# FROM RESOLUTION TO REALIZATION: A COMPARATIVE STUDY OF OBJECTIVES UNDER IBC 2016 AND 2025 AMENDMENTS

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## ABSTRACT

Installing a creditor-controlled resolution system was India's first great attempt with the Insolvency and Bankruptcy Code, 2016 to replace the prominent entrenchment with commercial discipline, but the systematic bottlenecks probably had other ideas. Enterprise value eroded. Timelines collapsed. The 2025 amendment comes into the picture not just as an incremental refinement but as a structural axis with a framework preoccupied with process to hold one accountable for outcomes. Strong-arming creditor's rights, speeding up the admissions and placing Indian insolvency law closely to the standards of the mature global restructuring markets.

### The Promise of 2016 and the Slow Erosion of Its Discipline.

The legislature enacted the Insolvency and Bankruptcy Code of 2016,[1] with the intention to end the long-distance debtor-in-possession tradition, which has given a key to the many promoters to remain in control of falling companies for years and sometimes for decades. The code introduced a 330-day timeline for resolution and focused on large commercial discipline in insolvency proceedings. Moreover, the code also shifted the control from debtors to creditors.[2] The framework was designed with very clear instructions; the reforms were long overdue; and a very confident

[1] Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016 (India).
[2] *Innoventive Indus. Ltd. v. ICICI Bank*, (2018) 1 SCC 407 (India).

change in India's insolvency system[3] was the move away from the widely criticized BIFR regime.[4]

However, for the following nine years, the practical functioning of the Insolvency and Bankruptcy Code 2016 did not really match its original vision. The working capacity of the framework slowly started weakening due to large judicial interpretations,[5] procedural discretion, and the use of legal weak points by promoter-side counsel in a strategic way. By the second quarter of 2025, the NCLT was dealing with more than 20,000 pending insolvency matters, while approximately 602 days were taken by the average CIRP (Corporate Insolvency Resolution Process),[6] which was far beyond the time limit of 330 days. A system increasingly becomes connected with delay and procedure complexity, which was created to ensure the speed and discipline and it was in practice.

The IBC (Amendment) Bill, 2025,[7] shows us the parliamentary response to such weakness of structure. The amendments are commercially practical and carefully designed in various important respects, but certain weaknesses and unresolved issues are contained by them too. These areas of issues are likely to shape the future development of insolvency jurisprudence and litigation.

**EVOLUTION OF INDIA'S INSOLVENCY FRAMEWORK**

BIFR / SICA Regime (1985)

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Delays + Debtor Control
+ Low Recovery

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Insolvency and Bankruptcy Code
2016

▼

Creditor-in-Control Resolution System

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Delays + Judicial Interpretation + Procedural Complexities

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IBC Amendments, 2025

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Faster Admissions + Stronger Creditor Rights + Better Asset Realisation

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[3] Ministry of Finance, *Report of the Bankruptcy Law Reforms Committee Volume I: Rationale and Design* (2015).
[4] Sick Industrial Companies (Special Provisions) Act, 1985, No. 1, Acts of Parliament, 1986 (India).
[5] M. Sahoo & A. Mishra, *Evolution of the Insolvency and Bankruptcy Code*, 32 Nat'l L. Sch. India Rev. 14 (2020).
[6] Insolvency and Bankruptcy Board of India, Quarterly Newsletter: October - December 2024 (2025).
[7] The Insolvency and Bankruptcy Code (Amendment) Bill, 2025, Bill No. 107 of 2025 (India).

**Reclaiming The Admission Threshold: The Reversal of Vidarbha**

Section 7 of Insolvency and Bankruptcy Code, 2016 was a simple planned system originally.[8] A financial creditor once proved the existence of an introduced default and a debt, the authority that was adjudicating was expected to accept the application. All power of the IBC's creditor driven framework relied on this near trigger which happens on its own; instructional lenders price their distressed exposures on the reasonable expectation that a proven default would lead to a reliable legal consequence.

***Vidarbha Industries Power Ltd. v. Axis Bank Ltd.***[9] just broke down the hopes. The Hon'ble Supreme Court took benefit of the word "may" which is mentioned in the official text of the legal document and held that the NCLT has enough power to hold an application which is pending for expected cash inflows from arbitral proceedings or any other unnecessary commercial consideration. Whatever the jurisprudential logic supporting that reading was, their practical situation was severe; the admission stage involved into a mess of subjective analysis and tactful litigation. The leverage given to creditors was very much complicated in the complex early stage of the process.

This issue by changing the process of admission effectively from a flexible approach to the mandatory one is handled under the amendment of 2025. The all three objective conditions that are proof of default through Information Utility Records,[10] procedural completion of an application, and also the absence of disciplinary proceedings against the proposed RP's are fulfilled, and the adjudicating authority is required to accept the application. At this stage, it was not expected by NCLT to go through broader commercial considerations or balance shares, its main role is limited to verifying whether the legal requirements have been fulfilled or not.

The checking system of 14 days gives an effect that is practical to this little change. Under this framework, which has been amended, if a bench does not decide on admission within a 14-day timeframe of filing a complete application, then there must be a written statement of the reasons for delay in a formal, recorded manner. Although courts generally do give their decisions with specific reasons, the importance of this amendment lies in making that obligation a legal requirement. It shows a clear legislative intention to ensure that delays are transparent, documented, and open to challenge.

One important matter, however, is worthy of this much attention. An effective mandatory admission system can function only if the filtering system before admission is reliable, which in this case directly means the default records. An important which arises as to whether India's IU infrastructure is sufficient enough to handle such a crucial gatekeeping role.[11] This issue needs more focus than it has received till now.

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[8] *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17 (India).

[9] *Vidarbha Indus. Power Ltd. v. Axis Bank Ltd.*, (2022) 8 SCC 352 (India).

[10] Insolvency and Bankruptcy Board of India (Information Utilities) Regulations, 2017.

[11] A. Sengupta & S. Sharma, *The Gatekeepers of IBC: Assessing the Role of Information Utilities*, 11 Indian J. L. & Econ. 45 (2022).

**Rainbow Papers: Restoring Sanctity to the Waterfall.**

While the ***Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*** judgment slowed down the admission process, at the same time the judgment in *State Tax Officer v. Rainbow Papers Ltd.* delivered a much more interruption to the structural foundation of the Insolvency Code.

The Apex Court in 2022, in ***State Tax Officer v. Rainbow Papers Ltd.***.[12] has given the first law-based charge under the Gujarat Value Added Tax Act as a "security interest" under IBC Section 3(31). The analysis had big commercial situations. Government tax dues, which were neither commercially priced into lending arrangements nor voluntarily negotiated, were placed effectively with contractual debts, which are secured in the liquidation waterfall.[13] This resulted in way that, financial creditors who are secured had a well-structured and priced their lending on the basis of assumed priority framework which often has faced uncertainty in recovery because government authorities has reached a competing position in this disturbance structure.

While the ongoing eighteen months after that judgement, the assumed recovery value for Indian dissenting assets have become highly uncertain from a commercial perspective. The issue here was not just technical but it directly affected the basic predictions on which recovery assumption and investor confidence depended in insolvency market.

The Amendment in 2025 again restores that position where the parliament had originally intended under framework of insolvency. By giving the clear meaning of "security interest" under Section 3(31) and also adding clear explanation to the provisions of waterfall, this amendment makes it clear that a security interest can arise from a voluntary transaction. Charges that arise on its own by law, including statutory government dues, do not fall under this definition[14] which results that government claims that are once placed in their respective position within the waterfall system, thereby restoring certainty in the priority structure.[15]

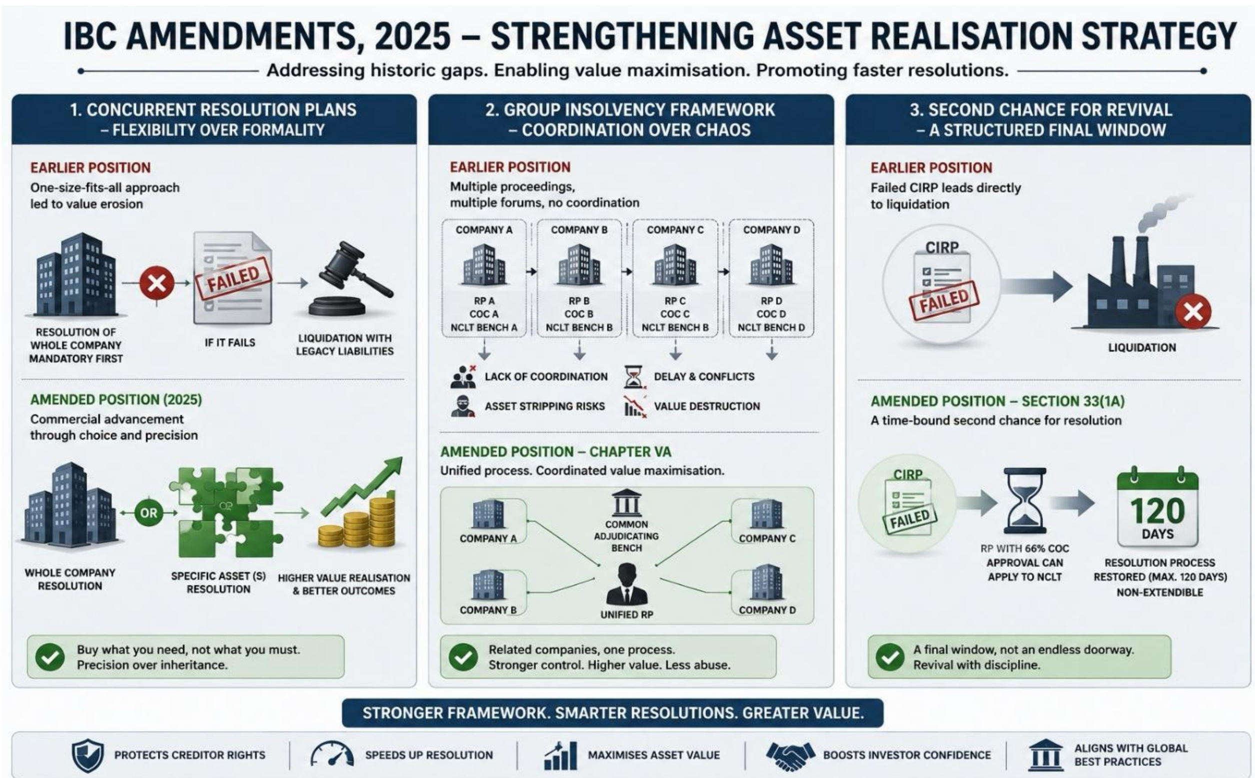
The disputes with respect to commercial importance of this amendment goes well beyond individual recovery disputes. A stable and contract-based framework is important for the development of a strong and liquid which is secondary debt market in India. The ***State Tax Officer v. Rainbow Papers Ltd.*** decision had gradually slowed down the growth of such a market and created uncertainty in the market. This amendment seeks to reverse that position and, subject to proper implementation, restores though a single legislative change.

The change and reform is further also enforced by introduction of new minimum safeguards for dissenting financial creditors. Such creditors are given power to either receive the amount available to them under liquidation waterfall system or their proportionate share in the priority value of the resolution plan, whatever is lower. The rule brought by this amendment is clear and carefully

[12] *State Tax Officer v. Rainbow Papers Ltd.*, 2022 SCC Online SC 1162 (India).
[13] Insolvency and Bankruptcy Code, 2016, § 53.
[14] *Pr. Comm'r of Income Tax v. Monnet Ispat & Energy Ltd.*, (2018) 18 SCC 786 (India).
[15] *Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, (2021) 9 SCC 657 (India).

structured, legally short, clear and precise and also gives certainty that minority creditors have been demanding since the starting years of the IBC.

**Asset Maximization: Concurrent Resolution, Group Insolvency, and the Second Chance Mechanism.**




The IBC amendments of 2025 introduced the important changes in the area of realization of asset strategy by trying to resolve the three most important defects that the other previous codes had not dealt with adequately.

The concurrent resolution plans to remove the earlier strict bidding structure that required resolution professionals to first attempt the sale of the entire company before even considering the sale of specific assets, or else it would be dragged into liquidation with nerve-wracking legacy liabilities. Rather than waiting for the process to fail formally, PE sponsors with the whole company processes. In summary, commercial advancement means the ability to acquire with at most accuracy rather than inheritance.

The companies belonging to the same corporate group have the long-standing problem of separate insolvency proceedings.[16] Chapter VA's group insolvency framework tries to resolve the same.[17] Previously, these related companies were handled by separate resolution professionals (RPs), the different NCLT benches, and the committees of creditors (CoCs), which resulted in a lack of coordination, delays, and confusions. The new framework aims to bring better cooperation and a

[16] *State Bank of India v. Videocon Indus. Ltd.*, 2019 SCC Online NCLT 745 (India).
[17] Insolvency Law Committee, *Report on Group Insolvency* (2019).

more unified process for dealing with financially connected companies facilitating asset stripping through inter-corporate transactions while making coordinated value maximization structurally impossible. Covering entities with common ownership of 26% or more,[18] Chapter VA enables a common adjudicating bench, a unified resolution professional, and joint CoC coordination. The ability of promoters to move or misuse assets through a network of related companies is greatly reduced[19] under this framework.

Section 33(1A)'s introduces a second chance for revival in cases where a company is pushed towards liquidation too early. If an initial CIRP fails, the RP with approval of at least 66% of CoC can request the NCLT to temporarily pause liquidation[20] and to restore the resolution phase for a period of 120 days and cannot be extended further. The non-extendibility is an important discipline; this cannot become another BIFR style, an endless delay mechanism like old BIFR system, where cases often remained pending for years without the final outcome. But a structured final window for late-stage bidders, bounded by a hard statuary stop, is commercially sensible and proportionate.

**Cross Border: A Statuary Anchor, Not Yet an Operational Framework**

Section 240C represents India's formal step towards adopting the UNCITRAL Model Law on Cross Border Insolvency.[21] It is important, it is also candidly a promissory note at this stage as it is more of a future commitment than a fully working mechanism, since detailed rules and practical implementation are still lacking.

The insolvency case of Jet Airways highlighted the problems caused by the lack of a proper cross-border insolvency system.[22] Section 240C was specifically created to resolve the separate proceedings of insolvency matters of India and the Dutch for months, creating the loss of the values of the assets, creating jurisdiction conflicts, and delaying the verdicts.[23] Furthermore, Section 240C provides the legal foundation for COMI-based asset tracing, recognition of foreign courts, and parallel insolvency proceedings coordination; however, the success rate of the same is totally dependent upon rules made to be enacted by the executive.

This represents a serious practical concern, rather than a mere technical observation. Section 240C will function just like a dummy provision cited in academic books or legal commentary rather than having a role in the actual proceedings. Recognition of foreign proceedings is very important for international insolvency matters to depend upon totally delayed executive notifications. Provisions of such importance should ideally be expressed and incorporated within the parent statute itself.

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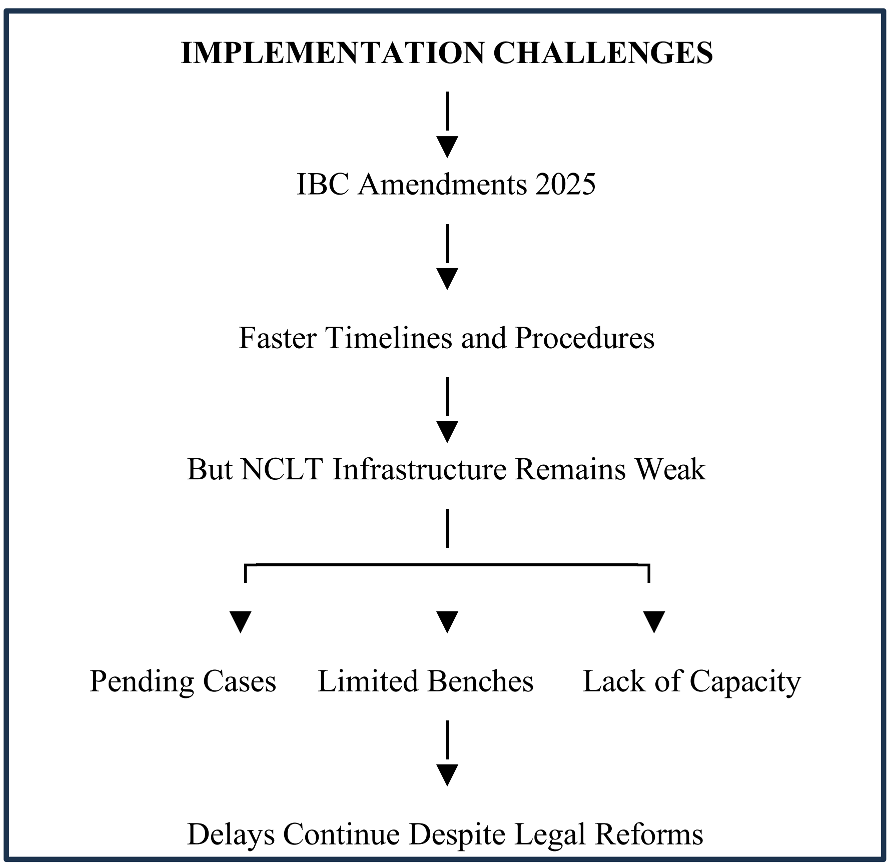
[18] Ministry of Corporate Affairs, *Report of the Cross-Border Insolvency Rules/Regulations Committee* (2020).
[19] *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*, (2019) 2 SCC 1 (India).
[20] Insolvency and Bankruptcy Board of India, *Discussion Paper on Corporate Liquidation Process* (2023).
[21] Fernandes & Pathak (2020).
[22] *Jet Airways (India) Ltd. v. State Bank of India*, 2019 SCC Online NCLAT 1216 (India).
[23] Goswami & Godwin (2024).

The NCLT, as per the current amendments, does not have enough manpower or the resources to deal with the cases as fast as it is expected by these amendments. This is the major practical limitation of every achievement of the 2025 amendment.

In the case of ***Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta,*** [24] The Apex Court held that the 330-day CIRP limit is directory rather than mandatory because the existing framework was not able to support the enforcement. The amendment of 2025 seems to have the same challenges as the ASA; the deadline for admission within the 14 days and liquidation within the 180 days are effective only when the NCLT has the capacity to do it. Furthermore, NCLT is handling hundreds of cases at the same time on the pending matters and is unable to meet that deadline in reality. No additional benches or any specialized operating system is provided by the amendments to handle the increased cases. Moreover, the growing dependency on CoC-based decision-making may lead to raising questions about the neutrality and the fairness.




[24] *Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531 (India).

Minority stakeholders and the optional creditors are most likely to challenge many such kinds of decisions, which will lead to an increase in litigation and increasing pressure on the NCLT. This is not just an imaginary concern, but it is a foreseeable negative outcome, and it needs to be acknowledged.

**The Strategic Horizon**

This reform provides the most effective and commercially reliable means for the general counsel, private sponsors, and the financial institutions involved in the Indian asset sector. As the waterfall structure gives more importance to the sector-specific asset acquisition and is also focused upon the contractual priority, leading to the insolvency admissions is likely to be more predictable. The amendments also incorporated a way to value recovery during the later stages of the process and also encouraged a better understanding in group insolvency matters.

The amendments' actual effectiveness will totally depend upon the practical scenario, but these kinds of improvements most probably will improve the scale and maturity of restructuring the market and strengthen the Indian distressed asset framework. In another world, it depends upon whether a cross-border insolvency framework puts it to bed before the large multinational defaults occur, whether the NCLT is able to handle these matters within the specified timeline by the law, and whether the claim process gives a fair deal rather than transforming conflict to another forum.

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