
NAVIGATING LEGAL OVERLAPS: RECALIBRATING THE IBC WITH RERA, PMLA, AND COMPETITION LAW IN INDIA'S REGULATORY AND ADMINISTRATIVE FRAMEWORK

Jayaditya Sharma, Symbiosis Law School, Noida

ABSTRACT

This research paper will be pivotally focused on the critical analysis of the Insolvency and Bankruptcy Code, 2016. The Insolvency and Bankruptcy Code, 2016, was introduced in India as a comprehensive mechanism to streamline insolvency resolution. The implementation of the IBC, 2016 commenced on 1-12-2016. However, its engagement with various sectoral laws such as the Real Estate (Regulation and Development) Act, 2016 (RERA), the Prevention of Money Laundering Act, 2002 (PMLA), and the Competition Act, 2002 has exposed critical legal overlaps and jurisdictional conflicts, these collisions raise important questions about legislative supremacy, regulatory coordination and the scope of the National Company Law Tribunal's authority under the IBC. Since 2014, RBI has cracked down on several significantly on the bad loans situation accumulated in the banking system.¹

The government had tried to supplement the problem by very progressive and constructive initiatives such as the Joint Lenders Forum (JLF), Strategic Debt Restructuring (SDR), etc. However, these programmes, which have been exclusively launched by the problem, are not able to address the wide plethora of situations under various statutory laws. Although it has many advantages, this law also has lacunae that have caused mismanagement and inappropriate usage of code, but this is our central concern and propulsion towards an attempt to analyse the impact of IBC on the Indian economy.

¹ Srilekha Eduri, N. Jayaprada & Srinivas Eduri, *A Critical Analysis on Insolvency and Bankruptcy Code, 2016* (2020), <https://ijamtes.org/gallery/203.%20dec%20ijmte%20-%201317.pdf>.

1. Introduction

Finance Minister Sri Arun Jaitley introduced the Insolvency and Bankruptcy Code, 2016, in the Lok Sabha in 2016. The Insolvency Committee was set up on 16th November 2017, under the chairmanship of Shri Injeti Srinivasa, Secretary, Ministry of Corporate Affairs, to review the Insolvency Code with key stakeholders.² The main aim of the committee was to make recommendations to the government on issues arising from the IBC, 2016, as well as on the recommendations received from various stakeholders. The code serves to achieve recovery and enforcement of proceedings. It would be of utter interest for international creditors and investors who are generally looking for opportunities to invest in India.

The code has played a pivotal role and leaves a major imprint on the Indian economy, but in this paper, our main purpose is to examine other major statutory laws in order to ascertain their loopholes and offer opinions to solve the issues. The ordinance was converted into an Act vide Insolvency and Bankruptcy (Second Amendment) Act, 2018, in August 2018.³

“Insolvency” is a state that happens when the debtor is not able to pay back the loan taken from the creditor. For the present corporate firm, the signs of that state would result in a slowdown in sales, missed payments by the time of the limit, etc. Bankruptcy is the lawful affirmation of a company’s insolvency.⁴ It was a previous financial condition that later turned out into a legal position.

IBC, 2016, is a comprehensive legislation enacted to consolidate and amend laws relating to reorganisations and insolvency resolution of corporate entities, partnership firms, and individuals in a time-bound manner. Its primary objective is to promote entrepreneurship, the availability of credit, and to balance the interests of all stakeholders. It has some key highlights or features that include a single framework that replaces multiple overlapping insolvency laws like SARFAESI, SICA, and RDDBFI. IBC has a time-bound process, which means that corporate insolvency must be completed within 180 days (extendable to 330 days).

2. Confluences or crossroads? Interfacing the IBC with Sectoral Statutes for

² TAXMANN, *INSOLVENCY AND BANKRUPTCY CODE, 2016* I-26 (Taxmann Publ'ns, 10th ed. 2024).

³ TAXMANN, *INSOLVENCY AND BANKRUPTCY CODE, 2016* I-26 (Taxmann Publ'ns, 10th ed. 2024).

⁴ Srilekha Eduri, N. Jayaprada & Srinivas Eduri, *A Critical Analysis on Insolvency and Bankruptcy Code, 2016* (2020), <https://ijamtes.org/gallery/203.%20dec%20ijmte%20-%201317.pdf>

Seamless Resolution

Insolvency and Bankruptcy Code has harmony with a lot of sectoral laws like the Telegraph Act, SEBI Act, PMLA, and many others, but we will take into account one of the most important regulating components in the trading markets of India.

2.1 Understanding the interplay between IBC, 2016, and SEBI Act

The Insolvency and Bankruptcy Code, 2016, and the Securities and Exchange Board of India Act are both important parts of the judicial and legislative format hitherto exists some conflict between these two laws. The pivotal role of the SEBI Act is to regulate the market and oversee the resolution mechanism when companies default on their payments to the creditors or investors or use fraudulent and malfeasant ways to gain profit, which might be unethical. IBC and SEBI regulations are to provide a structured mechanism or remedial routes to the creditors to take control of a company's assets, ensuring time-bound regulation to neutralize further value erosion during the resolution process. A moratorium is imposed on legal proceedings against the debtors, providing a 'Breathing Space' to develop a viable resolution plan.⁵

While the IBC and SEBI Act aim to protect consumers in the market, the IBC sets a deadline for corporate insolvency resolution. While any tycoon is undergoing Corporate Insolvency Resolution Process (CIRP), the primary legal action is a moratorium placed on all judicial proceedings against the company, effectively prohibiting any significant business decisions or transactions until an approval plan is approved by the Committee Of Creditors (COC). During this issue, the foremost problem is that during CIRP, which regulatory body will have the final and jurisdictional say in this, SEBI or Regulation Professionals (RP).

While the person who may initiate CIRP is explicitly stated in IBC, 2016, in section 6 and chapter II whereas section 7, as stated in IBC Laws which outlines the process for financial creditors to initiate the CIRP against a corporate debtor but at the same time it does not tell what to do in such a contentious time or scenario. In such situations, whether IBC or the NCLT will have the jurisdictional superiority as in an administrative sense emerges as the pivotal question.

⁵ Interplay of IBC and SEBI Regulations, TRANZISSION (Nov. 24, 2023), <https://tranzission.in/blogs/interplay-of-ibc-and-sebi-regulations/>.

2.2 Key legal concussions between SEBI and IBC in jurisdictional authority

The main crossroads where these two laws conflict are that the SEBI has the power to control, regulate, and recover assets by attaching debtors' assets, and IBC prohibits these actions during a moratorium, which it issues under section 14 of the IBC, 2016,⁶ which is the first bone of contention between the two.

An insolvent company's shares can be severely delisted from the stock exchange under the guidelines of the SEBI Act. We can infer from this that the shares are eliminated from the market, which creates a gap in which public traders and stakeholders can have a laid-out exit plan, which, in contrary and contrast, detours the SEBI Guidelines as section 238 of the SEBI Act overrides the legislative guidelines.

Under Section 11C of the SEBI Act, which bestows the SEBI to investigate insider trading, misstatements, and fraudulent financial practices. The SEBI and IBC roles analogically collide between these two margins because when the moratorium is issued by the IBC Act under section 14 of the SEBI Act, which provides that for a moratorium period, it creates a protective shield around corporate debtors undergoing the Corporate Insolvency Resolution Process (CIRP), the regulatory actions by the SEBI can be paused due to a regulatory crossroad between SEBI and IBC.

2.3 Judicial precedents on SEBI and IBC contention

Supreme Court and NCLAT rulings of the IBC and SEBI regulations have established that two statutes operate in two different spheres and do not conflict. One such case, *SEBI v. Dewan Housing Finance Corporation Limited*, was a case in which SEBI faced a challenge from the company over a penalty imposed by SEBI. The company challenged the penalty in the Securities Appellate Tribunal (SAT), which ruled that the SEBI could not initiate proceedings against the company after a moratorium was imposed under Section 14 of the IBC. The Supreme Court upheld the SAT's decision, quashing the penalty and the proceedings. This decision affirmed the IBC's supremacy in insolvency situations.⁷

⁶ The Insolvency and Bankruptcy Code, 2016, § 14, No. 31, Acts of Parliament, 2016 (India), <https://ibbi.gov.in/uploads/legalframework/3e6ac0b7e4c82b3b238b92f84f8a3e86.pdf>.

⁷ Understanding the Interplay of IBC and SEBI Regulations, Tranzission Knowledge Experts (May 5, 2025), <https://tranzission.in/blogs/interplay-of-ibc-and-sebi-regulations/>.

The Supreme Court in one such milestone case, which is *Monnet Ispat and Energy Ltd. v. SEBI*,⁸ Supreme Court, in gist, affirmed that IBC overrides SEBI in insolvency matters as under section 238 of the IBC Act, 2016.

2.4 The squabble between IBC and RERA and the core issues

The chaotic conflict between RERA and IBC presents significant issues, particularly in allottee's claim prioritization, managing outgoing construction projects and enforcing RERA orders during insolvency proceedings. Following the 2018 amendments to the IBC,⁹ homebuyers were issued the financial status of creditors, a landmark amendment that kept the interest and security of the homebuyers in mind, while this change had a positive outlook, granting homebuyers more control over their assets but this also marked a significant shift of the buyers to bypass the RERA regulations to the (NCLT). Consequently, of what followed when their rights or assets were legally damaged, people more often took rehabilitation under the IBC Act, 2016.

While RERA is aimed at regulating real estate and safeguarding the interests of the homebuyers, IBC accentuates insolvency among creditors such as financial institutions. One of the biggest issues with IBC and RERA is with the jurisdictional issues between both, while both laws possess different motives and provide different types of remedies. While RERA aims to safeguard the interests of individual homebuyers, the IBC aims to liquidate the real estate company for the benefit of all creditors.

In the case of *Pioneer Urban Land & Infrastructure Ltd. v. Union of India*,¹⁰ there was a challenge to the validity of homebuyers being classified as financial creditors under IBC, but eventually, the Supreme Court upheld the amendments to section 5(8)(f) and explanation II¹¹ validating that homebuyers were financial creditors.

3. Dissent and Discretion of Financial Creditors of India

In the Insolvency and bankruptcy code, 2016 under section 2 the creditor as given is that the

⁸ Understanding the Interplay of IBC and SEBI Regulations, Tranzission Knowledge Experts (May 5, 2025), <https://tranzission.in/blogs/interplay-of-ibc-and-sebi-regulations/>.

⁹ Devyansh Arora, *IBC vs RERA: Conflicting Paths to Justice for Cheated Homebuyers*, 5 Indian J. Integrated Res. L. 1978 (2025).

¹⁰ *Pioneer Urban Land & Infrastructure Ltd. v. Union of India*, (2019) 8 S.C.C. 416 (India).

¹¹ The Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(8)(f) & Explanation II, INDIA CODE, https://www.indiacode.nic.in/show-data?actid=AC_CEN_5_20_00031_2016.

creditor includes a decree holder. “Debt” includes a judgment debt, and “debtor” includes a judgment-debtor. The main focus is on protecting the creditors or the investors. In 2016, at the time when India’s non-performing assets and debt defaults were expediting, and at this crucial time, we saw the statutory laws performing badly under the adverse situation, laws like Securitization and reconstruction of the Financial Assets and Enforcement of Security Acts (SARFAESI), Debt Recovery Tribunals, were seen to be performing badly.

IBC had kept a creditor-in-control approach, the code entrusts the responsibility of revival and reconstruction of a stressed company to financial creditors, not only because they can take crucial decisions, but also because their interest is aligned with the interests of the company. Dissenting Financial Creditors are those members of the Committee of Creditors who vote against a proposed resolution plan under the IBC. Even after the dissent, a resolution plan can still be approved with a 66 percent voting share of the COC.

In the case of *Essar Steel India Ltd. v. Satish Kumar Gupta (2019)*, Essar Steel underwent insolvency. A resolution plan by ArcelorMittal was approved by the Committee of Creditors (CoC) with the requisite majority; however, the National Company Law Appellate Tribunal (NCLAT) modified the plan, giving all the creditors equal treatment and reducing the CoC's power in distribution matters.

4. Regulating the Regulators: Analysing India’s 2025 IBBI Amendment for CIRP Transparency & Professional Integrity

There has been a recent amendment introduced in the month of May 2025 by the Insolvency and Bankruptcy Board of India (IBBI), the fourth amendment to the IBBI CIRP regulations. The IBBI has inserted regulations 18(5) and amended regulations 36A and 38 in the CIRP process of insolvency. The newly inserted regulation 18(5) of the CIRP provides for inviting interim finance providers as non-voting providers in the Committee of Creditors meeting.¹²

The IFPs, the interim Finance Providers, play an important role in providing short-term funds. Despite their contribution, they largely remained unappreciated and largely ignored. The new amendment provides tactical visibility to such financers, ensuring the COC's voting

¹² Tushar Pundir & Riddhi Pandey, *IBBI’s Recent CIRP Reforms: Analysis of India’s Evolving Corporate Insolvency Regime*, Bar & Bench (July 5, 2025, 7:39 AM), <https://www.barandbench.com/columns/ibbis-may-2025-cirp-reforms-a-critical-analysis-of-indias-evolving-corporate-insolvency-regime>

mechanism stays unchanged. This would incentivise the IFPs to improve information symmetry, enabling better informed decision making.

5. Reiterating Aviation Insolvency: Recalibrating Aircraft Object Act, 2025 with IBC framework

India passed the Protection of Interest in Aircraft Object Act, 2025, implementing the Cape Town Convention and Aircraft Protocol into domestic law, effective May 2025. It grants international lessors and financiers remedies, including deregistration, export, and repossession of the aircraft by establishing DGCA as the Registry Authority, overriding contentious national laws.

The new bill included key provisions such as Creditor remedies under Article XI and Alternate A, allowing repossession after a two-month wait during insolvency, and creating DGCA as an Automatic force of convention and protocol in India.

Previously, the IBC section 14, having the moratorium passed, blocked asset repossession during CIRP, which hampered the enforcement of the lessor's right, as seen in the Go First case. Now the Aircraft Object Act explicitly overrides this moratorium for aircraft objects, ensuring Cape Town Convention remedies even during remedies. This empowers lessors to reclaim aircraft assets promptly, bypassing registration and export holdups.

6. Reinforcing Limits and Boundaries: Judicial Review vis-à-vis Commercial Wisdom in the IBC Epoch

The main premise of the title of the body is that the reference to is that the delicate judiciary should maintain respect for the decisions of the Committee of Creditors and exercise limited judicial oversight in the Insolvency and Bankruptcy Code laws. The phrase captures the jurisprudential stance in insolvency law where courts delineate the measure of judicial intervention in commercial decisions of visitors.

The Insolvency and Bankruptcy Code 2016 introduced the concept of Committee of Creditors (COC) as the core decision-making body whose commercial wisdom, especially in matters related to approval or rejection of the resolution plans, is deemed paramount. The National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) retain the authority to assess resolution plans on the grounds of legal compliance, procedural

fairness, and administrative roles of different elements of the judiciary, followed by the pieces of legislation and statutory adherence under section 30(2) of the IBC.¹³

Thus, the title encapsulated the judiciary's dual responsibility to respect the commercial autonomy of the COC while ensuring that autonomy does not override in the sense of making other laws as inferior, showcasing dominance, or coming up as an arbitrary act.

7. Decoding Disaggregation: A new phase in IBC's Archetypal resolution.

The Insolvency and Bankruptcy Code, since its enactment in 2016, has undergone various ways that could be professionally termed as disaggregated resolution, which marks a paradigm shift towards a more nuanced, flexible approach aimed at maximizing asset value and market engagement. While IBC paves its way with other statutory laws like RERA, PMLA, and many others to come in the near future, the legislative part of this country shall not stop in making policies and keep its utmost concern towards the interests of participants involved in the procedure of debt recovery. Disaggregation in the context of IBC refers to the practice of resolving distressed assets not as an uncapacious monolithic corporate entity, but in separate components- business verticals, subsidiaries, or even physical assets- through tailored strategies.

The Insolvency and Bankruptcy code has gone a long way from its initial stage as in the towns when in the foremost insolvency courts were put in place with the aim to help insolvent debtors to the modern era helping the debtors with corroboration of various digital assets or engagement to digital markets and securities and advancement of electronic agreements and their cause related with the law such as real estate laws which positively and adversely affect the debtors in case of cataclysmic side which puts any entity whether small or big in the insolvent path.

¹³ Insolvency and Bankruptcy Code, 2016, INSOLVENCY & BANKRUPTCY BOARD OF INDIA, <https://ibbi.gov.in/legal-framework/act>.