



भारतीय विवाला और सोवण अकमता बोर्ड
Insolvency and Bankruptcy Board of India

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Insolvency and Bankruptcy News

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Pre-packaged
Insolvency
Resolution

CONTENTS

From Chairperson's Desk	2
IBBI Updates	4
Legal and Regulatory Framework	6
• Central Government	
• Insolvency and Bankruptcy Board of India	
• Other Authorities	
Orders	8
• Supreme Court	
• High Courts	
• National Company Law Appellate Tribunal	
• National Company Law Tribunal	
• Debt Recovery Tribunal	
• Other Authorities	
• Insolvency and Bankruptcy Board of India	
Corporate Processes	16
• Insolvency Resolution	
• Liquidation	
• Voluntary Liquidation	
Individual Processes	22
Service Providers	22
• Insolvency Professionals	
• Information Utility	
• Registered Valuers	
• Complaints and Grievances	
Examinations	25
• Limited Insolvency Examination	
• Valuation Examinations	
Building Ecosystem	25
Advocacy and Awareness	26

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The Code has been held as one of the most important economic legislations in recent times, having reformed the much-needed exit mechanism for the corporates to start with and having addressed the important aspects of ease of doing business.

Mr. Anurag Singh Thakur,
Hon'ble Minister of State for Finance and
Corporate Affairs at the Fourth Annual Day
of IBBI, October 1, 2020.

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The insolvency law has led to a significant behavioural shift among borrowers as non-repayment of loan is no more an option and ownership of a firm is no more a divine right and equity is no more the only route to own a firm.

Mr. Girish Chandra Murmu,
Comptroller and Auditor General of India
at the Fourth Annual Day of IBBI,
October 1, 2020

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IBC, under which recovery is incidental to rescue of companies, remained the dominant mode of recovery.

RBI's Report on Trends and
Progress of Banking in India,
December, 2020

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From Chairperson's Desk

Pre-packaged Insolvency Resolution Process

A market economy is all about choice. Provision of multiple competing options for resolution of stress makes an economy a great place to do business.

Insolvency and Bankruptcy Code, 2016 (Code) envisaged standard, plain vanilla processes to start with, but anticipated sophisticated options with the maturity of the ecosystem. With considerable learning and maturity of the ecosystem, and a reasonably fair debtor-creditor relationship in place, the ground seems ready to push the envelope a bit further.

The Code envisages corporate insolvency resolution process (CIRP) for resolution of stress of companies. The success of CIRP, however, critically depends on the availability of resolution applicants (RAs). When most companies, industries and economies continue to experience stress on account of the ensuing pandemic, the likelihood of finding an RA to rescue a failing company is less. This may remain a concern for some time, as there is no clarity as to when COVID-19 will subside fully and even after that the business and economy may take some time to return to normal. Further, CIRP is not available in respect of defaults below ₹ 1 crore and defaults that arose during the last one year. This has two consequences - either the company remains under stress for too long or the creditors use available means to recover their dues. In either case, the company may not survive long. This necessitates exploring novel options that attempt to resolve stress but do not yield liquidation for want of an RA.

CIRP has a set process and, therefore, some amount of inflexibility, which may limit its use in certain circumstances. It shifts control of the company to an interim resolution professional (IRP) and then to a resolution professional (RP) and finally to the successful RA, which may cause business disruptions. The displacement of the current management disincentivises the companies to initiate CIRP voluntarily in case of stress. This partly explains non-cooperation by the current promoters and management, leading to intense litigation in some cases. Determination of several issues, including avoidance transactions, has been a challenge to the limited capacity of the Adjudicating Authority leading to overstepping of timelines in some CIRPs.

Market prefers flexibility to work out a tailor-made resolution best suited to the unique circumstances. It, however, does not like complete flexibility; it appreciates a guided path and wishes to avail benefits and sanctity of a formal process. In other words, the market prefers a semi-formal process which side-steps the difficulties of a formal process but retains its benefits and sanctity. In a sense, the formal process and informal process are two ends of a spectrum and a variety of semi-formal processes, that blend elements from both, can exist to suit the convenience of the stakeholders. The most popular semi-formal option is pre-pack, which starts with an

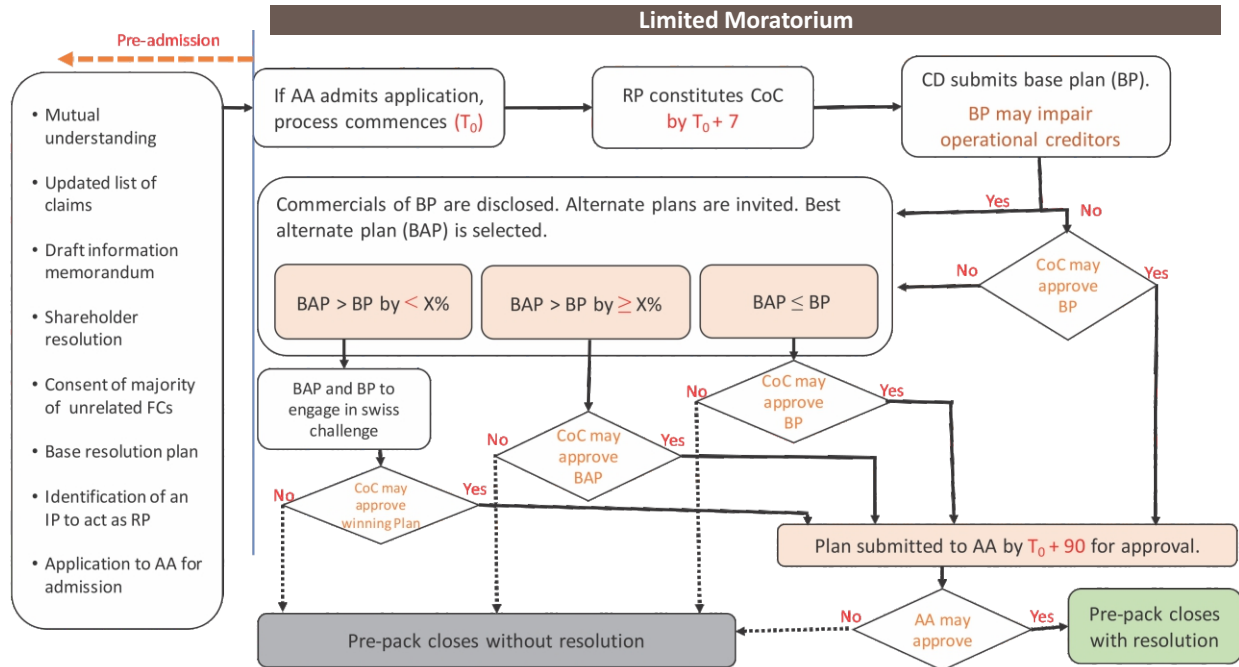
informal understanding among stakeholders, engages with them formally in between, and ends with a judicial blessing of the outcome. The insolvency laws around the world provide a variant of pre-pack, though the nuances differ across jurisdictions. The formal processes in India (withdrawal under CIRP, compromise or arrangement under the Companies Act, 2013 and the RBI's prudential framework) have some elements of pre-pack.

As compared to CIRP, prepack is typically more flexible, cost effective, time effective, less disruptive to business and devoid of stigma, and more conducive for group insolvency. It increases possibility of reorganisation and entails a limited role of the courts and IPs. It has, however, its share of concerns such as 'serial pre-packing' (controlling parties acquire the company successively to avoid debt rather than rescue the company). Private negotiation and understanding among a set of stakeholders prior to commencement of formal process, which contribute to its advantages, is often a source of concern. Though emanated from market practice, prepack is getting formal and regulated to address the concerns.

The market has been advocating and anticipating prepack resolution process for some time. In recognition of the need, the Government had set up a sub-committee of the Insolvency Law Committee to recommend an India-centric pre-pack. Within the basic structure of the Code, the sub-committee has designed a pre-pack process where the financial creditors have extensive control, company enjoys moratorium during the process, and the outcome is binding on all. The proposed pre-pack process has the features, which make a CIRP sacrosanct, and has the rigour and discipline of the CIRP. It is informal up to a point and formal thereafter. It blends debtor-in-possession with creditor-in-control. It is neither a fully private nor a fully public process - it allows the company, if eligible under section 29A, to submit the base resolution plan which is exposed to a Swiss challenge for value maximisation. It safeguards the rights of stakeholders as much as in CIRP and has adequate checks and balances to prevent any potential misuse. The recommendations of the sub-committee are presented later in this newsletter. A tentative process flow of proposed prepack insolvency resolution is presented in the Figure.

Now that the haze around moratorium has been cleared by the Supreme Court, the suspension of initiation of insolvency proceedings has expired, and the trajectory of COVID-19 is fairly understood, it is the most opportune time to introduce pre-packs, which is a natural step in the evolution of insolvency regimes, within the Code. It will enrich the menu of options for resolution of stress and take the Indian insolvency journey to the next level.

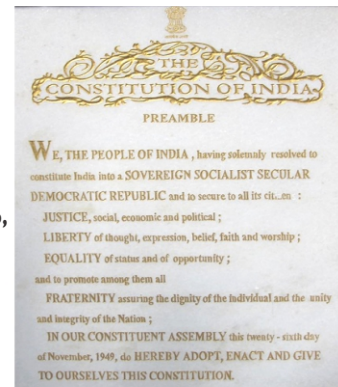
Figure: A tentative process flow of proposed Pre-packaged Insolvency Resolution Process



(Dr. M. S. Sahoo)



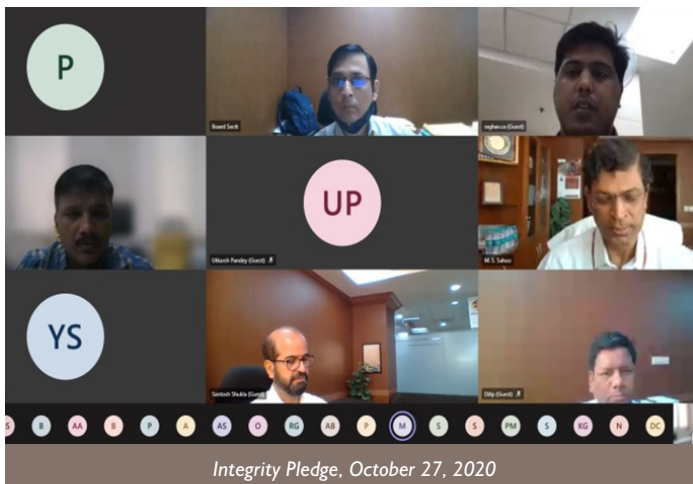
**Constitution Day Pledge,
November 26,
2020**



IBBI Updates

Vigilance Awareness Week, 2020

IBBI observed Vigilance Awareness Week from October 27, 2020 to November 2, 2020 on the theme “सतर्क भारत समृद्ध भारत” (Vigilant India, Prosperous India). Dr. M. S. Sahoo, Chairperson, IBBI administered oath to officers through e-mode. IBBI received an integrity pledge certificate from the Central Vigilance Commission.



Samvidhan Diwas

IBBI observed Samvidhan Diwas (Constitution Day) on November 26, 2020 to commemorate the adoption of the Constitution of India. The officers joined Dr. M. S. Sahoo, Chairperson, IBBI in reading the Preamble to the Constitution and reaffirmed their commitment to uphold its ideology. They followed the Hon'ble President's reading of the Preamble of the Constitution telecast live.

Governing Board

Dr. Shashank Saksena, ex-officio member of the Governing Board of IBBI, representing the Department of Economic Affairs, Ministry of Finance was promoted as Senior Economic Adviser on October 16, 2020.

IAIR Executive Committee



Whole Time Member, IBBI, Dr. Mukulita Vijayawargiya was elected as a member of the Executive Committee of the International Association of

Insolvency Regulators (IAIR) at its Annual General Meeting held on November 4, 2020, for a period of one year. The Executive Committee is the decision-making authority of the Association, which takes all decisions and actions necessary to achieve the objectives of the Association.

AJNIFMS General Body

Dr. M. S. Sahoo, Chairperson, IBBI was nominated by the Government of India to the General Body of the Arun Jaitley National Institute of Financial Management Society for a period of three years with effect from October 8, 2020. The General Body is chaired by Hon'ble Union Finance Minister.

FOIR Hony. Chairman

Dr. M. S. Sahoo, Chairperson, IBBI was appointed as the Hony. Chairman of Forum of Indian Regulators (FOIR) on October 1, 2020 for a period of one year. The FOIR is a Society of the regulatory bodies in the country that aims to promote the growth of independent regulatory mechanisms and transparency in the working of the regulatory bodies.

Presentation to EAC-PM

The Economic Advisory Council of the Prime Minister (EAC-PM) sought a presentation on IBC, its related issues, and suggestions, etc. Accordingly, Chairperson, Dr. M. S. Sahoo and Whole Time Member, Mr. Sudhaker Shukla made a presentation to EAC-PM on November 24, 2020.

Fourth Annual Day

IBBI celebrated its Fourth Annual Day on October 1, 2020. The celebration witnessed presence of a limited number of dignitaries in person in view of the COVID-19. However, thousands of stakeholders witnessed the event live through live streaming.

Hon'ble Minister of State for Finance and Corporate Affairs, Mr. Anurag Singh Thakur graced the occasion as the Chief Guest. In his address, he elaborated several measures taken by the Government to ameliorate the pains of citizens in the aftermath of the COVID-19 pandemic. He pointed out that amendment to the Code to suspend the filling of corporate insolvencies in respect of COVID-19 defaults was one such step required to save businesses from being closed prematurely. He expressed hope that the economy would revive soon on the back of picking up of demand and increased domestic and foreign investments.

Annual Day Lecture

To commemorate its establishment, IBBI has instituted an Annual Day Lecture Series. Mr. Girish Chandra Murmu, Comptroller and Auditor General of India (C&AG) delivered the Fourth Annual Day Lecture on “IBC: Adaptability is the Key to Sustaining Reforms in Times of a Pandemic”. He observed that the insolvency law has led to a significant behavioural shift among borrowers as non-repayment of loan is no more an option and ownership of a firm is no more a divine right and equity is no more the only route to own a firm. He observed that this behavioural shift had resulted in substantial recoveries for creditors outside the IBC and improved the performance of firms. Adaptability, he said, was most required for a law, like the IBC, to remain relevant to the times.

Annual Publication

The Hon'ble Minister released IBBI's annual publication, “Insolvency and Bankruptcy Regime in India: A Narrative” on the occasion. This publication presents the thoughts and perspectives of practitioners, policymakers, subject experts, and academicians that elucidate and

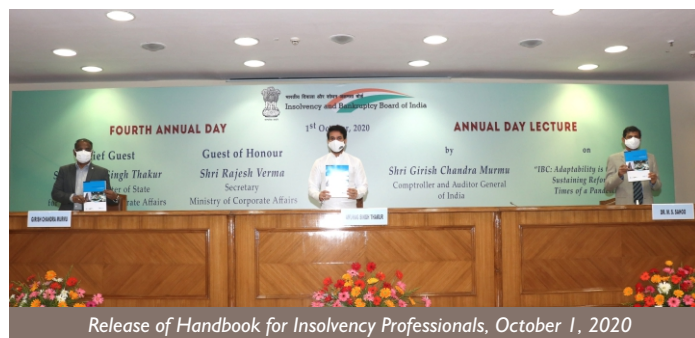
stimulate thought around the journey of the IBC thus far and road ahead. It is an attempt to generate a scholarly debate and policy discourse around insolvency law.



Release of Annual Publication of IBBI, October 1, 2020

Handbook for IPs

The C&AG released the Handbook for Insolvency Professionals titled “Understanding the IBC: Key Jurisprudence and Practical Considerations” prepared by International Financial Corporation, World Bank Group, in pursuance of a co-operation Agreement with the IBBI. The Handbook captures the evolving discipline of insolvency with all its nuances and is intended to serve as a single point of reference for insolvency professionals, and all others in the ecosystem, who wish to delve into this emerging area of law and practice.



Release of Handbook for Insolvency Professionals, October 1, 2020

National Quiz

IBBI, in collaboration with MyGov.in, had conducted a ‘National Online Quiz on Insolvency and Bankruptcy Code, 2016’ from July 1 to 31, 2020 to promote awareness and understanding of the Code among various stakeholders across the country. The Quiz received overwhelming response with 1.26 lakh participants. There were participants from every



Awards to IBC National Quiz winners, October 1, 2020

State and every Union Territory of India. The C&AG gave away the medals and cash awards to the top three performers of the quiz.

Distressed Assets Platform

Insolvency resolution has opened markets for distressed assets in terms of resolution plans, interim finance, and liquidation assets. Price discovery in any market is efficient if it has many participants and there is complete transparency. In the interest of efficient price discovery, IBBI has empaneled National e-Governance Services Limited to provide an electronic platform for market for distressed assets. Hon'ble Minister inaugurated the platform on the occasion.



Inauguration of Distressed Assets Platform, October 1, 2020

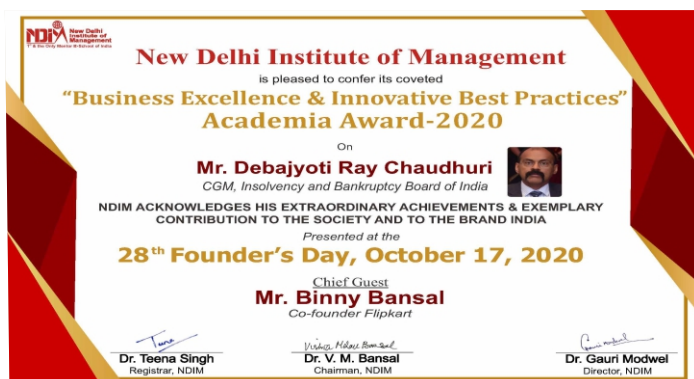
Human Resources

Executive Director

Mr. Santosh Kumar Shukla took charge as Executive Director, IBBI on October 19, 2020. Immediately before joining IBBI, he was serving as Chief General Manager in the Enforcement Department of the Securities and Exchange Board of India (SEBI). Mr. Shukla has been with the securities market regulator, SEBI since September, 1996. He has been serving in various capacities in Departments of Legal Affairs, Enforcement, Enquiries and Adjudication, etc. He has also served as Regional Director of the Western Regional Office of SEBI at Ahmedabad.

Award for IBBI Officer

New Delhi Institute of Management conferred its coveted ‘Business Excellence & Innovative Best Practices Academia Award-2020’ on Mr. Debajyoti Ray Chaudhuri, Chief General Manager, IBBI on its 28th Founder’s Day on October 17, 2020 as a part of its vision to groom global leaders. Mr. Chaudhuri has been awarded for his extraordinary achievements and exemplary contribution to the society and to the brand India.



COVID-19

IBBI has been taking several measures to contain the spread of COVID-19 to ensure the safety of its officers and staff without impacting the office work. Standard operating procedures, based on various guidelines issued by the Government from time to time, have been laid down as regards social distancing, wearing of masks and maintaining hand hygiene. Office premises are regularly sanitized. A roster has been laid down for employees to work from home on alternate days and flexible timing is also allowed to them. IBBI arranged for COVID-19 tests for its officers and contractual staff on November 18 - 19, 2020. On a few officers/staff being tested positive, the office premises were closed on November 19 - 20, 2020 to contain the spread of coronavirus and to sanitize the premises. The tests were conducted again on December 29 - 30, 2020.

Employee Workshops

The IBBI organised the following workshops for its officers through video conference:

Date	Subject	Faculty
13-10-20	Unlocking the COVID-19 Impact on Economy, Corporates and Credit Outlook	CRISIL Team
22-10-20	Prepack Insolvency Framework	Foreign, Commonwealth and Development Office UK Team



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

Date	Organised by	Nature of the Programme/Subject	No. of Officers
08, 10, 11, 15 and 17-12-20	IICA	Global Economics, Digital Money, and Corporate Governance Transformation.	01
07-12-20 to 18-12-20	FOIR	Regulatory Performance Evaluation	02
16-11-20 to 22-12-20	IICA	Commercial Mediation & Negotiation	01

Internal Complaints Committee

The Internal Complaints Committee (ICC) constituted under the provisions of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 had a meeting on December 22, 2020.

Legal and Regulatory Framework

Central Government

Extension of Suspension

The Central Government, vide notification dated December 22, 2020, extended the suspension of filing of applications for initiation of CIRP in respect of defaults arising during the further period of three months from December 25, 2020.

Acting Chairperson, NCLAT

The Central Government, vide notification dated October 28, 2020, extended the term of Office of Justice (Retd.) Mr. Bansi Lal Bhat, Member (Judicial) as officiating Chairperson, NCLAT up to December 31, 2020 or until a regular Chairperson is appointed or until further orders, whichever is the earliest.

Acting President of NCLT

The Central Government, vide notification dated November 10, 2020, extended the term of Office of Mr. Bethala Shantha Vijaya Prakash Kumar, Member (Judicial), as acting president of the National Company Law Tribunal (NCLT) for a further period of one month with effect from November 5, 2020 or until a regular President is appointed or until further orders, whichever is the earliest.

Further, the Supreme Court of India, vide its order dated December 9, 2020 in disposal of a writ petition filed by the National Company Law Tribunal and Appellate Tribunal Bar Association, extended the appointment of Mr. Bethala Shantha Vijaya Prakash Kumar, Member (Judicial), as acting president, NCLT till regular appointment is made to the post of President, NCLT Delhi.

Reconstitution of Benches of NCLT

The NCLT re-constituted all its Benches vide an order dated November 25, 2020 to enable regular hearing, through video conference, with effect from December 1, 2020. The order provided that all Benches will hear all matters including those pending before the lockdown and filed during the lockdown on all working days.

Automatic Case Number Generation

The NCLT advised all its benches, vide order dated December 24, 2020, that the Benches, which have implemented e-filing as part of the e-court initiative, will start the second phase of e-court, which is Automatic Case Number Generation with effect from January 1, 2021. The automatic number must be generated from e-filing portal <https://efiling.nclt.gov.in>.

Pre-packaged Resolution

The sub-committee of the Insolvency Law Committee submitted its Report on Pre-packaged Insolvency Resolution Process on October, 31, 2020 to the Ministry of Corporate Affairs. Taking note of the progress in insolvency reforms, maturity of the systems and practices relating to insolvency in the country and learning from the experience of pre-packs in other jurisdictions, the sub-committee has designed a pre-pack framework within the basic structure of the Code for the Indian market. The salient features of proposed pre-pack vis-à-vis CIRP are presented as under:

of the CD are released for alternate uses expeditiously. However, the process takes longer where the liquidation estate includes a 'not readily realisable asset'. To facilitate quick closure of the liquidation process, IBBI amended the IBBI (Liquidation Process) Regulations, 2016, vide notification dated November 13, 2020, to enable the liquidator to assign or transfer a 'not readily realisable asset' to any person in consultation with the stakeholders' consultation committee. For this purpose, 'not readily realisable asset' means any asset included in the liquidation estate which could not be sold through available options and includes contingent or disputed assets, and assets underlying proceedings for preferential, undervalued, extortionate credit and fraudulent transactions. Thus, a liquidator shall attempt to sell the assets at the first instance, failing which he may assign or transfer an asset to any person, in consultation with the stakeholders' consultation committee, and failing which he may distribute the undisposed of assets amongst stakeholders, with the approval of the Adjudicating Authority (AA).

Parameter	CIRP	Proposed Pre-pack
Objective	Resolution through a resolution plan	Resolution through a resolution plan
Legal framework	Relatively more in the statute and less in regulations	Relatively less in the statute and more in regulations
Applicability	Companies and LLPs	Companies and LLPs
Initiation of process	Default above ₹ 1 crore, excluding COVID-19 default	Pre and post default stress, including COVID-19 default. In a phased manner, if required
Initiation by	FC, OC, or CD	CD, with consent of majority of unrelated Fcs
Management of the CD	IP-in-possession with creditor-in-control	Debtor-in-possession with creditor-in-control
Role of IP	IRP appointed by the applicant and then RP by the CoC Managing affairs of the CD and conducting the process	RP, to be appointed with consent of majority of unrelated Fcs Conducting the process
Claim collation	IRP to invite and collate	CD to provide. RP to verify.
Information memorandum	Prepared by RP	Draft prepared by CD and finalised by RP
Moratorium	Moratorium under section 14	Limited Moratorium
Interim finance	Yes	Yes
Avoidance transactions	Yes	Yes
Valuation	By two valuers	By two valuers
IRPC	Includes cost of running operations	Does not include cost of running operations
Invitation for resolution plans	Public process	First right of offer to promoters, Swiss Challenge
Ineligibility for resolution plan	Section 29A applies	Section 29A to apply
Early closure of process	Under section 12A, on request of the applicant	With approval of 66% of voting share, present and voting; Suo moto by CoC
Approval of resolution plan by CoC	66% of voting share	66% of voting share, present and voting
Consequence of termination of process	No termination allowed	Liquidation, with 75% of voting share of CoC
Consequence of failure of pre-pack	Liquidation	Closure
Binding outcome	Resolution plan binding	Resolution plan binding
Regulatory benefits	Yes	Yes
Clean Slate, post resolution	Yes	Yes
Role of IP and AA	Relatively more	Relatively less
Timeline	180 days till approval of resolution plan by the AA	90 days for filing of resolution plan with the AA plus 30 days for the AA to approve it
Cooling off	12 months between two CIRPs	Three years between two Pre-packs

IBBI

Amendments to Liquidation Process Regulations

The Code envisages early closure of liquidation process so that the assets

There may be a creditor who may not be willing to wait for completion of liquidation process for realisation of his debt. The amended Regulations enable a creditor to assign or transfer the debt due to it to any other person in accordance with the laws for the time being in force dealing with such assignment or transfer.

Amendment to CIRP Regulations

IBBI amended the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, vide notification dated November 13, 2020, to provide for the following:

(a) The financial creditor (FC), along with the application, is required to furnish 'record of the default recorded with the information utility or such other record or evidence of default as may be specified'. In exercise of this power, the IBBI amended the Regulations to specify two 'other record or evidence of default', namely, (i) certified copy of entries in the relevant account in the bankers' book, and (ii) order of a court or tribunal that has adjudicated upon the non-payment of a debt.

(b) The Regulations provide that the IRP / RP shall verify every claim and thereupon maintain a list of creditors and update it. He is required to file the list of creditors with the AA and display it on the website, if any, of the corporate debtor (CD). The amendment provides that the IRP/RP is required to submit the list of creditors on an electronic platform for dissemination on its website.

(c) The amended Regulations direct the RP to intimate each claimant under a resolution plan, the principle, or formulae, for payment of debts under such resolution plan, within 15 days of the order of the AA approving the said resolution plan.

Amendment to Information Utilities Regulations

The Code defines 'financial information' to mean certain records and 'such other information as may be specified'. In exercise of this power, the IBBI amended the IBBI (Information Utilities) Regulations, 2017, vide notification dated November 13, 2020, to specify the public announcement made under the Code as financial information. It mandated the Information Utilities to disseminate the public announcement to its registered users, who are creditors of the CD undergoing insolvency proceeding. This is in addition to publishing the public announcement in the newspapers and websites as required in the Regulations.

Disciplinary Committees of the RVOs

Observing that the RVOs have been following different practices in conducting the meetings of the Disciplinary Committee (DC) and Appellate Panel (AP), the IBBI, vide circular dated October 9, 2020, advised the RVOs to, inter-alia, ensure the meetings of the DC and AP be held only if there is an agenda for the meeting; the meetings should be preferably held through VC; one week's notice should be given for the meeting; the minutes shall be signed by the members of the committee present during the meeting; the tenure of IBBI's nominee shall ordinarily be for two years from the date of appointment; etc.

Service of CIRP Applications

Rule 4(3), 6(2) and 7(2) of the Insolvency and Bankruptcy (Application to Adjudicating Authority) Rules, 2016 requires the applicant to serve a copy of the application for initiation of CIRP, inter alia, to IBBI. For convenience of applicants, IBBI made available a facility on its website for serving a copy of the application online to it. On submission of the application online, the applicant shall get an acknowledgement.

Filing of List of Creditors

The CIRP Regulations require the IRP or RP to file the list of creditors on the electronic platform of the IBBI for dissemination on its website. In

pursuance to the same, IBBI made available an electronic platform for filing of list of creditors as well as update thereof. The platform permits multiple filings by the IRP or RP as and when the list of creditors is updated by him.

Guidelines for Panel of IPs

IBBI issued Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2020 on November 23, 2020. The Guidelines enable the Board to prepare a common panel of IPs and share the same with the AA for appointment as IRPs, Liquidators, RPs, and Bankruptcy Trustees from January 1, 2021 to June 30, 2021.

Mistakes Committed by IPs

IBBI and Insolvency Professional Agencies (IPAs) have come across some mistakes being committed by some of the IPs in conduct of CIRPs. These mistakes are costs to the CD and the economy, and often amount to contravention of provisions of the law. Most of these are probably unintentional and can be avoided with a little more vigil, care, and diligence. IBBI issued a Facilitation Note on November 13, 2020, listing few such mistakes committed by IPs in conduct of CIRPs with the hope that such mistakes will not be committed.

Other Authorities

Valuation by RVs

The Securities Exchange Board of India (SEBI), vide its circular dated November 3, 2020, modified its circular dated March 10, 2017 which lays down the framework for schemes of arrangements (SoA) by listed entities. The modification requires all listed entities to submit a valuation report from a registered valuer (RV) in SoA. RV is a person, who being a member of a registered valuer organisation, is registered with IBBI in accordance with section 247 of the Companies Act, 2013 read with the Rules.

Minimum Public Shareholding

The SEBI decided to recalibrate the minimum public shareholding norms for the companies which continue to remain listed after implementation of the resolution plan under the Code. Such companies shall have at least 5% public shareholding at the time of their admission to dealing on stock exchange, as against no minimum requirement at present. Further, such companies will have to achieve public shareholding of 10% within 12 months from the date such shares of the company are admitted to dealings on stock exchange and 36 months to achieve public shareholding of 25% from the said date. The lock-in period on the equity shares allotted to the resolution applicant (RA) under the resolution plan shall not be applicable to the extent to achieve 10% public shareholding within 12 months.

Orders

Supreme Court

Kridhan Infrastructure Pvt. Ltd. Vs. Venkatesan Sankaranarayan & Ors. [CA No. 3299/2020]

As resolution plan was not implemented, the Adjudicating Authority (AA) ordered liquidation of the CD. On appeal, the NCLAT allowed the RA to make certain deposits within certain time. On failure to deposit the amounts, the NCLAT upheld the order of liquidation. While staying the

order of the NCLAT on appeal, the Supreme Court (SC) observed: "Liquidation of the Corporate Debtor should be a matter of last resort. The IBC recognizes a wider public interest in resolving corporate insolvencies and its object is not the mere recovery of monies due and outstanding." It allowed the RA further time to implement the resolution plan.

IBBI Vs. Lalit Kumar Jain & Ors. [TP (Civil) No. 1034/2020 with other TPs]

Government, in exercise of its power under section 1(3) of the Code, vide notification dated November 15, 2019, brought into force certain provisions relating to the personal guarantors (PGs) to CDs with effect from December 1, 2019. Several petitions were filed in different High Courts (HCs) challenging the said notification and related Rules and Regulations. IBBI requested for transfer of the petitions from HCs to the SC. While directing transfer of petitions, the SC noted that the Code is at a nascent stage and it is better that the interpretation of the provisions is taken up by it to avoid any confusion and to authoritatively settle the law. It directed that no further petitions involving the challenge to the said notification shall be entertained by any High Court.

Gammon India Ltd. Vs. Neelkanth Mansions and Infrastructure Pvt. Ltd. [CA No. D No. 13202/2019]

Section 62 of the Code provides a period of 45 days from the date of the receipt of an order of the NCLAT for filing an appeal. It empowers the SC to condone a delay of a further period up to 15 days for sufficient cause. Since the delay of 51 days is beyond the period of delay which can be condoned, the SC dismissed the appeal on the ground that it is barred by limitation.

M M Ramachandran Vs. South Indian Bank Ltd. & Ors. [CA No. 2951/2020]

The account of CD was declared NPA on December 31, 2015. An application for initiation of CIRP under section 7 was filed on April 10, 2019, much beyond the period of three years. The application was admitted on November 19, 2019. On appeal, the NCLAT held that the appellant had acknowledged the dues by an e-mail dated May 2, 2016 and letter dated May 30, 2016 and accordingly upheld the admission of CIRP. On further appeal, the SC did not find any merit.

Action Ispat and Power Pvt. Ltd. Vs. Shyam Metalics and Energy Ltd. [CA No. 4041/2020 arising out of SLP(C) NO.26415/2019]

The Division Bench upheld a Single Judge's order transferring a winding up proceeding pending before the HC to the AA. On appeal, the SC observed that where the petition has not been served in terms of rule 26 of the Companies (Court) Rules, 1959, winding up proceeding is compulsorily transferable to the AA for resolution under the Code. Even post issue of notice but prior to admission, the same result would ensue. It is only where actual sale of the immovable or movable properties have taken place or the winding up proceedings have reached an irreversible stage, the HC must proceed with the winding up, instead of transferring the proceedings to the AA. Further, whether this stage is reached or not would depend upon the facts and circumstances of each case.

M/s. Kaledonia Jute and Fibres Pvt. Ltd. Vs. M/s. Axis Nirman and Industries Ltd. and Ors. [CA No. 3735/2020]

On a petition by second respondent (R2), the Company Court passed an order directing the winding up of the first respondent (R1) on the ground that it has been unable to pay its debts and that it was just and equitable to wind it up. Thereafter, the R1 filed an application for recalling the order of

winding up. It paid the entire amount due to R2, who did not raise objection to the recall of the order. However, the official liquidator, who had already taken over the assets of R1, opposed the recall on the ground that the R1 owed money to various creditors and that unless the said amount was paid, the order of winding up could not be recalled.

Meanwhile, the appellant moved a section 7 application before the AA. It also moved an application before the Company Court seeking a transfer of the winding-up petition to the AA, which was rejected. On appeal, the SC allowed transfer of the winding-up proceedings before the Company Court to the AA to be heard along with its application under section 7. It observed that the entire object of the Code would be thrown to the winds if the Company Court proceeds with the winding up while the AA entertains section 7 application."

High Courts

Kiran Gupta Vs. State Bank of India & Anr. [WP(C) 7230/2020]

The HC considered whether a bank can institute or continue with proceedings against a guarantor under the SARFAESI Act when proceedings under the Code has been initiated against the principal borrower. Noting that neither section 14 nor section 31 of the Code place any fetters on a bank from initiation and continuation of proceedings against the guarantor, it held that the liability of the principal borrower and guarantor remain co-extensive, and a bank is entitled to initiate proceedings against the personal guarantor under the SARFAESI Act during the continuation of the CIRP against the principal borrower.

CA V. Venkata Sivakumar Vs. IBBI & Ors. [WP No. 13229/2020]

Regulation 7A of the IP Regulations requires an IP to obtain an authorization for assignment (AFA) for taking up assignments under the Code with effect from January 1, 2020. Regulation 12A of the Model Bye-Laws Regulations empowers an IPA to issue or renew an AFA. An IP is eligible for an AFA if he has not attained the age of 70 years. An IP, if denied an AFA, can appeal within seven days of such denial. The constitutional validity of these regulations was challenged.

The HC, while dismissing the petition, observed that delegation of power is not in derogation of the principles laid down by earlier jurisprudence. It further observed that the existence of more than one authority with regulatory or disciplinary control over a professional is per se not a ground to hold that the impugned regulations are unconstitutional. It also observed that the criteria mentioned under regulation 12A are clearly not unreasonable or arbitrary but appear to be germane for deciding the eligibility of an IP for such AFA, as these measures are intended to regulate the profession and not to deprive a person of the right to practice the profession. However, it held the view that the time limit specified in regulation 12A(7) of the Model Bye-Laws Regulations may be revisited by the IBBI by considering an appropriate amendment either by providing for a larger time limit or by conferring power to condone delay for sufficient cause.

M/s Venus Recruiters Private Limited Vs. Union of India & Ors. [WP(C) 8705/2019]

The HC considered whether an application filed under section 43 of the Code for avoidance of preferential transactions survives beyond the conclusion of the CIRP and the jurisdiction of the NCLT and the role of the RP in relation to such an application, after the conclusion of the CIRP. It, *inter alia*, held as under:

(i) Avoidance applications cannot survive beyond the conclusion of the

CIRP. It is meant to give benefit to the creditors of the CD and not to the CD in its new avatar, after the approval of the resolution plan.

(ii) The NCLT has the jurisdiction to deal with all applications and petitions 'in relation to insolvency resolution and liquidation for corporate persons'. After the approval of the resolution plan and the new management has taken over the CD, no proceedings remain pending before the NCLT, except issues relating to the resolution plan itself, as permitted under section 60. It has no jurisdiction to entertain and decide avoidance applications, in respect of a CD which is now under a new management unless provision is made in the final resolution plan.

(iii) The RP cannot continue to act on behalf of the CD under the title of 'Former RP', once the plan is approved and the new management takes over. His continuation beyond the closure of the CIRP would in effect mean an interference in the conduct and management of the company.

(iv) The successful resolution applicant (SRA) cannot file an avoidance application, as it is neither for the benefit of the RA nor for the CD after the resolution is complete.

(v) Section 26 of the Code cannot be read in a manner to mean that an application for avoidance of transactions under section 25(2)(j) can survive after the CIRP. Once the CIRP process itself comes to an end, an application for avoidance of transactions cannot be adjudicated. If the CoC or the RP are of the view that there are any transactions which are objectionable in nature, the order in respect thereof would have to be passed prior to the approval of the resolution plan.

(vi) The above findings are only in the context of CIRP and would, however, not apply in case of liquidation proceedings, which has not been examined in this matter.

Gouri Shankar Chatterjee Vs. State Bank of India [CO 1257/2020]

By impugned order dated August 19, 2019, the AA admitted an application under section 7 of the Code. The HC set aside order of admission on the ground that the latter had no jurisdiction to admit an application under section 7, beyond the prescribed period of three years, as mentioned in Article 137 of the Limitation Act.

MRG Estates LLP Vs. Akash Shinghal, Liquidator, Amira Pure Foods Private Limited & Ors. [WP(C) 10023/2020]

The petitioner sought a direction to the Liquidator to hold e-auction for sale of assets of the CD by adopting the swiss challenge method. It also submitted that it is time for the IBBI to reconsider the Regulations in accord with the prevailing practices. The HC directed IBBI to consider the petition as a representation on the issue of adoption of swiss challenge method as a form of an auction under the Regulations.

Chennai Metro Rail Ltd. Vs. Lanco Infratech Ltd. (Represented by the Liquidator) & Ors. [Application No. 2826/2019]

A dispute between the applicant and the first respondent (R1) was under arbitration. In the meantime, CIRP and subsequently liquidation process was initiated against R1, which brought R1 under moratorium. The applicant contended that leave of the NCLT is required under Section 279 of the Companies Act, 2013 for continuance of arbitration proceeding. However, R1 took a stand that no leave is required under section 33(5) of the Code, which requires leave only for initiating new proceeding. The HC held: (i) Section 279 of the Companies Act, 2013 applies only in cases of winding up under the Companies Act, 2013 and not the Code; (ii) Section 279 of the Act deals with both pending suits and institution of new suits, while section 33(5) of the Code deals with new proceedings; and (iii)

Section 33(5) of the Code overrides section 279 of Act, by virtue of section 238 and by the principle 'special law overrides general law'. It concluded that no leave is required to continue the arbitral proceedings.

National Company Law Appellate Tribunal

Ramesh Kymal Vs. M/s. Siemens Gamesa Renewable Power Private Limited [CA(AT)(Ins) No. 701/2020]

The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2020, promulgated on June 5, 2020, barred filing of application for initiation of CIRP in respect of defaults arising after March 25, 2020. The AA declined to admit an application, in respect of a default arising after March 25, 2020, which was filed on May 11, 2020 when there was no bar. On appeal, it was contended that the bar applies to filing of applications, and not to application which were already filed before the Ordinance. While dismissing the appeal, the NCLAT held that the bar applies to defaults committed after March 25, 2020 and would not apply to defaults committed prior to March, 25, 2020 though such application was filed after March 25, 2020 but before June 5, 2020.

Madhusudan Tantia Vs. Amit Choraria & Anr. [CA(AT)(Ins) No. 557/2020]

The AA, by the impugned order dated May 20, 2020, admitted an application filed under section 9 in respect of default of ₹ 90 lakh. The appellant contended that in view of the notification dated March 24, 2020 enhancing the threshold for triggering insolvency proceeding from ₹ 1 lakh to ₹ 1 crore, the application should have been dismissed as the claim amount is less than ₹ 1 crore. The NCLAT held that the enhancement of threshold is prospective in nature and would not apply to the pending applications, filed prior to the issuance of the aforesaid notification, and dismissed the appeal.

Gujarat Urja Vikas Nigam Ltd. Vs. Yes Bank Limited & Anr. [CA(AT)(Ins) No. 601/2020]

Respondent 1 (R1) initiated proceedings and took possession of secured asset of the CD (Lanco Infratech Ltd.) under section 52 of the Code. The secured asset included a solar power plant, which was supplying power to the appellant, Gujarat Urja Vikas Nigam Ltd. in accordance with the Power Purchase Agreement (PPA) entered between the appellant and the CD. The appellant terminated the PPA. R1 submitted before the AA that the PPA was terminated without considering the fact that the secured asset is an independent, viable power generating asset and termination of PPA will be an obstacle for the secured creditors in exercising their rights under the Code. The appellant submitted before the AA that the liquidator was only liquidating the assets of the CD and it cannot be forced to continue the contract for the benefit of R1. The AA set aside termination notice and allowed R1 to dispose of security assets. While upholding the order of the AA on appeal, NCLAT noted that asset needs to be preserved during the process of resolution and liquidation so that the liabilities of creditors and other stakeholders are taken care of. The steady and assured revenue stream resulting from the existence of the PPA is the sine qua non for long-term economic and financial viability of the solar power project. The NCLAT upheld the order of the AA.

Volkswagen Finance Private Limited Vs. Shree Balaji Printopack Pvt. Ltd. & Anr. [CA(AT)(Ins) No. 02/2020]

The AA held the appellant to be an unsecured creditor in the absence of a charge. The appellant contended that hypothecation is a mode of creation of security and the AA failed to consider the same. The NCLAT noted that

under section 52(3)(A), the Liquidator shall verify security interest, the existence of which may be proved either by the records of such security interest maintained by an IU or by such other means as may be specified. Regulation 21 of the Liquidation Process Regulations allows a creditor to prove security interest based on (a) the records available in an IU, if any, (b) certificate or registration of charge issued by the Registrar of Companies; or (c) proof of registration of charge with the Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI). The appellant does not have any of these three proofs. Accordingly, it held that the AA has correctly applied the law.

Mr. Bhaskar Vs. M/s. Sai Precious Traexim Pvt. Ltd. & Anr. [CA(AT)(Ins) No. 531/2020]

The AA, by the impugned order, admitted an application filed under section 7, without issuing any notice to the CD, though an advance copy of the application was served. The NCLAT observed that serving of advance copy of the application to the CD cannot be construed or deemed to be service of notice in the eyes of law and, therefore, the impugned order is unsustainable in the eyes of law. It set aside the impugned order, released the CD from the rigour of CIRP, and directed the AA to determine the fee and cost of CIRP, which shall be borne by the applicant.

Panna Pragati Infrastructure Pvt. Ltd. & Anr. Vs. Amit Pareek & Ors. [CA(AT)(Ins) No. 515/2020]

The AA, by impugned orders, approved one resolution plan and rejected an application seeking direction to RP to consider the revised resolution plan submitted by the appellant. On appeal, the appellant contended that the RP acted in violation of sections 25(2)(I) and 30(3) of the Code by not placing the revised resolution plan before the CoC especially when the CIRP period had not expired and the revised Resolution Plan provided higher upfront payment than the approved resolution plan. The NCLAT observed that it is a case of material irregularity in conducting the CIRP by the RP, who acted against the mandate of provisions contained in sections 25(2) and 30(3) of the Code, by not placing the revised resolution plan of the appellants before the CoC for consideration, which is contrary to the objective of maximisation of value of assets of CD. It directed to resume the CIRP from the stage of consideration of the resolution plans, while excluding the period of judicial intervention from computing the extended timelines of 270 days.

Micro Dynamics Vs. Cosmos Cooperative Bank Ltd. & Anr. [CA(AT)(Ins) No. 875/2020]

The NCLAT, while setting aside the order of admission passed by the AA, had directed the AA to close the proceedings. The AA, while closing the proceedings in the main petition, also closed the pending applications related to the complaint of perjury made by a Director of the CD. The appellant aggrieved by the same, preferred an appeal. The NCLAT observed that once the main application under section 7, which was the basic edifice for order of admission, was dismissed and proceedings emanating therefrom and consequential thereto were closed, the incidental and ancillary applications did not survive for further consideration. Inquiry in initiation of CIRP alleged to be fraudulent or with malicious intent would be preposterous when the closure of such proceedings is a consequence of allowing of appeal.

In the matter of Sudip Bhattacharya, RP of Reliance Naval and Engineering Ltd. [CA(AT)(Ins) No. 858/2020]

The AA granted extension of 90 days to complete the CIRP beyond 180

days but declined to exclude the lockdown period on the ground that 90 days period of extension was still in hand. On appeal, the NCLAT, having considered nationwide lockdown in the wake of COVID-19 from March 23, 2020 to May 29, 2020 and extension of lockdown in Maharashtra till August 31, 2020, directed that the period of lockdown from March 25, 2020 till August 31, 2020 shall be excluded while computing the period of CIRP.

State Bank of India Vs. Athena Energy Ventures Private Limited [CA(AT)(Ins) No. 633/2020]

The AA declined to admit an application against the corporate guarantor, as it was on the same set of facts on which CIRP of the CD was in progress. While allowing the appeal, the NCLAT observed that in the matter of guarantee, CIRP can be proceeded against the principal borrower as well as guarantor. It further observed that the law laid down by the HCs for respective jurisdiction and the SC for the whole country are binding.

Narinder Bhushan Aggarwal Vs. Little Bee International Pvt. Ltd. & Anr. [CA(AT)(Ins) No. 980/2020]

The Liquidator filed an appeal against the order of the AA wherein his remuneration was directed to be paid as per regulation 4 (2) and (3) of the Liquidation Process Regulations, instead of regulation 39D of the CIRP Regulations. The NCLAT observed that the fact that CoC has taken a decision regarding the liquidation costs, expenses, and the remuneration payable to the liquidator with the requisite percentage, brings it within the ambit of regulation 39D of the CIRP Regulations. It is not permissible to resort to any other provision if action of CoC falls within the purview of regulation 39D.

Shri Amit Katyal Vs. Mrs. Meera Ahuja & Ors. [CA(AT)(Ins) No. 1380/2019]

The AA admitted section 7 application made by an allottee. The admission was contested on several grounds on appeal. Dismissing the appeal, the NCLAT observed as under:

- (i) The date of default cannot be the date when the allottee stopped paying the instalments. The default occurred when the CD failed to deliver possession of flat.
- (ii) In case an allottee does not want to go ahead with its obligation to take possession of the flat, but wants to get back the monies already paid, by way of coercive measure, the use of section 65 is justified, as one allottee is misusing his position to stall the entire project. But it does not mean that an application satisfying the requirements of section 7 or 9 could be dismissed arbitrarily under the guise of section 65.
- (iii) The Code provides stringent action under section 65 against the person who initiates proceeding fraudulently or with malicious intent, for the purpose other than the resolution of insolvency or liquidation.

UCO Bank Vs. G. Ramachandran [CA(AT)(Ins) No. 761/2020]

The appellant bank adjusted an amount of ₹ 2.27 crore from two fixed deposits made by the CD towards security for loan taken by two group of companies from the appellant. The AA directed the appellant to restore the credit to the CD. The bank submitted that as a secured creditor it could appropriate the FDs and that it was not aware of commencement of CIRP. The NCLAT observed that once CIRP was initiated and moratorium applied, such an adjustment by the appellant cannot be maintained. Lack of knowledge of initiation of CIRP is not irrelevant.

Seroco Lighting Industries Pvt. Ltd. Vs. Ravi Kapoor, RP for Arya Filaments Pvt. Ltd. & Ors. [CA(AT)(Ins) No. 1054/2020]

The AA turned down the prayer of the appellant for revision of the approved resolution plan. Dismissing the appeal, the NCLAT observed that the SRA cannot be permitted to withdraw the approved resolution plan, coupled with the fact in the instant case being the sole RA in the CIRP, which is an MSME and having knowledge of the financial health of the CD as a promoter or as a connected person cannot be permitted to seek revision of the approved plan, on the ground which would not be a material irregularity within the ambit of section 61(3) of the Code.

Newgrowth Credit Pvt. Ltd. Vs. Resolution Professional, Bhaskar Marine Services Pvt. Ltd. & Ors. [CA(AT)(Ins) No. 1053/2020]

The AA ordered the appellant to bear CIRP cost to the extent of 27% as per its share. The appellant assailed the order on the ground that it had withdrawn its claim and the RP had permitted it. The RP submitted that his decision allowing withdrawal has been set aside by the AA. The NCLAT observed that the direction requiring the appellant to bear 27% of the CIRP cost is in consonance with and proportionate to the share of the appellant and is arbitrary and unreasonable.

Lifestyle Magazines Pvt. Ltd. & Anr. [CA(AT)(Ins) No. 842-843/2020]

The AA declined to dispense with the meeting of the shareholders/members of the transferor and the transferee companies seeking amalgamation. The NCLAT observed that since there are no secured or unsecured creditors in the appellant companies, the question of convening their meeting would not arise. All the shareholders of the transferor company and the transferee company had consented to and approved the scheme. It noted that convening meeting of the shareholders would only result in subjecting the appellants to heavy financial burden, which in the face of financial difficulties already faced by transferor company, will compound difficulty and hardship faced by it for its survival. It allowed appeal and remanded the matter back to the AA for considering the scheme without insisting upon convening of the meeting of the shareholders of the companies.

Edelweiss Asset Reconstruction Company Ltd. Vs. Mr. Vijay Kumar V. Iyer, Liquidator of Bharati Defence and Infrastructure Ltd. [CA(AT)(Ins) No. 1044/2020]

The AA reserved orders in the matter of the CD, and even after five months thereof, the order was not pronounced. The NCLAT, in view of the depreciating value of the liquidation estate of the CD, directed the AA to accord topmost priority to the matter and dispose of the same within one week.

Marappan Textiles Pvt. Ltd. Vs. Indian Overseas Bank [CA(AT)(Ins) No. 1030-1031/2020]

The application under section 10 was reserved for orders on September 2, 2020 by the AA. On November 11, 2020, when the order came to be passed, the AA adjourned the matter and directed it to be listed on December 17, 2020 for further clarification. The NCLAT observed that the procedure adopted by the AA does not conform to the provisions of the Code as the applications under sections 7, 9 and 10 are required to be disposed of by admitting or rejecting the same within 14 days of filing. It directed the AA to prepone and list the matter immediately and after according consideration on merit, dispose of the same by passing order of admission or otherwise as warranted under law. This is to be done within one week from the date of the order.

Maharashtra Seamless Ltd. Vs. State Bank of India & Ors. [CA(AT)(Ins) No. 1039/2020]

The NCLAT observed that the CIRP must be carried on in accordance with the Code which prescribes timelines. Although withdrawal of the applications based on the consideration by the CoC and settlement are part of the same process, whatever emerges should materialise within the prescribed timelines. In view of the same, it directed the AA to ensure that the CIRP is carried forward having regard to the prescribed timelines.

Anubhav Anilkumar Agarwal Vs. Bank of India & Anr. [RA(AT) No. 15/2020 in CA(AT)(Ins) No. 1504/2019]

The NCLAT considered an application filed for review of one paragraph in its judgement. It noted that power of review has not been conferred on it and the power under Rule 11 can only be exercised for correction of a mistake. It observed that acceding to the prayer of applicant would result in substituting the observations and findings recorded in the said para is beyond the ambit and scope of Rule 11 and would amount to substituting of finding by reappraisal of evidence, a power only exercisable by a competent court while sitting in appeal.

Anil N. Surwade & Ors. Vs. Prashant Jain, RP, Sejal Glass Ltd. [CA(AT)(Ins) No. 1006/2020]

The employees of the CD sought access to the proceedings before the CoC, which the AA declined on the ground that they have a limited interest. The NCLAT observed that it is absurd to put the employees at par with the erstwhile board of directors seeking information regarding resolution plan and proceedings before the CoC. It held that once their claims have been admitted, no role is ascribed to them in the deliberation of the CoC.

State Bank of India Vs. Krishidhan Seeds Pvt. Ltd. [CA(AT)(Ins) No. 972/2020]

The AA, by an order, declined to admit a section 7 application filed on September 19, 2018 on the ground of limitation as default occurred on June 10, 2014. The appellant assailed the impugned order stating that the limitation would run from November 6, 2015 when the debtor acknowledged the debt in a OTS proposal. While dismissing the appeal, the NCLAT observed that the date of default would not be shifted on account of acknowledgement made in the OTS proposal, particularly when, the appellant had already approached the DRT prior to the date of the OTS proposal.

A. Balakrishnan Vs. Kotak Mahindra Bank Limited & Anr. [CA(AT)(Ins) No. 1406/2019]

The NCLAT relying on the case of *Digamber Bhondwe Vs. JM Financial Asset Reconstruction* observed that date of limitation under section 7 of the Code, would run from the date of declaration of the NPA and not from the date of recovery certificate, issued consequently. It further observed that the AA is duty bound under section 3 of the Limitation Act, 1963 to suo moto consider whether the application under section 7 of the Code was within limitation by considering if the debt said to be in default was within limitation.

Promila Taneja Vs. Surendri Design Pvt. Ltd. [CA(AT)(Ins) No. 459/2020]

While dismissing an application under section 9 relying on Mr. M. Ravindrnath Reddy Vs. Mr. G. Kishan and Ors., the AA held that arrears of rent are not operational debt. The NCLAT observed that the legislature was conscious about liabilities arising from a particular type of lease, and it made specific provision to make it financial debt. It did not make such provision for operational debt.

Hindustan Oil Exploration Company Vs. Erstwhile CoC JEKPL Pvt. Ltd. & Ors. [CA(AT)(Ins) No. 969/2020]

The NCLAT observed that an unsuccessful RA has no *locus* to question any action of any of the stakeholders qua implementation of the resolution plan nor can it claim any prejudice on the pretext that any of the actions of SRA regarding its implementation has affected its prospects of being a SRA.

Facor Alloys Limited and Anr. Vs. Bhuvan Madan & Ors. [CA(AT)(Ins) No. 340/2020]

The appellant assailed the impugned order on the ground that resolution plan encompasses assets of third parties and not just of the CD which is violative of the Code and discriminates among FCs of the same class. The NCLAT, while upholding the resolution plan, observed as under:

- (i) The RA after taking over the CD is entitled to exercise its right over its subsidiary company. Appellant's objection regarding the inclusion of the subsidiary company of the CD in the resolution plan is not sustainable.
- (ii) An approved resolution plan can deal with the related party claim and extinguish the same which will ensure that the SRA can take over the CD on clean slate.
- (iii) The amendment to regulation 38(1) of CIRP Regulations which mandated priority in payment to dissenting FCs, which came into effect on November 27, 2019, is prospective.
- (iii) The approved resolution plan is not discriminatory as it does not give differential treatment among the same class of FCs merely based on assenting or dissenting FCs.

Vijay Kumar Singh Vs. Anil Kumar & Ors. [CA(AT)(Ins) No. 391/2020]

The RP filed an application for initiation of liquidation proceedings based on the decision of the CoC. Before the application was disposed of, the creditors in a joint lender's forum decided to replace the RP. The AA, however, passed the order of liquidation and appointed the same RP as the liquidator. On appeal, the NCLAT observed that the AA should have considered appointing any other IP as liquidator when it was evident that the CIRP had not been conducted in a way desired. The AA should have first replaced RP and then passed liquidation order. It further observed that interest of FCs as well as other creditors is there even during liquidation proceeding and it would be inappropriate if there would be doubts regarding the way the liquidator is conducting the process.

Ratna Singh and Anr. Vs. Theme Export Pvt. Ltd. & Anr. [CA(AT)(Ins) No. 917/2020]

On an appeal against the order of liquidation, the NCLAT observed that an appeal against a liquidation order passed under section 33 may be filed on the grounds of material irregularity or fraud committed in relation to liquidation order and there is no material irregularity or fraud committed in relation to impugned order. It held that the Code is not for initiating proceedings for prevention of oppression and mismanagement but is armed with provisions for initiation of actions against wrong doers/illegal transactions, etc.

Singh Raj Singh Vs. SRS Meditech Ltd. & Ors. [CA(AT)(Ins) No. 522/2020]

The appellant, a member of the suspended board of directors of the CD challenged the impugned order approving resolution plan on the ground that certificate regarding the net worth of the SRA was fraudulent. The NCLAT observed that the law does not enjoin upon the appellant any

right or power to challenge the commercial wisdom of the CoC in regard to approval of the resolution plan which is undergoing implementation. No material irregularity in resolution process has been brought up, which would render the whole exercise unsustainable. The appellant cannot be permitted to scuttle the process at this stage sans substantial grounds.

IIFCL Mutual Fund Vs. Committee of Creditors of GVR Infra & Ors. [CA(AT)(Ins) No. 938/2020]

The appellant, who voted in favour of the approval of the resolution plan filed an appeal assailing the approval of the resolution plan as regards distribution mechanism. While dismissing the appeal, the NCLAT observed that it is astonishing that while approving the resolution plan as an assenting creditor, the appellant should call in question the action of RP, who had no role to play when the resolution plan was put to vote by the CoC.

Naveen Kumar Jain Vs. Committee of Creditors of K.D.K Enterprises Pvt. Ltd. & Ors. [CA(AT)(Ins) No. 882/2020]

The RP appealed against his replacement in a CIRP. While dismissing the appeal the NCLAT observed that commercial wisdom of the CoC covers matters including replacement of the RP and it is neither under the limited scope of judicial review nor it is justiciable.

Anuj Khanna Vs. Wishwa Naveen Traders & Anr. [CA(AT)(Ins) No. 555/2020]

The NCLAT, while adjudicating on the 'existence of a dispute', observed that section 5(6) is an inclusive provision and does not confine the AA from considering the existence of a dispute from a broader angle. Therefore, dispute in terms of section 8(2)(a) of the Code shall not be limited to instances specified in the definition under section 5(6), as it has far arms, apart from pending suit or arbitration. It held that questions like dishonor of cheques and payments are disputed questions of law and facts and shall be decided by the appropriate forum as the AA cannot substitute the recovery forum.

Rajendra Bhai Panchal Vs. M/s. Jay Manak Steels & Ors. [CA(AT)(Ins) No. 592/2020]

Impugned order was appealed on the ground of mistake in demand notice. While dismissing the appeal, the NCLAT observed that a mistake in a demand notice does not necessarily mean it is defective, and if a CD wants to question the validity of the demand it must show that a prejudice was suffered as a result of defect. It further observed that if there is a mistake in the demand, but the creditor is clearly owed the statutory minimum figure or more, the fact that the amount of debt is misstated may not automatically invalidate the demand. It upheld the impugned order.

Mohan Lal Jain, in the capacity of Liquidator of Kaliber Associates Pvt. Ltd. Vs. Lalit Modi & Ors. [CA(AT)(Ins) No. 944/2020]

The Liquidator invoked the provisions of sections 43/66 for taking action in regard to preferential transactions and fraudulent trading/ wrongful trading. The AA, having regard to different versions in regard to such transactions emanating from parties, observed that it would be beyond the scope of its powers to look into the transactions. On appeal, the NCLAT clarified that the allegations of preferential transaction as also fraudulent trading/wrongful trading carried on by the CD during the insolvency resolution can be inquired into by the AA.

Rajnish Jain Vs. Manoj Kumar Singh, IRP & Ors. [CA(AT)(Ins) No. 519/2020]

Respondent 3 (R3) submitted claim as FC. On admission of the claim, it

was included in the CoC. The appellant sought a declaration that the R3 was not an FC. While this was under consideration of the AA, the CoC resolved that R3 is an FC. The AA held the view that the CoC had voted in favour of R3 as an FC and thus suspended management as well as the RP has no locus to challenge the commercial wisdom and decision of CoC about determination of the R3 as FC. Accordingly, it declared R3 as FC. Subsequently, CoC passed a resolution declaring R3 as an OC. It also passed another resolution to eliminate the R3 from the CoC. The appellant challenged the order of the AA. The NCLAT held as under:

- (i) The order of the AA is not correct which is based on the reasoning that the CoC has voted in favour of R3 as an FC.
- (ii) The CoC has no role in deciding or changing the status of a creditor either as FC or OC and such decision of CoC can never be treated as an exercise under its commercial wisdom.
- (iii) The RP is authorized to collate claim. He may add to existing claims or admit or reject further claims and update the list of creditors. But after categorization of a claim, he cannot change the status of a creditor.
- (iv) R3 is a FC.

While dismissing the appeal, the NCLAT made following observations:

- (i) The RP has failed to perform his obligation/duty to observe the Code, and the Rules and Regulations while conducting CIRP by taking up an agenda leading to illegal resolution of ousting R3 from the CoC.
- (ii) It is surprising that the CoC recorded: “despite the Order passed by Hon’ble NCLT Allahabad the CoC is of the view that they no longer wish to continue R3 in the category of the “Financial Creditor” in the CoC. This is the danger due to which collation of claims is not left to CoC.

Bishal Jaiswal Vs. Asset Reconstruction Company (India) Ltd. & Anr. [CA(AT)(Ins) No. 385/2020]

With a 4:1 majority, a five-member bench of NCLAT had, in the matter of *V. Padmakumar Vs. Stressed Assets Stabilization Fund and Anr.*, held that reflection of debt in the balance sheet could not be considered as an acknowledgement of debt under section 18 of the Limitation Act, 1963. A three-member bench of the NCLAT referred the said five-member judgement of the NCLAT for reconsideration, as it involved an issue of great importance.

The new five-member bench of the NCLAT noted that in *Babulal Vardharji Gurjar Vs. Veer Gurjar Aluminum Industries Ltd. & Anr.*, the SC observed that section 18 of the Limitation Act would have no application to proceedings under the Code. Therefore, acknowledgement of liability in the balance sheet is irrelevant. The five-member bench also noted that there is no room for doubt that the date of default regarding application under section 7 is the date of classification of the account of CD as NPA. The date of default is extendable within the ambit of section 18 of Limitation Act based on an acknowledgement in writing made by the CD before the expiry of period of limitation.

National Company Law Tribunal

IDBI Bank Limited. Vs. Cyclo Transmissions Limited [IA No. 1053 of 2020 in CP(IB) No. 381/2018]

An RA filed an application seeking extension of time of 45 days beyond 330 days. Relying on Committee of Creditors of Essar Steel case, the AA observed that the time period can very well be extended beyond 330 days. It further observed that it will be in the best interest of the CD as well as the stakeholders if the resolution plan is considered, liquidation being the last resort. It allowed the application, considering the benefit of more than 150 employees of the CD.

Dy. Commissioner of Customs Vs. Jyoti Structures Limited & Ors. [IA 1218/MB/2020 in CP(IB) 1137/MB/2017]

The applicant filed an application seeking condonation of delay by 1111 days to submit the proof of claim and admit the claims, as the RP refused to admit claims on the ground that the CIRP period of 270 days was over and the resolution plan was also approved by the AA. It contended that the RP is duty bound to identify the liabilities of the CD and should have sent the notice to the applicant enabling it to file a claim. Disagreeing with the contention of the applicant, the AA observed that it is the responsibility of the creditor concerned to file claim within the time after the issue of public notice inviting claims by the RP. Accordingly, the AA rejected the application.

Autonix Lighting Industries Private Limited. Vs. Moser Baer Electronics Limited. [IA No. 412/2020 in CP No. (IB)-1265(ND)/2019]

An application was filed seeking directions necessary directions to the RP to deposit the provident fund with EPFO and release gratuity forthwith. It was submitted that the employees were forced to resign by the ex-management, but their dues were not settled citing financial instability. Relying on *Alchemist Asset Reconstruction Co. Ltd. Vs. Moser Baer Limited* case, the AA held that any shortfall in gratuity has to be made over by the RP and payments of the dues has to be paid outside the waterfall mechanism. It directed the RP to release the dues of the ex-employees and deposit the provident fund with EPFO and release gratuity forthwith.

Mr. Mandar Wagh, IRP of M/s. Synew Steel Private Limited [CP (IB) No. 96/BB/2020]

The RP submitted that all FCs are related parties and hence he is not able to constitute CoC. There are no assets except cash balance of ₹ 729 and hence RP is unable to carry out CIRP. There is no business in the past three years and hence there is no revenue. The entire capital is eroded. Considering the facts and legal provisions in sections 33(2), 54 and regulation 14 of the Liquidation Regulations and Rule 11 of the NCLT Rules, the AA observed that no purpose would be served to keep the CD under CIRP or place it under a liquidation process. It allowed dissolution of the CD.

Bank of Baroda Vs. M/s. Baghauli Sugar & Distillery Limited. [IA No. 116/2020 in CP(IB) No. 342/ALD/2018]

The CD, through suspended directors, submitted that after commencement of CIRP, the CD has offered settlement of the entire outstanding dues with FCs. The AA observed that the object of the Code is being fulfilled if the applicant settles and liquidates the outstanding dues which would save the company from death. To enable the applicant to have one final opportunity, the AA directed it to put forward a fresh proposal for settlement, to liquidate the entire outstanding dues, to the RP so that it may be placed before the CoC for consideration as the objective of the Code is to find appropriate solution for the stressed assets.

Bhavarlal M Jain & Anr. Vs. Metal Link Alloys Ltd. & Ors. [IA 361 of 2018 in CP(IB) 67 of 2017]

The AA passed an order of liquidation on May 11, 2018. The GST authority passed an order of assessment on June 18, 2018 and issued recovery notice on September 12, 2018. The NCLT considered whether the proceedings under GST laws is in contravention of the Code. It observed that the moratorium under section 14 of the Code comes to an end on passing of the order of liquidation. As per section 33(5) of the Code, the legal proceedings can be continued against the CD during liquidation.

Liquidator of Precision Fasteners Ltd. Vs. Siddhi Edible Pvt. Ltd. [MA No. 1512 and 47 of 2019 in CP (IB) No. 1339/NCLT/MB/2017]

The Liquidator filed an application seeking directions from the AA for vacation of the premises of the CD occupied by a tenant as well as for payment of rent due. The AA observed that the recovery of rent from the tenant and the eviction of tenant from the property of the CD is in exclusive domain of the civil courts and cannot be dealt by the AA by invoking section 60(5) and the jurisdiction lies with the Civil Court/Rent Control Court only. It also observed that on the guise that the Code is complete in itself, the AA can neither enlarge nor amplify its jurisdiction. While dismissing the application, it advised that the Liquidator can sell a property after taking possession of the same by the due process of law.

Alliance Broadband Service Private Limited Vs. Manthan Broadband Service Private Limited [IA No. 853/KB/2020 in CP (IB) No. 1634/KB/2018]

The RP approached AA seeking a direction to Canara Bank to reverse the debit entries made by the bank from the account of the CD in violation of the provisions of moratorium. The AA observed that once the moratorium is declared, it is not open to any person, including FCs, to recover any amount from the account of the CD nor can it appropriate any amount towards its own dues. It held the actions of the bank to be in violation of section 14 of the Code and directed it to reverse the amount along with any interest accrued as per the nature of the deposit.

M/s. Pani Logistics Vs. Sona Alloys Private Limited & Ors. [IA 397/2020 in CP(IB)586/NCLT/AHM/2019]

The Liquidator filed an application seeking substantive consolidation of the CD and five of the respondents into a single proceeding. The AA observed that though four respondents hold substantial share in the CD, they do not constitute group companies and the Code does not provide for any consolidation of CIRP when companies are holding substantial shares in one another. Dismissing the application, the AA held that substantial consolidation as remedy should always be treated as an exception rather than the rule.

Credit Suisse Funds Ag Vs. Himadri Foods Limited [MA No.360 I MB.II/2019 in CP (IB) No. 389/MB.II/2019]

An application filed by an FC was disposed of in terms of settlement arrived at between the parties, after taking the settlement terms on record. However, the FC has now filed an application seeking restoration of the earlier application. They allowed restoration in exercise of its powers under Rule 11 of the NCLT Rules.

Mr. Abhilash Lal, RP of Sevenhills Healthcare Private Limited [IA No. 137/2020 in CP(IB) No. 282/7/HDB/2018]

The applicant filed an application seeking an exclusion/extension of the CIRP period as the facilities of the CD are being used as a dedicated COVID Hospital by the governing authorities due to which the prospective RAs are unable to access the site for inspection for submitting their resolution plans. The AA observed that extension of time period enabling for completion of CIRP would be in the interest of all stakeholders, to allow the completion of CIRP rather than going to liquidation of the CD. It approved the extension of the period by 90 days.

Oriental Bank of Commerce Vs. Lotus Auto Engineering Ltd. & Ors. [IB-31 (PB)/2018]

While considering an application for extension of time in liquidation, the AA noticed that as against value of ₹ 100 crore under resolution plans

during CIRP, the Liquidator is setting reserve price of ₹ 40 crore for selling the CD as going concern. The AA observed that though it is in the realm of the CoC to approve or reject a plan and of the liquidator to determine the value of the assets, such huge variations in values call for enquiry. Considering the fact that the CoC failed to approve a resolution plan valued double the liquidation value and the Liquidator set very low reserve price, the AA directed IBB to enquire into as to why valuation has become so low after liquidation is ordered and the Oriental Bank of Commerce to enquire as to whether its representatives acted to maximise the value of the CD. It directed the Liquidator not to proceed with the sale of the assets until this matter is decided.

Prithviraj Spinning Mill Private Limited Vs. Indian Overseas Bank, Coimbatore & Ors. [IBA/I 20/2020]

The change of name of CD from M/s. Prithviraj Spinning Mills Private Limited to M/s Marappan Textiles Private Limited was approved in its general meeting on September 9, 2019. An application under section 10 was filed on January 1, 2020 for initiation of its CIRP. The MCA approved the change of name by issuing a fresh certificate of incorporation dated March 31, 2020. The Board of Directors decided to shift registered office in its meeting held on May 5, 2020. However, the change of name and address were not amended in the application filed with the AA.

The order on the application was reserved on September 02, 2020. As one of the members of the bench demitted office on October 21, 2020, the matter was listed before a special bench on November 11, 2020 for dereserving and was adjourned to December 17, 2020. The applicant approached the NCLAT, which, vide order dated December 3, 2020 in the matter of M/s. Marappan Vs. IOB & Anr., directed the AA to dispose of matter within one week. Accordingly, the matter was listed on December 9, 2020 and order was dictated in the court.

The AA wonders as to why there is a change of name of the CD when it is filing section 10 application. It observed that the change of name of the CD and its registered office pending disposal of the application has great direct and indirect impact. If the application is admitted, being a proceeding in rem, it is binding upon the public at large. The stakeholders, who are not party to the application, would not be able to file their claims since they may not be able to identify the CD in its new name. The AA suggested that section 10 be tightened to avoid misuse such that when a company chooses to file an application under the section 10 it should maintain status quo as on date of filing of the application. The AA dismissed the application as it cannot pass an order of CIRP against Prithviraj Spinning Mill Private Limited which is not in existence as on date.

Debt Recovery Tribunal

Keb Hana Bank Vs. Mr. Rohit Nath [IBC SR. No. 2643/2020]

The RP appointed by the AA filed a report under section 99 recommending approval of application filed under section 95 of the Code by KEB Bank against personal guarantors (PGs) to the CD. The defendant contended that this AA does not have the jurisdiction to entertain the application in terms of section 60 as he is a resident of Palavakkam which falls within territorial jurisdiction of DRT-3 Chennai. He also objected that the RP had not complied with the procedure as envisaged in section 99(2) which mandates the RP to require debtor to prove repayment of the debt claimed as unpaid by the creditor. The AA observed that since the proceedings are against the PG to the CD alone, section 60 has no application. As regards section 99(2), it observed that the word 'may' as in section 99(2) cannot be construed as a mandatory one and it only gives discretionary power to the RP and therefore non-compliance by the RP is

unfounded. With these findings, the AA admitted the application.

The RP requested for providing a refundable advance of ₹ 4 lakh from the applicant to meet the insolvency resolution process expenses, refundable back to the applicant from realization of payments received on a priority payment as per the waterfall mechanism. The AA directed the applicant to provide a refundable advance of ₹ 4 lakh to the RP on proper receipt.

Securities Appellate Tribunal

Dewan Housing Finance Corporation Ltd. & Anr. Vs. Securities and Exchange Board of India [Appeal No. 206 of 2020]

This appeal was filed questioning the legality and validity of the order passed by the Adjudicating Officer (AO) under the SEBI Act, 1992 imposing a penalty of ₹ 20 lakh on the appellant, which was undergoing CIRP. The AO held that the moratorium declared under section 14 of the Code would not prevent him from determining the liability of the CD for the alleged non-compliance of the Regulations and that the moratorium declared is applicable to the enforcement/recovery of the determined liability. The Securities Appellate Tribunal (SAT), observed that section 14 is very clear and explicit, and there is no room for ambiguity. Further, the SC has categorically explained the effect of section 14 of the Code. Once moratorium is declared, SEBI/AO cannot proceed under the SEBI laws against a CD. Accordingly, the SAT quashed the impugned order.

Monnet Ispat & Energy Limited Vs. Securities and Exchange Board of India [Appeal No. 238 of 2020]

This appeal was filed against the order of the AO under the SEBI Act, 1992 imposing a penalty of ₹ 6 lakh on the appellant. It was contended that in view of the resolution plan approved by the AA, all financial liabilities, past or future, is deemed to have been extinguished and that no show cause notice or fresh proceedings against the appellant could be initiated nor any penalty could be imposed. The SAT observed that what could not be done by SEBI when the moratorium under section 14(1) was in force cannot certainly be done after a resolution plan is approved and becomes binding on all, including authorities. In view of the same, the appeal was allowed.

IBBI

The DC disposed of 30 SCNs during the quarter with a variety of the directions for various contravention of the provisions of the Code. Most of these related to taking assignment without having an AFA. The details of disposal of SCNs in respect of other contraventions are as under:

IBBI, as the Authority under the Companies (Registered Valuers & Valuation) Rules, 2017, disposed of a SCN issued to PVAI Valuer Professional Organisation that alleging enrollment of certain ineligible persons as members. Taking note of the corrective measures, it closed the SCN with an advice to take effective steps to improve the process of enrolling the members.

Sl.	Order against (IP)	Professional Member of	Contraventions Found	Directions
1	Mr. Sundresh Bhat	IIIP ICAI	Payment to some creditors in preference over others during moratorium.	A penalty equal to 25% of the fee he received in the process.
2	Mr. Anil Goel	IIIP ICAI	Defiance of orders of the AA.	Interim Order: Debarred from undertaking any new assignment, under the Code for 90 days.
3	Mr. Manmohan Jhavar	IIIP ICAI	Failure in making efforts to take custody of the assets of the CD.	Shall not seek or accept any process or assignment or render any services under the Code for a period of six months.
4	Mr. Kamlesh Kumar Singhania	ICSI IIP	Accepted claims arising post CIRP commencement period as revised claim.	Shall undergo pre-registration educational course from his IPA.
5	Mr. Ajay Gupta	IIIP ICAI	Handing over the management of the CD back to the ex-management.	Shall not seek or accept any process or assignment or render any services under the Code for a period of six months.
6	Mr. Arun Mohan	ICSI IIP	FIR registered with CBI.	Shall not seek or accept any process or assignment in any capacity under the Code, till he is exonerated of the charges.
7	Mr. Sanjay Kumar Aggarwal	IIIP ICAI	FIR registered with CBI	Shall not seek or accept any process or assignment in any capacity under the Code, till he is exonerated of the charges.
8	Mr. Balaknath Bhattacharya	IPA ICAI	Failure to determine avoidance transactions and file applications in this	Shall not seek or accept any process or assignment or render any services under the Code for regard, a period of six months.
9	Mr. Sonu Jain	IIIP ICAI	Appointing unregistered valuers for valuation, delay in disclosures etc.	Directed to take reasonable care and be careful, and diligent and act strictly as per law.

Special Courts

IBBI Vs. Rajive Kaul & Ors [Criminal Case/53/2020]

A complaint filed by IBBI sought prosecution of ex-directors of M/s *NICCO Corporation Limited* for contraventions of provisions of sections 19(1), and 34(3) read with section 70(1)(b) (non-co-operation and refusal to handover assets of the CD to the liquidator). The Special Court, vide order dated December 10, 2020 took cognizance of the matter and issued summons to the accused.

IBBI Vs. Om Prakash Khurana & Ors [COMA/35/2020]

A complaint filed by IBBI sought prosecution of ex-directors of M/s. *Mahabir Techno Limited*. On finding sufficient prima facie evidence on record that the accused have intentionally and willfully violated sections 68 (i) (a) (b) and (c) and 70 (i) (a) and (c) of the Code (non-disclosure of property, books, and papers of the CD and non-co-operation), the Special Court, vide its order dated December 24, 2020, summoned them to face prosecution.

Corporate Processes

The data used in this section relating to corporate processes are provisional. These are being continuously updated based on flow of new information in respect of a process. For example, a process may ultimately yield an order for liquidation even after approval of resolution plan or may ultimately yield resolution plan even after an order for liquidation.

Insolvency Resolution

The provisions relating to CIRP came into force on December 1, 2016. Since then, a total of 4139 CIRPs have commenced by the end of December, 2020, as presented in Table 1. Of these, 601 have been closed on appeal or review or settled; 378 have been withdrawn; 1126 have ended in orders for liquidation and 317 have ended in approval of resolution plans. Sectoral distribution of CDs under CIRP is presented in Table 2.

Table 1: Corporate Insolvency Resolution Process

(Number)

Year / Quarter	CIRPs at the beginning of the Period	Admitted	Closure by				CIRPs at the end of the Period
			Appeal/ Review/ Settled	Withdrawal under Section 12A	Approval of Resolution Plan	Commencement of Liquidation	
2016 - 17	0	37	1	0	0	0	36
2017 - 18	36	706	93	0	20	91	538
2018 - 19	538	1152	149	96	80	305	1060
Apr - Jun, 2019	1060	301	51	32	26	96	1156
Jul - Sep, 2019	1156	588	57	50	34	156	1447
Oct - Dec, 2019	1447	628	112	60	42	153	1708
Jan - Mar, 2020	1708	444	93	56	39	136	1828
Apr - Jun, 2020	1828	84	12	27	20	26	1827
Jul - Sep, 2020	1827	95	25	34	33	81	1749
Oct - Dec, 2020	1749	104	8	23	23	82	1717
Total	NA	4139	601	378	317	1126	1717

These CIRPs are in respect of 4060 CDs.

This excludes 1 CD which has moved directly from BIFR to resolution.

Source: Compilation from website of the NCLT and filing by Insolvency Professionals.

Table 2: Sectoral Distribution of CIRPs as on December 31, 2020

Sector	Admitted	No. of CIRPs					Ongoing
		Appeal/Review/ Settled	Withdrawal under Section 12 A	Approval of Resolution Plan	Commencement of Liquidation	Total	
Manufacturing	1703	205	152	161	497	1015	688
Food, Beverages & Tobacco Products	218	21	19	21	61	122	96
Chemicals & Chemical Products	168	19	20	21	42	102	66
Electrical Machinery & Apparatus	125	16	4	5	51	76	49
Fabricated Metal Products	94	11	12	6	30	59	35
Machinery & Equipment	191	32	22	14	49	117	74
Textiles, Leather & Apparel Products	288	35	24	20	104	183	105
Wood, Rubber, Plastic & Paper Products	207	21	22	22	46	111	96
Basic Metals	296	35	15	39	83	172	124
Others	116	15	14	13	31	73	43
Real Estate, Renting & Business Activities	816	155	93	41	188	477	339
Real Estate Activities	197	46	18	6	20	90	107
Computer and related activities	119	18	15	2	34	69	50
Research and Development	5	1	1	1	0	3	2
Other Business Activities	495	90	59	32	134	315	180
Construction	439	89	44	28	84	245	194
Wholesale & Retail Trade	408	55	32	17	137	241	167
Hotels & Restaurants	95	17	12	12	21	62	33
Electricity & Others	128	15	3	13	25	56	72
Transport, Storage & Communications	123	17	9	9	42	77	46
Others	427	48	33	36	132	249	178
Total	4139	601	378	317	1126	2422	1717

Note: The distribution is based on the CIN of CDs and as per National Industrial Classification (NIC 2004).

The distribution of stakeholder-wise initiation of CIRPs is presented in Table 3. OCs triggered 50.54% of the CIRPs, followed by about 43.01% by FCs and remaining by the CDs. However, about 80% of CIRPs having an underlying default of less than ₹ 1 crore were initiated on applications by OCs while about 80% of CIRPs having an underlying default of more than ₹ 10 crore were initiated on applications by FCs. The share of CIRPs initiated by CD is declining over time. They usually initiated CIRPs with very high underlying defaults.

Table 3: Initiation of Corporate Insolvency Resolution Process

Period	No. of CIRPs Initiated by			
	Operational Creditors	Financial Creditors	Corporate Debtors	Total
2016 - 17	7	8	22	37
2017 - 18	310	285	111	706
2018 - 19	567	514	71	1152
Apr - Jun, 2019	157	130	14	301
Jul - Sep, 2019	297	282	9	588
Oct - Dec, 2019	338	272	18	628
Jan - Mar, 2020	246	188	10	444
Apr - Jun, 2020	53	26	5	84
Jul - Sep, 2020	61	31	3	95
Oct - Dec, 2020	56	44	4	104
Total	2092	1780	267	4139

The outcome of CIRPs, initiated stakeholder-wise, as on December 31, 2020 is presented in Table 4. About 54% of OC initiated CIRPs were closed on appeal, review, or withdrawal. Such closures accounted for about 71 % of all closures by appeal, review, or withdrawal.

Table 4: Outcome of CIRPs, initiated Stakeholder-wise, as on December 31, 2020

Outcome	Description	CIRPs initiated by			
		Financial Creditor	Operational Creditor	Corporate Debtor	Total
Status of CIRPs	Closure by Appeal/Review/Settled	161	434	6	601
	Closure by Withdrawal u/s 12A	110	262	6	378
	Closure by Approval of Resolution Plan	176	100	41	317
	Closure by Commencement of Liquidation	477	500	149	1126
	Ongoing	856	796	65	1717
	Total	1780	2092	267	4139
CIRPs yielding Resolution Plans	Realisation by FCs as % of Liquidation Value	193	110	143	185
	Realisation by FCs as % of their Claims	45.8	20.3	25.3	42.5
CIRPs yielding Liquidations	Average time taken for Closure of CIRP	456	427	440	445
	Liquidation Value as % of Claims	6.2	9.1	9.9	7.1
CIRPs yielding Liquidations	Average time taken for Closure of CIRP	344	322	308	328

The status of CIRPs as on December 31, 2020 is presented in Table 5.

Table 5: Status of CIRPs as on December 31, 2020

Status of CIRPs	No. of CIRPs
Admitted	4139
Closed on Appeal / Review / Settled	601
Closed by Withdrawal under section 12A	378
Closed by Resolution	317
Closed by Liquidation	1126
Ongoing CIRP	1717
> 270 days	1481
> 180 days ≤ 270 days	69
> 90 days ≤ 180 days	71
≤ 90 days	96

Withdrawals under Section 12A

Till December, 2020, a total of 378 CIRPs have been withdrawn under section 12A of the Code. The distribution of claims and reasons for withdrawal in these CIRPs are presented in Table 6.

Table 6: Closure of CIRP by Withdrawal till December 31, 2020

Amount of Claims Admitted* (₹ crore)	No. of CIRPs
≤ 01	177
> 01 ≤ 10	95
> 10 ≤ 50	62
> 50 ≤ 100	14
> 100 ≤ 1000	16
> 1000	6
Reason for Withdrawal*	
Full settlement with the applicant	138
Full settlement with other creditors	29
Agreement to settle in future	21
Other settlements with creditors	81
Others	101

*Data awaited in 8 CIRPs.

Resolution Plans

About 46.5% of the CIRPs, which were closed, yielded orders for liquidation, as compared to 13.1% ending up with a resolution plan. However, 73.7% of the CIRPs ending in liquidation were earlier with BIFR and / or defunct (Table 7). The economic value in most of these CDs had already eroded before they were admitted into CIRP. These CDs had assets, on average, valued at less than 5% of the outstanding debt amount.

Table 7: CIRPs Ending with Orders for Liquidation till December 31, 2020

State of CD at the Commencement of CIRP	No. of CIRPs initiated by			
	FC	OC	CD	Total
Either in BIFR or Non-functional or both	332	384	114	830
Resolution Value > Liquidation Value	67	39	26	132
Resolution Value ≤ Liquidation Value*	410	462	122	994

Note: 1. There were 60 CIRPs, where CDs were in BIFR or non-functional but had resolution value higher than liquidation value.

* Includes cases where no resolution plans were received and cases where liquidation value is zero or not estimated.

Till September, 2020, 277 CIRPs had yielded resolution plans as presented in the last newsletter. 17 more CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table 8. During October - December, 2020, 23 CIRPs yielded resolution plans with different degrees of realisation as compared to the liquidation value as presented in Part B of Table 8. During the quarter, realisation by FCs under resolution plans in comparison to liquidation value is 130.80%. Till December, 2020, realisation by FCs under resolution plans in comparison to liquidation value is 181.70%, while the realisation by them in comparison to their claims is 39.80%. It is important to note that out of the 317 CDs rescued under the processes under the Code, 106 were in BIFR or defunct.

Table 8: CIRPs Yielding Resolution

(Amount in ₹ crore)

Sl. No.	Name of CD	Defunct (Yes/No)	Date of Commencement of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Total Admitted Claims of FCs	Liquidation Value	Realisable by FCs	Realisable by FCs as % of their Admitted Claims	Realisable by FCs as % of Liquidation Value
Part A: Prior Period (Till September 30, 2020)										
1	Flowtech Equipments (India) Private Limited	No	06-03-19	10-10-19	OC	1.4	3.33	1.4	100.00	42.04
2	Sri Murugarajendra Oil Industry Private Limited	Yes	04-06-19	10-02-20	OC	18.68	1.92	3.12	16.70	162.50
3	Sai Lilagar Power Generational Limited	No	11-07-19	27-08-20	FC	552.88	94.14	85.00	15.37	90.29
4	Tiger Surgical Disposable Private Limited	No	24-07-19	16-09-20	FC	26.49	1.09	2.50	9.44	229.36
5	Sampan Tradex Private Limited	No	30-07-19	23-09-20	OC	NA	1.05	NA	NA	NA
6	Flamingo Landbase Private Limited	Yes	24-09-19	14-02-20	OC	NA	3.60	NA	NA	NA
7	Thexa Pharma Private Limited	Yes	28-08-19	11-12-19	OC	44.55	8.74	10.26	23.03	117.39
8	Gopala Polyplast Limited	Yes	02-05-19	07-08-20	OC	98.84	39.33	40.38	40.85	102.67
9	Prashant Impex Private Limited	Yes	27-06-19	21-09-20	OC	0.32	0.82	0.32	100.00	39.02
10	Palm Lagoon Backwater Resorts Private Limited	Yes	20-09-19	10-09-20	FC	21.49	0.35	0.85	3.96	242.86
11	Kaula Agro Foods Private Limited	Yes	03-12-19	29-09-20	CD	5.45	2.72	4.02	73.76	147.79
12	Diamond Engineering (Chennai) Private Limited	No	06-06-17	30-09-19	OC	284.50	154.41	160.00	56.24	103.62
13	Tebma Shipyards Limited	No	25-09-19	04-03-20	OC	602.39	206.55	58.65	9.74	28.40
14	Paramount Wheels Private Limited	No	29-05-19	09-09-20	OC	31.7	9.23	2.71	8.55	29.36
15	Ashika Commercial Private Limited	No	22-08-19	12-08-20	FC	39.23	16.22	39.23	100.00	241.86
16	Shridhar Castings Private Limited	No	17-10-19	29-09-20	FC	21.6	2.19	4.58	21.20	209.13
17	Badami Sugars Limited	Yes	27-09-19	08-07-20	FC	241.80	8.54	16.50	6.82	193.21
Part B: October - December, 2020										
1	NILL Infrastructure Private Limited	No	28-03-18	04-11-20	FC	137.64	90.99	102.46	74.44	112.61
2	Asian Colour Coated Ispat Limited	No	20-07-18	26-10-20	FC	6567.00	619.15	1537.58	23.41	248.34
3	Rayan Laboratories Private Limited	Yes	03-10-18	19-10-20	OC	3.49	3.53	2.40	68.77	67.99
4	Parole Hotels Private Limited	No	04-12-18	06-10-20	FC	11.84	12.59	12.75	107.69	101.27
5	Benlon India Limited	No	19-12-18	20-10-20	OC	472.00	81.01	103.00	21.82	127.14
6	Asahi Industries Limited	No	21-01-19	13-11-20	FC	44.91	0.71	5.76	12.83	811.27
7	Om Printing and Flexible Packaging Private Limited	Yes	20-02-19	10-11-20	OC	18.90	6.00	6.38	33.76	106.33
8	VSP Udyog Private Limited	Yes	07-08-19	20-10-20	OC	339.75	50.85	50.90	14.98	100.10
9	Swastik Aqua Limited	No	09-12-19	24-11-20	FC	5.59	0.98	3.00	53.67	306.12
10	Arya Filaments Private Limited	No	17-08-18	23-10-20	FC	21.07	4.78	6.00	28.48	125.52
11	Shree Bhomika International Limited	Yes	11-07-19	05-10-20	FC	325.4	4.25	4.00	1.23	94.12
12	Castex Technologies Limited	No	20-12-17	15-12-20	FC	7522.26	500.88	1266.44	16.84	252.84
13	Proseed India Limited	No	10-07-19	03-12-20	OC	36.76	1.5	1.50	4.08	100.00
14	Swastik Fruits Products Limited	Yes	06-09-19	04-12-20	FC	18.68	5.35	5.11	27.36	95.51
15	Twenty First Century Castings Private Limited	Yes	16-01-20	09-12-20	OC	26.13	2.35	3.90	14.93	165.96
16	Drake and Scull Water and Energy India Private Limited	No	30-10-18	03-12-20	OC	84.31	4.92	6.46	7.66	131.30
17	VIL Limited	No	19-03-19	24-12-20	FC	914.01	28.70	41.61	4.55	144.98
18	Sujana Universal Industries Limited	No	20-06-19	24-12-20	OC	1956.74	38.69	101.1	5.17	261.31
19	Reliance Infratel Limited	No	17-05-18	03-12-20	OC	41055.38	4339.58	4235.78	10.32	97.61
20	Multiwal Duplex Private Limited	No	12-09-19	16-12-20	FC	126.57	10	13	10.27	130.00
21	Jalpower Corporation Limited	Yes	09-04-19	24-12-20	FC	1204.37	51.41	151.00	12.54	293.72
22	Amrit Fresh Private Limited	No	10-07-19	24-12-20	FC	26.3	7.33	10.00	38.02	136.43
23	Flowline Instrumentation Private Limited	No	23-10-19	25-11-20	OC	2.92	0.15	3.15	107.88	2100.00
Total (October - December, 2020)						60922.02	5865.70	7673.28	9.63	130.82
Total (Till December, 2020)						495970.47	108637.73	197364.11	39.79	181.67

Defunct: Not Going Concern/ Erstwhile BIFR.

Liquidation

Till September, 2020, a total of 1025 CIRPs had yielded orders for liquidation, as presented in the previous Newsletter. 19 more CIRPs were later reported as yielding orders for liquidation during that period. During the quarter October - December, 2020, 82 CIRPs ended in liquidation, taking

the total CIRPs ending in liquidation to 1126 (excluding 10 cases where liquidation orders have been set aside by NCLT / NCLAT / SC). The status of liquidation process as on December 31, 2020 is presented in Table 9.

Table 9: Status of Liquidation Processes as on December 31, 2020

Status of Liquidation	Number
Initiated	1126*
Final Report submitted#	194
Closed by Dissolution	94
Closed by Going Concern Sale	4
Compromise / Arrangement	2
Ongoing	932
> Two years	208
> One year ≤ Two years	413
> 270 days ≤ One year	129
> 180 days ≤ 270 days	31
> 90 days ≤ 180 days	70
≤ 90 days	81

*This excludes 10 cases where liquidation order has been set aside by NCLT / NCLAT / Supreme Court.

This includes 10 cases where application for early dissolution has been filed with the NCLT.

Till September 2020, 82 liquidation processes were closed by dissolution / going concern sale as presented in the last newsletter. Dissolution of nine more CDs, which happened during the earlier period were reported later, as presented in Part A of Table 10. During October -December, 2020, nine more liquidation processes were closed, taking total number of dissolutions / sold as going concern to 100. The details of the same are presented in Table 10.

Table 10: Details of Closed Liquidations

(Amount in ₹ crore)

Sl. No.	Name of CD	Date of Order of Liquidation	Amount of Admitted Claims	Liquidation Value	Sale Proceeds	Amount Distributed to Stakeholders	Date of Order of Dissolution
Part A: Prior Period (Till September 30, 2020)							
1	Swapna Infracon Private Limited*	03-09-19	10.21	NA	NA	NA	03-09-19
2	Sharda Gems and Jewels Private Limited	31-10-18	6.19	NA	NA	NA	05-11-19
3	Eterna Life Sciences Private Limited*	26-11-19	44.85	NA	NA	NA	26-11-19
4	Glopolre IM Services Private Limited*	18-12-19	9.45	NA	NA	NA	18-12-19
5	Frontier Lifeline Private Limited#	04-09-19	196.75	134.07	75.00	72.63	08-01-20
6	Sanny Digital Communications Private Limited	26-11-19	2.30	NA	NA	NA	30-04-20
7	Annamalai Foods Private Limited	26-09-18	17.67	1.97	1.63	1.13	05-05-20
8	Swayam Metals Limited*	28-07-20	0.14	NA	NA	NA	28-07-20
9	Moving Picture Company (India) Limited	30-10-19	0.28	0.04	0.05	NA	02-09-20
Part B: October - December, 2020							
1	Yagmag Labs Pvt. Ltd.	14-10-19	6.60	0.26	0.16	0.04	16-10-20
2	Yashoda Cotton & General Mills Private Limited	25-05-18	6.96	0.59	0.78	0.65	20-10-20
3	Synew Steel Private Limited*	16-11-20	0.28	NA	NA	NA	16-11-20
4	Veebro Technoplast Private Limited	14-09-18	4.93	NA	NA	NA	20-11-20
5	Tirupati Ceramics Limited	22-03-18	13.39	6.34	18.94	13.07	24-11-20
6	Triumph India Software Services Private Limited	04-06-19	11.22	0.40	0.70	0.52	04-12-20
7	Vaman Fabrics Private Limited	17-07-19	9.20	NA	NA	NA	10-12-20
8	Puneet Ispat Private Limited	03-01-20	0.06	0.01	NA	NA	17-12-20
9	RA Powergen Engineers Private Limited	23-09-19	44.61	0.10	NA	NA	22-12-20
Total (October - December, 2020)			97.25	7.70	20.58	14.28	NA
Total (Till December, 2020)			12053.81	294.56	282.60	264.74	NA

NA means Not realisable/Saleable or no asset left for liquidation or Not applicable.

* Direct Dissolution; Claims pertain to CIRP period.

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

Sale as a Going Concern

Till December 31, 2020, four CDs, namely, M/s. Emmanuel Engineering Private Limited, M/s. K.T.C. Foods Private Limited, M/s Southern Online Bio Technologies and M/s. Smaat India Private Limited, were closed by sale as a going concern under liquidation process. These four CDs had claims amounting to ₹ 736.53 crore, as against the liquidation value of ₹ 60.03 crore. The liquidators in these cases realised ₹ 81.58 crore and the companies were rescued.

The AA passes an order for liquidation under four circumstances. The details of liquidation as in terms of these circumstances are presented in Table 11.

Table 11: Reasons for Liquidations

Circumstance	Number of Liquidations	
	Where Final Reports Submitted	Ongoing
CoC decided to liquidate the CD during CIRP	88	497
AA did not receive any resolution plan for approval	100	391
AA rejected the resolution plan for non-compliance with the requirements	6	40
CD contravened provisions of resolution plan	0	4
Total	194	932

Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 requires the liquidator to make a public announcement calling upon stakeholders to submit their claims as on the liquidation commencement date, within 30 days from the liquidation commencement date. The details of the claims admitted by the liquidators in 972 liquidations, for which data are available, are presented in Table 12.

Table 12: Claims in Liquidation Process

(Amount in ₹ crore)

Stakeholders under Section	Number of Claimants	Amount of claims Admitted	Liquidation Value	Amount Realised#	Amount Distributed
194 Liquidations where Final Report Submitted					
52	20	585.85	87.59	93.81	93.24
53 (I) (a)	NA	NA	682.44	632.44#	37.15
53 (I) (b)	1059	22618.61			530.96
53 (I) (c)	547	8.33			1.44
53 (I) (d)	197	1106.21			14.21
53 (I) (e)	145	2050.05			10.39
53 (I) (f)	669	812.70			32.51
53 (I) (g)	0	0			0
53 (I) (h)	85	11.77			1.51
Total (A)	2722	27193.52	770.03	726.25#	721.41
Ongoing 778 Liquidations*					
53 (I) (a)		433497.07	30510.14 **	Not Applicable	Not Applicable
53 (I) (b)	36884	1240.23			
53 (I) (c)	26443	101475.07			
53 (I) (d)	8929	20604.77			
53 (I) (e)	832	29950.23			
53 (I) (f)	1956338	11.54			
53 (I) (g)	4	2636.78			
53 (I) (h)	688				
Total (B)	2030118	589415.69			
Grand Total (A+B)	2032840	616609.21	31280.17		

Inclusive of unclaimed proceeds of ₹ 4.84 crore under liquidation.

* Data for other liquidations are not available.

** Out of 932 ongoing cases, liquidation value of only 739 CDs is available. Liquidation value of 559 CDs taken during liquidation process is ₹ 30510.14 crore and liquidation value of rest of the 234 CDs captured during CIR process is ₹ 9766.51 crore.

Twelve large accounts

Resolution of 12 large accounts were initiated by banks, as directed by RBI. They had an aggregate outstanding claim of ₹ 3.45 lakh crore as against liquidation value of ₹ 73,220 crore. Of these, resolution plan in respect of nine CDs were approved and orders for liquidation were issued in respect of two CDs. Thus, CIRP in respect of two CDs and liquidation in respect of another two CDs are ongoing, at different stages of the process. The status of the 12 large accounts is presented in Table 13.

Table 13: Twelve Large Accounts

(Amount in ₹ crore)

Name of CD	Claims of FCs Dealt Under Resolution			Realisation by all Claimants as a percentage of Liquidation Value	Successful Resolution Applicant
	Amount Admitted	Amount Realised	Realisation as % of Claims		
Completed					
Electrosteel Steels Limited	13175	5320	40.38	183.45	Vedanta Ltd.
Bhushan Steel Limited	56022	35571	63.50	252.88	Barnipal Steel Ltd.
Monnet Ispat& Energy Limited Investments Pvt. Ltd.	11015	2892	26.26	123.35	Consortium of JSW and AION
Essar Steel India Limited	49473	41018	82.91	266.65	Arcelor Mittal India Pvt. Ltd.
Alok Industries Limited	29523	5052	17.11	115.39	Reliance Industries Limited, JM Financial Asset Reconstruction Company Ltd., JMFARC - March 2018 Trust
Jyoti Structures Limited Sharad Sanghi.	7365	3691	50.12	387.44	Group of HNIs led by Mr.
Bhushan Power & Steel Limited	47158	19350	41.03	209.12	JSW Limited
Jaypee Infratech Limited	23176	23223	100.20	130.82	NBCC (India) Limited
Amtek Auto Limited	12641	2615	20.68	169.65	Deccan Value Investors L.P. and DVI PE (Mauritius) Ltd.
Under Process					
Era Infra Engineering Limited	Under CIRP				
Lanco Infratech Limited	Under Liquidation				
ABG Shipyard Limited	Under Liquidation				

Resolution of FSPs

On an application filed by the RBI to initiate CIRP against Dewan Housing Finance Corporation Ltd (DHFL), the AA admitted the application on December 3, 2019. Mr. R. Subramaniakumar was appointed as the Administrator. This is the first FSP admitted for resolution 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

Administrator has the same duties, functions, obligations, responsibilities, rights, and powers of an IP undertaking a process under 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, 2020, 817 corporate persons initiated voluntary liquidation (Table 14). Final reports in respect of 360 voluntary liquidations have been submitted by December 31, 2020.

Table 14: Commencement of Voluntary Liquidations till December 31, 2020 (Number)

Period	Liquidations at the beginning	Liquidations Commenced	Liquidation closed by		Liquidations at the end of period
			Withdrawal	Final Reports Submitted	
2017 - 18	0	184	0	11	173
2018 - 19	173	229	7	97	298
Apr - Jun, 2019	298	53	0	26	325
Jul - Sep, 2019	325	62	0	37	350
Oct - Dec, 2019	350	66	0	25	391
Jan - Mar, 2020	391	90	1	39	441
Apr - Jun, 2020	441	10	0	24	427
Jul - Sep, 2020	427	59	0	48	438
Oct - Dec, 2020	438	64	0	53	449
Total	NA	817	8	360	449

The status of 817 liquidations is presented in Table 15.

Table 15: Status of Voluntary Liquidations as on December 31, 2020

Status	No. of Liquidations
Initiated	817
Closed by withdrawal	08
Final Report Submitted	360
Closed by Dissolution	182
Ongoing	449
> Two years	105
> One year ≤ Two years	150
> 270 days ≤ One year	69
> 180 days ≤ 270 days	12
> 90 days ≤ 180 days	49
≤ 90 days	64

Table 18: Realisations under Voluntary Liquidation

(Amount in ₹ crore)

Sl. No.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Realisation of Assets	Amount due to Creditors	Amount paid to Creditors	Liquidation Expenses	Surplus
Part A: Prior Period (Till September 30, 2020)								
1	Yosun India Private Limited	24-04-18	04-11-19	0.26	0.01	0.01	0.08	0.17
2	Viyas Consultancy Private Limited	11-02-19	02-01-20	0.14	-	-	0.13	0.01
3	Intellinet Technologies India Private Limited	23-03-18	02-01-20	0.18	-	-	0.02	0.16
4	Sarah Construction Private Limited	04-10-17	10-02-20	1.28	-	-	0.94	0.34
5	Gangangiri Containers Limited	03-07-19	20-02-20	0.13	-	-	0.04	0.09
6	Cupid Annibis Jewellery Private Limited	03-07-17	20-03-20	0.28	0.01	0.01	0.02	0.24
7	Stallion Securities Limited	30-11-18	28-05-20	0.65	-	-	0.02	0.63
8	MGI Group India Private Limited	08-05-18	30-09-20	3.94	-	-	0.52	3.41
Part B: October - December, 2020								
1	Ipust Panel Equipment Private Limited	02-01-19	05-10-20	0.02	-	-	0.02	0
2	Iminsight Software Private Limited	18-02-19	06-10-20	5.55	0	0	0.03	5.52
3	Paramount Consultancy Services Limited	26-11-18	06-10-20	0.08	-	-	0.01	0.07
4	Techem Energy Services India Private Limited	25-09-18	08-10-20	0.13	-	-	0.13	-
5	Raghvani Real Estate Private Limited	13-01-20	12-10-20	3.79	-	-	0.05	3.74
6	Dada Dhuniwale Khandwa Power Limited	15-11-17	02-11-20	35.46	-	-	0.32	35.14
7	Living Springs Private Limited	14-03-20	10-11-20	0.62	-	-	0.02	0.60
8	Selex Es India Private Limited	13-06-18	11-11-20	3.18	0.21	0.21	2.00	0.97
9	Infra Alliance Private Limited	18-09-19	11-11-20	0.31	-	-	0.02	0.29
10	Khel Gaon Estates Pvt. Ltd.	07-08-17	12-11-20	1.66	-	-	0.02	1.64
11	Vekoma Rides Equipment (India) Private Limited	13-02-18	20-11-20	0.94	-	-	0.24	0.70
12	Pushpagiri Healthcare Hospitals Private Limited	09-11-19	26-11-20	4.58	-	-	0.07	4.51
13	Simulity Labs India Private Limited	17-01-19	01-12-20	0	-	-	0	-

Of the 817 corporate persons that initiated voluntary liquidations till December 31, 2020, the reasons for these initiations are available for 708 cases, which are presented in Table 16.

Table 16: Reasons for Voluntary Liquidations

Sl. No.	Reason for Voluntary Liquidation	No. of Corporate Persons
1	Not carrying business operations	497
2	Commercially unviable	102
3	Promoters unable to manage affairs	15
4	Purpose for which company was formed accomplished / Contract Termination	21
5	Miscellaneous	73
Total		708

Note: Data are available for only 708 cases.

Most of these corporate persons are small entities. 453 of them have paid-up equity capital of less than ₹ 1 crore. Only 87 of them have paid-up capital exceeding ₹ 5 crore. The corporate persons, for which details are available, have an aggregate paid-up capital of ₹ 4732 crore (Table 17).

Table 17: Details of 809 Voluntary Liquidations (excludes 8 withdrawals)

(Amount in ₹ crore)

Details of	No. of Liquidations	Paid-up capital	Assets	Outstanding debt	Amount paid to creditors	Surplus
Liquidations for which Final Reports submitted	360	1515*	3572	24	24	3264
Ongoing Liquidations	449	3217#	1336#	**		
Total	809	4732	4908	**		

* Paid up capital is not available in case of one company as it is a limited by guarantee company where there were no shareholders and paid-up capital.

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

Paid up capital and assets of 350 and 338 cases, respectively, are available.

It was reported in the last newsletter that dissolution orders were passed in respect of 152 liquidations. Dissolution orders in respect of eight more liquidations, which were issued during the earlier period, were reported later as indicated in Part A of Table 18. During the quarter October - December, 2020, dissolutions orders in respect of 22 voluntary liquidations were issued taking the total dissolutions to 182. These 182 corporate persons owed ₹ 10.11 crore to creditors and through voluntary liquidation process, they were paid ₹ 10.11 crore.

14	Daily Bread Gourmet Foods (India) Private Limited	18-03-19	09-12-20	3.73	0.02	0.02	0.05	3.66
15	NextG-Com Innovation Private Limited	17-01-19	09-12-20	0.25	0.02	0.02	0.02	0.21
16	Nikhil Capital and Currency Private Limited	16-03-19	17-12-20	0.35	-	-	0.04	0.31
17	Laxminarayan Gin Pvt. Ltd.	19-02-19	17-12-20	0.20	-	-	0.03	0.17
18	D Chandrakant and Brothers Pvt Ltd	19-02-19	17-12-20	0.56	-	-	0.10	0.46
19	Flocare Labs India Private Limited	20-02-20	18-12-20	0.06	-	-	0.05	0.01
20	Retreat Club of Nagpur	31-10-18	18-12-20	0	-	-	0	-
21	Priestley Dugal and Co (India) Private Ltd	04-04-19	18-12-20	0.45	-	-	0.04	0.41
22	Lunexa Advantage Knowledge Processing Services Private Limited	05-01-18	24-12-20	0.81	-	-	0.01	0.80
Total (October - December, 2020)				62.73	0.25	0.25	3.27	59.21
Total (Till December, 2020)				2816.20	10.11	10.11	23.63	2782.45

Time for Conclusion of Processes

The average time taken for completion of various processes is presented in table 19.

Table 19: Average time for approval of Resolution Plans/Orders for Liquidation

Sl. No.	Average time	No. of Processes covered	Time (In days)	
			Total time excluded time	Excluding excluded time
CIRPs				
1	From ICD to approval of resolution plans by AA	317	445	386
2	From ICD to order for Liquidation by AA	1126	330	NA
Liquidations				
3	From LCD to submission of final report for Liquidations	194	384	NA
4	From LCD to submission of final report under Voluntary Liquidations	360	373	NA
5	From LCD to order for dissolution under Liquidations	100	333	NA
6	From LCD to order for dissolution under Voluntary Liquidation	182	495	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, 2020, are presented in table 20.

Table 20: Corporate Liquidation Accounts as on December 31, 2020 (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
Apr - Jun, 2020	476.05	41.40	0.00	517.45
Jul - Sep, 2020	517.45	9.60	0.00	527.05
Oct - Dec, 2020	527.05	56.66	0.00	583.71
Corporate Voluntary Liquidation Account				
2019 - 20	0.00	109.70	0.00	109.70
Apr - Jun, 2020	109.70	8.35	0.00	118.05
Jul - Sep, 2020	118.05	28.46	0.00	146.51
Oct - Dec, 2020	146.51	56.27	0.00	202.78

Summary of Outcomes

(a) The primary objective of the Code is rescuing lives of CDs in distress. The Code has rescued 317 CDs till December, 2020 through resolution plans, one third of which were in deep distress. However, it has referred 1126 CDs for liquidation. The CDs rescued had assets valued at ₹ 1.09 lakh crore, while the CDs referred for liquidation had assets valued at ₹ 0.44 lakh crore when they were admitted to CIRP. Thus, in value terms, around 70% of distressed assets were rescued. Of the CDs sent for liquidation, three-fourth were either sick or defunct and of the firms rescued, one-third were either sick or defunct.

(b) The realisable value of the assets available with the 317 CDs rescued, when they entered the CIRP, was only ₹ 1.09 lakh crore, though they owed ₹ 5.55 lakh crore to creditors. The resolution plans recovered ₹ 2.06 lakh crore, which is more than 189% of the realisable 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 ₹ 189 under the Code. The excess recovery of ₹ 89 is a bonus from the Code. Though recovery is incidental under the Code, the FCs recovered more than 40% 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. These realisations are exclusive of realisations that would arise from resolution of PGs to CDs and from disposal of applications for avoidance transactions.

(c) 1126 CDs ended with orders for liquidation. These had an aggregate claim of ₹ 6.15 lakh crore. However, they had assets, on the ground, valued only at ₹ 0.44 lakh crore. Till December, 2020, 194 CDs have been completely liquidated. Many of these CDs did not have any job or asset when they entered the IBC process. These included likes of Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹ 8,163 crore, while they had absolutely no assets and employment. These 194 CDs together had outstanding claims of ₹ 27,194 crore, but the assets valued at ₹ 770 crore. ₹ 726 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 November, 2020, 15,662 applications for initiation of CIRPs of CDs having underlying default of ₹ 5,17,073 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 endeavors to close the various processes at the earliest. It prescribes timelines for some of them. The 317 CIRPs, which have yielded resolution plans by the end of December, 2020, took on average 386 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 1126 CIRPs, which ended up in orders for liquidation, took on average 330 days for conclusion. Further, 194 liquidation processes, which have closed by submission of final reports took on average 384 days for closure. Similarly, 360 voluntary liquidation processes, which have closed by submission of final reports, took on average 373 days for closure.

(f) Till December, 2020, a total of 317 CIRPs have yielded resolution plans. The cost details are available in respect of 260 CIRPs. The cost works out on average 0.92% of liquidation value and 0.48% of resolution value.

(g) The implementation of the Code got reflected in the Global innovation Index. The 2020 edition released on September 2, 2020 indicates improvement of India's rank in 'Ease of Resolving Insolvency' to 47 from 95 in the last year.

Individual Processes

The provisions relating to insolvency resolution and bankruptcy relating to PGs to CDs came into force on December 1, 2019. It was reported in the last newsletter that 18 applications were filed under these provisions. As per the information received from IPs, 13 more applications have since been filed. Out of them one application has been filed by the debtor and 12 applications by the creditors under sections 94 and 95 of the Code, respectively. Among them (i) four have been filed before NCLT, New Delhi; (ii) two each before NCLT, Allahabad, NCLT, Chennai and DRT, Bengaluru and (iii) one each before NCLT, Ahmedabad and NCLT, Mumbai.

Table 21: Insolvency Resolution of Personal Guarantors

(Amount in ₹ crore)

Period	Applications filed by										(Amount in Crore)	
	Debtor (u/s 94)			By Creditor (u/s 95)			Total			Adjudicating Authority		
	Number	Debt Amount	Guarantee Amount	Number	Debt Amount	Guarantee Amount	Number	Debt Amount	Guarantee Amount	NCLT		DRT
Dec - Mar, 2020	3	50.28	44.50	9	3208.46	4420.25	12	3258.74	4464.75	11	1	
Apr - Jun, 2020	0	0	0	0	0	0	0	0	0	0	0	
Jul - Sep, 2020	1	3.29	2.75	10	2048.57	213.25	11	2051.86	216.00	9	2	
Oct - Dec, 2020	0	0	0	8	832.52	427.79	8	832.52	427.79	8	0	
Total	4	53.57	47.25	27	6089.55	5061.29	31	6143.12	5108.54	28	3	

Service Providers

Insolvency Professionals

An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP needs an Authorisation for Assignment (AFA) to take up an assignment under the Code with effect from January 1, 2020. IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for issuance / renewal of AFA to the IPA, and an IPA to process such applications electronically. The details of IPs registered as on December 31, 2020 and AFAs held by them, IPA-wise, is presented in Table 22.

Table 22: Registered IPs and AFAs as on December 31, 2020

(Number)

City / Region	Registered IPs				IPs having Authorisation for Assignment			
	IIIP of ICAI	ICSI IIP	IPA of ICAI	Total	IIIP of ICAI	ICSI IIP	IPA of ICAI	Total
New Delhi	392	246	74	712	296	183	58	537
Rest of Northern Region	365	177	56	598	274	141	36	451
Mumbai	366	130	32	528	259	95	25	379
Rest of Western Region	244	102	34	380	182	76	24	282
Chennai	123	81	12	216	74	60	7	141
Rest of Southern Region	315	182	55	552	222	126	46	394
Kolkata	186	35	18	239	139	22	15	176
Rest of Eastern Region	55	22	7	84	34	17	6	57
Total Registered	2046	975	288	3309	1480	720	217	2417

Of the 3324 IPs registered till date, registration of four IPs have been cancelled through disciplinary action, and registration of two IPs cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, nine IPs have passed away. Thus, there are a total of

3309 IPs registered as on December 31, 2020. The registrations and cancellations of registrations IPs, quarter wise, till December 31, 2020 are presented in Table 23.

Table 23: Registration and Cancellation of Registrations of IPs

(Number)

Year / Quarter	Registered at the beginning of the period	Registered during period	Cancelled the during the period on account of			Registered at the end of the period
			Disciplinary Process	Failing to Meet Eligibility Norms	Death	
2016 - 17 (Nov - Dec) #	0	977	0	0	0	977
2016 - 17 (Jan - Mar)	0	96	0	0	0	96
2017 - 18	96	1716	0	0	0	1812
2018 - 19	1812	648	4	0	0	2456
Apr - Jun, 2019	2456	203	0	0	0	2659
Jul - Sep, 2019	2659	128	0	0	1	2786
Oct - Dec, 2019	2786	124	0	0	3	2907
Jan - Mar, 2020	2907	99	0	1	1	3004
Apr - Jun, 2020	3004	120	0	1	1	3122
July - Sep, 2020	3122	61	0	0	1	3182
Oct - Dec, 2020	3182	129	0	0	2	3309
Total	NA	3324	4	2	9	3309

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

An individual with 10 years of experience as a member of the ICAI, ICSI, ICAI (Cost) or a Bar Council or an individual with 15 years of experience in management is eligible for registration as an IP on passing the Limited Insolvency Examination. Table 24 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on December 31, 2020. Of the 3309 IPs as on December 31, 2020, 303 IPs (constituting about 9% of the total registered IPs) are female.

Table 24: Distribution of IPs as per their Eligibility as on December 31, 2020

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	1647	150	1797
Member of ICSI	497	98	595
Member of ICAI (Cost)	166	14	180
Member of Bar Council	193	22	215
Managerial Experience	503	19	522
Total	3006	303	3309

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 25 presents the age profile of the IPs registered as on December 31, 2020.

Table 25: Age Profile of IPs as on December 31, 2020

(Number)

Age Group (in Years)	Registered IPs				IPs having AFA			
	IIIP ICAI	ICSI IIP	IPA of ICAI	Total	IIIP ICAI	ICSI IIP	IPA of ICAI	Total
≤ 40	219	58	5	282	153	46	3	202
> 40 ≤ 50	734	352	51	1137	545	265	42	852
> 50 ≤ 60	651	262	70	983	482	198	49	729
> 60 ≤ 70	413	274	152	839	300	211	123	634
> 70 ≤ 80	25	26	8	59	NA	NA	NA	NA
> 80 ≤ 90	3	3	2	8	NA	NA	NA	NA
> 90	1	0	0	1	NA	NA	NA	NA
Total	2046	975	288	3309	1480	720	217	2417

Panel of IPs

IBBI had invited expression of interest on November 2, 2020 from IPs in accordance with 'Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) Guidelines, 2020' for preparation of a panel of IPs for appointments during November 26, 2020 to June 30, 2021. However, keeping in view that AFAs for most of the IPs who have expressed interest would expire after December 31, 2020, but before June 30, 2021, it prepared and shared with the AA (NCLT and DRT), on November 23, 2020, a panel of 344 IPs (who hold AFAs) valid for appointments for the period November 26, 2020 to December 31, 2020. Subsequently, it released 'Insolvency Professionals to act as Interim Resolution Professionals, Liquidators, Resolution Professionals and Bankruptcy Trustees (Recommendation) (Second) Guidelines, 2020 [Guidelines]' on November 23, 2020. In accordance with Guidelines, it prepared and shared with the AA (NCLT and DRT), on December 31, 2020, a panel of 824 IPs (who hold AFAs) valid for appointments for the period January 1, 2021 to June 30, 2021 (Table 26).

Table 26: Zone-wise IPs in the Panel

Zone	Area Covered	No. of IPs
New Delhi	Union Territory of Delhi	187
Ahmedabad	State of Gujarat Union Territory of Dadra and Nagar Haveli Union Territory of Daman and Diu	48
Allahabad	State of Uttar Pradesh State of Uttarakhand	37
Amravati	State of Andhra Pradesh	11
Bengaluru	State of Karnataka	25
Chandigarh	State of Himachal Pradesh State of Punjab State of Haryana Union Territory of Chandigarh Union Territory of Jammu and Kashmir Union Territory of Ladakh	85
Cuttack	State of Chhattisgarh State of Odisha	20
Chennai	State of Tamil Nadu Union Territory of Puducherry	73
Guwahati	State of Arunachal Pradesh State of Assam State of Manipur State of Mizoram State of Meghalaya State of Nagaland State of Sikkim State of Tripura	2
Hyderabad	State of Telangana	88
Indore	State of Madhya Pradesh	15
Jaipur	State of Rajasthan	25
Kochi	State of Kerala Union Territory of Lakshadweep	22
Kolkata	State of Bihar State of Jharkhand State of West Bengal Union Territory of Andaman and Nicobar Islands	73
Mumbai	State of Goa State of Maharashtra	113
	Total	824

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, IBBI receives references from the AA and promptly responds to the AA. Till December 31, 2020, as per updates available, a total of 965 IRPs have been replaced with RPs, as shown in Table 27.

Table 27: Replacement of IRP with RP as on December 31, 2020

CIRP initiated by	No. of CIRPs	
	Where RPs have been appointed	Where RP is different from the IRP
Corporate Applicant	252	109
Operational Creditor	1565	533
Financial Creditor	1606	323
Total	3423	965

Insolvency Professional Entities

During the quarter under review, three IPE were recognised. As on December 31, 2020, there were 77 IPEs (Table 28).

Table 28: IPEs as on December 31, 2020

Period	No. of IPEs		
	Recognised	Derecognised	At the end of Period
2016 - 17 (Jan - Mar)	3	0	3
2017 - 18	73	1	75
2018 - 19	13	40	48
Apr - Jun, 2019	6	0	54
Jul - Sep, 2019	7	0	61
Oct - Dec, 2019	6	0	67
Jan - Mar, 2020	4	2	69
Apr - Jun, 2020	4	0	73
Jul - Sep, 2020	1	0	74
Oct - Dec, 2020	3	0	77
Total	120	43	77

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 preventing malicious behaviour and malfeasance by IPs. The quasi-judicial functions include dealing with complaints against members and taking suitable disciplinary actions.

There are three IPAs registered in accordance with the Code and Regulations. IBBI has monthly meetings with the MDs of the IPAs and the IU on the 7th of every month, to obtain feedback on areas of concern for the profession and discuss the ways and means to deal with them. During these meetings, issues like disposal of grievances, use of technology in processes, conduct of IPs, addressing concerns emanating from COVID-19, etc. are discussed. Table 29A presents the details of activities by the IPAs as informed by them. Table 29B gives details of number of CPE hours earned by IPs.

Table 29A: Activities by IPAs

Period	Number of					
	Pre-registration Courses conducted	CPE Programmes conducted	Training Workshops for Ips	Other Workshops/ Webinars/ Roundtables/ Seminars	Disciplinary Orders Issued	Complaints (Forwarded by IBBI) Disposed
2018 - 19	16	-	07	100	04	11
2019 - 20	11	30	09	157	09	127
Apr - Jun, 2020	03	107	47	43	01	20
Jul - Sep, 2020	02	18	0	14	23	71
Oct - Dec, 2020	04	39	07	17	14	02
Total	36	194	70	331	51	231

Table 29B: CPE Hours earned by the IPs

Period	Number of CPE Hours earned by members of			
	IIIP	IPA ICAI	ICSI IIP	Total
Jan - Mar, 2020	1003	320	695	2018
Apr - Jun, 2020	7694	2373	5575	15642
Jul - Sep, 2020	669	344	527	1540
Oct - Dec, 2020	4625	885	1584	7094
Total	13991	3922	8381	26294

Information Utility

There is one IU, namely, the National E-Governance Service Limited (NeSL). IBBI meets the MD & CEO of the IU along with the MDs of IPAs on 7th of every month to discuss the issues related to receipt and authentication of financial information. It has requested IPAs to encourage their members to make use of the information stored with the IU for verification of claims during CIRP. Table 30 provides details of the registered users and information with NeSL, as informed by them.

Registered Valuers

The Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) made under 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 Code and the Companies Act, 2013. IBBI performs the functions of the Authority under the Valuation Rules. It recognises RVOs and registers RVs and exercises oversight over them, while RVOs serve as front-line regulators for the valuation profession. An individual having specified qualification and experience needs to enroll with an RVO, complete the educational course conducted by the RVO, pass the examination conducted by IBBI and subsequently, seek registration with IBBI as an RV. There are currently 14 RVOs. IBBI meets MDs / CEOs of RVOs on the 7th of every month to discuss the issues arising from the valuation profession, to resolve queries of the RVOs and to guide them in discharge of their responsibilities. The details of individual RVs, RVO-wise, as on December 31, 2020, are given in Table 31A. A total of 3691 individuals have registrations, two of them are registered for all three asset classes, 52 are registered for two asset classes and the balance 3637 are registered for one asset class.

RVs are permitted to form an entity (Partnership / Company) for rendering valuation services. There are 35 such entities registered as RVs as on December 31, 2020, as presented in table 31B. 17 of them are registered for three asset classes, three are registered for two asset classes and fifteen are registered for one asset class.

Table 31A: Registered Valuers as on December 31, 2020

(Number)

Registered Valuer Organisation	Asset Class			Total
	Land & Building	Plant & Machinery	Securities or Financial Assets	
RVO Estate Managers and Appraisers Foundation	53	12	12	77
IOV Registered Valuers Foundation	1189	187	144	1520
ICSI Registered Valuers Organisation	0	0	153	153
IIV India registered Valuers Foundation	133	37	45	215
ICMAI Registered Valuers Organisation	19	15	236	270
ICAI Registered Valuers Organisation	NA	NA	745	745
PVAI Valuation Professional Organisation	272	48	65	385
CVSRTA Registered Valuers Association	189	57	NA	246
Association of Certified Valuers and Analysts	NA	NA	2	2
CEV Integral Appraisers Foundation	59	19	1	79
Divya Jyoti Foundation	13	5	25	43
Nandadeep Valuers Foundation	0	0	2	2
All India Institute of Valuers Foundation	1	2	5	8
International Business Valuers Association	0	0	2	2
Total	1928	382	1437	3747

Table 31B: Registered Valuers (Entities) as on December 31, 2020

(Number)

Registered Valuer Organisation	Entities Registered	Registrations in the Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets
RVO Estate Managers and Appraisers Foundation	3	3	2	2
IOV Registered Valuers Foundation	15	12	9	12
IIV India registered Valuers Foundation	1	1	1	1
ICMAI Registered Valuers Organisation	6	3	4	6
ICAI Registered Valuers Organisation	7	0	0	7
PVAI Valuation Professional Organisation	2	2	2	2
All India Institute of Valuers Foundation	1	1	1	1
Total	35	22	19	31

The registration of RVs till December 31, 2020 is given in Table 32.

Table 32: Registration of RVs till December 31, 2020

(Number)

Year / Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
2017 - 2018	0	0	0	0
2018 - 2019	781	121	284	1186
Jun, 2019	346	81	300	727
Sep, 2019	212	58	191	461
Dec, 2019	161	34	146	341
Mar, 2020	129	31	155	315
Jun, 2020	20	8	72	100
Sep, 2020	149	27	104	280
Dec, 2020	130	22	185	337
Total	1928	382	1437	3747

Of the RVs registered as on December 31, 2020, 1032 RVs (constituting 27.50% of the total RVs registered) are from metros, while 2715 RVs (constituting 72.50% of the total RVs registered) are from non-metro locations (Table 33).

Table 30: Details of information with NeSL

(Number, except as stated)

At the end of Year / Month	Creditors having agreement with NeSL		Creditors who have submitted information		Debtors whose information is submitted by		Loan records on-boarded by		Amount of underlying debt (₹ crore)		User registrations	Loan records authenticated by debtors		No. of Defaults authenticated by debtors
	FCs	OCs	FCs	OCs	FCs	OCs	FCs	OCs	Financial	Operational	No. of Debtors	No. of Records	Value (₹ crore)	
2018 - 19	173	NA	114	169	1266445	230	1955230	316	4114988	16224	15148	13799	48,428	54
Jun, 2019	209	NA	160	231	2531930	570	3911146	52766	4910552	20455	23565	22363	73,706	374
Sep, 2019	226	NA	218	297	2737049	1764	4421280	86766	5625318	28016	32177	35621	83,686	586
Dec, 2019	246	NA	321	408	2926030	2121	4803931	125526	6919463	32038	48551	68766	93,852	82,824
Mar, 2020	267	NA	381	543	6551739	6191	9417317	167719	7873689	31910	73332	109726	118428	2,40,075
Jun, 2020	269	NA	456	574	7464854	8336	10721829	204568	9855538	33151	106840	149533	299294	3,38,585
Sep, 2020	276	NA	548	635	8228576	8979	12126772	206957	12299081	34374	120896	186091	373678	4,27,226
Dec, 2020	284	NA	587	654	8572919	9024	13666166	253955	12875496	35803	129839	215015	451935	4,35,774

NA : Not Available

Table 33: Region wise RVs as on December 31, 2020

(Number)

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	67	30	176	273
Rest of Northern Region	285	50	241	576
Mumbai	103	47	227	377
Rest of Western Region	534	102	221	857
Chennai	106	32	117	255
Rest of Southern Region	781	101	342	1224
Kolkata	23	13	91	127
Rest of Eastern Region	29	7	22	58
Total	1928	382	1437	3747

The average age of RVs as on December 31, 2020 stood at 47 years across asset classes. It was 50 years for Land & Building, 53 years for Plant & Machinery and 43 years for Securities or Financial Assets (Table 34). Of the 3747 RVs as on December 31, 2020, 337 RVs (constituting about 9% of the total registered valuers) are females.

Table 34: Age profile of RVs as on December 31, 2020

(Number)

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	96	6	100	202
> 30 ≤ 40	255	53	566	874
> 40 ≤ 50	506	87	425	1018
> 50 ≤ 60	821	116	237	1174
> 60 ≤ 70	216	81	106	403
> 70 ≤ 80	33	37	3	73
> 80	1	2	0	3
Total	1928	382	1437	3747

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, MCA, and other authorities. The receipt and disposal of grievances and complaints till December 31, 2020 is presented in Table 35.

Table 35: Receipt and Disposal of Grievances and Complaints till December 31, 2020

(Number)

Year / Quarter	Complaints and Grievances Received						Total		
	Under the Regulations		Through CPGRAMS/PMO/MCA/Other Authorities)		Through Other Modes		Received	Disposed	Under Examination
	Received	Disposed	Received	Disposed	Received	Disposed			
2017 - 2018	18	0	6	0	22	2	46	2	44
2018 - 2019	111	51	333	290	713	380	1157	721	480
Apr - Jun, 2019	36	21	60	74	149	207	245	302	423
Jul - Sep, 2019	42	41	46	35	628	196	716	272	867
Oct - Dec, 2019	40	46	68	54	71	106	179	206	840
Jan - Mar, 2020	35	69	65	64	420	480	520	613	747
Apr - Jun, 2020	20	52	62	88	324	623	406	763	390
Jul - Sep, 2020	82	32	97	95	183	422	362	549	203
Oct - Dec, 2020	64	66	83	86	218	129	365	281	287
Total	448	378	820	786	2728	2545	3996	3709	287

Examinations

Limited Insolvency Examination

The IBBI publishes the syllabus, format etc. of the Examination under regulation 3(3) of the IBBI (Insolvency Professionals) Regulations, 2016. It reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed five phases of the Limited Insolvency Examination. Fifth phase of the Examination concluded on December 31, 2020 and the sixth phase commenced on January 1, 2021. It is a computer based online examination available on daily basis from various locations across India. NSEIT Limited is the current test

administrator. The details of the Examination are given in the Table 36.

Table 36: Limited Insolvency Examination

Phase		No. of Attempts (some candidates made more than one attempt)	No. of Successful Attempts
First	Jan - Jun, 2017	5329	1202
Second	Jul - Dec, 2017	6237	1112
Third	Jan - Oct, 2018	6344	1011
Fourth	Nov, 2018 - Jun, 2019	3025	506
Fifth	Jul - Sep, 2019	710	95
	Oct - Dec, 2019	889	119
	Jan - Mar, 2020	1007	164
	Apr - Jun, 2020	34	6
	Jul - Sep, 2020	1182	294
Total		2038	338
Total		26795	4847

Valuation Examinations

The IBBI, being the authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial Assets on March 31, 2018. It reviews the Examinations continuously to keep it relevant with the changing times. The second phase concluded on May 31, 2020 and the third phase commenced on June 1, 2020. It is a computer based online examination available from several locations across India. National Institute of Securities Management is the current test administrator. The details of the Examinations are given in Table 37.

Table 37: Valuation Examinations

Phase/Quarter		No. of Attempts (some candidates made more than one attempt) in Asset Class			No. of Successful Attempts in Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First Phase	Mar, 2018 - Mar, 2019	9469	1665	4496	1748	324	707
Second Phase	Apr, 2019 - May, 2020	3780	757	4795	380	95	656
Third Phase	June, 2020	64	7	99	1	0	6
	Jul - Sep, 2020	1471	248	1781	138	14	217
	Oct - Dec, 2020	1449	404	1571	119	28	137
Total		16233	3081	12742	2386	461	1723

Building Ecosystem

Emerging jurisprudence

As a dynamic and progressive economic legislation, the Code has been endowed with rich jurisprudence. For the benefit of stakeholders, IBBI published "Section-wise jurisprudence on IBC upto September 30, 2020" which provides a user-friendly guidance on jurisprudential development in corporate insolvency proceedings.

Meetings of various Committees

Advisory Committee on Corporate Insolvency and Liquidation

The seventh meeting of the Advisory Committee on Corporate Insolvency Resolution and Liquidation was held on October 10, 2020 through Video Conferencing under the Chairmanship of Mr. Uday Kotak. The Committee discussed and provided its suggestions on (i) Assignment of 'not readily realisable asset' by liquidator and (ii) Assignment of claims / interests by creditor.



Committee on Cross Border Insolvency

The Committee on Cross Border Insolvency Rules was constituted by MCA under the chairmanship of Dr. K. P. Krishnan. The scope of the Committee was expanded on February 2, 2020 to include the study and analysis of UNCITRAL Model Law for enterprise group insolvency. The Committee met on October 27, 2020 and December 11, 2020 and deliberated on this extended term of reference.

Sub-committee of Advisory Committee on Service Providers

The Advisory Committee on Service Providers had constituted a sub-committee to suggest a framework for development of a cadre of debt advisers and insolvency advisers to provide services in respect of fresh start process. The sub-committee met on October 7, 2020 and deliberated on aspects such as the eligibility norms, examination pattern, training needs and regulations of debt advisers and insolvency advisers. Based on the deliberations, the sub-committee submitted its report to the Advisory Committee on November 17, 2020.

Workshops and Webinars

IP Workshops

IBBI has been organizing Advanced Workshops for registered IPs with the aim to delivering specialised and deep level learning through a classroom, non-residential mode. It organised the 8th Advanced Workshop for the IPs during the quarter on the theme 'Analysis of Financial Statements of CDs and their Personal Guarantors', through online mode on December 14, 2020. The details of the workshops conducted till December 31, 2020 is given in Table 38.

Table 38: Capacity Building Programmes for IPs

Year / Period	Basic Workshops	Advanced Workshops	Other Workshops	Webinars	Roundtables	Trainings	Total
2016 - 17	1	-	-	-	8	-	9
2017 - 18	6	-	-	-	44	-	50
2018 - 19	7	-	-	-	22	-	29
2019 - 20	4	6	5	1	22	-	38
Apr - Jun, 2020	-	-	-	16	4	-	20
Jul - Sep, 2020	-	1	-	5	8	-	14
Oct - Dec, 2020	-	1	-	5	4	1	11
Total	18	8	5	27	112	1	171

Roundtables

During the quarter, IBBI in association with IPAs and others, conducted four roundtables for IPs. The details are in Table 39.

Table 39: Roundtables during October - December, 2020

Sl. No.	Date	Partnership with	Subject
1	27-11-20	FCDO UK	Proposed Handbook on Ethics
2	07-12-20	NA	Record Retention
3	22-12-20	IPA ICAI	Appointment of Professionals
4	30-12-20	IIIP ICAI	Appointment of Professionals

Discussion Papers

The IBBI put out a discussion paper on certain aspects of the voluntary liquidation process, seeking public comments, on November 24, 2020. Another discussion paper on engagement of 'professionals' in a corporate insolvency resolution process was floated on December 17, 2020 inviting comments of public.

Advocacy and Awareness

Essay competition (GNLU)

IBBI, in its endeavour to create awareness about the insolvency and bankruptcy regime amongst the students of higher education, conducted an essay competition in collaboration with Gujarat National Law University on the topic "Balancing Interest of Stakeholders under the Insolvency and Bankruptcy Code, 2016". 23 students participated in the competition and the following were adjudged as best essays:

Rank	Name
The Best Essay	Ms. Preksha Mehndiratta
Second Best Essay (Tie)	Mr. Abhiraj Singh Shekhawatand
	Mr. Shivaang Kumar Maheshwari

Other Programmes

IBBI, in association with various stakeholders, organised advocacy and awareness programmes as presented in Table 40.

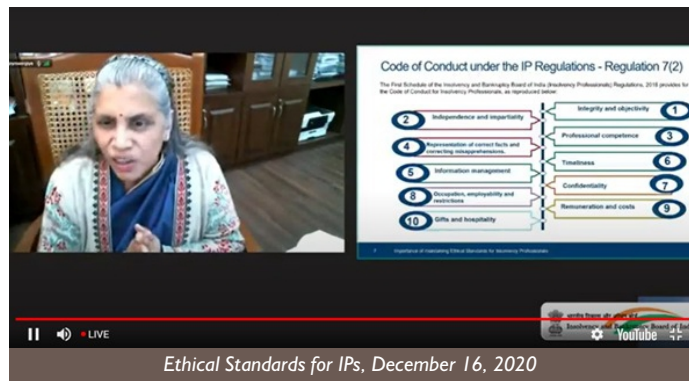
Table 40: Advocacy and Awareness Programmes

Sl. No	Date	In Association with	Topic	Participation
1	22-10-20	FCDO, UK	Prepack Insolvency	Mr. Shukla, WTM
2	10-10-20	All India Radio	Career Opportunities for IPs	Dr. Saini, WTM
3	11-10-20	All India Radio	Career Opportunities for RVs	Dr. Saini, WTM
4	23-10-20	British High Commission	Liquidation Framework in UK	Mr. Saji Kumar, ED
5	03-11-20	Government of Rajasthan	IBC	Mr. Saji Kumar, ED
6	10-11-20	Government of Odisha	IBC	Mr. Shukla, WTM
7	19-11-20	DGFT	IBC	Mr. Shukla, WTM
8	20-11-20	NLIU, Bhopal	IBC & IBBI: Road Ahead	Mr. Shukla, WTM
9	21-11-20 & 22-11-20	IICA	Professional Ethics and Code of Conduct for IPs	Mr. Saji Kumar, ED
10	25-11-20	Government of Odisha	IBC	Mr. Shukla, WTM
11	11-11-20	Indian Banks' Association	Shepherding Valuation Profession	Dr. Saini, WTM
12	26-11-20	British High Commission	Negotiation Skills for IPs	Mr. Gupta, CGM
13	30-11-20	British High Commission	Pre-Pack Insolvency Resolution	Mr. Shukla, WTM
14	16-12-20	British High Commission	Ethical Standards for IPs	Dr. Vijayawargiya, WTM
15	18-12-20	GNLU and UNCITRAL RCAP	Insolvency Law & CISG@40	Chairperson

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 41.

Table 41: Participation of Senior Officers in Programmes

Sl. No.	Date	Organiser	Subject	Participation
1	12-10-20	INSOL	Practical Challenges arising from the crisis	Dr. Vijayawargiya, WTM
2	13-10-20	GNLU	Overview of IBC 2016, IBBI, IPA and IU	Mr. Ray Chaudhuri, CGM
3	14-10-20	FICCI	Investment Opportunities for Stressed Assets in India	Mr. Shukla, WTM
4	16-10-20	INSOL	Impact of the Pandemic on SMEs	Dr. Vijayawargiya, WTM
5	24-10-20	IIPI	Insolvency Resolution Paradigm: Global Headwinds & Responses	Dr. Vijayawargiya, WTM
6	25-10-20	IIPI	International Perspective Managing Cross Border Insolvency	Dr. Vijayawargiya, WTM
7	24-10-20	IIPI	Group Insolvency Framework: Early Lessons	Dr. Saini, WTM
8	12-11-20	WIRC of ICSI	Insolvency and Bankruptcy of Personal Guarantors	Mr. Das, DGM
9	11-12-20	IOV RVF	IOV Congress	Dr. Saini, WTM
10	12-12-20	EBC Publishing	IBC Book Release	Chairperson
11	19-12-20	ICSI IIP	Insolvency in Real Estate	Chairperson
12	29-12-20	ICSI IIP	Personal Guarantors to Corporate Debtors	Mr. Das, DGM
13	30-12-20	IICA	Capstone Exercise	Chairperson



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