

In India, the Insolvency and Bankruptcy Code (IBC) has completed eight years of its existence. Despite this, we often refer to it as a "new law." However, eight years is a significant duration, during which IBC has demonstrated its ability to resolve a diverse range of companies. From large steel manufacturers to a news agency, road projects, MSMEs, and even entertainment parks, the IBC has showcased its versatility and robustness. One notable achievement is the resolution of what is arguably the largest housing project in the world. The IBC has played a pivotal role in revitalizing businesses, safeguarding jobs, and promoting economic stability. Its success stories span across diverse sectors, highlighting its significance as a cornerstone of India's economic reforms.

Reflecting on its journey, I consider the IBC is like an iceberg, with its visible outcomes showcasing the direct recovery of Rs. 3.5 lakh crore for lenders, representing only a fraction of its true impact. Beneath the surface, as my previous speaker rightly pointed out, IBC has instilled a genuine fear of the law among borrowers, fundamentally altering the creditor-debtor relationship. This transformed debtors-creditor relationship has led to more frequent settlements, withdrawals and compelling the businesses to manage their financial affairs more responsibly. The IBC has facilitated a remarkable indirect recovery through settlement of underlying default of around Rs. 10 lakh crores.

One important aspect of any law is its effective use, but perhaps equally significant is the deterrent effect it creates. When individuals and businesses are aware that a law will be enforced stringently and violations will have serious consequences, they are more likely to adhere to it. With the presence of the IBC, the fear of insolvency proceedings, potential loss of control over the company, and strict timelines act as strong deterrents against financial mismanagement and defaults. This fear of being subjected to the rigorous insolvency process encourages companies to avoid defaults, make timely payments, and seek proactive resolutions. The era often referred to as a "defaulters' paradise" is now lost. By promoting early intervention and collaboration among all stakeholders, the IBC has established a comprehensive framework that not only addresses insolvency but also fundamentally alters the landscape of financial discipline and corporate governance in India.

We often hear concerns about the delays in IBC admissions. However, this needs to be contextualized. Admission under IBC does not merely involve filing a petition or appointing a resolution professional. It encompasses taking over the management of the company—an inherently contentious process. Admission in India is an adversarial process and frequently opposed by former owners. In developed economies, insolvency process is generally voluntary in nature. For example - in the U.S., there were 6,395 voluntary filings and only 78 by creditors in 2023, demonstrating a strong preference for debtors to initiate proceedings. In contrast, Section 10 of the IBC, which permits voluntary filings, is seldom used in India. A notable example is the Go First case, wherein the promoters had filed for voluntary insolvency and admission was granted within 10 days. The key takeaway is that delays in India are not reflective of mere inefficiency but stem from the inherently adversarial nature of most filings. While comparing the frameworks of various jurisdictions, we must recognize these structural differences.

When assets are admitted into IBC, resolution professionals conduct valuations to determine their fair value and liquidation value. Based on these values, IBC has consistently delivered recoveries of around 85% of fair value and 162% of liquidation value. However, a significant

loss of value in the IBC process often stems from creditors filing late, which delays the resolution and leads to the further deterioration of the debtor's assets. Once an asset becomes a *Special Mention Account (SMA)*, its value begins to decline. The deterioration accelerates once it becomes a Non-Performing Asset (NPA). By the time many cases enter IBC—often two to three years after default—there is very little value left to recover. To mitigate this, it's crucial for creditors to file promptly when signs of financial distress emerge. Early filing can expedite the insolvency resolution process, preserving the maximum value of the assets and enhancing recovery rates. Additionally, creditors have the option to withdraw their application if circumstances change, which provides flexibility and reduces the risk associated with early filing. Proactive participation by creditors is essential for the timely and effective resolution of insolvency cases under the IBC framework.

It is essential to acknowledge the immense workload shouldered by the NCLT. Despite their limited resources, they achieved the remarkable feat of approving 270 resolution plans last year—a testament to their dedication. However, as stakeholders, we must focus on reducing litigation to ease the burden of NCLT. Creditors, in particular, play a crucial role in this regard. They must actively guide resolution professionals (RPs) and support them in executing their responsibilities effectively. Better coordination between creditors and RPs will undoubtedly lead to improved outcomes

Another effective approach is leveraging technology through an integrated platform for the IBC ecosystem, which would centralize base information and facilitate case management. This Integrated Technology platform will integrate the key institutions forming pillars of the IBC ecosystem and could expedite early resolutions by providing real-time access to data and progress tracking. It will provide for an integrated case management system for processes under the IBC, automated processes to file applications with the Adjudicating Authority, delivery of notices, enable interaction of Insolvency Professionals with stakeholders, storage of records of the corporate debtor, and incentivise effective participation of stakeholders. This Platform would lead to better transparency, minimisation of delays, effective decision making and better oversight of the processes by the authorities

To expedite the resolution process, Ministry of Corporate Affairs has floated a discussion paper in January 2023 and proposed a Fast-track Creditor-Led Resolution Process (CLRP). While the current process is already creditor-driven, its aim to shift more responsibilities to the Committee of Creditors (CoC), alleviating the NCLT's workload and expedite resolutions. This would significantly reduce litigation load. Further, although the NCLT has addressed group insolvency cases using its existing powers, a structured framework is necessary to ensure consistency and efficiency in handling such cases.

We are also exploring mediation as a tool to reduce delays and resolve disputes. A committee, led by a former Secretary of Legal Affairs who played a pivotal role in drafting the IBC, has provided recommendations on mediation. In the coming months, we plan to implement measures linked to mediation, which we believe will enhance the resolution process.

I would again commend Insol India for organising this international conclave and hope that recommendations of this conclave would benefit the IBC ecosystem.