

Insolvency and Bankruptcy Board of India

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Press Release

Insolvency and Bankruptcy Board of India organises Seminar on “MSMEs and Insolvency and Bankruptcy Code, 2016”

The Insolvency and Bankruptcy Board of India (IBBI) in association with the Federation of Indian Chambers of Commerce and Industry (FICCI) organised a Seminar on “MSMEs and Insolvency and Bankruptcy Code, 2016” at New Delhi on 6th March, 2020.

2. The Seminar featured keynote address by Dr. M. S. Sahoo, Chairperson, IBBI and two panel discussions. In his keynote address, Dr. Sahoo highlighted the best practices being followed proactively by IBBI in ensuring high degree of stakeholders’ engagement in various forms. He emphasised the importance of giving timely suggestions to the IBBI and he invited stakeholders to give comments on the existing regulations and other issues to make the best use of available opportunity of stakeholder consultation in the larger interest of all stakeholders. Dr. Sahoo pointed out the high degree of responsiveness of the Legislature and the Executive in making timely course corrections by way of amendments to the Code, rules and regulations to suit the emerging market realities. Referring to the order of the National Company Law Appellate Tribunal in the matter of *Binani Industries Limited Vs. Bank of Baroda*, he said that the sacrosanct objectives of the Code are insolvency resolution, maximisation of the value of the corporate debtor and promoting entrepreneurship, availability of credit and balancing the interests of all the stakeholders. He emphasised the need to increase the value of the assets of the corporate debtor rather than focusing only on distribution of assets. He pointed out incongruity in goals of stakeholders; unfair battles at marketplace; and competition and innovation as the three major challenges to the life of a business entity. Dr. M. S. Sahoo said that good corporate governance practices and rule of law can respectively take care of the first two challenges but the third challenge need to be addressed by the entity itself and the role of creative destruction assumes importance in such cases. He emphasised the importance of the Code in providing a new lifeline to a company when it experiences a threat to its life. The wide scope the Code offers, including range of entities who can offer resolution, and the manner of resolution, makes it much more effective as compared to the previously available mechanisms.

3. The Seminar featured panel discussions on two themes, namely, ‘MSMEs as Debtors and the IBC’, chaired by Mr. U. K. Sinha (Former Chairman, SEBI) and ‘MSMEs as Operational Creditors in corporate insolvency processes’ chaired by Mr. P. K. Malhotra (Former Law Secretary). Mr. U. K. Sinha highlighted the role of an effective insolvency framework in preserving jobs and ensuring lower cost of credit in the economy. He emphasised that MSMEs need a differentiated insolvency resolution regime vis-à-vis large corporate. He identified

threshold for classification of an entity as an MSME and procedures to be followed in respect of them, as the two important design issues for a sound insolvency resolution framework for MSMEs. Mr. Sinha emphasised that overlap of insolvency regime for MSMEs with personal insolvency regime should be given adequate consideration while designing a framework for insolvency resolution for MSMEs.

4. Mr. P. K. Malhotra summed up the legal aspects of the Code concerning MSMEs as operational creditors under the corporate insolvency resolution and liquidation processes and the risks and rewards associated with MSMEs. He also emphasised the positive role that can be played by alternate dispute redressal methods, including mediation, in addressing the insolvency issues of MSMEs.

5. The other speakers at the Seminar included Dr. Navrang Saini (Whole Time Member, IBBI), Dr. (Ms.) Mukulita Vijayawargiya (Whole Time Member, IBBI), Mr. Sudhaker Shukla (Whole Time Member, IBBI), Mr. S. Ramann (Managing Director & CEO, National E-Governance Services Ltd.) Dr. Renuka Sane (Associate Professor, National Institute of Public Finance and Policy), Mr. Anil Bhardwaj (Secretary General, Federation of Indian Micro and Small & Medium Enterprises), Mr. Sanjay Bhatia (President, FICCI – Confederation of MSME), CA. Prakash Sharma (Chairman, ICAI's Committee on IBC), Mr. Mohit Saraf (Co-chair, FICCI Committee on Stressed Assets and Corporate Laws) and Mr. K. R. Saji Kumar (Executive Director, IBBI).

6. Key stakeholders, including representatives from the MSMEs, industry as well as insolvency professionals, registered valuers and other professionals participated in this Seminar.
