



भारतीय विवाला और शोधन अड्डनता बोर्ड
Insolvency and Bankruptcy Board of India

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Insolvency and Bankruptcy News

The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India

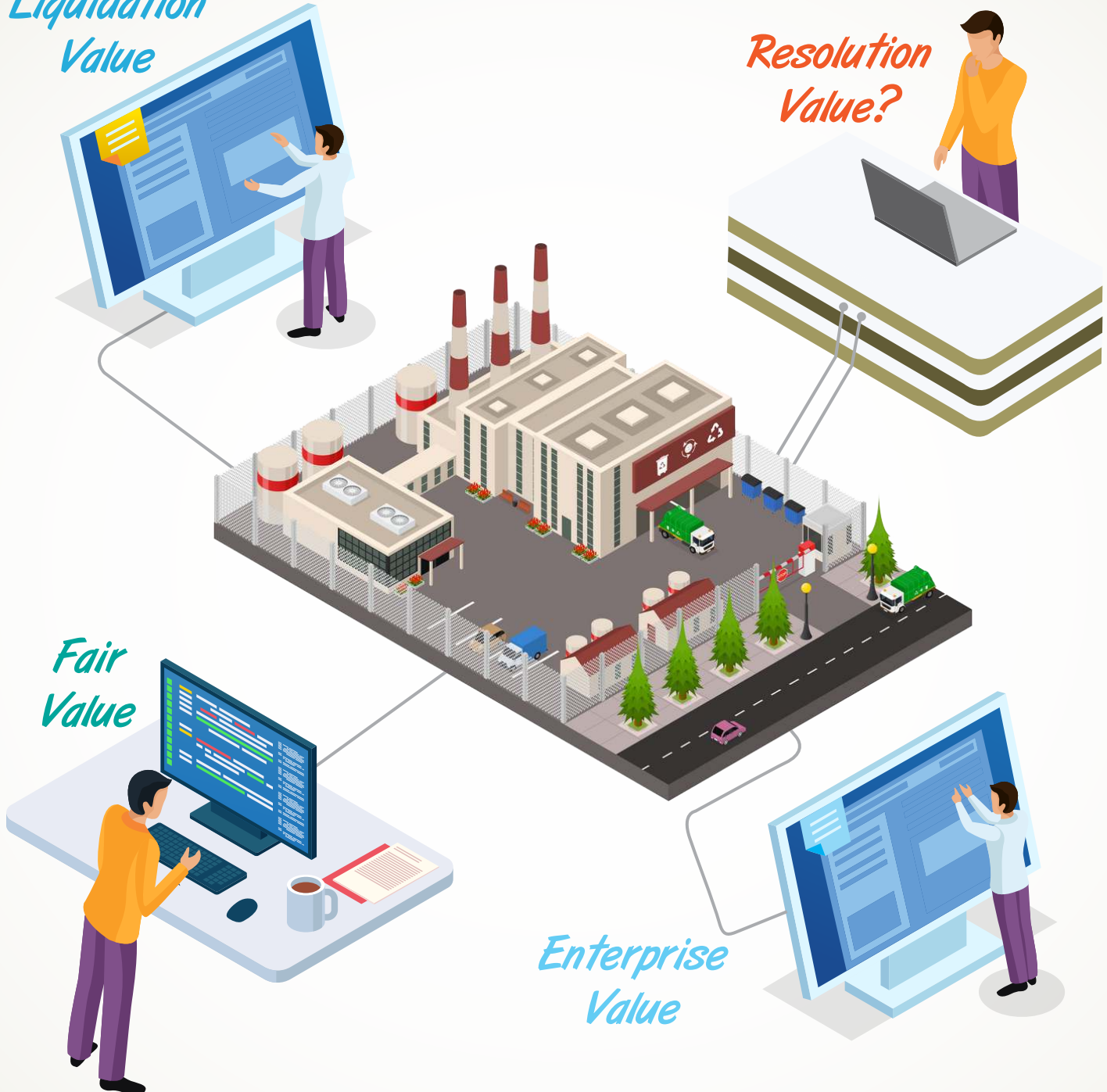
January - March, 2020 | Vol. 14

*Liquidation
Value*

*Resolution
Value?*

*Fair
Value*

*Enterprise
Value*



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“Due to the Insolvency and Bankruptcy Code, nearly ₹3.5 lakh crore have also been recovered by the banks and other institutions.”

Hon'ble President of India in this address to the Joint Session of Parliament on January 31, 2020

“साथियों, आजकल insolvency और bankruptcy code IBC की इतनी चर्चा होती है, लेकिन ये सिर्फ इतना पैसा वापस आया, उतना पैसा वापस आया— वहां तक ही सीमित रहती है। लेकिन वो उससे भी आगे है। आप सभी ये बेहतर जानते हैं कि कुछ स्थितियों में धंधे से बाहर निकलना ही कई बार समझदारी माना जाता है। ये जरूरी नहीं की जो कंपनी सफल न हो रही हो, उसके पीछे कोई साजिश ही हो, कोई गलत इरादा हो, कोई लालच होय ये जरूरी नहीं है। देश में ऐसे उद्यमियों के लिए एक रास्ता तैयार करना आवश्यक था और IBC ने इसका आधार तय किया। आज नहीं तो कल, इस बात पर अध्ययन जरूर होगा कि IBC ने कितने भारतीय उद्यमियों का भविष्य बचाया, उन्हें हमेशा—हमेशा के लिए बर्बाद होने से रोका।”

Hon'ble Prime Minister in his address at the centenary celebrations of Kirloskar Group on January 6, 2020

“मुक्ति का ये अभियान कॉर्पोरेट वर्ल्ड में भी चला। IBC बनाकर हमने Status Quo बदला और हजारों करोड़ रुपए की वापसी सुनिश्चित करने के साथ ही, मुसीबत में फंसी कंपनियों को एक मार्ग भी दिखाया। वरना हमारे वहां one way था आ तो सकते थे लेकिन निकल नहीं सकते थे हमने निकलने के लिए भी अवसर पैदा किये हैं।”

Hon'ble Prime Minister in his address at Global Business Summit by Economic Times on March 6, 2020

The Art of Value Maximisation in CIRP

A unidirectional approach is antithetical to value maximisation, while higher level of information adds value to value maximisation.

Through this Column I have been attempting to explain the several features of the Code that drive value maximisation. Value, however, is a misnomer and has several context specific shades and colours in the commercial world. One needs to tread carefully while aiming to maximise the value in a corporate insolvency resolution process (CIRP), as unidirectional approach may yield sub-optimal outcomes. The following may help in appreciating some of the dynamic aspects in practice.

Value ≠ Price: The Code envisages maximisation of 'value', and not maximisation of 'price'. The value improves if business is continued and its assets are used more efficiently. Efficiency may improve from a change of management, technology, or product portfolio; acquisition or disposal of assets, businesses or undertakings; restructuring of the organisation, business model, ownership, or balance sheet; strategy of turn-around, buy-out, acquisition, or takeover; and so on. The Code, therefore, envisages a resolution plan to provide for anything and everything, subject to applicable laws, that maximises the value of assets. It provides for CIRP whereby a collective body of creditors, namely, committee of creditors (CoC) and resolution applicants interact with one another to arrive at a resolution plan that maximises the value of the assets of the CD. For this purpose, the CoC applies its mind on the feasibility and viability of resolution plans and capability as well as credibility of resolution applicants. The Code does not envisage a sale whereby a buyer pays a sum of money, called 'price', to the seller in exchange of the CD or its assets. If it were so, the CD could be simply placed on an auction platform and sold to the highest bidder to maximise the price.

CD ≠ Claimants: Though the Code envisages maximisation of value of assets, the CoC, at times, has a dilemma, whether the resolution plan should maximise value of the assets of the CD or realisations for claimants or both. Differently put, whether to maximise the interests of the CD or of claimants? Infusion of funds to the CD may improve the value of assets but may not improve realisation for a claimant. Similarly, a lower hair cut improves realisations for a claimant but may not improve value of assets. Thus, maximisation of value for claimants may not always maximise the value of the assets of the CD and vice versa. Further, claimants are not a homogeneous lot. A resolution plan may yield different realisations for different claimants. Thus, a creditor has further dilemma whether to maximise realisations for the class of claimants he belongs to or for all claimants.

Yet another dilemma is whether to maximise value for shareholders who do not submit a claim during the CIRP. A resolution plan typically provides for the amounts payable to claimants. This is based on the premise that by the time a CD gets into CIRP, its equity is zero or negative. This premise may not always hold good. A default, which is the trigger for CIRP, does not necessarily mean that the value of equity is completely eroded. Recognising this, the Code entitles the shareholders to receive the balance sale proceeds of liquidation estate after all claims are fully satisfied, and does not mandate a resolution plan to cancel the existing shares. Withdrawal of large number of applications for CIRP, before or after admission, and satisfaction of all claims in full in some CIRPs evidence this.

Resolution value (RV) ≠ Enterprise value (EV): Sans technical niceties and nuances, EV means the present value of future anticipated earnings of the CD, which one is willing to pay to acquire it as a going-concern, along with its work force, operational plants, licenses and

systems, customer base, and brand value. There is no definition of RV in the Indian context. The US Courts have defined reorganization value, equivalent of RV in the US context, as the present value of future anticipated earnings of the CD. RV intuitively means the amount paid under a resolution plan that results in the resolution applicant acquiring complete ownership and control of the assets of a CD as a going concern. In this sense, RV equals EV.

However, in common parlance, RV refers to the amount of money a resolution applicant puts on the table for resolution of a CD as a going concern. It is less than EV to the extent the resolution plan allows pre-resolution shareholders to continue with the CD, post-resolution. It is more than EV to the extent the resolution plan provides for purposes, such as, infusion of funds to rehabilitate / scale up the business post-resolution, over and above settlement of all claims. It varies from EV depending on the strategy of resolution. For example, if a resolution plan converts all claims to equity, RV could be zero. Many other factors, including market imperfections, contribute to RV diverging from EV.

LV ≠ Realisable value: LV is estimated realisable value of the assets of the CD if it were liquidated on the insolvency commencement date (ICD). While taking a decision whether to accept a resolution plan, one often considers LV as the default outcome. This is based on the premise that at least LV would be realised on liquidation. Very simplistically, consider three dates: CIRP commences on March 31, 2019, liquidation process commences on March 31, 2020 after failure of CIRP, and sale proceeds of liquidation estate is realised on March 31, 2021. The LV is 200 on the ICD. As value usually declines with time, it may reduce to 195 by March 31, 2020 and further to 190 by March 31, 2021. If cost of realisation is 3 and cost of redeployment is 2, net realisation is 185. The NPV of realisation of 185 on March 31, 2021 is 180 on March 31, 2020, when resolution plan is considered and rejected. Hence the realisable value is 180, while LV is 200.

The above nuances demonstrate that decisions involving values cannot be straight jacketed as either black or white. One does not decide in favour of X because A exceeds B. Such decisions require tremendous commercial wisdom and cannot be scrutinised ex-ante to determine if it is appropriate. That is why the Code empowers the CoC to take commercial decisions, after application of mind, and keeps such decisions beyond judicial scrutiny. It does not prohibit approval of a resolution plan where RV is less than EV or even LV, or rejection of a resolution plan where RV exceeds LV or even EV.

The CIRP of *United Seamless Tubulaar Pvt. Ltd.* is instructive in this regard. The CoC and subsequently the Adjudicating Authority (AA) approved a resolution plan that provided for an upfront payment of ₹477 crore. On an appeal, the NCLAT directed the resolution applicant to modify the plan to increase upfront payment to ₹598 crore, which is the average liquidation value. On further appeal, the Supreme Court, in *Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh & Ors.*, observed that there is no provision in the Code or regulations which prescribes that the RV has to match the LV and that the object behind prescribing the valuation process is to assist the CoC to take an appropriate decision on a resolution plan. It reiterated that once a resolution plan is approved by the CoC, the AA ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan itself.

Table: Decision on Resolution Plans

| Description | CD I | CD 2 | CD 3 |
|---------------------------------|-------------|--------|--------|
| Information Level I | | | |
| Liquidation Value | 200 | 200 | 200 |
| Resolution Value | 190 | 190 | 190 |
| Decisions | Reject | Reject | Reject |
| Information Level II | | | |
| Liquidation Value | 200 | 200 | 200 |
| Debt Claims | 150 | 200 | 250 |
| Resolution Value | 190 | 190 | 190 |
| Decision | Accept | Reject | Reject |
| Information Level III | | | |
| Liquidation Value | 200 | 200 | 200 |
| Debt Claims | 150 | 200 | 250 |
| Realisable Value on Liquidation | 180 | 180 | 180 |
| Resolution Value | 190 | 190 | 190 |
| Decision | Accept | Accept | Accept |
| Information Level IV | | | |
| Liquidation Value | 200 | 200 | 200 |
| Debt Claims | 150 | 200 | 250 |
| Realisable Value on Liquidation | 180 | 180 | 180 |
| Resolution Value | 190 | 190 | 190 |
| Break-up of | Debt Claims | 130 | 180 |
| Resolution | Equity | 10 | 00 |
| Value | Induction | 50 | 00 |
| Decision | Reject | Accept | Accept |

Let us delve into this a little deeper with an example (Table above). Assuming that the CoC is maximising interests of its creditors, it would accept a resolution plan, where the sum available for creditors is not less than their claims or the realisable value, whichever is lower. There are three CDs with a LV of 200 each, as presented in the table. The best resolution plan in each case offers a RV of 190 each. With this level of

information, the CoC is likely to reject resolution plans in respect of all three CDs. While the LV is same for all three CDs, the debt claims varies across them, as captured in the next level of information. The CoC is likely to accept resolution plan for CD I, RV being more than debt claims. The next level of information captures the realisable value, where the CoC accepts resolution plans in case of all three CDs, the RV being more than realisable value. Let us introduce further information, which breaks up RV, purpose-wise. Since the RV towards debt claims is less than the realisable value on liquidation, resolution plan in respect of CD I is likely to be rejected. Thus, with the first level of information, resolution plan in respect of all three CDs are rejected, while all three are accepted with the third level of information. The resolution plan in respect of each CD is accepted at two levels of information and rejected at other two levels of information. The above working assumes that the CD has only one kind of debt and it is secured, the CoC is maximising the interests of creditors, and the RV, LV, realisable value, etc. are exogenous variables to keep the decision making simple. It avoids host of complications associated with determination of RV or LV, different objective functions of members of the CoC, etc. Yet the decision changes with every additional piece of information.

With this understanding, the Code avoids prescribing any rule or formula for decision making. It leaves it to the wisdom and ingenuity of the financial creditors to decipher the colours and, if higher degree of information is available, the shades as well. Though value maximisation is constrained optimisation, those constraints get relaxed with higher degree of information, making it a colourful art, rather than a bland, black and white arithmetical calculation.

(Dr. M. S. Sahoo)



NCLAT and NCLT Colloquium at New Delhi on March 7, 2020

IBBI Updates

Annual Report and Annual Accounts 2017-18

In accordance with the Insolvency and Bankruptcy Board of India (Annual Report) Rules, 2018, the Annual Report of the IBBI, for the year 2017-18, was laid before the Lok Sabha and the Rajya Sabha on March 16, 2020 and March 17, 2020, respectively. Further, as per the provisions of the Insolvency and Bankruptcy Board of India (Form of Annual Statement of Accounts) Rules, 2018, the Annual Accounts of the IBBI, for the year 2017-18, were laid before the Rajya Sabha and the Lok Sabha on March 17, 2020 and March 23, 2020 respectively.

International Women's Day Celebration

IBBI organised a Seminar on the occasion of International Women's Day at New Delhi on March 8, 2020. The Seminar featured the key note address by Ms. Meenakashi Lekhi, Hon'ble Member of Parliament and Chairperson, Committee on Public Undertakings, Lok Sabha; special address by Dr. M. S. Sahoo, Chairperson, IBBI and address by Dr. (Ms.) Mukulita Vijayawargiya, Whole Time Member, IBBI followed by two panel discussions on the themes "Women and Professions in India: Breaking the Glass Ceiling" chaired by Ms. Maneesha Dhir, Advocate; and "Women as Insolvency Professionals and Registered Valuers" chaired by Ms. Mamta Binani, Insolvency Professional.

Ms. Lekhi emphasised the convergence of virtues in a woman to restructure and manage social and personal relationships; and to further the objectives of the IBC to resolve stressed assets rather than liquidating the same. Citing examples of permanent commission in the armed forces, she pointed out that genderisation of the society has proved to be a failure.



Ms. Meenakashi Lekhi at the Seminar on International Women's Day, March 8, 2020

Contribution to PM-CARES Fund

The employees of IBBI contributed ₹5 lakh to the Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund set up for providing relief to those affected by the outbreak of COVID-19 pandemic.

Office Closure for Lockdown

In pursuance of an Order dated March 24, 2020 of the Ministry of Corporate Affairs (MCA) ordering closure of all offices of MCA and autonomous bodies under MCA in the view of health hazard posed by the ensuing COVID-19 pandemic, the offices of IBBI were closed for a period of 21 days with effect from March 25, 2020. However, all officers and employees of IBBI continued to work from home.

Evidence before Parliamentary Committees

In connection with examination of the rules and regulations relating to

personal guarantors to corporate debtors notified respectively by the MCA on November 15, 2019 and IBBI on November 20, 2019, Dr. M. S. Sahoo, Chairperson, IBBI along with senior officers of IBBI and of the Ministry appeared before the Lok Sabha Committee on Subordinate Legislation on January 9, 2020.

In connection with examination of the RBI Prudential framework for stressed assets, Dr. M. S. Sahoo, Chairperson, IBBI along with senior officers of the Ministry appeared before the Rajya Sabha Committee on Subordinate Legislation on January 17, 2020.

In connection with the examination of the Insolvency and Bankruptcy Code (Second Amendment) Bill, 2019 and Demand for Grants of the MCA, Dr. M. S. Sahoo, Chairperson, IBBI, along with senior officers of the IBBI and of the Ministry appeared before the Standing Committee on Finance on February 24, 2020.

Employee Trainings and Workshop

IBBI organised the following workshops and trainings for its officers:

| Date | Nature of Programme/Subject | Faculty |
|----------------------|--|---|
| 09-01-20 | Cross Border Insolvency | Ms. Kanika Kitchlu-Connolly, Partner, TLT LLP, UK and Mr. Prashan Patel, Associate Director, Grant Thornton, UK |
| 20-01-20 | Cross Border Insolvency | Ms. Kay V. Morley, Partner and Mr. Barnaby Stueck, Partner, Jones Day Law Firm, UK |
| 23-01-20 to 24-01-20 | Enforcement (Complaints, Inspections, Show Cause Notices and Adjudication) | Mr. P. K. Nagpal, former Executive Director, SEBI. |
| 04-03-20 | Cross Border and Recovery of Assets Dissipated Abroad | Hon'ble Justice Mr. James Pickering, Queen's Counsel, UK |



Workshop on Cross Border Insolvency, January 20, 2020



Workshop on Enforcement, January 23, 2020



Workshop on Cross Border Insolvency, March 4, 2020



Talk by Hon'ble Mr. Ashok Kumar Mishra, February 6, 2020

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

| Date | Organised by | Nature of the Programme/ Subject | No. of Officers |
|----------------------|---|---|-----------------|
| 08-01-20 to 10-01-20 | FOIR & IICA | Regulatory Impact Assessment | 02 |
| 10-02-20 to 12-02-20 | High Commission of India | Seminar on Bankruptcy and Distressed Investment Market in India and Meeting with UK Insolvency Services | 02 |
| 13-02-20 to 14-02-20 | FCO, UK | Insolvency Knowledge Exchange Programme | 01 |
| 12-02-20 to 14-02-20 | Indian Institute of Management, Kolkata. | Fintech for Leadership in the Digital World | 02 |
| 14-02-20 to 28-02-20 | Ministry of Law & Justice, Legislative Department | 23 rd Appreciation Course in Legislative Drafting | 02 |
| 24-02-20 to 26-02-20 | IBIS, Pune, Hinjewadi. | INS-AS (Indian Accounting Standards) | 01 |
| 04-03-20 to 06-03-20 | MCA through IICA | Governance, Regulatory and Compliance Management with respect to Goals and Functions of MCA | 01 |



Talk by Hon'ble Mr. B. S. V. Prakash Kumar, February 5, 2020

Distinguished Speakers

The following distinguished speakers delivered talks and interacted with the officers of IBBI:

| Date | Distinguished Speaker | Topic |
|----------|--|---|
| 31-01-20 | Hon'ble Mr. V. P. Singh, Member (Technical), NCLAT | My Brush with IBC |
| 05-02-20 | Hon'ble Mr. B. S. V. Prakash Kumar, Member (Judicial) & Acting President, NCLT | Adjudication Orders |
| 06-02-20 | Hon'ble Mr. Ashok Kumar Mishra, Member (Technical), NCLAT | IBC |
| 20-02-20 | Dr. Arghya Sengupta, Research Director, Vidhi Centre for Legal Policy | Lions on the Throne: The Supreme Court of India and Judicial Independence |



Talk by Hon'ble Mr. V. P. Singh, January 31, 2020



Talk by Dr. Arghya Sengupta, February 20, 2020

Legal And Regulatory Framework

Measures in the wake of COVID-19 outbreak

In the wake of COVID-19 pandemic across the world, including India, the Government of India took several measures to help contain the spread of the disease. It announced a nationwide lockdown for 21 days with effect from March 25, 2020. The pandemic as well as the measures impacted

the insolvency ecosystem, the stakeholders and the ongoing insolvency proceedings. This disrupted business operations, particularly of MSMEs, which may push some of them to default in servicing debt obligations. Several measures were taken in the insolvency space to ameliorate their hardships. They are listed below:

Central Government

Threshold for triggering CIRP

With the intent to prevent MSMEs from being pushed into insolvency for their inability to meet their repayment obligations due to business disruptions, the Government, vide notification dated March 24, 2020, increased the threshold amount of default required to initiate an insolvency proceeding from ₹1 lakh to ₹1 crore.

Intention to suspend certain provisions

Vide a press release dated March 24, 2020, the Government expressed intention to suspend sections 7, 9 and 10 of the Code, which enable filing applications to initiate insolvency, for six months, to stop companies from being pushed into insolvency proceedings in such force majeure causes of default if the current situation continues beyond April 30, 2020.

Courts/Tribunals

NCLT on Closure of Filing

Vide notice dated March 19, 2020, NCLT closed filing counters till March 27, 2020. Vide further notice dated March 22, 2020, it closed till March 31, 2020 except for unavoidable urgent matters. It clarified that extension of time, approval of resolution plan and liquidation under the Code would not be construed as urgent matters.

Supreme Court on Extension of Limitation

Vide its order dated March 23, 2020, the Supreme Court took suo motu cognizance of the challenge faced by the country on account of COVID-19 disease and resultant difficulties litigants are facing in filing their petitions/applications/suits/ appeals/all other proceedings within the period of limitation. In exercise of its powers under Article 142 read with Article 141 of the Constitution, it ordered that the period of limitation in all such proceedings shall stand extended with effect from March 15, 2020 till further orders, and declared that the order shall be a binding order within the meaning of Article 141 on all Courts/Tribunals and authorities.

NCLAT on Exclusion of Time

The NCLAT took suo motu cognizance of the unprecedented situation arising out of spread of COVID-19 pandemic and the hardships being faced by various stakeholders to adhere to the prescribed timelines for taking the 'Resolution Process' to its logical conclusion. In exercise of its powers under rule 11 of the National Company Law Appellate Tribunal Rules, 2016, the NCLAT, vide order dated March 30, 2020 decided that the period of lockdown ordered by the Central Government and the State Governments, including the period as may be extended either in whole or part of the country, where the registered office of the corporate debtor may be located, shall be excluded for the purpose of counting of the period for Resolution Process under section 12 of the Code, in all cases where CIRP has been initiated and pending before any Bench of the NCLT or in appeal before NCLAT. It further ordered that any interim order/ stay order passed by the NCLAT in anyone or the other appeal under the Code shall continue till next date of hearing.

IBBI

Advisory to IPAs

Having regard to the difficulties the IPAs may encounter to deliver pre-registration educational courses through classroom sessions, IBBI issued advisory encouraging IPAs to deliver such courses online for their

professional members. To minimise difficulties for the prospective IPs, it was advised that pre-registration educational courses completed online would be accepted for registration.

Advisory to RVOs

Having regard to the difficulties the RVOs may encounter to deliver educational courses and continuing professional education through classroom sessions, IBBI issued an advisory encouraging RVOs to deliver educational courses and continuing education online for their professional members. Further, to minimise difficulties for the registered valuers and valuer members, it advised that such courses completed online, and continuing education undertaken online shall be considered valid.

Suspension of Examinations

IBBI suspended enrolment for the Limited Insolvency Examination and the Valuation Examinations from March 21, 2020 till April 14, 2020. It allowed the candidates option to reschedule their enrolments.

Amendments to CIRP regulations

IBBI amended the CIRP Regulations, vide notification dated March 25, 2020, extending the date for filing Forms after due date of submission, whether by correction, updation or otherwise, till September 30, 2020. Such submission after September 30, will require a fee of ₹500.

Further, IBBI took cognizance of the difficulties for the IPs to continue to conduct the process, for members of CoC to attend the meetings, and for prospective resolution applicants to prepare and submit resolution plans, during the period of lockdown. Therefore, it may be difficult to complete various activities during a CIRP within the timelines specified in the CIRP Regulations. To address the difficulty, IBBI amended the CIRP Regulations, vide notification dated March 29, 2020, to provide that the period of lockdown imposed by the Central Government in the wake of COVID-19 outbreak shall not be counted for the purposes of the time-line for any activity that could not be completed due to the lockdown, in relation to a CIRP, subject to the overall time-limit provided in the Code.

Amendments to IP Regulations

Taking note of the fact that IPs and IPEs may find it difficult to adhere to various timelines stipulated in the IP Regulations in the wake of COVID -19, IBBI amended the IP regulations, vide notification dated March 28, 2020, extending the last date for payment of fee for the year 2019-20 from April 30, 2020 to June 30, 2020. It also allowed time up to 30 days for the IPEs to inform the Board about appointment and cessation of its directors / partners from the date of such appointment or cessation.

Amendments to Model Bye-Laws Regulations

IBBI amended the IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agencies) Regulations, 2016, vide notification dated March 28, 2020, allowing IPAs to issue Authorisation for Assignment (AFA) within one month from the date of application for the same. It further relaxed the time for filing an appeal against order of rejection of AFA application within one month from date of receipt of such order.

Reserve Bank of India

The Reserve Bank of India (RBI) permitted lending institutions to allow a moratorium of three months on payment of instalments in respect of all term loans outstanding as on March 1, 2020. It also permitted them to allow a deferment of three months on payment of interest in respect of working capital facilities outstanding as on March 1, 2020.

Central Government

Insolvency and Bankruptcy Code (Amendment) Act, 2020

The Insolvency and Bankruptcy Code (Amendment) Bill, 2019 was introduced in the Lok Sabha on December 12, 2019. It was referred to

the Standing Committee on Finance (SCF) on December 23, 2019 for examination and report thereon. Pending examination by the SCF, the Government promulgated the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019 on December 28, 2019. The SCF submitted its report on March 4, 2020. After considering the report, the Parliament enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2020, which replaced the Insolvency and Bankruptcy Code (Amendment) Ordinance, 2019.

Report of the Standing Committee on Finance

While endorsing the Insolvency and Bankruptcy Code (Amendment) Bill, 2019, the SCF recommended deletion of clause 5(b), that mandates supply of critical services to a CD under CIRP. It recommended that market forces should resolve whether a supplier decides to supply to a CD, as there are limited resources available and each supplier has a limited capacity, which needs to be channelised and allocated in the best interest of the economy and not directed solely towards keeping the CD alive. It believed that over-legislation through the Bill must be avoided and the process of delegated legislation through formulation of rules by IBBI be followed to strike a harmonious balance between the needs and concerns of stakeholders in question, namely, the CD, IRP trying to revive the CD and the supplier of critical/essential goods. In this context, the SCF emphasised that payments due to MSMEs, who are OCs and not part of the CoC, should be ensured on priority in the course of the resolution process itself, before the liquidation stage commences.

Further, the SCF observed as under:

“Nonetheless, a much more strategic approach to strengthening the insolvency framework is required. Developing such a strategic approach requires detailed analysis along three dimensions. First, empirical evidence should be collected on the performance of the insolvency framework to date. This should include inter alia cases admitted across various benches, cases by industry/sector, experiences of various stakeholders, time for resolution, type of resolution, eventual recovery by resolution type, and impact on employment and other output indicators. This empirical evidence should be updated every quarter and published in the public domain. Second, the Indian insolvency framework should now be carefully benchmarked against other jurisdictions to evaluate outcomes and assess resolution efficiency against competitor nations. Empirical evidence and benchmarking analysis should identify which major gaps still need to be addressed and the extent to which Indian case law needs to be further refined. Finally, the interdependent roles of legislation, rule-making, adjudication, and informal norms need to be evaluated to close these identified gaps. The Committee notes that there is considerable ambiguity on which policy lever is most appropriate to address which issue. Further legislation needs to be informed by such comprehensive analysis. Accordingly, the Committee intends to conduct further hearings on this matter so that a more strategic approach can be evolved to strengthen the insolvency framework for India.”

Extension of the Code to the whole of India

The Jammu and Kashmir Reorganisation (Adaptation of Central Laws) Order, 2020 dated March 18, 2020, omitted the proviso to sub-section (2) of section 1 of the Code, extending it to the whole of India.

Interim finance

Vide notification dated March 18, 2020, the MCA notified that a debt raised from the “Special Window for Affordable and Middle-Income Housing Investment Fund I” shall be considered as interim finance under clause (15) of section 5 of the Code.

Committee on Cross Border Insolvency

The MCA, vide an order dated January 23, 2020, constituted a committee under chairpersonship of Dr. K. P. Krishnan, former Secretary to the

Government of India, to study and analyse the recommendations of Insolvency Law Committee on cross border insolvency and the proposed draft Bill and also to recommend rules and regulatory framework for smooth implementation of the proposed cross border insolvency provisions in the Code. Vide another order dated February 21, 2020, the remit of the Committee was expanded to study and analyse the UNCITRAL Model Law for enterprise group insolvency and make its recommendations in the context of the Code.

Third-party assets

The Central Government, in consultation with the RBI, notified on January 30, 2020 the manner of dealing with the third-party assets in custody or possession of financial service providers (FSPs) undergoing CIRP. It specified that where an FSP is contractually obliged, as on the insolvency commencement date (ICD), to act as a servicing or collection agent on behalf of third parties in respect of a transaction such as securitisation or lending arrangement, the Administrator shall ensure that the receivables are collected and transferred in accordance with the terms and conditions of such contract. Further, where the FSP has, as on the ICD, in its custody or possession assets owned by its customers or counterparties under a contract, and is under an obligation to return or transfer such assets, the Administrator shall return or transfer such assets to the person entitled to receive it in accordance with the terms and conditions of such contract.

Filings on MCA-21

Vide circular dated February 17, 2020, MCA specified the procedure for IRPs/RPs/liquidators conducting CIRP and liquidations under the Code to file documents, disclosures and returns for the purposes of compliance under the Companies Act, 2013 on the MCA-21 portal. In supersession of the said circular, MCA, vide circular dated March 6, 2020, clarified that IRP/RP/Liquidator shall be responsible for filing all eforms on the MCA portal and sign the forms in the capacity of CEO. It further clarified that the concerned IRP/RP/Liquidator of every company which was under CIRP prior to the issue of this circular, shall also file the eforms. Government amended the Companies (Registration Offices and Fees) Rules, 2014 on March 12, 2020 to enable filings under the Code.

NCLAT Bench at Chennai

MCA constituted a Bench of the NCLAT at Chennai, vide notification dated March 18, 2020 to hear appeals against the orders of the benches of the NCLT having jurisdiction of Karnataka, Tamil Nadu, Kerala, Andhra Pradesh, Telangana, Lakshadweep and Puducherry.

Payment of CGST

Vide notification dated March 21, 2020, the Central Government provided that an IRP/IP shall, with effect from the date of appointment of IRP / RP, be treated as a distinct person of the CD, and shall be liable to take a new registration under the Central Goods and Services Tax Act, 2017 in each of the States or Union territories where the CD was registered earlier, within 30 days of the appointment. He can thereafter pay current levies of GST without the mandatory payment of past dues.

Economic Survey, 2019-20

The Economic Survey of the Government of India for 2019-20 (Chapter 4 of Volume II), presented to the Parliament on January 30, 2020, noted the commendable progress made under the Code since its enactment, in terms of its use by stakeholders and the development of an ecosystem of service providers. The realisations under the Code for FCs and time taken for the same were noted as being better than those under other available avenues for resolving distressed assets in the country. Further, it noted that the Goods and Services Tax and the Code top the list of reforms that have propelled India's rise in rankings in the World Bank's

Doing Business Report for the year 2020 (Chapter 6 of Volume I).

Report of Insolvency Law Committee

The ILC submitted its 3rd Report on February 20, 2020. Some of the key recommendations of the ILC are as under:

(a) CIRP

(i) The threshold amount of default for initiating CIRP should be enhanced from ₹1 lakh to ₹50 lakh. However, the OCs should be allowed to have recourse to CIRP on a minimum default of ₹5 lakh.

(ii) For a class of creditors under section 21(6A), the CIRP should be initiated by at least 100 creditors or 10 per cent of total number of creditors in the class.

(iii) The provision relating to moratorium should explicitly prohibit termination or suspension of grants, licenses, permits and quotas, concessions, registrations, or other rights, during the moratorium period, subject to the CD continue to be liable for dues arising out of continued use of such grants, etc. However, termination or suspension of such grants on account of non-insolvency reasons would not be barred by the moratorium.

(iv) Supplies that are critical to running the CD as a going concern and would contribute to the preservation of the CD's value and success of the resolution plan should not be terminated, suspended or interrupted, except in certain specific circumstances. The supplies that would be considered critical should be identified by the RP, who is entrusted with the responsibility of running the CD as a going concern. The suppliers of such supplies should be paid during the moratorium period on an on-going basis, on the same terms as those that existed pre-insolvency or on a reasonable commercial basis.

(v) Where the CD is successfully resolved, it should not be held liable for any offence committed prior to commencement of the CIRP. However, the persons, who were responsible to the CD for conduct of its business at the time of commission of such offence, should continue to be liable for such an offence.

(vi) The property of a CD, when taken over by a successful resolution applicant, or when sold to a bona fide bidder in liquidation under the Code, should be protected from enforcement action. However, this protection of the CD's assets should in no way prevent the relevant investigating authorities from taking action against the property of persons in the erstwhile management of the CD, that may have been involved in the commission of the criminal offence.

(b) Liquidation Process

(i) The leave of the AA should be required for continuing any suit or legal proceeding by or against a CD undergoing liquidation.

(ii) The Code should enable appointment of the Official Liquidator for the liquidation of a CD, which has a minimum value, as prescribed by the Central Government, and whose liquidation involves public interest, to carry out the functions of the liquidator. The office of the Official Liquidator should be subject to regulation and supervision of IBBI.

(iii) The recourse to section 30 of the Companies Act, 2013 for effecting schemes of arrangement or compromise should not be available during liquidation of the CD. An appropriate process to allow the liquidator to effect a compromise or settlement with specific creditors should be devised under the Code.

(c) Avoidance Transactions

(i) The Code should explicitly provide that the resolution professional will be responsible for investigating the affairs of the CD for transactions falling within sections 43, 45, 49, 50 or 66.

(ii) The Code should enable creditors (individual or in groups) and the

CoC to file applications in case the IP fails to do so.

(iii) The AA should decide whether the recoveries that vest with the CD should be applied for the benefit of the creditors of the CD, the successful resolution applicant or other stakeholders.

(d) Fresh Start Process

(i) It may be appropriate to designate IBBI as the supervising authority for the fresh start process. Dedicated officers should be appointed to discharge the functions in relation to supervision of the fresh start process.

(ii) A cadre of insolvency advisers should be created with presence up to district level across the country.

(iii) An insolvency advisor should file an application for the fresh start process (FSP) on behalf of a debtor. He would inform the debtor about the implications and effects of undertaking the FSP. He should verify if the debtor meets the eligibility criteria for the FSP and has adequate documentation to establish so.

(iv) The debtors should be able to access the FSP effortlessly. This should be conducted on a digital platform.

(v) Government may consider installing booths in various districts where debtors can receive aid and assistance for electronically filing a fresh start application.

(e) Personal Insolvency

(i) Filing of avoidance actions should be permitted during both the individual insolvency and bankruptcy processes.

(ii) Regulatory authorities under the Code may undertake steps to develop infrastructure that aid debtors in effectively utilizing mechanisms such as debt settlement, mediation, and debt counselling. Further, efforts should be made at making debtors aware of various options available to them to resolve their over-indebtedness through both formal and informal mechanisms, by undertaking awareness campaigns and advocacy measures.

Companies (Audit Report) Order, 2020

In supersession of the Companies (Auditor's Report) Order, 2016, the Central Government notified the Companies (Auditor's Report) Order, 2020 (CARO, 2020) on February 25, 2020 in pursuance of its objective of strengthening the corporate governance framework under the Companies Act, 2013. The CARO, 2020 is applicable for audit of financial statements of eligible companies for the financial years commencing on or after April 1, 2019. It requires that the report of the auditor shall state whether the company has defaulted in repayment of loans or other borrowings or in the payment of interest thereon to any lender, and if so, provide the details of such default.

IBBI

Liquidation Process Regulations

IBBI amended the IBBI (Liquidation Process) Regulations, 2016 on January 6, 2020 to provide for the following:

(a) The amendment clarifies that a person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the CD, shall not be a party in any manner to a compromise or arrangement of the CD under section 230 of the Companies Act, 2013. It also clarifies that a secured creditor cannot sell or transfer an asset, which is subject to security interest, to any person, who is not eligible under the Code to submit a resolution plan for insolvency resolution of the CD.

(b) A secured creditor, who proceeds to realise its security interest, shall contribute its share of the insolvency resolution process cost, liquidation

process cost and workmen's dues, within 90 days of the liquidation commencement date. It shall also pay excess of realised value of the asset, which is subject to security interest, over the amount of its claims admitted, within 180 days of the liquidation commencement date. Where the secured creditor fails to pay such amounts to the liquidator within 90 days or 180 days, as the case may be, the asset shall become part of Liquidation Estate.

(c) A liquidator shall 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 CD. It also provides a process for a stakeholder to seek withdrawal from the Corporate Liquidation Account.

Voluntary Liquidation Process Regulations

IBBI amended the IBBI (Voluntary Liquidation Process) Regulations, 2017 on January 15, 2020 to provide that the liquidator shall 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 Voluntary 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 Corporate Voluntary Liquidation Account.

CIRP Regulations

The CIRP Regulations provided that filing of a Form after due date of submission, whether by correction, updation or otherwise, shall be accompanied by a fee of five hundred rupees per Form for each calendar month of delay after January 1, 2020. IBBI amended the Regulations on February 12, 2020 extending the date to April 1, 2020 for levy of fee. The Regulations were further amended on March 25, 2020, extending the date till September 30, 2020.

Guidelines for Technical Standards

IBBI modified the IBBI (Information Utilities) Regulations, 2017 (IU Regulations) on January 22, 2020, based on recommendations of the technical committee, giving the submitter an option of providing officially valid documents such as passport, driving license, Permanent Account Number, Voter's Identity Card issued by Election Commission of India, and Aadhaar letter/card or the e-Aadhaar (an electronically generated letter from the website of UIDAI).

Transfer of Membership

The Companies (Registered Valuers and Valuation) Rules, 2017, inter-alia, envisage that a member of an RVO may shift membership from one RVO to another, subject to prior permission of the Authority, i.e. the IBBI, for the same. The Rules require an RVO to employ fair, reasonable, just and non-discriminatory practices for enrolment and regulation of its members. It was, however, noted that a few RVOs were restricting transfer of membership by using dilatory tactics, charging unreasonable transfer fee, etc. IBBI, vide circular dated January 28, 2020, outlined the process of transfer of membership from one RVO to another.

Administrators Guidelines

IBBI issued the Guidelines for Appointment of Insolvency Professionals as Administrators under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, prepared in consultation with SEBI on February 27, 2020 to govern the preparation of a Panel of IPs for appointment as Administrators. The Panel is valid for a period of six months and a new Panel will replace the earlier one every six months. Accordingly, IBBI prepared the panel of IPs for April 2020 - September 2020 and shared the same with SEBI.

Corporate Liquidation Account

The Liquidation Regulations require IBBI to maintain and operate an Account to be called the Corporate Liquidation Account in the Public Accounts of India. It further provides that until the Corporate Liquidation Account is operated as part of the Public Accounts of India, IBBI shall open a separate bank account with a scheduled bank for deposit of the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process. For this purpose, IBBI opened two separate bank accounts (one for Liquidation Process and the other for Voluntary Liquidation Process) with PNB, and informed the details vide circular dated January 6, 2020.

Mr. Amit Sharma, Liquidator of M/s. Tirupati Ceramics Ltd., handed over a cheque of ₹4,54,84,145/- to Dr. M. S. Sahoo, Chairperson, IBBI towards unclaimed dividends/undistributed proceeds on January 10, 2020 for deposit in the Corporate Liquidation Account.



Mr. Amit Sharma handing over a cheque for ₹4.55 crore for deposit in the Corporate Liquidation Account, January 10, 2020

Orders

Supreme Court

Anuj Jain Interim Resolution Professional for Jaypee Infratech Limited Vs. Axis Bank Limited Etc. Etc. [Civil Appeal Nos. 8512-8527/2019 & other appeals]

In this matter, the CD, JIL had mortgaged its properties as collateral securities for the loans and advances made by the banks and FIs to its holding company, JAL. The AA held these as avoidance transactions (preferential, undervalued and fraudulent), which was set aside by the NCLAT. In appeal, the Supreme Court (SC) held as under:

(a) Preferential Transactions: A CD shall be deemed to have given a preference at a relevant time if: (i) there is a transfer of property or the interest thereof of the CD for the benefit of a creditor or surety or guarantor for or on account of an antecedent financial debt or operational debt or other liability; (ii) such transfer has the effect of putting such creditor or surety or guarantor in a beneficial position than it would have been in the event of distribution of assets in accordance with section 53; and (iii) preference is given, either during the period of two years/one year preceding the ICD when the beneficiary is a related/an unrelated party. However, such deemed preference may not be an offending preference, if it falls into any or both exclusions provided by section 43(3). Applying this ratio to the impugned transactions, the SC held that there had been transfers for the benefit of JAL, who is a related party of the CD; and the transactions have the effect of putting JAL in a beneficial position than it would have been in the event of distribution of assets being made in accordance with section 53. Thus, the CD has given a preference in the manner laid down in the Code.

(b) Look back period: It was submitted that the provisions of section 43, by their very nature, would come into operation at least one year after the enactment of the Code and else, it would be giving retrospective effect to these provisions which is not permissible. The SC observed that looking to the scheme of the Code and the principles applicable for the conduct of the affairs of a corporate person, it cannot be said that anything of a new liability has been imposed or a new right has been created. It cannot be said that the operation of the provision itself would remain in hibernation until such look-back period from the date of commencement of the provision comes to an end.

(c) Ordinary course of business: Section 43(3)(a) exempts transfers made in ordinary course of business of 'the corporate debtor or the transferee'. This calls for purposive interpretation. The expression 'or', appearing as disjunctive between the expressions 'corporate debtor' and 'transferee', ought to be read as 'and'. Therefore, a preference shall not include the transfer made in the ordinary course of the business of the CD and the transferee. Further, the SC observed that the transactions in question could be in the ordinary course of business of bankers but on the given set of facts, these do not fall within the ordinary course of business of the CD. The ordinary course of business of the CD is not providing mortgages to secure the loans obtained by its holding company and that too at the cost of its own financial health.

(d) Duties and responsibilities of RP: The RP shall-

(i) sift through all transactions relating to the property/interest of the CD backwards from the ICD and up to the preceding two years;

(ii) identify persons involved in the transactions and put them in two categories: (1) related party under section 5(24), and (2) remaining persons;

(iii) identify which of the said transactions of preceding two years, the beneficiary is a related party of the CD and in which the beneficiary is not a related party. The sub-set relating to unrelated parties shall be trimmed to include only the transactions preceding one year from the ICD;

(iv) examine every transaction in each of these sub-sets to find out whether (1) the transaction is of transfer of property of the CD or its interest in it; and (2) beneficiary involved in the transaction stands in the capacity of creditor/surety/guarantor;

(v) scrutinise the shortlisted transactions to find, if the transfer is for or on account of antecedent financial debt/operational debt/other liability of the CD;

(vi) examine the scanned and scrutinised transactions to find, if the transfer has the effect of putting such creditor/surety/guarantor in beneficial position, than it would have been in the event of distribution of assets under section 53. If answer is in the affirmative, the transaction shall be deemed to be of preferential, provided it does not fall within the exclusion under section 43(3); and then

(vii) apply to the AA for necessary orders, after carrying out the aforesaid volumetric and gravimetric analysis of the transactions.

(e) Undervalued and fraudulent transactions: As the transactions are held as preferential, it is not necessary to examine whether these are undervalued and/or fraudulent. In preferential transaction, the question of intent is not involved and by virtue of legal fiction, upon existence of the given ingredients, a transaction is deemed to be of giving preference at a relevant time, while undervalued transaction requires different enquiry under sections 45 and 46 where the AA is required to examine the intent, if such transactions were to defraud the creditors. The AA needs to examine the aspect of preferential, undervalued and fraudulent separately and distinctively.

(f) Lenders of JAL not FCs of JIL: The IRP rejected the claims of two lenders of JAL to be recognised as FCs of the CD on the strength of the mortgage created by the CD, as collateral security of the debt of its holding company, JAL. The AA approved this decision. However, it was set aside by the NCLAT. The SC observed that it is the FC who lends finance on a term loan or for working capital that enables the CD to set up and/or operate its business; and who has specified repayment schedules with default consequences. An FC is, from the very beginning, involved in assessing the viability of the CD who can, and indeed, engage in restructuring of the loan as well as reorganisation of the

CD's business when there is financial stress. Hence, an FC is not only about in *terrorem* clauses for repayment of dues; it has the unique parental and nursing roles too. In short, the FC is the one whose stakes are intrinsically inter-woven with the well-being of the CD. To be termed financial debt, consideration for time value of money is essential. Mortgages, being neither towards any loan, facility or advance to the CD nor towards protecting any facility or security of the CD, do not constitute financial debt within the meaning of section 5(8), though they could be, on the strength of the mortgages, secured creditors.

Maharashtra Seamless Limited Vs. Padmanabhan Venkatesh & Ors. [Civil Appeal No. 4242/2019 & Ors.]

Resolution plan providing for an upfront payment of ₹477 crore was approved. On an appeal, the NCLAT directed the resolution applicant to modify the plan to increase upfront payment to ₹598 crore, which is the average liquidation value, failing which the resolution plan approval would be set aside. On appeal, the SC decided: (a) there is no provision in the Code, or regulations which prescribe that the bid of any resolution applicant has to match the liquidation value; (b) the object behind prescribing the valuation process is to assist the CoC to take a decision on the resolution plan properly; (c) once the resolution plan has been approved by the CoC, the AA ought to cede ground to the commercial wisdom of the creditors rather than assess the resolution plan itself; and (d) the exit route prescribed under section 12A is not applicable to a successful resolution applicant and is available only to the applicants initiating CIRP.

Rajendra K. Bhutta Vs. Maharashtra Housing and Area Development Authority and Another [Civil Appeal No. 12248/2018]

The CD had entered a Joint Development Agreement (JDA) with MHADA. On the CD getting into CIRP, MHADA issued notice to the CD for termination of JDA and to handover possession of the land and all structures. An application to restrain MHADA from taking possession was dismissed by the AA stating that section 14(1)(d) does not cover licences to enter upon land covered under JDA. On appeal, the NCLAT held that the land belongs to MHADA and cannot be treated as an asset of the CD under section 14(1)(d). While setting aside the order of NCLAT, the SC held that section 14(1)(d) speaks about recovery of property "occupied". It does not refer to rights or interests created in property but only actual physical occupation of the property. The JDA has granted a license to the CD to enter upon the property, with a view to do all the things that are mentioned in it and hence the property is in possession of the CD. Therefore, the land is covered under section 14(1)(d). It reiterated that if there is any clash between the MHADA Act and the Code, the latter shall prevail.

Beacon Trusteeship Limited Vs. Earthcon Infracon Private Limited & Anr. [Civil Appeal No.(S) 7641/2019]

The AA admitted an application for CIRP. The NCLAT dismissed an appeal against the admission. The appellant approached the SC on the ground that the CIRP was initiated in collusive manner. The SC held that the plea of collusion could not have been raised for the first time in the appeal. It relegated the appellant to the remedy before the AA.

In Re: Cognizance for Extension of Limitation [Suo Motu Writ Petition (Civil) No (S). 3/2020]

The SC took *suo motu* cognizance of the situation arising out of COVID-19 and resultant difficulties that may be faced by litigants as to period of limitation prescribed under general law of limitation or under Special Laws (both Central and/or State). In exercise of its powers under Articles 141 and 142 of the Constitution, it ordered extension of period of limitation for all proceedings, from March 15, 2020, until further orders, and also declared that the order is binding on all courts/tribunals and authorities.

High Courts

Mr. Ajay Kumar Bishnoi Vs. M/s. Tap Engineering [CRL. OP No. 34996/2019 & Ors.]

During the pendency of a complaint under section 138 of the Negotiable

Instruments Act, 1881, the CD underwent CIRP, which yielded resolution plan with change in management and control. The MD of the erstwhile CD sought quashing of the prosecution under section 138 in view of the approval of resolution plan. The HC reinforced what has been held in several matters that the moratorium under section 14 prohibits proceedings, but such proceedings do not include prosecution. It then considered whether the statutory effect of section 31(1) of the Code is the extinguishment of the criminal prosecution and answered it in the negative. It observed that the object of the Code is to provide insolvency resolution of CD in a time bound manner and not to provide succor to those who by their misconduct contributed to defaults of the CD. No clause in resolution plan can take away the power and jurisdiction of the criminal court to conduct and dispose of the proceedings before it. Where a company gets dissolved during pendency of prosecution, the directors and the other accused cannot escape by citing its dissolution. What is dissolved is only the company, not the personal penal liability of the accused.

Tata Steel BSL Limited & Anr. Vs. Union of India & Anr. [W.P.(CRL) 3037/2019]

The trial Court took cognizance of the offences punishable under the Companies Act, 2013 and the Indian Penal Code, 1860, based on a complaint filed by SFIO. The petitioner has submitted that it took over the CD through a resolution plan and section 32A of the Code discharges it from the proceeding before the trial Court. The HC held that the CD would not be liable for any offence committed prior to commencement of the CIRP. It also clarified that this order will not affect the prosecution of the erstwhile promoters or any of the officers who may be directly responsible for committing the offences.

Kotak Investment Advisors Limited & Anr. Vs. Mr. Krishna Chamadia & Ors. [WP (L) No. 3621/2019]

The petitioners challenged the process adopted by RP for approval of resolution plan. The AA dismissed the challenge, against which they approached the HC. The HC held that it would be highly unsafe to entertain the petition, all the more when the petitioners have an alternate efficacious remedy of filing an appeal against the impugned order under sections 32 and 61 of the Code. In the appeal, they can always raise all grounds, including that are raised in the present petition. Any interference in the process by way of writ jurisdiction would amount to scuttling an elaborate process of resolution of disputes arising during the course of applicability of the Code. The Code must be allowed to operate and run its full course. Merely because in exceptional cases, the HC can intervene in writ jurisdiction does not mean that it is obliged to intervene in each and every order.

National Company Law Appellate Tribunal

Bijay Kumar Agarwal, Ex-Director of M/s Genegrow Commercial Pvt. Ltd. Vs. State Bank of India & Anr. [CA(AT)(Ins) No. 993/2019]

The NCLAT considered whether an FC can commence CIRP against the principal debtor as well as the guarantor, for the same set of claims. It observed that there is no fetter in the Code for projecting simultaneously two applications under section 7 against the principal borrower, as well as the corporate guarantor(s). However, for the same set of claims, if an application filed by the FC is admitted against either the principal borrower or the corporate guarantor, a second application filed by the same FC for the same set of claims cannot be admitted against the other. It clarified that a creditor cannot sue the principal borrower and claim the guarantor's insolvency at the same time.

Santosh Wasantrao Walokar Vs. Vijay Kumar V. Iyer and Anr. [CA(AT)(Ins) No. 871-872/2019]

One of the issues was whether the claims that are not dealt with under the resolution plan can be extinguished under the Code. The NCLAT, relying on the *Essar Steel* judgment of SC, held that all claims must be submitted to and decided by the RP, so that a prospective resolution applicant knows exactly who has to be paid, for it to take over and run the business of the CD. Therefore, claims that are not submitted or are not accepted or dealt with by the RP and such resolution plan submitted by the RP is approved, then, those claims would stand extinguished.

Maharashtra State Electricity Transmission Company Limited Vs. Sri City Private Limited & Ors. [CA(AT)(Ins) No. 1401/2019]

The appellant had a bulk power transmission agreement with the CD to use the transmission network of the appellant for 25 years. It challenged the order of the AA approving a resolution plan of the CD on the ground that in the plan, there was an arbitrary provision amounting to *ex-parte* termination of said agreement. The NCLAT, relying on *Essar Steel* and section 238 of the Code, held that the resolution plan which has been approved by the CoC in its wisdom, cannot be found fault with.

Sh G Eswara Rao Vs. Stressed Assets Stabilisation Fund & Anr. [CA(AT)(Ins) No. 1097/2019]

The appellant challenged the order dated October 1, 2019 of admission as the debt was barred by limitation. The AA, taking into consideration that the DRT, by order dated August 17, 2018, had passed a decree for recovery of debt, held that the application for initiation of CIRP is not barred by limitation. The NCLAT set aside the order of the AA and observed that CD failed to pay the debt prior to 2004 which caused the application before the DRT. A decree passed by DRT or any suit is not an acknowledgement of debt and hence cannot shift the date of default. The limitation for initiation of CIRP runs from the date of default.

Flat Buyers Association Winter Hills-77, Gurgaon Vs. Umang Realtech Pvt. Ltd. through IRP & Ors. [CA(AT)(Ins) No. 926/2019]

The NCLAT held that CIRP against a real estate CD is project specific. It is limited to a project as per the plan approved by the competent authority and does not cover other projects which are separate at other places for which separate plans have been approved. The NCLAT noted peculiar nature of real estate projects from the perspective of CIRP that: (a) FCs (Banks/ Financial Institutions/ NBFCs) would not like to take the flats in lieu of the money disbursed by them; (b) FCs (allottees) cannot take a haircut of flats, and (c) the allottees do not have expertise to assess 'viability' or 'feasibility' of a CD or commercial wisdom as other FCs. Relying on the observations of the SC in *Essar Steel*, about experimentation in economic matters, the NCLAT experimented as to whether during the CIRP, the resolution can reach finality without approval of the third-party resolution plan. It opined that a 'Reverse CIRP' can be utilised in cases of real estate infrastructure companies in the interest of allottees and to ensure their survival and completion of the projects. It directed one of the promoters to disburse amount from outside as lender and the AA will complete the CIRP.

Liberty House Group Pte. Ltd. Vs. State Bank of India & Ors. [CA(AT)(Ins) No. 724/2019]

The AA approved resolution plans submitted by the appellant in the CIRPs of two CDs, namely, Adhunik Metaliks Limited and Zion Steel Limited. As appellant failed to implement resolution plans, the AA cancelled the resolution plans and passed orders of liquidation of CDs with direction to the Liquidator to liquidate the CD as a going concern. While appeal in the matter was pending, the appellant filed an affidavit to allow it to comply with the resolution plans and to set aside the orders of liquidation of both the CDs. Noting that the appellant has implemented both the resolution plans, the NCLAT by order set aside liquidation. It directed that the said order be served on IBBI to withdraw complaints, if any, made before the Special Judge.

Punjab National Bank Vs. Mr. Kiran Shah, Liquidator of ORG Informatics Ltd. [CA(AT)(Ins) No. 102/2020]

The lead bank in the CoC challenged the appointment of the liquidator after the AA passed the liquidation order. The NCLAT held that after the liquidation order, the CoC has no role to play and that they are simply claimants, whose matters are to be determined by the liquidator and hence cannot move an application for his removal.

Committee of Creditors, M/s. Smartec Build Systems Pvt. Ltd. Vs. B. Santosh Babu & Ors. [CA(AT)(Ins) No. 48/2020]

Based on the recommendations of CoC, the AA passed the liquidation order and directed the CoC to pay the fees and cost incurred by the IRP.

The appellant has submitted that the fees and costs of the IRP is to be borne by the Applicant who filed application under section 9. The NCLAT rejected this submission as the OC, who moved application, may not receive any amount during liquidation. It also imposed a cost of ₹1,00,000 on the CoC for filing frivolous application.

Shameek Breweries Pvt. Ltd. Vs. Manoj Kumar Agarwal & Anr. [CA(AT)(Ins) No. 843/2019]

In the CIRP against '*Sterling SEZ & Infrastructure Ltd.*', the promoters moved application under section 12A. The CoC approved the proposal and withdrawal was allowed by the AA. MCA moved an application that the promoters were absconding, and the ED had initiated proceedings against them. The AA recalled its earlier order and restored the CIRP of CD. One of the FCs appealed the NCLAT against the recall order with a prayer to direct the promoters, to provide clean money as per the terms of withdrawal. The NCLAT dismissed the appeal as promoters are not aggrieved by the recall order.

Navin Raheja Vs. Shilpa Jain & Ors. [CA(AT)(Ins) No. 864/2019]

Pursuant to an application by two allottees in a residential project, the AA ordered CIRP of the CD. The order was appealed alleging fraudulent and malicious initiation of CIRP with a purpose other than resolution. The NCLAT noted that despite offer of flat, the two allottees wanted refund of the amount with more interest and refused to take the actual amount in terms of agreement. It set aside the order of the AA with an observation that the allottees filed application for CIRP fraudulently with malicious intent and are liable to penalty under section 65 of the Code. It further observed that considering such fraudulent applications by some allottees, the recently promulgated Ordinance requires the application to be filed jointly by a not less than one hundred of such creditors in the same class or not less than ten per cent of the total number of such creditors in the same class, whichever is less.

Reliance India Power Fund, Reliance Capital Vs. Mr. Raj Kumar Ralhan [CA(AT)(Ins) No. 318/2020]

The appellant submitted that in terms of section 35(1)(k), it is the duty of the liquidator to defend any suit, prosecution or other legal proceedings against the CD. While agreeing with the submission, the NCLAT held that the said duty includes any conscious decision that a liquidator may take whether, in the given set of facts, he needs to defend any proceedings.

Committee of Creditors of Metalyst Forging Ltd. Through State Bank of India Vs. Deccan Value Investors LP & Ors. [CA(AT)(Ins) No. 1276/2019]

After approval by CoC, a resolution plan was placed for approval of the AA. The resolution applicant, however, on demand of performance guarantee, wanted to withdraw the resolution plan. The AA refused to approve the plan and directed the RP/CoC to invite fresh bids. It held that the resolution applicant will not be entitled to refund of the amount of the bid bond guarantee in case fresh bid of the resolution applicant is not accepted. The CoC challenged the order of rejection of resolution plan. The resolution applicant also challenged the forfeiture of bid bond guarantee. The NCLAT held that that the Code does not confer any power and jurisdiction on the AA to compel specific performance of a plan by an unwilling resolution applicant. It, however, did not interfere with the forfeiture of the bid bond furnished by the resolution applicant.

Shyam Pradhan & Anr. Vs. Ananda Chandra Swain [CA(AT)(Ins) No. 15/2020]

The appellant, who had insured the CD, wanted to terminate insurance. The AA directed the insurer to continue with the insurance as the CD is to continue as a going concern. The NCLAT upheld the direction of the AA.

JSW Steel Ltd. Vs. Mahender Kumar Khandelwal & Ors. [CA(AT)(Ins) No. 957/2019 & Ors.]

The NCLAT considered whether after approval of a resolution plan by the AA, it is open to the Directorate of Enforcement (ED) to attach the assets of the CD on the alleged ground of money laundering by erstwhile promoters. During the pendency of the proceedings, the Insolvency and Bankruptcy

Code (Amendment) Ordinance, 2019 (Ordinance) was promulgated on December 28, 2019, which inserted section 32A in the Code. The NCLAT observed that section 32A suggests that the ED/other investigating agencies do not have the powers to attach assets of the CD, once a resolution plan stands approved and the criminal investigations against the CD stand abated. It further observed that it is *ex facie* evident that being clarificatory in nature, the Ordinance must be made applicable retrospectively. It held that the intent and purpose of section 32A is to provide certainty to the resolution applicant that the assets of the CD, as represented to him, and for which he proposes to pay value/ consideration in terms of the resolution plan, would be available to him in the same manner as at the time of submission of the resolution plan. It observed that mere assertion of the ED in its reply, that it needs to further investigate the matter to examine or comment if there has been any abetment or conspiracy by the Appellant, establishes that it has no reason to believe on the basis of material in its possession, as on date, for denial of immunity to the Appellant and the CD. It reiterated the position held by SC that the successful resolution applicant cannot be asked to face with undecided claims after the resolution plan accepted by the CoC as this would amount to a hydra head popping up which would throw into uncertainty amounts payable by a prospective resolution applicant.

Hammond Power Solutions Private Limited Vs. Mr. Sanjit Kumar Nayak & Ors. [CA(AT)(Ins) No. 606/2019]

An OC challenged the approved resolution plan providing for payment of nil amount to OCs. The NCLAT, relying on the *Essar Steel*, observed that the decision of the CoC must reflect the fact that it has taken into account maximising the value of the assets of the CD and the fact that it has adequately balanced the interests of stakeholders including OCs. It noted that minutes of the CoC do not reflect any reason for giving nil amount to OCs. It remitted the matter back to the AA to send the resolution plan to CoC to resubmit the plan after satisfying the parameters laid down by the SC.

Punjab National Bank Vs. State Bank of India & Anr. [CA(AT)(Ins) No. 1484/2019]

The appellant claims that the CD had pledged stock of rice by a document of pledge dated September 29, 2015. The respondent claims that the CD had hypothecated the stock in its favour by a deed of hypothecation dated May 4, 2013. The CoC, which comprised appellant and respondent, decided to sell the stock, being a perishable commodity. The appellant objected that the RP cannot utilize the sale proceeds for conducting CIRP. The NCLAT held that the stock having been sold, there is no illegality if the RP uses the money for CIRP but rights and benefits accruing to the appellant for possessing security by way of pledge are open for consideration of the CoC when the resolution plan is put forth, and/or in case of liquidation.

D & I Taxcon Services Private Limited Vs. Mr. Vinod Kumar Kothari [CA(AT)(Ins) No. 1347/2019]

The AA dismissed an application challenging the actions of liquidator and imposed a cost of ₹100,000 on the appellant for levelling vague and baseless allegations against the respondent. The NCLAT observed that without having a locus, the appellant has been interfering with the process of liquidation and thwarting the liquidation process which ultimately will have deleterious effect on the rights of those who are entitled to the benefit of the distribution of sale proceeds of liquidation proceedings. It dismissed the appeal but dispensed with the cost having regard to the fact that the appellant is a victim of incident of fire.

Union of India Vs. Infrastructure Leasing & Financial Services Ltd. & Ors. [CA(AT)(Ins) No. 346/2018 & Ors.]

The Central Government approached the AA for appropriate orders against *Infrastructure Leasing and Financial Services Limited (IL&FS)* and its group companies for mismanagement. The AA changed the management but refused to grant moratorium on the ground that the provisions of the Code does not apply to IL&FS, a financial service provider, and also refused to give any interim orders under section 242 of the Companies Act, 2013. On appeal, the NCLAT granted stay of institution or continuation of suits or any other

proceedings, any action under SARFAESI and other reliefs, and effectively a moratorium was imposed. It held that section 242(4) of the Act empowers the NCLT to pass just and equitable interim orders. Further, it is not correct to say that principles of the Code cannot be followed by the NCLT while dealing with a winding up matter under section 241 read with section 242 of the Act. It observed that moratorium under section 14 of the Code may be imposed under section 242(4) of the Act by an interim order if the tribunal deems fit. It also held that distribution under section 53 will not be followed as it would be against the public interest, as the shareholders had purchased shares by investing public money and accepted pro-rata distribution proposed by the Central Government.

Shri IRK Raju Vs. Immaneni Eswara Rao & Ors. [CA(AT)(Ins) No. 1058/2019]

The appellant challenged the admission of application under section 9 on the ground that debt claimed was not payable and the application was filed fraudulently for extracting money and not for resolution/liquidation. The NCLAT allowed the appeal and observed that demand notice was not as per section 8(1) of the Code, which allows for 15 days' time to repay. It also held that the second respondent does not come within the meaning of OC for claiming reimbursement of customs duty, as a statutory due is only operational in nature when it is paid to the relevant authority and not when it is repaid to a party that has paid to such statutory authority. It observed that the respondent moved an application under section 9 fraudulently with malicious intent for extracting more amount, not for the liquidation or resolution, as covered by Section 65 and as such calls for penal action.

Radhika Mehra Vs. Vaayu Infrastructure LLP & Ors. [CA(AT)(Ins) No. 121/2020]

The appellant filed a writ before HC against the order of the AA initiating CIRP, which was dismissed as withdrawn. The appellant filed an appeal before the NCLAT, with an application seeking exclusion of time of proceeding bona fide spent in court without jurisdiction under section 14 of the Limitation Act, 1963. The NCLAT observed that said section relates to the period of limitation for any suit. Relying on section 238 of the Code, it held that section 61(2) of the Code shall override section 5 of the Limitation Act. As the appeal was filed after 45 days from the date of receipt of the order, it held that it has no jurisdiction to entertain the appeal.

Mr. M. Ravindranath Reddy Vs. Mr. G. Kishan & Ors. [CA(AT)(Ins) No. 331/2019]

In this appeal, the NCLAT considered whether a landlord, who has granted lease, is an OC. It observed that the Code recognises two types of debt, financial debt and operational debt, and accordingly FCs and OCs may make an application for initiating CIRP and no other creditor qualifies to make an application. It stated that for a debt to be classified as an operational debt, it must fall into one of the three following categories: (a) the debt amount should fall within the definition of claim under section 3(6), (b) such a claim should fall within the confines of the definition of a debt under section 3(11), and (c) such a debt should fall strictly within the scope of an operational debt under section 5(21) of the Code. It concluded that lease of immovable property cannot be considered as a supply of goods or rendering of any services and thus, cannot be considered as operational debt.

Kundan Care Products Ltd. Vs. Surya Kanta Satapathy & Ors. [CA(AT)(Ins) No. 11 & 75/2020]

The appellant submitted a resolution plan which was rejected by the RP, as it was ranked H6 and as per the RFRP, only top three resolution applicants would be invited to present their plans before the CoC. The appellant sought for an opportunity to negotiate or revise or enhance its bid, but it was denied. The NCLAT observed that it is a settled law that the resolution applicant has no right for re-negotiation or further negotiation. After submission of the plan, if it satisfies section 30(2) of the Code, the same must be placed before the CoC. The process of evaluation is guided by the criteria set out in the RFRP. It also observed that a plan can only be challenged on the grounds under section 61(3).

Bimalkumar Manubhai Savalia Vs. Bank of India and Anr. [CA(AT)(Ins) No. 1166/2019]

CIRP initiated on an application of an FC was challenged by the appellant for being time barred. It was contended that under an OTS, payments were made by the guarantors, which had the effect of extending the period of limitation. The FC had also initiated proceedings under SARFAESI, before initiating CIRP and claimed that the same would increase the period of limitation. While allowing the appeal, the NCLAT held that SARFAESI and DRT proceeding will not extend the period of limitation since those proceedings are independent and that the Code has overriding effect under section 238. Further, since the OTS was not accepted by the FC, it cannot be treated as an acknowledgement under section 18 of the Limitation Act, 1963.

Vijay Pal Garg & Ors. Vs. Pooja Bahry [CA(AT)(Ins) No. 949/2019]

Appeal was filed against the order of AA, which directed the Central Government to order an investigation into the affairs of the CD. The NCLAT observed that the AA is not empowered to order an investigation directly to be carried out by the Central Government. The AA (Tribunal) as competent authority under section 213 of the Companies Act, 2013 has an option to issue notice as to charges/allegations levelled after following the due procedure enshrined under section 213 of the Companies Act, 2013. Where a prima facie case is made out, the AA may refer the matter to the Central Government for investigation by an inspector, based on which, if any action is required, the Government, through the SFIO, may proceed in accordance with law. If an investigating authority after completion of investigation comes to a conclusion that any offence punishable in terms of section 213 read with 447 of Companies Act or under sections 68 to 73 of the Code is/are made out then, the Central Government, may refer the matter to the Special Court itself or may even require IBBi to authorise any person as per section 236(2) of the Code to file a complaint.

State Bank of India Vs. Maithan Alloys Limited & Ors. [CA(AT)(Ins) No.1245-1247/ 2019]

R1 was successful bidder in the second round of e-auction for purchase of CD as a going concern and paid 25% of bid amount of ₹68 crore. R2 to R4, who did not participate in the e-auction, offered a higher amount of ₹70 crore. Considering the higher bid in tune with objectives of the Code, the AA ordered the liquidator to accept their offer. R1 requested the liquidator to return the amount it had paid. The AA directed the liquidator to return the amount with interest. On an appeal by an FC, the NCLAT observed that there was no need for the AA to direct the liquidator for considering the proposal R2 to R4, who approached the AA after due date of finalisation of auction. It directed R1 to complete the sale transaction. It imposed a fine of ₹10 lakh on R2 to R4 each for hampering and derailing the liquidation process.

Suo Motu [CA(AT)(Ins) No. 01/2020]

The NCLAT under rule 11 of the NCLAT Rules read with the decision in *Quinn Logistics India Pvt. Ltd. Vs. Mack Soft Tech Pvt. Ltd. [CA(AT)(Ins) No. 185/ 2018]*, took suo motu cognizance of the unprecedented situation arising out of spread of COVID-19 pandemic and ordered: (a) The period of lockdown ordered by the Central/State Governments including the period as may be extended either in whole or part of the country where the registered office of the CD may be located, shall be excluded for the purpose of counting of the period for CIRP under section 12 of the Code in all cases where CIRP is pending before any AA or in appeal before NCLAT; and (b) Any interim order/stay passed by the NCLAT in any appeal under the Code shall continue till next date of hearing, to be notified later.

Mr. Vijaykumar Vs. Mr. Gopalsamy Ganesh Babu & Ors. [CA(AT)(Ins) No. 1207/ 2019]

The CoC resolved to liquidate the CD as it had only a trading business and there was no possibility of making it a going concern. In appeal challenging liquidation order, it was submitted that the dues of the only FC, four OCs and the liquidator have been settled. The NCLAT, in exercise of its inherent powers under rule 11 of the NCLT Rules to do justice, set aside the order of

liquidation considering that the object of the Code is resolution and that effort should be made to revive the CD rather than liquidate it.

Rajive Kaul Vs. Vinod Kumar Kothari & Ors. [CA(AT)(Ins) No. 44, 224 & 1518/2020]

The liquidator moved the AA to remove nominee directors of the CD for non-cooperation, active obstruction, breach of duty and breach of code of conduct. The AA held that the liquidator has the power to remove and appoint nominee directors. On an appeal, the NCLAT upheld the order of the AA and held it is an axiomatic principle in law that a company in liquidation acts through the liquidator and the liquidator steps into the shoes of the board of directors of the company under liquidation for the purpose of discharging its statutory duties. It further held that the liquidator is armed with requisite powers to remove the nominee directors and is entitled to nominate the directors, and the company is enjoined to act upon the replacement proposal of the existing nominee directors. He is not required to inform the reasons for replacing nominee directors.

Laxmi Pat Surana Vs. Union of India and Anr. [CA(AT)(Ins) No. 77/2020]

It was submitted that an insolvency proceeding can be initiated against a guarantor, where both the principal debtor and guarantor are corporate entities. In this matter, since an insolvency proceeding cannot be initiated against the debtor, which is a sole proprietorship firm, insolvency proceeding cannot be initiated against the guarantor company. The NCLAT observed that financial debt includes a debt owed to a creditor by a principal and guarantor. An omission or failure to pay the debt by guarantor, when principal sum is claimed, comes within the scope of default under section 3(12). Therefore, CIRP can be initiated by an FC who had taken guarantee from the corporate guarantor, who extended guarantee on behalf of a proprietorship firm.

Asset Reconstruction Company (India) Ltd. Vs. Corporation Ltd. & Ors. [CA(AT)(Ins) No. 418/2020]

The resolution plan, as approved by the CoC, was pending for approval of the AA, as it had ordered for fresh valuation. In appeal against the decision for fresh valuation, the NCLAT observed that no party has a right to question AA's discretion to order further valuation before approval of the plan.

Rupesh Kumar Gupta Vs. Punjab National Bank & Anr. [CA(AT)(Ins) No. 1119/2019]

An appeal was filed against initiation of CIRP on the ground of limitation. The issue was whether minutes of meeting of the board of directors of the CD, which discussed the restructuring of the loan, can be termed as an acknowledgment of debt. The NCLAT held that from the minutes of meeting of the board, it is seen that there was an acknowledgement of debt by the CD as on the relevant date and initiation of CIRP was not time barred.

Punjab National Bank Vs. M/s Vindhya Cereals Pvt. Ltd. [CA(AT)(Ins) No. 854/2019]

An FC filed an application under section 7, after it had initiated a proceeding under the SARFAESI Act, 2002. The AA considered it to be forum shopping and directed the FC to show cause as to why it should not be penalised under section 65 of the Code. On appeal, the NCLAT held that an FC can proceed simultaneously under SARFAESI as well as the Code. However, in view of section 238, the provisions of the Code shall have overriding effect over other laws.

Indian Renewable Energy Development Agency Limited Vs. Mr. T.S.N. Raja [CA(AT)(Ins) No. 899/2019]

The RP rejected claim of a charge holder in the mortgaged property of the CD, as the CD had not defaulted in payment to the claimant. The appellant moved the AA which upheld the decision of the RP. On appeal, the NCLAT, directed the appellant to bring the existing contingent right to the notice of the resolution applicant through the AA.

Mr. Savan Godiwala Vs. Mr. Apalla Siva Kumar [CA(AT)(Ins) No. 1229/2019]

Appeal was against order of the AA directing the liquidator to pay gratuity to the employees even though the CD did not have separate funds allocated for the same. Relying on *State Bank of India Vs. Moser Baer Karamchhari Union and Anr.*, the NCLAT held that the PF, pension fund and the gratuity fund do not form part of the liquidation estate and therefore, the liquidator, who holds liquidation estate in fiduciary capacity, has no authority to deal with such funds.

Aashish Mohan Gupta Vs. Hind Inn and Hotels Ltd. & Anr. [CA(AT)(Ins) No. 1229/2019]

The NCLAT noted that retention money is a part of the bill which is retained by the CD, as per the terms of the work order, and the same is released after the defect liability period ends. Accordingly, it held that retention money falls within the definition of operational debt as defined in section 5(21) of the Code.

National Company Law Tribunal

Clutch Auto Ltd. [CA-1432(PB)/2019 & CA-1433(PB)/2019 in (IB)-15(PB)/2017]

The liquidator filed an application against the Municipal Corporation, Faridabad (MCF) to de-seal CD's land and hand it over to him. The AA observed that the property was sealed by MCF during moratorium in violation of section 14. It directed MCF to de-seal the property and the liquidator to consider its claim relating to tax on the property sealed.

M/s NN Enterprises Vs. Relcon Infra Projects Limited [CP(IB)3980/MB/C-IV/2018]

The issue was whether the applicant being an unregistered partnership firm can initiate CIRP in view of section 69 of the Indian Partnership Act, 1932. The AA held that section 69(2) of the Act applies to suits, and, therefore, cannot apply to proceedings under the Code.

M/s. Nathella Sampath Jewelry Private Limited [MA/1147/2019 & MA/547/2018 in CP/129/IB/CB/2018]

Post initiation of CIRP, the ED had provisionally attached certain immovable properties of the CD. Meanwhile, despite publishing EoI twice, no resolution plan was received. The AA ordered liquidation of the CD and appointed RP as the liquidator. It observed that ordering liquidation after completion of CIRP will not have any bearing on PMLA proceedings, as action against erring management will not be affected by the order of liquidation.

Unimark Remedies Limited [MA 1406/2019 in CP 197/I&B/NCLT/MAH/2018]

Reference was made to a single member bench of the NCLT, Mumbai by the Principal Bench to adjudicate whether fresh valuation can be ordered since the two members of the Division Bench held different views. The single member bench observed that reasoning of the Valuers for ascribing the nil value is untenable in the interest of maximizing the assets of the CD. No legal rights of any of the parties is affected if fresh valuation is carried out, at best would assist the better valuation of CD as a going concern. It ordered the RP to take steps to appoint a fresh valuer with a limited scope of valuing the intangible assets considering the International Standards of Valuation.

M/s. Jain Mfg. (India) Pvt. Ltd. [CA No. 142/2019 in CP(IB) No. 422/ALD/2018]

Application was filed under section 60(5) by the promoter of the CD against declaration of one entity as an FC. The AA observed that as the CoC has voted in majority in favour of the entity as FC, the suspended management as well as the RP have no locus to challenge the commercial wisdom and decision of the CoC and held that the entity is an FC.

State Bank of India Vs. Videocon Industries Limited (VIL) and Ors. [MA 2385/2019 in CP(IB)-02/MB/2018]

Application was filed before the AA to direct the RP to treat all assets,

properties, rights, claims, benefits of three group companies (having foreign oil and gas assets) of the CD as its assets and properties, and also to make moratorium applicable on foreign assets. While allowing the application, the AA observed that in case the assets are not considered to be the assets of a single economic entity, then the effective resolution of 13 CDs would not meet the objective envisaged under the Code and they will be forced into liquidation despite having sufficient assets to resolve the CD.

State Bank of India Vs. M/s. Metenere Limited [CP No. IB-639(PB)/2018]

The CD objected to the appointment of IRP on the ground that he was an employee of FC from 1977 to 2016. While granting an opportunity to FC to substitute the IRP, the AA observed that the proposed IRP is unlikely to act fairly and cannot be expected to be an independent umpire.

Tecpro Systems Limited [CA 2683(PB)/2019 in CP No. (IB)-197(PB)/2017]

There was inordinate delay in implementation of the approved resolution plan. The erstwhile members of the CoC approved liquidation of the CD with 99.28% of voting rights. The AA approved liquidation and directed forfeiture of performance guarantee of ₹5 crore.

Indian Overseas Bank Vs. M/s Rathi TMT Saria Pvt. Ltd. [(IB)-938(PB)/2018]

The AA allowed the application filed under section 12(2) and (3) of the Code for a second extension of CIRP for further 30 days beyond 270 days, with the approval of CoC with 98.6% voting rights.

Jaiprakash Associate Limited & Ors. [CA No. 59/2019 & Ors. in (IB)-77/ALD/2017]

The AA approved the resolution plan submitted by NBCC, with the following directions:

(a) ₹750 crore: When the money has been paid by JAL towards an obligation as per directions of the SC, it can no more be considered assets of JAL. Also, JAL is not under further obligation to complete construction of homes. The amount would be utilised for the cause of the creditors. Therefore, the amount shall be treated as the asset of the CD.

(b) Resolution plan: It was held: (i) there was no need for separate protection from the PMLA proceedings; (ii) the Code does not prohibit two resolution plans being put to vote simultaneously; (iii) dissenting creditors are to be paid in cash equivalent to the liquidated sum they are entitled under section 53; (iv) the plan shall make provision to clear the dues of the FD holders, who have not made claims, as and when claims are made; (v) past liabilities of income-tax authority shall stand extinguished; (vi) any non-compliance arising out of claims prior to CIRP initiation shall not have any bearing on this CD; (vii) all claims placed before the RP and any criminal proceeding appurtenant to those claims are extinguished; and (viii) the IRP will not be held responsible with regard to discharge of his duty during CIRP.

State Bank of India Vs. Adhunik Metaliks Ltd. [CA No. 118/CTB/2019 connected with TP No. 44/CTB/2019 in CP(IB)No. 373/KB/2017]

The liquidator filed application seeking clarity about the treatment of claims received between July 18, 2018 and July 7, 2019 when the CD was supposed to be revived under resolution plan approved on July 17, 2018. The AA held that the claims received during the period can neither be treated as part of insolvency resolution process costs nor do they fall under liquidation cost, and hence, cannot be accorded priority over other dues.

Gujarat NRE Coke Ltd. [IA(IB) No. 122, 305 & 194/KB/2020 in C.P (IB) No. 182/KB/2017]

The liquidator sought direction of the AA against the secured creditors to

either relinquish their security interest or to proceed under section 52. Considering the fact that liquidation process cannot be completed without the cooperation of all FCs, it directed that their security interests stand relinquished.

Infonet Asia Private Limited [MA/1397/2019 in CP/536/IB/CB/2017]

The resolution plan provided for withdrawal of suit or application pending against the CD. While approving the plan, the AA modified it to the effect that for the claims treated in the plan, such proceedings shall be withdrawn but the CD shall remain liable to the outcome of the proceedings not finally determined by the court.

Abhijit Guhathakurta Vs. Central Goods & Services Department [MA-4048/2019 in CP No. 02/I&BC/NCLT/MB/MAH/2018]

The RP filed application seeking directions against the Central Goods and Services Department (CGSD) to restore e-way facility so that the applicant can file returns on behalf of the CD, accept physical filing of returns and refrain from taking coercive measures against the CD. The AA observed that while the GST laws do not restrict deposition of GST for a month if the prior GST dues are not paid, the online portal restricts the same. It directed the CGSD to accept manual monthly returns along with physical GST deposits for the moratorium period and restore the e-way facility for filing of the GST returns.

Special Courts

In the complaints filed by IBBI under section 236 of the Code before various Special Courts, the following orders were passed:

| Accused | Contraventions of sections | Order |
|--|---|---|
| Ex-directors and key managerial personnel of M/s. Amira Pure Foods Pvt. Ltd. | 70(1)(a)(b)(c) and (e) and section 19(1) read with section 235A | Cognizance taken |
| Resolution Applicant and Resolution Professional | 70(2), 29A read with section 235A | Resolution Applicant released on Bail; Bail application of RP served on IBBI for say. |
| Ex-directors and key managerial personnel of M/s. Jay Polychem India Ltd. | 68(1), 70(1)(a), 70(1)(c) and 19(1) read with section 235A | Cognizance taken |
| Ex-directors and key managerial personnel of Nibula Print and Pack Pvt. Ltd. | 68(1)(b), 70(1)(c), 74(1) and 19(1) read with section 235A | Cognizance taken |
| Ex-director and key managerial personnel of M/s White and Brown Alloy Castings Pvt. Ltd. | 69, 70, 74(1), 19(1) read with section 235A | Released on bail |

IBBI

In the matter of Mr. Mukesh Kumar Rathi, RV (Order dated January 8, 2020)

Mr. Rathi registered a website with the domain name 'www.ibbivaluer.com' on March 21, 2019. He was registered as a valuer with the Board on August 23, 2019. He discontinued use of domain name on November 14, 2019 and surrendered the same on December 7, 2019. For misleading the stakeholders and the Board by using such a domain name even after his registration as a valuer, the Board suspended his registration for three months.

In the matter of Mr. Rashmi N. Thakeria, IP (Order dated January 24, 2020)

Mr. Thakeria obtained a certificate of registration as IP, suppressing facts that proceedings were pending against him before DRT. Finding him to be a person not fit and proper, the Board cancelled his registration.

In the matter of Mr. Tarun Jaggi, IP (Order dated March 20, 2020)

The DC observed that the Mr. Jaggi failed to make public announcement within the time prescribed under in the voluntary liquidation of processes of two companies and engaged an auditor, who were statutory auditors of the company before commencement of voluntary liquidation. It imposed a monetary penalty of ₹1,00,000 on Mr. Jaggi.

Corporate Processes

The data used in this section relating to corporate processes are provisional. These are getting revised as further information is received from IPs or the information in respect of a process changes. 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

Since the coming into force of the provisions of CIRP with effect from December 1, 2016, 3774 CIRPs have commenced by the end of March, 2020, as presented in Table 1. Of these, 312 have been closed on appeal or review or settled; 157 have been withdrawn; 914 have ended in orders for liquidation and 221 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)

| Quarter | CIRPs at the beginning of the Quarter | Admitted | Closure by | | | | CIRPs at the end of the Quarter |
|-----------------|---------------------------------------|--------------|-------------------------|------------------------------|-----------------------------|-----------------------------|---------------------------------|
| | | | Appeal/ Review/ Settled | Withdrawal under Section 12A | Approval of Resolution Plan | Commencement of Liquidation | |
| Jan - Mar, 2017 | 0 | 37 | 1 | 0 | 0 | 0 | 36 |
| Apr - Jun, 2017 | 36 | 130 | 8 | 0 | 0 | 0 | 158 |
| Jul - Sep, 2017 | 158 | 235 | 18 | 0 | 2 | 8 | 365 |
| Oct - Dec, 2017 | 365 | 144 | 40 | 0 | 7 | 24 | 438 |
| Jan - Mar, 2018 | 438 | 196 | 23 | 0 | 11 | 59 | 541 |
| Apr - Jun, 2018 | 541 | 249 | 22 | 1 | 14 | 51 | 702 |
| Jul - Sep, 2018 | 702 | 242 | 33 | 27 | 29 | 86 | 769 |
| Oct - Dec, 2018 | 769 | 276 | 13 | 38 | 18 | 82 | 894 |
| Jan - Mar, 2019 | 894 | 382 | 50 | 21 | 20 | 86 | 1099 |
| Apr - Jun, 2019 | 1099 | 301 | 26 | 26 | 26 | 95 | 1227 |
| Jul - Sep, 2019 | 1227 | 582 | 28 | 21 | 32 | 153 | 1575 |
| Oct - Dec, 2019 | 1575 | 613 | 27 | 11 | 35 | 149 | 1966 |
| Jan - Mar, 2020 | 1966 | 387 | 23 | 12 | 27 | 121 | 2170 |
| Total | NA | 3774* | 312 | 157 | 221** | 914 | 2170 |

*These CIRPs are in respect of 3706 CDs

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

Source: Compilation from website of the NCLT

Table 2: Sectoral Distribution of CDs under CIRP as on March 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 | 1527 | 105 | 60 | 115 | 396 | 676 | 851 |
| Food, Beverages & Tobacco Products | 196 | 9 | 7 | 11 | 49 | 76 | 120 |
| Chemicals & Chemical Products | 154 | 10 | 7 | 18 | 34 | 69 | 85 |
| Electrical Machinery & Apparatus | 112 | 9 | 3 | 4 | 45 | 61 | 51 |
| Fabricated Metal Products | 85 | 5 | 6 | 4 | 24 | 39 | 46 |
| Machinery & Equipment | 168 | 20 | 9 | 9 | 36 | 74 | 94 |
| Textiles, Leather & Apparel Products | 261 | 16 | 8 | 13 | 88 | 125 | 136 |
| Wood, Rubber, Plastic & Paper Products | 180 | 10 | 7 | 15 | 34 | 66 | 114 |
| Basic Metals | 266 | 18 | 6 | 31 | 64 | 119 | 147 |
| Others | 105 | 8 | 7 | 10 | 22 | 47 | 58 |
| Real Estate, Renting & Business Activities | 757 | 87 | 45 | 27 | 148 | 307 | 450 |
| Real Estate Activities | 183 | 22 | 11 | 6 | 17 | 56 | 127 |
| Computer and related activities | 109 | 14 | 6 | 0 | 23 | 43 | 66 |
| Research and Development | 5 | 1 | 1 | 1 | 0 | 3 | 2 |
| Other Business Activities | 460 | 50 | 27 | 20 | 108 | 205 | 255 |
| Construction | 408 | 45 | 18 | 18 | 66 | 147 | 261 |
| Wholesale & Retail Trade | 378 | 26 | 12 | 13 | 117 | 168 | 210 |
| Hotels & Restaurants | 88 | 10 | 5 | 9 | 18 | 42 | 46 |
| Electricity & Others | 117 | 4 | 1 | 7 | 18 | 30 | 87 |
| Transport, Storage & Communications | 112 | 9 | 4 | 7 | 37 | 57 | 55 |
| Others | 387 | 26 | 12 | 25 | 114 | 177 | 210 |
| Total | 3774 | 312 | 157 | 221 | 914 | 1604 | 2170 |

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

Withdrawals under Section 12A

Till March, 2020, a total of 157 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 5.

The distribution of stakeholders who triggered CIRP is presented in Table 3. OCs triggered 49.65% of the CIRPs, followed by about 43.61% by FCs and remaining by the CDs.

Table 3: Initiation of Corporate Insolvency Resolution Process

| Quarter | No. of CIRPs Initiated by | | | Total |
|-----------------|---------------------------|---------------------|-------------------|-------------|
| | Operational Creditors | Financial Creditors | Corporate Debtors | |
| Jan - Mar, 2017 | 7 | 8 | 22 | 37 |
| Apr - Jun, 2017 | 58 | 37 | 35 | 130 |
| Jul - Sep, 2017 | 98 | 99 | 38 | 235 |
| Oct - Dec, 2017 | 65 | 65 | 14 | 144 |
| Jan - Mar, 2018 | 89 | 85 | 22 | 196 |
| Apr - Jun, 2018 | 129 | 102 | 18 | 249 |
| Jul - Sep, 2018 | 126 | 100 | 16 | 242 |
| Oct - Dec, 2018 | 146 | 114 | 16 | 276 |
| Jan - Mar, 2019 | 164 | 197 | 21 | 382 |
| Apr - Jun, 2019 | 154 | 130 | 17 | 301 |
| Jul - Sep, 2019 | 294 | 279 | 9 | 582 |
| Oct - Dec, 2019 | 329 | 267 | 17 | 613 |
| Jan - Mar, 2020 | 215 | 163 | 9 | 387 |
| Total | 1874 | 1646 | 254 | 3774 |

The status of CIRPs as on March 31, 2020 is presented in Table 4.

Table 4: Status of CIRPs as on March 31, 2020

| Status of CIRPs | No. of CIRPs |
|--|--------------|
| Admitted | 3774 |
| Closed on Appeal / Review / Settled | 312 |
| Closed by Withdrawal under section 12A | 157 |
| Closed by Resolution | 221 |
| Closed by Liquidation | 914 |
| Ongoing CIRP | 2170 |
| >270 days | 738 |
| > 180 days ≤ 270 days | 494 |
| > 90 days ≤ 180 days | 561 |
| ≤ 90 days | 377 |

Table 5: Claim Distribution and Reasons for Withdrawal

| Amount of Claims Admitted* (₹ crore) | No. of CIRPs |
|--|--------------|
| ≤ 01 | 64 |
| > 01 ≤ 10 | 36 |
| > 10 ≤ 50 | 21 |
| > 50 ≤ 100 | 08 |
| > 100 ≤ 1000 | 06 |
| > 1000 | 02 |
| Reason for Withdrawal* | |
| Full settlement with the applicant | 38 |
| Full settlement with other creditors | 08 |
| Agreement to settle in future | 10 |
| Other settlements with creditors | 45 |
| Corporate debtors not traceable | 02 |
| Corporate debtor struck off the Register | 01 |
| Applicant not pursuing CIRP due to high cost | 02 |
| Others | 31 |

* Data awaited in 20 CIRPs

Resolution Plans

It is seen that about 56.98% of the CIRPs, which were closed, ended in orders for liquidation, as compared to 13.77% ending with a resolution plan. However, it is important to note that 72.46% of the CIRPs ending in liquidation (637 out of 879 of which data is available) were earlier with

BIFR and / or defunct (Table 6). The economic value in most of these CDs had already eroded before they were admitted into CIRP.

Table 6: CIRPs Ending with Orders for Liquidation

| State of Corporate Debtor at the Commencement of CIRP | No. of CIRPs initiated by | | | |
|---|---------------------------|-----|-----|-------|
| | FC | OC | CD | Total |
| Either in BIFR or Non-functional or both | 251 | 285 | 101 | 637 |
| Resolution Value ≤ Liquidation Value | 308 | 340 | 107 | 755 |
| Resolution Value > Liquidation Value | 63 | 35 | 26 | 124 |

- Note: 1. There were 55 CIRPs, where CDs were in BIFR or non-functional but had resolution value higher than liquidation value.
2. Where liquidation value is not available, it has not been taken into account.
3. Data of 35 CIRPs is awaited.

Till December, 2019, 190 CIRPs had yielded resolution plans as presented in the last newsletter. Five CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table 7. During January - March, 2020, 27 CIRPs yielded resolution plans with different degrees of realisation in comparison to the liquidation value as presented in Part B of Table 7. During the quarter, realisation by FCs under resolution plans in comparison to liquidation value is 128.09%, while the realisation by them in comparison to their claims is 64.10%. Till March, 2020, realisation by FCs under resolution plans in comparison to liquidation value is 183.37%, while the realisation by them in comparison to their claims is 45.96%. It is important to note that of the 221 CDs rescued under the processes under the Code, 70 were in BIFR or defunct.

Table 7: 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 Claims Admitted | Realisable by FCs as % of Liquidation Value |
|--|--|------------------|------------------------------|-------------------------------------|-------------------|------------------------------|-------------------|-------------------|---|---|
| Part A: Prior Period (Till December 31, 2019) | | | | | | | | | | |
| 1 | Mohak Carpets Private Limited | Yes | 12-10-18 | 10-10-19 | FC | 64.57 | 9.34 | 14.18 | 21.96 | 151.82 |
| 2 | Metallica Industries Limited* | NA | 13-04-18 | 16-10-19 | FC | | | | | |
| 3 | ICOMM Tele Limited | No | 04-10-18 | 17-10-19 | FC | 1907.97 | 398.45 | 603.52 | 31.63 | 151.47 |
| 4 | Maruti Koatsu Cylinders Limited | Yes | 26-04-18 | 22-10-19 | OC | 86.70 | 11.37 | 14.21 | 16.39 | 124.98 |
| 5 | Euro Pallets Private Limited | No | 18-05-18 | 05-12-19 | FC | 34.97 | 0.83 | 3.01 | 8.61 | 362.65 |
| Part B: January - March, 2020 | | | | | | | | | | |
| 1 | V S Texmills Private Limited | No | 09-01-19 | 01-01-20 | FC | 16.31 | 4.63 | 4.44 | 27.22 | 95.90 |
| 2 | Era T&D Limited | No | 03-12-18 | 02-01-20 | FC | 26.25 | 14.01 | 11.50 | 43.81 | 82.08 |
| 3 | Tirupati Infraprojects Private Limited | No | 03-07-17 | 04-01-20 | FC | 658.41 | 208.48 | 252.00 | 38.27 | 120.87 |
| 4 | ILC Industries Limited | No | 16-04-19 | 13-01-20 | OC | 10.87 | 10.03 | 7.21 | 66.33 | 71.88 |
| 5 | Empee Distilleries Limited* | NA | 01-11-18 | 20-01-20 | FC | | | | | |
| 6 | Noble Explochem Limited | No | 14-05-18 | 22-01-20 | OC | 106.12 | 51.86 | 57.30 | 54.00 | 110.49 |
| 7 | Hwashin Industries Private Limited | No | 10-01-19 | 22-01-20 | OC | 0.00 | 0.44 | - | - | - |
| 8 | SRS Meditech Limited | Yes | 15-11-18 | 28-01-20 | OC | 29.36 | 1.35 | 13.75 | 46.83 | 1018.52 |
| 9 | Sri Ramanjaneya Ispat Private Limited* | NA | 12-12-18 | 28-01-20 | OC | | | | | |
| 10 | Ferro Alloys Corporation Limited* | NA | 06-07-17 | 30-01-20 | FC | | | | | |
| 11 | Govind Rubber Limited | Yes | 18-01-19 | 31-01-20 | OC | 152.73 | 28.77 | 27.00 | 17.68 | 93.85 |
| 12 | Vaksh Steels Private Limited | Yes | 13-02-19 | 31-01-20 | FC | 40.22 | 6.80 | 9.75 | 24.24 | 143.38 |
| 13 | Langlai Tea and Industries Limited* | NA | 29-03-19 | 05-02-20 | CD | | | | | |
| 14 | Golden Jubilee Hotels Private Limited | No | 27-02-18 | 07-02-20 | FC | 969.84 | 453.00 | 362.01 | 37.33 | 79.91 |
| 15 | Haryana Steel and Alloys Limited | No | 13-02-19 | 07-02-20 | FC | 1107.36 | 122.87 | 114.90 | 10.38 | 93.51 |
| 16 | Sitarganj Fibers Limited | No | 09-04-19 | 07-02-20 | FC | 71.83 | 12.48 | 13.10 | 18.24 | 104.97 |
| 17 | Charming Apparels Private Limited* | NA | 08-12-17 | 10-02-20 | OC | | | | | |
| 18 | Bheema Cements Limited | Yes | 09-07-18 | 11-02-20 | FC | 498.79 | 194.05 | 201.60 | 20.42 | 103.89 |
| 19 | Kalptaru Steel Rolling Mills Private Limited | Yes | 14-08-18 | 14-02-20 | FC | 136.60 | 25.87 | 26.15 | 19.14 | 101.08 |
| 20 | Aditya Estates Private Limited | No | 26-02-19 | 14-02-20 | FC | 593.55 | 153.40 | 263.00 | 44.31 | 171.45 |
| 21 | Sadbhav Enterprises Private Limited* | NA | 19-09-17 | 24-02-20 | FC | | | | | |
| 22 | Odisha Slurry Pipeline Infrastructure Limited* | NA | 14-05-19 | 02-03-20 | FC | | | | | |
| 23 | Adhunik Metaliks Limited | No | 03-08-17 | 03-03-20 | FC | 5371.23 | 431.50 | 410.00 | 7.63 | 95.02 |
| 24 | Zion Steel Limited | No | 03-08-17 | 03-03-20 | FC | 5367.02 | 14.55 | 15.00 | 0.28 | 103.09 |
| 25 | Jaypee Infratech Limited | No | 09-08-17 | 03-03-20 | FC | 23176.00 | 17767.00 | 23223.00 | 100.20 | 170.46 |
| 26 | F M Hammerle Textiles Limited | No | 27-06-17 | 13-03-20 | CD | 769.28 | 66.58 | 52.08 | 6.77 | 78.22 |
| 27 | Mansa Print and Publisher Limited* | NA | 28-02-19 | 18-03-20 | FC | | | | | |
| Total (January - March, 2020) | | | | | | 39101.77 | 19567.67 | 25063.79 | 64.10 | 128.09 |
| Total (Till March, 2020) | | | | | | 384436.67 | 96349.52 | 176673.70 | 45.96 | 183.37 |

*Data awaited

NA: Not Available

Defunct: Not Going Concern/ Erstwhile BIFR

Two CDs (Adhunik Metaliks Limited and Zion Steels Limited) which had earlier yielded liquidation have been resolved and one CD (Tecpro Systems Limited) which had earlier yielded resolution have since moved into liquidation.

Liquidation

Till December 31, 2019, a total of 780 CIRPs had yielded orders for liquidation, as presented in the previous Newsletter. 19 CIRPs were later reported as yielding orders for liquidation during that period, as indicated in Part A of Table 8. During the quarter January - March, 2020, 121 CIRPs ended in liquidation, taking the total CIRPs yielding liquidation to 914 (excluding 6 cases where liquidation order has been set aside by NCLAT / Supreme Court). The details of the CIRPs ending in orders of liquidation during the quarter is reported in Part B of Table 8.

Table 8: CIRPs Yielding Orders for Liquidation

| Sl. No. | Name of CD | Defunct (Yes / No) | CIRP Initiated by | Date of Commencement of CIRP | Date of Liquidation Order |
|--|--|--------------------|-------------------|------------------------------|---------------------------|
| Part A: Prior Period (Till December 31, 2019) | | | | | |
| 1 | Maxroth Impex Private Limited | Yes | OC | 12-09-18 | 05-07-19 |
| 2 | Ramkar Steel Rerolling Private Limited | Yes | FC | 06-02-19 | 25-07-19 |
| 3 | Om Shiv Hydro Power & Construction Private Limited | NA | FC | 17-05-18 | 26-07-19 |
| 4 | Sai Infosystem (India) Limited | NA | FC | 30-11-17 | 22-08-19 |
| 5 | Claps Wikids Education Private Limited | NA | FC | 03-12-18 | 03-10-19 |
| 6 | OSPL Infraideal Private Limited | No | FC | 15-02-19 | 22-10-19 |
| 7 | Shri Shyamji Agricor Exports Private Limited | Yes | FC | 02-01-19 | 05-11-19 |
| 8 | Fearless Media Private Limited | Yes | OC | 16-08-19 | 26-11-19 |
| 9 | Wig Brothers Construction Private Limited | Yes | OC | 09-07-18 | 27-11-19 |
| 10 | Venkateswara Capital Management Limited | No | FC | 05-03-19 | 29-11-19 |
| 11 | Prithvi Finvest Co. Private Limited | NA | FC | 15-01-18 | 02-12-19 |
| 12 | Sumeru Processors Private Limited | NA | FC | 15-04-19 | 03-12-19 |
| 13 | Satkar Air Cargo Services Private Limited | Yes | FC | 09-08-19 | 03-12-19 |
| 14 | Oasis Tradelink Limited | Yes | OC | 26-02-19 | 04-12-19 |
| 15 | Perfect International Fabrications Private Limited | NA | OC | 29-04-19 | 13-12-19 |
| 16 | Raihan Healthcare Private Limited | No | FC | 20-03-19 | 16-12-19 |
| 17 | Mi Marathi Media Limited | NA | OC | 07-01-19 | 17-12-19 |
| 18 | Seajaan Logistics Private Limited | NA | FC | 04-04-19 | 20-12-19 |
| 19 | Connexions Retail Stores Private Limited | No | OC | 27-03-19 | 30-12-19 |
| Part B: January - March, 2020 | | | | | |
| 1 | Ujala Pumps Pvt. Ltd. | Yes | OC | 10-10-18 | 02-01-20 |
| 2 | Clover Forging & Machining Private Limited | No | FC | 04-12-18 | 02-01-20 |
| 3 | Kaliber Associates Private Limited | Yes | FC | 18-01-19 | 02-01-20 |
| 4 | Essar Power (Jharkhand) Limited | No | FC | 05-04-18 | 03-01-20 |
| 5 | Nathella Sampath Jewelry Private Limited | Yes | CD | 23-04-18 | 03-01-20 |
| 6 | Runeecha Textiles Limited | Yes | FC | 31-07-18 | 03-01-20 |
| 7 | YS Marchandise International Private Limited | Yes | CD | 06-06-19 | 03-01-20 |
| 8 | Puneet Ispat Private Limited | Yes | OC | 20-08-19 | 03-01-20 |
| 9 | Newgen Specialty Plastics Limited | Yes | OC | 19-11-18 | 06-01-20 |
| 10 | SPS Steels Limited | No | OC | 29-03-19 | 06-01-20 |
| 11 | Innovative Studios Private Limited | No | FC | 11-04-19 | 06-01-20 |
| 12 | Alka Fabrics Private Limited | Yes | OC | 30-10-18 | 07-01-20 |
| 13 | Exclusive Fibers Limited | No | FC | 28-03-19 | 07-01-20 |
| 14 | Gagan Distillers and Beverages Private Limited | Yes | OC | 10-04-19 | 08-01-20 |
| 15 | Jaydev Constructions Private Limited | Yes | OC | 06-05-19 | 08-01-20 |
| 16 | Maruthi Food Processing and Agri Products Export (India) Private Limited | Yes | OC | 21-06-19 | 08-01-20 |
| 17 | Unishire Housing LLP | NA | OC | 31-07-19 | 08-01-20 |
| 18 | Apex Buildsys Limited | No | FC | 20-09-18 | 09-01-20 |
| 19 | Atlanti Spinning and Weaving Mills Limited | Yes | FC | 09-10-18 | 09-01-20 |
| 20 | Vijay Home Appliances Limited | NA | OC | 24-04-19 | 09-01-20 |
| 21 | Earth Iconic Infrastructures Private Limited | No | FC | 20-04-18 | 10-01-20 |
| 22 | INKA Foods Private Limited | Yes | FC | 05-04-19 | 10-01-20 |
| 23 | Enfield Solar Energy Limited | Yes | FC | 27-06-19 | 10-01-20 |
| 24 | Archana Motors Private Limited | No | OC | 01-07-19 | 10-01-20 |
| 25 | Orchid Salon Services Private Limited | No | OC | 12-07-19 | 10-01-20 |
| 26 | Shubham Industries Limited | Yes | FC | 14-11-19 | 10-01-20 |
| 27 | Collyer Container Terminal Private Limited | NA | OC | 30-05-19 | 13-01-20 |
| 28 | Advance Surfactants India Limited | Yes | FC | 28-05-19 | 14-01-20 |
| 29 | Rain Automotive India Private Limited | Yes | OC | 14-06-19 | 15-01-20 |
| 30 | Tecpro Systems Limited | No | FC | 07-08-17 | 16-01-20 |
| 31 | Kolkata Electronics Private Limited | Yes | OC | 05-07-19 | 16-01-20 |
| 32 | Bansal Refineries Private Limited | Yes | FC | 09-07-19 | 17-01-20 |
| 33 | Veracious Builders & Developers Private Limited | No | OC | 30-07-19 | 17-01-20 |
| 34 | Sabre Helmets Private Limited | Yes | OC | 22-02-19 | 20-01-20 |
| 35 | Allwyn Furniture Private Limited | NA | FC | 07-01-19 | 20-01-20 |
| 36 | Shashi Oils and Fats Private Limited | Yes | FC | 20-03-18 | 21-01-20 |
| 37 | Patnazi Power Limited | Yes | OC | 28-01-19 | 21-01-20 |
| 38 | Parikh Fabrics Private Limited | No | CD | 08-02-19 | 21-01-20 |
| 39 | Shree Shyam Pulp & Board Mills Limited | Yes | FC | 27-03-19 | 21-01-20 |
| 40 | Purna Pharmaceuticals Private Limited | Yes | FC | 03-10-19 | 22-01-20 |
| 41 | Petron Engineering Construction Limited | No | OC | 23-03-18 | 23-01-20 |
| 42 | Shri Narsing Dev Sugar Private Limited | No | OC | 06-09-18 | 23-01-20 |
| 43 | Great Unison Contractors India Private Limited | NA | OC | 08-01-19 | 23-01-20 |
| 44 | Global Syntex (Bhilawara) Ltd | Yes | FC | 21-08-19 | 24-01-20 |

| Sl. No. | Name of CD | Defunct (Yes / No) | CIRP Initiated by | Date of Commencement of CIRP | Date of Liquidation Order |
|---------|--|--------------------|-------------------|------------------------------|---------------------------|
| 45 | Jai Bhole Nath Enterprises Pvt Ltd | Yes | OC | 12-04-19 | 27-01-20 |
| 46 | Shree Vaishno Devi Mills Private Limited | Yes | FC | 22-07-19 | 27-01-20 |
| 47 | Yash Smelter Private Limited | NA | OC | 25-07-19 | 27-01-20 |
| 48 | Steel Connect (India) Private Limited | NA | FC | 19-04-17 | 28-01-20 |
| 49 | Seitz India Private Limited | Yes | OC | 08-08-19 | 28-01-20 |
| 50 | Aakash Tiles Private Limited | No | FC | 04-01-19 | 29-01-20 |
| 51 | Speciality Polymers Private Limited | NA | FC | 14-01-19 | 29-01-20 |
| 52 | Evershine Advisory Services Private Limited | NA | FC | 25-02-19 | 30-01-20 |
| 53 | HBN Dairies and Allied Limited | NA | FC | 14-08-18 | 31-01-20 |
| 54 | Maximum Agency Private Limited | Yes | FC | 02-08-19 | 31-01-20 |
| 55 | Gee Pee Infotech Pvt Ltd | Yes | FC | 02-08-19 | 31-01-20 |
| 56 | BRG Iron & Steel Co. Private Limited | No | FC | 05-03-19 | 03-02-20 |
| 57 | Adyama Rice Mill Pvt Ltd | NA | FC | 06-08-19 | 03-02-20 |
| 58 | Ruchika Tradelink Private Limited | No | OC | 07-08-19 | 03-02-20 |
| 59 | Neoteric Infomatique Limited | NA | OC | 11-11-19 | 04-02-20 |
| 60 | Pawan Buildwell Private Limited | No | FC | 04-04-18 | 05-02-20 |
| 61 | Komorebi Exports Private Limited | Yes | OC | 10-01-19 | 05-02-20 |
| 62 | Isolux Corsan India Engineering & Construction Private Limited | No | FC | 11-10-18 | 06-02-20 |
| 63 | Vastu Land Realtors Private Limited | Yes | OC | 27-02-19 | 06-02-20 |
| 64 | Kansal Building Solutions Private Limited | No | FC | 25-03-19 | 06-02-20 |
| 65 | Bhuvtee Stenovate Private Limited | No | FC | 12-03-19 | 07-02-20 |
| 66 | Tripurari Agro Private Limited | Yes | OC | 07-06-19 | 07-02-20 |
| 67 | Incab Industries Ltd. | NA | OC | 07-08-19 | 07-02-20 |
| 68 | Abhay Nutrition Private Limited | NA | FC | 02-04-19 | 07-02-20 |
| 69 | Star Mineral Resources Private Limited | Yes | OC | 17-12-18 | 10-02-20 |
| 70 | Terrene Pharma Private Limited | Yes | OC | 14-08-19 | 10-02-20 |
| 71 | Bee Kay Precision (India) Private Limited | NA | OC | 21-08-18 | 10-02-20 |
| 72 | Special Prints Ltd | Yes | OC | 15-07-19 | 10-02-20 |
| 73 | Aashita Builders Private Limited | NA | FC | 27-02-19 | 10-02-20 |
| 74 | Skyrise Overseas Private Limited | Yes | FC | 09-08-19 | 11-02-20 |
| 75 | Anandram Developers Private Limited | NA | FC | 06-06-18 | 11-02-20 |
| 76 | Surina Impex Private Limited | NA | FC | 07-08-19 | 11-02-20 |
| 77 | Turbo Metals Private Limited | Yes | CD | 15-01-19 | 12-02-20 |
| 78 | Gajanan Oil Private Limited | Yes | OC | 06-05-19 | 12-02-20 |
| 79 | Sholingur Textiles Limited | Yes | FC | 04-02-19 | 13-02-20 |
| 80 | Apple Industries Limited | NA | FC | 12-03-19 | 13-02-20 |
| 81 | Penguin Umbrella Works Private Limited | Yes | FC | 12-06-19 | 14-02-20 |
| 82 | Bhagwandas Ispat Private Limited | NA | FC | 23-10-19 | 14-02-20 |
| 83 | Interparts Marketing Private Limited | NA | FC | 16-05-19 | 14-02-20 |
| 84 | Amira Pure Foods Private Limited | NA | OC | 11-12-18 | 17-02-20 |
| 85 | Ada Cellworks Wireless Engineering Private Limited | NA | OC | 11-07-19 | 18-02-20 |
| 86 | Monorex Private Limited | Yes | FC | 27-02-19 | 18-02-20 |
| 87 | Acharya Techno Solutions (India) Private Limited | Yes | OC | 13-09-19 | 19-02-20 |
| 88 | Eshal Foods Private Limited | Yes | OC | 19-09-19 | 19-02-20 |
| 89 | Konaseema Gas Power Limited | No | FC | 18-12-18 | 20-02-20 |
| 90 | Hanumanta Engineering Private Limited | No | FC | 19-08-19 | 20-02-20 |
| 91 | Maa Tara Ispat Industries Private Limited | Yes | OC | 09-04-19 | 21-02-20 |
| 92 | Space Matrix Private Limited | Yes | FC | 28-08-19 | 24-02-20 |
| 93 | Alliance Lumiere Limited | NA | CD | 05-09-19 | 24-02-20 |
| 94 | Bholanath Ingots Private Limited | Yes | OC | 07-08-19 | 24-02-20 |
| 95 | J.L. Knit (India) Limited | Yes | FC | 08-08-19 | 25-02-20 |
| 96 | Aparna Polyflex Private Limited | No | OC | 01-10-19 | 25-02-20 |
| 97 | Sura Leathers Private Limited | NA | OC | 31-05-19 | 25-02-20 |
| 98 | Amrit Hatcheries Private Limited | Yes | OC | 20-08-19 | 25-02-20 |
| 99 | Little Bee International Private Limited | Yes | FC | 31-05-19 | 26-02-20 |
| 100 | Firestar Diamond International Private Limited | No | FC | 25-09-19 | 26-02-20 |
| 101 | Loyal Auto Globe Private Limited | Yes | FC | 12-03-19 | 27-02-20 |
| 102 | Cryo-Save (India) Private Limited | Yes | CD | 09-08-19 | 27-02-20 |
| 103 | Vikram Hospital Private Limited | Yes | OC | 19-06-18 | 28-02-20 |
| 104 | Noslar International Limited | No | OC | 02-11-18 | 28-02-20 |
| 105 | Noni Bio-tech Private Limited | NA | OC | 24-09-19 | 28-02-20 |
| 106 | ACE Tours Worldwide Limited | NA | CD | 10-05-19 | 28-02-20 |
| 107 | Kothari Foods and Fragrances Private Limited | Yes | FC | 18-10-18 | 02-03-20 |
| 108 | Global Rural Netco Limited | NA | OC | 18-02-19 | 02-03-20 |
| 109 | S R Foils and Tissue Limited | Yes | FC | 07-08-17 | 04-03-20 |
| 110 | Time & Space Lifestyle LLP | NA | OC | 09-09-19 | 04-03-20 |
| 111 | Loyal Motors Private Limited | NA | FC | 28-01-19 | 05-03-20 |
| 112 | Rabirun Vinimay Pvt. Ltd. | No | FC | 07-03-19 | 05-03-20 |
| 113 | Diabari Tea Co Limited | Yes | OC | 17-06-19 | 11-03-20 |
| 114 | U V Exports Private Limited | Yes | OC | 19-09-19 | 11-03-20 |
| 115 | Chaitra Glaze Private Limited | NA | OC | 27-11-19 | 12-03-20 |
| 116 | Samaara Leathers Private Limited | NA | OC | 12-04-19 | 13-03-20 |
| 117 | Samruddhi Realty Limited | NA | OC | 16-04-19 | 13-03-20 |
| 118 | Bharath Coal Chemicals Limited | NA | OC | 11-10-19 | 13-03-20 |
| 119 | Vasmo Agro Nutri Product Private Limited | NA | FC | 15-03-19 | 13-03-20 |
| 120 | Food Express Industrial Catering Services Private Limited | NA | OC | 03-09-19 | 13-03-20 |
| 121 | B R Knitwears Private Limited | NA | OC | 21-11-19 | 13-03-20 |

Defunct: Not Going Concern/ Erstwhile BIFR

NA: Not Available

The status of liquidation process as on March 31, 2020 is presented in Table 9.

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

| Status of Liquidation | Number |
|------------------------------|-------------|
| Initiated | 914* |
| Final Report submitted | 69 |
| Closed by Dissolution | 55 |
| Closed by Going Concern Sale | 1 |
| Ongoing | 845 |
| > Two years | 70 |
| > One year ≤ Two years | 277 |
| > 270 days ≤ 1 year | 96 |
| > 180 days ≤ 270 days | 143 |
| > 90 days ≤ 180 days | 138 |
| ≤ 90 days | 121 |

*This excludes 6 cases where liquidation order has been set aside by NCLAT / Supreme Court.

Till December 2019, 41 liquidation processes were closed by dissolution / going concern sale as presented in the last newsletter. Dissolution of 4 more CDs were later reported corresponding to that period, as presented in Part A of Table 10. During January – March, 2020, 11 more liquidation processes were closed, taking total number of dissolutions / sold as going concern to 56. 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 December 31, 2019) | | | | | | | |
| 1 | Nova Electro Magnetics Limited | 03-12-18 | 0.02 | 0 | 0 | NA | 10-04-19 |
| 2 | Right Towers Private Limited* | 08-11-19 | 144.44 | NA | NA | NA | 08-11-19 |
| 3 | Infinity Fab Engineering Company Private Limited | 20-02-18 | 8.61 | 0.57 | 0.89 | 0.66 | 22-11-19 |
| 4 | Eolane Electronics Bangalore Private Limited | 20-12-17 | 12.68 | 12.99 | 12.68 # | 12.68 | 18-12-19 |
| Part B: January - March, 2020 | | | | | | | |
| 1 | VTL (India) Limited | 08-08-19 | 153.42 | NA | NA | NA | 07-01-20 |
| 2 | Uthrakaliyaman Infrastructures Private Limited | 07-01-19 | 221.84 | 0.68 | 0.75 | 0.58 | 08-01-20 |
| 3 | Sri Maruthi Digitals Private Limited | 03-12-19 | 0.24 | NA | NA | NA | 10-01-20 |
| 4 | Vishal Global Limited | 08-07-19 | 0 | NA | NA | NA | 27-01-20 |
| 5 | Balodis Technologies Private Limited | 15-11-19 | 0.42 | 0.11 | 0.11 | 0.06 | 31-01-20 |
| 6 | Lupin Telepower Private Limited | 21-06-19 | 0.69 | 0 | 0 | NA | 03-02-20 |
| 7 | Logix Express Private Limited | 20-02-19 | 8.49 | NA | NA | NA | 03-02-20 |
| 8 | Jhelum Industries Private Limited | 20-03-18 | 16.8 | 0 | 0 | NA | 07-02-20 |
| 9 | Apex MRI Centre Private Limited | 21-08-19 | 21.96 | 0.64 | 0.64^ | 0.64^ | 11-02-20 |
| 10 | Micro Forge (India) Limited | 12-12-17 | 97.16 | 0.03 | 0.06 | NA | 12-02-20 |
| 11 | TAPL International Private Limited | 07-08-19 | 71.08 | NA | NA | NA | 27-02-20 |

^0 means an amount below two decimals.

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

* Direct Dissolution; Claims pertain to CIRP period

The liquidator sold assets worth ₹2.3 crore only and rest of the assets of the CD were distributed to stakeholders to full satisfaction to their claims.

^ The secured creditors have decided not to relinquish the security interest.

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

Table 11: Reasons for Liquidation #

| Circumstance | Number of Liquidations | |
|--|-------------------------------|------------|
| | Where Final Reports Submitted | Ongoing |
| AA did not receive resolution plan for approval | 33 | 373 |
| AA rejected the resolution plan for non-compliance with the requirements | 0 | 41 |
| CoC decided to liquidate the CD during CIRP | 36 | 231 |
| CD contravened provisions of resolution plan | 0 | 1 |
| Total | 69 | 646 |

Data are available for only 715 cases.

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 715 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 Admitted | Amount of claims | Liquidation Value | Amount Realised | Amount Distributed |
|---|------------------------------|------------------|-------------------|-----------------|--------------------|
| 69 Liquidations where Final Report Submitted | | | | | |
| 52 ^ | 4 | 21.96 | 0.64 | 0.64 | 0.64 |
| 53 (I) (a) | | | | | 6.34 |
| 53 (I) (b) | 267 | 9850.66 | | | 70.10 |
| 53 (I) (c) | 104 | 1.21 | | | 0.87 |
| 53 (I) (d) | 88 | 160.56 | | | 6.03 |
| 53 (I) (e) | 32 | 280.46 | 107.75 | 104.17 # | 6.24 |
| 53 (I) (f) | 174 | 84 | | | 8.52 |
| 53 (I) (g) | 0 | 0 | | | 0 |
| 53 (I) (h) | 65 | 2.88 | | | 1.51 |
| Total (A) | 734 | 10401.73 | 108.39 | 104.81 # | 100.25 |
| Ongoing 646 Liquidations* | | | | | |
| 53 (I) (a) | | | | | |
| 53 (I) (b) | 29086 | 339560.67 | | | |
| 53 (I) (c) | 21763 | 1205.51 | | | |
| 53 (I) (d) | 7740 | 84898.57 | | | |
| 53 (I) (e) | 684 | 13333.55 | | | |
| 53 (I) (f) | 1952636 | 24598.21 | | | |
| 53 (I) (g) | 0 | 0 | | | |
| 53 (I) (h) | 644 | 837.06 | | | |
| Total (B) | 2012553 | 464433.57 | | | |
| Grand Total (A+B) | 2013287 | 474835.30 | | | |

* Data for other liquidations are not available.

Inclusive of unclaimed proceeds of ₹4.56 crore under liquidation

** Liquidation value for only 462 CDs is available

^ For 5 CDs, details on relinquishment or otherwise by secured creditors are not available. Accordingly, their details have been captured in Section 53.

The average time taken for completion of 221 CIRPs yielding resolution is 415 days, including the time excluded by the AA. However, if the time excluded by the AA is excluded, the average time for completion of CIRPs is 375 days (Table 13). The average time taken for completion of 914 CIRPs, which have yielded orders for liquidations, is 309 days.

Table 13: Average time for approval of Resolution Plans/Orders for Liquidation/Dissolution

| Table 15: Average time for approval of resolution plans/Orders for Liquidation/Disposal | | | | |
|---|--|--------------------------|-------------------------|-------------------------|
| Sl. No. | Average time | No. of Processes covered | Time (In days) | |
| | | | Including excluded time | Excluding excluded time |
| CIRPs | | | | |
| 1 | From ICD to Approval of resolution plans by AA | 221* | 415 | 375 |
| 2 | From ICD to order for liquidation by AA | 914 | 309 | NA |
| Liquidations | | | | |
| 3 | From LCD to submission of final report | 69 | 270 | NA |
| 4 | For submission of Final report under Voluntary Liquidation | 202 | 315 | NA |

Twelve large accounts

Resolution of 12 large accounts were initiated by banks, as directed by RBI. Together they had an outstanding claim of ₹3.45 lakh crore as against liquidation value of ₹73,220 crore. Of these, resolution plan in respect of eight CDs have been approved and orders for liquidation have been passed in respect of two CDs. Due to failure of implementation of approved resolution plan in respect of one CD (Amtek Auto Ltd.), the process has restarted. Thus, CIRPs in respect of two CDs and liquidation in respect of two CDs are ongoing and are at different stages of the process. The status of the 12 large accounts is presented in Table 14.

Table 14: 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 | Barnnipal Steel Ltd. |
| Monnet Ispat & Energy Limited | 11015 | 2892 | 26.26 | 123.35 | Consortium of JSW and AION Investments Pvt. Ltd. |
| Essar Steel India Limited | 49473 | 41018 | 82.91 | 266.65 | Arcelor Mittal India Pvt. Ltd. |
| Alok Industries Limited | 29523 | 5052 | 17.11 | 113.96 | Reliance Industries Ltd., JM Financial Asset Reconstruction Company Ltd., JMFARC - March 2018 - Trust |
| Jyoti Structures Limited | 7365 | 3691 | 50.12 | 387.44 | Group of HNIs led by Mr. Sharad Sanghi |
| Bhushan Power & Steel Limited | 47158 | 19350 | 41.03 | 203.39 | JSW Ltd. |
| Jaypee Infratech Limited | 23176 | 23223 | 100.20 | 130.82 | NBCC (India) Limited |
| Under Process | | | | | |
| Amtek Auto Limited | | CIRP re-commenced | | | |
| Era Infra Engineering Limited | | Under CIRP | | | |
| Lanco Infratech Limited | | Under Liquidation | | | |
| ABG Shipyards Limited | | Under Liquidation | | | |

Notes:

1. Due to failure of implementation of approved resolution plan in Amtek Auto Ltd., which was earlier included in the completed list, the process has restarted.

2. The Resolution Plan approved in Jaypee Infratech Limited is under challenge before the Hon'ble NCLAT.

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. The CIRP is ongoing.

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, (ii) the corporate person is not being liquidated to defraud any person. At the end of March 31, 2020, 669 corporate persons initiated voluntary liquidation (Table 15). Final reports in respect of 202 voluntary liquidations have been submitted by March 31, 2020.

Table 15: Commencement of Voluntary Liquidations till March 31, 2020 (Number)

| Quarter | Liquidations at the beginning | Liquidations Commenced | Final Reports Submitted | Liquidations at the end |
|-----------------|-------------------------------|------------------------|-------------------------|-------------------------|
| Apr - Jun, 2017 | 0 | 13 | 0 | 13 |
| Jul - Sep, 2017 | 13 | 41 | 0 | 54 |
| Oct - Dec, 2017 | 54 | 58 | 4 | 108 |
| Jan - Mar, 2018 | 108 | 72 | 7 | 173 |
| Apr - Jun, 2018 | 173 | 38 | 16 | 195 |
| Jul - Sep, 2018 | 195 | 61 | 16 | 240 |
| Oct - Dec, 2018 | 240 | 38 | 29 | 249 |
| Jan - Mar, 2019 | 249 | 92 | 34 | 307 |
| Apr - Jun, 2019 | 307 | 53 | 19 | 341 |
| Jul - Sep, 2019 | 341 | 61 | 28 | 374 |
| Oct - Dec, 2019 | 374 | 65 | 22 | 417 |
| Jan - Mar, 2020 | 417 | 77 | 27 | 467 |
| Total | NA | 669 | 202 | 467 |

The status of 669 liquidations is presented in Table 16.

Table 16: Phasing of Voluntary Liquidations

| Status of Liquidation | No. of Liquidations |
|------------------------|---------------------|
| Initiated | 669 |
| Final Report Submitted | 202 |
| Closed by Dissolution | 120 |
| Ongoing | 467 |
| > Two years | 75 |
| > One year ≤ Two years | 155 |
| > 270 days ≤ 1 year | 43 |
| > 180 days ≤ 270 days | 55 |
| > 90 days ≤ 180 days | 62 |
| ≤ 90 days | 77 |

While 669 cases of voluntary liquidation were admitted till March 31, 2020, the reasons for these initiations are available for 569 cases, which are presented in Table 17.

Table 17: Reasons for Voluntary Liquidation

| Sl. No. | Reason for Voluntary Liquidation | No. of Corporate Persons |
|--------------|---|--------------------------|
| 1 | Not carrying business operations | 369 |
| 2 | Commercially unviable | 73 |
| 3 | Running into losses | 14 |
| 4 | No revenue | 20 |
| 5 | Promoters unable to manage affairs | 14 |
| 6 | Purpose for which company was formed accomplished | 8 |
| 7 | Contract termination | 5 |
| 8 | Miscellaneous | 66 |
| Total | | 569 |

Most of these corporate persons are small entities. 368 of them have paid-up equity capital of less than ₹1 crore. Only 67 of them have paid-up capital exceeding ₹5 crore. The corporate persons, for which details are available, have an aggregate paid-up capital of ₹3370 crore (Table 18).

Table 18: Details of 669 Liquidations (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 | 202 | 660 | 2971 | 18 | 18 | 2758 |
| Ongoing liquidations | 467 | 2710# | 1605# | * | | |
| Total | 669 | 3370 | 4576 | * | | |

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

Paid up capital and assets of 368 and 352 cases, respectively, are available.

It was reported in the last newsletter that dissolution orders were passed in respect of 101 liquidations. Four more dissolution orders were later reported during that period, as indicated in Part A of Table 19. During the quarter January - March, 2020, dissolutions orders in respect of 15 more

voluntary liquidations were passed taking the total dissolutions to 120. These 120 corporate persons owed ₹ 9.28 crore to creditors and through voluntary liquidation process, they were paid ₹ 9.28 crore.

Table 19: 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 December 31, 2019) | | | | | | | | |
| 1 | Saveair India Private Limited | 23-03-18 | 05-09-19 | 0.52 | - | - | 0.03 | 0.49 |
| 2 | Asahi Organic Chemicals India Private Limited | 29-03-18 | 17-10-19 | 1.79 | 0.14 | 0.14 | 0.37 | 1.28 |
| 3 | Indipreneurs.com Private Limited | 17-09-18 | 18-11-19 | 0.11 | - | - | 0.02 | 0.09 |
| 4 | Taarika Fashions Limited | 29-03-18 | 17-12-19 | 0 | - | - | 0 | - |
| Part B: January - March, 2020 | | | | | | | | |
| 1 | Parks Infoway Private Limited | 24-02-18 | 02-01-20 | 0 | - | - | 0 | - |
| 2 | Sequent Specialty Chemicals Private Limited | 31-03-18 | 06-01-20 | 0.02 | - | - | 0.01 | 0 |
| 3 | Innovairre India Venture Management Services Private Limited | 12-11-17 | 08-01-20 | 0.03 | - | - | 0 | 0.02 |
| 4 | Innovairre India Direct Communication Private Limited | 12-11-17 | 08-01-20 | 0.01 | 0.01 | 0.01 | 0 | 0 |
| 5 | Manoj Stocks Private Limited | 13-11-17 | 20-01-20 | 0.26 | - | - | 0.01 | 0.25 |
| 6 | Disha E-Consultancy Services Private Limited | 19-04-18 | 22-01-20 | 0.57 | - | - | 0.04 | 0.53 |
| 7 | Citadel Trading India Private Limited | 31-10-17 | 22-01-20 | 3.47 | 0.01 | 0.01 | 0.01 | 3.45 |
| 8 | Acertis Cloud India Private Limited | 23-04-18 | 23-01-20 | 0.12 | - | - | 0.08 | 0.04 |
| 9 | Vital Natural Resources Private Limited | 30-11-18 | 28-01-20 | 0.12 | - | - | 0.03 | 0.09 |
| 10 | RSD Business Solutions Private Limited | 17-10-19 | 31-01-20 | 0.03 | - | - | 0.01 | 0.02 |
| 11 | Louis Vuitton India Holding & Services Private Limited | 12-03-19 | 31-01-20 | 18.38 | - | - | 0.15 | 18.23 |
| 12 | Synchronica Mobile Gateway Private Limited | 05-12-17 | 12-02-20 | 0.04 | - | - | 0.04 | - |
| 13 | Selectron Systems Private Limited | 23-04-18 | 18-02-20 | 0.32 | - | - | 0.29 | 0.03 |
| 14 | Amansa Investment Advisors Private Limited | 30-08-18 | 17-03-20 | 4.10 | - | - | 0.39 | 3.71 |
| 15 | ITP Technical Services Private Limited | 05-02-18 | 20-03-20 | 0.31 | - | - | 0.09 | 0.22 |
| Total | | | | 30.2 | 0.16 | 0.16 | 1.57 | 28.45 |

Summary of Outcomes

(a) The first order objective of the Code is rescuing life of a CD in distress. It has rescued 221 CDs till March, 2020 through resolution plans. They owed ₹4.13 lakh crore to creditors. However, the realisable value of the assets available with them, when they entered the CIRP, was only ₹0.96 lakh crore. The Code maximises the value of the existing assets, not of the assets which do not exist. Under the Code, the creditors recovered ₹1.84 lakh crore, which is about 191% 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 ₹191 under the Code. The excess recovery of ₹91 is a bonus from the Code. Recovery is incidental under the Code. Yet, the recovery for FCs, as compared to their claims, is about 46%. This only reflects the extent of value erosion by the time the CDs entered CIRP.

(b) Although the Code has rescued 221 CDs, it has sent 914 CDs to liquidation. It is important to note that the CDs rescued had assets valued at ₹0.96 lakh crore, while the 879 CDs (for which data are available) referred for liquidation had assets valued at ₹0.36 lakh crore when they entered the CIRP. Thus, in value terms, around three fourth of distressed assets have been rescued. Of the CDs rescued, one-third were either defunct or under BIFR, and of the CDs sent for liquidation, three-fourth were either defunct or under BIFR.

(c) Of the total CDs ending up with orders for liquidation, data in respect of 879 CDs are available. These had an aggregate claim of ₹5.16 lakh crore. Unfortunately, they had assets, on the ground, valued only at ₹0.36 lakh crore. Many such CDs did not have any job or asset when they entered the IBC process. Till March 31, 2020, 69 have been completely liquidated. These had outstanding claims of ₹10,402 crore, but the assets valued at ₹108 crore. These included Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹8,163 crore, while they had absolutely no assets and employment.

(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 settling defaults at early stages of the life cycle of a distressed asset. They are settling 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 IBC process. Most CDs are

rescued at these stages. Only a few companies, who fail to address the distress in any of these stages, reach the liquidation stage. At this stage, the value of the CD is substantially eroded, and hence some of them are rescued, and others liquidated. The recovery may be low at this stage, but recovery in early stages of distress is much higher, and it is primarily because of the Code.

(e) The Code endeavours to close the various processes at the earliest. It prescribes timelines for some of them. The 221 CIRPs, which have yielded resolution plans by the end of March, 2020, took on average 375 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 914 CIRPs, which ended up in orders for liquidation, took on average 309 days for conclusion. Further, 69 liquidation processes, which have closed by submission of final reports till March 31, 2020, took on average 270 days for closure. Similarly, 202 voluntary liquidation processes, which have closed by submission of final reports, took on average 315 days for closure.

Individual Processes

The provisions relating to insolvency resolution and bankruptcy relating to personal guarantors (PGs) to CDs came into force on December 1, 2019. As per the information received from IPs, three applications have been filed under these provisions, before the AA by the end of March, 2020. One application has been filed by a PG under section 94 of the Code in Amravati Bench of the AA and other two applications have been filed by the creditors under section 95 of the Code in Ahmedabad bench of AA.

Service Providers

Insolvency Professionals

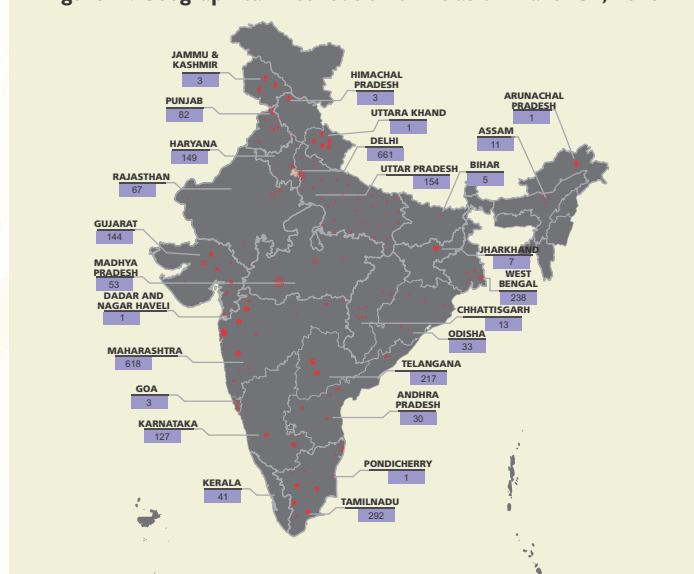
An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP needs an AFA to take up an assignment under the Code with effect from January 1, 2020. IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for AFA to the IPA, and an IPA to process such applications electronically. The details of IPs registered as on March 31, 2020 and AFAs held by them, IPA-wise, is presented in Table 20. A geographical distribution of IPs as on March 31, 2020 is presented in Figure 1.

Table 20: Registered IPs and AFAs as on March 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 | 366 | 230 | 65 | 661 | 251 | 158 | 49 | 458 |
| Rest of Northern Region | 301 | 167 | 45 | 513 | 207 | 120 | 30 | 357 |
| Mumbai | 343 | 118 | 32 | 493 | 220 | 75 | 26 | 321 |
| Rest of Western Region | 216 | 93 | 30 | 339 | 140 | 66 | 22 | 228 |
| Chennai | 116 | 78 | 11 | 205 | 61 | 56 | 7 | 124 |
| Rest of Southern Region | 294 | 163 | 46 | 503 | 193 | 107 | 37 | 337 |
| Kolkata | 171 | 34 | 17 | 222 | 123 | 19 | 13 | 155 |
| Rest of Eastern Region | 50 | 18 | 5 | 73 | 30 | 13 | 3 | 46 |
| Total Registered | 1857 | 901 | 251 | 3009 | 1225 | 614 | 187 | 2026 |

Figure 1 : Geographical Distribution of IPs as on March 31, 2020



Of the 3014 IPs registered till date, registrations of four IPs have been cancelled after due disciplinary process and registration of one IP was cancelled on failing to fulfil the requirement of fit and proper person status. The registrations and cancellations of registrations IPs, quarter wise, till March 31, 2020 are presented in Table 21.

Table 21: Registration and Cancellation of Registrations of IPs

| Quarter | No. of Ips | | |
|-----------------|-------------|-----------|--------------------------------------|
| | Registered | Cancelled | Registered at the End of the Quarter |
| Jan - Mar, 2017 | 96 | 0 | 96 |
| Apr - Jun, 2017 | 450 | 0 | 546 |
| Jul - Sep, 2017 | 561 | 0 | 1107 |
| Oct - Dec, 2017 | 217 | 0 | 1324 |
| Jan - Mar, 2018 | 488 | 0 | 1812 |
| Apr - Jun, 2018 | 71 | 1 | 1882 |
| Jul - Sep, 2018 | 154 | 1 | 2035 |
| Oct - Dec, 2018 | 253 | 1 | 2287 |
| Jan - Mar, 2019 | 170 | 1 | 2456 |
| Apr - Jun, 2019 | 203 | 0 | 2663 |
| Jul - Sep, 2019 | 128 | 0 | 2791 |
| Oct - Dec, 2019 | 124 | 0 | 2915 |
| Jan - Mar, 2020 | 99 | 1 | 3009 |
| Total | 3014 | 5 | 3009 |

An individual with 10 years of experience as a member of the ICAI, ICSI, ICAI or as an advocate enrolled with a State 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 22 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on March 31, 2020. Of the 3009 IPs as on March 31, 2020, 274 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 22: Distribution of IPs as per their Eligibility

| Eligibility | No. of Ips | | |
|-----------------------|-------------|------------|-------------|
| | Male | Female | Total |
| Member of ICAI | 1507 | 135 | 1642 |
| Member of ICSI | 460 | 88 | 548 |
| Member of ICAI | 150 | 12 | 162 |
| Member of Bar Council | 178 | 21 | 199 |
| Managerial Experience | 440 | 18 | 458 |
| Total | 2735 | 274 | 3009 |

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 23 presents the age profile of the IPs registered as on March 31, 2020.

Table 23: Age Profile of IPs

(Number)

| Age Group (in Years) | IIIP ICAI | ICSI IIP | IPA of ICAI | Total |
|----------------------|-------------|------------|-------------|-------------|
| ≤ 40 | 220 | 72 | 4 | 296 |
| > 40 ≤ 50 | 660 | 317 | 46 | 1023 |
| > 50 ≤ 60 | 596 | 244 | 60 | 900 |
| > 60 ≤ 70 | 355 | 241 | 134 | 730 |
| > 70 ≤ 80 | 22 | 24 | 7 | 53 |
| > 80 ≤ 90 | 3 | 3 | 0 | 6 |
| > 90 | 1 | 0 | 0 | 1 |
| Total | 1857 | 901 | 251 | 3009 |

Panel for Administrators

In accordance with the Guidelines for Appointment of Insolvency Professionals as Administrators under the Securities and Exchange Board of India (Appointment of Administrator and Procedure for Refunding to the Investors) Regulations, 2018, IBBI prepared the panel of IPs having AFAs for appointment as Administrators during April - September, 2020 and shared the same with SEBI. Table 24 presents zone wise number of IPs empaneled for the period from April-September, 2020.

Table 24: Zone-wise Number of IPs in the Panel

| Zone | No. of Ips |
|--------------|------------|
| New Delhi | 169 |
| Mumbai | 96 |
| Kolkata | 63 |
| Chandigarh | 61 |
| Chennai | 58 |
| Hyderabad | 53 |
| Ahmedabad | 45 |
| Allahabad | 40 |
| Bengaluru | 24 |
| Jaipur | 19 |
| Cuttack | 14 |
| Kochi | 12 |
| Amravati | 5 |
| Total | 659 |

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 AA, in a few cases, IBBI receives references from the AA and promptly responds to the AA. Till March 31, 2020, as per updates available, a total of 826 IRPs have been replaced with RPs, as shown in Table 25.

Table 25: Replacement of IRP with RP as on March 31, 2020

| CIRP initiated by | No. of CIRPs | |
|----------------------|-------------------------------|------------------------------------|
| | Where RPs have been appointed | Where RP is different from the IRP |
| Corporate Applicant | 230 | 98 |
| Operational Creditor | 1229 | 431 |
| Financial Creditor | 1172 | 297 |
| Total | 2631 | 826 |

Insolvency Professional Entities

During the quarter under review, four IPEs were recognised and two IPEs were derecognised. As on March 31, 2020, there were 69 IPEs (Table 26).

Table 26: IPEs as on March 31, 2020

| Quarter | No. of IPEs | | |
|-----------------|-------------|--------------|---------------------------|
| | Recognised | Derecognised | At the end of the Quarter |
| Jan - Mar, 2017 | 3 | 0 | 3 |
| Apr - Jun, 2017 | 14 | 0 | 17 |
| Jul - Sep, 2017 | 22 | 1 | 38 |
| Oct - Dec, 2017 | 18 | 0 | 56 |
| Jan - Mar, 2018 | 19 | 0 | 75 |
| Apr - Jun, 2018 | 1 | 3 | 73 |
| Jul - Sep, 2018 | 4 | 4 | 73 |
| Oct - Dec, 2018 | 3 | 20 | 56 |
| Jan - Mar, 2019 | 5 | 13 | 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 |
| Total | 112 | 43 | 69 |

Table 27: Details of information with NeSL

| At the end of quarter | Creditors having agreement with NeSL | | Creditors who have submitted information | | Debtors whose information is submitted by | | Loan records on-boarded by- | | User registrations (debtors) | Loan records authenticated by debtors | | Amount of underlying debt (Rs. crore) | |
|-----------------------|--------------------------------------|-----|--|-----|---|------|-----------------------------|--------|------------------------------|---------------------------------------|-----|---------------------------------------|-------|
| | FCs | OCs | FCs | OCs | FCs | OCs | FCs | OCs | FC & OC | FCs | OCs | FCs | OCs |
| Jun, 2018 | 66 | NA | 21 | 105 | 69184 | 52 | 191247 | 105 | 1034 | 1364 | 05 | NA | NA |
| Sep, 2018 | 85 | NA | 40 | 144 | 836302 | 135 | 1222737 | 207 | 5121 | 6079 | 32 | 2016708 | 530 |
| Dec, 2018 | 108 | NA | 68 | 140 | 980724 | 202 | 1438390 | 280 | 10291 | 10065 | 35 | 2732805 | 1094 |
| Mar, 2019 | 173 | NA | 114 | 169 | 1266445 | 230 | 1955230 | 316 | 15148 | 13762 | 37 | 4114988 | 16224 |
| Jun, 2019 | 209 | NA | 160 | 231 | 2531930 | 570 | 3911146 | 52766 | 23565 | 22323 | 40 | 4910552 | 20455 |
| Sep, 2019 | 226 | NA | 218 | 297 | 2737049 | 1764 | 4421280 | 86766 | 32177 | 35560 | 61 | 5625318 | 28016 |
| Dec, 2019 | 246 | NA | 321 | 408 | 2926030 | 2121 | 4803931 | 125526 | 48551 | 68646 | 120 | 6919463 | 32038 |
| Mar, 2020 | 267 | NA | 381 | 543 | 6551739 | 6191 | 9417317 | 167719 | 73332 | 109505 | 221 | 7873689 | 31910 |

NA: Not Available

(Number, except as stated)

Registered Valuer Organisations

The Registered Valuer Organisations (RVOs) are frontline regulators for registered valuers. They provide the institutional arrangement for oversight, including the development and regulation of the registered valuers (RVs). They grant membership to valuers, who comply with the eligibility requirements as provided in the Rules, conduct the educational courses in valuation and provide the training for the individual members. With recognition of Nandadeep Valuers Foundation as an RVO on March 17, 2020, there are a total of 12 RVOs as on March 31, 2020. 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.

Only RVs are authorised to undertake valuations required under the Companies Act, 2013 and the Code. The details of RVs, RVO-wise, as on March 31, 2020, is given in Table 28. In addition, there are 12 entities (Partnership Entity/Company) registered as RVs as on March 31, 2020. A geographical distribution of RVs as on March 31, 2020 is presented in Figure 2.

Table 28: Registered Valuers as on March 31, 2020

(Number)

| Registered Valuer Organisation | Asset Class | | | Total |
|---|-----------------|-------------------|--------------------------------|-------------|
| | Land & Building | Plant & Machinery | Securities or Financial Assets | |
| Institution of Estate Managers and Appraisers | 45 | 8 | 5 | 58 |
| IOV Registered Valuers Foundation | 1012 | 160 | 115 | 1287 |
| ICSI Registered Valuers Organisation | 0 | 0 | 116 | 116 |
| The Indian Institution of Valuers | 105 | 33 | 32 | 170 |
| ICMAI Registered Valuers Organisation | 13 | 12 | 187 | 212 |
| ICAI Registered Valuers Organisation | NA | NA | 568 | 568 |
| PVAI Valuation Professional Organisation | 244 | 45 | 33 | 322 |
| CVSRTA Registered Valuers Association | 169 | 51 | NA | 220 |
| Association of Certified Valuers and Analysts | NA | NA | 1 | 1 |
| CEV Integral Appraisers Foundation | 38 | 13 | 0 | 51 |
| Divya Jyoti Foundation | 3 | 3 | 19 | 25 |
| Nandadeep Valuers Foundation | 0 | 0 | 0 | 0 |
| Total | 1629 | 325 | 1076 | 3030 |

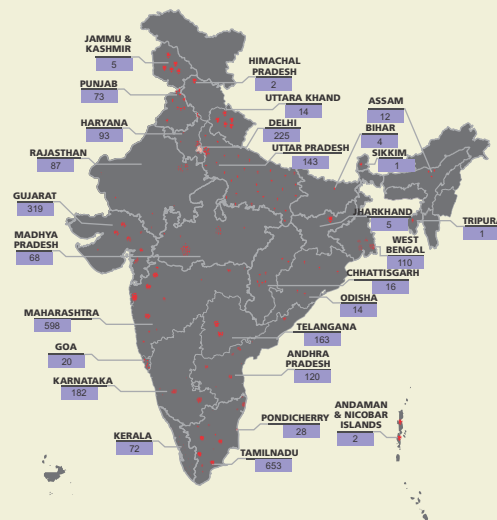
Insolvency Professional Agencies

IPAs are frontline regulators and responsible for developing and regulating the profession of IPs. There are three IPAs registered in accordance with the provisions of the IPA Regulations. IBBI meets MDs/CEOs of IPAs on 7th of every month to discuss the issues arising from the IP profession and to energise them to discharge their responsibilities. The IPAs are conducting pre-registration educational courses for prospective IPs and roundtables and seminars, workshops and webinars for building capacity of IPs. They are monitoring disclosures by IPs in respect of relationship and fee and expenses of CIRPs and the filing of CIRP forms by their members. They conduct and monitor CPE of their members. They issue AFAs to IPs who are their members.

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 CEOs 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 27 provides details of the registered users and information with NeSL, as informed by them.

Figure 2 : Geographical Distribution of RVs as on March 31, 2020



The registration of RVs, quarter-wise, till March 31, 2020 is given in Table 29.

Table 29: Registration of RVs till March 31, 2020

(Number)

| Quarter | Land & Building | Plant & Machinery | Securities or Financial Assets | Total |
|-----------------|-----------------|-------------------|--------------------------------|-------------|
| Apr - Jun, 2018 | 1 | 2 | 0 | 3 |
| Jul - Sep, 2018 | 38 | 13 | 21 | 72 |
| Oct - Dec, 2018 | 280 | 43 | 118 | 441 |
| Jan - Mar, 2019 | 462 | 63 | 145 | 670 |
| Apr - Jun, 2019 | 346 | 81 | 300 | 727 |
| Jul - Sep, 2019 | 212 | 58 | 191 | 461 |
| Oct - Dec, 2019 | 161 | 34 | 146 | 341 |
| Jan - Mar, 2020 | 129 | 31 | 155 | 315 |
| Total | 1629 | 325 | 1076 | 3030 |

Of the RVs registered as on March 31, 2020, 880 RVs (constituting 29% of the total RVs registered) are from metros while 2150 RVs (constituting 71% of the total RVs registered) are from non-metro locations (Table 30).

Table 30: Region wise Registered Valuers as on March 31, 2020

| City / Region | Land & Building | Plant & Machinery | Securities or Financial Assets | Total |
|-------------------------|-----------------|-------------------|--------------------------------|-------------|
| New Delhi | 61 | 27 | 137 | 225 |
| Rest of Northern Region | 217 | 40 | 170 | 427 |
| Mumbai | 96 | 46 | 178 | 320 |
| Rest of Western Region | 455 | 85 | 160 | 700 |
| Chennai | 102 | 30 | 104 | 236 |
| Rest of Southern Region | 654 | 81 | 247 | 982 |
| Kolkata | 18 | 13 | 68 | 99 |
| Rest of Eastern Region | 26 | 3 | 12 | 41 |
| Total | 1629 | 325 | 1076 | 3030 |

The average age of RVs as on March 31, 2020 stood at 48 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 31). Of the 3030 RVs as on March 31, 2020, 267 RVs (constituting about nine per cent of the total registered valuers) are females.

Table 32: Receipt and Disposal of Grievances and Complaints till March 31, 2020

| Period | Complaints and Grievances Received | | | | | | Total | | |
|-----------------|------------------------------------|------------|---|------------|---------------------|------------|-------------|-------------|-------------------|
| | Under the Regulations | | Through CPGRAM/PMO/MCA/ Other Authorities | | Through Other Modes | | Received | Disposed | Under Examination |
| | Received | Disposed | Received | Disposed | Received | Disposed | | | |
| 2017 - 18 | 18 | 0 | 6 | 0 | 22 | 2 | 46 | 2 | 44 |
| 2018 - 19 | 111 | 51 | 333 | 290 | 693 | 380 | 1137 | 721 | 460 |
| Apr - Jun, 2019 | 36 | 21 | 60 | 74 | 149 | 207 | 245 | 302 | 403 |
| Jul - Sep, 2019 | 42 | 41 | 46 | 35 | 67 | 36 | 155 | 112 | 446 |
| Oct - Dec, 2019 | 40 | 46 | 68 | 54 | 71 | 86 | 179 | 186 | 439 |
| Jan - Mar, 2020 | 35 | 69 | 65 | 64 | 74 | 59 | 174 | 192 | 421 |
| Total | 282 | 228 | 578 | 517 | 1076 | 770 | 1936 | 1515 | 421 |

Examinations

Limited Insolvency Examination

IBBI publishes the syllabus, format, etc. of the Limited Insolvency Examination (Examination) under regulation 3(3) of the IP Regulation. It reviews the Examination continuously to keep it relevant with respect to dynamics of the market. It has successfully completed four phases of the Examination. Fourth phase of the Examination concluded on June 30, 2019 and fifth phase commenced on July 1, 2019. The Examination is available on daily basis from various locations across the country. Enrolments for the Examination were suspended from March 23, 2020 on account of COVID-19 outbreak. The details of the Examination are given in the Table 33.

Table 33: Limited Insolvency Examination

| Phase | No. of Attempts (some candidates made more than one attempt) | No. of Successful Attempts |
|--------------------------------------|--|----------------------------|
| First Phase (Jan - Jun, 2017) | 5329 | 1202 |
| Second Phase (Jul - Dec, 2017) | 6237 | 1112 |
| Third Phase (Jan - Oct, 2018) | 6344 | 1011 |
| Fourth Phase (Nov, 2018 - Jun, 2019) | 3025 | 506 |
| Fifth Phase (Jul - Sep, 2019) | 710 | 95 |
| Fifth Phase (Oct - Dec, 2019) | 889 | 119 |
| Fifth Phase (Jan - Mar, 2020) | 1007 | 164 |
| Total | 23541 | 4209 |

Valuation Examinations

IBBI, being the authority, under the Companies (Registered Valuers and Valuation) Rules, 2017, commenced the Valuation Examinations for asset classes of: (a) Land & Building, (b) Plant & Machinery and (c) Securities or Financial Assets on March 31, 2018. The first phase concluded on March 31, 2019 and the second phase commenced on April 1, 2019. It is a computer based online examination available from several locations

Table 31: Age profile of RVs

| Age Group (in years) | Land & Building | Plant & Machinery | Securities or Financial Assets | Total |
|----------------------|-----------------|-------------------|--------------------------------|-------------|
| ≤ 30 | 71 | 5 | 97 | 173 |
| > 30 ≤ 40 | 223 | 50 | 416 | 689 |
| > 40 ≤ 50 | 475 | 77 | 307 | 859 |
| > 50 ≤ 60 | 691 | 99 | 186 | 976 |
| > 60 ≤ 70 | 144 | 69 | 69 | 282 |
| > 70 ≤ 80 | 24 | 24 | 1 | 49 |
| > 80 | 1 | 1 | 0 | 2 |
| Total | 1629 | 325 | 1076 | 3030 |

Complaints and Grievances

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 March 31, 2020 is given in Table 32.

across India. Enrolments for the Examination were suspended from March 23, 2020 on account of COVID-19 outbreak. The details of the Examinations are given in Table 34.

Table 34: 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 - Jun, 2019) | 626 | 154 | 1155 | 49 | 16 | 143 |
| Second Phase (Jul - Sep, 2019) | 994 | 187 | 1426 | 96 | 23 | 195 |
| Second Phase (Oct - Dec, 2019) | 1142 | 230 | 988 | 123 | 27 | 144 |
| Second Phase (Jan - Mar, 2020) | 1018 | 186 | 1226 | 112 | 29 | 174 |
| Total | 13249 | 2422 | 9291 | 2128 | 419 | 1363 |

IBBI, being the Authority, published the syllabus and format of the Valuation Examinations for 3rd Phase to commence on June 1, 2020.

Building Ecosystem

Committees and Working Groups

Meeting of Committee on Cross Border Insolvency

The Cross-Border Insolvency Rules/Regulations Committee (CBIRC) chaired by Dr. K. P. Krishnan had three meetings on February 7, 2020, February 25, 2020 and March 4, 2020. It discussed various aspects of cross border insolvency delegated legislation and procedural matters, along with the interplay of various laws in dealing with cross border insolvency cases.



Meeting of the Committee on Cross Border Insolvency,
February 7, 2020



Workshop on Insolvency and Bankruptcy of PGs to
CDs at Hyderabad, January 25, 2020

Meeting of WG on Individual Insolvency

The WG on Individual Insolvency and Bankruptcy, chaired by Mr. P. K. Malhotra, held its 12th meeting on January 22, 2020. It deliberated and decided on the aspects of implementation of the fresh start process (FSP). Considering the infrastructure and cost of litigations, it also discussed on various ways of simplified, non-adjudicatory, online FSP process meant for small debtors.



Meeting of the Working Group on Individual Insolvency,
January 22, 2020



6th Advanced IP workshop at Hyderabad, February 7 - 8, 2020

Workshops and Webinars

IP Workshops

IBBI has been organising Advanced Workshops for IPs with the aim to impart specialised and in-depth level learning through a classroom, non-residential mode. In continuation of these efforts, it organised the two Advanced Workshops, the 5th and 6th in the series, for IPs during the quarter on the theme 'Forensic Audit and Valuation'. It also organised four workshops for IPs on the recently notified provisions relating to insolvency and bankruptcy of PGs to CDs as detailed in Table 35.

Table 35: IP Workshops

| Sl. | Date(s) | Theme | Place | Partnership with, if any | No. of Participants |
|-----|----------------------|-----------------------|-----------|--------------------------|---------------------|
| 1 | 05-01-20 | Rules and Regulations | Mumbai | ICAI | 89 |
| 2 | 12-01-20 | for Personal | Jaipur | | 33 |
| 3 | 18-01-20 | Guarantors to CDs | Kolkata | | 49 |
| 4 | 25-01-20 | | Hyderabad | | 77 |
| 5 | 24-01-20 to 25-01-20 | Forensic Audit and | Chennai | IIIP of ICAI | 37 |
| 6 | 07-02-20 to 08-02-20 | Valuation | Hyderabad | IPA of ICMAI | 3 |

Webinar

IBBI, in association with ICSI IIP, organised a webinar on "Case study of successful resolution of Ruchi Soya Industries Ltd." on March 20, 2020. Dr. M. S. Sahoo, Chairperson, IBBI, in his address, discussed the trying times for humanity in the wake of outbreak of COVID-19 and enhanced role of IPs as care givers for distressed companies. Further, the webinar featured a detailed discussion on CIRP of Ruchi Soya Industries Ltd. with practical experience sharing by the resolution professional involved with the matter and his team. Approximately 14,000 viewers participated in the webinar.

Peer Review

IBBI, in association with ICAI RVO, organised a peer review workshop on February 14, 2020 to share a review of valuation reports.

Advocacy and Awareness

IBBI organised several advocacy and awareness programmes during the quarter on its own and in association with stakeholders or was associated with stakeholders in organising such programmes.

Programme for Income Tax Department

With a view to increase the awareness and understanding of the provisions of the Code among income-tax officers, IBBI organised 45 awareness programmes at various locations across the country during the last quarter.



Awareness programme for income-tax officers at Ludhiana, January 9, 2020

Programme for DRT and DRAT

With a view to increase the awareness on the newly notified rules and regulations for personal guarantors to CDs with effect from December 1, 2019, IBBI, in association with the Department of Financial Service, organised workshops at various locations across the country for officials of the Debt Recovery Tribunals (DRT) and Debt Recovery Appellate Tribunals (DRAT) during the last quarter. In the quarter January-March, 2020, two such workshops for the members and officers of DRT of Guwahati, Siliguri, Ranchi and Patna were organised at Guwahati and Patna on February 1, 2020 and February 22, 2020 respectively.



Awareness Programme at DRT Guwahati, February 1, 2020



Awareness Programme at DRT Patna, February 22, 2020

Seminar on MSMEs and IBC

IBBI, in association with the FICCI, organised a Seminar on 'MSMEs and Insolvency and Bankruptcy Code, 2016' at New Delhi on March 6, 2020. The Seminar featured keynote address by Dr. M. S. Sahoo, Chairperson, IBBI and two panel discussions on the themes, namely, 'MSMEs as Debtors and the IBC', chaired by Mr. U. K. Sinha (Former Chairman, SEBI) and 'MSMEs as Operational Creditors in corporate insolvency processes' chaired by Mr. P. K. Malhotra (Former Law Secretary).



Dr. M. S. Sahoo at the seminar on MSMEs & IBC at New Delhi, March 6, 2020



Mr. U. K. Sinha at the seminar on MSMEs & IBC at New Delhi, March 6, 2020

Other Programmes

In partnership with IBBI, various stakeholders organised advocacy and awareness programmes as presented in Table 36.

Table 36: Advocacy and Awareness Programmes

| Sl. | Date | Place | Programme | Partnership |
|-----|----------|-----------|------------|---|
| 1 | 31-01-20 | Kota | Awareness | IPA of ICMAI |
| 2 | 08-02-20 | Hyderabad | Workshop | Jawahar Lal Nehru Institute of Banking and Finance, Hyderabad |
| 3 | 15-02-20 | Kochi | Awareness | IPA of ICMAI |
| 4 | 22-02-20 | Jaipur | Awareness | |
| 5 | 29-02-20 | Mumbai | Awareness | |
| 6 | 29-02-20 | Hyderabad | Awareness | |
| 7 | 29-02-20 | New Delhi | Colloquium | EIRC of ICAI |
| 8 | 29-02-20 | Kolkata | Conclave | |

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 37.

Table 37: Participation of Senior Officers in Programmes

| Sl. | Date | Venue | Organiser | Programme | Subject | Participation |
|-----|----------|----------------------|----------------------------|------------|--|----------------------------------|
| 1 | 10-01-20 | Mumbai | Mumbai University | Roundtable | IBC | Chairperson |
| 2 | 10-01-20 | Jaipur | NeSL | Seminar | Knowledge Forum on IBC | Mr. Shukla, WTM |
| 3 | 16-01-20 | New Delhi | ICSI IIP | Webinar | IBC Amendment (Ordinance), 2019 | Mr. Saji Kumar, ED |
| 4 | 25-01-20 | Manesar | IICA | Session | Measuring IBC Impact | Chairperson |
| 5 | 27-01-20 | New Delhi | IIP ICAI | Webinar | Online filing of CIRP Forms, etc. | Dr. Saini, WTM |
| 6 | 29-01-20 | Chennai (Via VC) | RBI Staff College, Chennai | Training | Role of IBBI in financial sector and emerging issues | Mr. Saji Kumar, ED |
| 7 | 31-01-20 | Pune | IPA of ICAI | Workshop | Personal guarantors to CDs | Dr. (Ms.) Vijayawargiya, WTM |
| 8 | 01-02-20 | Delhi | IMT | Conclave | Contemporary Themes in Banking & Finance | Chairperson |
| 9 | 08-02-20 | Hyderabad | JNIBF | Workshop | IBC, 2016 - Current Perspective | Mr. Saji Kumar, ED |
| 10 | 10-02-20 | London | High Commission of India | Conference | Distressed Investment Markets in India | Chairperson |
| 11 | 10-02-20 | London | High Commission of India | Panel | Conversation with Government & Regulators | Chairperson |
| 12 | 10-02-20 | Gandhinagar (Via VC) | GNLU | Colloquium | Insolvency & Credit Risk | Dr. (Ms.) Vijayawargiya, WTM |
| 13 | 12-02-20 | Mumbai | Indian Chamber of Commerce | Seminar | IBC: Way Forward | Mr. Kavdia, ED |
| 14 | 21-02-20 | Udaipur | FOIR | Conference | Transparency & Accountability in Regulatory Framework | Chairperson |
| 15 | 21-02-20 | Udaipur | IICA | Colloquium | Inter Sector Co-ordination among Infrastructure Regulators | Chairperson |
| 16 | 22-02-20 | Udaipur | IOV RVO | Seminar | Valuation Profession under Regulated Regime | Chairperson |
| 17 | 22-02-20 | Indore | ICAI | Conference | IBC: A Game Changer | Dr. (Ms.) Vijayawargiya, WTM |
| 18 | 28-02-20 | Kolkata | CII | Conference | IBC: Measuring the Success | Dr. Saini, WTM |
| 19 | 29-02-20 | Kolkata | ICAI | Conclave | IBC | Dr. Saini, WTM |
| 20 | 29-02-20 | New Delhi | IPA of ICAI | Colloquium | Insolvency and Bankruptcy of PGs to CD, etc. | Dr. (Ms.) Vijayawargiya, WTM |
| 21 | 06-03-20 | New Delhi | NCLAT | Colloquium | Rescuing Lives: IBC Way | Chairperson |
| 22 | 06-03-20 | New Delhi | FICCI | Seminar | MSME & IBC | Chairperson |
| 23 | 07-03-20 | New Delhi | NCLAT | Colloquium | IBC Ecosystem | Chairperson |
| 24 | 07-03-20 | New Delhi | ICMAI | Conclave | International women's day | Dr. (Ms.) Vijayawargiya, WTM |
| 25 | 13-03-20 | New Delhi | RIPA | Workshop | IBC Process | Mr. Shukla, WTM |
| 26 | 14-03-20 | New Delhi | | | Inspection of IPs | Mr. Debajyoti Ray Chaudhuri, CGM |
| 27 | 20-03-20 | New Delhi | ICSI IIP | Webinar | Case Study of Successful Resolutions | Chairperson |



Colloquium on Insolvency and Bankruptcy process of PGs to CDs at New Delhi, February 29, 2020



CII Conference in Kolkata on February 28, 2020



Mr P.K.Malhotra at the seminar on MSMEs & IBC at New Delhi, March 6, 2020



Seminar on MSMEs & IBC at New Delhi, March 6, 2020

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