44	Group of HNIs led by Mr. Sharad Sanghi
Bhushan Power & Steel Ltd.	47158	19350	41.03	203.39	JSW Ltd.
Under Process					
Amtek Auto Ltd.	CIRP re-commenced				
Era Infra Engineering Ltd.	Under CIRP				
Jaypee Infratech Ltd.	Under CIRP				
Lanco Infratech Ltd.	Under Liquidation				
ABG Shipyard Ltd.	Under Liquidation				

Notes: 1. Due to failure of implementation of approved resolution plan in Amtek Auto Ltd., which was earlier included in the completed list, the process has restarted.

2. The resolution plan approved in Bhushan Power & Steel Ltd. is under challenge before the Hon'ble NCLAT.

3. The resolution plan approved by CoC in Essar Steel India Ltd. has been upheld by the Hon'ble SC vide order dated November 15, 2019.

Voluntary Liquidation

A corporate person may initiate voluntary liquidation proceeding if majority of the directors or designated partners of the corporate person make a declaration to the effect that (i) the corporate person has no debt or it will be able to pay its debts in full from the proceeds of the assets to be sold under the proposed liquidation, (ii) the corporate person is not being liquidated to defraud any person. At the end of December 31, 2019, 579 corporate persons initiated voluntary liquidation (Table 15). Final reports in respect of 171 voluntary liquidations have been submitted by December 31, 2019.

Table 15: Commencement of Voluntary Liquidations till December 31, 2019 (Number)

Quarter	Liquidations at the beginning	Liquidations Commenced	Final Reports Submitted	Liquidations at the end
Apr-Jun, 2017	0	13	0	13
Jul-Sept, 2017	13	42	0	55
Oct-Dec, 2017	55	58	4	109
Jan-Mar, 2018	109	71	7	173
Apr-Jun, 2018	173	38	16	195
July-Sept, 2018	195	61	16	240
Oct-Dec, 2018	240	39	29	250
Jan-Mar, 2019	250	89	34	305
Apr-June, 2019	305	49	18	336
July-Sept, 2019	336	58	26	368
Oct-Dec, 2019	368	61	21	408
Total	NA	579	171	408

The status of 579 liquidations is presented in Table 16.

While 579 cases of voluntary liquidation were admitted till December 31, 2019, the reasons for these initiations are available for 513 cases, which are presented in Table 17.

Most of these corporate persons are small entities. 334 of them have paid up equity capital of less than Rs.1 crore. Only 62 of them have paid-up capital exceeding Rs.5 crore. The corporate persons, for which details are available, have an aggregate paid up capital of Rs.3232 crore (Table 18).

It was reported in the last Newsletter that dissolution orders were passed in respect of 64 liquidations. 16 more dissolution orders were later reported during that period, as indicated in Part A of Table 19. During the quarter October-December 2019, dissolutions orders in respect of 21 more voluntary liquidations were passed taking the total dissolutions to 101.

Table 19: Realisations under Voluntary Liquidation

(Amount in Rs. crore)

Sl. No.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Realisation of Assets	Amount due to Creditors	Amount paid to Creditors	Liquidation Expenses	Surplus
Part A: Prior Period (Till September 30, 2019)								
1	Nilgai Furniture Private Ltd.	07-04-17	04-04-19	0.06	-	-	0.02	0.04
2	Roadstar (India) Infrastructure Private Ltd.	20-03-18	09-04-19	1.30	0.06	0.06	0.04	1.20
3	Nortel Technology Excellence Centre Private Ltd.	29-12-17	08-05-19	0.85	-	-	0.49	0.36
4	Locopoco Technology Ventures Private Ltd.	24-11-17	17-05-19	2.46	-	-	0.05	2.41
5	Tsubosaka Aiv India Private Ltd.	30-08-18	30-05-19	2.38	-	-	0.05	2.33
6	JASP Finance Private Ltd.	11-06-18	11-06-19	2.09	0.04	0.04	0.02	2.03
7	E-agility Solutions Private Limited	16-02-18	13-06-19	75.53	0.68	0.68	0.68	74.85
8	Akana Software Engineering India Private Ltd.	08-03-18	14-06-19	0.01	-	-	0.01	-
9	Reitz United Technologies Private Ltd.	27-08-18	14-06-19	0.77	-	-	0.02	0.75
10	Guntur Tobacco Ltd.	16-10-17	27-06-19	0.32	-	-	0.08	0.24
11	Sun Asset Reconstruction India Private Ltd.	31-03-18	15-07-19	2.22	0.01	0.01	0.04	2.17
12	Orane Mining Company Private Ltd.	09-01-19	21-08-19	0.31	0	0	0.01	0.30
13	Watchtower Entertainment Private Ltd.	20-12-18	21-08-19	0	-	-	0	-
14	Speedmax Warehousing and Logistics Private Ltd.	24-07-17	09-09-19	2.49	0.10	0.10	0.02	2.37
15	Hyderabad Airport Security Services Ltd.	27-09-18	13-09-19	0.74	-	-	0.17	0.57
16	Square Engineering Private Ltd.	18-04-19	18-09-19	0.60	-	-	0.03	0.57
Part B: October – December 2019								
1	Xtremum Solutions Private Ltd.	03-09-18	14-10-19	1.33	0.02	0.02	0.04	1.27
2	Srijan Movida Technologies Private Ltd.	02-01-18	17-10-19	0.24	0.01	0.01	0.01	0.22
3	Arada Systems Private Ltd.	29-09-17	24-10-19	3.12	-	-	0.68	2.44
4	Sri Mallikarjuna Enterprises Private Ltd.	18-03-19	25-10-19	0	-	-	0	-
5	Madhumalti Capital Private Limited	10-08-18	06-11-19	1.32	0.05	0.05	0.03	1.24
6	Gurudev Fintrade Private Ltd.	01-04-19	14-11-19	1.16	-	-	0.01	1.15
7	Hamilton Traders Private Ltd.	01-04-19	14-11-19	0.99	-	-	0.01	0.98
8	Pentacle Consulting Services Private Ltd.	01-04-19	14-11-19	0.86	-	-	0.01	0.85
9	GVG Financial Services Private Ltd.	02-01-19	26-11-19	2.03	0.04	0.04	0.01	1.98
10	GTS Coil Private Ltd.	02-01-19	27-11-19	0.14	0.08	0.08	0.06	-
11	Star Health Investments Private Limited	07-03-19	27-11-19	2435.05	4.40	4.40	0.57	2430.08
12	Myzus Infotech Private Ltd.	16-01-19	28-11-19	0.02	-	-	0.02	-
13	Vanitha Finance and Investment Private Ltd.	25-02-19	29-11-19	3.77	-	-	0.79	2.98
14	Chaologix Technologies India Private Ltd.	17-01-19	03-12-19	0.03	-	-	0.03	-
15	Geepee Bulk Handlers Private Ltd.	25-04-18	04-12-19	0.28	-	-	0.02	0.26

Table 16: Phasing of Voluntary Liquidations

Status of Liquidation	No. of Liquidations
Initiated	579
Final Report Submitted	171
Closed by Dissolution	101
Ongoing	408
> Two years	43
> One year ≤ Two years	131
> 270 days ≤ 1 year	81
> 180 days ≤ 270 days	41
> 90 days ≤ 180 days	53
≤ 90 days	59

Table 17: Reasons for Voluntary Liquidation

Sl. No.	Reason for Voluntary Liquidation	No. of Corporate Persons
1	Not carrying business operations	325
2	Commercially unviable	69
3	Running into losses	14
4	No revenue	20
5	Promoters unable to manage affairs	10
6	Purpose for which company was formed accomplished	8
7	Contract termination	5
8	Miscellaneous	62
Total		513

Table 18: Details of 579 Liquidations

(Amount in Rs. crore)

Details of	No. of Liquidations	Paid up capital	Assets	Outstanding debt	Amount paid to creditors	Surplus
Liquidations for which Final Reports submitted	171	625	2934	10	10	2714
Ongoing liquidations	408	2607	1504	*		
Total liquidations	579	3232	4438	*		

*For ongoing liquidations, outstanding debt amount is not available.

Sl. No.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Realisation of Assets	Amount due to Creditors	Amount paid to Creditors	Liquidation Expenses	Surplus
16	Nizamabad Corn Products Private Ltd.	05-03-18	05-12-19	1.24	-	-	0.12	1.12
17	Shambhu Nath Advisory Private Ltd.	28-08-18	09-12-19	0.63	-	-	0	0.63
18	Jindal IFSC Private Limited	28-09-18	12-12-19	0.61	-	-	0.01	0.60
19	Ideo Innovation and Design Private Limited	16-02-18	16-12-19	0.81	0.14	0.14	0.03	0.64
20	Karamsad Holdings Limited	11-08-18	18-12-19	0.49	-	-	0.05	0.44
21	Karamsad Investments Limited	11-08-18	31-12-19	0.46	-	-	0.06	0.40

Ease of Doing Business Report, 2020

The World Bank released its Ease of Doing Business Report (DBR) for the year 2020 on October 24, 2019. The Report assesses 190 economies in terms of 10 parameters that span the lifecycle of a business as to how conducive the environment is for doing business in an economy. India improved her overall ranking by 14 places to 63rd position among 190 countries as against last year's 77th position. With this India earned a place among the world's top ten improvers in ease of doing business, for the third consecutive year.

In the "resolving insolvency" parameter, India's ranking improved 56 places to 52 this year from 108 last year. Owing to the establishment of a modern insolvency regime with the enactment of the Code, India made resolving insolvency easier by promoting reorganisation proceedings in practice. The DBR noted that the new law has introduced the option of insolvency resolution for commercial entities as an alternative to liquidation or other mechanisms of debt enforcement, reshaping the way insolvent companies can restore their financial well-being or close down. The Code has put in place effective tools for creditors to successfully negotiate and effectuated greater chances for creditors to realise their dues. As a result, the overall recovery rate for creditors jumped from 26.5 to 71.6 cents on the dollar and the time taken for resolving insolvency also came down significantly from 4.3 years to 1.6 years,

the Report noted. India is now, by far, the best performer in South Asia on the resolving insolvency component and does better than the average for OECD high-income economies in terms of recovery rate, time taken and cost of a corporate insolvency resolution process, as presented below.

Parameter	India	South Asia	OECD High Income
Resolving Insolvency Rank	52	104	28
Resolving Insolvency Score (0-100)	62	40.8	74.9
Recovery Rate (Cents on the Dollar)	71.6	38.1	70.2
Time (Years)	1.6	2.2	1.7
Cost (% of Estate)	9	9.9	9.3
Strength of Insolvency Framework Index (0-16)	7.5	6.5	11.9

Source: World Bank's Doing Business Report 2020

INDIVIDUAL PROCESSES

The provisions relating to resolution of insolvency of personal guarantors to CDs came into force on December 1, 2019. The first application under these provisions was filed on December 2, 2019 before Amaravati bench of the AA by Mr. Omkaram Venkata Raman, the promoter of a CD, who had stood as personal guarantors to five firms.

SERVICE PROVIDERS

Insolvency Professionals

An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP needs an AFA to take up an assignment under the Code with effect from January 1, 2020. IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for AFA to the IPA, and an IPA to process such applications electronically. The details of IPs registered as on December 31, 2019 and AFAs held by them, IPA-wise, is presented in Table 20.

Table 20: Registered IPs and AFAs as on December 31, 2019

(Number)

City / Region	Registered IPs				IPs having Authorisation for Assignments			
	IIP of ICAI	ICSI IIP	IPA of ICMAI	Total	IIP of ICAI	ICSI IIP	IPA of ICMAI	Total
New Delhi	354	222	60	636	144	118	33	295
Rest of Northern Region	287	161	46	494	121	93	25	239
Mumbai	340	112	31	483	110	55	16	181
Rest of Western Region	208	89	29	326	81	52	20	153
Chennai	113	72	11	196	34	42	6	82
Rest of Southern Region	288	153	43	484	129	87	34	250
Kolkata	169	34	16	219	68	12	8	88
Rest of Eastern Region	50	18	5	73	20	9	3	32
Total Registered	1809	861	241	2911	707	468	145	1320

Of the 2915 IPs registered till date, registrations of four IPs have been cancelled after due disciplinary process. The registration and cancellation of IPs, quarter wise, till December 31, 2019 are presented in Table 21.

Table 21: Registration and Cancellation of Registrations of IPs

Quarter	No. of IPs		
	Registered	Cancelled	Registered at the End of the Quarter
Jan - Mar, 2017	96	0	96
Apr - Jun, 2017	450	0	546
Jul - Sep, 2017	561	0	1107
Oct - Dec, 2017	217	0	1324
Jan - Mar, 2018	488	0	1812
Apr - Jun, 2018	71	1	1882
Jul - Sep, 2018	154	1	2035
Oct - Dec, 2018	253	1	2287
Jan - Mar, 2019	170	1	2456
Apr - Jun, 2019	203	0	2663
Jul - Sep, 2019	128	0	2791
Oct - Dec, 2019	124	0	2915
Total	2915	4	2911

An individual with 10 years of experience as a member of the ICAI, ICSI, ICMAI or a Bar Council or an individual with 15 years of experience in management is eligible for registration as an IP on passing the Limited Insolvency Examination. Table 22 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on December 31, 2019. Of the 2911 IPs as on December 31, 2019, 265 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 22: Distribution of IPs as per their Eligibility

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1472	134	1606
Member of ICSI	445	82	527
Member of ICMAI	147	12	159
Member of Bar Council	174	21	195
Managerial Experience	408	16	424
Total	2646	265	2911

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 23 presents the age profile of the IPs registered as on December 31, 2019.

Table 23: Age Profile of IPs (Number)

Age Group (in Years)	IIP ICAI	ICSI IIP	IPA of ICAI	Total
≤ 40	221	73	3	297
> 40 ≤ 50	639	307	44	990
> 50 ≤ 60	591	233	58	882
> 60 ≤ 70	332	227	129	688
> 70 ≤ 80	22	18	7	47
> 80 ≤ 90	3	3	0	6
> 90	1	0	0	1
Total	1809	861	241	2911

Panel of IPs

In accordance with the Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2019, IBBI prepared the panel of IPs having AFAs for January - June, 2020 and shared the same with the AA (NCLT and DRT). Table 24 presents zone-wise number of IPs (holding valid AFA) empaneled for January - June, 2020. The IPs having registered office in the areas listed in column (2) of the table shall be eligible for appointment by benches of NCLT and DRT located in the zone listed in column 1.

Table 24: Zone-wise IPs in the Panel

Zone	Areas Covered	No. of IPs
(1)	(2)	(3)
New Delhi	Union Territory of Delhi	186
Ahmedabad	State of Gujarat	65
	State of Madhya Pradesh	
	Union Territory of Dadra and Nagar Haveli	
	Union Territory of Daman and Diu	
Allahabad	State of Uttar Pradesh	53
	State of Uttarakhand	
Amravati	State of Andhra Pradesh	05
Bengaluru	State of Karnataka	33
Chandigarh	State of Himachal Pradesh	91
	State of Punjab	
	State of Haryana	
	Union Territory of Chandigarh	
	Union Territory of Jammu and Kashmir	
	Union Territory of Ladakh	
Cuttack	State of Chhattisgarh	22
	State of Odisha	
Chennai	State of Tamil Nadu	86
	Union territory of Puducherry	
Guwahati	State of Arunachal Pradesh	03
	State of Assam	
	State of Manipur	
	State of Mizoram	
	State of Meghalaya	
	State of Nagaland	
	State of Sikkim	
State of Tripura		
Hyderabad	State of Telangana	96
Jaipur	State of Rajasthan	29
Kochi	State of Kerala	17
	Union Territory of Lakshadweep	
Kolkata	State of Bihar	69
	State of Jharkhand	
	State of West Bengal	
	Union Territory of Andaman and Nicobar Islands	
Mumbai	State of Goa	141
	State of Maharashtra	
Total		896

Replacement of IRP with RP

Section 22(2) of the Code provides that the CoC may, in its first meeting, by a majority vote of not less than 66% of the voting share of the FCs, either

resolve to appoint the IRP as the RP or to replace the IRP by another IP to function as the RP. Under section 22(4) of the Code, the AA shall forward the name of the RP, proposed by the CoC, under section 22(3)(b) of the Code, to IBBI for its confirmation and shall make such appointment after such confirmation. However, to save time in such reference, a database of all the IPs registered with IBBI has been shared with the AA, disclosing whether any disciplinary proceeding is pending against any of them and the status of their AFAs. While the database is currently being used by various benches of AA, in a few cases, IBBI receives references from the AA and promptly responds to the AA. Till December 31, 2019, a total of 792 IRPs have been replaced with RPs, as shown in Table 25.

Table 25: Replacement of IRP with RP as on December 31, 2019

CIRP initiated by	No. of CIRPs	
	Where RPs have been appointed	Where RP is different from the IRP
Corporate Applicant	228	98
Operational Creditor	1150	409
Financial Creditor	1076	285
Total	2454	792

Insolvency Professional Entities

During the quarter under review, six IPEs were recognised. As on December 31, 2019, there were 67 IPEs (Table 26).

Table 26: IPEs as on December 31, 2019

Quarter	No. of IPEs		
	Recognised	Derecognised	At the end of the Quarter
Jan - Mar, 2017	3	0	3
Apr - Jun, 2017	14	0	17
Jul - Sep, 2017	22	1	38
Oct - Dec, 2017	18	0	56
Jan - Mar, 2018	19	0	75
Apr - Jun, 2018	1	3	73
Jul - Sep, 2018	4	4	73
Oct - Dec, 2018	3	20	56
Jan - Mar, 2019	5	13	48
Apr - Jun, 2019	6	0	54
Jul - Sep, 2019	7	0	61
Oct - Dec, 2019	6	0	67
Total	108	41	67

Insolvency Professional Agencies

IPAs are frontline regulators and responsible for developing and regulating the profession of IPs. There are three IPAs registered in accordance with the provisions of the IPA Regulations. IBBI meets MDs / CEOs of IPAs on 7th of every month to discuss the issues arising from the IP profession and to energise them to discharge their responsibilities. The IPAs are conducting pre-registration educational courses for prospective IPs and roundtables and seminars, workshops and webinars for building capacity of IPs. They are monitoring disclosures by IPs in respect of relationship and fee and expenses of CIRPs and disseminating the same on their respective websites. They conduct and monitor CPE of their members. They issue AFAs to IPs who are their members.

Information Utility

There is one IU, namely, the National e-Governance Service Limited (NeSL). IBBI meets the MD & CEO of the IU along with the MDs/CEOs of IPAs every month to discuss the issues related to receipt and authentication of financial information. It has requested IPAs to encourage their members to make use of the information stored with IU for verification of claims during CIRP. Table 27 provides details of the registered users and information with NeSL, as informed by them.

Table 27: Details of Information with NeSL

(Number, except as stated)

At the end of quarter	Creditors having agreement with NeSL		Creditors who have submitted information		Debtors whose information is submitted by		Loan records on-boarded by-		User registrations (debtors)	Loan records authenticated by debtors		Amount of underlying debt (Rs. crore)w	
	FCs	OCs	FCs	OCs	FCs	OCs	FCs	OCs	FC & OC	FCs	OCs	FCs	OCs
Jun, 2018	66	NA	21	105	69184	52	191247	105	1034	1364	05	NA	NA
Sept, 2018	85	NA	40	144	836302	135	1222737	207	5121	6079	32	2016708	530
Dec, 2018	108	NA	68	140	980724	202	1438390	280	10291	10065	35	2732805	1094
Mar, 2019	173	NA	114	169	1266445	230	1955230	316	15148	13762	37	4114988	16224
Jun, 2019	209	NA	160	231	2531930	570	3911146	52766	23565	22323	40	4910552	20455
Sept, 2019	226	NA	218	297	2737049	1764	4421280	86766	32177	35560	61	5625318	28016
Dec, 2019	246	NA	321	408	2926030	2121	4803931	125526	48551	68646	120	6919463	32038

NA: Not available

Registered Valuers

Registered Valuer Organisations (RVOs) are frontline regulators for the registered valuers (RVs). They are responsible for development and regulation of the profession of RVs. The Companies (Registered Valuers and Valuation) Rules, 2017 notified under the Companies Act, 2013 provide a comprehensive framework for development and regulation of the valuers and recognition of RVOs. At the end of December 31, 2019, 11 entities have been recognised as RVOs. There are 9 RVOs each in asset classes, Land and Building and Plant and Machinery and 10 RVOs in asset class Securities or Financial Assets.

A 'fit and proper' person, who is enrolled with an RVO as a valuer member and has the required qualification and experience and has passed the Valuation Examination of the relevant asset class, is registered as a valuer. Only RVs are authorised to undertake valuations required under the Companies Act, 2013 and the Code. The details of RVs, RVO-wise, as on December 31, 2019, is given in Table 28. In addition, there are 11 entities (Partnership Entity / Company) registered as RV as on December 31, 2019.

Table 28: Registered Valuers as on December 31, 2019

(Number)

Registered Valuer Organisation	Asset Class			Total
	Land & Building	Plant & Machinery	Securities or Financial Assets	
Institution of Estate Managers and Appraisers	42	7	4	53
IOV Registered Valuers Foundation	949	152	107	1208
ICSI Registered Valuers Organisation	0	0	84	84
The Indian Institution of Valuers	83	27	26	136
ICMAI Registered Valuers Organisation	13	12	162	187
ICAI Registered Valuers Organisation	NA	NA	502	502
PVAI Valuation Professional Organisation	230	40	26	296
CVSRTA Registered Valuers Association	164	48	NA	212
Association of Certified Valuators and Analysts	NA	NA	1	1
CEV Integral Appraisers Foundation	17	7	0	24
Divya Jyoti Foundation	2	1	9	12
Total	1500	294	921	2715

The registration of RVs, quarter-wise, till December 31, 2019 is given in Table 29.

Of the total RVs registered as on December 31, 2019, 787 RVs (constituting 29% of the total RVs registered) are from metros while 1928 RVs (constituting 71% of the total RVs registered) are from non-metro locations (Table 30).

Complaints and Grievances

IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 enable a stakeholder to file a grievance or a complaint against a service provider. Besides this, grievances and complaints are received from the Centralised Public Grievance Redress and Monitoring System (CPGRAMS), Prime Minister's Office, MCA and other authorities. The receipt and disposal of grievances and complaints till December 31, 2019 is given in Table 32.

Table 32: Receipt and Disposal of Grievances and Complaints till December 31, 2019

(Number)

Period	Complaints and Grievances Received						Total		
	Under the Regulations		Through CPGRAM/PMO/MCA/Other Authorities		Through Other Modes		Received	Disposed	Under Examination
	Received	Disposed	Received	Disposed	Received	Disposed			
2017-18	18	0	6	0	22	2	46	2	44
2018-19	111	51	333	290	693	380	1137	721	460
Apr-Jun, 2019	36	21	60	74	149	207	245	302	403
Jul-Sept, 2019	42	41	46	35	67	36	155	112	446
Oct-Dec, 2019	40	46	68	54	71	86	179	186	439
Total	247	159	513	453	1002	711	1762	1323	439

Table 29: Registration of RVs till December 31, 2019

(Number)

Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
Apr - Jun, 2018	1	2	0	3
Jul - Sep, 2018	38	13	21	72
Oct - Dec, 2018	280	43	118	441
Jan - Mar, 2019	462	63	145	670
Apr - Jun, 2019	346	81	300	727
Jul - Sep, 2019	212	58	191	461
Oct - Dec, 2019	161	34	146	341
Total	1500	294	921	2715

Table 30: Region wise Registered Valuers as on December 31, 2019

(Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	57	26	115	198
Rest of Northern Region	183	37	137	357
Mumbai	91	40	156	287
Rest of Western Region	425	78	136	639
Chennai	95	26	96	217
Rest of Southern Region	616	71	215	902
Kolkata	13	13	59	85
Rest of Eastern Region	20	3	7	30
Total	1500	294	921	2715

The average age of RVs as on December 31, 2019 stood at 48 years across asset classes. It was 49 years for Land and Building, 53 years for Plant and Machinery and 43 years for Securities or Financial Assets (Table 31). Of the 2715 RVs as on December 31, 2019, 233 RVs (constituting about nine per cent of the total registered valuers) are female.

Table 31: Age profile of RVs

(Number)

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	64	5	90	159
> 30 ≤ 40	203	44	345	592
> 40 ≤ 50	456	71	266	793
> 50 ≤ 60	632	86	163	881
> 60 ≤ 70	125	64	56	245
> 70 ≤ 80	19	23	1	43
> 80	1	1	0	2
Total	1500	294	921	2715

EXAMINATIONS

Limited Insolvency Examination

IBBI publishes the syllabus, format, etc. of the Limited Insolvency Examination (Examination) under regulation 3(3) of the IP Regulation. It reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed four phases of the Examination. Fourth phase of the Examination concluded on June 30, 2019 and fifth phase commenced on July 1, 2019. The Examination is available on daily basis from various locations across the country. The details of the Examination are given in the Table 33.

Table 33: Limited Insolvency Examination

Phase	No. of Attempts (some candidates made more than one attempt)	No. of Successful Attempts
First Phase (Jan - Jun, 2017)	5329	1202
Second Phase (Jul - Dec, 2017)	6237	1112
Third Phase (Jan - Oct, 2018)	6344	1011
Fourth Phase (Nov, 2018 - Jun, 2019)	3025	506
Fifth Phase (Jul - Sept, 2019)	710	95
Fifth Phase (Oct - Dec, 2019)	889	119
Total	22534	4045

Valuation Examinations

IBBI, being the authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the valuation examinations for asset classes of: (a) Land & Building, (b) Plant & Machinery and (c) Securities or Financial Assets on March 31, 2018. The first phase concluded on March 31, 2019 and the second phase commenced on April 1, 2019. It is a computer based online examination available from several locations across India. The details of the examination are given in Table 34.

Table 34: Valuation Examinations

Phase/Quarter	No. of Attempts (some candidates made more than one attempt) in Asset Class			No. of Successful Attempts in Asset Class		
	Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First Phase (Mar, 2018 - Mar, 2019)	9469	1665	4496	1748	324	707
Second Phase (Apr - Jun, 2019)	626	154	1155	49	16	143
Second Phase (Jul - Sep, 2019)	994	187	1426	96	23	195
Second Phase (Oct - Dec, 2019)	1142	230	988	123	27	144
Total	12231	2236	8065	2016	390	1189

BUILDING ECOSYSTEM

Committees and Working Groups

The Technical Committee under the IBBI (Information Utilities) Regulations held its 6th meeting on October 11, 2019 under Chairpersonship of Dr. R. B. Barman. The Committee deliberated on amendment to the IU Regulations following the notification of the Aadhaar and Other Laws (Amendment) Act, 2019. It also discussed certain operational issues faced by the IU.

The 10th and 11th meetings of the Working Group on Individual Insolvency and Bankruptcy, were held on October 17, 2019 and November 8, 2019 respectively, under the Chairmanship of Mr. P. K Malhotra, former Law Secretary. It deliberated on various aspects of operationalisation of the provisions of the fresh start process for individuals under the Code.

Workshops and Roundtables

IP Workshops

IBBI organised the 1st Advanced Workshops for IPs with the aim of delivering specialised and deep level learning in the last quarter. It organised three such workshops on the theme 'Forensic Audit and Valuation'. It also organised a workshop for IPs on the recently notified provisions relating to insolvency and bankruptcy of PGs to CDs (Table 35).



Meeting of Working Group on Individual Insolvency, October 17, 2019

The Committee of Experts on Valuation Profession met on October 24, 2019 and on November 23, 2019. It deliberated on various issues relating to development of the valuation profession and structure for regulation of the same.



Meeting of Committee of Experts on Valuation Profession, October 24, 2019

The Committee to advise on Valuation Matters held its 13th meeting in Bengaluru on October 3, 2019. It deliberated on the International Valuation Standard- 400 (IVS 400- Real Property Interests) and the departures required thereof in the Indian Context. Certain experts were invited to present their views on the departures required in the IVS 400 for the consideration of the Committee. Having concluded the deliberations on first set of identified standards for consideration, the Committee considered its draft report in the 14th Meeting held in New Delhi on November 15, 2019.

The IBBI's Advisory Committee on Corporate Insolvency and Liquidation, chaired by Mr. Uday Kotak, Executive Vice Chairman and MD, Kotak Mahindra Bank, held its 5th meeting on December 13, 2019. It deliberated and provided its guidance on the various matters related to corporate insolvency resolution process and liquidation process.



Meeting of the Advisory Committee on Corporate Insolvency, December 13, 2019



2nd Advanced Workshop at Chandigarh, October 1-2, 2019



3rd Advanced Workshop at Mumbai, November 15-16, 2019



4th Advanced Workshop at Bengaluru, December 13-14, 2019



Workshop on Personal Guarantors, November 30, 2019

Table 35: IP Workshops

Sl. No.	Date(s)	Theme of Workshop	Place	Partnership with, if any	No. of IPs
1	01-10-19 02-10-19	Forensic Audit and Valuation	Chandigarh	IPA of ICAI	32
2	15-11-19 16-11-19	Forensic Audit and Valuation	Mumbai	Mumbai National Law University	55
3	30-11-19	Personal Guarantors to CDs	New Delhi	NA	35
4	13-12-19 14-12-19	Forensic Audit and Valuation	Bengaluru	ICSI IIP	34

Roundtables

IBBI conducted several roundtables to crowd source ideas and suggestions from stakeholder on institutional framework for regulation and development of valuation profession, as presented in Table 36. A Roundtable was also

held with the resolution applicants to understand the issues faced by them in CIRP, on October 10, 2019 in New Delhi.

Table 36: Roundtables

Sl. No.	Date(s)	Place	Participation	Partnership with, if any
1	03-10-19	Bengaluru		ICAI
2	05-10-19	Chandigarh	RVs, IPs and other Professionals	ICMAI
3	07-10-19	New Delhi	RVOs	NA
4	07-10-19	Mumbai		ICAI
5	09-10-19	Hyderabad	RVs, IPs, other Professionals, Trade and Industry	ICAI
6	10-10-19	New Delhi		FICCI
7	10-10-19	New Delhi	Resolution Applicants	NA
8	11-10-19	Mumbai	RVs, IPs and other Professionals	ICAI



Roundtable with RVOs, October 7, 2019

ADVOCACY AND AWARENESS

IBBI organised several advocacy and awareness programmes during the quarter on its own and in association with stakeholders or was associated with stakeholders in organising such programmes.

Programmes for Income Tax Officers

In a special drive to engage more with the Income Tax Department, which is an important stakeholder in a insolvency and liquidation proceedings of a CD, IBBI organised 45 awareness programmes for the officers of this Department at various locations across the country, during the quarter, as detailed in Table 37. Approximately 1230 officers of and above the level of ACIT/ADIT participated in these programmes.

Programmes for Officers of DRTs/DRATs

Following the notification of rules and regulations for personal guarantors to corporate debtors with effect from December 1, 2019, IBBI, in association with the Department of Financial Service, organised workshops for officials of the Debt Recovery Tribunals (DRT) and Debt Recovery Appellate Tribunals (DRAT). These workshops were conducted on December 7, 2019 and December 21, 2019 at 12 locations (Table 37) to inform the DRT/DRAT officials about the provisions of the Code and rules and regulations made thereunder, as regards personal guarantors to corporate debtors.

Table 37: Programmes for Government Officers

Sl. No.	Date	Programmes at
For Income Tax Officers		
1	04-10-19	Mumbai
2	04-10-19	Kolkata
3	04-10-19	Bengaluru
4	04-10-19	Chennai
5	10-10-19	Delhi
6	10-10-19	Amritsar
7	10-10-19	Bhopal
8	10-10-19	Guwahati
9	24-10-19	Delhi
10	24-10-19	Bareilly
11	24-10-19	Patna
12	24-10-19	Indore
13	24-10-19	Madurai
14	31-10-19	Delhi
15	31-10-19	Hyderabad

Sl. No.	Date	Programmes at
16	31-10-19	Chandigarh
17	31-10-19	Allahabad
18	31-10-19	Bhubaneswar
19	07-11-19	Dehradun
20	07-11-19	Kochi
21	07-11-19	Ranchi
22	14-11-19	Ahmedabad
23	14-11-19	Coimbatore
24	14-11-19	Nagpur
25	14-11-19	Shillong
26	14-11-19	Nagpur
27	21-11-19	Nashik
28	21-11-19	Panaji
29	21-11-19	Pune
30	28-11-19	Raipur
31	28-11-19	Vijayawada
32	05-12-19	Trichy
33	05-12-19	Ghaziabad
34	05-12-19	Kanpur
35	05-12-19	Rajkot
36	12-12-19	Jaipur
37	12-12-19	Lucknow
38	12-12-19	Surat
39	12-12-19	Thiruvananthapuram
40	19-12-19	Jodhpur
41	19-12-19	Panchkula
42	19-12-19	Thane
43	19-12-19	Visakhapatnam
44	24-12-19	Udaipur
45	24-12-19	Vadodara
For Officers of DRT and DRAT		
46	07-12-19	Allahabad
47	07-12-19	Bengaluru
48	07-12-19	Chennai
49	07-12-19	Delhi
50	07-12-19	Hyderabad
51	07-12-19	Kolkata
52	07-12-19	Mumbai
53	21-12-19	Ahmedabad
54	21-12-19	Chandigarh
55	21-12-19	Ernakulam
56	21-12-19	Jaipur
57	21-12-19	Cuttack



Awareness Programme for Officers of DRT at Chandigarh, December 21, 2019

Other Programmes

In partnership with IBBI, various stakeholders organised advocacy and awareness programmes, as presented in Table 38.

Table 38: Advocacy and Awareness Programmes

Sl. No.	Dates	Place	Programme	In Partnership with
1	05-10-19	Gandhinagar	Awareness	GNLU
2	11-10-19 to 12-10-19	New Delhi	Summit	IOV RVF
3	02-11-19	Ludhiana	Awareness	IPA of ICAI
4	10-11-19 to 11-11-19	New Delhi	Symposium	NLU, Delhi
5	24-11-19	Cuttack	Awareness	IPA of ICAI
6	07-12-19	Mumbai	Seminar	Indian Banks' Association
7	14-12-19	Bhubaneswar	Seminar	ICSI
8	16-12-19	New Delhi	Conference	Vidhi Centre for Legal Policy



IBBI-GNLU Programme at Gandhi Nagar, October 5, 2019

IBBI-Vidhi Conference

IBBI and Vidhi Centre for Legal Policy, in partnership with the Faculty of Law and Commercial Law Centre, Harris Manchester College at the University of Oxford, organised a Conference titled "Insolvency and Bankruptcy Code, 2016: Impact on Markets and the Economy" in New Delhi on December 16, 2019. The Conference featured inaugural address by Dr. Bibek Debroy (Chairman, Economic Advisory Council to the Prime Minister), keynote address by Dr. Kristin van Zwieten (Clifford Chance Associate Professor of Law and Finance at the University of Oxford and Director, Commercial Law Centre at the Harris Manchester College), special address by Dr. M. S. Sahoo (Chairperson, IBBI) and valedictory address by Mr. Ajay Tyagi (Chairman, Securities and Exchange Board of India) and four panel discussions. In his inaugural address, Dr. Debroy highlighted that an economy to be competitive needs free entry and free exit of firms. In the past, in the absence of an exit mechanism, several private sector firms were



Awareness Programme for Income Tax Officers at Mumbai, October 4, 2019



Awareness Programme for Income Tax Officers at Kolkata, October 4, 2019



IBBI-Vidhi Conference in New Delhi, December 16, 2019

nationalised. The nexus ensured that the promoters would not exit firms irrespective of their performance and conduct. However, this has changed with the implementation of the Code. The Code will have positive impact on GDP in the long term, though there may be some short term pains, including growth costs, he said.

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 40.

Table 40: Participation of Senior Officers in Programmes

Sl. No.	Date	Venue	Organiser	Programme	Subject	Participation
1	22-10-19	Kochi	Federal Bank	Conference	Practical Aspect of IBC, 2016	Mr. Saji Kumar, ED
2	25-10-19	New Delhi	CCI	Lecture	Building Capacity for Economic Freedom	Chairperson
3	26-10-19	Manesar	IICA	Session	Making Policy and Regulations	Chairperson
4	10-11-19	New Delhi	NLUD	Symposium	3 Years of IBC & Road Ahead	Chairperson
5	11-11-19	New Delhi	CII	Conference	Resolving Insolvency in India	Chairperson
6	18-11-19	Kochi	SIRC of ICAI	Conference	IBC: Opportunities for CAs	Dr. Vijayawargiya, WTM
7	18-11-19	New Delhi	NCLT & AT Bar Association	Seminar	IBC	Chairperson
8	26-11-19	New Delhi	ICAI	Conference	Effective Board Dynamics	Dr. Saini, WTM
9	29-11-19	Indore	CFA Institute	Financial Literacy	Individual Insolvency	Dr. Vijayawargiya, WTM
10	30-11-19	Mumbai	CCI	Roadshow	Insolvency and Competition Law	Chairperson
11	01-12-19	Manesar	IICA	Session	Valuation Framework	Chairperson
12	06-12-19	Mumbai	ICSI	Seminar	IBC: Challenges, Opportunities, Learning & Way Forward	Chairperson
13	06-12-19	Mumbai	ICAI	Conference	Insolvency: Lessons and Way Ahead	Chairperson
14	06-12-19	Mumbai	CFA Institute	Roundtable	Insolvency Reforms in India	Chairperson
15	07-12-19	Mumbai	IBA	Conference	Asset Resolution	Chairperson
16	07-12-19	Mumbai	IBA	Panel	Regulatory Response to resolving Stress	Chairperson
17	08-12-19	New Delhi	ICSI	Convocation	Professionals of Tomorrow	Chairperson
18	12-12-19	Gandhinagar	GNIU	Conference	IBC & UNCITRAL	Mr. Unnikrishnan, GM
19	12-12-19	New Delhi	Ministry of Law & Justice /MCA	Awareness	IBC	Mr. Saji Kumar, ED
20	19-12-19	New Delhi	PFRDA	Lecture	IBC and Pension Sector	Chairperson
21	20-12-19	Kolkata	ICAI	Conference	CA-The Profession with a WOW	Chairperson
22	20-12-19	New Delhi	PHDCCI	Seminar	Forensic Audit & Fraud Detection	Dr. Saini, WTM
23	21-12-19	Chandigarh	ICSI IIP	Session	IBC: NextGen Financial Discipline	Chairperson
24	28-12-19	Manesar	IICA	Session	Resolution Plan of an FSP	Chairperson



Conference on Resolving Insolvency in India at New Delhi, November 11, 2019

Moot Competitions

NLUD jointly with IBBI, INSOL India, SIPI and UNCITRAL RCAP organised the third moot in the series on insolvency and bankruptcy on the theme 'Corporate Insolvency Resolution'. Forty teams from prestigious law schools from all over the country participated in the moot. After a memorandum qualification round, 8 teams qualified to oral rounds. The final round was held on November 12, 2019. It was adjudicated by a panel comprising Dr. M. S. Sahoo, Chairperson, IBBI; Mr. Bahram Vakil, Founding Partner, AZB & Partners; and Mr. Amarjit Singh Chandhiok, Senior Advocate and President, INSOL India. The teams from National University for Study and Research in Law, Ranchi and O. P. Jindal Global University Law School jointly emerged victorious in the competition.



Winners at 3rd NLUD Insolvency law Moot, November 12, 2019

National Law Institute University, Bhopal jointly with IBBI organised the 8th IBBI-NLIU 'National Corporate Law Moot 2019'. The final round and valedictory ceremony was held on December 8, 2019. It was adjudicated by a panel comprising Ms. Suchitra Kanuparthi, Member Judicial, NCLT; Mr. P. K. Malhotra, Former Law Secretary, Dr. (Ms.) Mukulita Vijaywargiya WTM, IBBI and Dr. (Ms.) Mamta Suri, CGM, IRDA. The team from Ram Manohar Lohia National Law University emerged victorious and Nirma University finished as runners-up in the competition.



8th IBBI-NLIU 'National Corporate Law Moot 2019', December 8, 2019



Conference on Effective Board Dynamics at New Delhi, November 26, 2019



ICSI Convocation, December 8, 2019



Seminar on Forensic Audit & Fraud Detection, December 20, 2019

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