



भारतीय विवाला और सोधन अकनता बोर्ड  
Insolvency and Bankruptcy Board of India

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# Insolvency and Bankruptcy News

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**IBBi**  
*A regulator like no other*

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**Late Mr. Appala Subrahmanyam**



**Late Dr. Sunil Kumar**



“There are no goodbyes for us.  
Wherever you are, you will  
always be in our heart.”

- Mahatma Gandhi

# From Chairperson's Desk

## IBBI: A Regulator Like No Other

Governance through regulators probably constitutes the most significant governance reforms in the recent decades. India has a track record of establishing credible regulators and delivering effective governance through them. The Insolvency and Bankruptcy Board of India (IBBI) is a recent addition to the regulatory state. It is, however, a novel experiment, with no parallel either in the Indian regulatory milieu or in the insolvency space elsewhere. I wish to dwell upon a few facets of IBBI's role and its functioning, as I understand, which make it a regulator like no other.

### Facets of role

The IBBI has regulatory oversight over professionals and related institutions - Insolvency Professionals (IPs), Insolvency Professional Agencies (IPAs), Insolvency Professional Entities (IPEs) and Information Utilities (IUs) - in the insolvency space. It makes regulations and guidelines on matters relating to insolvency processes - corporate insolvency resolution, pre-packaged insolvency resolution, corporate liquidation, voluntary liquidation, fresh start, individual insolvency resolution and individual bankruptcy - under the Insolvency and Bankruptcy Code, 2016 (Code/IBC). For the time being, it also acts as the authority for valuation profession.

**Three-in-one regulator:** A regulator of a profession develops and regulates the profession. It does not regulate markets where these professionals serve. Nor does it specify the rules to be followed by them in the market / for transactions. A regulator of markets promotes development of, and regulates, markets. It does not develop and regulate the professionals, who render services in these markets. A regulator of utilities sets standards and fixes tariffs to address competition concerns and attract investment to utilities. The IBBI is different from other regulators as not only does it develop and regulate the insolvency profession, it also specifies the regulations to be followed by IPs in the market / for transactions, and regulates the markets where the IPs serve. It sets standards to ensure quality of services and endeavours to provide a competitive environment. Differently put, the IBBI blends the duties of a regulator of professions, a regulator of markets, and a regulator of utilities, though its role is vastly different from that of any of them.

**Ambit of authority:** The Securities and Exchange Board of India (SEBI) has statutory objectives to protect the interests of the investors in securities and to promote the development of, and to regulate, the securities market. It has mandate to undertake any measure in furtherance of its objectives. It has authority to make regulations to carry out the purposes of the Act. Its jurisdiction extends over all participants in securities markets, including issuers of securities in relation to issue and trading of their securities. On the other hand, the IBBI has specific statutory functions, subject to general direction of the Government. It has authority to make regulations to carry out the provisions of the Code. Its jurisdiction extends over service providers (IPs, IPAs, and IUs) only. The ambit of authority of IBBI is narrow as compared to that of a market regulator.

**Regulator vis-à-vis tribunal:** In economic regulations, a tribunal is typically the appellate authority for the quasi-judicial functions of a regulator. A regulator makes subordinate legislation and enforces them in respect of relevant market participants. It applies and interprets the Regulations it has made, through its enforcement and adjudicatory actions. A person aggrieved by such actions and interpretations may prefer an appeal before a tribunal. A decision of the tribunal is binding on the regulator until it is reversed. However, the tribunal has no role as regards quasi-legislative and executive functions of the regulator.

The IBBI is not required to apply and interpret the Regulations it has made, except in relation to service providers. The AA applies and interprets the law, including Regulations, at the first instance, through its decisions, which are appealable before the Appellate Authority. The Code specifies the roles of the AA and IBBI. The IBBI makes IPs available, and the AA appoints them to conduct various processes. It makes regulations relating to processes. The stakeholders and IPs conduct processes in accordance with regulations. Many of these are submitted to the AA for approval. No ecosystem, either in India or elsewhere, has two parallel institutions like IBBI and AA. It required

significant efforts to develop mutual appreciation of each other's role in the initial years.

**Unique in insolvency space:** Most insolvency jurisdictions have two layers in the hierarchy of regulation, namely, the government department dealing with insolvency and membership organisations regulating insolvency practitioners. Wherever there is another agency in between, such agency is not dedicated to insolvency. In contrast, the Indian jurisdiction has three layers in the hierarchy wherein the IBBI is interspersed between the Government and the IPAs. The IBBI is entrusted with tasks some of which are either in the realm of Government or professional bodies in other jurisdictions. As there is no comparable regulator to learn from, either in India or elsewhere, IBBI is an evolving experimentation in terms of its role.

### Facets of functioning

While discharging its statutory duties and functions, the IBBI has charted a slightly different path, as compared to most other regulators, albeit within the permissible boundaries of the statute.

**Responsiveness:** Speed is the essence of the Code. The IBBI, being a creation of the Code, imbibed speed from day one. It was established on October 1, 2016 and instructed to commence corporate insolvency by December 1, 2016. This required nothing short of a miracle. The immediate tasks included: market volunteering to set up IPAs; individuals with right calibre to enroll with IPAs and seek registration with the IBBI as IPs; regulations relating to IPs, IPAs, corporate insolvency resolution process (CIRP) and liquidation process to be in place; advocacy to spread the message of the Code and make the stakeholders aware of their roles, and the IBBI to have the capacity to work on these. With active support of the Government, the IBBI delivered all these, making roll out of corporate insolvency possible on December 1, 2016. Promptitude has been a part of its work culture since then.

Regulators are created to address the concerns proactively or at least immediately after a concern has surfaced. Two illustrations of proactive actions are: (a) In the CIRP of Jaypee Infratech Limited, public announcement was made on August 10, 2017 seeking claims by August 24, 2017. It was not clear whether an allottee of a real estate project would submit claims as a financial creditor (FC) or an operational creditor (OC). To ensure that claims are submitted by August 24, 2017, the IBBI amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) on August 16, 2017 to enable submission of claims by allottees. In course of time, the Code was amended on June 6, 2018 to explicitly consider such allottees as FCs. (b) The first resolution plan under the Code was approved on August 2, 2017, whereby Synergies Dooray Automotive Limited got amalgamated with a group company, while the creditors took a haircut of 94%. This appeared like rewarding the promoters, who probably drove the company to the ground, at the expense of the creditors. To maintain integrity of CIRP, the IBBI amended the CIRP Regulations on November 7, 2017, requiring disclosure of the antecedents - convictions, criminal proceedings, wilful defaults, debarments - of the resolution applicant and its connected persons to enable an assessment of the credibility of such applicant. Subsequently, the Code was amended on November 23, 2017, prohibiting persons with such antecedents from submitting resolution plans.

The AA appoints an IP to conduct a process. When the stakeholders have identified an IP, the AA needs to verify from the IBBI the credentials of the IP before appointing him. The IBBI makes available the database of all eligible IPs with the AA in advance so that it can appoint the IP instantaneously. Similarly, where the stakeholders have not proposed an IP, the AA needs to make a reference to the IBBI for a recommendation. The IBBI makes available a Panel of recommended IPs with the AA in advance, which serves as instant solution for appointments. The Code initially envisaged 14 days for appointment of an Interim Resolution Professional (IRP). This innovative solution, made in consultation with the AA, made appointment instantaneous. In recognition of this, the Insolvency Law Committee (ILC) recommended doing away with 14 days for appointment and section 16(1) was accordingly amended.

The IBBI has been playing a proactive role from conceptualisation to



implementation of several innovative products, including insolvency framework for resolution of stress of financial service providers, pre-packaged insolvency resolution, and institutional framework for valuation profession. It has conceptualised several innovative solutions such as resolvability of companies, automation of loan contracts, platform for distressed assets, recast of fresh start process and many more, to improve the outcomes of processes and taken up with appropriate authorities.

**Governance:** There have been concerns emanating from integration of powers in a regulator. Recognising this concern, the IBBI has structured itself into three separate wings, namely, Research and Regulation Wing, Registration and Monitoring Wing, and Administrative Law Wing and each of these wings is headed by a separate Whole-time Member, to avoid intra-institutional and public law concern.

The Code does not explicitly distinguish between the IBBI and its Governing Board (GB). However, in its first meeting held on October 7, 2016, the GB identified the businesses which it alone should transact, pending formal regulations. The formal Regulations were notified on January 31, 2017, earmarking the businesses to be transacted by the GB. The regulations provide for a Charter of Conduct for Members of the GB to ensure that the GB conducts in a manner that does not compromise its ability to accomplish its mandate or undermine public confidence in the ability of Members to discharge their responsibilities. Conceptually, the GB's primary responsibility is to act as a hands-on principal to hold the management accountable. To play this role effectively, the non-executive members of the GB have been meeting stakeholders and officers of the IBBI periodically.

The GB has been conscious of its performance from the very beginning. It has been evaluating itself to assess if it is meeting the expectations of external scrutiny and improving both organisational and board performance and to identify the strengths, weaknesses, and opportunities to improve its performance. The IBBI also evaluates its performance independent of evaluation of the GB. Keeping in view inadequacy of self-evaluation, the National Council of Applied Economic Research has been commissioned to undertake an evaluation of the performance of IBBI, as distinct from that of the Code. The GB is now seized with a desire to reimagine IBBI with changing times and challenges ahead. It is examining afresh the *raison d'être* of IBBI as to whether its continued existence is warranted in the light of the outcomes of the processes being overseen by IBBI and whether these are eventually leading to enhanced economic performance.

The kind of pro-active engagement IBBI has with stakeholders, including through hundreds of roundtables every year, has been unprecedented in many ways. The active role stakeholders have played has been commendable, turning out to be the most valuable resource of the IBC ecosystem. Many believe that IBC has been a reform by the stakeholders, for the stakeholders and of the stakeholders. The IBBI has a standing arrangement to enable any stakeholder to seek any new regulation or suggest any change in any of the existing regulations, throughout the year. This puts every stakeholder into the shoes of a regulator and crowdsources ideas and perspectives. Consequently, the universe of ideas available with the regulator is much larger and the possibility of a more conducive regulatory framework much higher. The IBBI continues to engage with stakeholders even after regulations are made to ensure smooth implementation and reduce cost of compliance.

**Building professions:** The IBBI has been shepherding two emerging professions, namely, insolvency profession and valuation profession. While using the standard toolbox to build professions, it has made some innovations.

**Graduate Insolvency Programme:** The IBBI led an industry initiative to conceptualise Graduate Insolvency Programme (GIP) to take the insolvency profession to the next level. It is a one of its kind programme in the world to produce top-quality IPs who can deliver world-class services. It provides an avenue for young professionals, having talent but lacking experience, to take up the insolvency profession. It is a 24-month programme consisting of an intensive residential classroom component of 12 months and a hands-on internship component at the cutting edge of the practice for 12 months. The Indian Institute of Corporate Affairs commenced GIP in the academic year 2019-20. The National Law Institute University, Bhopal is scheduled to commence GIP from academic year 2021-22.

**Fit and Proper Person:** The credibility of a profession depends upon credibility of its members. A distinct requirement of the insolvency profession (also valuation profession), as compared to most other professions, is that it lets only those individuals in, who the profession would feel proud of, and prevents entry of those individuals, whose antecedents are doubtful or questionable. The IBBI allows entry of only those individuals who are 'fit and proper' and requires them to remain fit and proper as a condition of continued registration. For determining whether a person is 'fit and proper' or not, the IBBI considers various aspects, including but not limited to (a) integrity, reputation, and character, (b) absence of convictions and restraint orders, and (c) competence and financial solvency.

**Valuation Profession:** A key objective of the Code is maximisation of value of assets of the persons in distress. A critical element towards achieving this objective is transparent and credible determination of value of the assets to facilitate comparison and informed decision making. Valuations serve as reference for evaluation of choices, including liquidation, and selection of the choice that decides the fate of the firm and consequently the stakeholders. If valuation is not right, a viable firm could be liquidated and an unviable firm could be rehabilitated, which are disastrous for the economy. As an interim arrangement, a framework was created under the Companies Act, 2013 enabling IBBI to groom valuation profession. To take the profession to the next level, a Committee of Experts has recommended establishment of National Institute of Valuers to steer regulation and development of valuation profession.

**Knowledge organisation:** The IBBI strives to be a knowledge organisation given its role in respect of two new professions. In association with IPAs, it has been engaging with researchers, academia, and practitioners to produce and capture emerging knowledge and build capacity of professionals at the time of entry and on a continuing basis. It conducts the valuation examination for three asset classes, namely, land & building, plant & machinery and securities or financial assets and the insolvency examination for entry into the professions. It has made available study material, developed by experts, to help the candidates appearing for these examinations. Of these, the study material for plant & machinery, and land & building materials, developed by Centre for Valuation Studies, Research and Training Association, are used by many valuer organisations across the world. The IBBI and IPAs bring out several publications, and research studies, and actively encourage and support academia to do so.

**Institutional legitimacy:** What distinguishes an organisation from an institution is its legitimacy. An organisation needs to be accepted by the stakeholders for what it does and how it does, rather than only for its statutory mandate. This requires the organisation to build social capital by consistent conduct and performance over years or even decades. To my understanding, the IBBI has begun the journey of legitimacy.

Perhaps in recognition of its role and performance, the IBBI finds a place in important fora such as Financial Stability and Development Council, Forum of Indian Regulators, Competition Law Review Committee, ILC, and International Association of Insolvency Regulators. It provided leadership to important committees in insolvency space such as Sub-Committee of the ILC on Resolution of Financial Service Providers; Committee of Experts on Institutional Framework for Regulation and Development of Valuation Professionals; and Sub-Committee of the ILC on pre-packaged insolvency resolution process (PIRP).

## Conclusion

A distinguished visitor to IBBI once described it as a 'start-up'. I quite tend to agree and wish it remains so. The IBBI has all the features of a start-up, namely, it is young; it is innovating; it is flexible, it is agile, and it has outcome orientation. Team IBBI, led by its Governing Board, is ever vigilant and available to any stakeholder with a legitimate concern to help address it within the four walls of the legal framework.

In this quinquennial year of the Code and IBBI, I look at the outcomes, the journey of IBBI and my personal journey with IBBI, with a sense of satisfaction and contentment. It has been a well begun reform in the insolvency space in the country and as the proverb goes, 'well begun is half done'. Many milestones have been crossed, but many more lie ahead.

(Dr. M. S. Sahoo)

## IBBI Updates

### Obituary

The second wave of COVID-19 pandemic was devastating, taking away many precious lives, untimely. It was very harsh for the IBBI family. Many of its members were infected by the virus. Most of them have recovered. However, the second wave dealt a severe blow to this family when it lost two of its bright officers, Mr. Appala Subrahmanyam, Chief General Manager (CGM) on April 28, 2021, and Dr. Sunil Kumar, Deputy General Manager (DGM) May 24, 2021, to the disease. These two officers were great human beings. They were part of solutions. The standards of professional excellence and intellectual brilliance set by them will be emulated for a long time. The IBBI family is deeply saddened by their departure and the void they have left behind. Virtual condolence meetings were organised to remember and offer prayers for the departed souls.

### Parliamentary Committee on Subordinate Legislation

Chairman of the Committee on Subordinate Legislation of the Rajya Sabha took a briefing on the Rules and Regulations framed under the Code and yet to be framed, on June 28, 2021. Secretary, Ministry of Corporate Affairs (MCA) and Chairperson, IBBI briefed the Chairman.

### Fifth Anniversary of the Code

To commemorate the 5<sup>th</sup> Anniversary of enactment of the Code, the IBBI organised a virtual event on May 28, 2021 with participation of officers of IBBI and MCA. Mr. Rajesh Verma, Secretary, MCA graced the occasion as the Chief Guest. In his address, he elaborated several measures taken by the Government to ameliorate the pains of the stakeholders in the aftermath of the COVID-19 pandemic in the insolvency and bankruptcy area. Recent Ordinance introducing PPIRP was one such step required to save businesses from being closed prematurely, he said. Highlighting the achievements of the Code, he deliberated upon the road ahead in terms of ongoing work relating to group insolvency, cross-border insolvency, individual insolvency, strengthening of IU, etc. In his address, Dr. M. S. Sahoo, Chairperson, IBBI thanked all stakeholders who joined the insolvency journey, ensuring operationalisation of the Code in shortest time, unprecedented in the history of any economic legislation in the country and that of any insolvency regime around the world.



5<sup>th</sup> Anniversary of enactment of the Code, May 28, 2021

### IAIR Webinar

The International Association of Insolvency Regulators (IAIR) organised a webinar on 'Predicted volumes and strategies for dealing with such volumes' on June 24, 2021 for its member countries. Mr. Sudhaker Shukla, WTM, IBBI made a presentation on the topic in the Indian context at the webinar.



IAIR Webinar, June 24, 2021

### COVID-19 Pandemic

#### Functioning of IBBI

The IBBI has taken several measures to contain the spread of COVID-19. Every member of IBBI family strictly follows COVID appropriate behavior, as issued by the Government from time to time, like maintaining social distancing, wearing masks, and maintaining hand hygiene. Staggered office hours have been put in place to avoid overcrowding in the offices. Office premises are regularly sanitised. RTPCR tests were conducted on April 6, 2021 and April 16, 2021 for employees. Thanks to e-office, which it has been using prior to advent of COVID-19, and its committed workforce, the IBBI continued uninterrupted services towards its stakeholders even during peak of the second wave.

#### Vaccination of Employees

The IBBI organised COVID vaccination camps for all the officers and staff members, and their dependent family members, in the office. The camps were held on May 29, 2021 and June 26, 2021 for administration of the first and second doses respectively. All the eligible officers/staff members and their family members now have immunisation shield.

#### Town Hall Meeting

The IBBI organised a virtual town hall meeting to boost the morale of the officers and staff members during these difficult times due to COVID-19. Highlighting the increase of stress caused due to the pandemic, Mr. Sudhaker Shukla, WTM advised them to be emotionally strong and to help one another in time of need. He assured all possible help and support from IBBI to the officers who were suffering from COVID-19.

### Anti-Terrorism Day

The IBBI observed Anti-Terrorism Day on May 21, 2021 in online mode. Dr. M. S. Sahoo, Chairperson, IBBI administered the anti-terrorism pledge to the officers of IBBI on the occasion.



Anti-Terrorism Day Pledge, May 21, 2021



## World No Tobacco Day

Dr. Navrang Saini, WTM, IBBI administered the 'World No Tobacco Day' pledge to the officers of IBBI on May 31, 2021 to abstain from the use of tobacco. He also highlighted the ill-effects of tobacco and advised not to consume any type of tobacco products for the good health.



World No Tobacco Day Pledge, May 31, 2021

## International Yoga Day

The IBBI observed the International Yoga Day on June 21, 2021. A virtual workshop was conducted on Yoga, meditation, and mental wellness for all officers of IBBI, by Mr. Ajay Kumar Jain, IP and Yoga trainer. Mr. Jain has explained the need of Yoga in daily life. He also taught different Yoga exercises suitable to improve specific abilities.



International Yoga Day, June 21, 2021

## Grievance Redressal Officer

The IBBI, vide an order dated April 7, 2021, appointed Mr. Sushanta Kumar Das, DGM as the Grievance Redressal Officer in accordance with section 23 of the Rights of Persons with Disabilities Act, 2016.

## Strategy Meet

The IBBI has been organising annual strategy meets to develop a strategic action plan that sets its priorities, focuses energy and resources on priority areas, and outlines specific actions and sub-actions to achieve desired outcomes, for the coming year. The strategy meet for the year 2021-22 took place on June 14 - 15, 2021 through e-mode given the prevailing pandemic situation.



Strategy Meet, June 14 - 15, 2021

## Third-party Evaluation

With about five years of its existence, there was a felt need to evaluate the performance of IBBI as a regulator and as institution, as distinct from that of the Code, by an external agency. The IBBI accordingly commissioned the National Council for Applied Economic Research (NCAER) to make an evaluation covering: (a) if IBBI is fulfilling its role as a regulator as per its statutory powers and functions; (b) if the process/procedures followed in implementation of quasi-legislative, executive, and quasi-judicial functions are sound and scientific; (c) if IBBI's regulatory role had had desired impact on the targeted beneficiaries/regulated entities/stakeholders and markets; (d) if value for the money spent on IBBI is being realised and if the resources needed to achieve the regulatory objectives are adequate; (e) suggestion to improve its functioning on specific parameters like processes, responsiveness, reduction in compliance costs, better utilisation/targeting of resources and capacity building; and (f) determination of regulatory relevance of IBBI.

## Human Resources

### Executive Director

Mr. Amit Pradhan took charge as Executive Director on June 21, 2021. Before joining IBBI, he was serving as CGM and Adjudicating Officer in the SEBI. He has served SEBI in various capacities in different departments, including as Regional Director of the Northern Regional Office of SEBI at New Delhi. He has also served as Adviser in the Competition Commission of India. Mr. Pradhan was a Member of the Bankruptcy Law Reforms Committee, which conceptualised the Code.

### Employees Trainings

The members and officers of IBBI attended the following workshops and training programmes during the quarter:

Date	Organised by	Nature of the programme/Subject	No. of Officers
27-04-21	NPC	Conduct Rules and CCA (CCS) Rules	01
20-05-21	NPC	Managing Leadership and High Performing Teams	03
27-05-21 to 28-05-21	NPC	Advance Course on Disciplinary Proceedings	03

# Legal and Regulatory Framework

## Central Government

### Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021

The President promulgated the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021 on April 4, 2021 to provide for PPIRP for corporate micro, small and medium enterprises (MSMEs).

MSMEs are critical for India's economy. They contribute significantly to gross domestic product and provide employment to a sizeable

population. The COVID-19 pandemic has impacted their business operations and exposed many of them to financial stress. Resolution of their stress requires different treatment, due to the unique nature of their businesses and simpler corporate structures. Therefore, it was considered expedient to provide an efficient alternative insolvency resolution process under the Code for corporate MSMEs, that ensures quicker, cost-effective and value maximising outcomes for all the stakeholders, in a manner which is least disruptive to the continuity of their businesses, and which preserves jobs.

### Rules for PPIRP

The Central Government, vide a notification dated April 9, 2021, notified the Insolvency and Bankruptcy (Pre-Packaged Insolvency Resolution Process) Rules, 2021 to provide for the process and forms of making applications for initiating PPIRP for corporate MSMEs.

### Threshold for triggering PPIRP

The Central Government, vide a notification dated April 9, 2021, specified ₹10 lakh as the minimum amount of default for the matters relating to PPIRP of corporate MSMEs.

### Securities Contracts (Regulation) (Amendment) Rules, 2021

The Central Government, vide notification dated June 18, 2021, amended the Securities Contracts (Regulation) Rules, 1957. The amended Rules *inter alia* provide that where the public shareholding in a listed company falls below 10% as a result of implementation of the resolution plan approved under section 31 of the Code, the same shall be increased to 10% within 12 months from the date of such shortfall. Further, every listed company shall maintain minimum 5% public shareholding as a result of implementation of the resolution plan approved under section 31 of the Code.

### NCLAT and NCLT

**NCLAT:** Vide a notification dated April 20, 2021, the Central Government extended the term of Justice (Retd.) Mr. Banshi Lal Bhat, Member (Judicial) as officiating Chairperson, National Company Law Appellate Tribunal (NCLAT) up to April 18, 2021. Further, upon the completion of the term of office of Justice (Retd.) Mr. Banshi Lal Bhat, Member (Judicial), NCLAT, it appointed Justice (Retd.) Mr. A. I. S. Cheema, Member (Judicial) as officiating Chairperson, NCLAT for a period of three months with effect from April 19, 2021 or till appointment of a regular Chairperson or until further orders, whichever is earliest.

**NCLT:** Vide a notification dated June 21, 2021, the Central Government appointed Mr. Rajeswara Rao Vittalalla, Member (Judicial) as acting President of National Company Law Tribunal (NCLT) with effect from June 1, 2021 till June 1, 2021. Further, it appointed Ms. Manorama Kumari, Member (Judicial) as acting President with effect from June 2, 2021 till June 5, 2021. Mr. R. Varadharajan, Member (Judicial) was appointed as acting President of NCLT with effect from June 6, 2021 to June 9, 2021. Post completion of the term of Mr. R. Varadharajan, Mr. Bhaskara Pantula Mohan, Member (Judicial) was appointed as acting President for a period of three months with effect from June 10, 2021, or until a regular President is appointed or until further orders, whichever is earliest.

The NCLT, vide its order dated June 25, 2021, directed all NCLT benches to start regular hearing through video conference on all working days with effect from July 1, 2021.

## IBBI

### PPIRP Regulations

The IBBI notified the IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021 on April 9, 2021 to enable operationalisation of PPIRP. These regulations specify the forms that stakeholders are required to use, and the manner of carrying out various tasks by them as part of the PPIRP. They provide details and manner relating to: (a) Eligibility to act as resolution professional (RP), and his terms of appointment; (b) Eligibility of registered valuers (RVs) and other professionals; (c) Identification and

selection of authorised representative; (d) Public announcement and claims of stakeholders; (e) Information memorandum (IM); (f) Meetings of the creditors and committee of creditors (CoC); (g) Invitation for resolution plans; (h) Competition between the base resolution plan and the best resolution plan; (i) Evaluation and consideration of resolution plans; (j) Vesting management of corporate debtor (CD) with the RP; and (k) Termination of PPIRP.

### Amendments to IU Regulations

The IBBI amended the IBBI (Information Utilities) Regulations, 2017 (IU Regulations), vide notification dated April 13, 2021. It modified Form C to make it comprehensive and user friendly. It requires the users to update the information as on the last day of the month, in the first week of the following month. However, the information of default shall be updated within seven days of occurrence of default. The amendment mandates an IU to publish statistics relating to debt related information in its possession, quarterly, which shall provide distribution of debts in terms of currency, geography, sector, size, tenor, type, lending arrangement, and incidence of default.

### Amendments to Model Bye-Laws Regulations

Taking into account the difficulties posed by second wave of COVID-19, the IBBI, vide notification dated April 27, 2021, amended the IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 to provide for the following:

(a) Where the authorisation for assignment (AFA) is not issued, renewed or rejected by the IPA within 30 days of the date of receipt of application received between the date of commencement of the Amendment till October 31, 2021, the AFA shall be deemed to have been issued or renewed.

(b) Where the application for AFA is rejected, the aggrieved applicant may appeal to the Membership Committee of the IPA within 15 days from the date of receipt of the order. However, if it is rejected between the date of commencement of the Amendment till October 31, 2021, the aggrieved applicant may appeal within 30 days.

### Amendments to IP Regulations

The IBBI amended the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations), vide notification dated April 27, 2021, extending the last date for payment of fee for the year 2020-21 from April 30, 2021 to June 30, 2021. It also allowed time up to 30 days for the IPEs to inform IBBI about appointment and cessation of its directors / partners from the date of such appointment or cessation.

### Guidelines for Association with Academies

The IBBI issued the Guidelines for Association for Summer/Winter/Short Term/Certificate Courses with Academic Institutions/ Civil Services Academies/ Judicial Academies, 2021 on May 5, 2021 with a view to create awareness about the IBC and its ecosystem, amongst the students of higher education courses, academicians, trainee civil and judicial officers, IPs, and RVs through "Institutes of Learning".

### Guidelines for Panel of IPs

The IBBI issued the "Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustee (Recommendations) Guidelines, 2021" on June 1, 2021. These guidelines enable the Board to prepare a common Panel of IPs and share the same with the AA for appointment as IRPs, Liquidators, RPs, and Bankruptcy Trustees from July 1, 2021 to December 31, 2021.

### Convening Meeting of CoC

The IBBI issued a clarification on April 16, 2021 regarding convening a meeting of the CoC. The creditors representing 33% of the voting share may request the RP to convene a meeting of the CoC. Such request shall include a note proposing the matters to be discussed or issues to be voted upon, along with relevant documents, if any. On receipt of the request, the RP shall forthwith convene a meeting of the CoC for consideration of



the note or place the note for consideration in a meeting of the CoC, if it is already scheduled. Where a request is made by members having less than 33% of voting share, the RP shall consider the request expeditiously on merits.

### Crowdsourcing of Ideas

The IBBI, vide a press release dated June 17, 2021, invited comments from the public, including the stakeholders on all the Regulations notified under the IBC till date. This enables stakeholders contemplate important issues in the extant regulatory framework that hinder transactions and offer alternate solutions to address them. This is akin to crowdsourcing of ideas. This enables every idea to reach the regulator. Consequently, the universe of ideas available with the regulator would be much larger and the possibility of a more conducive regulatory framework would be much higher. The comments received between June 17, 2021 and December 31, 2021 shall be processed together and following the due process, Regulations will be modified to the extent considered necessary.

## Reserve Bank of India

### Resolution Framework 2.0

The RBI, vide a notification dated May 5, 2021, announced certain measures in view of the uncertainties created by the resurgence of the COVID-19 to minimise the stress on individuals and MSMEs in repayment of loans. The framework includes debt restructuring of stressed individuals, small businesses and MSMEs having aggregate exposure of up to ₹ 25 crore. The RBI also allowed lenders to carry out a fresh round of restructuring of retail and MSME accounts. The resolution process will be invoked in 30 days and the last day for invocation will be September 30, 2021. Thereafter, the resolution plan will be implemented within 90 days or latest by December 31, 2021. The moratorium period on loans will be for a maximum of two years, starting soon after invocation.

Further the RBI, vide circular dated June 4, 2021, revised the aggregate exposure threshold as set out in the May 5, 2021 notification, from ₹ 25 crore to ₹ 50 crore.

### Committee on Asset Reconstruction Companies

The RBI, vide a press release dated April 19, 2021, announced setting up of a committee to undertake a comprehensive review of the working of Asset Reconstruction Companies (ARCs) in the financial sector ecosystem and recommend suitable measures for enabling such entities to meet the growing requirements of the financial sector. The terms of reference of the Committee are: (a) Review of existing legal and regulatory framework applicable to ARCs and recommend measures to improve efficacy of ARCs; (b) Review of role of ARCs in resolution of stressed assets including under IBC; (c) Suggestions for improving liquidity in and trading of security receipts; (d) Review of business models of the ARCs; and (e) Any other matter relevant to the functioning, transparency and governance of ARCs. On April 28, 2021 the said Committee invited views and suggestions on the above aspects from ARCs, market participants and other stakeholders latest by May 31, 2021.

## Orders

### Supreme Court

#### Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited & Ors. [CA No. 8129/2019]

The Supreme Court (SC) held that the 2019 amendment to section 31 of the Code is clarificatory and declaratory in nature and is, therefore, effective from the date on which the Code came into effect. Even without the amendment, the Central Government, any State Government, or any local authority to whom a debt is owed, including the statutory dues, is covered by the term 'creditor' and in any case, by the term 'other stakeholders' as provided in section 31 (1) and hence resolution plan is binding on them. The legislative intent of making the resolution plan binding on all the stakeholders is that after the approval of the resolution

plan, no surprise claims should be flung on the successful resolution applicant. It should start with fresh slate based on the resolution plan approved. Once a resolution plan is duly approved by the AA under section 31(1), the claims as provided in the resolution plan shall stand frozen and will be binding on the CD and its employees, members, creditors, including the Central Government, any State Government or any local authority, guarantors, and other stakeholders. On the date of approval of resolution plan by the AA, all such claims, which are not a part of resolution plan, shall stand extinguished and no person will be entitled to initiate or continue any proceedings in respect to a claim, which is not part of the resolution plan.

#### Asset Reconstruction Company (India) Ltd. Vs. Bishal Jaiswal & Anr. [CA No. 323/2021]

The SC observed that section 18 of the Limitation Act, 1963 extends the period of limitation where an acknowledgment of debt has been made in writing and signed by the CD in view of section 238A of the Code which uses the expression 'as far as may be' governing the applicability of the Limitation Act to the Code. It noted that there is a compulsion of law to prepare a balance sheet but no compulsion to make any admission of debt. It held that the acknowledgement of debt in the balance sheet extends the period of limitation under section 18 of the Limitation Act, 1963. However, it would depend on the facts of each case as to whether an entry made in a balance sheet qua any creditor is unequivocal or has been entered into with caveats, which would establish whether an acknowledgement of liability has, in fact, been made. Accordingly, the SC set aside the majority decision of the full bench of the NCLAT in *V. Padmakumar Vs. Stressed Assets Stabilisation Fund* and held that the minority judgement has reached the correct conclusion.

#### Sandeep Khaitan, Resolution Professional Vs. JSVM Plywood Industries Ltd. & Anr. [Criminal Appeal No. 447/2021]

Based on an FIR by the RP to the effect that ₹ 32.5 lakh has been transferred, in violation of section 14 of the Code, by the former MD of the CD to the bank account of a related party (RI), the ICICI Bank created a lien upon said bank account. RI filed a petition under section 482 of CrPC challenging the FIR lodged by the appellant. The High Court (HC), by the impugned order, granted interim relief, lifting the lien on the bank account, subject to certain conditions. While allowing the appeal, the SC observed that the power under section 482 of CrPC may not be available to the Court to countenance the breach of a statutory provision. The words 'to secure the ends of justice' in section 482 of CrPC cannot mean to overlook the undermining of a statutory dictate, which in this case is the provisions of sections 14 and 17 of the Code.

#### In Re Cognizance for Extension of Limitation [MA No. 665/2021 in SMW(C) No. 3/2020]

Taking *suo moto* cognizance of the situation arising out of the challenge faced on account of COVID-19, vide order dated March 23, 2020, the SC had extended the period of limitation prescribed under the general or special laws. On taking note of the country returning to normalcy, vide order dated March 8, 2021, it brought the extension of limitation to an end and excluded the period from March 15, 2020 till March 14, 2021 (pandemic period) from the limitation period.

Taking judicial notice of the extraordinary situation caused by the sudden and second outburst of COVID-19 virus, vide order dated April 27, 2021, in exercise of its powers under Article 142 read with Article 141 of the Constitution of India, the SC restored its earlier order dated March 23, 2020 and directed that the limitation prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings, whether condonable or not, shall stand excluded till further orders.

#### India Resurgence ARC Private Limited Vs. M/s. Amit Metaliks Limited & Anr. [CA No. 1700/2021]

A dissenting FC filed appeal on the ground that the resolution plan approved by the AA and the NCLAT failed the test of being *feasible and*



*viable*. It contended that after amendment of section 30(4) of the Code (with effect from August 16, 2019), the CoC was to ensure that the manner of distribution considers the priority and value of the security interest of a secured creditor; and the resolution applicant and the CoC having failed to consider the existing security interest in its favour, approval of the AA was not in accordance with law. The SC concurred with the observation of the NCLAT that amendment to section 30(4) only amplified the considerations for the CoC while exercising its commercial wisdom to take an informed decision regarding the viability and feasibility of resolution plan; and the business decision taken in exercise of the commercial wisdom of CoC does not call for interference unless creditors belonging to a class being similarly situated are denied fair and equitable treatment. It did not find denial of fair and equitable treatment or disregard of priority. It observed that once it is found that all the mandatory requirements have been duly complied with, the process of judicial review which remains limited within the four-corners of section 30(2) of the Code, cannot be stretched to carry out quantitative analysis *qua* a particular creditor or any stakeholder, who may carry his own dissatisfaction. In the scheme of Code, every dissatisfaction does not partake the character of a legal grievance.

While dismissing the appeal, the SC held that a dissenting secured FC like the appellant cannot suggest a higher amount to be paid to it with reference to the value of the security interest. It has not been the intent of the legislature that a security interest available to a dissenting FC over the assets of the CD gives him some right over and above other FCs to enforce the entire of the security interest and thereby bring about an inequitable scenario, by receiving excess amount, beyond the receivable liquidation value proposed for the same class of creditors. If the propositions suggested by the appellant were to be accepted, the result would be that rather than insolvency resolution and maximisation of the value of assets of the CD, the processes would lead to more liquidations, with every secured FC to stand on dissent. Such a result would be defeating the very purpose envisaged by the Code and cannot be countenanced.

**Lalit Kumar Jain Vs. Union of India & Ors. [TC (Civil) No. 245/2020]**

The SC held that the notification dated November 15, 2019, issued by the Central Government that brought into force the provisions relating to personal guarantors (PGs) to CDs, is legal and valid. There is no compulsion in the Code that it should, at the same time, be made applicable to all individuals or not at all. The Central Government has followed a stage-by-stage process of bringing into force the provisions of the Code, regard being had to the similarities or dissimilarities of the subject matter and those covered by the Code. The notification extended the provisions of the Code to PGs to CDs, as another category of persons. There was sufficient legislative guidance for the Central Government, before the 2018 Amendment was made effective, to distinguish and classify PGs separately from other individuals. Parliamentary intent is to treat PGs differently from other categories of individuals. The intimate connection between such individuals and corporate entities to whom they stood guarantee, as well as the possibility of two separate processes being carried on in different fora, with its attendant uncertain outcomes, led to carving out PGs as a separate species of individuals, for whom the AA was common with the CD to whom they had stood guarantee. The fact that the process of insolvency in Part III is to be applied to individuals, whereas the process in relation to CDs set out in Part II is to be applied to such corporate persons, does not lead to incongruity.

The SC further held that approval of a resolution plan relating to a CD does not operate as a discharge of the liabilities of its PG. Language of section 31 of the Code makes it clear that the approved plan is binding on the guarantor, to avoid any attempt to escape liability under the provisions of the Contract Act, 1872 and such approval does not *ipso facto* discharge a PG to CD of her/ his liabilities under the contract of guarantee. The release or discharge of a principal borrower from the debt owed by it to its creditor, by an involuntary process, i.e., by operation of law, or due to

liquidation or insolvency proceeding, does not absolve the surety/guarantor of his or her liability, which arises out of an independent contract.

**National Company Law Tribunal and Appellate Tribunal Bar Association Vs. Ministry of Corporate Affairs & Ors. [WPs (Civil) No(s). 510/2021]**

The petitioners sought a direction to the MCA to fill up the vacancies of Chairman, NCLAT President of NCLT and Members of NCLT and to issue appointment letters to those who have already been selected. Vide its order dated May 24, 2021, the SC directed that the names recommended by the Selection Committee shall be finalized by the Government and appointments to the post of Members, NCLT shall be made forthwith. It also directed the Government to expedite the process for filling up the remaining posts without any further delay. It suggested that re-appointment of Members of NCLT who are about to retire should be considered at the earliest.

Vide its order dated May 31, 2021, the SC observed that since the Government has already initiated the process of reappointment by writing to the Hon'ble Chief Justice, it is expected that the reappointment process should be completed expeditiously, as there is no necessity of issuance of any advertisement for participation of other eligible candidates. Further, reappointment of members can be considered separately without waiting for the process of fresh appointments to commence. While directing the Government to complete the process at the earliest and not later than two months, it observed that the depleting strength of the members of the NCLT and NCLAT would be detrimental to the smooth functioning of the Tribunals.

**High Courts**

**M/s. Ruchi Soya Industries Ltd. Vs. Union of India & Anr. [WP No. 31090/2015]**

The petitioner had challenged the date of effect of a notification relating to rate of duty. It made an alternate submission that it has undergone CIRP during the pendency of the petition. Since the respondent did not participate in the said CIRP, all its rights stood extinguished. The Madras HC opined that a tax once determined in accordance with law is a sovereign debt. It can never be operational debt. Sovereign debt cannot be altered by any authority, whether by the Court or under a private arrangement. Corporate re-structuring under the Code cannot waive or extinguish sovereign debts. It, however, noted that the SC in *Ghanashyam Mishra and Sons Vs. Edelweiss Asset Construction*, has taken a different view and it is bound by the said view of the SC. It observed: "*The entire tax administration of the country is now in a pell-mell. All the tax authorities will have to make a beeline before the NCLT every time to recover tax dues if under any circumstance, proceedings are initiated against corporate debtor under the Code. This was not the intention when the Act was enacted.*"

**Sirpur Paper Mills Limited Vs. I.K. Merchants Pvt. Ltd. [AP No. 550/2008]**

The petitioner submitted that the proceeding under section 34 of the Arbitration and Conciliation Act, 1996 has become infructuous as the management of the petitioner company has been taken over by a new entity through CIRP. Relying on decisions of the SC in several matters, the Calcutta HC observed that pre-existing and undecided claims which have not featured in the collation of claims and consequent consideration by the RP shall be extinguished upon approval of the resolution plan under section 31 of the Code. It further observed that an OC who fails to lodge a claim in the CIRP literally missed boarding the claims-bus for chasing the fruits of an award even where a challenge to the award is pending in a Civil Court.

**M/s. Dreams Infra India Pvt. Ltd. Vs. The Competent Authority Dreamz Infra India Pvt. Ltd. [WP No. 13477/2020]**

An authority constituted under section 5(1) of the Karnataka Protection

of Interest of Depositors in Financial Establishment Act, 2004 initiated a proceeding under section 7 of the Act against the petitioner and attached all the properties of the petitioner since 2018. The petitioner sought a writ of certiorari to quash the said proceedings and direct the respondent to handover the properties to the RP of the CIRP which commenced on August 20, 2019. The Karnataka HC, relying on the decisions of the SC in several matters, held that the provisions of the Code have an overriding effect over other laws, in view of section 238 of the Code. Accordingly, it quashed the proceedings against the petitioner.

**Union of India & Ors. Vs. M/s. Ruchi Soya Industries Ltd. [Writ Appeal No. 2575/2018]**

The appellant was aggrieved by the judgment (of the Single Judge) that held that the reassessment of duty at 12.5% was illegal. The respondent sought dismissal of the appeal in view of interpretation of section 31 of the Code by the SC in the case of *Ghanashyam Mishra*. While dismissing the appeal, the Karnataka HC observed that if the resolution plan approved by the AA does not include a claim(s) of the Central/ State Government or local authority, the said claim stands extinguished. It noted that crown debts do not take precedence even over secured creditors, who are private persons. The provisions of the Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

**Gouri Prasad Goenka Vs. State Bank of India [WPO No. 171/2021]**

The petitioner challenged the show cause notices (SCNs) issued by SBI to him to show cause as to why he should not be declared as willful defaulter. He submitted that since no notice of willful default can be served on the CD in view of moratorium, no notice could be served on its suspended promoter/director. The Calcutta HC observed that the petition is premature as no right has been infringed by issuance of a SCN. It noted that section 14(3)(b) of the Code clearly carves out an exception for a surety in a contract of guarantee to a CD from the purview of moratorium. It held that moratorium creates no hindrance to a proceeding for declaration of a willful defaulter. An act of willful default is not obliterated automatically by commencement of CIRP. While dismissing the petition, it held that the impugned SCNs are not vitiated.

**ABRJ Foods Pvt. Ltd. Vs. Supriyo Kumar Chaudhuri, Liquidator, JVL Agro Industries Limited & Ors. [WP (C) 5991/2021]**

The petitioner sought a direction to the Liquidator to revise/extend the timelines for the e-auction sale of the old edible oil stock of the CD and to IBBI to issue necessary guideline/regulations for liquidators under section 196(1) of the Code regulating the process of sale of assets during liquidation process to deter Liquidators from issuing unreasonable terms, conditions, and timelines of sale. The Delhi HC noted that the e-auction process document states that any dispute arising out of or in relation to the e-auction process shall be exclusively subjected to the exclusive jurisdiction of the AA, courts, and tribunals at Allahabad. In view of clear jurisdiction of Allahabad Court, the HC at Delhi dismissed the petition.

**National Company Law Appellate Tribunal**

**Technology Development Board Vs. Mr. Anil Goel & Ors. [CA (AT) (Ins) No. 731/2020]**

The AA held that the inter-se priorities amongst the secured creditors would remain valid and prevail in distribution of assets in liquidation. On appeal, the NCLAT observed that whether a secured creditor holds the first charge or second charge is material only if it elects to realise its security interest. A conjoint reading of sections 52 and 53 of the Code leaves no room for doubt that the legislature in its wisdom thought it proper to provide an option to the secured creditor armed with a security interest to choose out of the two options, namely, either enforce security interest against the asset out of liquidation estate which is the subject of security interest or relinquish the same and claim as secured creditor in the manner set out under section 53(1)(b)(ii) ranking equal to other secured creditors. First charge holder will have priority in realising its

security interest if it elects to realise its security interest and does not relinquish the same. However, if it opts to relinquish its security interest, the distribution of assets would be governed by the section 53(1)(b)(ii) whereunder all secured creditors having relinquished security interest rank equally. It set aside the impugned order.

Note: The order of NCLAT has been stayed by the Hon'ble SC vide its order dated June 29, 2021.

**The Directorate of Enforcement Vs. Sh Manoj Kumar Agarwal, RP & Ors. [CA (AT) (Ins) No. 575/2019]**

The AA permitted the RP to take charge of the properties attached under the provisions of the Prevention of Money Laundering Act, 2002 (PMLA) and to deal with them under the Code as if there is no attachment order. The appellant submitted that since the attachment had been confirmed by the AA under the PMLA, the RP should have approached the Appellate Tribunal and not the AA. The NCLAT observed that the proceeding before AA under PMLA for confirmation of attachment is civil in nature and section 14 of the Code hits institution and continuation of proceedings before the said AA. While both PMLA and the Code are special statutes having an overriding effect, the Code, being a subsequent statute, will prevail. It held that there is no conflict between PMLA and IBC and where a property of the CD has been attached in the PMLA, if CIRP is initiated, the property should become available to fulfil objects of the Code.

**Union of India Vs. Vijaykumar V. Iyer [CA (AT) (Ins) No. 733/2020]**

The NCLAT answered the questions framed in the judgment dated September 1, 2020 of the SC in *Union of India Vs. Association of Unified Telecom Service Providers of India*: (a) Spectrum is a natural resource and the Government is holding the same as cestui que trust; (b) Spectrum, being intangible asset of the Licensee, can be subjected to insolvency proceedings; (c) Dues of Central Government under the licence are operational dues; (d) Defaults in payment of spectrum acquisition cost are operational dues; (e) Dues payable to licensor are operational dues; (f) Natural resource would not be available for use without payment of dues; (g) Triggering of CIRP by the CD with the object of wiping off of such dues, not being for insolvency resolution, but with malicious or fraudulent intention, is not permissible; (h) The Licensees have the right to use spectrum under licence granted to them. They cannot be said to be the owners in possession of the spectrum but only in occupation of the right to use spectrum. Ownership of spectrum belongs to people, with Government only being its Trustee. Possession correlates with the ownership right; (i) The IRP is bound to monitor the assets of the CD and manage its operations, take control and custody of assets over which the CD has ownership rights, including intangible assets, which includes right to use spectrum; (j) Trading in intangible assets like use of spectrum derives strength from the terms and conditions of the Licence Agreement, which vests in Licensee a right to transfer or assign the licence with prior written approval of the Licensor and subject to fulfillment of conditions, which include payment of past dues in full till the date of transfer; (k) While a licence can be transferred as an intangible asset of the Licensee under insolvency proceedings in ordinary circumstances, however as the trading is subjected to clearance of dues by seller or buyer, as the case may be, the transferor/seller or transferee/buyer being in default, would not qualify for transfer of licence under the insolvency proceedings; (l) Spectrum cannot be utilized without payment of requisite dues which cannot be wiped off by triggering CIRP; (m) The defaulting Licensees cannot be permitted to wriggle out of their liabilities by resorting to triggering of CIRP, not for purposes of resolution but fraudulently and with malicious intent of withholding the huge arrears payable to Government, obtaining moratorium to abort Government's move to suspend, revoke or terminate the licences and in the event of a resolution plan being approved, subjecting the Central Government to be contended with the peanuts offered to it as OC within the ambit of distribution mechanism; and (n) Having regard to the Tripartite Agreement according priority / first charge to Department of Telecommunications, the spectrum cannot be treated as a security interest by the lenders.



**Ashish Mohan Gupta Vs. The Liquidator of M/s. Hind Motors India Ltd. (In Liquidation) [CA (AT) (Ins) No. 875/2019]**

The appellant, who is the promoter and director of the CD, M/s. Hind Motors India Ltd., filed this appeal on several grounds *inter alia* that the Liquidator instead of reviving the CD through settlement under section 230 of the Companies Act, 2013 sought to close the business of the CD. On appeal, the NCLAT noted that considerable delay leading to erosion of value is taking place because of effort to push in provisions of section 230 of the Companies Act, 2013 at the stage of liquidation. It is apparent that the appellant and the management, who brought about the situation, where the three companies are in liquidation, is trying to take over these companies through a scheme where there is no infusion of additional funds, and the liabilities are sought to be discharged in the name of amalgamation. This is not in tune with expectations of a resolution under the Code. Accordingly, the appeal was dismissed.

**Next Orbit Ventures Fund Vs. Print House (India) Pvt. Ltd. & Ors. [CA (AT) (Ins) No. 417/2020]**

The Appellant submitted that the AA has erred in approving a resolution plan which completely changed the nature of the business of the CD. The NCLAT concurred with the appellant that resolution process is not an auction or a recovery proceeding. It held that the decision as to how the insolvency is to be resolved and the mode and manner of restructuring of debt will only emanate from the deliberations of CoC in response to the current economic and market scenario. It observed that 'going concern' does not mean that the nature of the business cannot be changed with an objective to 'add value' or 'create synergy'. It held that if the resolution plan contemplates a change in the nature of business to another line when the existing business is obsolete or non-viable, it cannot be construed that the resolution plan is not 'feasible or viable'. Accordingly, it dismissed the appeal.

**New Okhla Industrial Development Authority Vs. Mr. Anand Sonbhadra, RP [CA (AT) (Ins) No. 1183/2019]**

The AA decided that the lease entered between the appellant and the CD is not a financial lease and hence the appellant is not an FC. The NCLAT, in view of the Indian Accounting Standards, noted that when lease involves real estate (like land in present matter) with a fair value different from its carrying amount, the lease can be classified as a finance lease if the lease transfers ownership of the property to the lessee with substantially all the risks and also rewards incidental to ownership of the asset. In the present case, while the risks and liabilities were transferred to the lessee, the rewards incidental to ownership were not transferred. The appellant, even after creating the lease kept with itself all the rights to control and monitor the upcoming project. While dismissing the appeal, the NCLAT held that such lease does not fit in with the requirements of Indian Accounting Standards and cannot be considered as a financial lease.

**M/s. Renganayaki Agencies Vs. Sreenivasa Rao Ravinuthala, RP [CA (AT) (CH)(Ins) No. 23/2021]**

Even though the resolution plan of the successful resolution applicant has been approved by the CoC with 100% voting share, the AA held a view that there is scope for further improvement of the resolution amount and, therefore, directed the RP to take fresh bids from the two - successful and the unsuccessful - resolution applicants and select one of them. The NCLAT found this direction clearly unsustainable and set aside the same in furtherance of substantial cause of justice.

**Directorate of Economic Offences Vs. Binay Kumar Singhania & Ors. [CA (AT) (Ins) No. 935/2020]**

The AA had directed the appellant to de-attach all the properties of CD attached under the West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2013 (WBPIDFE) and to restore possession thereof to the Liquidator. On appeal, the NCLAT observed that the WBPIDFE relates to fraudulent deposits accepted by a company, which fails to make repayment of deposit along with interest, while section 14 of the Code is not applicable to any criminal proceeding. In this matter

moratorium was declared after the properties were attached. It held that section 14 of the Code has no overriding effect on section 3 of the WBPIDFE. It further held that for invoking the bar against proceeding against property of the CD, there must be a resolution plan approved under section 31 of the Code, which is not the case in this matter.

**Kanwar Raj Bhagat Vs. Gujarat Hydrocarbons and Power SEZ Ltd. & Anr. [CA (AT) (Ins) No. 1096/2020]**

The corporate guarantor (CG) underwent CIRP, where resolution plan dealt with claims of the FC partly. The FC filed an application for initiation of CIRP of the CD, which was admitted. A former director of the CD and the successful resolution applicant of CIRP of CG preferred appeal against said admission. The NCLAT recalled that it has, in *State Bank of India Vs. Athena Energy Ventures Pvt. Ltd.*, held that an FC can simultaneously or one after another initiate CIRP against the CD as well as CG. Therefore, application under section 7 against the CD for the same debt and default is maintainable. On perusal of the approved resolution plan of the CG, the NCLAT noted that it cannot be said that the FC accepted the amount in full and final settlement of all its dues. Therefore, application under section 7 is maintainable against the CD for the same debt and default and the FC can recover the remaining dues from the CD, though its right of recovery of debt against the CG is extinguished.

**Regional Provident Commissioner Vs. Vandana Garg, RP & Anr. [CA (AT) (CH) (Ins.) No. 50/2021]**

The AA approved the resolution plan of the CD which waives off a major portion of the provident fund dues owed by the CD. The appellant contended that waiving off the provident fund dues is not only the violation of section 11 of the Employees Provident Fund and Miscellaneous Provision Act, 1952, which lays down the priority of charge of Provident Fund dues but also violation of sections 36 (4) (a) (iii) and 30 (2) (e) of the Code which lay down that the provident fund dues are outside liquidation estate. The NCLAT noted that the appellant, despite filing a claim of ₹ 1,95,01,301, has raised a claim of ₹ 2,84,69,797, much higher than the amount claimed by it before the RP. Its claim admitted by RP had been considered in the resolution plan which has been approved by the AA in conformity with section 30 (2) of the Code. It has not provided any reason or justification for raising the enhanced claim of ₹ 2,84,69,797. Relying on *Ghanashyam Mishra and Sons Private Limited Vs. Edelweiss Asset Reconstruction Company Limited*, the NCLAT held that the claims as provided in the resolution plan shall stand frozen and will be binding on the CD and all stakeholders and on approval of the resolution plan, all such claims that are not a part of the resolution plan shall stand extinguished. Accordingly, the appeal was dismissed.

**Union Bank of India Vs. Kapil Wadhawan & Ors. [CA (AT) (Ins) No. 370/2021]**

The Administrator of DHFL filed an application with the AA seeking approval of resolution plan. Without deciding the application, the AA, by an order, directed the Administrator to place the 2<sup>nd</sup> settlement proposal of promoters of the CD before the CoC for its consideration, decision, and voting and to inform the outcome of the same within 10 days to the AA. It also declined the request for stay of this order. On appeal, the NCLAT observed that the CIRP reached the stage of approval of resolution plan by the AA and there would be no end if such reversals are allowed. It stayed the impugned order with advice to the AA to dispose of application of the Administrator at the earliest.

**Executive Engineer Uttar Gujrat VIJ Company Ltd. Vs. Mr. Devang P Samapat, RP [CA (AT) (Ins) No. 371/2021]**

The appellant filed an application claiming recovery of electricity charges during CIRP. The AA observed that it is part of insolvency resolution process cost (IRPC) which shall be considered at the time of considering the resolution plan, if any, or at the time of liquidation of the CD and hence the application is not maintainable. While declining to admit the appeal, the NCLAT observed that if the supply is for managing the operations of the CD, the supply cannot be interrupted during moratorium except

where CD has not paid dues arising from such supply during the moratorium. However, in this matter, supply was used for running of office and security of CD. Hence, charges for such supply will be part of the IRPC, which can be recovered when the resolution plan is approved or would be as per waterfall provisions in section 53 in the event of the liquidation.

**Jayanta Banerjee Vs. Shashi Agarwal and Anr. [CA (AT) (Ins) No. 348/2020]**

This appeal is against the order of liquidation of the CD. The NCLAT found several deficiencies and irregularities in CIRP: the CoC was constituted based on claims of FCs without verification; the CoC was constituted without admitting the claims of the FCs; the CoC included related parties who were assigned 77% voting share; the valuation of the assets of the CD was not conducted; IM was not prepared; transaction and forensic audit was not conducted; Form G inviting Expression of Interest (EoI) was not issued; etc. The NCLAT expressed grave concern that liquidation was approved by the CoC where related parties had 77% vote share. It held that CoC is a nullity in the eye of law and that has vitiated the CIRP. When the constitution of CoC is tainted, the decision of the CoC cannot be validated on the pretext of exercise of commercial wisdom. While setting aside the order of liquidation, it held that the RP failed to discharge his duties and responsibilities cast on him under the Code and the Regulations. Since the RP was not impartial in the conduct of the CIRP, it directed for change of the RP. It directed to send a copy of the order to IBBI for action(s), which may be deemed fit, against the RP.

**Martin S.K. Golla Vs. Wig Associates Pvt. Ltd. & Ors. [CA (AT) (Ins) No. 121/2019]**

The IBBI as a respondent opposed the process adopted by the appellant in conduct of CIRP. It submitted that the resolution applicant, who is a corporate guarantor, is ineligible under section 29A to submit a resolution plan. An OTS submitted by the resolution applicant was treated as resolution plan and approved by the CoC and then by the AA. Relying on *Swiss Ribbons Private Limited and Another Vs. Union of India and Ors.* and section 29A read with provision to section 30(4), the NCLAT observed that the settled law is that the ineligibility attaches at the time when the resolution plan is submitted by the resolution applicant. It held that the resolution plan submitted by the corporate guarantor could not have been acted upon and that the RP erred in presenting the same before the CoC. It quashed the impugned order and remitted the matter to the AA to pass an order of liquidation.

**Earth Gracia Buildcon Pvt. Ltd. Vs. Earth Infrastructure Ltd. [CA (AT) (Ins) No. 351/2020]**

The AA declined to admit an application filed under section 7, as it held that the transactions are sham and involved round tripping of the huge amount. The NCLAT upheld the findings of the AA with an observation that the transactions are sham in nature and do not qualify as financial debt.

**The Assistant Commissioner of Central Tax Vs. Mr. V. Shanker, RP & Ors. [CA (AT) (Ins) No. 56/2021]**

The appellant appealed against the approval of the resolution plan without inclusion of its claim. The NCLAT observed that the appellant did not file its claim within time. Even though advised by the RP to get delay condoned by moving the AA, the appellant sent a letter to AA. The NCLAT further observed that sending a letter cannot be said to be in compliance with Part III of the NCLT Rules, 2016, or section 60 of the Code or Rules and Regulations made thereunder. It accordingly dismissed the appeal.

**Harish Polymer Product Vs. Mr. George Samuel, RP & Anr. [CA (AT) (Ins) No. 420/2021]**

The AA declined to condone delay for submission of claims. On appeal, the NCLAT observed that if new claims keep popping up and are

entertained at belated stage when the resolution applicants are already before the CoC with their resolution plan(s), the CIRP would be jeopardized. Keeping in view the object of the Code which is resolution in a time bound manner to maximize value, it dismissed the appeal.

**M/s. Manipal Media Network Ltd. Vs. M/s. Vishwakshara Media Pvt. Ltd. [CA (AT) (Ins) No. 369/2020]**

The AA dismissed an application filed under section 9 on the ground of a pre-existing dispute. The NCLAT noted that while the precise amount of debt in default is disputed, the amount in default is more than ₹ 1 lakh, which is the threshold for maintainability of the application, is not in dispute. It observed that while there is dispute about the rate of interest claimed by the appellant, it does not significantly alter the quantum of unpaid debt, which remains above ₹ 1 lakh. It, therefore, held that the application is maintainable and remitted the matter to the AA for admission.

**Dwarkanadhish Sakhar Karkhana Ltd. Vs. Pankaj Joshi, RP & Anr. [CA (AT) (Ins) No. 233/2021]**

The AA set aside the decision of CoC accepting the EoI of the appellant after due date and deprecated the conduct of RP. The NCLAT held that as per section 30 of the Code, approval of resolution plan by CoC considering its feasibility and viability is a commercial decision. However, the decision of CoC to allow the appellant to file EoI after due date is not a commercial decision. It observed that the RP failed to explain that his actions were *bona fide*. It is expected that an RP must act in a fair and balanced manner without getting influenced by the conflicting interest of the parties. As the RP suppressed the material facts and misguided the CoC to achieve the desired decision in favour of the appellant, the adverse remarks made by the AA against the RP are not baseless and uncalled for. Accordingly, the appeals were set aside.

## National Company Law Tribunal

**Basavaraj Koujalagi & 82 Ors. Vs. Sumit Binani, Liquidator of Gujarat NRE Coke Ltd. [IA No. 865/KB/2020 in CP (IB) No. 182/KB/2017].**

Workers of the Dharwad Unit of the CD filed an application with two prayers, a direction to the Liquidator to pay the dues of the workers and employees in a regular and timely manner, and to restrain him from taking any coercive action for closing the operations of the plant at Dharwad. As regards the first prayer, the AA observed that it is satisfied that the Liquidator has made payments of wages of all workmen and employees in full till September 23, 2020 on the basis of wages sheet for August, 2020. Owing to limited cash flow, the Liquidator has paid ₹ 15,000 to employees drawing up to ₹ 30,000 and paid in full to employees drawing salary up to ₹ 15,000 for September, 2020. The Liquidator cannot be expected to foot the bill from his own pocket in the absence of adequate cash flows to the CD. As regard the second prayer, the AA observed that at some point of time, hard decisions are called for in the life of a company. Unviable units will have to be closed. An objective of the Code is to free up resources of unviable companies by permitting an easy exit. It cannot be misconstrued to keep unviable units afloat by some sleight of hand under the guise of keeping it as a going concern, thereby defeating a key objective of the Code. It directed the Liquidator to proceed with the sale of assets of the CD without further ado. It held that actions taken in good faith by a public servant always enjoy protection under the law, and the IBC is no different, providing for the same under section 233 of the Code.

**IDBI Bank Limited Vs. EPC Constructions India Limited. [IA 1623/2019 in CP (IB) 1832/MB/C-II/2017]**

The Monitoring Agency and the erstwhile RP, with authorisation by majority of members having 72.42% voting share in the erstwhile CoC, filed an application to initiate fresh CIRP for the CD and invite fresh resolution plans for consideration by the CoC as the resolution applicant has failed to implement the plan as approved by the AA. The AA observed



that if no resolution plan is approved by the CoC/AA within the prescribed timeline / the extended timeline; automatic next step is only liquidation of the CD. While dismissing the application, it ordered liquidation of the CD and appointed the RP as Liquidator.

**Mr. Kapil Wadhawan Vs. The Administrator, Dewan Housing Finance Corporation Limited & Ors. [IA 2431/2020 in CP (IB) 4258/MB/C-II/2019]**

A promoter of the CD sought a direction to CoC to consider its 2<sup>nd</sup> settlement proposal and take a decision thereon. The AA noted that the settlement proposal, which offers approximately ₹ 91,158 crore, which is substantially higher (150% more) than ₹ 37,250 crore offered by the highest bidder, needs due consideration by the CoC. It observed that it is conscious of the fact that it has concluded hearing on the resolution plan of the successful resolution applicant (SRA). However, it would take some time to decide several IAs in the matter. It directed the Administrator, in the meantime, to place the 2<sup>nd</sup> settlement proposal before the CoC for its consideration and report the decision within 10 days. It issued the direction in the interest of justice, equity, balancing of interest, interest of various stakeholders, and maximisation of value of assets of the CD, the special situation and to avoid further litigations by the applicant approaching appellate forums and smooth process of considering the plan.

**SBER Vs. Varrsana Ispat Ltd. [IA No. 1014/KB/2020 in CP (IB) No. 543/KB/2017]**

Varssana Employee Welfare Association filed an application with several prayers. The AA observed that the prayer for refund of fee has become infructuous as Mr. Anil Goel, Liquidator has refunded fee of ₹ 1.5 crore taken by him into the account of the CD. It, however, noted that Mr. Goel did not refund the fee of ₹ 1.5 crore out of any change of heart but because of the order passed by the Disciplinary Committee (DC) of the IBBI, following a complaint. As regards prayer for inclusion of representative of the workmen and employees on the Stakeholders Consultation Committee (SCC), it held that there is no question of including a representative, since they do not have a subsisting claim. The list of stakeholders prepared by Liquidator in accordance with regulation 31 of the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations) cannot be populated with everyone and it is restricted to those who have an existing claim. On the next prayer relating to constitution of SCC, the AA found the constitution unlawful. It directed the Liquidator to take steps immediately to reconstitute the SCC in a manner consistent with regulations 31 and 31A.

**M/s. UKG Steel Private Limited Vs. M/s. Erotic Buildcon Private Limited [(IB)/1050(PB)/2020]**

While considering an application under section 7, the AA observed that the applicant is neither a Bank/NBFC nor a body corporate recognised by RBI for carrying out financial business. It found that the loan extended by the applicant was contrary to the limit prescribed under the Companies Act, 2013, which amounts to an *ultra vires* act. Hence, the loan advanced by the applicant is not a legally enforceable debt. The application was dismissed as misconceived.

**M/s. National Agriculture Cooperative Marketing Federation Limited Vs. M/s. Synergy Petro Products Private Limited [(IB)/1106(PB)/2020]**

An application under section 7 was filed on the ground that the CD defaulted in repaying the arbitral award. The AA noted that the arbitral award was passed based on a rental agreement. Rental lease agreement can be operational debt but not financial debt. It dismissed the application as the applicant does not qualify to be an FC in relation to the CD.

**STCI Finance Limited through Subash Chandra Modi, RP [IA No. 264/2021 in CP No. (IB) 4147/MB/2019]**

The applicant submitted an application filed under section 12A for

withdrawal of CIRP. The AA noted that the CoC has decided to postpone issue of EoI, Form G ten times and no approval for the same was obtained from AA. The CoC postponed it on the pretext of settlement, while the AA has already granted an exclusion of 135 days for completion of CIRP. The AA observed that as per the settlement agreement, the suspended directors will sell the assets of the CD, which is under moratorium, to settle the outstanding dues. Thus, they will be participating in the affairs of the CD which is prohibited when moratorium is in force. The AA held that by exercising the commercial wisdom, the CoC cannot avoid compliance with the provisions of the Code and Regulations thereunder. It accordingly dismissed the application.

**R. Subramaniakumar, Administrator Vs. Committee of Creditors & Anr. [IA No. 449/MB/C-II/2021 in CP(IB)No. 4258/MB/C-II/2019]**

The AA approved the resolution plan for the DHFL, the only financial service provider undergoing CIRP. The resolution plan provides a total resolution amount of ₹ 33,250 crore, comprising of a combination of cash and non-cash consideration. The AA, however, suggested to the CoC to consider better distribution for some creditors. It felt appropriate to appoint an Observer-Cum-Permanent Invitee in the Monitoring Committee to ensure smooth functioning and change over to the successful resolution applicant and accordingly appointed Mr. Ashok Kakkar for this purpose with an advice that he shall be suitably paid fee for his professional services and other fringe benefits be extended to him.

**Siemens Financial Services Pvt. Ltd. Vs. Vinod Sehwaig [IA 1774/ND/2021 in CP No. (IB)-116(ND)/2021]**

An application was filed under section 95 for initiation of insolvency resolution process of the PG. The AA appointed the RP and directed him the order to examine the application and make recommendation along with the reasons in writing for acceptance or rejection of the same. The PG has submitted that the AA passed the order *ex parte* and without issuing notice to him. The AA held that initiation of the interim moratorium under section 96 causes no prejudice to the PG. It further held that the intention of legislature is not to make this AA a trial court at the time of appointing RP under section 97. The scheme of Part III of the Code does not warrant issuance of notice at the stage of appointing RP under section 97 and it does not amount to violation of the principles of natural justice.

**M/s. State Bank of India Vs. Mr. Subrata M. Maity [IA/515/2021 in IBA/307/2019]**

A member of CoC challenged the resolution plan, which was approved with 100% vote share, alleging procedural irregularities on the part of the RP. It submitted that it voted in favour of the plan '*under protest*' to avoid liquidation. The AA held that the application is not maintainable as it has voted in favour of the resolution plan. There must be an absolute clarity from the CoC members, whether to vote for or against a resolution plan and there should never be any ambiguity on the viability of the plan. If the applicant is unable to arrive at a conclusion regarding the resolution plan, there is lack of clarity in the commercial wisdom of the applicant. The CoC members, who have acted in favour of the resolution plan cannot be allowed to come up with a new commercial wisdom regarding the viability of the plan and the procedural lapses of the RP. Such allowances would lead to absolute chaos and no resolution plan can be completed on time.

**Ram Ratan Modi, RP Vs. ICICI Bank [IA No. 1477/KB/2020 in CP (IB) No. 184/KB/2018]**

Two accounts of CD were frozen by the respondent in pursuance of notices issued by the Income Tax Authorities and EPFO. The AA directed the release of attachment and defreezing of account of the CD with immediate effect. It observed: "*What pains us is to see such applications being filed so often even after the point of law stands settled in this regard. One of the objects of the Code is to conduct the CIRP in a time bound manner, therefore, to save the time, upon coming to knowledge of the order of admission of the corporate debtor into CIRP, the statutory authorities should*

withdraw their direction of attachment from the assets of the corporate debtor.”

**In the matter of Videocon Industries Ltd. & Ors. [IA 196/2021 in CP (IB) 02/MB/C-II/2018]**

Considering interdependencies of the CDs and obligor and co-obligor structure, the AA had passed an order directing consolidation of CIRP of the 13 CDs. The CoC approved resolution plan of Twin Star Technologies. The plan envisages merger of 11 CDs into Videocon Industries Limited and one company to be made its subsidiary. While approving the said resolution plan, the AA noted that the plan provides for only 4.15% of the total outstanding claims and the hair cut to creditors is 95.85%. It observed: “Therefore, the Successful Resolution Applicant is paying almost nothing and 99.28% hair cut is provided for Operational Creditors (Hair cut or Tonsure, Total Shave).” It requested both CoC and the successful resolution applicant to increase the pay-out amount for OCs.

The AA expressed doubt about the confidentiality of valuations. It advised the IBBI to examine this issue in depth to ensure the confidentiality clause is followed scrupulously. It also expressed a concern about 20 plus persons accompanying the RP to meetings of the CoC, in addition to his legal counsel, indicating either he is not fully prepared or to give monetary benefits (fees) to these persons. It advised the IBBI to examine this issue and issue appropriate guidelines in this regard. The AA felt it appropriate to appoint an Observer-Cum-Permanent Invitee in the Steering Committee to ensure smooth functioning and change over to the successful resolution applicant and accordingly appointed Mr. P. K. Agarwal for this purpose with an advice that he shall be suitably paid for his professional services and other fringe benefits be extended to him.

**Ankit Agrawal & Ors. Vs. Devang Samrat, RP [MA No. 4004/MB/2019 in CP (IB) No. 619/MB/2018]**

The members of the former management of the CD filed an application seeking payment of their salaries. The AA noted that it has already ordered liquidation of the CD and appointed Mr. Divyesh Desai as the Liquidator. In view of the order of liquidation, the applicants should approach the Liquidator with proper details of their claims in respect of the salary dues for the CIRP period. The claim relating to pre-CIRP period has to be filed as an OC and the Liquidator should consider the same in accordance with law.

**Atul Rajwadkar, Liquidator Vs. Ranjan Agarwal & Anr. [IA No. 20/2021 in CP (IB) No. 1397/MB/2017]**

The CD in liquidation is the owner of a mall, where the respondent was a licensee of a shop unit. Due to the nationwide imposition of lockdown, the Liquidator waived 90% of license fees. The respondent not only refused to make the payment but also claimed to terminate the agreement by invoking the *force majeure* clause. The Liquidator filed an application seeking direction to the respondent to handover the vacant possession of the shop unit. The AA observed that the detailed appraisal of the terms and conditions of the lease and their ramifications including application of the *force majeure* clause would require an incisive judicial enquiry. It would not be possible to go into an enquiry in a summary proceeding as the present one. Since the CD is under CIRP, it would not be appropriate for the respondent to continue in the lease premises as such continuance in the shop would thwart the resolution process and would frustrate the object of the Code. The AA accordingly directed the respondent to handover the vacant possession of the shop unit to the Liquidator. The Liquidator may approach the appropriate judicial authority for realisation of the outstanding rent, if any, from the respondent.

**State Bank of India Vs. Jet Airways (India) Ltd. [IA No. 2081/2020 in CP (IB) No. 2205/MB/2019]**

The AA approved the resolution plan voted by CoC with a majority of 99.22% voting share, subject to certain conditions and directions. In view

of uncertainty in the effective date, it suggested the effective date to be 90 days from the date of its approval. As regards slots, it observed that the CD was not in operations on the date of commencement of CIRP and it was not run as a going concern during the CIRP. Therefore, the protection of the licenses and concessions from termination or suspension would not be available to the CD. It held that the guidelines indicate that the allotment of slots is not automatic and needs to be sought by the Airline twice a year respectively for the summer and winter seasons. Once the slots are not used by particular Airline or vacated by it, the same is immediately allotted to another in order to optimize airport capacity. A slot at airport could not be left idle. Therefore, though the slots are integral to the operation of an Airline, the same, however, cannot be held as assets of the Airline. Keeping in view the purpose of insolvency resolution, the AA, however, trusted that the authorities concerned, including the Government of India, shall take a holistic approach and provide necessary assistance to the SRA in terms of the guidelines in allocation of slots as and when they are sought, so that the Airlines takes off the ground and possibly regains its lost glory.

**Sintex Plastics Technology Ltd. Vs. Zielem Industries Pvt. Ltd. & Anr. [IA 18 (AHM)/2021 in CP (IB) 759 (AHM) 2019]**

While allowing an application of withdrawal, the AA concluded that in a situation where CoC is not formed after admission of CD into CIRP, rule 11 of NCLT Rules under the Companies Act, 2013, and not regulation 30A of the CIRP Regulations, shall apply to withdrawal of CIRP. It observed that a situation, which is not covered under section 12A, cannot be covered under regulation 30A of the CIRP Regulations. However, the AA can exercise inherent jurisdiction under rule 11 for a situation not covered under any provisions of the Code.

**Kamla Industrial Park Limited Vs. Monitoring Committee of Corporate Debtor & Anr. [IA No. 1077/2020 in CP (IB) No. 1329/MB/2017]**

On October 16, 2019, the AA approved a resolution plan. RoC insisted that SRA must file all previous annual returns and accounts. The SRA sought the waiver of the same. It also requested that it should not be required to use XBRL for filings which is a requirement for companies having share capital exceeding ₹ 5 crore and its share capital has come down to ₹ 1.05 lakh pursuant to the resolution plan. RoC submitted that it has no authority to waive the statutory compliances mandated in the Companies Act, 2013. The AA noted that it is settled that when the technical considerations are pitted against the substantial justice, the latter is preferred, and that procedure is the handmaid of justice and not meant to hamper the cause of justice. It permitted the SRA to approve the accounts and returns of CD for the prior period and file the same within three months. This shall not invite any penalty whatsoever from the RoC. Further, the RoC shall consider accepting returns and accounts in physical form.

**Central Information Commission**

**Nipun Singhvi Vs. Central Public Information Officer, IBBI [CIC/NCLTD/A/2019/147403]**

The appellant had sought names of IPs who are undergoing disciplinary proceedings. The CPIO declined to provide the information under section 8(1)(h) of the RTI Act, 2005. The appellant submitted that IPs being court officers, the parties have a right to know the names and any disciplinary proceedings initiated against any such officer should be known to public so that they are not appointed by any party as their IRPs. The Central Information Commission (CIC) found the order of the First Appellate Authority (FAA) is a very detailed and reasoned order that disciplinary proceeding is considered as pending against an IP from the time he has been issued a SCN till disposal by the DC and for such period the IP concerned is not allowed to take any new assignment under the Code. Thus, the concern that these IPs may be appointed by the AA is not



valid. Further, sufficient checks have been built into the process to prevent such IPs from being appointed under the Code. Disciplinary proceedings are quasi-judicial in nature and any disclosure of the names of IPs against whom such proceedings are ongoing would impede the investigation process. The CIC upheld the order of the FAA.

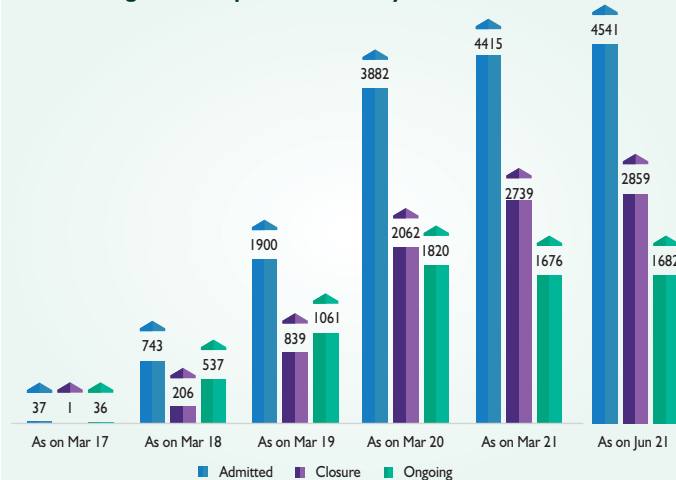
## Corporate Processes

The data used in this section relating to corporate processes are provisional. These are getting revised on continuous basis 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.

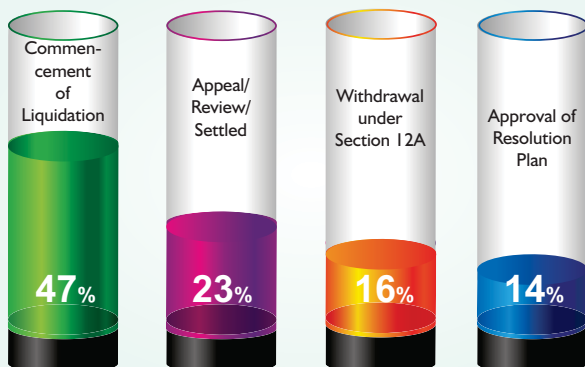
### Insolvency Resolution

The provisions relating to CIRP came into force on December 1, 2016. Since then, a total of 4541 CIRPs have commenced by the end of June, 2021, as presented in Figure 1. Of these, 2859 have been closed. Of the CIRPs closed, 653 have been closed on appeal or review or settled; 461 have been withdrawn; 1349 have ended in orders for liquidation; and 396 have ended in approval of resolution plans (Figure 2). Sectoral distribution of CDs under CIRP is presented in Figures 3-6.

■ Figure 1: Corporate Insolvency Resolution Process ■

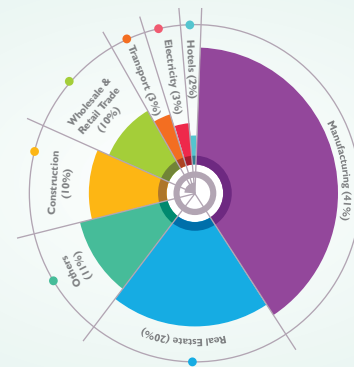


■ Figure 2: Mode of Closure of CIRPs ■

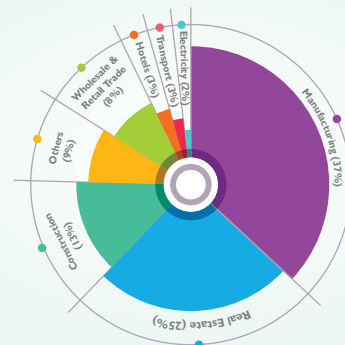


These CIRPs are in respect of 4447 CDs.  
This excludes 1 CD which has moved directly from BIFR to resolution.  
Source: Compilation from website of the NCLT and filing by IPs.

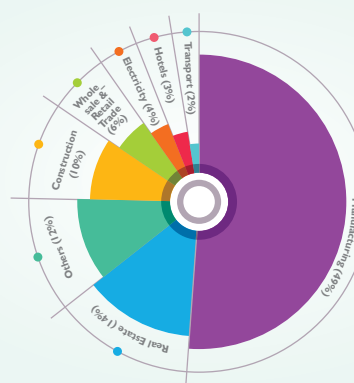
■ Figure 3: Sectoral Distribution of CIRPs: Admission ■



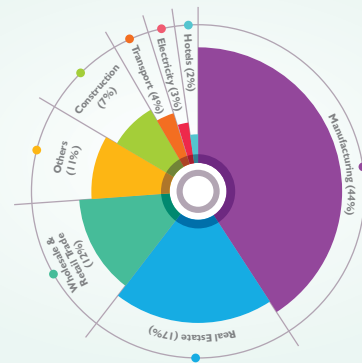
■ Figure 4: Sectoral Distribution of CIRPs: Appeal/Review/Settled/Withdrawn ■



■ Figure 5: Sectoral Distribution of CIRPs: Resolution Plans ■

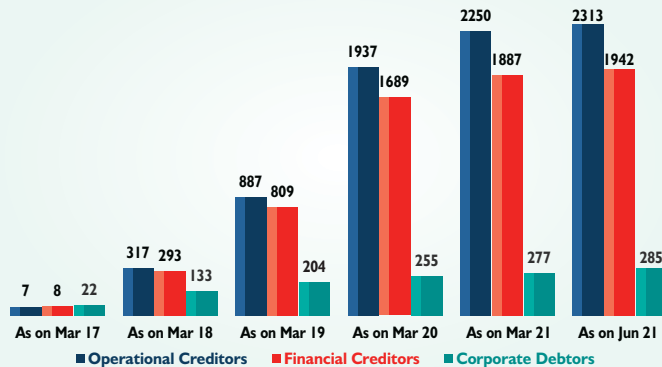


■ Figure 6: Sectoral Distribution of CIRPs: Commencement of Liquidation ■



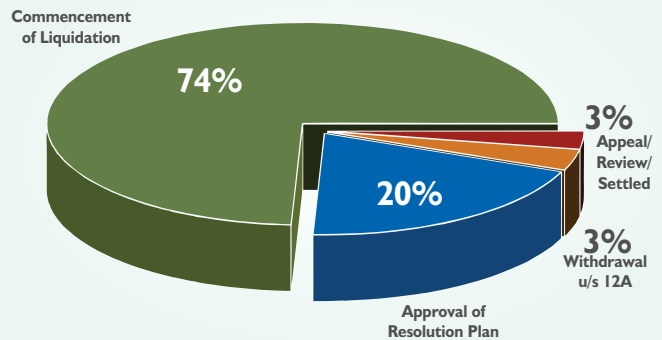
The distribution of stakeholder-wise initiation of CIRPs is presented in Figure 7. OCs triggered 50.93% of the CIRPs, followed by about 42.77% by FCs and remaining by the CDs. However, about 80% of CIRPs having an underlying default of less than ₹ 1 crore, were initiated on applications by OCs, while about 80% of CIRPs, having an underlying default of more than ₹ 10 crore, were initiated on applications by FCs. The share of CIRPs initiated by CD is declining over time. They usually initiated CIRPs with very high underlying defaults.

**Figure 7: Stakeholder-wise Distribution and Trends of Initiation of CIRPs**

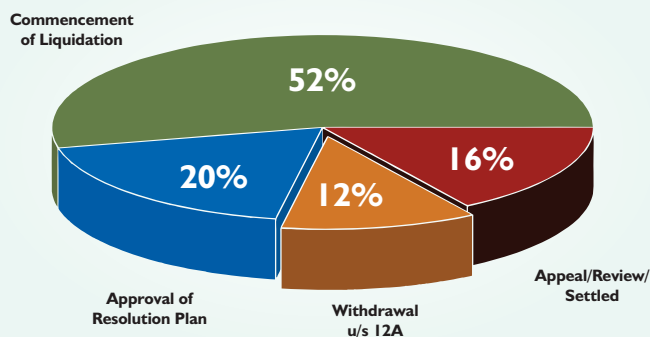


The outcome of CIRPs, initiated stakeholder-wise, as on June 30, 2021 is presented in Figures 8-10. Of the closed, OC initiated CIRPs, more the 50% were closed on appeal, review, or withdrawal. Such closures accounted for about 71% of all closures by appeal, review, or withdrawal.

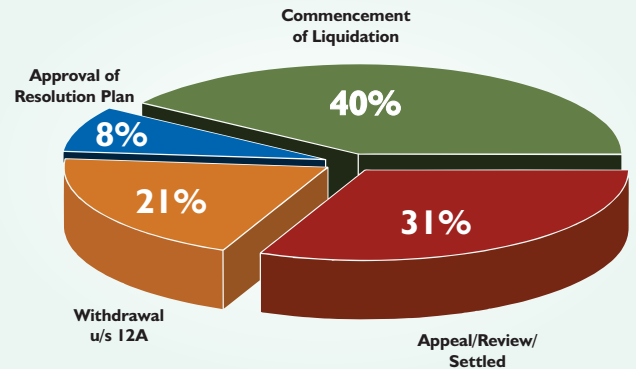
**Figure 8: Distribution of Closed CIRPs - Initiated by CDs**



**Figure 9: Distribution of Closed CIRPs - Initiated by FCs**

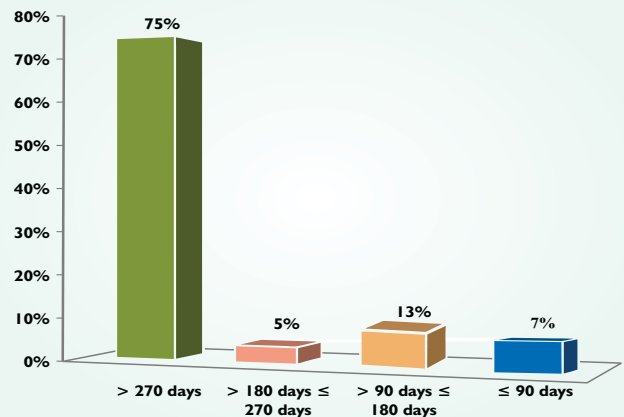


**Figure 10: Distribution of Closed CIRPs - Initiated by OCs**



The status of ongoing CIRPs as on June 30, 2021 in terms of time taken is presented in Figure 11.

**Figure 11: Timeline: Ongoing CIRPs**



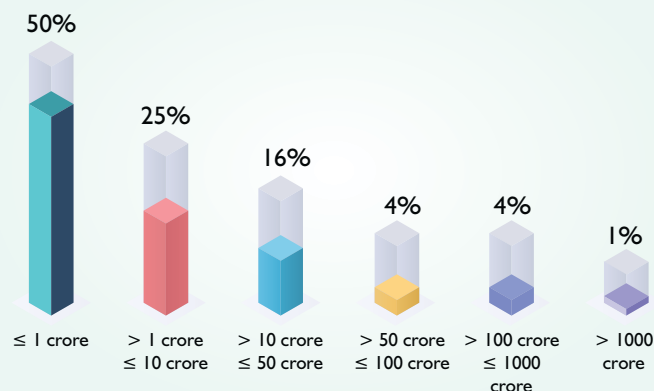
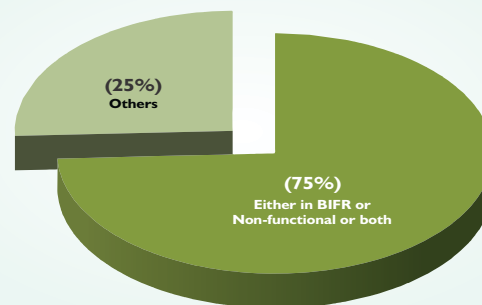
## Withdrawals under Section 12A

Till June, 2021, a total of 461 CIRPs have been withdrawn under section 12A of the Code. The reasons for withdrawal and distribution of claims in these CIRPs are presented in Figure 12 and 13. Almost three fourth of these CIRPs had claims of less than ₹ 10 crore.

**Figure 12: Reasons for Withdrawal of CIRPs**





**Figure 13: Distribution of CIRPs Withdrawn (as per Admitted Claims)****Figure 14: CIRPs ending with Order of Liquidation: State of CD at the Commencement of CIRP**

## Resolution Plans

About 47% of the CIRPs, which were closed, yielded orders for liquidation, as compared to 14% ending up with a resolution plan. However, 75% of the CIRPs ending in liquidation (1011 out of 1349) were earlier with Board for Industrial and Financial Reconstruction (BIFR) and/or defunct (Figure 14). The economic value in most of these CDs had almost completely eroded even before they were admitted into CIRP. These CDs had assets, on average, valued at around 7% of the outstanding debt amount.

Till March, 2021, 348 CIRPs had yielded resolution plans as presented in the last newsletter. 13 more CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table I. During April - June, 2021, 36 CIRPs (including CIRPs of 13 CD in Videocon group resolved together) yielded resolution plans with different degrees of realisation as compared to the liquidation value as presented in Part B of Table I and one CIRP that had yielded resolution earlier was ordered for liquidation. During the quarter, realisation by FCs under resolution plans in comparison to liquidation value is 127.94%. Till June 30, 2021, realisation by FCs under resolution plans in comparison to liquidation value is 167.95%, while the realisation by them in comparison to their claims is 36%. It is important to note that out of the 396 CDs rescued through resolution plans, 127 were in either BIFR or defunct.

**Table I: CIRPs Yielding Resolution Plans**

Sl.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Amount (in ₹crore)			Realisable by FCs as % of Admitted Claims	Realisable by FCs as % of Liquidation Value
						Admitted Claims of FCs	Liquidation Value	Realisable by FCs		
Part A: For Prior Period (Till March 31, 2021)										
1	Delsea Exports Private Limited	No	09-03-20	18-12-20	OC	6.24	4.18	3.77	60.45	90.20
2	Mutiwal Pulp and Board Mills Private Limited	No	21-05-19	04-01-21	FC	571.13	20.22	24.00	4.20	118.69
3	VBC Industries Limited	No	13-04-18	07-01-21	FC	176.32	96.92	57.00	32.33	58.81
4	M V Omni Projects (India) Limited	No	29-08-19	28-01-21	OC	237.38	7.40	34.67	14.61	468.51
5	Technopak Advisors Private Limited	No	21-08-19	08-02-21	OC	37.08	5.87	18.50	49.89	315.16
6	Mahi Corporation Private Limited	Yes	21-08-19	01-03-21	FC	6.04	1.08	1.84	30.46	170.37
7	Transstroy Tirupati- Tiruthani- Chennai Tollways Private Limited	No	03-06-19	05-03-21	FC	626.98	275.08	215.00	34.29	78.16
8	VS Lignite Power Private Limited	No	18-09-19	16-03-21	OC	993.45	162.27	170.00	17.11	104.76
9	Noble Ispat & Energies Limited	Yes	26-08-19	19-03-21	FC	318.74	8.85	47.45	14.89	536.16
10	Trans-Fab Power India Private Limited	No	30-08-19	25-03-21	OC	19.14	6.11	10.50	54.86	171.85
11	Amar Remedies Limited	No	16-06-17	25-03-21	CD	850.92	17.73	29.09	3.42	164.12
12	Techtran Polylenes Limited	Yes	22-04-19	26-03-21	OC	2.89	10.55	2.29	79.24	21.71
13	GKC Projects Limited	No	21-11-19	30-03-21	FC	1682.00	85.69	428.69	25.49	500.28
Part B: For April - June, 2021										
1	UIC Udyog Limited	No	30-09-19	07-04-21	FC	466.62	29.48	30.50	6.54	103.46
2	Splendid Metal Products Limited	No	04-04-19	08-04-21	FC	3632.07	268.73	437.78	12.05	162.91
3	Solven Power Systems Private Limited	No	18-02-20	08-04-21	OC	5.40	3.08	5.40	100.00	175.32
4	Transafe Services Limited	No	21-11-19	09-04-21	FC	361.09	46.06	47.14	13.05	102.34
5	Sharan Hospitality Private Limited	No	08-05-19	15-04-21	OC	88.31	136.5	79.98	90.57	58.59
6	Transparent Energy System Private Limited	No	08-03-19	16-04-21	OC	58.23	11.43	13.27	22.79	116.10
7	Sanghvi Forging & Engineering Limited	No	30-08-19	26-04-21	FC	177.98	120.65	75.00	42.14	62.16
8	Lanco Hoskote Highway Limited	No	17-10-19	26-04-21	FC	648.28	110.78	196.70	30.34	177.56
9	RD Rubber Reclaim Limited	No	25-10-19	11-05-21	FC	24.45	13.93	7.92	32.39	56.86
10	AEON Manufacturing Private Limited	Yes	30-10-19	11-05-21	FC	106.70	7.51	9.01	8.44	119.95
11	Lemon Electronics Limited	Yes	27-02-20	13-05-21	OC	79.92	0.94	19.05	23.84	2026.60
12	Konkan Minerals Private Limited	Yes	16-08-17	19-05-21	CD	3.29	1.59	2.81	85.41	176.73
13	Gupta Infratec Private Limited	No	01-02-18	19-05-21	FC	3327.29	65.21	70.00	2.10	107.34
14	Krish (Raipur) Hotels Private Limited	No	30-09-19	19-05-21	FC	167.75	31.09	29.34	17.49	94.37
15	Pawan Impex Private Limited	No	25-07-19	31-05-21	FC	205.55	143.85	130.25	63.37	90.55
16	SVIIT Software Private Limited	No	25-07-19	31-05-21	FC	70.96	40.14	35.20	49.61	87.69
17	Wow Solution & System Private Limited	No	19-12-19	31-05-21	FC	1.52	1.10	1.52	100.00	138.18
18	Puma Realtors Private Limited	No	17-10-18	01-06-21	FC	293.44	279.5	293.44	100.00	104.99
19	Evocon Private Limited	No	29-05-19	04-06-21	OC	74.12	31.37	71.22	96.09	227.03
20	Dewan Housing Finance Corporation Limited	No	03-12-19	07-06-21	RBI	87082.99	26850.03	37160.97	42.67	138.40
21	Videocon Group*	No	06-06-18	08-06-21	FC	61770.17	2568.13	2898.00**	4.69	112.84
22	Shree Vindhya Cast Coaters Limited	Yes	31-05-19	21-06-21	FC	308.06	0.49	0.71	0.23	144.90
23	Vivita Limited	Yes	19-09-19	21-06-21	FC	1055.63	4.99	5.19	0.49	104.01
24	Jet Airways (India) Limited	No	20-06-19	22-06-21	FC	7453.63	2555.21	1010.16	13.55	39.53
Total (April - June, 2021)						167463.46	33321.79	42630.56	25.46	127.94
Total (Till June, 2021)						682397.11	146285.24	245679.79	36.00	167.95

Defunct: Not Going Concern / Erstwhile BIFR.

\*Videocon Group includes 13 CDs.

\*\* Additionally 8% equity and cash balance available with CD has also been provided under the resolution plan.

## Liquidation

Till March, 2021, a total of 1277 CIRPs had yielded orders for liquidation, as presented in the previous Newsletter. 10 more CIRPs were later reported as yielding orders for liquidation during that period. During the quarter April - June, 2021, 62 CIRPs ended in orders for liquidation, taking the total CIRPs ending in liquidation to 1349, excluding 11 cases where liquidation orders have been set aside by NCLT / NCLAT / HC / SC. Of these, final reports have been submitted in 254 cases. There are 1095 ongoing liquidation processes, whose status as on June 30, 2021 is presented in Figure 15.

Till March 2021, 138 liquidation processes were closed by dissolution / going concern sale / compromise or arrangement as presented in the last newsletter. Dissolution of five more CDs, which happened during the earlier period were reported later, as presented in Part A of Table 2. During April - June, 2021, 10 more liquidation processes were closed, taking total number of closures by dissolution / sale as going concern / compromise or arrangement to 153. The details of the same are presented in Table 2. At the end of June, 2021, 142 liquidations were closed by dissolution, six by going concern sale and five by compromise / arrangement.

Table 2: Details of Closed Liquidations

Sl.	Name of CD	Date of Order of Liquidation	Amount (in ₹ crore)				Date of Order of Dissolution / Closure
			Admitted Claims	Liquidation Value	Sale Proceeds	Distributed to Stakeholders	
Part A: For Prior Period (Till March 31, 2021)							
1	Pooja Tex-Prints Private Limited	29-11-17	0.18	0.09	0.08	0.04	06-10-20
2	Mack Telecom Services Private Limited*	04-02-21	2.93	NA	NA	NA	04-02-21
3	Delta Automobiles Private Limited	03-12-18	17.43	0.32	0.06	0	23-03-21
4	SECL Industries Private Limited	24-07-18	182.76	15.32	18.51 ^	18.51 ^	26-03-21
5	Max-Tech Oil & Gas Services Private Limited	12-06-18	254.71	3.32	3.34	1.88	31-03-21
Part B: For April - June, 2021							
1	Orbis Infinium Private Limited	07-08-20	0.04	0	0	0	05-04-21
2	Bhoomi Ginning Pressing Private Limited	09-12-19	20.11	2.50	3.63	3.43	08-04-21
3	Taksheel Solutions Limited	31-10-19	125.30	0.56	1.31 <sup>@@</sup>	1.11	26-04-21
4	Global Proserv Limited	29-08-18	25.49	2.98	2.98	2.54	29-04-21
5	Steel Konnect (India) Private Limited**	28-01-20	310.63	37.74	38.50	38.24	03-05-21
6	Business Jets India Private Limited	12-10-18	254.65	1.22	1.22	1.03	03-05-21
7	S R Breweries Private Limited	16-07-19	39.00	0.26	0.26 ^	0.19 ^	09-06-21
8	Shubham Industries Limited	10-01-20	NC	NA	NA	NA	09-06-21
9	Evershine Advisory Services Private Limited	30-01-20	161.77	0	0.06	NA	14-06-21
10	Chandra Royal Inn Private Limited	27-06-19	9.02	4.73	3.63	3.44	30-06-21
Total (April - June, 2021)			946.01	49.99	51.59	49.98	NA
Total (Till June 2021)			18917.31	719.58	706.96	672.10	NA

\* Direct Dissolution; Claims pertain to CIRP period.

NA means Not realisable/ saleable or No asset left for liquidation or Not applicable.

^ means an amount below two decimals.

^ Secured creditors decided not to relinquish the security interest.

<sup>@@</sup> Includes the security deposit refund received by CD from BSE Limited.

\*\* Compromise or arrangement under section 230 of the Companies Act, 2013.

NC means no claims received during CIRP/liquidation process.

## Sale as a Going Concern

Till June 30, 2021, six CDs, namely, M/s. Emmanuel Engineering Private Limited, M/s. K.T.C. Foods Private Limited, M/s. Southern Online Bio Technologies, M/s. Smaat India Private Limited, M/s. Winwind Power Energy Private Limited and M/s. Topworth Pipes & Tubes Private Limited were closed by sale as a going concern under liquidation process. These six CDs had claims amounting to ₹ 4325.16 crore, as against the liquidation value of ₹ 290.03 crore. The liquidators in these cases realised ₹ 336.76 crore and companies were rescued.

The AA passes an order for liquidation under four circumstances. As on June 30, 2021, 1349 orders for commencement of liquidation have been passed. The details of liquidation in these circumstances are presented in Figure 16.

Regulation 12 of the Liquidation Regulations requires the liquidator to make a public announcement calling upon stakeholders to submit their claims as on the liquidation commencement date (LCD), within 30 days from the LCD. The details of the claims admitted by the liquidators in 1194 liquidations, for which data are available, are presented in Table 3.

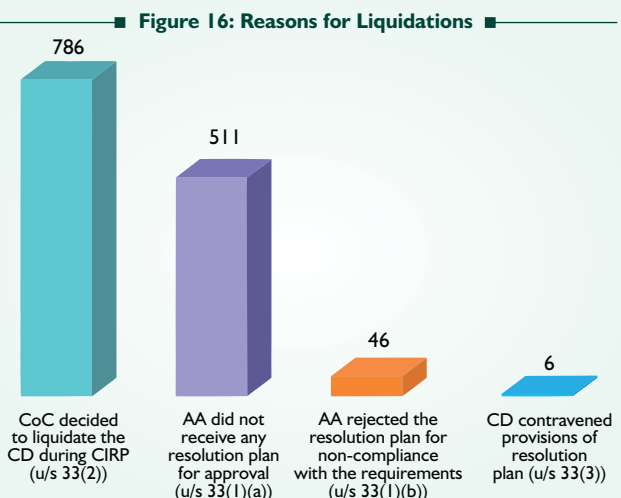
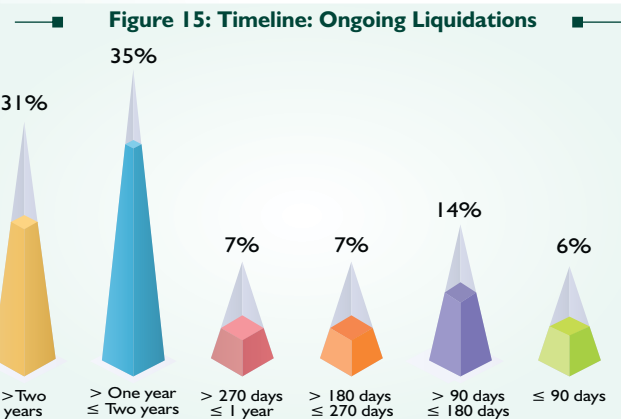




Table 3: Claims in Liquidation Process

Stakeholders under Section	Number of Claimants	Amount (in ₹ crore)			
		Admitted Claims	Liquidation Value	Sale Proceeds#	Distributed to Stakeholders
254 Liquidations where Final Report Submitted					
52	27	916.89	150.41	156.63	155.58
53 (I) (a)	NA	NA	1044.65	1050.50#	56.55
53 (I) (b)	1463	27429.44			911.11
53 (I) (c)	822	13.34			1.83
53 (I) (d)	285	1369.77			29.15
53 (I) (e)	198	2231.82			11.87
53 (I) (f)	943	1687.25			34.58
53 (I) (g)	4	11.54			0.10
53 (I) (h)	98	26.95			1.51
Total (A)	3840	33687.00	1195.06	1207.13#	1202.28
Ongoing 940 Liquidations*					
53 (I) (a)			33947.71 **	Not Applicable	Not Applicable
53 (I) (b)	37151	490101.58			
53 (I) (c)	29102	1293.29			
53 (I) (d)	9561	105312.58			
53 (I) (e)	1006	27036.87			
53 (I) (f)	1978766	32212.87			
53 (I) (g)	4	103.02			
53 (I) (h)	106083	2721.57			
Total (B)	2161673	658781.78			
Grand Total (A+B)	2165513	692468.78	35142.77		

# Inclusive of unclaimed proceeds of ₹4.85 crore under liquidation.

\*Data for other liquidations are not available.

\*\*Out of 1095 ongoing cases, liquidation values of only 1025 CDs are available. The aggregate liquidation value of 691 CDs estimated during liquidation process is ₹ 33947.71 crore and that of 334 CDs for which estimates made during CIRP is ₹ 12659.97 crore.

## Avoidance Transactions

The Code read with Regulations require the RPs and Liquidators to file applications for avoidance of transactions, with the AA seeking appropriate directions. 561 applications seeking avoidance of transactions have been filed with the AA till June 30, 2021, as presented in Table 4. In CIRP of Jaypee Infratech Limited, the matter in respect of avoidance transactions went up to SC which settled several issues and delineated duties of the RP in this regard. In this matter, application was made for claw back of total 858 acres of land (valued at ₹ 5500 crore). The CD got back 758 acres of land on disposal of avoidance application.

Table 4: Avoidance Transactions in Corporate Insolvencies

(Amount in ₹ crore)

Year of Filing/Disposal	Application filed during CIRP period in case of CIRPs closed by						Application filed during Liquidation period in case of Liquidations			
	Approval of Resolution Plans		Orders for Liquidation		Otherwise		No.		Amount	
	No.	Amount	No.	Amount	No.	Amount	No.	Amount	No.	Amount
2017 - 18	11	11936.80	12	5651.78	0	0	0	0	1	128.59
2018 - 19	47	17039.10	84	34408.60	10	1520.17	18	22395.73	22	9409.61
2019 - 20	46	11032.18	64	14836.15	6	303.30	18	5896.76	52	8147.69
2020 - 21	9	269.23	30	2213.65	7	1207.42	10	1198.72	78	8917.42
Apr - Jun, 2021	0	0	0	0	0	0	0	0	1	60.13
<b>Total</b>	<b>113</b>	<b>40277.31</b>	<b>190</b>	<b>57110.18</b>	<b>23</b>	<b>3030.89</b>	<b>46</b>	<b>29491.21</b>	<b>154</b>	<b>26663.43</b>

Data is based on validated information in 526 cases.

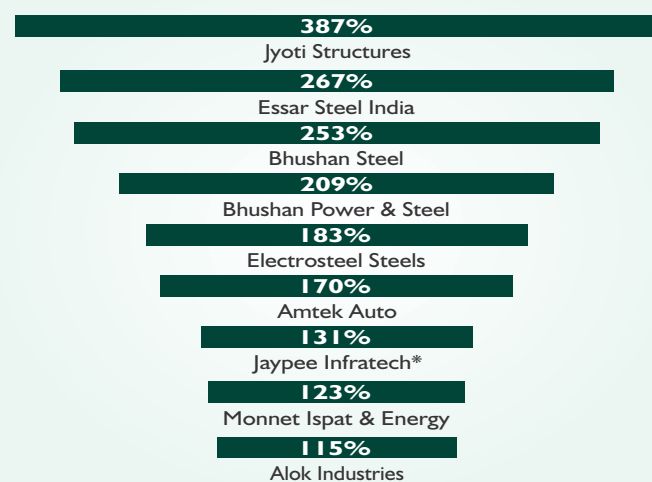
## Twelve Large Accounts

Resolution of 12 large accounts were initiated by banks, as directed by RBI. They had an aggregate outstanding claim of ₹ 3.45 lakh crore as against liquidation value of ₹ 73,220 crore. Of these, resolution plan in respect of nine CDs were approved and orders for liquidations were issued in respect of two CDs. Thus, CIRPs in respect of one CD and liquidation in respect of two CDs are ongoing and are at different stages of the process. The status of the 12 large accounts is presented in Figure 17.

## Resolution of FiSPs

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 financial service provider (FiSP) admitted for resolution under the Insolvency and Bankruptcy (Insolvency and

Figure 17: Realisation by the Claimants as a % of the Liquidation Value



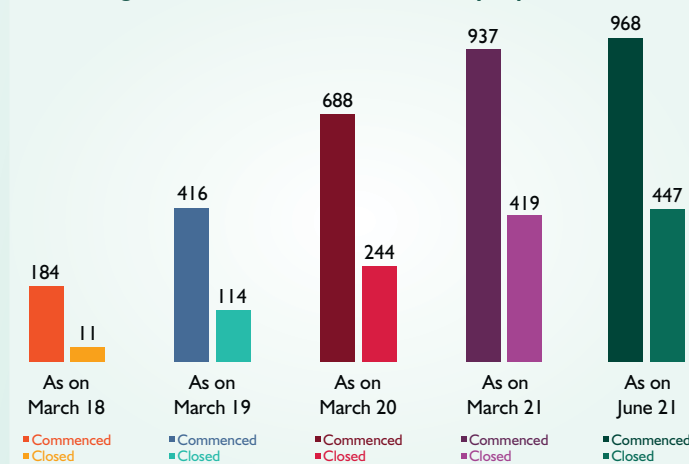
\* The resolution plan of resolution applicant Suraksha Realty has been approved by the CoC and awaits approval of the AA.

Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, which were notified on November 15, 2019. The AA, vide order dated June 7, 2021, approved the resolution plan submitted by Piramal Capital and Housing Finance Ltd.

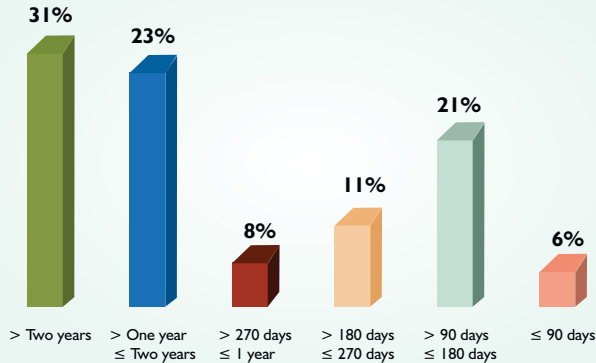
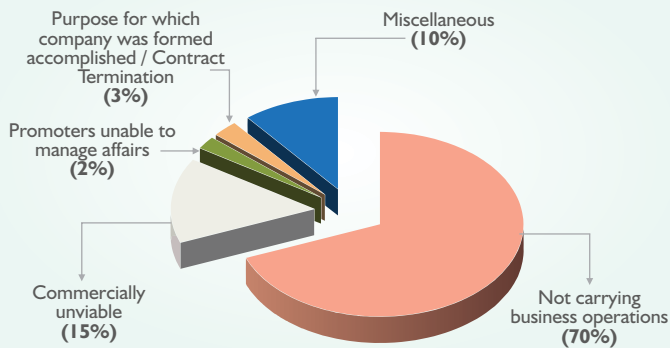
## Voluntary Liquidation

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, and (ii) the corporate person is not being liquidated to defraud any person. At the end of June 30, 2021, 968 corporate persons initiated voluntary liquidation (Figure 18). Final reports in respect of 438 voluntary liquidations have been submitted and nine processes have been withdrawn by June 30, 2021. The status of 521 ongoing voluntary liquidations is presented in Figure 19.

Figure 18: Commencement of Voluntary Liquidations



Of the 968 corporate persons that initiated voluntary liquidations till June 30, 2021, the reasons for these initiations are available for 860 cases, which are presented in Figure 20. Most of these corporate persons are small entities. 538 of them have paid-up equity capital of less than ₹ 1 crore. Only 108 of them have paid-up capital exceeding ₹ 5 crore. The corporate persons, for which

**Figure 19: Timeline of Ongoing Voluntary Liquidations**

**Figure 20: Reasons for Voluntary Liquidation**


details are available, have an aggregate paid-up capital of ₹ 6080 crore (Table 5).

It was reported in the last newsletter that dissolution orders were passed in respect of 226 voluntary liquidations. Dissolution orders in respect of 4 more voluntary liquidations, which were issued during the earlier period, were reported later, as indicated in Part A of Table 6. During the quarter April - June, 2021, dissolutions orders in respect of 11 voluntary liquidations were issued taking the total dissolutions to 241. These 241 corporate persons owed ₹ 10.52 crore to creditors and through voluntary liquidation process, they were paid full amount.

## Time for Conclusion of Processes

The average time taken for completion of various processes is presented in Table 7.

## Corporate Liquidation Accounts

The Regulations require a liquidator to deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon into the corporate liquidation account before he submits an application for dissolution of the corporate person. It also provides a process for a stakeholder to seek withdrawal from the said account. Similar provisions exist for voluntary liquidation processes. The details of these accounts at the end of June, 2021, are presented in Table 8.

## Summary of Outcomes

(a) The primary objective of the Code is rescuing lives of CDs in distress. The Code has rescued 396 CDs till June, 2021 through resolution plans, one third of which were in deep distress. However, it has referred 1349 CDs for liquidation. The CDs rescued had assets valued at ₹ 1.46 lakh crore, while the CDs referred for liquidation had assets valued at ₹ 0.49 lakh crore when they were admitted to CIRP. Thus, in value terms, around 75% of distressed assets were rescued. Of the CDs sent for liquidation,

three-fourth were either sick or defunct and of the firms rescued, one-third were either sick or defunct.

**Table 5: Details of 959 Voluntary Liquidations (Excluding Nine Withdrawals)**

Details of	No. of Liquidations	Amount (in ₹ crore)			
		Paid-up capital	Assets	Outstanding debt	Amount paid to creditors
Liquidations for which Final Reports submitted	438	1627*	3708	26	26
Ongoing Liquidations	521	4453#	2091	**	
<b>Total</b>	<b>959</b>	<b>6080</b>	<b>5799</b>	<b>**</b>	

\* Paid up capital is not available in case of one company as it is a company limited by guarantee.

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

# Paid up capital and assets of 418 and 409 cases, respectively, are available.

**Table 6: Realisations under Voluntary Liquidations**

Sl.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Realisation of Assets	Amount Due to Creditors	Amount Paid to Creditors	Liquidation Expenses	Surplus
<b>Part A: Prior Period (Till March 31, 2021)</b>								
1	LVS Marketing (India) Private Limited	21-08-17	02-07-20	0.90	0.47	0.47	0.41	0.02
2	Shashi Kaizen Industries Private Limited	24-09-19	19-03-21	0.93	-	-	0.03	0.90
3	Aviskar Meditech Private Limited	29-03-19	24-03-21	0.24	-	-	0.03	0.21
4	Voortman Steel Machinery India Private Limited	23-11-18	30-03-21	0.25	-	-	0.13	0.12
<b>Part B: April - June, 2021</b>								
1	Friction Fibre Technologies India Private Limited	30-09-19	13-04-21	0.55	-	-	0.11	0.44
2	Swayam Sales Agencies Private Limited	18-10-19	13-04-21	0.01	-	-	0.01	-
3	Lipika Collection Private Limited	31-12-18	13-04-21	0.20	-	-	0.02	0.18
4	Inmarco-Trem Seals Private Limited	11-03-19	16-04-21	0.28	-	-	0.05	0.23
5	Bakreswar Ispat Private Limited	09-10-19	22-04-21	0.04	-	-	0.02	0.02
6	PSI Incontrol Private Limited	23-01-20	26-04-21	0.10	0.01	0.01	0.08	-
7	Connate Insurance Surveyors and Loss Assessors Private Limited	10-09-18	26-04-21	0.21	-	-	0.03	0.19
8	Inuva Info Management Private Limited	09-08-18	03-05-21	0.18	0.03	0.03	0.05	0.09
9	Jurong Engineering (India) Private Limited	11-06-19	03-05-21	1.42	0.12	0.12	0.03	1.27
10	Emori (India) Trading Private Limited	21-01-19	05-05-21	0.40	-	-	0.40	-
11	Paul Hartmann Medical Private Limited	25-05-19	10-06-21	0.04	-	-	0.04	-
<b>Total (April - June, 2021)</b>				<b>3.43</b>	<b>0.16</b>	<b>0.16</b>	<b>0.84</b>	<b>2.42</b>
<b>Total (Till June, 2021)</b>				<b>2875.52</b>	<b>10.52</b>	<b>10.52</b>	<b>30.72</b>	<b>2834.25</b>

**Table 7: Average Time for Approval of Resolution Plans/Orders for Liquidation**

Sl.	Average time	As on March, 2020			As on March, 2021			April to June, 2021		
		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)		No. of Processes covered	Time (In days)	
			Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time
CIRPs										
1	From ICD to approval of resolution plans by AA	241	413	377	360	467	408	36	706	593
2	From ICD to order for Liquidation by AA	939	309	NA	1287	352	NA	62	580	NA
Liquidations										
3	From LCD to submission of final report under Liquidation	126	307	NA	246	414	NA	08	547	NA
4	From LCD to submission of final report under Voluntary Liquidation	237	324	NA	410	387	NA	28	456	NA
5	From LCD to order for dissolution under Liquidation	71	284	NA	143	401	NA	10	608	NA
6	From LCD to order for dissolution under Voluntary Liquidation	141	453	NA	230	516	NA	11	723	NA

**Table 8: Corporate Liquidation Accounts as on June 30, 2021**

(Amount in ₹ lakh)

Period	Opening Balance	Deposit during the period	Withdrawn during the period	Balance at the end of the period
<b>Corporate Liquidation Account</b>				
2019 - 20	0.00	476.26	0.21	476.05
2020 - 21	476.05	116.18	0.00	592.23
Apr - Jun, 2021	592.23	9.66	0.00	601.89
<b>Corporate Voluntary Liquidation Account</b>				
2019 - 20	0.00	109.70	0.00	109.70
2020 - 21	109.70	112.06	0.00	221.76
Apr - Jun, 2021	221.76	3.05	0.00	224.81



(b) The realisable value of the assets available with the 396 CDs rescued, when they entered the CIRP, was only ₹ 1.46 lakh crore, though they owed ₹ 7.56 lakh crore to creditors. The resolution plans realised ₹ 2.54 lakh crore, which is around 174% of the liquidation value of these CDs. Any other option of recovery or liquidation would have recovered at best ₹ 100 minus the cost of recovery/liquidation, while the creditors recovered ₹ 174 under the Code. The excess recovery of ₹ 74 is a bonus from the Code. Though realisation is incidental under the Code, the FCs recovered 36% of their claims, which only reflects the extent of value erosion by the time the CDs entered CIRP, yet it is the highest among all options available to creditors for recovery. Resolution plans on average are yielding 84% of fair value of the CDs. These realisations are exclusive of realisations that would arise from value of equity holdings post-resolution, resolution of PGs to CDs, and from disposal of applications for avoidance transactions.

(c) The 1349 CDs ending up with orders for liquidation had an aggregate claim of ₹ 6.93 lakh crore. However, they had assets, on the ground, valued only at ₹ 0.49 lakh crore. Till June, 2021, 254 CDs have been completely liquidated. Many of these CDs did not have any job or asset when they entered the IBC process. These included likes of Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹ 8,163 crore, while they had absolutely no assets and employment. These 254 CDs together had outstanding claims of ₹ 33687 crore, but the assets valued at ₹ 1195 crore. ₹ 1207 crore were realised through liquidation of these companies.

(d) A distressed asset has a life cycle. Its value gradually declines with time if distress is not addressed. The credible threat of the Code, that a CD may change hands, has changed the behaviour of debtors. Thousands of debtors are resolving distress in early stages of distress. They are resolving when default is imminent, on receipt of a notice for repayment but before filing an application, after filing application but before its admission, and even after admission of the application, and making best

effort to avoid consequences of resolution process. Most companies are rescued at these stages. Till June, 2021, 17,697 applications for initiation of CIRPs of CDs having underlying default of ₹ 5,46,763 crore were resolved before their admission. Only a few companies, who fail to address the distress in any of earlier stages, pass through the entire resolution process. At this stage, the value of the company is substantially eroded, and hence some of them are rescued, and others liquidated. The recovery may be low at this stage, but recovery in early stages of distress is much higher, and it is primarily because of the Code.

(e) The Code endeavours to close the various processes at the earliest. It prescribes timelines for some of them. The 396 CIRPs, which have yielded resolution plans by the end of June, 2021 took on average 419 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 1349 CIRPs, which ended up in orders for liquidation, took on average 362 days for conclusion. Further, 254 liquidation processes, which have closed by submission of final reports took on average 418 days for closure. Similarly, 438 voluntary liquidation processes, which have closed by submission of final reports, took on average 392 days for closure.

(f) Till June, 2021, a total of 396 CIRPs have yielded resolution plans. The cost details are available in respect of 367 CIRPs. The cost works out on average 0.94% of liquidation value and 0.52% of resolution value.

## Individual Processes

The provisions relating to insolvency resolution and bankruptcy relating to PGs to CDs came into force on December 1, 2019. As per the information received from IPs, 201 applications have since been filed as of June 30, 2021. Out of them, 17 applications have been filed by the debtors and 184 applications by the creditors under sections 94 and 95 of the Code, respectively. Among them seven have been filed before different benches of Debt Recovery Tribunal (DRT) and 194 have been filed before different benches of NCLT (Table 9).

Table 9: Insolvency Resolution of Personal Guarantors

(Amount in ₹ crore)

Period	Applications filed by						Total			Adjudicating Authority	
	Debtors (u/s 94)			Creditors (u/s 95)			Number	Debt Amount	Guarantee Amount	NCLT	DRT
	Number	Debt Amount	Guarantee Amount	Number	Debt Amount	Guarantee Amount					
2019 - 20	3	50.28	44.50	13	3252.99	4,452.08	16	3303.27	4496.58	15	1
2020 - 21	13	1301.78	596.47	115	25823.29	20404.15	128	27125.07	21000.62	122	6
Apr - Jun, 21	1	496.00	150.13	56	6937.43	8437.38	57	7433.43	8587.51	57	0
Total	17	1848.06	791.10	184	36013.71	33293.61	201	37861.77	34084.71	194	7

NA: Not Available.

Default data not available in 5 cases and Guarantee data not available in 11 cases.

## 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. The IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for issuance / renewal of AFA to the concerned IPA. Thereafter, an IPA processes such applications electronically. The details of IPs registered as on June 30, 2021 and AFAs held by them, IPA-wise, is presented in Table 10.

Table 10: Registered IPs and AFAs as on June 30, 2021

(Number)

City / Region	Registered IPs				IPs having Authorisation for Assignment			
	IIPI	ICSI IIP	IPA of ICAI	Total	IIPI	ICSI IIP	IPA of ICAI	Total
New Delhi	415	262	78	755	258	186	53	497
Rest of Northern Region	430	189	63	682	281	133	37	451
Mumbai	386	142	34	562	226	92	25	343
Rest of Western Region	291	111	38	440	197	74	25	296
Chennai	131	84	12	227	78	54	7	139
Rest of Southern Region	377	203	64	644	227	133	53	413
Kolkata	206	36	21	263	136	22	15	173
Rest of Eastern Region	64	25	8	97	38	17	6	61
Total Registered	2300	1052	318	3670	1441	711	221	2373

Of the 3689 IPs registered till date, registrations of four IPs have been cancelled through disciplinary action, and registrations of two IPs cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, 13 IPs have passed away since their registrations. The registrations and cancellations of registrations IPs, quarter wise, till June 30, 2021 are presented in Table 11

Table 11: Registration and Cancellation of Registrations of IPs

Year / Quarter	Registered at the beginning of the period	Registered during the period	Cancelled during the period on account of			Registered at the end of the period
			Disciplinary Process	Failing to Meet Eligibility Norms	Death	
2016 - 17 (Nov - Dec) #	0	977	0	0	0	977
2016 - 17	0	96	0	0	0	96
2017 - 18	96	1716	0	0	0	1812
2018 - 19	1812	648	4	0	0	2456
2019 - 20	2456	554	0	1	5	3004
2020 - 21	3004	506	0	1	5	3504
Apr - Jun, 2021	3504	169	0	0	3	3670
Total	NA	3689	4	2	13	3670

# Registrations with validity of six months. These registrations expired by June 30, 2017

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 12 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on June 30, 2021. Of the 3670 IPs as on June 30, 2021, 338 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 12: Distribution of IPs as per their Eligibility as on March 31, 2021

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1845	167	2012
Member of ICSI	534	108	642
Member of ICAI	170	16	186
Member of Bar Council	208	25	233
Managerial Experience	575	22	597
<b>Total</b>	<b>3332</b>	<b>338</b>	<b>3670</b>

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 13 presents the age profile of the IPs registered as on June 30, 2021.

## Panel for IPs

In accordance with the 'Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2021' (Guidelines) issued on June 1, 2021, the IBBI invited EoI from IPs for preparation of a panel of IPs for appointments during July 1, 2021 to December 31, 2021. In accordance with Guidelines, it prepared and shared with the AA (NCLT and DRT), on June 30, 2021, a panel of 483 IPs (who hold AFAs) valid for appointments for the period July 1, 2021 to December 31, 2021 (Table 14).

## 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 the 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 the AA, in a few cases, the IBBI receives references from the AA and promptly responds to it. Till June 30, 2021, as per updates available, a total of 1031 IRPs have been replaced with RPs, as shown in Figure 21. It is observed that IRPs in 42% of CIRPs initiated by CD are replaced by RPs, in 34% of CIRPs initiated by OCs and in 21% of CIRPs initiated by FCs.

## Insolvency Professional Entities

During the quarter under review, one IPEs was recognised. As on June 30, 2021, there were 84 IPEs (Table 15).

## Insolvency Professional Agencies

IPAs are front-line regulators and responsible for developing and regulating the insolvency profession. They discharge three kinds of functions, namely, quasi-legislative, executive, and quasi-judicial. The quasi-legislative functions cover laying down standards and code of conduct through bye-laws, which are binding on all members. The executive functions include monitoring, inspection, and investigation of professional members on a regular basis, addressing grievances of aggrieved parties, gathering information about their performance, etc., with the overarching objective of promoting best practices and conduct by IPs. The quasi-judicial functions include dealing with complaints against members and taking suitable disciplinary actions.

As on June 30, 2021, there are three IPAs registered in accordance with the Code and Regulations. The IBBI interacts with the MDs of the IPAs

Table 13: Age Profile of IPs as on June 30, 2021

(Number)

Age Group (in years)	Registered IPs				IPs having AFA				
	IIPI	ICSI IIP	IPA ICAI	Total	IIPI	ICSI IIP	IPA ICAI	Total	
≤ 40	261	65	7	333	171	49	4	224	
> 40 ≤ 50	809	369	51	1229	534	255	34	823	
> 50 ≤ 60	722	290	80	1092	454	207	51	712	
> 60 ≤ 70	468	297	168	933	282	200	132	614	
> 70 ≤ 80	37	27	9	73	NA	NA	NA	NA	
> 80 ≤ 90	2	4	3	9	NA	NA	NA	NA	
> 90	1	0	0	1	NA	NA	NA	NA	
Total	2300	1052	318	3670	1441	711	221	2373	

NA: Not Applicable

Table 14: Zone-wise IPs in the Panel

Zone	Areas Covered	No. of IPs
New Delhi	Union Territory of Delhi	90
Ahmedabad	State of Gujarat	39
	Union Territory of Dadra and Nagar Haveli	
	Union Territory of Daman and Diu	
Allahabad	State of Uttar Pradesh	35
	State of Uttarakhand	
Amravati	State of Andhra Pradesh	4
Bengaluru	State of Karnataka	21
Chandigarh	State of Himachal Pradesh	56
	State of Punjab	
	State of Haryana	
	Union Territory of Chandigarh	
	Union Territory of Jammu and Kashmir	
	Union Territory of Ladakh	
Cuttack	State of Chhattisgarh	10
	State of Odisha	
Chennai	State of Tamil Nadu	39
	Union Territory of Puducherry	
Guwahati	State of Arunachal Pradesh	1
	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	36
Indore	State of Madhya Pradesh	7
Jaipur	State of Rajasthan	17
Kochi	State of Kerala	15
	Union Territory of Lakshadweep	
Kolkata	State of Bihar	41
	State of Jharkhand	
	State of West Bengal	
	Union Territory of Andaman and Nicobar Islands	
Mumbai	State of Goa	72
	State of Maharashtra	
<b>Total</b>		<b>483</b>

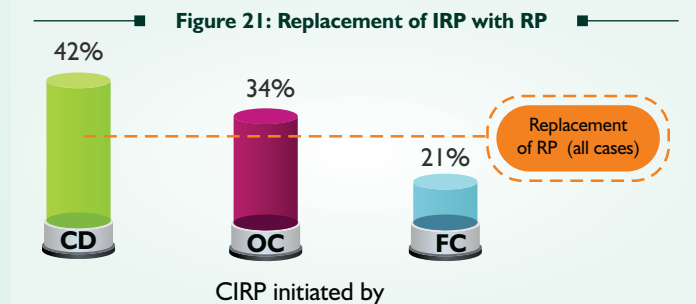


Table 15: IPEs as on June 30, 2021

Quarter	No. of IPEs		
	Recognised	Derecognised	At the end of the Period
2016 - 17 (Jan - Mar)	3	0	3
2017 - 18	73	1	75
2018 - 19	13	40	48
2019 - 20	23	2	69
2020 - 21	14	0	83
Apr - Jun, 2021	1	0	84
<b>Total</b>	<b>127</b>	<b>43</b>	<b>84</b>



and the IU on the 7<sup>th</sup> of every month, to obtain feedback on areas of concern for the profession and discuss the ways and means to deal with them. During the quarter under review, issues like disposal of grievances, use of technology in processes, conduct of IPs, concerns emanating from COVID-19, etc. are discussed. Table 16A presents the details of activities by the IPAs. Table 16B gives details of number of continuing professional education (CPE) hours earned by IPs.

Table 16A: Activities by IPAs

Period	Number of					
	Pre-registration Courses Conducted	CPE Programmes Conducted	Training Workshops for IPs	Other Workshops/ Webinars/ Roundtables/ Seminars	Disciplinary Orders Issued	Complaints (Forwarded by IBBI) Disposed
2018 - 19	16	-	07	100	04	11
2019 - 20	11	30	09	157	09	127
2020 - 21	14	193	66	102	42	102
Apr - Jun, 2021	08	23	07	10	04	00
<b>Total</b>	<b>49</b>	<b>246</b>	<b>89</b>	<b>369</b>	<b>59</b>	<b>240</b>

Table 16B: CPE Hours earned by the IPs

Period	Number of CPE Hours earned by members of			
	IIIP	ICSI IIP	IPA ICAI	Total
2019 - 2020	1160	695	320	2175
2020 - 2021	18465	8746	4402	31613
Apr - Jun, 2021	5510	2100	646	8256
<b>Total</b>	<b>25135</b>	<b>11541</b>	<b>5368</b>	<b>42044</b>
<b>Average CPE hours per registered IP</b>	<b>10.9</b>	<b>11.0</b>	<b>16.9</b>	<b>11.5</b>

## Information Utility

There is one IU, namely, the National E-Governance Service Limited (NeSL) that provides authenticated financial information to the users. The IBBI interacts with the MD & CEO of the IU along with the MDs of IPAs on 7<sup>th</sup> of every month to discuss the issues relating to receipt and authentication of financial information. During interaction in this quarter, IPAs were requested to encourage their members to make use of the information stored with the IU for verification of claims during CIRP. Figure 22 provides details of the registered users and information with NeSL, as submitted by it.

## Registered Valuer Organisations

The Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) made under section 247 of the Companies Act, 2013 provide a unified institutional framework for development and regulation of valuation profession. Its remit is limited to valuations required under the Companies Act, 2013 and the Code. The IBBI performs the functions of the Authority under the Valuation Rules. It recognises Registered Valuer

Organisations (RVOs) and registers RVs and exercises regulatory oversight over them, while RVOs serve as front-line regulators for the valuation profession.

An individual having specified qualification and experience needs to enroll with an RVO, complete the educational course conducted by the RVO, clear the examination conducted by IBBI, before seeking registration with IBBI as an RV. There are currently 16 RVOs, Assessors and Registered Valuers Foundation being the latest RVO recognised, on March 31, 2021. The IBBI meets MDs / CEOs of RVOs on the 7<sup>th</sup> of every month to discuss the issues arising from the valuation profession, to resolve queries of the RVOs and to guide them in discharge of their responsibilities. The details of individual RVs, RVO-wise, as on June 30, 2021, are given in Table 17A. A total of 4109 individuals have registrations, two of them are registered for all three asset classes, 59 are registered for two asset classes and the balance 4048 are registered for one asset class. Till date, the registration of one RV has been cancelled.

Table 17A: Registered Valuers as on June 30, 2021

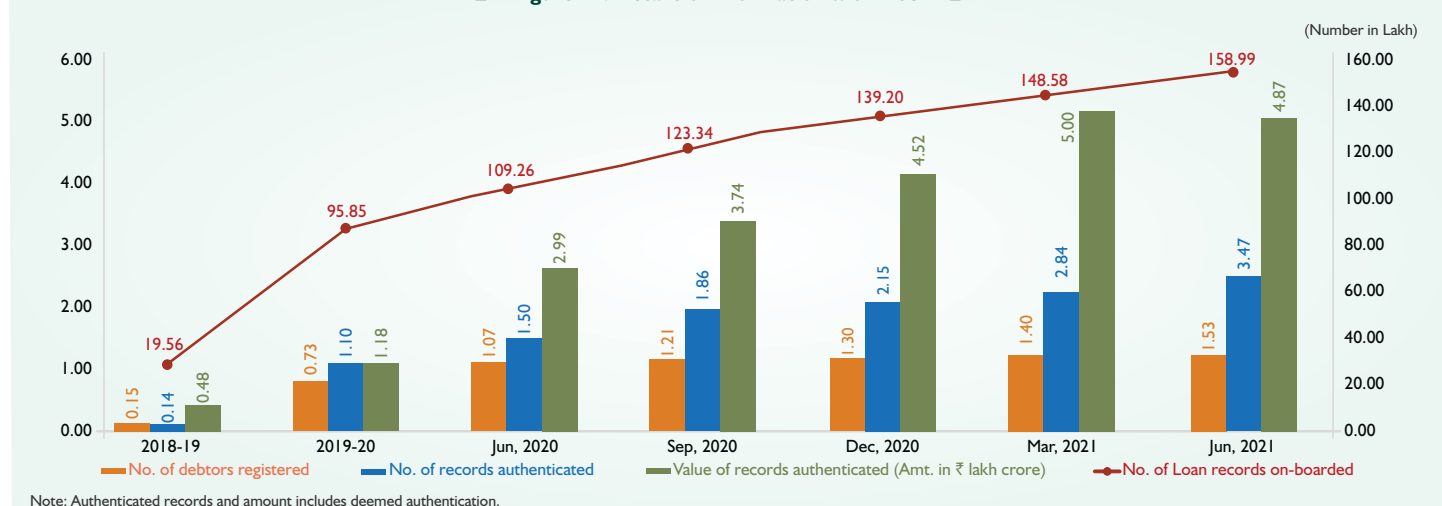
(Number)

Sl.	Registered Valuer Organisation	Asset Class			Total
		Land & Building	Plant & Machinery	Securities or Financial Assets	
1	RVO Estate Managers and Appraisers Foundation	58	12	14	84
2	IOV Registered Valuers Foundation	1289	207	148	1644
3	ICSI Registered Valuers Organisation	0	0	183	183
4	IIV India registered Valuers Foundation	147	42	49	238
5	ICMAI Registered Valuers Organisation	26	17	249	292
6	ICAI Registered Valuers Organisation	NA	NA	817	817
7	PVAI Valuation Professional Organisation	294	50	94	438
8	CVSRTA Registered Valuers Association	189	57	NA	246
9	Association of Certified Valuators and Analysts	NA	NA	2	2
10	CEV Integral Appraisers Foundation	89	30	3	122
11	Divya Jyoti Foundation	34	14	30	78
12	Nandadeep Valuers Foundation	0	0	1	1
13	All India Institute of Valuers Foundation	4	3	11	18
14	International Business Valuers Association	1	0	7	8
15	All India Valuers Association	1	0	0	1
16	Assessors and Registered Valuers Foundation	0	0	0	0
<b>Total</b>		<b>2132</b>	<b>432</b>	<b>1608</b>	<b>4172</b>

Note: NA signifies that the RVO is not recognised for that asset class

RVs are permitted to form an entity (Partnership / Company) for rendering valuation services. There are 43 such entities registered as RVs as on June 30, 2021, as presented in table 17B. 20 of them are registered for three asset classes, four are registered for two asset classes and 19 are registered for one asset class. The registration of RVs till June 30, 2021 is given in Table 18.

Figure 22: Details of Information with NeSL



**Table 17B: Registered Valuers (Entities) as on June 30, 2021** (Number)

Registered Valuer Organisation	Entities Registered	Registrations in the Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets
RVO Estate Managers and Appraisers Foundation	3	3	2	2
IOV Registered Valuers Foundation	16	13	10	13
ICSI Registered Valuers Organisation	1	0	0	1
IIV India registered Valuers Foundation	1	1	1	1
ICMAI Registered Valuers Organisation	7	4	5	7
ICAI Registered Valuers Organisation	9	NA	NA	9
PVAI Valuation Professional Organisation	2	2	2	2
All India Institute of Valuers Foundation	1	1	1	1
CEV Integral Appraisers Foundation	1	1	1	0
Divya Jyoti Foundation	2	1	1	2
<b>Total</b>	<b>43</b>	<b>26</b>	<b>23</b>	<b>38</b>

Note: NA signifies that the RVO is not recognised for that asset class.

**Table 18: Registration of RVs till June 30, 2021** (Number)

Year / Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
2017 - 2018	0	0	0	0
2018 - 2019	781	121	284	1186
2019 - 2020	848	204	792	1844
2020 - 2021	409	82	446	937
Apr - Jun, 2021	95	25	86	206
<b>Total</b>	<b>2133</b>	<b>432</b>	<b>1608</b>	<b>4173</b>

Note: The registration of 1 RV has since been cancelled.

Of the RVs registered as on June 30, 2021, 1118 RVs (constituting 27% of the total RVs registered) are from metros, while 3054 RVs (constituting 73% of the total RVs registered) are from non-metro locations (Table 19).

**Table 19: Region wise Registered Valuers as on June 30, 2021** (Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	74	34	192	300
Rest of Northern Region	333	65	267	665
Mumbai	108	49	256	413
Rest of Western Region	593	117	263	973
Chennai	110	36	125	271
Rest of Southern Region	861	110	380	1351
Kolkata	23	14	97	134
Rest of Eastern Region	30	7	28	65
<b>Total</b>	<b>2132</b>	<b>432</b>	<b>1608</b>	<b>4172</b>

The average age of RVs as on June 30, 2021 stood at 47 years across asset classes. It was 49 years for Land & Building, 53 years for Plant & Machinery and 43 years for Securities or Financial Assets (Table 20). Of the 4172 RVs as on June 30, 2021, 395 RVs (constituting about nine per cent of the total RVs) are females.

**Table 20: Age profile of RVs as on June 30, 2021** (Number)

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	127	6	102	235
> 30 ≤ 40	325	60	637	1022
> 40 ≤ 50	510	94	481	1085
> 50 ≤ 60	881	134	264	1279
> 60 ≤ 70	251	91	120	462
> 70 ≤ 80	36	45	4	85
> 80	2	2	0	4
<b>Total</b>	<b>2132</b>	<b>432</b>	<b>1608</b>	<b>4172</b>

## Complaints and Grievances

The IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 enable a stakeholder to file a grievance or a complaint against a service provider. Beside this, grievance and complaints are received from the Centralised Public Grievance Redress and Monitoring System, Prime Minister's Office, MCA, and other authorities. The receipt and disposal of grievances and complaints till June 30, 2021 is presented in Table 21.

**Table 21: Receipt and Disposal of Grievances and Complaints till June 30, 2021** (Number)

Table 21: Receipt and Disposal of Grievances and Complaints (in June 30, 2021)										(Number)
Year / Quarter	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 - 2018	18	0	6	0	22	2	46	2	44	
2018 - 2019	111	51	333	290	713	380	1157	721	480	
2019 - 2020	153	177	239	227	1268	989	1660	1393	747	
2020 - 2021	268	260	358	378	990	1364	1616	2002	361	
Apr - Jun, 2021	79	85	120	90	287	420	486	595	252	
Total	629	573	1056	985	3280	3155	4965	4713	252	

# Examinations

## Limited Insolvency Examination

The IBBI publishes the syllabus, format, etc. of the Examination under regulation 3(3) of the IP Regulations. It reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed five phases of the Limited Insolvency Examination. Fifth phase of the Examination concluded on December 31, 2020 and sixth phase commenced on January 01, 2021. It is a computer based online examination available on daily basis from various locations across India. NSEIT Limited is the current test administrator. The details of the Examination are given in the Table 22.

**Table 22: Limited Insolvency Examination**

Phase	Period	Number of Attempts (some candidates made more than one attempt)	Successful Attempts
First	Jan - Jun, 2017	5329	1202
Second	Jul - Dec, 2017	6237	1112
Third	Jan - Oct, 2018	6344	1011
Fourth	Nov, 2018 - Jun, 2019	3025	506
Fifth	Jul, 2019 - Dec, 2020	5860	1016
Sixth	Jan - Mar, 2021	464	66
	Apr - Jun, 2021	408	89
<b>Total</b>		<b>27667</b>	<b>5002</b>

## Valuation Examinations

The IBBI, being the authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial Assets, on March 31, 2018. It reviews the Examinations continuously to keep it relevant with the changing times. The second phase concluded on May 31, 2020 and the third phase commenced on June 1, 2020. It is a computer based online examination available from several locations across India. National Institute of Securities Markets is the current test administrator. The details of the Examinations are given in Table 23.

**Table 23: Valuation Examinations**

Phase	Period	Number of Attempts (some candidates made more than one attempt) in Asset Class			Number of Successful Attempts in Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First	Mar, 2018 - Mar, 2019	9469	1665	4496	1748	324	707
Second	Apr, 2019 - May, 2020	3780	757	4795	380	95	656
Third	Jun, 2020	64	7	99	1	0	6
	Jul - Sep, 2020	1471	248	1781	138	14	217
	Oct - Dec, 2020	1449	404	1571	119	28	137
	Jan - Mar, 2021	1049	334	967	74	27	73
	Apr - Jun, 2021	494	158	541	37	12	57
<b>Total</b>		<b>17776</b>	<b>3573</b>	<b>14250</b>	<b>2497</b>	<b>500</b>	<b>1853</b>

# Building Ecosystem

## Committees and Groups

**Research Guidance Group:** On June 22, 2021, the IBBI constituted a Research Guidance Group under the Chairmanship of Dr. K. P. Krishnan, IEPF Chair Professor, NCAER. The Group will provide guidance on (a) the objectives, scope and direction of research for insolvency ecosystem and regulation; (b) strategy for delivery of research; (c) promotion and maintenance of database relevant for research; and (d) development of research ideas and collaborations with researchers. The first meeting of the Group was held on June 29, 2021.

**Technical Committee :** The 7<sup>th</sup> meeting of the Technical Committee under the Chairmanship of Dr. R. B. Barman took place on June 28, 2021. The Committee reviewed the various guidelines for the technical standards for the performance of core services and other services under the IU Regulations. While deliberating the issues regarding identification and assigning a unique identifier for foreign persons, NeSL was advised to study the approach followed at International Financial Services Centre, provisions of the Foreign Exchange Management Act, 1999, and the





First Meeting of RGG, June 29, 2021



10<sup>th</sup> Advanced Workshop for IPs, May 19, 2021

Guidelines issued by Bank for International Settlements for identification of such persons. It recommended assignment of a Unique Identification Number in case of the government departments, which do not have a Permanent Account Number.

### IP Workshops

The IBBI has been organizing Basic Workshops and Advanced Workshops for IPs to build their capacities, through a classroom, non-residential mode. In view of the prevailing pandemic, such workshops are being organised online. The IBBI organised three Basic Workshops and three Advanced Workshops for the IPs during the quarter through online mode. The details of the workshops conducted till June 30, 2021 are given in Table 24.

Table 24: Capacity Building Programmes for IPs till June 30, 2021

Year / Period	Basic Workshops	Advanced Workshops	Other Workshops	Webinars	Roundtables	Trainings	Total
2016 - 17	1	-	-	-	8	-	9
2017 - 18	6	-	-	-	44	-	50
2018 - 19	7	-	-	-	22	-	29
2019 - 20	4	6	5	1	22	-	38
2020 - 21	1	2	6	29	18	2	58
Apr - Jun, 2021	3	3	-	9	-	-	15
<b>Total</b>	<b>22</b>	<b>11</b>	<b>11</b>	<b>39</b>	<b>114</b>	<b>2</b>	<b>199</b>



11<sup>th</sup> Advanced Workshop for IPs, June 15, 2021



21<sup>st</sup> Basic Workshop for IPs, May 13, 2021



Webinar on Avoidance Transactions in India and USA, June 2, 2021



22<sup>nd</sup> Basic Workshop for IPs, June 11, 2021



Webinar on Avoidance Transactions in India and USA, June 4, 2021

## Webinars

The IBBI organized 14 webinars for benefit of IPs and other stakeholders as presented in Table 25. This included three webinars on PPIRP for bankers. This also included two webinars on avoidance transactions for IPs, in association with the International Insolvency Institute.

Table 25: Webinars for IPs during April - June, 2021

Sl. No.	Date	Subject	In association with	Target Audience
1	05-04-21 & 11-04-21	Insolvency Laws (with specific focus on Insolvency and Bankruptcy Code, 2016)	MNLU	Professionals
2	08-04-21	The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021	IIIP, ICSI IIP and IPA ICAI	IPs
3	10-04-21	Insolvency Laws (with specific focus on Insolvency and Bankruptcy Code, 2016)	ICAI	IPs
4	22-04-21	The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021	-	IPs
5	06-05-21			
6	12-05-21			
7	20-05-21			
8	27-05-21			
9	02-06-21	Avoidance/ Vulnerable Transactions Case Management in India and USA	International Insolvency Institute	IPs
10	03-06-21	The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021	-	IPs
11	04-06-21	Avoidance/ Vulnerable Transactions Case Management in India and UK	International Insolvency Institute	IPs
12	09-06-21	Pre-packaged Insolvency Resolution Process	Indian Banks Association	Bankers/Financial Institutions
13	16-06-21			
14	23-06-21			



Webinar on IBC (Amendment) Ordinance, 2021, April 8, 2021



Webinar on IBC (Amendment) Ordinance, 2021, May 12, 2021



Webinar on IBC (Amendment) Ordinance, 2021, June 3, 2021



Webinar on PPIRP for Bankers, June 9, 2021



Webinar on PPIRP for Bankers, June 16, 2021



Webinar on PPIRP for Bankers, June 23, 2021



## Advocacy and Awareness

### Essay Competition

The IBBI, in its endeavour to create awareness about the insolvency and bankruptcy regime amongst the students of Institutes of higher learning, conducts essay competitions. During the quarter, three competitions were concluded. The details are as under:

Sl.	Name of the Institute	Topic	No. of Participants	Best Essayist	Essayist
1	National Law Institute University, Bhopal	Role of IBC in development of Credit Market in India	28	Ms. Aparajita Kaul	Mr. Urmil Bhavesh Shah
2	National Law University, Jodhpur	Evolving landscape of Insolvency and Bankruptcy Laws in the Post-COVID Era	21	Mr. Pragyansh Nigam and Mr. Rajat Sinha (Co-authors)	Mr. Aaryan Agarwal
3	Department of Management Studies, NIT, Silchar	Role of IBC in development of Credit Market in India	63	Ms. Liza Das	Mr. Lokesh Kumar Das

### Other Programmes

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 26.

Table 26: Participation of Senior Officers in Programmes

Sl.	Date	Organiser	Subject	Participation
1	23-04-21	Indian Merchant Chamber	Prepackaged Insolvency- An Alternate Resolution Framework for MSMEs	Mr. Shukla, WTM
2	24-04-21	ICSI IIP	Pre-Pack	Mr. Shukla, WTM
3	06-05-21	AJNIFM	IBC	Mr. Shukla, WTM
4	06-05-21	ASSOCHAM	Pre-Packaged Insolvency Norms for MSMEs	Dr. (Ms.) Vijayawargiya, WTM
5	29-05-21	ASSOCHAM	Recent Decisions of the Supreme Court/Tribunals and Appellate Tribunal and PPIRP	Mr. Ritesh Kavdia, ED
6	28-05-21	Mahratta Chamber of Commerce Industries and Agriculture	PPIRP	Mr. Shukla, WTM
7	04-06-21	SME Chamber of India	SME Sector: Trends, Challenge, and Opportunities	Chairperson
8	16-06-21	Investor Education and Protection Fund Authority	IBC	Mr. Rajesh Kumar Gupta, CGM
9	18-06-21	Corporate Professionals	Corporate, Economic and Labour Laws Reforms for Atma Nirbhar Bharat	Chairperson
10	24-06-21	IAIR	Predicted volumes and strategies for dealing with such volumes (related to COVID period)	Mr. Shukla, WTM
11	30-06-21	Federation of Industry & Commerce of Northeastern Region	Five Years of IBC: Reminisce and Looking Ahead	Chairperson



Webinar on Prepackaged Insolvency - An Alternate Resolution Framework for MSMEs, April 23, 2021



SME Sector: Trends, Challenge, and Opportunities, June 4, 2021



Webinar on Pre-packaged Insolvency Norms for MSME, May 6, 2021



Five Years of IBC: Reminisce and looking Ahead, June 30, 2021

## List of Abbreviations

AA	Adjudicating Authority	IP Regulations	The IBBI (Insolvency Professionals) Regulations, 2016
AFA	Authorisation for Assignment	IPA ICAI	Insolvency Professional Agency of Institute of
ARC	Asset Reconstruction Company		Cost Accountants of India
ASSOCHAM	The Associated Chambers of Commerce and Industry of India	IPE(s)	Insolvency Professional Entity(s)
BIFR	Board for Industrial and Financial Reconstruction	IRP	Interim Resolution Professional
CEO	Chief Executive Officer	IRPC	Insolvency Resolution Process Cost
CD	Corporate Debtor	IU(s)	Information Utility(s)
CGM	Chief General Manager	IU Regulations	The IBBI (Information Utilities) Regulations, 2017
CIRP	Corporate Insolvency Resolution Process	LCD	Liquidation Commencement Date
CIRP Regulations	The IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	Liquidation Regulations	The IBBI (Liquidation Process) Regulations, 2016
CIC	Central Information Commission	MCA	Ministry of Corporate Affairs
CoC	Committee of Creditors	MD	Managing Director
CPE	Continuing Professional Education	MSME	Micro, Small and Medium Enterprises
DC	Disciplinary Committee	NCAER	National Council of Applied Economic Research
DGM	Deputy General Manager	NCLAT	National Company Law Appellate Tribunal
DRT	Debt Recovery Tribunal	NCLT	National Company Law Tribunal
EoI	Expression of Interest	NeSL	National e-Governance Services Limited
FAA	First Appellate Authority	NPC	National Productivity Council
FC(s)	Financial Creditor(s)	OC(s)	Operational Creditor(s)
FISP	Financial Service Provider	PG(s)	Personal Guarantor(s)
GB	Governing Board	PMLA	The Prevention of Money Laundering Act, 2002
GIP	Graduate Insolvency Programme	PPIRP	Pre-packaged Insolvency Resolution Process
HC	High Court	RBI	Reserve Bank of India
IAIR	International Association of Insolvency Regulators	RP	Resolution Professional
IBBI	Insolvency and Bankruptcy Board of India	RV	Registered Valuer
IBC / Code	Insolvency and Bankruptcy Code	RVO	Registered Valuer Organisation
ICD	Insolvency Commencement Date	SC	Supreme Court of India
ICSI IIP	ICSI Institute of Insolvency Professionals	SCC	Stakeholders Consultation Committee
IIPI	Indian Institute of Insolvency Professionals of ICAI	SCN	Show Cause Notice
ILC	Insolvency Law Committee	SEBI	Securities and Exchange Board of India
IM	Information Memorandum	SRA	Successful Resolution Applicant
IP(s)	Insolvency Professional(s)	Valuation Rules	The Companies (Registered Valuers and Valuation) Rules, 2017
IPA(s)	Insolvency Professional Agency(s)	WBPIDFE	West Bengal Protection of Interest of Depositors in Financial Establishments Act, 2012
		WTM	Whole-time Member



Gyandarshan Session on IBC, June 16, 2021



Corporate, Economic and Labour Laws Reforms for Atma Nirbhar Bharat, June 18, 2021

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