



भारतीय विफलता और वसुधायुक्तता बोर्ड
Insolvency and Bankruptcy Board of India

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Group Insolvency

Harnessing Synergies



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‘हमने NPA की पहचान के लिए पारदर्शिता लाने की दिशा में काम किया। लाखों करोड़ रुपए बैंकिंग व्यवस्था में वापस आए। हमने बैंकों को recapitalise किया, willful defaulters के खिलाफ एक्शन लिया गया, Prevention of Corruption Act में भी सुधार किया गया। NPA से जुड़े मुद्दों को सुलझाने में IBC की मदद से तेजी लाई गई।’

‘We worked towards bringing transparency in the identification of NPAs. Lakhs of crores of rupees came back into the banking system. We recapitalized banks, took action against willful defaulters and reformed the Prevention of Corruption Act. The resolution of NPA related issues was expedited with the help of IBC’

Shri Narendra Modi, Hon'ble Prime Minister, during his address at dedication of 75 Digital Banking Units in 75 Districts on October 16, 2022.

‘The Code has come a long way since its enactment in 2016, meandering through myriad challenges and in the process, it has won many accolades. In the short period of its operation and functioning, the consolidation of the statute was closely synchronized with the development of the insolvency ecosystem. The speed with which the entire ecosystem was geared up has been astounding’

Chief Justice (Retd.) Shri Ramalingam Sudhakar, President, NCLT, during 6th Annual Day programme of the IBBI on October 1, 2022.

‘IBBI, within a short span of six years, has achieved extraordinary success in creating and continuously strengthening that framework for enforcing the IBC, a much-needed reformist step, albeit in the face of many uncertainties. The regulator has navigated hitherto uncharted territory with its nimble, focused and resolute efforts. What we have witnessed in the last six years is speed, agility, nuance and constant calibrations to make this historic code meet its purpose’

Shri Ashok Kumar Gupta, the then Chairperson, Competition Commission of India, during 6th Annual Day programme of the IBBI on October 1, 2022.

Group Insolvency: Harnessing Synergies

The Insolvency and Bankruptcy Code, 2016 (IBC/Code) introduced a time-bound mechanism for resolution of insolvency and bankruptcy cases in India. It consolidated the fragmented laws relating to reorganization, insolvency resolution and liquidation of corporate persons and individuals. The Code envisaged a collective effort not only to keep a distressed entity alive but also to maximize the value of its assets for benefit of all stakeholders. It provides in detail, a framework for resolution or liquidation of a corporate debtor (CD) on standalone basis but does not at present expressly deal with the insolvency proceedings of different CDs in a group.

A company is a separate legal identity with a set of well-defined rights and duties and powers and obligations. It possesses a separate identity distinct from its members and stakeholders. Thus, the stakeholders associated with a company assesses the risks and returns of a company on standalone basis and deals with it accordingly. On the other side, groups are a set of entities related either by economic dependencies or shared control or entities carrying on business in pursuit of common objectives. In the present global and domestic environment, it is common for businesses to be conducted through groups of companies which led to instances where financial position of one company impacts other companies in the group. Such instances result in defaults by one or more companies in a group and are categorized as 'group insolvency'. Though the Code does not explicitly provides for dealing with such cases, the Adjudicating Authority (AA) at several occasions, has attempted to consolidate the insolvency resolution processes of such companies because of the higher possibility of revival and better value realization. For instance, in the insolvency resolution of CDs such as *Videocon*, *Era infrastructure*, *Lanco*, *Educomp*, *Amtek*, *Jaypee*, *Adel Landmarks* etc., special issues arose from their interconnections with other group companies. This highlighted the need to examine the desirability and feasibility of having a framework for insolvency resolution of group companies.

Recognizing the need for a framework on group insolvency, the Insolvency and Bankruptcy Board of India (IBBI/Board) constituted a Working Group on Group Insolvency (WG) under the chairmanship of Shri U.K. Sinha. The WG was given a mandate to recommend a regulatory framework to facilitate insolvency resolution and liquidation of CDs in a group. Later on, a Cross-Border Insolvency Rules/Regulation Committee (CBIRC) was constituted by the Ministry of Corporate Affairs (MCA) under the chairmanship of Dr. K. P. Krishnan, to analyse UNCITRAL Model Law on Enterprise Group Insolvency (MLEGI). The mandate of this Committee was to build on the work undertaken by WG and make recommendations governing the resolution of group enterprises for the purpose of IBC. The main recommendations are as under:

- i. A group insolvency framework to be laid down under the Code that is voluntary, flexible and enabling in nature. As part of this framework, provisions governing domestic group insolvency may be enacted in the first phase and cross-border group insolvency framework may be considered at a later stage.
- ii. The MLEGI may not be adopted in India at the moment, and it may be considered post enactment of cross-border insolvency laws for single entity and based on learnings and gaining experience from its implementation.
- iii. A broad and inclusive definition of 'group' should be provided so as to include a large number of CDs within the ambit of the framework. The definition of 'group' may be based on the criteria of control and significant ownership and to cover all CDs including limited liability partnerships, however, to exclude financial service providers.

- iv. The group insolvency framework under the Code should only apply to CDs in respect of whom a corporate insolvency resolution process (CIRP) or liquidation process is ongoing. The law should not apply to solvent members of the group.
- v. All proceedings related to CDs belonging to a group may take place under the same AA and a common insolvency professional (IP) may be appointed as the resolution professional (RP) or liquidator.
- vi. The Committee of creditors (CoC) and IPs appointed in respect of CDs belonging to the same group should mandatorily be required to cooperate, coordinate and share information with each other. A group CoC may be formed with adequate representation from CoCs of all group members to provide procedural assistance.
- vii. The need for substantive consolidation, i.e., provisions of pooling of assets and liabilities of an insolvent group may be contemplated at a later stage, based on practice and jurisprudence evolved in this regard.

The report of the WG and CBIRC has provided a blue-print of the group insolvency framework in India. The proposed framework for group insolvency is expected to promote information symmetry as it would enable the exchange of information between the stakeholders of different companies and thus, may lead to a better assessment of viability and increase the chances of resolution.

Experts have suggested that guidelines should be laid down to provide that where the default has occurred in interconnected entities and the creditors are common, the insolvencies may be initiated together with a common IP so that they are at the same stage and effective coordination is possible. In such cases, the Code may enable concurrent conduct and procedural coordination of their CIRPs through coordination in CoCs of CDs and a common IP. However, even in cases where the CoCs are different, it should be allowed to constitute a single CoC, if the creditors wish to combine the two or more CIRPs, particularly where group entities are inextricably interlinked. Entwining interconnected group entities under insolvency as a single economic unit would augment the overall asset value of all CDs ensuing better outcomes with improved synergies and synchronised resolution.

Considering that a default of one borrower is likely to spur cross defaults by group companies due to cross obligations and credit risk mitigation coverage by parent and group companies, the Reserve Bank of India (RBI) in its 'Report on Trend and Progress of Banking in India 2021-22', expressed that "A group resolution framework, in which the resolution of borrowers belonging to the same corporate group if undertaken together, could help in improving the efficacy of the IBC".

The IBC is a relatively new legislation in India. Like any other economic law, in order to remain relevant with the changing dynamics of the market, the Code has undergone several amendments and it still continues to be a 'work in progress'. Stepping forward, the MCA on January 18, 2023, has floated a consultation paper on the changes being considered to the IBC. In the said consultation paper, keeping in view the benefits of dealing with interdependent entities in a consolidated manner in terms of improved procedural coordination, cost efficiency, higher possibility of revival, better value realisation, and value maximisation for the creditors of the entire group, framework for resolving domestic group insolvency has been proposed to be introduced in the Code. The proposed group insolvency framework is a step towards strengthening the functioning of the IBC and will further refine the current insolvency resolution landscape in India.

(Ravi Mital)

IBBI Updates

Colloquium on Functioning and Strengthening of the IBC Ecosystem

The IBBI organised a two-day Colloquium on the theme 'Functioning and Strengthening of the IBC Ecosystem' on November 19-20, 2022 in New Delhi. The inaugural session of Colloquium was presided over by Ms. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs, who set the context of the Colloquium and the expected outcomes from the review exercise. Dr. P. K. Mishra, the Principal Secretary to the Prime Minister; Mr. Justice Ashok Bhushan, Chairperson, NCLAT; Mr. Ramalingam Sudhakar, President, NCLT; Dr. Manoj Govil, Secretary, MCA; and Mr. Ravi Mital, Chairperson, IBBI, addressed the participants at the Colloquium.

Stakeholders, including all members of the NCLAT and NCLT; officers of NCLT; financial creditors (FCs) like banks and other financial institutions, resolution applicants; heads of Insolvency Professional Agencies (IPAs), Information Utility (IU) and Registered Valuer Organisations (RVOs); professionals like Advocates and IPs; academicians and subject experts; and officials of the MCA participated in the Colloquium. The two-day Colloquium marked the detailed deliberations on recommendations under six broad themes – a) Admission of CIRP applications under the Code; b) Streamlining insolvency resolution processes; c) Recasting of liquidation and voluntary liquidation processes; d) Enhancing effectiveness of the AA; e) Role of service providers and other stakeholders – conduct, capacity and timely conclusion of processes; and f) Next generation reforms.



Ms. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs, November 19, 2022



Dr. P. K. Mishra, Principal Secretary to the Prime Minister, November 19, 2022



Mr. Justice Ashok Bhushan, Hon'ble Chairperson, NCLAT, November 19, 2022



Mr. Ramalingam Sudhakar, Hon'ble President, NCLT, November 19, 2022



Colloquium on Functioning and Strengthening of the IBC Ecosystem, November 19-20, 2022



Dr. Manoj Govil, Secretary, MCA, November 19, 2022



Mr. Ravi Mital, Chairperson, IBBI, November 19, 2022

Annual Day

The IBBI celebrated its Sixth Annual Day on October 1, 2022. Ms. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs graced the occasion as the Chief Guest. Chief Justice (Retd.) Mr. Ramalingam Sudhakar, Hon'ble President, NCLT and Mr. Ashok Kumar Gupta, the then Chairperson, Competition Commission of India, delivered the Annual Day Lecture. The Annual Day witnessed presence of stakeholders of the insolvency regime, namely, officers of the Government and regulatory bodies, IPAs and RVOs, IPs, registered valuers (RVs), other professionals, debtors, creditors, business leaders, academicians, and researchers. However, large number of stakeholders participated the event online.



Mr. Ravi Mital, Chairperson, IBBI, October 1, 2022



Sixth Annual Day of IBBI, October 1, 2022

Mr. Ashok Kumar Gupta, the then Chairperson, CCI in his address noted the journey of economic reforms starting from 1990s to the enactment of IBC, leading to ultimate economic freedom to exit, for honest business failures. He highlighted the importance of free exit for ensuring free competition and effective resource allocation. He appreciated the outcomes of IBC in terms of behavioural changes regarding credit discipline and noted that IBC has changed the way society perceives business failure and its contribution in promoting entrepreneurship.



Mr. Ashok Kumar Gupta, the then Chairperson, CCI, October 1, 2022

Mr. Ramalingam Sudhakar, Hon'ble President, National Company Law Tribunal, while delivering annual day lecture observed contribution of all stakeholders who have been part of the successful journey of IBBI and IBC ecosystem. He noted that recent regulatory developments like allowing part sale of assets under CIRP, enabling entities to function as IP, etc. are testimony to the efforts of IBBI to reduce delays and ensure value maximisation under the Code.



Mr. Ramalingam Sudhakar, Hon'ble President, NCLT, October 1, 2022

Ms. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs applauded the outcomes of the Code in a short span of time. While appreciating the role of IBBI and IPs, she emphasised the need to address the challenges before the IBC ecosystem, particularly with respect to timely identification of stress, reducing delays and improving recoveries. Highlighting the objectives and important role of IBC in Indian economic framework, she called upon all stakeholders to play their part in the journey ahead to realise the full potential of the Code.



Ms. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs, October 1, 2022

As part of the Annual Day celebrations, dignitaries led by Ms. Nirmala Sitharaman, Hon'ble Minister of Finance and Corporate Affairs released IBBI's annual publication, 'IBC: Idea, Impressions and Implementation'. This publication details the path the law has taken in terms of its evolution and emerging jurisprudence; the continual improvements during the past six years; contribution of the key pillars and stakeholders in its effective implementation; the impact that the law has created; and lastly peeps into what lies ahead. Practitioners, policymakers, lawyers, subject experts, and academicians have graciously shared their thoughts in the publication around this theme.



Release of Annual Publication, October 1, 2022

Vigilance Awareness Week, 2022

The IBBI observed the Vigilance Awareness Week for the year 2022 from October 31, 2022 to November 6, 2022 on the theme 'भ्रष्टाचार मुक्त भारत – विकसित भारत' (Corruption free India for a developed Nation). Mr. Ravi Mital, Chairperson, IBBI administered oath to officers through hybrid mode. The IBBI received an integrity pledge certificate from the Central Vigilance Commission. In addition, Mr. Subhash Chaudhary, General Manager, IBBI delivered a talk on the theme 'Best Practices of Preventive Vigilance' on November 10, 2022 for the benefit of all officers of the Board.



Integrity pledge, October 31, 2022



Integrity pledge of the IBBI



Talk on 'Best Practices of Preventive Vigilance', November 10, 2022

Human Resources

Employee Trainings and Workshop

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

Date	Organised by	Nature of the programme / Subject	No. of Officers
05-10-22 to 06-10-22	Law Society of Singapore, Insolvency Practitioners Association of Singapore	Singapore Insolvency Conference 2022, Singapore	1
13-10-22 to 14-10-22	American Bankruptcy Institute, INSOL International	2022 International Insolvency and Restructuring Symposium, London, UK	1
15-12-22 to 16-12-22	Asian Development Bank, INSOL International	Strengthening Insolvency Systems in Asia and the Pacific, Manila, Philippines	5



Mr. Santosh Shukla, ED, IBBI, Participation at Singapore Insolvency Conference, October 5-6, 2022



Mr. Ravi Mital, Chairperson, IBBI, Participation at Conference in Manila, Philippines, December 15, 2022 through virtual mode



Participation at Conference in Manila, Philippines, December 15-16, 2022

Legal and Regulatory Framework

Central Government

Appointment of Ms. Reetu Jain as Ex-officio member in the IBBI

The Central Government vide order dated October 6, 2022 has appointed Ms. Reetu Jain, Economic Adviser, Department of Economic Affairs, Ministry of Finance as ex-officio member in the IBBI to represent the said Ministry in the Board.

The Companies (Registered Valuers and Valuation) Amendment Rules, 2022

The Central Government vide notification dated November 21, 2022 has amended the Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) to provide that no partnership entity or company shall be eligible to be an RV if it is not a member of a RVO and that these entities should not be registered with more than one RVO at one point in time. The amendment also specifies a fee structure for change in details of RVs and RVOs.

IBBI

Amendment to IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016

The IBBI notified the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2022 on October 3, 2022. The amended regulations *inter-alia* provide that no insolvency professional entity (IPE) recognised by the Board under regulation 13 of the IBBI (Insolvency Professionals) Regulations, 2016 (IP Regulations), shall be enrolled as a professional member if it is not eligible to be registered as an IP with the Board.

The IBBI notified the Insolvency and Bankruptcy Board of India (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Second Amendment) Regulations, 2022 on October 31, 2022. The amendment incorporates the provisions of three circulars in the regulations itself, namely: (i) Circular No. IP/005/2018 dated January 16, 2018 specifying the format for disclosure of relationship by the IPs (ii) Circular no. IPA/009/2018 dated April 19, 2018 mandating IPAs to submit Annual Compliance Certificate in the format given in the circular and (iii) Circular No. IBBI/IPA/43/2021 dated July 28, 2021 specifying the list of contraventions by IP and the amount of penalty to be imposed by IPAs. Vide this amendment, the said circulars were rescinded.

Circulars

Annual Compliance Certificate for IPAs

The IBBI vide its circular dated November 2, 2022 revised the format of Annual Compliance Certificate for IPAs to be submitted with the Board within 45 days of the end of the financial year.

Review of Regulations

The IBBI conducted an exercise of review of regulations and circulars issued by it in exercise of powers under section 196 of the Code. Pursuant to the same, the IBBI, vide its circular dated November 9, 2022 rescinded eleven earlier issued circulars as these were no longer required on account of being already provided in IP Regulations or IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016 or IBBI (Information Utilities) Regulations, 2017 (IU Regulations), as the case may be.

Payment of fees to the Board

The IBBI vide its circular dated November 24, 2022 specified the account details of the Board for making payment of fees by the IPs and IPEs under various regulations, for which online payment module is not yet implemented.

Proforma for reporting liquidator's decision(s) different from the advice of SCC

The IBBI vide its circular dated December 21, 2022 specified the format of reporting liquidator's decision(s) different from the advice of the stakeholders' consultation committee (SCC) as required under proviso to sub-regulation (10) of regulation 31A of IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations), and made available an electronic platform for the same.

Guidelines

The IBBI Research Initiative, 2019

The IBBI issued the amended Research Initiative, 2019 on December 1, 2022. This Initiative aims to promote research - legal, economic, and interdisciplinary - and discourse in areas relevant for the evolving insolvency and bankruptcy regime in general, and that in India. Various new research areas relating to insolvency and bankruptcy have been added in the Initiative, vide the said amendment.

Guidelines for Panel of IPs

The IBBI issued the guidelines namely 'Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2022' (Panel Guidelines) on December 12, 2022. These guidelines enable the Board to prepare a common panel of IPs and share the same with the AA for appointment of Interim Resolution Professionals (IRPs), Liquidators, RPs and Bankruptcy Trustees from January 1, 2023 to June 30, 2023. These Guidelines shall come into effect from January 1, 2023.

Other Authorities

Reserve Bank of India

Review of Regulatory Framework for Asset Reconstruction Companies

The RBI had set up a Committee to undertake a comprehensive review of the working of asset reconstruction companies (ARCs) and recommend suitable measures for enabling them to function in a more transparent and efficient manner. Based on the Committee's recommendations and feedback from the stakeholders, the RBI released the amended regulatory framework for ARCs on October 11, 2022. Vide the amended framework, ARCs have been permitted to act as resolution applicants under the Code, subject to certain conditions. Various other measures have been introduced with a view to strengthen transparency in the ARC sector and to improve the corporate governance standards in ARCs.

RBI's Financial Stability Report, December, 2022

The RBI released its Financial Stability Report, December 2022 on December 29, 2022. The Report highlighted the recent regulatory framework issued by the RBI that permitted ARCs to act as resolution applicants under the Code, subject to certain conditions. It also captured the number of cases admitted under the Code as of September, 2022 and the outcomes thereof. The Report also mentioned the amendments made in various regulations issued by the IBBI during the period July to October, 2022.

Orders

Supreme Court

Rajratan Babulal Agarwal Vs. Solartex India Pvt. Ltd & Ors. [Civil Appeal 2199 of 2021]

While placing reliance on the *Mobilox Innovations Private Limited v. Kirusa Software Pvt. Ltd.* judgment, the SC observed that Code does not enable the operational creditor (OC) to put the CD into CIRP prematurely. It is for this reason that it is enough that a dispute exists between the parties. It further observed that AA cannot be oblivious to the limited nature of examination of the case of the CD projecting a pre-existing dispute.

The SC observed that all that AA is required to see is whether there is a plausible contention that need to be investigated. A 'patently feeble' legal argument may not be a plausible dispute. The AA need not go to the extent of finding that the CD is likely to succeed. The examination of the merits need not transcend the limited extent which is to find that the case of the CD is not to be brushed aside as spurious, hypothetical or illusory. It observed that: "The standard, in other words, with reference to which a case of a pre-existing dispute under the IBC must be employed cannot be equated with even the principle of preponderance of probability which guides a civil court at the stage of finally decreeing a suit. Once this subtle distinction is not overlooked, we would think that the NCLT has clearly erred in finding that there was no dispute within the meaning of the IBC." The SC also observed that overlooking the boundaries of the jurisdiction can cause a serious miscarriage of justice besides frustrating the object of the Code.

Ashok Kumar Sarawagi Vs. Enforcement Directorate & Anr. [Special Leave Petition (Civil) Diary No(s). 30092/2022]

CIRP was admitted against the CD in November, 2019 and thereafter the Enforcement Directorate (ED), on December 30, 2021 issued an order of provisional attachment of the immovable and movable properties of the CD under the Prevention of Money Laundering Act, 2002 (PMLA). Pending challenge against the order of the ED, the SC directed that the CIRP of CD to be conducted on 'as is where is' and 'whatever there is' basis. It also cautioned that the resolution plan shall not be approved by the AA without the express permission of the SC.

High Court

Kirankumar Moolchand Jain Vs. TransUnion CIBIL Ltd. & Ors. [Arb. O.P. (Com. Div) No. 86 of 2022]

The HC considered the issue as to whether the disputes pertaining to accuracy of credit information under Credit Information Companies (Regulation) Act, 2005 are arbitrable and whether an arbitral tribunal be constituted, while an interim moratorium is in place under section 96(1)(b) of the Code. The HC observed that when a dispute arises between borrower/client and credit information company/credit institution with respect to accuracy or completeness of the credit information collected, processed or collated, the same qualifies a dispute relating to the business of credit information and such dispute may be referred for arbitration.

As regards arbitration during interim moratorium under section 96 of the Code, it observed that section 96(1)(b) of the Code mentions that interim moratorium applies 'in respect of any debt' and not for 'recovery of a debt'. This section clarifies that the interim moratorium applies not only to proceedings for recovery of a debt but to proceedings in which the liability of the borrower and guarantor are determined in relation to the credit facility. Accordingly, it held that an arbitral tribunal cannot be constituted while an interim moratorium under the Code is in existence. It further observed that once the moratorium ends and if the petitioner succeeds in the proceedings before the AA, it may initiate arbitration proceedings.

Axis Trustee Services Ltd. Vs. Brij Bhushan Singal & Anr. [CS (Comm) 8/2021 and other applications]

The issue in this case was whether interim moratorium under section 96 of the Code for one of the guarantors would apply in respect of a co-guarantor. The HC held that effect of the interim moratorium is only in respect of the debts of a particular debtor and by no stretch of the imagination can it be said to include other independent guarantors in respect of the same debt of a CD. Further, merely because an interim moratorium under section 96 is operable in respect of one of the co-guarantors, the same would not *ipso facto* apply to other co-guarantors.

Rajiv Chakraborty, Resolution Professional of EIEL Vs. Directorate of Enforcement [W.P.(C) 9531/2020 and other applications]

During CIRP, the Enforcement Directorate (ED) passed provisional attachment orders against the CD. Aggrieved by the orders, RP filed an application seeking directions to restrain the ED from proceeding further from taking any action during the pendency of the CIRP. The HC held that the

attached property under the PMLA comes to vest in the Union Government only upon the passing of an order by a special court under the provisions of the PMLA and therefore, the provisional attachment of properties does not violate section 14 of the Code.

It observed that assets, which may have been obtained by the commission of a scheduled offence cannot be accorded exemption or immunity from the rigours of the PMLA which is not subservient to the moratorium provision comprised in the Code. The PMLA seeks to subserve a larger public policy imperative and is an enactment representing "a larger public interest, namely the fight against crime and the debilitating impact that such activities ultimately have on the society and the economy of nations as a whole". It also relied upon following observation in the 2020 Report of the Insolvency Law Committee, in Para 8.11: "...the moratorium provision is not liable to be interpreted as barring all possible actions "especially where countervailing public policy concerns are involved". It also took note of laws prevailing in different jurisdictions which permit regulatory actions which though not aimed at collecting moneys for the estate protect other vital and urgent public interests".

Insolvency and Bankruptcy Board of India Vs. State Bank of India & Ors. [W.P. (C) 10189/2018 & CM APPL. 39715/2018]

The IBBI filed a writ petition challenging the order of AA which had held that regulation 36A of IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations) is *ultra vires* of section 240(1) of the Code. The HC held that in terms of section 60(5), the categories of cases which can be adjudicated by the AA have been clearly enumerated, and the jurisdiction to deal with the validity of the regulations framed under the Code is not conferred upon the AA. The AA being a creature of the Code, cannot assume to itself the power of declaring any provisions of the Code or the regulations framed there under as illegal or *ultra vires*.

Brilltech Engineers Pvt. Ltd. Vs. Shapoorji Pallonji and Co. Pvt. Ltd. [ARB. P. 790/2020, IA 12493/2020, IA 3888/2021]

An application for appointment of arbitrator was filed before the HC. Subsequently, an application under section 9 of the Code was also filed before the AA. The issue was as to whether the dispute will become non-arbitrable merely because the OC has filed a section 9 application. The HC observed that it is a settled proposition of law that jurisdiction of NCLT can be invoked only in respect of determined debts. It further observed that: "though a proceeding may have been initiated by the petitioner before the NCLT asserting that there is an admitted debt... but a mere assertion would not make it into an admitted liability especially when the respondent has been refuting it at every forum and in every proceeding". The HC held that merely because an OC filed section 9 application before the AA before seeking appointment of arbitrator, it can't be said that he was indulging in forum shopping. As there were arbitrable disputes, the HC appointed an arbitrator to adjudicate the disputes between the parties.

Alliance Broadband Services Pvt. Ltd. Vs. Manthan Broadband Services Pvt. Ltd. [IA No. GA/3/2022 in CS/54/2019]

The FC had filed a civil suit praying for a decree with respect to the equity shares of the respondent in its possession. Subsequently, FC also filed an application under section 7 which was admitted by the AA. As the CD was under liquidation, FC apprehending that the liquidator will take control and possession of its equity shares, approached the Calcutta HC. The HC held that NCLT and NCLAT are constituted under sections 408 and 410 of the Companies Act, 2013 but without specifically defining the power and functions. While there is no provision in the Companies Act, 2013 exclusively dealing with the jurisdiction and powers of NCLT, section 60 of the Code gives an indication about the powers and jurisdiction of the AA. Section 60(4) states that the AA will have the powers of debt recovery tribunal (DRT) as contemplated under part III of the Code for the purpose of sub-section (2).

The HC observed that as per section 60(5) of the Code, the petitioner can approach the AA instead of the HC. It held that the object of section 60(2) of the Code is to group together, (a) CIRP or liquidation proceedings of a CD, and (b) insolvency resolution/ liquidation/ bankruptcy proceedings of the corporate guarantor or personal guarantor of the same CD before a

single forum. This is to ensure that the CRIP of the CD and the insolvency resolution of the individual guarantors of the very same CD do not proceed on different tracks, before different forum, leading to conflict of interest, situations, or decisions. The HC held that section 238 of the Code has an overriding effect on any other law for the time being in force. Section 430 of the Companies Act, 2013 itself provides an additional bar that no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any power conferred on the NCLT by the Companies Act, 2013. It observed that the matter in issue in the suit can be more appropriately and effectively decided and adjudicated by the AA.

DLF Ltd. Vs. IL&FS Engineering and Construction Company [2022/DHC/005697]

The issue for consideration before Delhi HC was whether arbitration is permissible with regard to claims arising after October 15, 2018 i.e., cut-off date in view of order dated October 15, 2018 of the NCLAT. It noted that during the resolution process of a company, its creditor is obligated to necessarily lodge claims before the RP, as a successful resolution applicant (SRA) cannot suddenly be faced with undecided claims after the resolution plan submitted by him has been accepted. This would amount to a 'hydra-head popping up' which would throw into uncertainty amounts payable by a prospective resolution applicant who successfully takes over the business of the CD. The effect of the order of the NCLAT is primarily akin to moratorium under section 14. The intent of the order of the NCLAT was to protect the assets of IL&FS and its group companies in order to make the resolution process effective and purposeful.

NCLAT

Mrs. Renuka Devi Rangaswamy Vs. M/s Regen Powertech Private limited and Ors. [Comp. (AT) (CH) (Ins) No. 357/2022 & IA/814/2022]

The issue that arose before the NCLAT was whether the transfer of assets within the group of companies would constitute a fraudulent trading as per section 66 of the Code. The NCLAT held that it must be borne in mind that whenever a fraud on a CD is committed, in the course of business, it does not necessarily mean that the business is being carried on with an intent to defraud the creditors. A higher degree of proof is required in regard to a fraudulent intent. That further the NCLAT held that it is the duty of the appellant to satisfy the NCLAT that an individual is carrying business with CD with dishonest intent. It held that the transfer of assets among the group companies *ex-facie* was not fraudulent.

Sreedhar Tripathy Vs. Gujarat State Financial Corporation & Ors. [Company Appeal (AT) (Insolvency) No. 1062 of 2022]

The CoC's decision to liquidate the CD was challenged on the ground of being arbitrary. The NCLAT observed that the CD has not been functioning for the last 19 years and all machinery had become scrap, even the building is in dilapidated condition and the CIRP would involve huge costs. In such case, CoC is empowered to take decision under the statutory scheme of the Code. The NCLAT upheld the decision of the AA for liquidation.

Punjab National bank Vs. Mr. Ashish Chhawchharia and Ors. [Company Appeal (AT) (Insolvency) No. 584 of 2021 & IA No. 2720 of 2021]

After initiation of CIRP against the CD, a FC filed a claim of ₹956 crore as per the Share Pledge Agreement. The RP admitted the claim for ₹956 crore and same was reflected in the list of creditors on January 15, 2020. On September 22, 2020, RP reduced the claim of the FC by ₹202 crore on the ground that on invocation of the pledged shares, the FC had become the owner of the pledged shares. The issue that arose for consideration was whether the RP had jurisdiction to review and revise an admitted claim. The NCLAT held that the RP had incorrectly reduced the FC's admitted claim and directed the SRA to bear the liability of paying additional amount to FC from the amount reserved under resolution plan.

Jet Aircraft Maintenance Engineers Welfare Association Vs. Ashish Chhawchharia [CA (AT) (Ins) 752 of 2021]

In the approved resolution plan, employees and workmen were proposed a

fixed sum of ₹52 crore towards settlement of all claims including provident fund, gratuity, and pension fund. On challenge, the NCLAT *inter-alia* observed that explanation to section 18 clarifies that provident fund, gratuity and pension fund are assets on which employees have rights and cannot be considered as assets of CD. It further observed that it was CD's statutory duty to deposit provident fund and pay gratuity, and the amount towards statutory liability of the CD against provident fund and gratuity is to be paid by SRA.

Assam Tea Employees Provident Fund Organization Vs. Mr. Madhur Agarwal & Anr. [Company Appeal (AT)(Ins.) No. 262 of 2022]

The appeal was preferred by Assam Tea Employees Provident Fund Organization against the order of AA approving the resolution plan which had proposed payment of only partial amount of ₹1.07 crore for the provident fund dues as against the total admitted claim of ₹2.10 crore. The NCLAT relied on its earlier decision in *Regional P.F. Commissioner v. Ashish Chhawchharia, Resolution Professional for Jet Airways (India) Ltd. & Anr.* and held that provident fund dues are not the assets of the CD and they have to be paid in full. Accordingly, it directed the SRA to make payment of balance amount of provident fund, to save the resolution plan from invalidity.

Small Industries Development Bank of India (SIDBI) Vs. Shri Vijender Sharma [Company Appeal (AT) (Insolvency) No. 1027 of 2021]

On October 12, 2018, the AA directed liquidation of the CD. In November, 2018, SIDBI intimated the liquidator of its intention to realise its security interest and sent Form D. However, it did not (a) pay the amount payable under regulation 21A(2), and (b) provide the undertaking, as was required under the Liquidation Regulations. Accordingly, the liquidator approached the AA for necessary directions to SIDBI. As the liquidation process got delayed, the time-period of 15 months was excluded by AA in calculation of liquidator's fee. Aggrieved against such exclusion of time period, the Appellant approached the NCLAT. The NCLAT observed that "*compliance of regulations 2(ea), 2-A, 21-A and 37 of the Liquidation Process Regulations and Section 52/53 of the IBC are absolutely necessary even if the secured creditor proceeds to realise its security interest*". It further observed that: "*the liquidator has carried out his responsibility with due diligence and without any prejudice to Appellant or any other stakeholder, and therefore, cannot be held responsible for delay that has taken place in pursuing the liquidation of the corporate debtor.*"

Birla Financial Distribution Ltd. Vs. Shri Jagdish Singh Nain, Resolution Professional of HBN Foods Limited [Company Appeal (AT) (Ins.) No. 545 of 2022]

CD was originally incorporated as a private limited company on March 1, 2013 and later converted into a public limited company in July, 2013. The main objective of the CD was manufacturing of food products and beverages but deviating from its core objectives, it launched a collective investment scheme in August, 2013 for collecting money from public without registration with the Securities and Exchange Board of India. The investment scheme was stopped without repayment of the investment collected from public. The AA admitted the CIRP application in respect of CD. In the transaction audit report (TAR) for the period from the date of incorporation of the CD to the date of initiation of CIRP, it was highlighted that there were preferential transactions, undervalued transactions, extortionate credit transactions and fraudulent transactions. The AA admitted the avoidance application which was challenged by the CD. On examining the TAR, the NCLAT observed that there was lack of proper documents and due to which transaction auditor had admitted inability to comment on the transactions falling under sections 43, 45 and 50 of the Code. It remanded the matter to the AA for taking appropriate steps to conduct a detailed and in-depth investigation of the transactions in dispute to arrive at a conclusive opinion.

SLB Welfare Association Vs. M/s PSA IMPEX Pvt. Ltd. & Anr. [Company Appeal (AT) (Insolvency) No. 905 of 2022]

The NCLAT found that CIRP was initiated as an attempt to stop the implementation of the orders passed by the Real Estate Regulatory Authority and to take back the project. It found that the OC had fraudulently initiated

the CIRP, for a purpose other than insolvency resolution. Accordingly, the admission order was set aside and a penalty of ₹25 lakh was imposed on the OC under section 65 of the Code.

Chipsan Aviation Pvt. Ltd. Vs. Punj Llyod Aviation Ltd. [Company Appeal (AT) (Insolvency) No. 261 of 2022]

On an assurance from the CD, a sum of ₹60 lakh was advanced for aviation related services. The advance payment was reflected in the balance sheet of the CD. However, there was no contract between the parties for providing aviation services. The issue for consideration was whether such the advance paid will fall within the definition of 'operational debt' under the Code. The AA rejected the application holding that advance payment made by OC to the CD does not fall within operational debt. On appeal, the NCLAT observed that the expression 'in respect of' in section 5(21) of the Code has to be interpreted in a broad and purposive manner and held that the advance payment of ₹60 lakh was clearly an operational debt.

Edelweiss Asset Reconstruction Company Ltd. Vs. Mohit Goyal, [Company Appeal (AT)(Ins) No. 583 of 2022]

The FC's application for its non-inclusion in the CoC by RP, was disposed of by AA being infructuous as RP had subsequently included the FC in CoC. In appeal, the NCLAT observed that the 1st CoC comprised only the AR of the homebuyers with 100% voting power, the claims of which were provisionally admitted. It further observed that the claim of the FC was also provisionally admitted by the IRP yet he chose to exclude the FC on the ground that there was a need to verify the provisional claims submitted by the FC. It observed that "this conduct is unjustified in that the exclusion of Financial Creditor from the CoC or delayed inclusion of the Financial Creditor on the CoC is prejudicial to the best interests of the Corporate Debtor". It further observed that various crucial decisions were taken in 1st CoC meeting such as confirmation of IRP as RP, appointment of professionals and raising of interim finance and the IRP/RP was expected to take such decisions under the guidance and directions of a properly constituted CoC. It, therefore, ordered that the decisions taken in 1st CoC meeting shall not be implemented unless ratified / modified in the next meeting of the CoC.

Bank of Maharashtra Vs. Manjeet Cotton Pvt. Ltd. & Anr. [Company Appeal (AT) (Insolvency) No. 581 of 2022]

CIRP was initiated by the Bank of Maharashtra, acting for and on behalf of itself, State Bank of India and Vijaya Bank. As per the resolution plan, SRA undertook to pay ₹29.3 crore to the banks in case the live bank guarantees are invoked by them. After the approval of resolution plan by the CoC but before the approval of the resolution plan by the AA, the bank guarantees were invoked. The issue for consideration was, whether the banks were entitled to the payment by the SRA towards live bank guarantees invoked prior to the 'Transfer Date'? As per the resolution plan, 'Transfer Date' relates to the date when the management of the CD goes in the hands of the SRA. Accordingly, as the bank guarantees were invoked prior to the 'Transfer Date', it was held that any purported liability falling on the SRA prior to 'Transfer Date' in respect of invocation of bank guarantees shall not be payable by the SRA.

Base Realcon Pvt. Ltd. Vs. Grand Realcon Pvt. Ltd. [Company Appeal (AT) (Ins.) No. 882 of 2022]

The AA dismissed the application of FC on the ground that only interest amount would not fall within the definition of 'financial debt', until and unless principal amount has also become due and payable. On appeal, the NCLAT observed that there was no dispute that the amount of interest became due and payable and relying on the SC observation in *Innovative Industries Ltd. v. ICICI Bank* and *Orator Marketing Pvt. Ltd. v. Samtex Desinz Pvt. Ltd.*, it held that the application filed under section 7 of the Code could be maintained relating to the component of interest which became due and payable, without asking for the principal amount which has not yet become due and payable.

Excel Engineering & Ors. Vs. Mr. Vivek Murlidhar Dabhade & Anr. [Company Appeals (AT) (Insolvency) No. 85-86 of 2020]

The issue for consideration before NCLAT was, whether the approved resolution plan which provided 100% payments to the farmers as against

1% to the OCs, was discriminatory. The NCLAT observed that "there is no embargo for the classification of the 'Operational Creditors' into separate/ different classes for deciding the way in which the money is to be distributed to them by the CoCs". It further observed that "... it is the final discretion of the 'Collective Commercial Wisdom' in relation to (1) The amount to be paid (2) The quantum of money to be paid to a certain category or the incidental category of Creditors, balancing the interests of the 'Stakeholders' and the 'Operational Creditors', as the case may be". While dismissing the appeal, the NCLAT also urged the government and the IBBI to examine some minimum entitlement to the OCs based on the amount realised in the resolution plan over and above the liquidation value.

Darshan Gandhi Vs. USV Private Limited [Company Appeals (AT) (Ins.) No. 644 of 2019 & I.A. Nos. 2106, 2660, 4316, 2609 & 2614 of 2019]

The appeal was preferred by the CD against the admission order mainly on the ground that seeking execution of 'decree' does not define the first respondent as a FC and a decree holder can be defined as a 'creditor', but not a FC. The NCLAT held that as per section 5(10), the definition of 'creditor' in the Code includes a decree holder. If a section 7 application is filed for realisation of the decretal amount, it cannot be dismissed on the ground that no steps were taken for filing execution case in a civil court.

Excel Engineering Vs. Mr. Vivek Murlidhar Dabhade Resolution Professional of New Phaltan Sugar Works Ltd. [Company Appeals (AT) (Insolvency) No. 85-86 of 2020]

An OC filed an intervention application during pendency of approval to the resolution plan. The AA dismissed the application on the ground that OC had no *locus standi*. It was contended by the OC that all the OCs collectively formed 32.78% of the total debt and, therefore they should be part of the meetings and decision making in the CoC. The NCLAT observed that the OCs had filed their claims independently but there was no application filed forming the group or consortium of OCs. Further, placing reliance on the decision of the Hon'ble SC in *Kalpraj Dharamshi & Anr. v. Kotak Investment Advisors Ltd. & Anr.*, it observed that the OCs were paid as per section 30(2)(b) and read together with regulation 38 of the CIRP Regulations, the OCs are entitled to receive only such money that are payable to them as per section 53 of the Code. It also observed that the OCs can attend meetings but cannot vote.

Income Tax Department Vs. M/s. Indianroots Shopping Ltd. & Ors. [Company Appeal (AT) (Insolvency) No. 32 of 2022]

In this case, CoC consisted only of OCs. The AA directed the Income Tax Department and the Excise and Taxation Department (Government of Haryana), the two major OCs having voting share of 96.75% in the CoC, to pay CIRP dues and expenses in proportion to their voting share in CoC. The order of AA was challenged on the ground that the CoC's decision was taken in their absence and is not legal in view of the requirement of 51% of voting share in CoC decisions, as stipulated in section 21(8) of the Code.

The NCLAT dismissed the appeal and held that there was no illegality in holding of the meeting of CoC. The NCLAT found that RP took necessary care to ensure the presence of two most important members of the CoC. Both OCs had chosen not to participate in the CoC meeting making the compliance of section 21(8) impossible. The NCLAT further observed that both the OCs did not challenge the decision of the CoC and, thus, accepted it without any objection or demur. When the OCs did not pay their share of CIRP cost, the erstwhile RP later appointed as liquidator was forced to prefer IA seeking directions to the OCs to pay their respective share of the CIRP cost. It is at this stage that both the OCs raised the issue of illegality of the decision taken in the 7th meeting of CoC, which is after a lapse of substantial period. Accordingly, the OCs were directed to pay the CIRP costs.

Varrsana Employee Welfare Association Vs. Anil Goel Liquidator [Company Appeal (AT)(Insolvency) No. 544 of 2021]

The appeal was preferred by Varrsana Employee Welfare Association on the ground that the liquidator had to include one of the representatives

of the workmen/employees of the CD in the SCC irrespective of the fact that these employees have a subsisting 'claim' or not. The NCLAT held that regulations 31 and 31A of Liquidation Regulations have to be read together and interpreted in their truest sense keeping the objective of the Code. Read congruously, they specify that when the employees have no subsisting claim, they cannot be included in the list of stakeholders, thereby meaning that if the workers are not specifically included in the list of stakeholders, under regulation 31, they cannot be made a part of the SCC under regulation 31A(1). The NCLAT further held that claim of gratuity is payable only at a future date in the happening of any event like retirement, resignation, termination, death, etc., and therefore, it cannot be construed as a 'claim subsisting' to be included in the list of stakeholders and consequently seeking a place in the SCC.

Amardeep Singh Bhatia Vs. Abhishek Nagori & Ors. [Company Appeal (AT) (Insolvency) No. 671 of 2020 & I.A. No. 2116 of 2020]

Promoters of the CD challenged AA's order permitting liquidator to scrutinize the alleged avoidance transactions executed by the CD beyond two years from the commencement of CIRP. Liquidator submitted that that avoidance transactions were being carried out by the suspended management of the CD two years prior to the insolvency commencement date (ICD), and they were not cooperating contending that the transactions fell beyond the period of two years. The NCLAT held that AA has rightfully exercised its inherent powers under rule 11 of NCLT Rules, 2016 in the interest of justice by directing the promoters to provide the relevant information. It was observed that if liquidator was not in the possession of all the material documents, he could not determine whether they are undervalued transactions or preferential transactions, therefore, the CD could not deny the documents on the ground of look-back period. Further, it was observed that there is no provision in the Code for the appellant to invoke the clause concerning relevant period of two years solely on the ground of denying information directed to be given to the liquidator.

Ashok Mahindru & Anr. Vs. Vivek Parti [Company Appeal (AT) (Insolvency) No. 1324 of 2022]

CIRP was initiated under section 9 against the CD. During CIRP, avoidance applications were filed by the IRP and RP under section 19, 66 and 67 of the Code against the suspended directors of CD. Thereafter, proceedings were also initiated under section 95 against the appellants as a personal guarantor of CD. Against this, the Appellants moved an application for stay of proceeding under section 19(2) as well as under section 66 and 67 in view of the interim moratorium in insolvency proceedings. The issue for consideration before NCLAT was, whether proceedings under section 19(2) and section 66 and 67 shall be deemed to have been stayed by virtue of interim moratorium under section 96(1)(b)? It was held that interim moratorium shall be for such proceedings which relate to a liability or obligation due i.e., due on date when interim moratorium has been declared. Section 96(1)(b) cannot be read to mean that any future liability or obligation is contemplated to be stayed. Thus, stay of proceedings under section 19(2) and section 66 and 67 is not contemplated under section 96(1)(b) and the scheme of Code in no matter provide for stay of such applications.

Mr. Aroon Kumar Aggarwal Vs. M/s ABC Consultants Pvt. Ltd. [Company Appeal (AT) (Ins) No. 409 of 2020]

An ex-employee of the CD filed a section 9 application. The AA dismissed the application on the ground that since the service of the employee was terminated on the ground of fraudulent activities, forgery, etc., the amount claimed by him cannot be termed as an 'operational debt'. Further, since criminal proceedings against the employee were pending, there was pre-existing dispute. On appeal, the NCLAT held that the order of AA is illegal and allowed the appeal. It observed that section 8(2)(a) of the Code provides that the dispute must be in respect of the claimed amount and must not be referable to any other kind of dispute.

M/s. Aswathi Agencies Vs. Bijoy Prabhakaran Pulipra & Ors. [Company Appeal (AT) (CH) (Ins.) No. 179 of 2021]

The NCLAT held that a Trust can be a resolution applicant under the Code. It observed that the word 'person', as defined in section 3(23)(d) of the

Code includes a trust, therefore, there is no fetter / embargo or a legal impediment, for a trust to be a resolution applicant.

Mr. Thomas George Vs. K. Easwara Pillai & Ors. [Company Appeal (AT) (CH) (Insolvency) No. 293 of 2021]

The NCLAT observed that unlike other types of transactions provided under the Code, there is no specified look back period for fraudulent trading under section 66 of the Code. Hence, the RP is allowed to retrieve/repossess without any limitation of time and correct all the wrong doings for any relevant point of time.

Krishna Hi-Tech Infrastructure Pvt. Ltd. Vs. Bengal Shelter Housing Development Ltd. [Company Appeal (AT) (Insolvency) No. 1375 of 2022 & I.A. No. 4297, 4296 of 2022]

The AA rejected the application filed by OC stating that there existed a pre-existing dispute based on some emails/objections raised by the CD. On appeal, NCLAT observed that "...The dispute between the parties are not supposed to be decided, examined and adjudicated in IBC proceeding. Only question to be looked in Section 9 Application is as to whether the objection raised by the Corporate Debtor opposing claim of the Operational Creditor is not a moonshine defense". It held that the issues raised in e-mails are not moonshine defense and the dispute was raised much prior to issuance of notice under section 8. The appeal was dismissed.

Rajesh Narang Vs. Durha Vitrak Pvt. Ltd. & Anr. [Company Appeal (AT) (INS) No. 612/2021]

The NCLAT observed that "...The basic object of the IBC is to see that even if there is financial crunch or a company is in default, the approach should be to get the said company/entity as going concern... a step for revival of the CD would be the first step.... In any event liquidation of a CD under the IBC Code is considered as last nail in a coffin. The object to keep a CD as going concern is a rule whereas carrying the CD for liquidation is exception."

It further observed that once IRP/RP is appointed by the AA, he acts as a public servant and as a public servant it is expected that he will proceed in a fair and independent manner. In the facts of the case, the NCLAT found that RP had not taken any reasonable step to get the CD as going concern which he is mandated to do under section 25(2)(h) and section 24 of the Code. It noticed many infirmities and illegalities and directed the IBBI to conduct an enquiry regarding conduct of the RP.

Pramod Kumar Pathak Vs. ARFAT Petrochemicals Pvt. Ltd. [Company Appeal (AT) (Insolvency) No.312 of 2022]

On May 24, 2017, the Central Government issued a notification stating that a rehabilitation scheme sanctioned under implementation of section 18 of Sick Industrial Companies (Special Provisions) Act, 1985, shall be deemed to be an approved resolution plan under section 31(1) of the Code. Relying on the said notification, appellant was seeking CD's liquidation on the ground that rehabilitation scheme has been breached, therefore CD be liquidated. The issue for consideration was, whether the approved rehabilitation scheme is a resolution plan within the meaning of the Code? It was held that sanctioned scheme of rehabilitation cannot be termed as resolution plan within the meaning of section 5(26) of the Code. The rehabilitation scheme not being resolution plan, there is no question of CD committing breach of implementation of the plan. The NCLAT relied on the decision of Apex Court in *M/s Spartek Ceramics India Ltd. v. Union of India & Ors.*, which laid down that Notification dated May 24, 2017 travels beyond the scope of removal of difficulties order under Section 242 of the Code. It was observed that: "When the Notification dated 24.05.2017, is not a valid Notification, there is no occasion to accept the submission that approved Rehabilitation Scheme dated 07.01.2005, which is foundation of the Application filed by the Appellant under Sections 33 read with Section 34 can be treated as a Resolution Plan within the meaning of IB Code."

Siti Networks Ltd. Vs. Assets Care and Reconstruction Enterprises Ltd. & Anr. [Comp. App. (AT) (Ins.) No. 1449 of 2022]

A loan sanctioned by FC to the CD was classified as non-performing asset (NPA), and CIRP proceeding was initiated. Subsequently, the FC assigned

the debt to another person and informed the CD. The issue was whether the assignee could be permitted to continue section 7 proceedings under the Code. The NCLAT held that there is no prohibition in the Code or the Regulations from continuing the proceeding by an assignee. Section 5(7) of the Code which defines 'financial creditor' includes a person to whom such debt has been legally assigned or transferred to. By virtue of assignment, an assignee becomes the FC and it has every right to continue the proceeding which was initiated by the original FC/assignor.

Mathuraprasad C Pandey & Ors. Vs. Partiv Parikh, RP of M.V. Omni Projects (India) Ltd. & Anr. [Company Appeal (AT) (Ins) No. 201/2021 with 266/2021]

While approving the resolution plan, the AA modified the resolution plan to the extent that "if any member of Resolution applicants has entered into or stand as guarantor in the individual capacity, in that event, he shall not be covered with any immunity given under the Resolution Plan". The NCLAT found that AA has exceeded its jurisdiction by modifying the resolution plan. It observed that if a resolution plan is submitted before the AA which is in compliance with section 31(1) as well as section 30, such resolution plan has to be approved by the AA since in section 31 word 'shall' has been incorporated with proviso that the AA must be satisfied that the resolution plan has provisions for its effective implementation. It is clear that mandate of legislation is either to approve the resolution plan or to reject. However, there is no provision for making alteration or modification in the resolution plan.

Nirmal Kumar Agarwal Vs. State Bank of India & Ors. [Company Appeal (AT) (Ins.) 983 of 2019]

The AA allowed the application under section 7 against corporate guarantor, who was a financial service provider under section 3(17) of the Code. On appeal, NCLAT set aside the order of AA and held that the application under section 7 was not maintainable as the corporate guarantor was registered as a non-banking finance company with the RBI. It relied on SC decision in *Jagmittar Sain Bhagat v. Health Services, Haryana*, wherein it has been held that if NCLT did not have the jurisdiction to initiate the proceedings then the said proceedings were *non-est* in the eyes of law.

Kalinga Allied Industries India Private Limited Vs. Committee of Creditors & Anr. [Company Appeal (AT) (Insolvency) No. 689 of 2021]

The CoC approved the resolution plan on November 11, 2019. Thereafter, CoC approached the AA for direction to consider a new resolution plan of a third party who was not a part of the CIRP proceedings and sought to withdraw its approval after more than two years of the approval of the first resolution plan. The AA allowed. In appeal, the NCLAT observed that "... it is crystal clear that any modification or a withdrawal (by SRA or otherwise) after approval by the CoC and submission to the Adjudicating Authority, 'irrespective of the content' of the terms envisaged by the Resolution Plan, would only lead to further delay and defeat the very scope and objective of the Code. The existing framework does not provide any scope for effecting any further modifications or withdrawals of the CoC approved Resolution Plan by the SRA or the Creditors. The Adjudicating Authority can interfere only if the Plan is against the provisions of the Code. Once the Plan is submitted to the Adjudicating Authority, it is binding and irrevocable as between the CoC and the SRA in terms of the provisions of the Code". It further reiterated that "the 'Maximisation of Value of Assets' ought to be 'within the specified time lines' and if it is not a 'timebound process', the entire scope and objective of the Code would fail merely because there is another higher offer made by a third party, the CoC cannot consider another Plan of a third party who did not participate in the CIRP Proceedings..."

Paramvir Singh Tiwana & Ors. Vs. Puma Realtors Pvt. Ltd. & Anr. [Company Appeal (AT) (Insolvency) No. 554 of 2021]

On challenge to the resolution plan providing differential treatment to OCs, the NCLAT held that differential treatment to OCs is solely based on the commercial decision of the CoC and any differential treatment between the class of creditors, based on the nature of business involved, cannot be

construed as 'material irregularity'. It observed that "so long as the provisions of the Code and the regulations have been met, it is the Commercial Wisdom of the requisite majority of the CoC which is to negotiate and accept the Resolution Plan, which may involve differential payments to different classes of Creditor, together with negotiating with a Prospective Resolution Applicant for better or different terms which may also involve differences in amounts of distribution between the different classes of Creditors". It also suggested that the IBC and the Government may take effective steps to make necessary amendments to protect the class of 'FCs' /Homebuyers from imposition of any haircuts, and likewise take essential measures to safeguard the interest of OCs in the resolution plans.

NCLT

Samith R. Arasa Vs. Bijendra Kumar Agarwal [C.P/IB/1118/MB/2019]

The RP admitted the claim of FC during CIRP. However, during liquidation stage, FC filed a claim for compensation for failure of CD to vacate the premises within the lease period, which was rejected by the liquidator and only rent dues were admitted. It was held that AA has no jurisdiction to grant liquidated damages as a civil court and the appropriate remedy available is to approach the competent legal forum. It was further observed that there is no illegality or irregularity committed by the liquidator in rejecting the claim beyond the admitted rent.

Simplex Castings Limited Vs. Titagarh Wagons Limited [C.P (IB) No. 27/KB/2019]

The claim made by the OC against the CD was covered by a letter of credit opened by the CD through bank for ₹1.86 crore for supply of 90 bogies, out of which ₹98.32 lakh against the supply of 45 bogies was paid to the OC, and the payment for the remaining supply of bogies was due and payable. The AA rejected the CD's submission that CIRP is a counterblast to a proceeding initiated by the CD against the OC. It was observed that the application before it pertains to the non-supplies of bogies, which is covered under the ambit of 'operational debt' and is not connected to the pending proceedings before the NCLT. The AA relied on a Supreme Court ruling in *UOI v. Karam Chand Thapar & Bros. (Coal Sales) Ltd. & Ors.*, wherein it was held that the nature of equitable set-off is not available when the cross-demands do not arise out of the same transaction. Furthermore, the AA noted that the CD had accepted that the OC has a claim against it, arising out of separate transactions. The application was admitted.

A. P. C. System and Products Pvt. Ltd. Vs. Macmet India Ltd. [C.P. (IB)/2108/KB/2019]

Based on a money suit, OC filed an application for initiation of CIRP against CD. While dismissing the application, AA observed that "The petitioner herein has applied solely on the basis of the decree obtained by it in the said money suit. The same can be deduced from the fact that the demand notice was also issued on the basis of the said decree and the date of default has also been calculated on the basis of said decree. As such, it does not fall within the definition of the term 'operational debt' since the same is not on account of supply of goods or rendering of services".

M/s Packwell (India) Ltd. Vs. M/s Emgee Cables and Communication Ltd. [IA No. 15/JPR/2022 in CP No. (IB)-601/ND/2018]

The liquidator filed an application before AA, seeking directions to carry out the auction of properties of the CD which were attached by the order of Deputy Director, Directorate of Enforcement. The AA directed to lift the order of attachment of the properties of the CD under the PMLA. The AA observed that "...the IBC creates a specific bar with respect to proceedings that may be initiated under the PMLA by virtue of the provisions contained in Section 32A. Moreover, Section 32A cannot possibly be read as being applicable prior to a Resolution Plan being approved or a liquidation measure being enforced. Further, it can therefore be construed that the objective and intention of the Code is providing a free hand to the creditors if the properties of the Corporate Debtor are attached then it will jeopardize the Liquidation Process".

C Girdharlal Gheewala Vs. SK Masala & Food Ltd. [CP (IB) 468 of 2018]

On July 14, 2022, the liquidator had undertaken to file list of dates and events which was not filed till December, 2022. Also, no one appeared on behalf of liquidator, when the matter was listed twice before the AA. The AA also found that the proxy counsel who appeared in the matter on behalf of the liquidator, was not in a position to make submission as to whether the liquidator has received the copy of reply or not. The AA directed the IBBI to conduct inquiry against the liquidator for conducting liquidation process in such manner.

IBBI

During the quarter, the Disciplinary Committee of the IBBI disposed of 11 show cause notices issued to the IPs for contravention of the provisions of law by passing suitable orders.

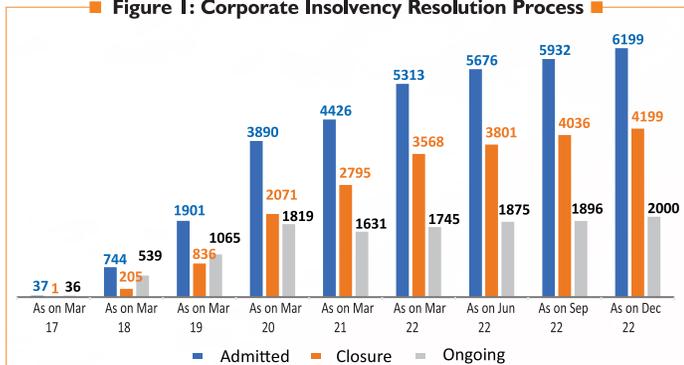
Corporate Processes

The data provided in this section regarding corporate processes is provisional, as it is getting revised on a continuous basis depending on the flow of updated information as received from IPs or the information in respect of process changes. For example, a process may ultimately yield an order for liquidation even after approval of resolution plan; while 1901 have ended in orders for liquidation (Figure 2). Sectoral distribution of CDs under CIRP is presented in Figures 3-6.

Insolvency Resolution

The provisions relating to CIRP came into force on December 1, 2016. A total of 6199 CIRPs have commenced by the end of December, 2022 as presented in Figure 1. Of these, 4199 have been closed. Of the CIRPs closed, the CD was rescued in 2298 cases, of which 894 have been closed on appeal or review or settled; 793 have been withdrawn; and 611 cases have ended in approval of resolution plans; while 1901 have ended in orders for liquidation (Figure 2). Sectoral distribution of CDs under CIRP is presented in Figures 3-6.

Figure 1: Corporate Insolvency Resolution Process



Note: These CIRPs are in respect of 5997 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 2: Mode of Closure of CIRPs

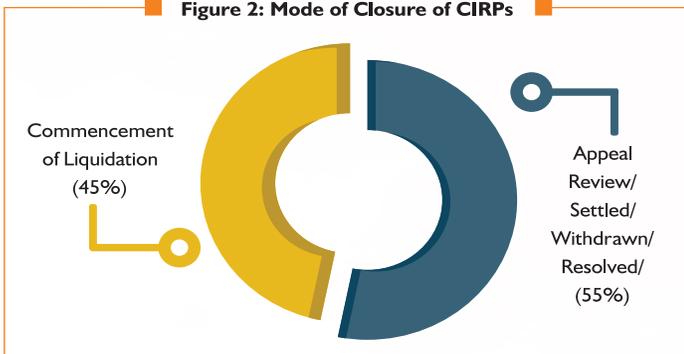


Figure 3: Sectoral Distribution of CIRPs: Admission

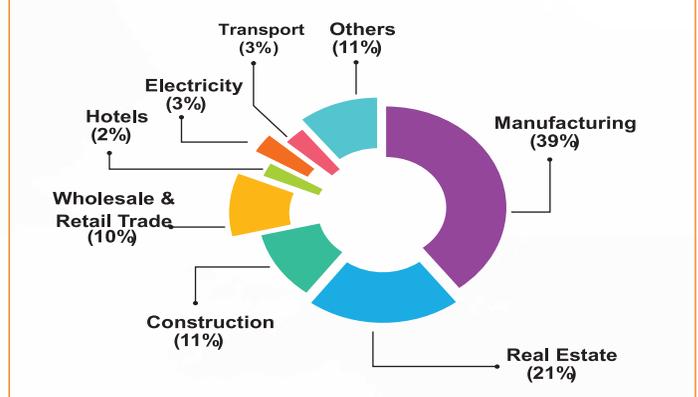


Figure 4: Sectoral Distribution of CIRPs: Appeal/Review/Settled/Withdrawn

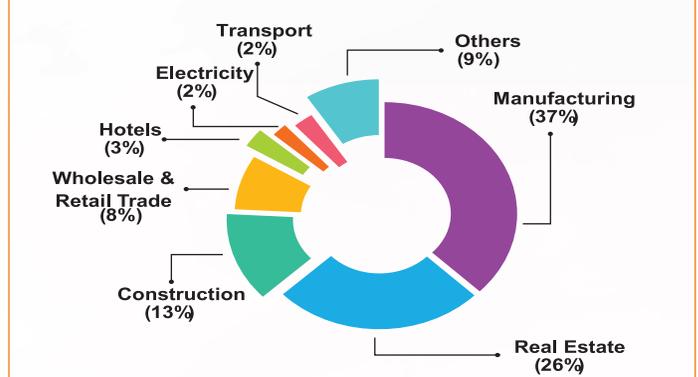


Figure 5: Sectoral Distribution of CIRPs: Resolution Plans

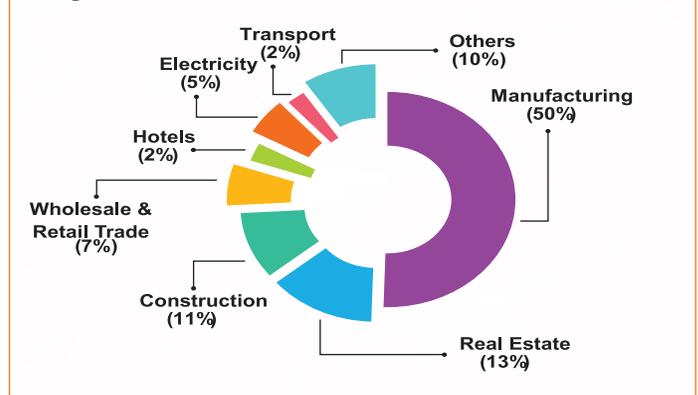
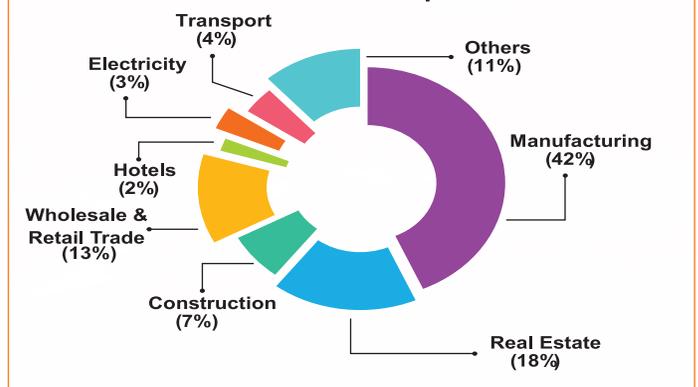
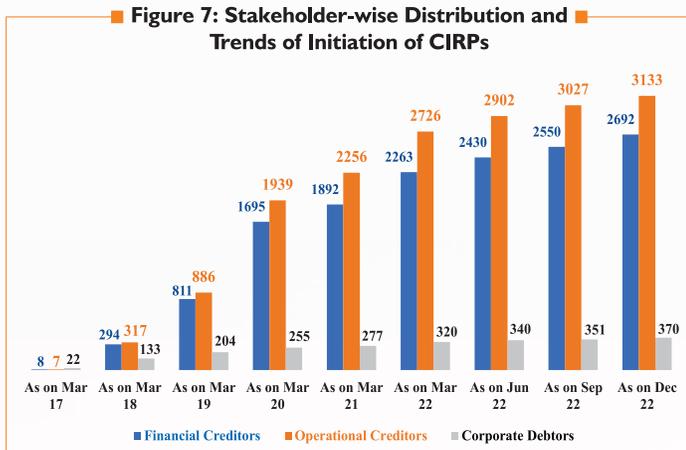


Figure 6: Sectoral Distribution of CIRPs: Commencement of Liquidation



The distribution of stakeholder-wise initiation of CIRPs is presented in Figure 7. OCs triggered 50.57% of the CIRPs, followed by about 43.45% by FCs and remaining by the CDs. It is observed that 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 CDs is declining over time. They usually initiated CIRPs with very high underlying defaults.



Note: This excludes four cases wherein applications filed by RBI were admitted u/s 227 of the Code.

The outcome of CIRPs, initiated stakeholder-wise, as on December 31, 2022 is presented in Table 1. Of the OC initiated CIRPs that were closed, more than 53% were closed on appeal, review, settlement or withdrawal. Such closures accounted for around 72% of all closures by appeal, review, settlement or withdrawal.

Table 1: Outcome of CIRPs, initiated Stakeholder-wise, as on December 31, 2022

Outcome	Description	CIRPs initiated by			
		FCs	OCs	CDs	Total
Status of CIRPs	Closure by Appeal/Review/Settled	243	644	7	894
	Closure by Withdrawal u/s 12A	216	570	7	793
	Closure by Approval of Resolution Plan	340	216	54	610
	Closure by Commencement of Liquidation	851	849	201	1901
	Ongoing	1042	854	101	1997
Total		2692	3133	370	6195
CIRPs yielding Resolution Plans	Realisation by creditors as % of liquidation Value	197.2	122.6	147.5	175.9
	Realisation by creditors as % of their claims	32.4	16.7	18.3	30.4
	Average time taken for closure of CIRP	588	600	530	587
CIRPs yielding Liquidations	Liquidation value as % of claims	6.5	9.1	9.2	7.1
	Average time taken for closure of CIRP	457	429	388	437

Note: This excludes four cases wherein applications filed by RBI were admitted u/s 227 of the Code.

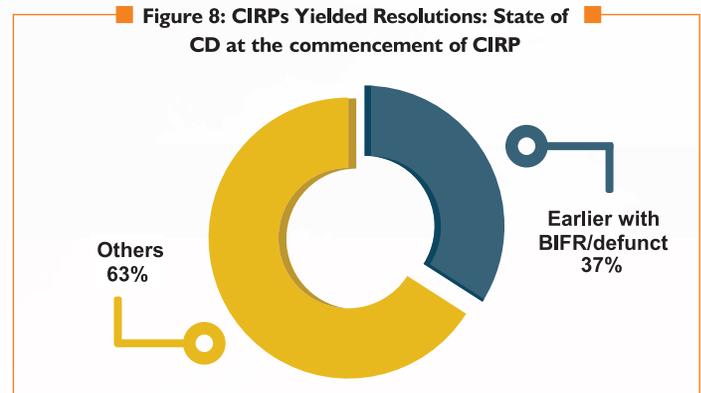
Resolution Plans

Till September, 2022, 553 CIRPs had yielded resolution plans as presented in the last newsletter. 31 more CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table 2. During October - December, 2022, 28 CIRPs yielded resolution plans with different degrees of realisation as compared to the liquidation value as presented in Part B of Table 2. One CD which had earlier yielded resolution has since moved into liquidation.

Till December 31, 2022, the creditors have realised ₹2.53 lakh crore under the resolution plans. The fair value of the assets available with these CDs, when they entered the CIRP was estimated at ₹2.25 lakh crore and liquidation value of ₹1.44 lakh crore against the total claims of the creditors worth ₹8.31 lakh crore. The creditors have realised 175.91% of the liquidation value and

84.08% of the fair value (based on 516 cases where fair value have been estimated). The haircut for creditors relative to the fair value of assets was around 16%, while relative to their admitted claims is around 69%. It may be noted that the realisable value does not include the CIRP cost, and many probable future realisations such as equity, realisation from corporate and personal guarantees, funds infused into the CD including capital expenditure by the resolution applicants, and recovery from avoidance applications.

About 37% of the CIRPs (225 out of 607 for which data are available), which yielded resolution plans, were earlier with Board for Industrial and Financial Reconstruction (BIFR) and/or defunct (Figure 8). In these CDs, the claimants have realised 20.96% of their admitted claims and 161.21% of liquidation value.



Note: Data awaited in 4 cases.

Withdrawals under Section 12A

Till December, 2022, a total of 793 CIRPs have been withdrawn under section 12A of the Code. The reasons for withdrawal and distribution of claims in these CIRPs are presented in Figures 9 and 10. Almost three fourth of these CIRPs had claims of less than ₹10 crore.

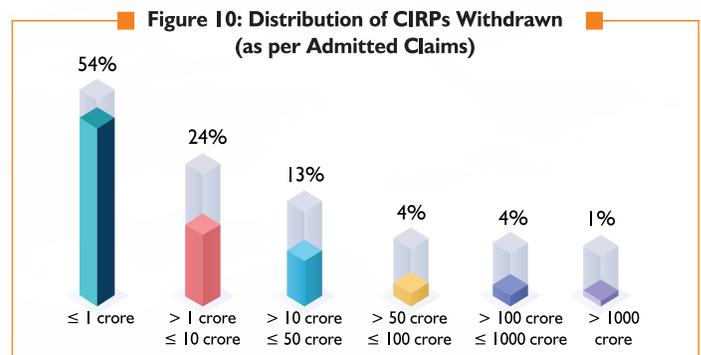
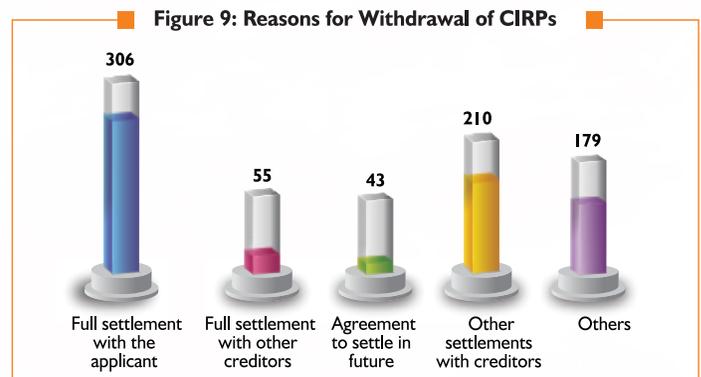


Table 2: CIRPs Yielding Resolution Plans

Sl.	Name of CD	De-funct (Yes / No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Amount (in ₹ crore)				Realisable Value as % of		
						Total Admitted Claims	Liquidation Value	Fair Value	Total Realisable value	Admitted Claims	Liquidation Value	Fair Value
Part A: For Prior Period (Till September 30, 2022)												
1	U Foam Private Limited	NA	26-12-18	12-08-21	CD	NA	NA	NA	NA	NA	NA	NA
2	SQL Star International Limited	Yes	08-07-19	27-08-21	FC	2.17	0.00	0.00	0.10	4.63	-	-
3	Globecon Commercial Services Private Limited	Yes	25-01-21	23-11-21	OC	3.84	0.23	1.17	0.26	6.67	110.39	21.90
4	Nambudirisons Agro Foods India Private Limited	Yes	26-11-20	31-12-21	OC	5.38	0.76	1.11	0.50	9.34	66.35	45.13
5	Tierra Food India Private Limited	No	03-02-21	04-04-22	CD	17.14	5.18	6.76	11.94	69.67	230.56	176.67
6	Luni Power Company Private Limited	Yes	23-12-19	19-04-22	FC	35.95	13.50	21.07	7.05	19.60	52.20	33.44
7	Nui Pulp And Paper Industries Private Limited	Yes	07-11-19	05-05-22	OC	25.21	12.16	16.72	5.23	20.74	42.98	31.27
8	Swastik Ceracon Limited	No	15-01-19	20-06-22	OC	260.22	56.78	118.52	54.15	20.81	95.38	45.69
9	Bhuwarka Steel Industries Limited	Yes	08-04-19	24-06-22	OC	750.70	91.25	131.25	94.00	12.52	103.01	71.62
10	Sysco Industries Limited	Yes	08-09-21	01-07-22	FC	105.53	14.91	21.29	16.73	15.86	112.21	78.59
11	Sri Balaji Forest Products Private Limited	Yes	18-10-19	04-07-22	FC	245.33	25.70	40.00	26.00	10.60	101.16	65.00
12	J J Solvex Private Limited	Yes	10-02-20	08-07-22	OC	36.78	3.20	4.43	2.54	6.91	79.45	57.36
13	Imeco Limited	Yes	29-08-19	15-07-22	FC	85.40	1.01	4.35	3.86	4.52	383.99	88.76
14	Omni Auto Tech Private Limited	Yes	01-08-19	18-07-22	OC	0.61	1.30	1.30	0.61	100.00	47.23	47.23
15	India Power Corporation (Bodhgaya) Limited	NA	08-11-19	18-07-22	OC	NA	NA	NA	NA	NA	NA	NA
16	Jain Studios Limited	Yes	26-02-20	18-07-22	FC	587.43	8.63	14.18	9.22	1.57	106.86	65.04
17	Jay Bharat Fabrics Mills Limited	No	13-09-21	18-07-22	FC	0.40	0.02	0.04	0.19	47.38	1010.02	423.54
18	Ind-Barath Energy (Utkal) Limited	Yes	29-08-18	25-07-22	FC	5508.14	921.55	3203.74	987.33	17.93	107.14	30.82
19	Radha Madhav Corporation Limited	No	22-10-20	01-08-22	OC	573.82	57.84	75.65	37.32	6.50	64.53	49.34
20	CLS Industries Private Limited	Yes	02-09-20	03-08-22	FC	31.89	4.13	6.35	4.16	13.03	100.51	65.39
21	Shreechem Pharmaceuticals Private Limited	No	08-05-19	12-08-22	OC	121.01	14.29	18.95	15.56	12.86	108.90	82.12
22	Dhanurdhar Processors Private Limited	No	05-06-20	24-08-22	OC	79.08	59.28	84.42	50.43	63.77	85.07	59.74
23	L And T Halool Shamlaji Tollway	No	19-07-19	26-08-22	FC	674.96	473.87	484.60	512.95	76.00	108.25	105.85
24	Shubhkamna Buildtech Private Limited	Yes	26-11-18	12-09-22	OC	718.10	82.64	145.63	386.65	53.84	467.85	265.50
25	Tuljabhavana Cold Storage Private Limited	No	24-02-20	12-09-22	FC	11.98	9.71	13.47	5.95	49.63	61.28	44.15
26	Sai Balaji Sponge Iron India Private Limited	No	05-01-22	14-09-22	FC	173.12	13.18	24.45	35.56	20.54	269.81	145.40
27	Lakeland Chemicals (India) Limited	No	23-10-19	19-09-22	OC	223.10	16.12	23.03	33.89	15.19	210.27	147.17
28	H M Industrial Private Limited	Yes	07-06-19	20-09-22	OC	143.60	29.88	40.00	31.51	21.94	105.46	78.78
29	Mangalya Soft-Tech Limited	Yes	15-03-21	27-09-22	OC	0.14	0.00	0.00	0.20	136.67	13043.71	13043.71
30	Dolphin Offshore Enterprises (India) Limited	Yes	16-07-20	29-09-22	OC	1078.83	19.08	23.43	25.15	2.33	131.79	107.34
31	Bluefern Ventures Private Limited	NA	21-12-18	30-09-22	FC	NA	NA	NA	NA	NA	NA	NA
Part B: For October - December, 2022												
1	Leesa Lifesciences Private Limited	Yes	28-01-20	18-10-22	FC	40.98	11.55	16.77	13.86	33.83	119.97	82.67
2	Uttam Galva Steels Limited	No	01-10-20	14-10-22	FC	11532.56	2114.79	3117.84	3700.00	32.08	174.96	118.67
3	Himadri Foods Limited	No	09-12-20	07-10-22	OC	81.06	24.72	31.44	33.90	41.82	137.15	107.81
4	HBS Seaview Private Limited	No	05-08-21	07-10-22	OC	505.64	12.80	16.93	147.21	29.11	1150.06	869.53
5	Gupta Exim India Private Limited	No	29-10-19	14-11-22	FC	670.12	84.71	126.88	103.26	15.41	121.90	81.38
6	Arun Shelters Private Limited	Yes	31-01-20	04-11-22	FC	42.62	77.59	103.46	52.96	124.29	68.26	51.20
7	Straight Edge Contracts Private Limited	No	26-02-20	13-10-22	OC	18.08	0.70	0.80	0.53	2.96	76.58	66.57
8	Manali Sugars Limited	No	22-03-21	18-10-22	FC	324.37	60.39	96.61	68.46	21.11	113.36	70.86
9	Omnapal Technologies Private Limited	Yes	31-08-21	19-10-22	OC	5.00	0.58	0.97	2.48	49.51	430.62	254.69
10	Bacon Vanija Private Limited	No	20-09-21	02-11-22	FC	5.45	0.05	0.06	0.13	2.39	247.58	236.13
11	Baldva Textiles Private Limited	No	11-11-21	09-11-22	OC	25.28	6.03	7.84	8.11	32.08	134.41	103.40
12	S N Jee Build Well Private Limited	Yes	07-01-21	25-11-22	FC	248.58	15.36	21.05	51.36	20.66	334.31	244.01
13	Sarita Synthetics and Industries Limited	No	01-10-19	21-11-22	FC	181.63	8.31	12.22	17.74	9.77	213.39	145.21
14	Indian Home Variations & Distributions LLP	Yes	11-12-19	18-11-22	OC	37.85	1.05	1.61	0.49	1.31	47.14	30.74
15	Reliance Naval and Engineering Limited	No	15-01-20	23-12-22	FC	12883.81	1350.82	1850.66	2043.08	15.86	151.25	110.40
16	Classic Knits India Private Limited	No	03-02-20	09-11-22	OC	67.33	14.32	16.30	15.41	22.89	107.60	94.56
17	Sical Logistics Limited	No	10-03-21	08-12-22	OC	1675.82	351.88	504.43	476.90	28.46	135.53	94.54
18	Care Office Equipment Private Limited	Yes	29-05-19	20-12-22	OC	138.36	9.97	13.07	9.35	6.76	93.83	71.58
19	MAYFAIR LEISURES LIMITED	Yes	02-06-20	13-12-22	FC	96.07	39.66	54.87	54.30	56.52	136.93	98.96
20	Synergy Kitchens And Hospitality Private Limited	No	25-11-21	29-11-22	OC	17.34	4.85	6.24	5.20	29.98	107.29	83.31
21	Kannu Aditya (India) Limited	No	22-05-19	21-10-22	FC	354.98	15.15	19.60	17.01	4.79	112.30	86.78
22	Shree Siddhi-Vinayak Ispat Private Limited	Yes	14-10-19	23-12-22	OC	644.95	3.12	4.68	4.83	0.75	154.74	103.15
23	Aryavir Buildcon Private Limited.	Yes	17-12-20	23-11-22	FC	59.18	65.81	93.50	59.41	100.39	90.27	63.54
24	IGOPL Offshore Private Limited	No	15-01-21	11-11-22	CD	90.16	22.87	33.16	53.83	59.70	235.36	162.34
25	Khubchandani Hospitals Private Limited	Yes	06-10-21	10-11-22	FC	218.30	90.26	122.20	100.00	45.81	110.79	81.83
26	Rchem Industries Private Limited	Yes	06-10-21	22-12-22	OC	16.92	1.60	2.14	2.91	17.22	181.87	136.47
27	Empirical Medi Solutions Private Limited	Yes	20-04-22	06-12-22	FC	13.36	0.11	0.16	0.09	0.71	87.26	61.07
28	Makro Cast Private Limited	Yes	13-12-19	18-11-22	OC	109.05	17.93	23.90	17.16	15.74	95.73	71.79
Total (October - December, 2022)						30104.85	4406.97	6299.36	7059.98	23.45	160.20	112.07
Total (Till December, 2022)						830842.85	143701.58	225304.43	252602.51	30.40	175.78	84.08*

Note:

- In 611 resolved CDs, 133 applications in respect of avoidance transactions to the tune of ₹87721 crore have been pending before AA.
- CIRPs in 21 matters which yielded resolution plans and were reported earlier in this table have since moved into liquidation. The CIRPs have restarted in 20 cases and CIRPs in 3 matters, where liquidation orders were passed earlier, have yielded resolution plans.
- There are 7 CIRPs where the realisable value was less than the liquidation value of the CD. While realisable value is significantly influenced by the value of asset of the CD while entering the resolution process and time taken for resolution, it is also the outcome of a market determined price discovery process and commercial wisdom of the CoC.

* Based on 516 cases where fair value has been estimated

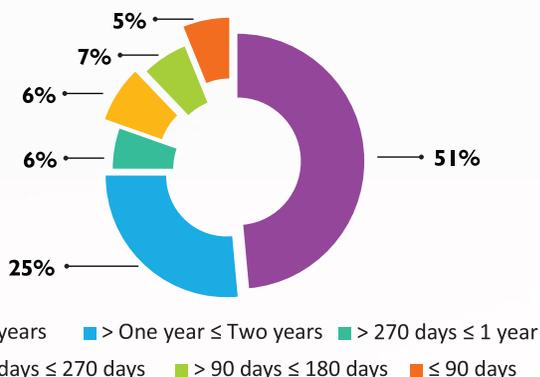
NA: Not Available

NC: Not calculated

Liquidation

Till September, 2022, a total of 1807 CIRPs had yielded orders for liquidation, as presented in the previous newsletter. 23 more CIRPs were later reported as yielding orders for liquidation during that period. During the quarter October - December, 2022, 73 CIRPs ended in orders for liquidation, taking the total CIRPs ending in liquidation to 1901, excluding 1 case where liquidation order has been set aside by NCLAT and 1 case which had earlier ended with order of liquidation has since yielded resolution. Of these, final reports have been submitted in 453 cases. There are 1448 ongoing liquidation processes, whose status as on December 31, 2022 is presented in Figure 11.

Figure 11: Timeline: Ongoing Liquidations



Note: This excludes 20 cases where liquidation order has been set aside by NCLT / NCLAT / HC / SC.

Till September, 2022, 258 liquidation processes were closed by dissolution / going concern sale / compromise or arrangement as presented in the last newsletter. Dissolution/ liquidation as a going concern of 7 more CDs, which happened during the earlier period were reported later, as presented in Part A of Table 3. During the quarter October - December, 2022, 7 more liquidation processes were closed, taking total number of closures by dissolution/sale as going concern/compromise or arrangement to 272. The details of the same are presented in Table 3. At the end of December, 2022, 243 liquidations were closed by dissolution, 20 by going concern sale and 9 by compromise /arrangement.

About 76% of the CIRPs ending in liquidation (1451 out of 1896 for which data are available) were earlier with BIFR and/or defunct (Figure 12). 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 less than 8% of the outstanding debt amount.

Sale as Going Concern

Till December 31, 2022, 20 CDs were closed by sale as a going concern under liquidation process. These 20 CDs had claims amounting to ₹16,578.99 crore, as against the liquidation value of ₹541.96 crore. The liquidators in these cases realised ₹615.98 crore and companies were rescued.

The AA passes an order for liquidation under four circumstances. As on December 31, 2022, 1901 orders for commencement of liquidation have been passed. The details of liquidation in these circumstances are presented in Figure 13.

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 1696 liquidations, for which data are available, are presented in Table 4.

Table 3: 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 September, 2022)							
1	Klisma E-Services Private Limited*	10-08-21	NC	NA	NA	NA	10-08-21
2	Novex Private Limited	04-09-19	2.29	0.05	0.16	0.08	17-08-21
3	PD Advisory Services LLP#	04-09-20	2.67	0.10**	0.01	NA	11-07-22
4	Nassco Trading India Private Limited*	27-09-22	18.56	-	-	-	27-09-22
5	Zenith Computers Limited	08-05-18	228.61	14.57	13.28	12.11	28-09-22
6	Nizamia Construction Private Limited	27-01-22	0.14	0	0	0	28-09-22
7	Sri Gangadhara Steels Limited#	11-12-18	174.12	14.18	14.88	13.14	30-09-22
Part B: For October - December, 2022							
1	Dhanashri Tooling System Pvt. Ltd.	22-03-21	0.73	0	0	NA	11-10-22
2	P V S Textiles Private Limited	16-09-19	325.83	11.24	10.41	8.69	09-12-22
3	HDO Technologiess Limited	02-07-18	964.77	82.78	138.03	83.48	16-12-22
4	Hindusthan Ispat Private Limited	01-10-21	16.85	0	NA	NA	16-12-22
5	ALPS Liesure Holidays Private Limited##	01-10-19	10.39	11.11	10.93	9.91	21-12-22
6	BCC Estates Private Limited	13-07-18	1835.97	7.71	13.00	10.66	22-12-22
7	Nesa India Producer Company Limited	25-01-22	NC	NA	NA	NA	22-12-22
Total (October - December, 2022)			3154.54	112.84	172.37	112.74	NA
Total (Till December, 2022)			62285.6	2354.82	2359.45	2188.12	NA

Notes:

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

'0' means an amount below two decimals

* Direct dissolution; Claims pertain to CIRP period

NC means no claims received during CIRP/ liquidation process

** Liquidation value mainly consists of TDS refunds, which were received during the CIRP period itself.

Liquidation as a going concern

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

Figure 12: CIRPs ending with Order of Liquidation: State of CD at the Commencement of CIRP

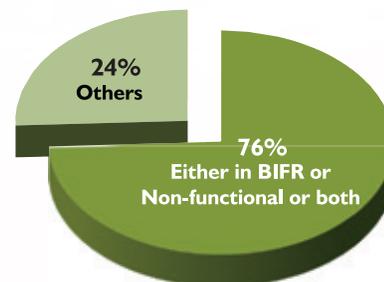


Figure 13: Reasons for Liquidations

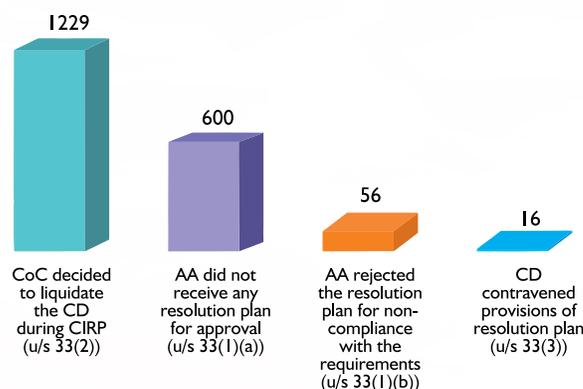


Table 4: Claims in Liquidation Process

Stakeholders under Section	Number of Claimants	Amount (in ₹ crore)			
		Admitted Claims	Liquidation Value	Sale Proceeds##	Distributed to Stakeholders
453 Liquidations where Final Report Submitted					
52	61	9245.33	427.21	439.27	426.19
53 (I) (a)	NA	NA			264.33
53 (I) (b)	2727	71141.29			2832.38
53 (I) (c)	3191	87.10			9.11
53 (I) (d)	534	5517.40	3684.54	3253.10#	46.58
53 (I) (e)	409	3864.80			20.79
53 (I) (f)	5099	4746.09			82.54
53 (I) (g)	0	0			0
53 (I) (h)	143	40.92			3.74
Total (A)	12164	94642.93	4111.75	3692.37#	3685.66
Ongoing 1243 Liquidations*					
53 (I) (a)	NA	NA			
53 (I) (b)	42912	643314.04			
53 (I) (c)	33067	1332.94			
53 (I) (d)	13085	137070.81			
53 (I) (e)	2945	36065.05	46867.21**	Not Applicable	Not Applicable
53 (I) (f)	1979895	96918.21			
53 (I) (g)	83	1134.20			
53 (I) (h)	106072	3487.63			
Total (B)	2178059	919322.9			
Grand Total (A+B)	2190223	1013965.83	50978.96		

Inclusive of unclaimed proceeds of ₹6.71 crore under liquidation.

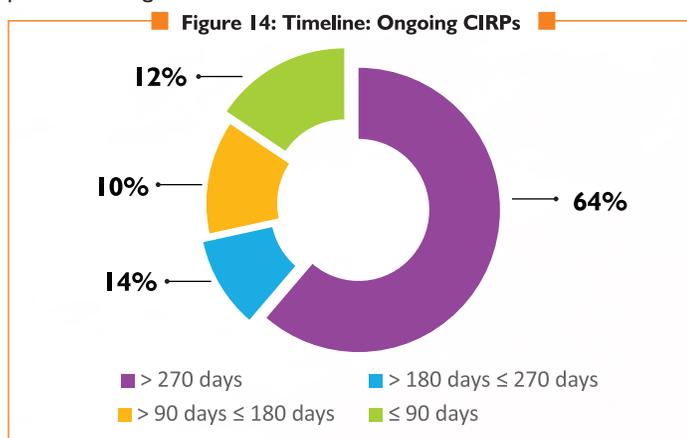
The claims worth ₹6,644 crore receivable by CD have been assigned to third parties as per agreed terms.

*Data for other liquidations are not available.

**Out of 1448 ongoing cases, liquidation value of only 1376 CDs is available. Liquidation value of 1158 CDs taken during liquidation process is ₹46867.21 crore and liquidation value of rest of the 218 CDs captured during CIRP is ₹5255.14 crore.

Timeline of Ongoing CIRPs

The status of ongoing CIRPs as of December, 2022 in terms of time taken is presented in Figure 14.



Twelve Large Accounts

Resolution of 12 large accounts were initiated by banks, as directed by the RBI. They had an aggregate outstanding claim of ₹3.45 lakh crore as against liquidation value of ₹73220 crore. Of these, resolution plan in respect of eight CDs were approved and orders for liquidations were issued in respect of two CDs. Thus, CIRPs in respect of two CDs 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 15.

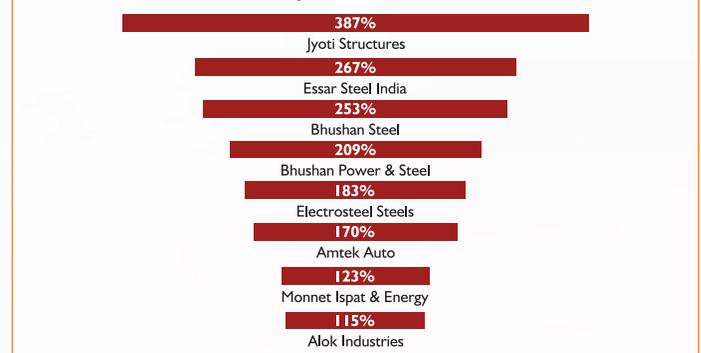
Large Cases (Admitted Claims > ₹ 1000 crore)

Of the 611 CDs rescued under the Code, 102 had admitted claims of more than ₹1000 crore. Till September, 2022, 99 such CDs have yielded resolution plans with realisable value of ₹2.26 lakh crore i.e., 185.25% of the liquidation value. During October – December, 2022, 3 such CDs have yielded resolution plans. The realisable value of the assets available with these 102 CDs, when they entered the CIRP, was only ₹1.26 lakh

crore, though they owed ₹7.49 lakh crore to the creditors. Till December 31, 2022, realisation by the claimants under resolution plans in comparison to liquidation value is 184.13%, while the realisation by them in comparison to their claims is 30.97%. 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.

Of 1901 CDs, ending up with orders for liquidation, 165 had admitted claims of more than ₹ 1000 crore. Till September, 2022, 160 such CDs have ended with orders of liquidation. During October – December, 2022, 5 more CDs has ended with order for liquidation. These CDs had an aggregate claim of ₹6.94 lakh crore. However, they had assets, on the ground, valued only at ₹0.40 lakh crore.

Figure 15: Realisation by the claimants as a % of the Liquidation Value



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. 846 applications seeking avoidance of transactions have been filed with the AA till December 31, 2022, as presented in Table 5.

Table 5: Details of avoidance applications and disposal

(Amount in ₹ crore)

Sl.	Nature of transactions	Applications Filed		Applications Disposed		
		No. of transactions	Amount involved	No. of transactions	Amount involved	Amount clawed back
1	Preferential	132	15054.37	34	603.13	31.47
2	Undervalued	17	884.78	3	355.76	0.00
3	Fraudulent	165	63738.09	20	1024.81	3.90
4	Extortionate	3	70.68	-	-	-
5	Combination	530	203145.84	86	39330.63	5048.08*
Total		847	282893.76	143	41314.33	5083.45

*In the matter of Jaypee Infra, possession of 758 acres out of total 858 acres of land was given back to the CD. The 858 acres of land was earlier valued at ₹5500 crore. Therefore, proportionate value is considered.

Resolution of FiSPs

CIRP against Dewan Housing Finance Corporation Ltd., was admitted on December 3, 2019, under the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, which were notified on November 15, 2019. The AA, vide order dated June 7, 2021, approved the resolution plan submitted by Piramal Capital and Housing Finance Ltd.

Subsequently, CIRPs have been initiated for three below mentioned financial service providers (FiSPs): -

Table 6: Details of applications admitted for FiSPs

Sl.	Name of the FiSP	Date of Admission
1	Srei Equipment Finance Limited	08-10-21
2	Srei Infrastructure Finance Limited	08-10-21
3	Reliance Capital Limited	06-12-21

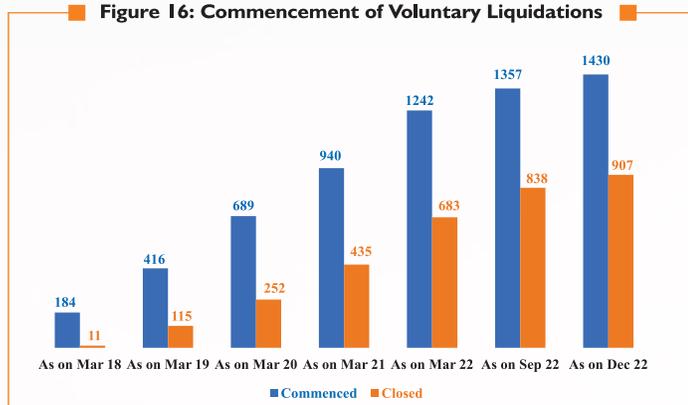
CIRPs in respect of aforementioned FiSPs are underway, as per the provisions of the Code.

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 December 31, 2022, 1430 corporate persons initiated voluntary liquidation (Figure 16). Final reports in respect of 893 voluntary liquidations have been submitted and 14 processes have been withdrawn by December 31, 2022. The status of 523 ongoing voluntary liquidations is presented in Figure 17.

Of the 1416 corporate persons that initiated voluntary liquidations (excluding 14 withdrawal/ suspensions) till December 31, 2022, the reasons for these initiations are available for 1316 cases, which are presented in Figure 18. Most of these corporate persons are small entities. 876 of them have paid-up equity capital of less than ₹1 crore. Only 199 of them have paid-up capital exceeding ₹5 crore. The corporate persons, for which details are available, have an aggregate paid-up capital of ₹10,487 crore (Table 7).

Figure 16: Commencement of Voluntary Liquidations



*Vide order dated September 09, 2022 & October 10, 2022, the Hon'ble NCLT has suspended the voluntary liquidation process of M/s Bucks Marketing Private Limited & M/s Rudolf Sales Private Limited respectively.

Figure 17: Timeline of Ongoing Voluntary Liquidations

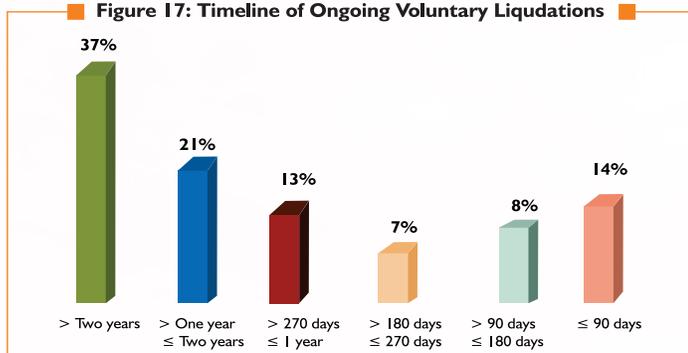


Figure 18: Reason for Voluntary Liquidation

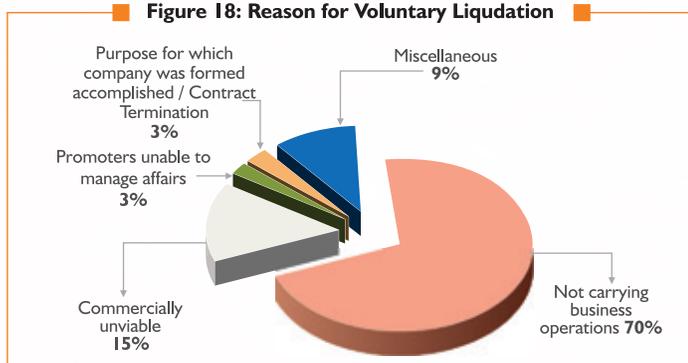


Table 7: Details of 1416 Voluntary Liquidations (Excluding 14 Withdrawals)

Details of	No. of Liquidations	Amount (in ₹ crore)				
		Paid-up capital*	Assets	Outstanding debt	Amount paid to creditors	Surplus
Liquidations for which Final Reports submitted**	893	5029	5618***	63	63	4948
Ongoing Liquidations	523	5458	3046#	##		
Total	1416	10487	8664	##		

Note:

* Paid up capital is not available in case of six companies as they are limited by guarantee companies where there exist no shareholders and paid-up capital.

** Data for 6 Final Report cases is not available

*** Assets of 12 cases are not available.

Assets of 414 cases are available.

For ongoing liquidations, outstanding debt amount is not available.

It was reported in the last newsletter that dissolution orders were passed in respect of 408 voluntary liquidations. Dissolution orders in respect of 13 more voluntary liquidations, which were issued during the earlier period, were reported later, as indicated in Part A of Table 8. During the quarter October – December, 2022, dissolutions orders in respect of 24 voluntary liquidations were issued taking the total dissolutions to 445. These 445 corporate persons owed ₹27.94 crore to creditors and through voluntary liquidation process, they were paid full amount.

Table 8: Realisations under Voluntary Liquidations

Sl.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Amount (In ₹ crore)				
				Realisation of Assets	Due to Creditors	Paid to Creditors	Liquidation Expenses	Surplus
Part A: For Prior Period (Till September 30, 2022)								
1	Rishabh Handicrafts Private Limited	23-09-19	17-05-21	1.04	-	-	0.22	0.82
2	NRG Consulting Services Private Limited	05-03-18	11-04-22	0.33	0.28	0.28	0.05	-
3	Ambassador Network Marketing India Private Limited	05-03-18	24-05-22	2.15	-	-	0.78	1.37
4	Usha Heights Private Limited	25-10-21	30-08-22	0.05	-	-	0.03	0.01
5	Flagstone Underwriting Support Services (India) Private Limited	25-09-17	19-09-22	8.46	0	0	0.31	8.15
6	Godel Technologies Private Limited	16-11-20	20-09-22	1.14	-	-	0.07	1.07
7	Providence Equity Advisors India Private Limited	20-04-20	22-09-22	2.49	-	-	1.52	0.97
8	Novelis (India) Infotech Limited	11-01-18	23-09-22	2.62	0.68	0.68	0.05	1.89
9	Lonely Planet India Private Limited	23-09-21	27-09-22	0.62	-	-	0.28	0.34
10	Aoki Laboratory India Private Limited	26-11-19	29-09-22	2.27	-	-	0.19	2.09
11	DJS Plastics and Polymers Private Limited	20-10-20	29-09-22	0.02	-	-	0.02	-
12	ZEB IT Service Limited	17-01-20	30-09-22	4.25	0.67	0.67	0.36	3.21
13	Shift India Private Limited	16-07-19	30-09-22	0.82	0.31	0.31	0.12	0.39
Part B: For October – December, 2022								
1	UPL Trading Company Private Limited	30-06-18	14-10-22	0.90	0	0	0.03	0.87
2	Velocloud Networks Private Limited	12-05-22	14-10-22	5.12	0	0	0.02	5.11
3	Ingrey Travel and Tourism (India) Private Limited	25-01-19	17-10-22	0.52	-	-	0.07	0.45
4	Intap Edulabs Private Limited	23-09-21	19-10-22	0.04	-	-	0.01	0.03
5	Ashmore Investment Advisors (India) Private Limited	16-01-19	02-11-22	7.24	-	-	0.45	6.79
6	Pallavi Marketing Private Limited	21-04-22	02-11-22	1.98	0	0	0.09	1.89
7	Y and R Builders Private Limited	26-02-22	03-11-22	0.91	-	-	0.04	0.87

Sl.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Amount (In ₹ crore)				
				Realisation of Assets	Due to Creditors	Paid to Creditors	Liquidation Expenses	Surplus
8	Moneshwar Properties Private Limited	04-01-21	04-11-22	9.31	1.23	1.23	0.64	7.44
9	Tomax India Software Private Limited	30-07-21	04-11-22	0.58	0.05	0.05	0.08	0.44
10	Sree Sankari Benefit Funds Limited	15-12-21	09-11-22	0.21	-	-	0.03	0.18
11	Gracious Creation Private Limited	31-01-22	11-11-22	14.56	-	-	0.07	14.49
12	Venkateshwara Realteck Private Limited	01-02-22	16-11-22	286.93	-	-	0.10	286.83
13	Lovepac Converting Private Limited	02-03-20	18-11-22	0.24	-	-	0.07	0.18
14	Gracious Innovative Private Limited	31-01-22	18-11-22	14.58	-	-	0.07	14.52
15	Dabee Technology India Private Limited	28-03-18	22-11-22	0.77	-	-	0.05	0.72
16	Hargreaves Mining India Private Limited	05-09-19	24-11-22	0.68	-	-	0.03	0.65
17	Clix Loans Private Limited	14-08-21	29-11-22	2.57	-	-	0.10	2.46
18	Portasilo Bulk Handling (India) Private Limited	20-09-21	29-11-22	0.05	-	-	0.05	0
19	Setya Builders Private Limited	15-02-21	02-12-22	0.23	-	-	0.02	0.21
20	Pati International (India) Private Limited	21-12-20	02-12-22	0	-	-	0	0
21	Sachi Capsolutions Private Limited	26-03-18	13-12-22	2.08	0	0	0.06	2.02
22	Pearl Apparel Fashions Limited	09-10-20	16-12-22	3.02	-	-	0.06	2.97
23	S R Polymers Private Limited	26-07-21	20-12-22	1.66	-	-	0.05	1.61
24	Uniplatform Tech Private Limited	25-04-22	21-12-22	0.02	-	-	0.02	0
Total (October – December, 2022)				354.21	1.29	1.29	2.20	350.72
Total (Till December, 2022)				3,823.62	27.94	27.94	89.86	3,705.79

'0' means an amount below two decimals; '-' means no value

Time For Conclusion of Process

The average time taken for completion of various processes is presented in Table 9.

Table 9: Average Time for Approval of Resolution Plans/Orders for Liquidation

Sl.	Average time	As on March, 2021		As on March, 2022		April, 2022 to December, 2022				
		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	352	464	406	499	536	450	112	813	633
2	From ICD to order for Liquidation by AA	1286	352	NA	1630	414	NA	271	626	NA
Liquidations										
3	From LCD to submission of final report under Liquidation	266	423	NA	387	479	NA	66	717	NA
4	From LCD to submission of final report under Voluntary Liquidation	426	383	NA	671	427	NA	222	371	NA
5	From LCD to order for dissolution under Liquidation	146	398	NA	237	516	NA	35	905	NA
6	From LCD to order for dissolution under Voluntary Liquidation	233	515	NA	334	586	NA	111	772	NA

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 December, 2022 are presented in Table 10.

Table 10: Corporate Liquidation Accounts as on December 31, 2022
(Amount in ₹ lakh)

Name of Account	Opening Balance	Deposit during the period	Withdrawn during the period	Balance at the end of the period
Corporate Liquidation Account				
2019 - 20	0.00	476.26	0.21	476.05
2020 - 21	476.05	116.18	0.00	592.23
2021 - 22	592.23	25.93	4.84	613.32
Apr - Jun, 2022	613.32	8.36	0.00	621.68
Jul - Sep, 2022	621.68	223.82	0.00	845.50
Oct - Dec, 2022	845.50	25.90*	0.00	871.40
Corporate Voluntary Liquidation Account				
2019 - 20	0.00	109.70	0.00	109.70
2020 - 21	109.70	112.06	0.00	221.76
2021 - 22	221.76	127.94	0.03	349.67
Apr - Jun, 2022	349.67	2.02	10.42	341.27
Jul - Sep, 2022	341.27	3.79	0.00	345.06
Oct - Dec, 2022	345.06	6.27	0.00	351.33

* An additional amount of ₹1,50,100/- has been deposited by liquidator in Corporate Liquidation Account on November 21, 2022 in the matter of Zoomtail Technologies Private Limited (Under Voluntary Liquidation), which was supposed to be deposited into Corporate Voluntary Liquidation Account.

Pre-Packaged Insolvency Resolution Process

The Central Government enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2021 on August 11, 2021 which was deemed to have come into force on April 4, 2021 introducing the Pre-packaged Insolvency Resolution Process (PPIRP) for corporate MSMEs. On April 9, 2021, the Central Government notified the Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021 prescribing the manner and form of making application to initiate PPIRP and the IBBI notified the IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021. The Regulations provide for manner of carrying out certain processes and tasks under PPIRP. As per the information available with the Board, four applications have been admitted as on December 31, 2022. The details are in Table 11.

Table 11: List of cases admitted for PPIRP as on December 31, 2022

Sl.	Name of the CD	Date of admission	Name of the NCLT Bench
1	GCCL Infrastructure & Projects Ltd.	14-09-21	Ahmedabad
2	Loonland Developers Pvt. Ltd.	29-11-21	Principal Bench, New Delhi
3	Enn Tee International Limited	10-10-22	Principal Bench, New Delhi
4	Amrit India Limited	28-11-22	Principal Bench, New Delhi

Summary of Outcomes

(a) The primary objective of the Code is rescuing lives of CDs in distress. The Code has rescued 2298 CDs (611 through resolution plans, 894 through appeal or review or settlement and 793 through withdrawal) till December, 2022. It has referred 1901 CDs for liquidation. The resolved CDs had assets valued at ₹1.44 lakh crore, while the CDs referred for liquidation had assets valued at ₹0.62 lakh crore when they were admitted into CIRP. Thus, in value terms, around 70% of distressed assets were resolved. Of the CDs sent for liquidation, three-fourth were either sick or defunct and of the firms resolved, one-third were either sick or defunct.

(b) The realisable value of the assets available with the 611 CDs rescued, when they entered the CIRP, was only ₹1.44 lakh crore, though they owed ₹8.32 lakh crore to creditors. The resolution plans realised ₹2.53 lakh crore, which is around 176% 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 ₹176 under the Code. The excess recovery of ₹76 is a bonus from the Code. Though recovery is incidental under the Code, the FCs recovered 32.59% 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 84.08% 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 1901 CDs ending up with orders for liquidation had an aggregate claim of ₹8.62 lakh crore. However, they had assets, on the ground, valued only at ₹0.62 lakh crore. Till December, 2022, 453 CDs have been completely liquidated. Many of these CDs did not have any job or asset when they entered the IBC process. These included the likes of Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹8163 crore, while they had absolutely no assets and employment. These 453 CDs together had outstanding claims of ₹94642.93 crore, but the assets valued at ₹4111.75 crore. ₹3692.37 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 December, 2022, 24222 applications for initiation of CIRPs of CDs having underlying default of ₹769037.12 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 611 CIRPs, which have yielded resolution plans by the end of December, 2022 took on average 482 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 1901 CIRPs, which ended up in orders for liquidation, took on average 445 days for conclusion. Further, 453 liquidation processes, which have closed by submission of final reports took on average 513 days for closure. Similarly, 893 voluntary liquidation processes, which have closed by submission of final reports, took on average 413 days for closure.

(f) Till December, 2022, a total of 611 CIRPs have yielded resolution plans. The cost details are available in respect of 577 CIRPs. The cost works out on average 1.20% of liquidation value and 0.65% of resolution value.

Individual Processes

Insolvency Resolution Process

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 the applicants, IPs, and data collected from various benches of NCLT and DRT, 1612 applications have since been filed as of December 31, 2022 for initiation of personal insolvency resolution process (PIRP) of PGs to CDs. Out of them, 154 applications have been filed by the debtors and 1458 applications by the creditors under sections 94 and 95 of the Code, respectively. Among them 22 have been filed before different benches of

DRT and 1590 have been filed before different benches of NCLT (Table 12). Of the 1612 applications, 59 applications have been withdrawn/ rejected/ dismissed before the appointment of RP and RPs have been appointed in 674 cases. After the appointment of RP, 33 cases have been withdrawn/ rejected/ dismissed and 154 cases have been admitted. The details are given in Table 13.

Table 12: Insolvency Resolution of Personal Guarantors

(Amount in ₹ crore)

Period	Applications filed by				Total		Adjudicating Authority	
	Debtors (u/s 94)		Creditors (u/s 95)		No.	Debt Amount	NCLT	DRT
	No.	Debt Amount	Number	Debt Amount				
2019 - 20	3	49.66	20	3289.85	23	3339.51	22	1
2020 - 21	20	2485.94	228	37558.26	248	40044.20	242	6
2021 - 22	85	3089.97	828	62132.79	913	65222.76	898	15
Apr - Jun, 2022	15	698.73	163	7274.68	178	7973.41	178	0
Jul - Sep, 2022	18	1088.24	131	12242.36	149	13330.60	149	0
Oct - Dec, 2022	13	8467.78	88	2994.34	101	11462.12	101	0
Total	154	15880.32	1458	125492.28	1612	141372.6	1590	22

Notes: The data are provisional. These are getting revised on continuous basis as further information is received.

Debt data not available in 302 cases.

Table 13: Status of filed applications for initiation of Insolvency Resolution Process of PGs to CDs

(Number)

Period	No. of applications filed	Before appointment of RP		No. of cases where RPs have been appointed	After appointment of RP		No. of cases Admitted
		No. of Applications withdrawn	No. of Applications dismissed/rejected		No. of Applications withdrawn	No. of Applications dismissed/rejected	
2019 - 20	23	0	0	2	0	0	0
2020 - 21	248	6	1	35	2	1	9
2021 - 22	913	14	10	344	0	7	28
Apr - Jun, 2022	178	3	14	137	2	4	77
Jul - Sep, 2022	149	1	5	116	3	0	30
Oct - Dec, 2022	101	3	2	40	4	10	10
Total	1612	27	32	674	11	22	154

Out of the 154 admitted PIRPs, 36 have been closed. Of these, six have been withdrawn; 28 have been closed on non-submission or rejection of repayment plan; and two have yielded approval of repayment plan. The creditors have realised ₹12 crore, which is 39.63% of their admitted claim as detailed in Table 14.

Table 14: PIRPs Yielding Approval of Repayment Plan

(Amount in ₹ crore)

Sl.	Name of the PG	Name of the CD	PIRP initiated by	Date of commencement of IIRP	Date of approval of plan	Total admitted claims	Realisable value	Realisable value as % of admitted claims
1.	Mr. Tshering Pintso Bhutia	M/s. Bluefern Ventures Pvt Ltd	Creditor	30-09-21	30-09-22	30.28	12.00	39.63%
2.	Mr. Ongmu Bhutia	M/s. Bluefern Ventures Pvt Ltd	Creditor	30-09-21	30-09-22			

Bankruptcy Process

If resolution process fails or repayment plan is not implemented, the debtor or the creditor may make an application for initiation of the bankruptcy process. As per the information received from the applicants, IPs and data collected from various benches of NCLT and DRT, four bankruptcy applications have since been filed as of December, 2022. All the four applications are initiated by the creditors under section 123 of the Code. Among them one application has been filed before DRT, Chennai and three applications have been filed before NCLT, Hyderabad bench.

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 Pursuant to the IBBI (Insolvency Professionals) (Fourth Amendment) Regulations, 2022 read with IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) (Amendment) Regulations, 2022, the IPEs have been permitted to be registered as IP to carry on the activities of an IP. An IP needs an authorization for assignment (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 individual 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 December 31, 2022 and AFAs held by them, IPA-wise, is presented in Table 15.

Table 15: Registered IPs and AFAs as on December 31, 2022
(Number)

City / Region	Registered IPs				IPs having AFAs			
	IIIP	ICSI IIP	IPA ICAI	Total	IIIP	ICSI IIP	IPA ICAI	Total
New Delhi	486	282	93	861	280	172	61	513
Rest of Northern Region	495	211	73	779	259	117	36	412
Mumbai	424	151	41	616	244	78	27	349
Rest of Western Region	353	129	49	531	224	79	22	325
Chennai	153	89	20	262	94	46	15	155
Rest of Southern Region	435	228	86	749	238	127	58	423
Kolkata	230	42	25	297	149	21	13	183
Rest of Eastern Region	80	30	11	121	47	16	8	71
Total (Individual)	2656	1162	398	4216	1535	656	240	2431
Total (IPE as IP)	10	3	5	18	10	3	5	18
Grand Total	2666	1165	403	4234	1545	659	245	2449

Of the 4266 IPs registered till date, registrations of 7 IPs have been cancelled through disciplinary action, and registrations of 2 IPs cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, 23 IPs have passed away. The registrations and cancellations of registrations of IPs, quarter wise, till December 31, 2022 are presented in Table 16.

An individual with 10 years of experience as a member of the ICAI, ICSI, ICMAI or a Bar Council or 10 years of experience in the field of law, after receiving a Bachelor's degree in law or 10 years of experience in management, after receiving a Master's degree in Management or two year

full time Post Graduate Diploma in Management or 15 years of experience in management, after receiving a Bachelor's degree is eligible for registration as an IP on passing the Limited Insolvency Examination.

The Graduate Insolvency Programme (GIP) is the first of its kind programme for those aspiring to take up the profession of IP as a career without having to wait for acquiring the specified 10/15 years of experience. At Indian Institute of Corporate Affairs, the first batch (2019-21) and the second batch (2020-22) have successfully completed the course. The third batch (2021-23) has proceeded with internships while the fourth batch (2022-24) commenced classes from July 1, 2022. In respect of National Law Institute University, Bhopal, classes for the first batch of students commenced from July 25, 2022. The IBBI has granted 26 registrations based on this qualification, until December 31, 2022.

Table 16: Registration and Cancellation of Registration 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 fulfil the continuing requirement of 'fit and proper person' status	Death	
2016 - 17 (Nov - Dec) #	0	977	0	0	0	977
2016 - 17 (Jan - Mar)	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
2021 - 22	3504	549	1	0	8	4044
Apr - Jun, 2022	4044	56	2	0	2	4096
Jul - Sep, 2022	4096	80	0	0	1	4175
Oct - Dec, 2022	4175	43	0	0	2	4216
Total (Individual)	NA	4248	7	2	23	4216
Total (IPE as IP)	0	18	0	0	0	18
Grand Total	NA	4266	7	2	23	4234

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

Table 17 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on December 31, 2022. Of the 4216 IPs as on December 31, 2022, 413 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 17: Distribution of IPs as per their Eligibility as on December 31, 2022

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	2124	207	2331
Member of ICSI	584	127	711
Member of ICMAI	185	19	204
Member of Bar Council	229	31	260
Managerial Experience	657	27	684
GIP Qualified	24	2	26
Total*	3803	413	4216

*excludes IPEs registered as IP

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 18 presents the age profile of the IPs registered as on December 31, 2022.

Table 18: Age Profile of IPs as on December 31, 2022

Age Group (in years)	Registered IPs				IPs having AFAs#			
	IIIP	ICSI IIP	IPA ICAI	Total	IIIP	ICSI IIP	IPA ICAI	Total
≤ 30	13	8	0	21	10	3	0	13
> 30 ≤ 40	245	68	19	332	150	40	14	204
> 40 ≤ 50	952	384	53	1389	583	232	28	843
> 50 ≤ 60	792	329	99	1220	451	193	67	711
> 60 ≤ 70	601	325	205	1131	341	188	131	660
> 70 ≤ 80	50	42	19	111	NA	NA	NA	NA
> 80 ≤ 90	2	6	3	11	NA	NA	NA	NA
> 90	1	0	0	1	NA	NA	NA	NA
Total*	2656	1162	398	4216	1535	656	240	2431

Excluding 730 AFAs which are expired / not renewed.

*Excludes IPEs registered as IP

NA: Not Applicable.

Panel for IPs

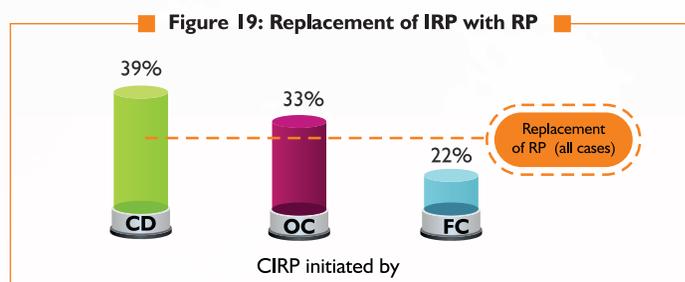
In accordance with the Panel Guidelines issued on December 12, 2022, the IBBI invited expression of interest from IPs for preparation of a panel of IPs for appointments during January 1, 2023 to June 30, 2023. In accordance with these guidelines, it prepared and shared with the AA (NCLT and DRT), on December 31, 2022, a panel of 892 IPs (who hold AFAs) and 10 IPEs registered to carry on the activities of an IP, valid for appointments for the period January 1, 2023 to June 30, 2023 (Table 19).

Table 19: Zone-wise IPs in the Panel

Zone	Areas Covered	No. of IPs
(1)	(2)	(3)
New Delhi	Union Territory of Delhi	205
Ahmedabad	State of Gujarat	65
	Union Territory of Dadra and Nagar Haveli	
	Union Territory of Daman and Diu	
Allahabad	State of Uttar Pradesh	42
	State of Uttarakhand	
Amravati	State of Andhra Pradesh	13
Bengaluru	State of Karnataka	22
Chandigarh	State of Himachal Pradesh	82
	State of Punjab	
	State of Haryana	
	Union Territory of Chandigarh	
	Union Territory of Jammu and Kashmir	
Cuttack	Union Territory of Ladakh	18
	State of Chhattisgarh	
Chennai	State of Odisha	83
	State of Tamil Nadu	
Guwahati	Union Territory of Puducherry	3
	State of Arunachal Pradesh	
	State of Assam	
	State of Manipur	
	State of Mizoram	
	State of Meghalaya	
	State of Nagaland	
State of Sikkim		
Hyderabad	State of Tripura	71
	State of Telangana	
	State of Madhya Pradesh	
	State of Rajasthan	
	State of Kerala	
Kochi	Union Territory of Lakshadweep	16
	State of Bihar	
Kolkata	State of Jharkhand	88
	State of West Bengal	
	Union Territory of Andaman and Nicobar Islands	
	State of Goa	
Mumbai	State of Maharashtra	143
	State of Maharashtra	
Total IPs (Individual)		892
IPEs registered to carry on the activities of an IP		10

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 December 31, 2022, as per updates available, a total of 1316 IRPs have been replaced with RPs, as shown in Figure 19. It is observed that IRPs in about 39% of CIRPs initiated by CD are replaced by RPs, in 33% of CIRPs initiated by OCs and in 22% of CIRPs initiated by FCs.



Insolvency Professional Entities

During the quarter under review, five IPEs were recognised. As on December 31, 2022, there were 101 IPEs (Table 20).

Table 20: IPEs as on December 31, 2022

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
2021 - 22	10	2	91
Apr - Jun, 2022	4	0	95
Jul - Sep, 2022	2	1	96
Oct - Dec, 2022	5	0	101
Total	147	46	101

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 byelaws, 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 December 31, 2022, there are three IPAs registered in accordance with the Code and Regulations. The IBBI interacts with the Managing Directors (MDs) of the IPAs and the IU every month, to obtain feedback on areas of concern for the profession of IPs and discuss the resolutions and the way forward. Table 21 presents the details of activities by the IPAs. Table 22 gives details of number of continuing professional education (CPE) hours earned by IPs.

Table 21: Activities by IPAs

Period	Number of					
	Pre-reg- istration Courses conducted	CPE Pro- grammes conducted	Training Work- shops for IPs	Other Workshops/ Webinars/ Round- tables/ Seminars	Disci- plinary Orders Issued	Com- plaints (For- warded by IBBI) Disposed
2018 - 19	16	-	7	100	4	11
2019 - 20	11	30	9	157	9	127
2020 - 21	14	193	66	102	42	102
2021 - 22	13	133	56	81	23	12
Apr - Jun, 2022	02	44	30	60	80	-
Jul - Sep, 2022	02	40	22	29	-	16
Oct - Dec, 2022	03	55	23	32	5	60
Total	61	495	213	561	163	328

Table 22: CPE Hours earned by the IPs

Period	Number of CPE Hours earned by members of			
	IIIP	ICSI IIP	IPA ICAI	Total
2019 - 20	1160	695	320	2175
2020 - 21	18465	8746	4647	31858
2021 - 22	14123	7890	3872	25885
Apr - Jun, 2022	1651	2205	820	4676
Jul - Sep, 2022	1338	947	818	3103
Oct - Dec, 2022	5092	3972	1198	10262
Total	41829	24455	11675	77959
Average CPE hours				
per registered IP	15.75	21.05	29.33	18.49

Information Utility

There is one IU, namely, the National E-Governance Services 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 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 20 provides details of the registered users and information with NeSL, as submitted by it.

The Code provides that the data with the IU facilitates the CIRP. The record of default (RoD) of the IU provides evidence of debt and default and assists the AA in deciding on an application for admission of insolvency proceedings against a CD. Sections 7(3) & 9(3) of the Code read with the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016, require submission of RoD from an IU as an evidence of default, among various other options, along with application for initiation of CIRP. The RoD issued by an IU has evidentiary value in IBC processes. It contains complete details of the parties to the debt, debt information, security details, default information, details of communication with debtor and authentication status by the counter parties of the debt categorized in accordance with regulation 21 of IU Regulations.

The IU issues RoD in every defaulted loan (unique debt) reported to it on completing the process of authentication. As at the end of December, 2022, NeSL has issued about 79,000 RoDs to support the IBC ecosystem.

Registered Valuer Organisations

The 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 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 enrol 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, as on December 31, 2022. The IBBI meets MDs / CEOs of RVOs 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 December 31, 2022, are given in Table 23. A total of 5114 individuals have active registrations, three of them are registered for all three asset classes, 83 are registered for two asset classes and the balance 5028 are registered for one asset class. As on December 31, 2022, the registration of two RVs have been cancelled and registration of one individual and one entity is under suspension.

Figure 20: Details of Information with NeSL

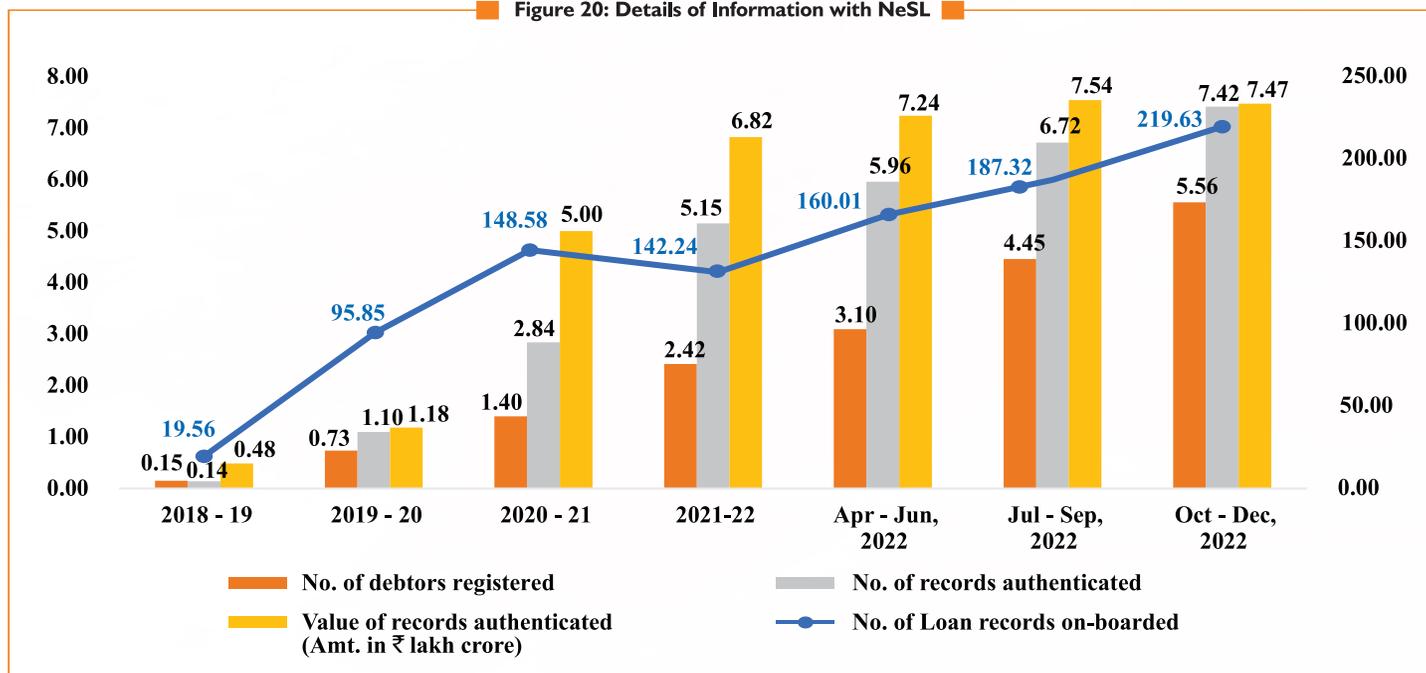


Table 23: Registered Valuers as on December 31, 2022

Sl.	Registered Valuer Organisation	No. of registration granted in each Asset Class			
		Land & Building	Plant & Machinery	Securities or Financial Assets	Total
1	RVO Estate Managers and Appraisers Foundation	85	14	15	114
2	IOV Registered Valuers Foundation	1496	238	170	1904
3	ICSI Registered Valuers Organisation	0	0	247	247
4	IIV India registered Valuers Foundation	172	48	54	274
5	ICMAI Registered Valuers Organisation	49	31	307	387
6	ICAI Registered Valuers Organisation	NA	NA	1017	1017
7	PVAI Valuation Professional Organisation	319	56	130	505
8	CVSRTA Registered Valuers Association	207	62	NA	269
9	Association of Certified Valuators and Analysts	NA	NA	4	4
10	CEV Integral Appraisers Foundation	138	41	3	182
11	Divya Jyoti Foundation	88	19	62	169
12	Nandadeep Valuers Foundation	4	0	1	5
13	All India Institute of Valuers Foundation	9	3	18	30
14	International Business Valuers Association	3	1	19	23
15	All India Valuers Association	2	0	0	2
16	Assessors and Registered Valuers foundation	33	11	27	71
Total		2605	524	2074	5203

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 79 such entities registered as RVs as on December 31, 2022, as presented in Table 24. 30 of them are registered for three asset classes, 14 are registered for two asset classes and 35 are registered for one asset class. The registration of RVs till December 31, 2022 is given in Table 25.

Table 24: Registered Valuers (Entities) as on December 31, 2022

Registered Valuer Organisation	Number of Entities	Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets
RVO Estate Managers and Appraisers Foundation	5	4	3	4
IOV Registered Valuers Foundation	27	23	20	21
ICSI Registered Valuers Organisation	4	0	0	4
IIV India Registered Valuers Foundation	1	1	1	0
ICMAI Registered Valuers Organisation	14	7	7	14
ICAI Registered Valuers Organisation	14	0	0	14
PVAI Valuation Professional Organisation	2	2	2	2
CVSRTA Registered Valuers Association	1	1	1	0
CEV Integral Appraisers Foundation	1	1	1	0
Divya Jyoti Foundation	2	1	1	2
All India Institute of Valuers Foundation	1	1	1	1
International Business Valuers Association	6	5	4	4
Total	78	46	41	66

Note: The registration of 1 entity is under suspension.

Table 25: Registration of RVs till December 31, 2022 (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
2021 - 2022	302	67	303	672
Apr - Jun, 2022	48	6	52	106
Jul - Sep, 2022	100	21	110	231
Oct - Dec, 2022	119	23	88	230
Total	2607	524	2075	5206

Note: The registration of 2 RVs has since been cancelled and registration of 1 RV is under suspension.

As on December 31, 2022, 1345 RVs (constituting 26% of the total RVs registered) are from metros, while 3858 RVs (constituting 74% of the total RVs registered) are from non-metro locations. The region wise detail of RVs is given in Table 26.

Table 26: Region wise RVs as on December 31, 2022 (Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	87	37	249	373
Rest of Northern Region	421	85	370	876
Mumbai	120	55	314	489
Rest of Western Region	738	149	347	1234
Chennai	120	45	146	311
Rest of Southern Region	1039	127	486	1652
Kolkata	33	19	119	171
Rest of Eastern Region	47	7	43	97
Total	2605	524	2074	5203

The average age of RVs as on December 31, 2022 stood at 47 years across asset classes. It was 49 years for Land & Building, 54 years for Plant & Machinery and 43 years for Securities or Financial Assets (Table 27). Of the 5203 RVs as on December 31, 2022, 511 RVs (constituting about 10% of the total RVs) are females.

Table 27: Age profile of RVs as on December 31, 2022

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	136	6	109	251
> 30 ≤ 40	519	76	795	1390
> 40 ≤ 50	528	108	653	1289
> 50 ≤ 60	1003	156	323	1482
> 60 ≤ 70	369	121	178	668
> 70 ≤ 80	44	54	15	113
> 80	6	3	1	10
Total	2605	524	2074	5203

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 (CPGRAMS), Prime Minister's Office (PMO), MCA, and other authorities. The receipt and disposal of grievances and complaints till December 31, 2022 is presented in Table 28.

Table 28: Receipt and Disposal of Grievances and Complaints till December 31, 2022 (Number)

Year / Quarter	Complaints and Grievances Received						Total		
	Under the Regulations		Through CP-GRAM/PMO/MCA/Other Authorities)		Through Other Modes		Re-ceived	Dis-posed	Under Exam-ination
	Re-ceived	Dis-posed	Re-ceived	Dis-posed	Re-ceived	Dis-posed			
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
2021 - 2022	276	279	574	570	611	784	1461	1633	189
Apr - Jun, 2022	61	74	89	110	59	131	209	315	83
Jul - Sep, 2022	62	50	84	58	75	49	221	157	147
Oct - Dec, 2022	55	42	50	70	67	69	172	181	138
Total	1004	933	1733	1703	3805	3768	6542	6404	138

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 same continuously to keep it relevant with respect to dynamics of the market. It has successfully completed six phases of the Limited Insolvency Examination. Sixth phase of the examination concluded on February 28, 2022 and seventh phase commenced on March 01, 2022. It is a computer based online examination available on daily basis from various locations across India. The details of the examination are given in the Table 29.

Table 29: Limited Insolvency Examination

Phase	Period	Number of Attempts (some candidates made more than one attempt)	Successful Attempts
First	Jan, 2017 - Jun, 2017	5329	1201
Second	Jul, 2017 - Dec, 2017	6237	1112
Third	Jan, 2018 - Oct, 2018	6344	1013
Fourth	Nov, 2018 - Jun, 2019	3025	505
Fifth	Jul, 2019 - Dec, 2020	5860	1016
Sixth	Jan, 2021 - Feb, 2022	2741	474
Seventh	Mar, 2022 - Sep, 2022	1103	120
	Oct, 2022 - Dec, 2022	126	14
Total		30765	5455

Valuation Examinations

The IBBI, being the authority, under the Valuation Rules, 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 these examinations continuously to keep it relevant with the changing times. The third phase of the examinations concluded on June 30, 2022 and the fourth phase commenced from July 1, 2022. 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 30.

Table 30: 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 - Jun, 2022	8370	2015	8377	620	139	781
Fourth	Jul, 2022 - Sep, 2022	2487	504	1478	211	38	128
	Oct, 2022 - Dec, 2022	165	27	81	19	3	9
Total		24271	4968	19227	2978	599	2281

Building Ecosystem

IP Workshops

The IBBI has been organising workshops for registered IPs with the aim to deliver specialised and deep level learning through a classroom, non-residential mode. The details of the workshops conducted till December 31, 2022, is given in Table 31.

Table 31: Capacity Building Programmes for IPs till December 31, 2022

Year / Period	Basic Workshops	Advanced Workshops	Other Workshops	Webinars	Round-tables	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
2021 - 22	7	7	-	21	12	3	50
Apr - Jun, 2022	-	-	-	1	4	-	5
July - Sep, 2022	-	3	-	2	2	-	7
Oct - Dec, 2022	-	-	7	-	-	5	12
Total	26	18	18	54	132	10	258

Advocacy and Awareness

Essay Competition

The IBBI in its endeavour to create awareness about the insolvency and bankruptcy regime amongst the students of higher education, conducts essay competitions through Institutes of Learning. Students of graduation and post-graduation courses of any discipline at Universities, Deemed Universities and Professional Institutes in India can participate in this competition. During the quarter, one such competition was concluded at the National Law University, Jodhpur, on the topic 'Emerging Jurisprudence on Corporate Insolvency'. The essay by Mr. Aaryan Agarwal & Ms. Neha Subodh Sharma (co-authors) was adjudged as the best essay. There was a tie between Mr. Prateek Singh and Mr. Jatin Karela & Mr. Yaksh Bhakhand (co-authors) for the position of second best essay in the competition.

Other Programmes

The IBBI in association with various stakeholders, organised advocacy and awareness programmes as presented in Table 32.

Table 32: Advocacy and Awareness Programmes, October - December, 2022

Sl.	Date	Particulars	Topic	In Association With
1	12-10-22	Session on Gyandarshan TV Channel by Mr. Sourav Sardar, Manager, IBBI; and Ms. Ajanta Gupta, Research Associate, IBBI	Recent Regulatory Reforms under IBC	IGNOU
2	12-10-22	Session on Gyandarshan TV Channel by Mr. Subhash Chaudhary, GM, IBBI; and Mr. Prateek Jain, Manager, IBBI	Career Options under IBC (incl. GIP course)	IGNOU
3	12-10-22	Training Session for officers of Income Tax Department at NADT, Bengaluru (Regional Campus)	Insolvency and Bankruptcy Code, 2016	NADT, Bengaluru
4	18-10-22	Training Session for officers of Income Tax Department at NADT, Nagpur	Insolvency and Bankruptcy Code, 2016	NADT, Nagpur
5	26-10-22	Session on Gyandarshan TV Channel by Mr. Sandip Garg, ED, IBBI	Insolvency and Bankruptcy Code, 2016: Journey so far and road ahead	IGNOU
6	31-10-22	Workshop for IPs	Sale as Going Concern	FCDO UK
7	05-11-22	Training Programme for officials of Indian Overseas Bank	Insolvency and Bankruptcy Code, 2016	Indian Overseas Bank
8	01-12-22	Train the Trainers Programme	Determination of Avoidance Transactions	FCDO UK
9	02-12-22	Webinar with IIIP ICAI	Interplay Between IBC and Other Laws	IIIP ICAI
10	03-12-22	6 th National Summit	Insolvency & Bankruptcy Code & Valuation	ASSOCHAM
11	16-12-22 to 18-12-22	53 rd Indian Valuers Congress (IVC-2022) at Guwahati	Valuation	IOV RVF
12	23-12-22	Webinar with ICSI IIP	Developing a market for distressed assets & E-auction	ICSI IIP
13	26-12-22	Webinar with ICSI IIP	Handling Monitoring & Inspection of IPs	ICSI IIP
14	27-12-22	Webinar with ICSI IIP	Drafting, pleadings and Arguments before NCLT and NCLAT	ICSI IIP
15	28-12-22	Webinar with ICSI IIP	Voting in CoC or Conducting E voting in CIRP	ICSI IIP
16	29-12-22	Webinar with ICSI IIP	Liability of Personal Guarantors under the IBC	ICSI IIP
17	29-12-22	Training programme for officers of NACIN, Vadodara	Legal aspects and procedure with reference to recovery of Govt. dues with emerging jurisprudence	NACIN, Vadodara



6th National Summit on IBC and Valuation at Mumbai, December 3, 2022



53rd Indian Valuers Congress at Guwahati, December 16, 2022

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 33.

Table 33: Participation of Senior Officers in Programmes

Sl.	Date	Organiser	Subject	Participation
1	14-10-22	Legal Era	7 th Annual Insolvency & Bankruptcy Summit 2022	Mr. Ravi Mittal, Chairperson
2	18-10-22	IOV RVF, ICAI RVO and ICMAI RVO	Valuation Day	Mr. Sudhaker Shukla, WTM Mr. Amit Pradhan, ED



Legal Era's 7th Annual Insolvency & Bankruptcy Summit 2022, through virtual mode



Valuation Day at New Delhi, October 18, 2022

List of Abbreviations

AA	Adjudicating Authority
AFA	Authorisation for Assignment
ARC/ARCs	Asset Reconstruction Company/Companies
BIFR	Board for Industrial and Financial Reconstruction
CBIRC	Cross-Border Insolvency Rules/Regulation Committee
CCI	Competition Commission of India
CD	Corporate Debtor
CEO	Chief Executive Officer
CIRP	Corporate Insolvency Resolution Process
CIRP Regulations	IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016
CoC	Committee of Creditors
CPE	Continuing Professional Education
CPGRAMS	Centralised Public Grievance Redress and Monitoring System
DRT	Debt Recovery Tribunal
ED	Enforcement Directorate
ED, IBBI	Executive Director, IBBI
FC/FCs	Financial Creditor / Creditors
FCDO UK	Foreign, Commonwealth & Development Office, UK
FISP/FISPs	Financial Service Provider/ Financial Service Providers
GIP	Graduate Insolvency Programme
HC	High Court
IBBI / Board	Insolvency and Bankruptcy Board of India
IBC / Code	Insolvency and Bankruptcy Code, 2016
ICAI	Institute of Chartered Accountants of India
ICAI RVO	ICAI Registered Valuers Organisation
ICD	Insolvency Commencement Date
ICMAI	Institute of Cost and Management Accountants of India
ICMAI RVO	ICMAI Registered Valuers Organisation
ICSI	Institute of Company Secretaries of India
ICSI IIP	ICSI Institute of Insolvency Professionals
IGNOU	Indira Gandhi National Open University
IIIP ICAI	Indian Institute of Insolvency Professionals of ICAI
IOV RVF	IOV Registered Valuers Foundation
IP/IPs	Insolvency Professional/ Professionals
IPA/IPAs	Insolvency Professional Agency/ Agencies
IPA ICAI	Insolvency Professional Agency of Institute of Cost Accountants of India
IPE/IPEs	Insolvency Professional Entity/Entities
IP Regulations	IBBI (Insolvency Professionals) Regulations, 2016

IRP/IRPs	Interim Resolution Professional/Professionals
IU/IUs	Information Utility/Utilities
IU Regulations	IBBI (Information Utilities) Regulations, 2017
LCD	Liquidation Commencement Date
Liquidation Regulations	IBBI (Liquidation Process) Regulations, 2016
MCA	Ministry of Corporate Affairs
MD	Managing Director
MLEGI	UNCITRAL Model Law on Enterprise Group Insolvency
MSME	Micro, Small and Medium Enterprise
NACIN	National Academy of Customs, Indirect Taxes & Narcotics
NADT	National Academy of Direct Taxes
NCLAT	National Company Law Appellate Tribunal
NCLT	National Company Law Tribunal
NeSL	National e-Governance Services Limited
NPA	Non-performing asset
OC/OCs	Operational Creditor/ Creditors
Panel Guidelines	Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2022
PG/PGs	Personal Guarantor/Guarantors
PIRP	Personal Insolvency Resolution Process
PMLA	The Prevention of Money Laundering Act, 2002
PMO	Prime Minister's Office
PPIRP	Pre-Packaged Insolvency Resolution Process
RBI	Reserve Bank of India
RoD	Record of Default
RP	Resolution Professional
RV/RVs	Registered Valuer/Valuers
RVE/RVEs	Registered Valuer Entity/Entities
RVO/RVOs	Registered Valuer Organisation/Organisations
SC	Supreme Court of India
SCC	Stakeholders' Consultation Committee
SRA	Successful Resolution Applicant
TAR	Transaction Audit Report
TDS	Tax Deducted at Source
UNCITRAL	United Nations Commission on International Trade Law
Valuation Rules	The Companies (Registered Valuers and Valuation) Rules, 2017
WG	Working Group
WTM	Whole-time Member



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