

Insolvency and Bankruptcy of India
Press Release

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The Insolvency and Bankruptcy of India organises the 3rd IP Conclave in Hyderabad

The Insolvency and Bankruptcy Board of India (IBBI), in association with the three Insolvency Professional Agencies, namely, the Indian Institute of Insolvency Professionals of ICAI, the ICSI Institute of Insolvency Professionals, and the Insolvency Professional Agency of Institute of Cost Accountants of India, organised a Conclave of Insolvency Professionals on 1st December, 2018 in Hyderabad. Over 400 insolvency professionals (IPs) and registered valuers participated in the Conclave. It was third such Conclave, the other two conclaves were organised on 10th February, 2018 and 26th May, 2018 at New Delhi and Mumbai respectively.

2. Mr. T. V. Narendran, Global CEO & Managing Director, Tata Steel Limited and Chairman of Tata Steel BSL Limited shared the perspective of a resolution applicant in corporate insolvency resolution process (CIRP). He stated that a capital-intensive plant such as steel plant is typically built in a remote location which in course of time becomes a township of its own. If the plant does not function smoothly, it affects the life and livelihood of the town and underutilises huge scarce resources of the nation. It is necessary to fix the problem expeditiously at the earliest sign of deceleration of performance of the plant. However, fixing the problems becomes easy if the resolution professional is competent, motivated and impartial. As compared to regular merger and amalgamation activities, acquisition of a stressed asset through CIRP is challenging. In case of former, buyer negotiates terms, puts them into a contract and close the deals. He pays for what he gets. In case of a CIRP, one submits a resolution plan based on due diligence. However, considerable time lapses between due diligence and approval of the resolution plan by the Adjudicating Authority. It is the resolution professional who keeps the asset intact during this period. CIRP yields better outcomes where the RP has the ability to do so and inspires confidence of stakeholders.

3. In his address, Dr. M. S. Sahoo, Chairperson, IBBI stated that the IBBI is shepherding two brand new professions, namely, insolvency professionals (IPs) and registered valuers (RVs). He stated that an IP has defined strategic duties and responsibilities under the Code. He is the hub that connects all the spokes, co-ordinating and communicating with all the stakeholders and facilitating commercial decisions with equity and fairness. A RV competes with the market to estimate the value of an asset and liability, which is more authentic than the price the market may discover, to facilitate various transactions under the Companies Act, 2013 and the Code. Dr. Sahoo stated that the approach followed for regulation and development of these two professions is quite distinct as compared to other professions in the country: Only fit and proper persons are eligible for registration as professionals, given the responsibilities they discharge. They are subject to a two-tier, regulated self-regulation where they are enrolled with an IPA / RVO as a member and thereafter registered with the IBBI as IP or RV, as the case may be. Unlike every other profession, the client proposes the name of the IP for a process, but he is appointed by the Adjudicating Authority. He can also be removed by the Adjudicating Authority. Dr. Sahoo expressed satisfaction that though IP is relatively a new profession, the IPs have performed, reformed and transformed, at times much beyond the call of their duty.

4. Hon'ble Justice Mr. M. M. Kumar, President, National Company Law Tribunal (NCLT), stated that gone are the days when one would borrow money and then forget. He highlighted the paradigm shift in the insolvency regime in the past two years due to the advent of Code. This regime places controls in the hands of the IP and committee of creditors (CoC). Therefore, IP and CoC must act in a responsible manner while keeping in mind the interest of all the stakeholders. The IP must guide the CoC as to what is permissible and what is not. He must keep himself updated on all the developments under the Code, including judgements/orders issued by various benches of NCLT, NCLAT, and the Supreme Court, considering the dynamic nature of insolvency regime even at this nascent stage. Citing the judgement of the Supreme Court in the matter of Arcelor Mittal India Private Limited Vs. Satish Kumar Gupta and Ors., he stated that speed is the essence of the Code and resolution is the rule while liquidation is exception. Therefore, the IP must endeavour to ensure that all the timelines under the Code are adhered to and the objective must be resolution and not liquidation.

5. Mr. K. Anantha Padmanabha Swamy, Hon'ble Judicial Member, NCLT and Mr. Ratakonda Murali, Hon'ble Judicial Member, NCLT shared their thoughts from the perspective of adjudicating authority at the Conclave.

6. The Conclave ended with the vote of thanks by Dr. S. K. Gupta, Managing Director of Insolvency Professional Agency of Institute of Cost Accountants of India.
