CORPORATE INSOLVENCY RESOLUTION IN INDIA: A CRITICAL ANALYSIS OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

by

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ABSTRACT

The Insolvency and Bankruptcy Code, 2016 (IBC) represents a significant change in India's approach to corporate financial distress. Before its enactment, corporate insolvency framework in India was fragmented across different statutes and institutional mechanisms, including the Companies Act 2013, which contained provisions relating to corporate winding-up, the Sick Industrial Companies (Special Provisions) Act 1985 and various debt-recovery mechanisms. The earlier framework was characterised by delays, multiplicity of proceedings and institutional fragmentation, which frequently contributed to the erosion of value in distressed enterprises. The IBC initiated a consolidated and time-bound framework centred on resolution rather than immediate liquidation, with the objectives of maximising asset value, promoting entrepreneurship and availability of credit and balancing the interests of stakeholders. This paper critically examines corporate insolvency resolution under the IBC 2016, with particular emphasis on the Corporate Insolvency Resolution Process (CIRP), moratorium, Committee of Creditors (CoC), insolvency professionals, resolution plans, valuation and liquidation. It further evolves judicial interpretation concerning the commercial wisdom of the CoC and evaluates the practical effectiveness of the Code through available institutional data. The analysis demonstrates that the IBC has significantly changed creditor-debtor behaviour and created a more coherent framework for corporate distress. However, delays in admission and resolution, institutional constraints, value erosion, valuation concerns and difficulties in implementing approved resolution plans continue to affect its effectiveness. This paper discusses that the future of insolvency law in India should focus not merely on increasing the number of resolutions but on ensuring timely, commercially viable and sustainable corporate revival.

Keywords: Corporate, Insolvency, NCLT, Liquidation, Financial Distress.

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1. Introduction

Corporate financial distress is a significant concern in a modern economy because the failure of a corporate enterprise affects a wide range of stakeholders. The consequences of insolvency extend beyond shareholders and directors to financial creditors, operational creditors, employees, suppliers, customers and government authorities. A financially distressed company may nevertheless possess productive assets, skilled employees, established business relationships and commercially viable operations. Consequently, an effective insolvency framework must determine whether a distressed enterprise can be rescued or whether its assets should be liquidated. The law must therefore balance enterprise preservation, creditor recovery, value maximisation and efficient exit("(PDF) Corporate Financial Distress and Bankruptcy," n.d.). The need for an effective corporate insolvency mechanism became particularly evident in India under the pre-IBC framework. Historically, the Companies Act, 1956 provided the principal statutory framework for corporate winding-up, while the Sick Industrial Companies (Special Provisions) Act, 1985 sought to provide a mechanism for the rehabilitation of financially distressed industrial undertakings. The Companies Act, 2013 subsequently replaced the Companies Act, 1956 and retained provisions relating to corporate winding-up and liquidation. However, the insolvency framework remained fragmented, with creditors also having access to separate debt-recovery mechanisms. The existence of multiple proceedings often resulted in delay, uncertainty, overlapping processes and duplication, thereby contributing to the erosion of value in distressed enterprises((PDF) Corporate Insolvency and Bankruptcy in India: Challenges and Opportunities, n.d.).

The practical consequences of this pre-IBC fragmentation were also reflected in international assessments of India's business environment. On the World Bank's 'resolving insolvency' parameter within its Ease of Doing Business rankings, India stood as low as 137th out of 190 economies in 2014, a position widely linked to the delay and multiplicity of proceedings under the earlier regime. This indicates that the shortcomings of the pre-IBC framework were not merely doctrinal but carried measurable consequences for creditor confidence and the broader investment climate.[1]

This study traces the historical development of insolvency and bankruptcy law in India and demonstrates the limitations of the earlier framework. The main problem was therefore not simply the absence of insolvency legislation but the absence of a coordinated, predictable and time-bound mechanism capable of addressing corporate financial distress. A prolonged insolvency process can itself destroy value because business relationships deteriorate, employees leave, assets lose value and market confidence declines((PDF) The Indian Insolvency and Bankruptcy Bill: Sixty Years in the Making, n.d.). The Bankruptcy Law Reforms Committee provided an important conceptual foundation for the subsequent reform. Its approach emphasised collective resolution, time-bound processes, value maximisation and a predictable exit mechanism. The IBC transformed these principles into a comprehensive statutory framework. Instead of treating insolvency primarily as a process of debt recovery or liquidation, the Code seeks to determine whether a distressed corporate debtor can be revived as a going concern(Journal, 2026). The importance of the IBC is also evident from its continuing institutional development. IBBI's (Insolvency and Bankruptcy Board of India) data show that by March 2025, 1,194 corporate debtors had been rescued through resolution plans, while creditors had realised approximately ₹3.89 lakh crore through those resolutions. IBBI also recorded substantial pre-admission settlements, indicating that the existence of the Code has affected negotiations between debtors and creditors even before formal insolvency proceedings commence. This shift is corroborated by independent benchmarking exercises. Following the enactment of the Code, India's ranking on the World Bank's 'resolving insolvency' indicator rose by 84 places, while the average recovery rate for creditors improved from around 26 cents to approximately 71.6 cents on the dollar over the same period. Such external validation supports the view that the IBC produced a substantive, rather than merely formal, change in the treatment of corporate financial distress in India.[2] As the IBC moves into

[1] Testbook, 'Ease of Doing Business India: Ranking, Index & Key Reforms' (Testbook, 2026) <https://testbook.com/ias-preparation/ease-of-doing-business-upsc-notes> accessed 19 August 2026.
[2] Press Information Bureau, Government of India, 'Insolvency and Bankruptcy Code (IBC), 2016 a "Gamechanger Reform": Shri Piyush Goyal' (PIB, 2021) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1775096> accessed 19 August 2026.

its second decade, it is therefore necessary to assess not only its achievements but also the structural difficulties that continue to affect corporate insolvency resolution in India(Kumar, 2022).

2. Historical Evolution and Need for the IBC

The evolution of insolvency law in India reflects a gradual development from liquidation-oriented mechanisms towards enterprise resolution. The Companies Act, 1956 provided a statutory framework for corporate winding-up, focusing mainly on realisation and distribution of assets. It was subsequently replaced by the Companies Act, 2013, which continued to provide provisions relating to corporate winding-up and liquidation. However, the framework remained fragmented, creating the need for a comprehensive and time-bound insolvency mechanism, which led to the enactment of the Insolvency and Bankruptcy Code, 2016 (Jadwani & Dua, 2023). The enactment of the Sick Industrial Companies (Special Provisions) Act, 1985 remarked an attempt to introduce rehabilitation into the system. The establishment of the Board for Industrial and Financial Reconstruction reflected the recognition that certain financially distressed enterprises could be revived rather than immediately liquidated. Nevertheless, the rehabilitation framework was criticised for procedural delays and limited effectiveness(Garg, 2023).

The scale of this ineffectiveness is illustrated by institutional data. By March 2007, the Board for Industrial and Financial Reconstruction had registered 5,471 references, yet only 825 revival schemes had been sanctioned while 1,337 companies were recommended for winding up, indicating a comparatively low rate of successful rehabilitation. Such figures reinforce the view that the pre-IBC rehabilitation architecture struggled to convert institutional intervention into genuine business revival.[3]

The development of debt-recovery mechanisms added another layer to the legal framework. Creditors could initiate recovery proceedings through different mechanisms, while companies could simultaneously face winding-up or rehabilitation proceedings. Such fragmentation made collective resolution difficult. Creditors had incentives to pursue individual recovery, even when collective restructuring might have produced greater value(Venkat, 2025). The need for a unified framework became increasingly apparent as the Indian economy expanded and

[3] Bhatt & Joshi Associates, 'Transition from SICA to IBC: A Legal Framework Evolution in Indian Corporate Insolvency Law' (Bhatt & Joshi Associates, 2021) <https://bhattandjoshiassociates.com/transition-from-sica-to-ibc-a-legal-framework-evolution-in-indian-corporate-insolvency-law/> accessed 19 August 2026.

corporate financing became more complex. A modern insolvency regime must provide creditors with predictable remedies while also ensuring that viable enterprises are not unnecessarily destroyed. The IBC was designed to address this problem by creating a single institutional architecture for insolvency resolution(Hari Hara Sudhan K et al., 2026). Consequently represents a move from a fragmented, recovery-oriented approach towards a collective and resolution-oriented model. The objective is to preserve value where possible and provide an orderly liquidation mechanism where revival is not commercially feasible.

3. Objectives and Concept of the IBC

The Concept of the IBC is based on the recognition that insolvency is fundamentally a collective problem. Once a company becomes insolvent, individual enforcement by creditors can adversely affect other creditors and reduce the overall value available for distribution. The Code therefore creates a collective process in which creditors participate through the CoC and the corporate debtor is assessed as a whole((PDF) All About Liquidation under the Insolvency and Bankruptcy Code 2016, 2026). A main objective is the maximisation of the value of assets. This does not necessarily mean maximising immediate recovery for one creditor. A functioning enterprise may have greater value as a going concern than the value obtainable by selling its assets separately("(PDF) A Critical Analysis onto the Conundrum of Valuation of IP Assets as Part of Liquidation Process under IBC, 2016," 2026).

The Code also seeks to promote entrepreneurship and credit availability. A predictable insolvency framework can encourage lending because creditors have greater confidence that default will result in an organised legal process. At the same time, an effective exit mechanism reduces the economic consequences of business failure and can encourage legitimate entrepreneurial activity("(PDF) A Study on the Effect of the Insolvency and Bankruptcy Code (IBC) on Other Existing Legislation," 2026). Another important principle is the balancing of stakeholder interests. Although the IBC gives substantial authority to financial creditors, the framework also recognises the rights of operational creditors, employees, homebuyers and other affected stakeholders. The challenge is to ensure that creditor-driven decision-making operates within statutory safeguards(The IBC, 2016: A Framework for Balancing Competing Interests in Insolvency Proceedings — IJLMH, n.d.). The Code's concept is therefore broader than simple debt recovery. It seeks to create a market-oriented mechanism in which viable businesses are rescued and unviable businesses are allowed to exit efficiently(EditorSV, n.d.-b).

4. Corporate Insolvency Resolution Process

The Corporate Insolvency Resolution Process is the principal mechanism for dealing with corporate insolvency under the IBC. Section 7 permits a financial creditor to initiate CIRP upon the occurrence of default, while Section 9 provides a mechanism for an operational creditor to initiate proceedings after complying with the statutory requirements. Section 10 provides a route through which the corporate debtor itself may initiate the process(Mahawar, 2023). The availability of different routes reflects the fact that financial distress may become apparent to different stakeholders at different stages. A financial institution may identify default through its lending relationship, an operational creditor may experience non-payment in the ordinary course of business, while the corporate debtor may itself recognise that its financial obligations have become unsustainable("(PDF) Resolution of Corporate Financial Distress," 2026).

Empirical data indicate that these routes are used with differing frequency depending on the scale of default. As of September 2025, more than 47% of CIRPs had been initiated by financial creditors and approximately 46.3% by operational creditors, though operational creditors accounted for around 80% of cases involving defaults below ₹1 crore, while financial creditors accounted for a similar proportion of cases involving defaults above ₹10 crore. This pattern suggests that the choice of initiation route is closely linked to the size and nature of the underlying default, rather than reflecting any single dominant trigger for insolvency.[4]

Once CIRP is admitted by the adjudicating authority, the insolvency process becomes collective. An interim resolution professional is appointed and subsequently the resolution professional undertakes the responsibilities prescribed under the Code. Claims are collected and verified, the CoC is constituted, relevant information is gathered and prospective resolution applicants are invited("Role of an Interim Resolution Professional and Resolution Professional during CIRP under Insolvency and Bankruptcy Code 2016 (IBC)," n.d.). The process is intended to provide a structured environment for determining the future of the corporate debtor. The objective is not simply to identify how much money can be recovered immediately but whether the business can be restructured and preserved("(PDF) EFFECTS OF INDIVIDUAL INSOLVENCY AND PPIRP (PRE-PACKAGED INSOLVENCY RESOLUTION PROCESS) ON THE INDIAN BUSINESS ENVIRONMENT," 2026). The time-bound nature of CIRP is particularly significant. Financial distress is highly sensitive to delay. A company

[4] Business Standard, 'Haircuts Touch 67% as Creditor Recovery Stays Low till Sep 2025' (Business Standard, 23 November 2025) <https://www.business-standard.com/amp/industry/news/ibc-haircuts-2025-creditor-recovery-cirp-delays-ibbi-data-125112300278_1.html> accessed 19 August 2026.

that may have been viable at the beginning of insolvency proceedings can become commercially unviable if resolution is excessively prolonged. Therefore, timely admission and efficient conduct of CIRP are central to the success of the Code(Desk -SC, 2026c).

5. Moratorium and Management of the Corporate Debtor

The moratorium under Section 14 is an important component of the CIRP framework. Its principal purpose is to prevent individual actions from undermining the collective insolvency process. Once the moratorium operates, specified proceedings and enforcement actions against the corporate debtor are restricted in accordance with the Code(EditorSV, n.d.-c). The rationale behind the moratorium is based on the principle of collective resolution. If individual creditors were permitted to enforce their claims independently, assets could be removed from the common pool and the possibility of successful restructuring could be weakened. The moratorium therefore creates a period during which the corporate debtor can be assessed and a resolution plan developed("(PDF) Analysis of Moratorium under Corporate Insolvency Resolution Process," 2026).

The insolvency professional assumes a central role during this period. The professional must preserve the assets of the corporate debtor, verify claims, collect relevant information and facilitate the functioning of the CoC. The objective is to maintain the corporate debtor as a going concern where possible(Rai, 2020a). However, the moratorium is only a protective mechanism. It does not itself create value. Its effectiveness depends upon the ability of the insolvency professional, creditors and adjudicating authority to use the protected period efficiently. Unnecessary litigation and procedural delay can reduce the value of the enterprise even though the statutory moratorium remains in place. This creates an important connection between the legal design of the IBC and its institutional implementation. A moratorium is beneficial only when accompanied by timely resolution(Kulasri, 2022).

The significance of this connection was underscored when the Supreme Court took suo motu cognisance of delays in the appointment of NCLT members and of infrastructural deficiencies, after noting that several hundred applications for approval of resolution plans remained pending, with delays in some instances extending to nearly four years. This demonstrates that even where a moratorium is properly imposed, adjudicatory bottlenecks at the approval stage can substantially erode the value the moratorium was intended to preserve.[5]

6. Committee of Creditors and Commercial Wisdom

The Committee of Creditors is one of the most significant institutional features of the IBC. The CoC generally consists of financial creditors and plays a central role in determining the future of the corporate debtor. It evaluates resolution plans and exercises commercial judgment concerning the feasibility and viability of restructuring proposals(Rajnandini & Kumar, 2022). The main position of the CoC has been strengthened through judicial interpretation. In K. Sashidhar v. Indian Overseas Bank & Ors. (2019) 12 SCC 150 (Civil Appeal No. 10673 of 2018) and Committee of Creditors of Essar Steel India Limited v. Satish Kumar Gupta & Ors. (2020) 8 SCC 531 (Civil Appeal Nos. 8766-67 of 2019), the Supreme Court emphasised that commercial decisions relating to the viability and feasibility of resolution plans primarily belong to the CoC. The principle recognises that creditors are better positioned to evaluate financial and commercial considerations because they have access to relevant information and possess direct economic interests in the outcome("Landmark Judgment of Supreme Court in Committee of Creditors of Essar Steel India Ltd. Vs. Satish Kumar Gupta and Ors. – Supreme Court," n.d.).

The practical significance of this deference is reflected in outcome data. Rating agency analysis shows that the resolution-to-liquidation ratio, measuring the proportion of admitted cases culminating in an approved resolution plan rather than a liquidation order, remained relatively stable at around 0.92 in 2025-26, suggesting that CoC-driven decision-making has continued to favour resolution over liquidation in a majority of cases where a plan is approved. This lends some empirical support to the proposition that creditor-led commercial assessment, when properly exercised, tends to favour enterprise preservation rather than automatic recourse to liquidation.[6]

The doctrine of commercial wisdom also limits excessive judicial intervention. Courts and tribunals are not ordinarily expected to substitute their own commercial assessment for the collective decision of the CoC. This principle is important for maintaining the creditor-driven

[5] LiveLaw, 'Supreme Court Takes Suo Motu Case Over NCLT Appointment Delays & Infrastructure Issues' (LiveLaw, 14 July 2026) <https://www.livelaw.in/top-stories/supreme-court-takes-suo-motu-case-over-nclt-appointment-delays-infrastructure-issues-541083> accessed 19 August 2026.
[6] ICRA Limited, 'Sharp Decline in IBC Recoveries in 2025-26' (ICRA, 27 May 2026) <https://www.icra.in/CommonService/OpenMediaS3?Key=fe0064b0-f014-4e96-9d36-353ac5484a74> accessed 19 August 2026.

character of the IBC((PDF) CRITICAL STUDY OF THE COMMERCIAL WISDOM OF COMMITTEE OF CREDITORS UNDER IBC, n.d.). Nevertheless, commercial wisdom cannot mean unrestricted power. The CoC must act within the statutory framework and comply with the requirements of the Code. The adjudicating authority continues to have a role in examining whether a resolution plan satisfies the statutory conditions(Desk -SC, 2026a). The challenge is therefore to maintain a balance between creditor autonomy and legal accountability.

7. Resolution Plans and Value Maximisation

Resolution plans represent the principal mechanism through which a distressed corporate debtor can be rescued. A resolution plan may involve restructuring of financial liabilities, infusion of new capital, changes in management, transfer of assets or other measures necessary to restore the company's viability(Garg, 2021). The evaluation of a resolution plan is not limited to the amount offered to creditors. Feasibility and viability are equally important. A proposal offering a high immediate payment may not necessarily be preferable if the proposed business model is unsustainable. Conversely, a plan offering lower immediate recovery may produce greater long-term value if it successfully preserves the enterprise(‘Resolution Plan’ Under Insolvency And Bankruptcy Code,2016 - Taxmann, n.d.).

Valuation is therefore an essential element of CIRP. Fair value and liquidation value provide important reference points for the CoC and resolution applicants. Accurate valuation helps establish whether a proposed plan is capable of maximising value(IBBI Amends CIRP Regulations on Fair Value and Valuation Process, n.d.). IBBI data provide an important illustration. March 2025, creditors had realised ₹3.89 lakh crore through approved resolution plans. The fair value of assets of the relevant corporate debtors was estimated at approximately ₹3.48 lakh crore, while liquidation value was approximately ₹2.29 lakh crore. Realisation through resolution plans represented about 170.1% of liquidation value and approximately 93.41% of fair value in cases where fair value had been estimated(Creditors Realisation Stands at over 32.8% till March 2025 under Bankruptcy Framework: IBBI - The Hindu, n.d.-a). These figures suggest that resolution can produce greater value than liquidation. However, valuation also presents a critical issue. The quality of the outcome depends upon the accuracy of the underlying valuation and the competitiveness of the resolution process. The continuing regulatory attention given to valuation demonstrates that this remains an important area for improvement(Thakkar et al., 2025).

This concern is reinforced by recent recovery trends. IBBI data reported in late 2025 indicated that creditors had realised only around 32 to 33% of admitted claims through approved resolution plans, with the effective haircut across resolved cases touching approximately 67%, even though realisation remained well above liquidation value. The gap between recovery against liquidation value and recovery against total admitted claims underlines that value maximisation, valuation accuracy and creditor recovery expectations remain distinct measures of the Code's success.[7]

8. Insolvency Professionals

The professionalisation of insolvency administration is another important contribution of the IBC. The insolvency professional acts as a key intermediary between the corporate debtor, creditors and adjudicating authority. The professional's responsibilities include claims verification, preservation of assets, collection of information, conduct of meetings and facilitation of the resolution process(Rai, 2020b). The significance of insolvency professionals arises from the complexity of modern corporate structures. A distressed company may have numerous creditors, subsidiaries, assets, contractual relationships and pending litigation. Effective administration therefore requires knowledge of corporate law, finance, accounting, valuation and restructuring("(PDF) Corporate Insolvency and Bankruptcy in India," n.d.).

The Government has also sought to strengthen this professional ecosystem through capacity-building measures. In the 2024-25 financial year, the IBBI conducted a series of workshops, webinars and conclaves aimed at enhancing the practical skills of insolvency professionals, in collaboration with bodies such as the World Bank, the Indian Institute of Corporate Affairs and the International Finance Corporation, alongside six legislative amendments and more than 100 regulatory changes introduced since the Code's inception to improve procedural efficiency. These initiatives indicate an ongoing recognition that the professionalisation of insolvency administration requires continuous institutional investment rather than a one-time regulatory framework.[8]

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[7] Business Standard, 'Haircuts Touch 67% as Creditor Recovery Stays Low till Sep 2025' (Business Standard, 23 November 2025) <https://www.business-standard.com/amp/industry/news/ibc-haircuts-2025-creditor-recovery-cirp-delays-ibbi-data-125112300278_1.html> accessed 19 August 2026.

[8] Press Information Bureau, Government of India, 'IBC Boosts Ease of Doing Business and Asset Realisation; 1,194 Companies Successfully Resolved under IBC Enabling Realisation of ₹3.89 Lakh Crore by Creditors' (PIB, 18 August 2025) <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2157539&reg=48&lang=2> accessed 19 August 2026.

IBBI regulates insolvency professionals and insolvency professional agencies and has progressively developed standards concerning their conduct. The credibility of the insolvency process depends substantially upon the independence, competence and integrity of professionals(Yeole & Tipule, 2024). At the same time, the increasing responsibilities of insolvency professionals require corresponding accountability. Conflicts of interest, inadequate information and professional deficiencies can affect the quality of resolution. Strong professional standards, continuing education and effective disciplinary mechanisms are therefore necessary(Role of Insolvency Professionals and Ethical Practices in Insolvency and Bankruptcy Code — IJLMH, n.d.). The professionalisation of insolvency administration should ultimately be evaluated by whether it contributes to faster, more transparent and commercially sound resolution(Kapoor, 2024).

9. Effectiveness of the IBC

The existing data indicate that the IBC has had a substantial impact on India's insolvency environment. According to IBBI's performance overview up to 31 March 2025, 1,194 corporate debtors had been rescued through resolution plans. A further 1,276 cases had been closed through appeal, review or settlement, while 1,154 cases had been withdrawn under Section 12A. The Code had also referred 2,758 corporate debtors for liquidation(April 9 & Share, 2026). The recovery figures are equally significant. Creditors had realised approximately ₹3.89 lakh crore through resolution plans. This represented more than 32.8% of admitted claims and more than 170.1% of liquidation value. IBBI also reported that approximately 30,310 cases involving underlying defaults of about ₹13.78 lakh crore had been settled before admission(Creditors Realisation Stands at over 32.8% till March 2025 under Bankruptcy Framework: IBBI - The Hindu, n.d.-b).

The significance of pre-admission settlements should not be underestimated. The effectiveness of an insolvency regime can influence behaviour even without formal commencement of insolvency proceedings. The possibility that creditors may initiate CIRP can encourage distressed debtors to settle their obligations or negotiate restructuring arrangements at an earlier stage(January 6 & Share, 2026). The data also indicate that resolution outcomes have improved over time. IBBI reported that 60% of the 1,194 resolution plans approved up to March 2025 were completed during the preceding three years, suggesting an increasing trend in resolution activity(Standard, 2025). However, these achievements must be assessed critically. The existence of 2,758 liquidation orders indicates that a considerable proportion of corporate debtors entering insolvency are not rescued through resolution. This does not necessarily mean that the Code has failed because some enterprises may genuinely be unviable. Nevertheless, it raises questions concerning whether insolvency proceedings are being initiated early enough and whether viable enterprises are losing value before a resolution applicant can be found.

The Standing Committee on Finance has also highlighted the relationship between delay and value erosion. The evidence placed before the Committee indicated that delays in creditors referring cases to the IBC and delays in admission before the NCLT can contribute significantly to loss of value(Singla et al., 2023).This trend is confirmed by more recent IBBI data. The average time taken to complete a CIRP resolution increased from 566 days as of March 2024 to 688 days as of September 2025, an increase of 126 days over eighteen months and well beyond the statutory timelines envisaged under the Code. The widening gap between the prescribed timeline and actual practice suggests that delay, rather than being an incidental feature of individual cases, has become a structural characteristic of the resolution process.[9] Therefore, the effectiveness of the IBC should not be measured solely through recovery amounts. It should also be evaluated through the speed of resolution, preservation of going-concern value, successful implementation of resolution plans, employment preservation and broader economic outcomes("(PDF) On the Effectiveness of Insolvency and Bankruptcy Code, 2016," 2026).

10. Challenges and Issues

The first major challenge is delay. The IBC was designed as a time-bound process, but practical proceedings may extend considerably because of litigation, appeals, valuation disputes, procedural issues and difficulties before adjudicating authorities. Since distressed assets are highly sensitive to time, prolonged proceedings can significantly reduce the value available to creditors and other stakeholders("(PDF) Unveiling Key Challenges In The IBC," 2026). Institutional capacity is closely connected with this problem. The NCLT and NCLAT are central to corporate insolvency adjudication, and delays in admission or appellate proceedings can undermine the statutory objectives of the Code. Adequate benches, qualified members, administrative support and efficient case management are therefore essential((PDF) All About NCLAT, n.d.).

[9] 'IBC Surge Overwhelms NCLT Capacity' Daily Pioneer (30 December 2025) <https://dailypioneer.com/news/ibc-surge-overwhelms-nclt-capacity> accessed 19 August 2026.

The severity of this institutional constraint has recently drawn direct judicial attention. In 2026, the Supreme Court took suo motu cognisance of delays in appointing NCLT members and of infrastructural deficiencies, after observing that hundreds of applications for approval of resolution plans remained pending, in some cases for close to four years.[10] According to the Economic Survey 2025-26, NCLTs would need approximately ten years to clear their existing backlog of pending cases at the current pace of disposal, a projection that highlights the scale of the capacity deficit facing the insolvency adjudication system.[11] These findings suggest that institutional reform of the adjudicating machinery is now a precondition for, rather than merely a complement to, the effectiveness of the substantive provisions of the Code.

A second challenge concerns the timing of insolvency initiation. The available evidence indicates that creditors may sometimes delay referring a distressed company to the insolvency process. By the time CIRP begins, the company's financial position may have deteriorated substantially. Early identification and intervention are therefore necessary to preserve enterprise value. The Standing Committee's observations regarding delays before referral and admission reinforce this concern(EditorSV, n.d.-a). A third issue is value erosion during CIRP. Although the resolution process seeks to preserve the corporate debtor as a going concern, prolonged proceedings may affect employees, customers, suppliers and business relationships. The deterioration of the enterprise can reduce the number of credible resolution applicants and ultimately force the company towards liquidation(Pandey, 2026).

A fourth challenge concerns the large number of liquidation cases. Liquidation is appropriate where a company is economically unviable, but it becomes problematic when viable businesses reach liquidation because resolution was attempted too late. The policy challenge is therefore to distinguish genuine commercial failure from temporary financial distress(Varottil, 2017). A fifth concern relates to the commercial wisdom of the CoC. The doctrine is necessary to protect creditor autonomy, but the concentration of decision-making power also requires transparency and statutory compliance. The CoC's decision should be commercially respected, but the statutory rights of affected stakeholders cannot be disregarded(Desk -SC, 2026b).

[10] LiveLaw, 'Supreme Court Takes Suo Motu Case Over NCLT Appointment Delays & Infrastructure Issues' (LiveLaw, 14 July 2026) <https://www.livelaw.in/top-stories/supreme-court-takes-suo-motu-case-over-nclt-appointment-delays-infrastructure-issues-541083> accessed 19 August 2026.
[11] CourtKutchehry, 'India's NCLTs Face 10-Year Backlog: Why Insolvency Delays Matter' (CourtKutchehry, 30 January 2026) <https://www.courtkutchehry.com/pages/blog/nclt-backlog-10-year-delay-insolvency-ibc-india/> accessed 19 August 2026.

Valuation is another continuing challenge. The value of a distressed company may be difficult to determine because conventional market indicators may not accurately reflect its future potential. Differences between liquidation value, fair value and going-concern value can substantially influence the outcome of CIRP(“(PDF) Distressed Firm Valuation,” 2026). Implementation of approved resolution plans presents another problem. A resolution plan may be legally approved but commercially unsuccessful if the resolution applicant cannot secure financing, implement the restructuring or restore the business. The success of insolvency resolution must therefore be assessed beyond the date of approval(Resolution Plan, n.d.).

Cross-border insolvency also presents an emerging challenge. Corporate groups increasingly operate across multiple jurisdictions, and insolvency may involve assets and creditors located outside India. Effective cooperation between jurisdictions is therefore becoming increasingly important(Journal, 2025). Finally, the insolvency ecosystem must continue to develop appropriate mechanisms for smaller enterprises. The cost and complexity of full CIRP may be disproportionate for smaller companies. Fast-track and pre-packaged mechanisms can provide more efficient alternatives where appropriate((PDF) Accelerating Corporate Recovery, n.d.).

Progress on both fronts nonetheless remains limited. India continues to lack a formal cross-border insolvency regime, notwithstanding the Insolvency Law Committee’s 2018 recommendation of a draft ‘Part Z’ chapter modelled on the UNCITRAL Model Law on Cross-Border Insolvency.[12] Similarly, despite being introduced in August 2021, the Pre-Packaged Insolvency Resolution Process for micro, small and medium enterprises has seen limited uptake, with only 18 applications admitted as of March 2026, of which resolution plans had been approved in just 10 cases.[13] These figures indicate that legislative innovation alone has not been sufficient to ensure the practical adoption of mechanisms designed for smaller and internationally exposed enterprises.

11. Conclusion and Suggestions

The effectiveness of corporate insolvency resolution in India can be strengthened by improving institutional capacity and ensuring that insolvency proceedings commence at an early stage of

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[12] ‘India’s Journey towards Cross-Border Insolvency Law Reform’ (2024) Asian Journal of Comparative Law (Cambridge University Press) <https://www.cambridge.org/core/journals/asian-journal-of-comparative-law/article/indias-journey-towards-crossborder-insolvency-law-reform/358135F0BED9AA9375F21913BAB56A73> accessed 19 August 2026.

[13] ICRA Limited, ‘Sharp Decline in IBC Recoveries in 2025-26’ (ICRA, 27 May 2026) <https://www.icra.in/CommonService/OpenMediaS3?Key=fe0064b0-f014-4e96-9d36-353ac5484a74> accessed 19 August 2026.

financial distress. The NCLT and NCLAT require adequate judicial and technical resources so that admission applications and appeals can be handled efficiently. Reducing delays at the initial stage is particularly important because value erosion often occurs before CIRP formally begins. Early-warning mechanisms should also be strengthened. Creditors and corporate management should be encouraged to recognise financial distress before the business reaches a point at which restructuring becomes extremely difficult. Better use of financial information and information utilities can assist creditors in identifying distress at an earlier stage.The scale of the resourcing challenge is illustrated by current tribunal strength. As of early 2025, the NCLT operated with a sanctioned strength of only 63 members across 16 benches nationwide, and the appointment of new members to fill existing vacancies was itself delayed pending an induction process. Bringing the NCLT and NCLAT closer to their sanctioned capacity, together with streamlined induction procedures for newly appointed members, would represent a concrete step towards the institutional strengthening this paper recommends.[14]

Valuation procedures should continue to be strengthened through professional independence, transparency and appropriate regulatory oversight. The objective should be to identify not only the liquidation value of the assets but also the potential value of the enterprise as a going concern. The regulatory attention given to valuation demonstrates that this remains an important area for continuing reform. The role of insolvency professionals should also be strengthened through continuing professional education, specialised training and stronger accountability mechanisms. The increasing complexity of corporate insolvency requires professionals to possess expertise not only in insolvency law but also in finance, accounting, valuation, restructuring and corporate management.

The implementation of approved resolution plans deserves greater institutional attention. Resolution should not be considered successful merely because a plan has been approved. The ultimate objective should be sustainable revival of the corporate debtor wherever commercially possible. Appropriate monitoring mechanisms may therefore be necessary to ensure that approved plans are implemented effectively. The use of fast-track and pre-packaged resolution mechanisms should also be encouraged where appropriate, particularly for smaller and less

[14] KNN India, 'Government Assigns Benches to 21 Newly Appointed NCLT Members Amid Rising Insolvency Case Backlog' (KNN India, 3 March 2025) <https://knnindia.co.in/news/newsdetails/sectors/others/government-assigns-benches-to-21-newly-appointed-nclt-members-amid-rising-insolvency-case-backlog> accessed 19 August 2026.

complex enterprises. Such mechanisms can reduce costs and enable businesses to address financial distress without undergoing unnecessarily elaborate proceedings.

India should also continue to develop its cross-border insolvency framework. International cooperation is increasingly necessary because corporate assets, creditors and business operations frequently extend beyond national boundaries. A predictable framework for recognition and cooperation would improve the effectiveness of insolvency proceedings involving international elements. The Insolvency and Bankruptcy Code has fundamentally transformed India's corporate insolvency landscape. It replaced a fragmented system with a unified framework centred on collective resolution, creditor participation, professional administration and value maximisation. The performance data demonstrate that the Code has produced significant recoveries and rescued a substantial number of corporate debtors. The large number of pre-admission settlements also indicates that the Code has influenced creditor and debtor behaviour beyond formally admitted CIRPs.

At the same time, the Code's success cannot be evaluated solely through the number of resolution plans approved or the amount recovered. Delays, institutional limitations, value erosion, liquidation, valuation difficulties and implementation problems continue to affect the effectiveness of the framework. The central challenge is therefore to ensure that insolvency proceedings commence early enough and are completed efficiently enough to preserve the economic value of viable enterprises. As the IBC enters its second decade, its future development should focus on improving the quality, speed and sustainability of resolution. A successful insolvency regime should rescue viable businesses, facilitate efficient exit for unviable enterprises, maximise creditor recovery and maintain an appropriate balance between commercial autonomy and stakeholder protection. The IBC has established the foundation for modern corporate insolvency resolution in India; the continuing task is to ensure that its fundamental objectives of timely resolution, value maximisation, enterprise preservation and balanced stakeholder protection are realised effectively in practice.

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