
FROM VIDARBHA TO CIIRP: EVALUATING THE 2026 AMENDMENT TO INDIA'S INSOLVENCY AND BANKRUPTCY CODE

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ABSTRACT

The Insolvency and Bankruptcy Code (Amendment) Act, 2026 marks the most significant recalibration of India's corporate insolvency framework since the Code's enactment in 2016.

This paper traces the legislative and judicial trajectory that culminated in this reform, beginning with the Supreme Court's decision in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.* (2022), which introduced judicial discretion into the admission of insolvency applications under Section 7 and, in doing so, opened the door to prolonged litigation, value erosion, and strategic delay by financially distressed debtors.

The paper argues that the 2026 Amendment represents a deliberate legislative correction to this line of jurisprudence, restoring the Code's original creditor-friendly, time-bound character through mandatory admission of proven defaults and the introduction of stricter timelines.

Central to this reform is Chapter IV-A, which establishes the Creditor-Initiated Insolvency Resolution Process (CIIRP), an out-of-court, debtor-in-possession mechanism enabling specified financial creditors holding at least 51% of debt value to commence resolution proceedings without approaching the National Company Law Tribunal in the first instance.

The study evaluates CIIRP against comparable international debtor-in-possession and hybrid restructuring regimes, assessing whether it achieves its stated objectives of reducing NCLT caseloads, preserving enterprise value, and accelerating resolution timelines, while also examining concerns regarding disproportionate power vested in select financial institutions, the exclusion of operational creditors, and the adequacy of procedural safeguards for corporate debtors.

This paper is Employing doctrinal analysis of statutory provisions, legislative

debates, and pre- and post-amendment case law, this paper concludes that while the 2026 Amendment addresses genuine structural inefficiencies exposed by the Vidarbha line of cases, its long-term success will depend on the calibration of implementing regulations and consistent judicial interpretation to prevent CIIRP from becoming a tool for creditor overreach.

Keywords: Insolvency and Bankruptcy Code, CIIRP, Vidarbha Industries, corporate insolvency, debtor-in-possession, NCLT.

INTRODUCTION

The Insolvency and Bankruptcy Code, 2016 was formulated as a creditor-centric time bound process for addressing corporate distress, placing emphasis on maximizing asset values over the prolonged debtor-oriented processes prevalent before its advent¹. However, despite the promise of speed, the interpretation of law by the courts has often resulted in conflict.

None is more pertinent in this regard than the Supreme Court's judgement of 2022 in the case of Vidarbha Industries Power Ltd. v. Axis Bank Ltd. wherein judicial discretion was allowed to be exercised in accepting the application for initiating an insolvency resolution process made by financial creditors under Section 7 of the Code².

This created uncertainty and although to some extent corrected through judicial intervention, has finally led to legislation in this area. The Insolvency and Bankruptcy Code (Amendment) Act, 2026 that received the Presidential assent on 6th April 2026 has not only codified a stricter admission process but has introduced a completely new out-of-court process the Creditor-Initiated Insolvency Resolution Process ("CIIRP") under a newly added Chapter IV-A³.

The present paper looks at the evolution of the doctrine from Vidarbha to the 2026 Amendment, the design of the CIIRP framework and the assessment of whether this reform furthers the aim of the Code through value maximisation while ensuring that procedural fairness is not

¹ Insolvency and Bankruptcy Code, 2016, Preamble (India); Bankruptcy Law Reforms Committee, Ministry of Finance, Government of India, The Report of the Bankruptcy Law Reforms Committee, Vol. I: Rationale and Design (Nov. 2015).

² Vidarbha Industries Power Ltd. v. Axis Bank Ltd., (2022) 8 SCC 352 (India).

³ Insolvency and Bankruptcy Code (Amendment) Act, 2026 (India), assented to Apr. 6, 2026; see CIIRP's Missing Moratorium: A Structural Flaw Under the Insolvency and Bankruptcy Code (Amendment) Act, 2026, HNLU Corp. & Com. L. Blog (July 13, 2026), <https://hnluccls.in/2026/07/13/ciirps-missing-moratorium-a-structural-flaw-under-the-insolvency-and-bankruptcy-code-amendment-act-2026>.

jeopardised amongst the conflicting classes of interested parties⁴.

Part II takes up again the Vidarbha line of cases and the resulting doctrinal confusion; Part III deals with the Mandatory Admission provided for in the Amendment; Part IV sets out the structure of the CIIRP; and Part V analyses the main merits and demerits of the reform.

THE PROBLEM: DISCRETION, DELAY AND DOCTRINAL DISARRAY

The original text of Section 7(5)(a) of the IBC stated that when the Adjudicating Authority is satisfied that there is a default, it “may” admit the application made by a financial creditor. This was in sharp contrast with the use of the term “shall” in relation to applications made by operational creditors in Section 9 of the IBC.

Till 2022, in the case of *Innoventive Industries Ltd. v. ICICI Bank*, the Supreme Court held that the use of “may” and “shall” was inconsequential and that the role of the Adjudicating Authority was merely a “twin test” of debt and default after which the application is admitted almost automatically⁵. This understanding of the law was further reinforced in the case of *Swiss Ribbons (P) Ltd. v. Union of India*, decided two years later, which held the creditor-in-control policy of the code to be constitutionally valid because of the importance of quickness and certainty at the time of admission⁶.

The Vidarbha Industries disrupted this status quo. According to the Court, the inclusion of “may” in Section 7(5)(a), juxtaposed with the mandatory use of “shall” in Section 9, demonstrated the legislative intention to grant the Adjudicating Authority discretionary powers, including an evaluation of the financial position of the corporate debtor and ongoing proceedings in relation to such issues⁷. As a matter of fact, Vidarbha Industries Power Limited was allowed to contest its admission into the insolvency process despite being in default, based on an ongoing appeal estimated to be in excess of ₹1,730 crores against a State Electricity Board⁸. It is important to mention that the decision gave rise to criticism since the commentators argued that the judgment created an opportunity for precisely those types of

⁴ Rewriting the Rules of Distress: IBC Amendment Act 2026, What Really Changed in India’s Insolvency Law, Singhania & Co. (June 5, 2026), [https://singhanian.in /blog/rewriting-the-rules-of-distress](https://singhanian.in/blog/rewriting-the-rules-of-distress).

⁵ *Innoventive Indus. Ltd. v. ICICI Bank Ltd.*, (2018) 1 SCC 407 (India).

⁶ *Swiss Ribbons (P) Ltd. v. Union of India*, (2019) 4 SCC 17 (India).

⁷ *Vidarbha Industries*, (2022) 8 SCC 352.

⁸ *Vidarbha Industries v. Axis Bank*, Top Ranked (Oct. 28, 2024), <https://www.toprankedlegal.com>, *vidarbha-industries-v-axis-bank*.

delays that the Code sought to prevent; pre-admission delays for financial creditors amounted to a period of twelve to twenty-four months prior to Vidarbha⁹.

There was also contradictory precedent created by the NCLTs and NCLAT due to the difficulty in discerning the scope of the new discretion¹⁰.

To control the damage, the Supreme Court stepped in. In *M. Suresh Kumar Reddy v. Canara Bank*, a Bench of the Supreme Court found that Vidarbha Industries should not be considered to have overruled *Innoventive Industries*, and that its remarks had pertained solely to the “facts of the case.” As long as there were no exceptional circumstances, the Adjudicating Authority was obligated to admit an application as soon as the existence of debt and default had been proven¹¹. However, Suresh Kumar Reddy was unable to undo Vidarbha Industries because an appeal against Vidarbha Industries had been dismissed on relatively limited grounds¹². The consequence, heading into 2024, was a set of cases where the law had been directionally corrected but doctrinally inconsistent: the Adjudicating Authority had been instructed to consider discretion the exception without any statutory basis for doing so.

THE LEGISLATIVE RESPONSE: CODIFYING MANDATORY ADMISSION

The 2026 Amendment ends this situation by law rather than litigation. Comments on the Amendment Act make it clear that admission of a Section 7 petition will become mandatory in case there is a proof of default except in a few narrow situations¹³. Such an amendment to the wording is of significance for two different reasons.

Firstly, it closes any loophole for interpretation that had led to the Vidarbha Industries judgment since the relevant wording does not use an ambiguous “may” anymore. Secondly, it gives

⁹*Vidarbha Industries Power Limited v. Axis Bank Limited*, Shardul Amarchand Mangaldas & Co. (Jan. 20, 2023), <https://www.amsshardul.com>

, insight, *vidarbha-industries-power-limited-v-axis-bank-limited/* (citing IBBI data on pre-admission delays).

¹⁰ Course Correction, *The Vidarbha Judgment Clarified*, Cyril Amarchand Mangaldas Disp. Resol. Blog (Aug. 28, 2023), <https://disputeresolution.cyrilamarchandblogs.com, 2023/08/course-correction-the-vidarbha-judgment-clarified>.

¹¹ *M. Suresh Kumar Reddy v. Canara Bank*, Civil Appeal No. 7121 of 2022 (Sup. Ct. India, decided May 11, 2023).

¹² *Axis Bank Ltd. v. Vidarbha Industries Power Ltd.*, 2022 SCC OnLine SC 1339 (order dismissing review petition).

¹³ Insolvency and Bankruptcy Code (Amendment) Act, 2026, Comprehensive Analysis, LiveLaw (Apr. 10, 2026), <https://www.livelaw.in ,articles/insolvency-bankruptcy-code-amendment-act2026-comprehensive-analysis-529563>.

statutory force to what Suresh Kumar Reddy had already done with the help of interpretation¹⁴. It is noteworthy that this was the suggestion made soon after the Vidarbha Industries decision. The 2026 Amendment can be seen as a legislative overruling of Vidarbha Industries¹⁵.

CIIRP: A CREDITOR-DRIVEN, DEBTOR-IN-POSSESSION ALTERNATIVE

The more audacious innovation made by the Amendment, on the other hand, is the inclusion of Chapter IV-A (Sections 58A to 58K), which sets up the Creditor-Initiated Insolvency Resolution Process¹⁶. In contrast to a typical CIRP, the CIIRP is designed to be an entirely out-of-court procedure, which is only available in relation to corporate debtors who fall within categories specified by the Central Government, and only to financial creditors who belong to similarly specified categories¹⁷.

The process will need the approval of financial creditors who represent at least fifty-one percent of the value, preceded by thirty days' notice to the corporate debtor¹⁸.

The most notable aspect of the process is the fact that it is a debtor-in-possession procedure. This is because the existing management of the corporate debtor will continue to control affairs throughout, under the supervision of a Resolution Professional, without being replaced as happens under a typical CIRP upon admission of the case¹⁹. Commentators have made an express comparison with the debtor-in-possession procedure under Chapter 11 of the U.S. Bankruptcy Code, although with structural differences.

The CIIRP mechanism is expected to be applicable for a period of 150 days, with an extension provision of 45 days and resolution plans require the approval of the Committee of Creditors owning sixty-six per cent of the voting shares before being referred to the Adjudicating Authority for sanctioning through a procedure pursuant to Section 31 of the Code, mutatis

¹⁴ Case Analysis on Vidarbha Power Industries Ltd. v. Axis Bank Ltd. (by Adv. Anant Vijay), IBC Laws (May 10, 2024), <https://ibclaw.in/case-analysis-on-vidarbha-power-industries-limited-v-axis-bank-limited-by-adv-anant-vijay>.

¹⁵ Rewriting the Rules of Distress, *supra* note 4.

¹⁶ The Insolvency and Bankruptcy Code (Amendment) Act, 2026, CMS INDUSLAW (Apr. 13, 2026), <https://cms-induslaw.com/en/ind/publication/the-insolvency-and-bankruptcy-code-amendment-act-2026>.

¹⁷ The Insolvency and Bankruptcy Code (Amendment) Act, 2026, Parinam Law Associates (2026), <https://parinamlaw.com/articles-updates/the-insolvency-and-bankruptcy-code-amendment-act-2026>.

¹⁸ Rewriting the Rules of Distress, *supra* note 4.

¹⁹ The Insolvency and Bankruptcy Code (Amendment) Act, 2026: A Significant Shift in India's Insolvency Framework, India Law Blog (May 8, 2026), <https://www.indialaw.in/blog/insolvency-bankruptcy/ibc-amendment-act-2026>.

mutandis²⁰. Failure in obtaining the resolution plans, lack of cooperation from the corporate debtor, or a decision by the Committee of Creditors to discontinue the process automatically leads to the adoption of the usual CIRP, thereby ensuring that defaulters do not delay creditor recovery under the new scheme.

The Amendment Act also provides for a harmonized approach to group insolvency through Section 59A and the rule-making power with respect to cross-border insolvency under UNCITRAL guidelines. However, it must be pointed out that while introducing the notified category provision, the amendment has also revoked the fast-track resolution process that was available to small businesses. This is a substitution that could have some significant implications for the MSMEs as far as their experience remains to be tested in practice²¹.

A CRITICAL EVALUATION

It addresses a real and documented problem, with average resolution periods taking almost six hundred and two days, more than double the statutory cap of three hundred and thirty days prescribed by the Code, while the recovery of the creditors stands at only about a third of the admitted claims²². An out-of-court resolution mechanism that is managed by a board without any delay caused by admitting the case in NCLT, as was the criticism against Vidarbha Industries, is capable of stopping value erosion at the source.

However, the structure raises at least three major criticisms.

First, and most significantly in terms of structure, the CIIRP does away with the moratorium, which is the essential protective element of CIRP under Section 14 of the Code. According to critics, such an approach is not justifiable in itself because without any moratorium, the corporate debtor undertaking CIIRP procedure stays vulnerable to enforcement measures taken by creditors who are not within the ambit of the procedure, despite the fact that the mechanism is based on the very principle of value preservation.

Secondly, the limitation of CIIRP proceedings to the centrally notified financial institutions creates certain issues of equity, as it implies giving priority to a limited set of institutional

²⁰ CMS INDUSLAW, *supra* note 16.

²¹ Insolvency and Bankruptcy Code (Amendment) Act, 2026, Vision IAS Current Affairs (May 22, 2026), <https://visionias.in/current-affairs/monthly-magazine/2026-05-22/economy/insolvency-and-bankruptcy-code-amendment-act-2026>.

²² CIIRP's Missing Moratorium, *supra* note 3.

creditors over operating creditors and other non-operating creditors who cannot use such an option of debt restructuring.

Finally, since the CIIRP procedure depends on the presence of default, i.e. the point when the value of the corporation has been eroded, the procedure comes too late in order to serve its own purpose. The lack of moratorium becomes clearer when juxtaposed with the very different examples upon which the CIIRP model purportedly draws: while the automatic stay provided under Chapter 11 of the U.S. Bankruptcy Code and moratorium provision under a UK company voluntary arrangement occur concurrently with – not instead of – ongoing management of the debtor, it seems clear that the two design elements are not regarded as incompatible choices in comparative law.

By tightening the rules on withdrawal, the Amendment exacerbates the aforementioned issues in an opposite way: an insolvency petition may be withdrawn only after the Committee of Creditors has been established and prior to the invitation to submit resolution plans, but only with the unanimous approval of ninety per cent of the members of the Committee.

In combination with the removal of the quick procedure for small companies and the expansion of the look-back period for avoidance transactions to two years, the overall direction of the 2026 Amendment cannot be missed. . It is yet to be seen whether the reconfiguration of Section 7 serves the objective of the Code of balancing the interests of all stakeholders, or merely constitutes the creation of another structural imbalance, which will depend largely on how the Central Government makes use of its rule-making and notification powers under the new Chapter IV-A²³.

CONCLUSION

The 2026 Amendment can be regarded as the most substantial structural amendment of the law of insolvency in India since the initial adoption of the Code²⁴. By introducing a statutory reformation of the course set forth in *Vidarbha Industries* case, Parliament has managed to bring clarity to the matter of admissibility, which was long overdue and widely acclaimed in legal scholarship. The CIIRP is a somewhat mixed blessing: an innovative system inspired by international law, but limited by the absence of moratorium and limited applicability to notified

²³ Parinam Law Associates, *supra* note 20 (noting staggered notification under S. 1(2) of the Amendment Act)

²⁴ CMS INDUSLAW, *supra* note 16.

financial institutions only.

The amendment should be viewed not as an entirely satisfactory response to the problems of delay and low recoveries, which have plagued the Code for many years, but as a very important yet unevenly drafted response one which will prove successful or unsuccessful depending upon the rules and notifications that the Central Government passes in its wake.