

From Chairperson's Desk

Record Resolutions by NCLT

The Insolvency and Bankruptcy Code, 2016 (IBC/Code) was introduced with the aim to reorganise the distressed corporate debtors (CDs) in a time bound manner for maximisation of value of assets of such CDs. The reorganisation in essence resolves the distressed state of the CD by way of maintaining the going concern of the CD and handing over the affairs to the new management. The FY23-24 has witnessed an unprecedented surge in the approval of resolution plans under the IBC, showcasing the effectiveness of the legal framework in facilitating the revival of insolvent businesses. A record number of 269 resolution plans were approved by NCLT during the FY24, as against the approval of 189 resolution plans during the FY23 – indicating a significant increase of 42% from the FY23. Since inception till the end of FY24, 947 resolution plans have been approved. These CDs resulted in realisation of 32% as against the admitted claims and 162% as against the liquidation value.

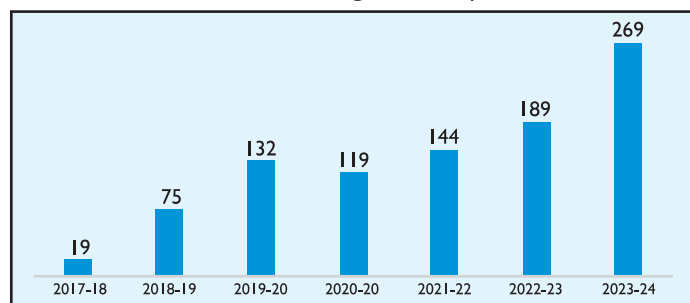


Fig: Year-wise number of resolution plans approved under IBC

The ratio of number of cases ending with resolution vis-à-vis cases in which liquidation is ordered, has improved from 0.46 in FY23 to 0.61 during the FY24.

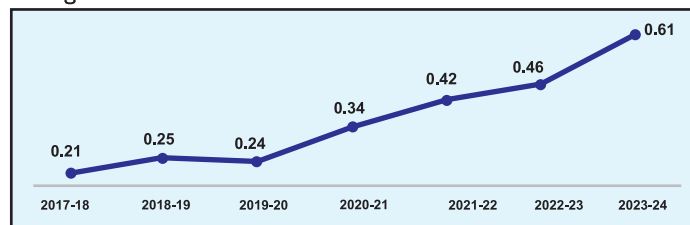


Fig: Ratio of Resolution and Liquidation orders

In addition, the IBC has facilitated the rescue of 308 CDs in FY24, with 159 rescued through withdrawal under section 12A of the Code, and 149 cases through orders of NCLT and NCLAT, wherein the matter was withdrawn on appeal/review/settlement by the stakeholders. This showcases a notable shift in the debtor behavior towards early settlement.

A significant aspect of the IBC's success lies in its ability to revive long-standing or defunct cases, with around 40% of corporate insolvency resolution processes (CIRPs) leading to resolution plans being previously with the Board for Industrial and Financial Reconstruction (BIFR) or defunct cases. Despite their age, these cases have resulted in realisation of around 20% of admitted claims and 155% of the liquidation value.

CIRPs of four financial service providers (FiSPs) have yielded resolutions under the Code. The average realisation in these cases is

41% of the admitted claims. Furthermore, the resolution plans approved in five cases under the Pre-packaged Insolvency Resolution Process (PPIRP), resulted in 25% realisation as against the admitted claims. Full claims of operational creditors (OCs) were settled in these five cases.

The objective of IBC extends beyond mere recovery; it is fundamentally geared towards the preservation of businesses. By prioritizing resolution over liquidation, the IBC endeavors to safeguard the economic fabric by ensuring the survival and sustainability of financially distressed entities. The August 2023 Report of IIM Ahmedabad on 'Effectiveness of Resolution Process' finds that overall the resolved firms that went through the resolution process under the Code have significantly improved their performance in the post-resolution period. Specifically, these firms' profitability, liquidity, activity, and turnover ratios have improved during the post-resolution period. The Report of IIM Ahmedabad is a testament to the fact that the Code has been able to resolve distress and achieve much beyond recovery, benefiting the overall economy.

The surge in resolution plans approved under the IBC in FY24 reflects its instrumental role in reviving distressed businesses and maximizing asset value. With notable improvements in ratio of resolution vs. liquidation cases, behavioral shifts among debtors, and successful resolutions in previously defunct cases and FiSPs, the IBC continues to demonstrate its effectiveness in resolving insolvency. Still, the challenges remain. The resolution process, on an average, is taking 679 days to conclude as against the standard timeline of 330 days. The delays often due to litigations by multiple stakeholders with competing interests, erodes the value of already distressed CD further, and minimize the recovery value to the creditors. Data of 947 resolved cases as on March, 2024 indicates a direct correlation between the length of the resolution process and the recovery rate. Cases resolved within shorter timeframes tend to yield higher recovery rates, while the longer resolution periods coincide with diminished recovery rates.

Resolution in (Days)	No. of Cases	Recovery
0-330	140	49.22 %
330-599	354	35.98 %
600 or more	453	26.11 %

Hence, it is important for all the stakeholders to expedite decision making during the process in the collective interest of all. Various measures have been taken by the Insolvency and Bankruptcy Board of India (IBBI/Board) to reduce delays in the process such as putting a cap on number of modifications in the resolution plan, sharing of information by creditors with the Resolution Professional (RP), including organising capacity building programs for Insolvency Professionals (IPs) so as to enhance their skills and expertise, to run the resolution process effectively and efficiently. Needless to say, continued efforts to streamline the resolution process, enhance transparency, and provide greater clarity on regulatory requirements are underway to further bolster the effectiveness of the IBC.

(Ravi Mital)