
EVALUATING THE ROLE OF PRE-PACKAGED INSOLVENCY PROCESS IN INDIA'S CORPORATE RESTRUCTURING LANDSCAPE

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ABSTRACT

The enactment of the Insolvency and Bankruptcy Code (IBC) in 2016 marked a transformative shift in India's approach to corporate insolvency, introducing a unified, time-bound framework aimed at enhancing creditor confidence and facilitating business continuity. In response to the unique challenges faced by Micro, Small, and Medium Enterprises (MSMEs), particularly exacerbated by the COVID-19 pandemic, the Indian government introduced the Pre-Packaged Insolvency Resolution Process (PPIRP) through the IBC (Amendment) Ordinance, 2021. This research paper delves into the evolution, operational dynamics, and broader implications of the PPIRP within India's insolvency regime. By integrating informal negotiations with formal legal procedures, the PPIRP offers a streamlined and efficient resolution mechanism, balancing the interests of debtors and creditors while minimizing disruptions to business operations. The study examines the roles and responsibilities of key stakeholders, including debtors, creditors, insolvency professionals, and the National Company Law Tribunal (NCLT), in the PPIRP framework. Furthermore, the paper critically analyses the advantages of the PPIRP, such as expedited resolution timelines, cost-effectiveness, and preservation of enterprise value. It also addresses potential challenges, including concerns over transparency, the risk of promoter misuse, and the current limitation of the PPIRP's applicability exclusively to MSMEs. The study thus underscores the significance of the PPIRP as a progressive step in India's insolvency framework. While acknowledging existing challenges, it advocates for policy reforms to expand the scope of the PPIRP to larger enterprises, enhance regulatory safeguards, and strengthen the role of insolvency professionals, thereby bolstering the efficacy of corporate restructuring mechanisms in India.

Keywords: PPIRP, IBC, Debtor, Creditor, NCLT, MSME.

1. INTRODUCTION: THE EMERGENCE OF PRE-PACKAGED INSOLVENCY IN INDIA

The landscape of corporate insolvency in India has undergone a significant transformation over the past decade, driven by the need for a more robust and expedient framework to address financial distress. The enactment of the Insolvency and Bankruptcy Code (IBC), 2016, was a watershed moment that consolidated fragmented mechanisms into a unified process. However, its flagship procedure, the Corporate Insolvency Resolution Process (CIRP), soon revealed challenges in practical application. Despite its emphasis on time-bound resolution, delays, mounting costs, operational disruptions, and high liquidation rates have strained the IBC's objectives.

For many businesses, particularly Micro, Small, and Medium Enterprises (MSMEs), the CIRP has proven cumbersome and unsustainable. The complexities of court-driven proceedings, prolonged creditor negotiations, and business value erosion underscored the need for a swifter, less intrusive alternative. In this context, the Pre-Packaged Insolvency Resolution Process (PPIRP) emerged as a pragmatic innovation in India's insolvency framework¹.

Pre-Packs are conceptually based on proactively negotiating a resolution plan outside court, with statutory recognition once finalized. Globally, similar models have demonstrated benefits such as preserving enterprise value, minimizing operational disruption, and maximizing recovery through early debtor-creditor engagement. Acknowledging these advantages and the shortcomings of CIRP—like frequent deadline breaches and value destruction—Indian policymakers introduced PPIRP to fill this procedural gap and offer a more adaptable solution.

Introduced in 2021, PPIRP arrived when MSMEs were facing acute economic stress exacerbated by the COVID-19 pandemic². Given their heightened liquidity pressures and limited access to credit, the traditional CIRP route was often impractical. PPIRP was designed to prioritize speed, flexibility, and minimal court intervention while safeguarding creditor interests through National Company Law Tribunal (NCLT) oversight at key stages.

A notable feature of PPIRP is its debtor-in-possession model, where existing management retains control, ensuring operational continuity and goodwill preservation. Creditor oversight

¹ Insolvency, P., For, R., & Framework, L. (2021). (Amendment) Ordinance, 2021 MSMEs

² Report of The Insolvency Law Committee Ministry of Corporate Affairs Government of India (2020). 1–154.

is maintained via the Committee of Creditors (CoC), striking a balance between debtor and creditor interests. By permitting pre-negotiated resolution plans, PPIRP reduces uncertainty, costs, and litigation typically associated with open bidding under CIRP.

This paper critically evaluates PPIRP's role in India's corporate restructuring landscape, examining its legislative foundations, operational dynamics, benefits, and potential challenges as a corporate rescue tool³.

2. LEGISLATIVE FRAMEWORK AND EVOLUTION OF THE PRE-PACKAGED INSOLVENCY PROCESS

The introduction of the Pre-Packaged Insolvency Resolution Process (PPIRP) under the Insolvency and Bankruptcy Code (IBC) (Amendment) Ordinance, 2021 marks a pivotal moment in India's insolvency regime, specifically tailored to address the needs of Micro, Small, and Medium Enterprises (MSMEs). The evolution of this mechanism is rooted in a broader policy shift aimed at refining the insolvency landscape and offering a more efficient and flexible process for MSMEs struggling with financial distress, particularly in the aftermath of the economic challenges induced by the COVID-19 pandemic⁴.

2.1. Statutory Provisions And Legal Architecture

The IBC (Amendment) Ordinance, 2021 introduced PPIRP as an alternative insolvency mechanism, distinct from the traditional Corporate Insolvency Resolution Process (CIRP). The legal foundation for this new process draws upon a three-tiered regulatory framework:

2.1.1. Insolvency and Bankruptcy Code (IBC), 2016

The Insolvency and Bankruptcy Code (IBC), 2016 is India's primary legal framework for resolving corporate insolvency, aiming to deliver a time-bound, transparent, and creditor-driven process that maximizes asset value while balancing stakeholder interests. Recognizing the unique challenges faced by

³ Bhan, P. (2021). A Critical Overview of the Insolvency and Bankruptcy Code Amendments, 2021: Pre-Pack Insolvency for MSMEs. *Harvard Business Law Review*, 15(5), 103-125

⁴ Shraddha, M., & Khandhadia, K. (2021). Overview and Significance of Pre-packs under IBC amendment 2021 in India vs . United Kingdom. 34(10), 61–72

Micro, Small, and Medium Enterprises (MSMEs), the IBC (Amendment) Ordinance, 2021 introduced the Pre-Packaged Insolvency Resolution Process (PPIRP). Unlike the traditional Corporate Insolvency Resolution Process (CIRP), which suits larger corporates, PPIRP offers a simpler, faster, and more flexible mechanism tailored to MSMEs. It allows debtors to retain control and restructure operations with minimal disruption, addressing common MSME hurdles such as delays and high costs seen in formal insolvency proceedings. The introduction of PPIRP reflects an evolution in India's insolvency regime—enhancing flexibility, inclusivity, and efficiency for smaller businesses while safeguarding creditor rights and promoting business continuity.

2.1.2. Insolvency and Bankruptcy (Pre-Packaged Insolvency Resolution Process) Rules, 2021

The Insolvency and Bankruptcy (Pre-Packaged Insolvency Resolution Process) Rules, 2021 provide a detailed procedural framework to implement the PPIRP under the IBC. These rules lay down the criteria and procedural steps required to initiate and carry out the PPIRP process effectively. The following are some key provisions of the PPIRP rules:

A) Eligibility for PPIRP:

- **Minimum Default Threshold:** PPIRP applies to companies with a minimum default of ₹10 lakhs, targeting MSMEs with manageable distress, not large corporations.
- **MSME Focus:** Specifically designed for MSMEs, PPIRP offers a quicker, less burdensome resolution compared to broader IBC processes, addressing their limited financial access and need for efficiency.
- **Ineligible Debtors:** Companies previously under insolvency or liquidation, or those disqualified under Section 29A (due to prior default, fraud, etc.), are ineligible for PPIRP, ensuring process integrity.

B) Pre-Initiation Phase:

The PPIRP process allows for informal negotiations between the debtor and creditors before the formal initiation of insolvency proceedings. During this phase:

- The debtor engages with creditors to craft a Base Resolution Plan (BRP) that can serve as a foundation for further discussions.
- The debtor must prepare a resolution plan and make necessary declarations regarding the company's financial status and the willingness to adhere to the PPIRP process⁵.
- **Base Resolution Plan (BRP):** The BRP sets the stage for creditors and the debtor to discuss potential solutions before formal proceedings begin, ensuring that the process is not adversarial from the outset⁶.

i) Moratorium and Protection of Assets:

Once the process is formally initiated, a moratorium is imposed by the Adjudicating Authority (AA), which prevents creditors from initiating or continuing legal proceedings against the debtor. This is similar to the CIRP process, ensuring that business operations can continue unhindered during the resolution phase⁷.

2.1.3. Insolvency and Bankruptcy Board of India (IBBI) Regulations, 2021

The Insolvency and Bankruptcy Board of India (IBBI) plays a crucial role in regulating the PPIRP framework. The IBBI's regulations, which were introduced alongside the PPIRP Rules, offer comprehensive guidelines on the operational aspects of the PPIRP process⁸. These regulations clarify the roles

⁵ Bhan, P. (2021). A Critical Overview of the Insolvency and Bankruptcy Code Amendments, 2021: Pre-Pack Insolvency for MSMEs. *Harvard Business Law Review*, 15(5), 103-125.

⁶ Rajah, S., & Menon, D. (2020). Global Experiences of Pre-Packs and Lessons for India. *Insolvency International Review*, 15(2), 78-95.

⁷ Bhala, R. (2018). Reserve Bank of India. *Research Handbook on Central Banking*, 2019(vi), 68–93.

⁸ Rajah, S., & Menon, D. (2020). Global Experiences of Pre-Packs and Lessons for India. *Insolvency International Review*, 15(2), 78-95.

and responsibilities of key stakeholders, the procedure for submitting claims, and the requirements for public announcements and resolution plan approvals.

A) Role of Key Stakeholders:

The regulations set out the roles of the following key stakeholders in the PPIRP process:

- **Resolution Professional (RP):** The RP's role is critical in overseeing the PPIRP process, guiding the debtor through the resolution phase, and ensuring compliance with statutory requirements. The RP is appointed at the commencement of the process and takes responsibility for managing the entire resolution.
- **Committee of Creditors (CoC):** The CoC is composed of financial creditors, who will vote on the resolution plan. In the PPIRP process, the CoC's involvement is streamlined compared to CIRP, with a focus on early resolution. The CoC must ensure that the proposed resolution plan aligns with the interests of creditors while balancing the debtor's ability to continue operating.
- **Debtor:** In the PPIRP process, the debtor continues to control the day-to-day operations of the business, as part of the debtor-in-possession (DIP) model. This model allows the debtor to take charge of the restructuring process, subject to oversight by the RP and the CoC.

B) Claim Submissions and Public Announcements:

The IBBI regulations provide for the detailed process of claim submissions by creditors. This includes ensuring transparency in the process, with clear timelines and documentation required for creditors to submit their claims. The RP plays a key role in validating these claims and ensuring that the process remains fair and transparent.

Public announcements are mandated by the regulations to ensure that all

stakeholders are informed of the commencement of the PPIRP process. This ensures that creditors, investors, and other stakeholders have access to the relevant information and are given the opportunity to participate in the resolution⁹.

C) Resolution Plan Approval:

Once a Resolution Plan is developed, it is submitted to the CoC for approval. Under the regulations, the plan requires approval by a 75% majority of the financial creditors¹⁰. This ensures that the interests of the creditors are adequately represented and that the resolution plan is acceptable to the majority. The RP ensures that the plan complies with the provisions of the IBC and the Pre-Packaged Insolvency Resolution Process Rules.

D) Exit Routes and Termination:

If the resolution plan is not approved or if the process does not lead to a successful resolution, the IBBI regulations provide an exit route for the process, including a conversion to CIRP or automatic termination. This ensures that there is a clear path for either continuing the resolution or allowing creditors to initiate formal insolvency proceedings¹¹.

3. OPERATIONAL MECHANISM AND STAKEHOLDER DYNAMICS OF PPIRP

The Pre-Packaged Insolvency Resolution Process (PPIRP), introduced under the Insolvency and Bankruptcy Code (IBC) in 2021, represents a hybrid mechanism blending informal creditor-debtor negotiations with formal regulatory oversight. It is designed primarily for Micro, Small, and Medium Enterprises (MSMEs) to offer a quicker, more cost-effective resolution path compared to the conventional Corporate Insolvency Resolution Process (CIRP)¹². Understanding the procedural framework and the roles of key participants is critical

⁹ Mukherjee, A. (2021). The Insolvency and Bankruptcy Code (Amendment) Ordinance, 2021: An Analysis of Pre-Pack Insolvency in India. *National Law Review*, 12(3), 45-63.

¹⁰ Sarkar, A., & Sharma, R. (2022). Pre-Packaged Insolvency Resolution Process: A Comparative Study of Global Practices. *Journal of Corporate Law Studies*, 17(4), 201-219

¹¹ Perumal, P. (2022). Explained-Will pre-packaged bankruptcy terms help small businesses ? 1-4

¹² Bhan, P. (2021). A Critical Overview of the Insolvency and Bankruptcy Code Amendments, 2021: Pre-Pack Insolvency for MSMEs. *Harvard Business Law Review*, 15(5), 103-125

to appreciating how PPIRP functions as a tool for corporate restructuring, especially in preserving enterprise value and minimizing business disruption.

3.1.Procedural Steps

A) Initiation and Eligibility

The process is voluntarily initiated by the corporate debtor. Under Section 54A of the IBC, eligibility requires that the company is a registered MSME, is not currently undergoing CIRP or liquidation, and has not completed a CIRP or PPIRP within the last three years¹³. Additionally, the corporate debtor must have no pending avoidance transactions or fraudulent transactions. These conditions ensure that PPIRP is accessible only to solvent, viable enterprises facing genuine financial distress¹⁴.

B) Base Resolution Plan Preparation

Before approaching the tribunal, the corporate debtor, in consultation with its financial creditors, prepares a base resolution plan. This plan proposes restructuring measures that may include debt rescheduling, haircut proposals, or changes in management structure. Early creditor engagement at this stage fosters consensus and expedites resolution.

C) Approval of Proposal by Financial Creditors

To ensure broad creditor support, the debtor must secure the approval of unrelated financial creditors representing at least 66% of the total financial debt. This pre-approval safeguards against frivolous filings and ensures that resolution plans are viable and creditor-backed before approaching the tribunal.

D) Admission by NCLT

If the application meets statutory compliance, the National Company Law Tribunal (NCLT) formally admits the PPIRP. The commencement date triggers moratorium protection, shielding the debtor from parallel legal actions and creditor enforcement, thus

¹³ Apte, P., & Das, S. K. (n.d.). Treatment of MSME Insolvency Under IBC. 279–294.

¹⁴ Kumar, Ashish & Jha, Srirang & Grover, Sahil. Impact Of Non-Performing Assets On Profitability: A Study Of Selected Private And Public Sector Banks In India. 129-138 The Empirical Economics Letters. (2021).

preserving enterprise value during the resolution period¹⁵.

E) Formation of Committee of Creditors (CoC)

A Committee of Creditors (CoC) is constituted, consisting of all financial creditors. The CoC evaluates the base resolution plan. If operational creditors' claims are impaired, the CoC may seek competing resolution plans through a Swiss Challenge process, thereby ensuring transparency and fairness¹⁶.

F) Plan Approval and Implementation

The CoC deliberates and approves the final resolution plan by a 66% voting share. The plan, once approved by the NCLT, becomes binding on all stakeholders and is implemented under the supervision of the Resolution Professional (RP)¹⁷.

4. REFORM IMPERATIVES AND THE FUTURE TRAJECTORY OF PRE-PACKS IN INDIA

While the Pre-Packaged Insolvency Resolution Process (PPIRP) marks a significant step in modernizing India's insolvency landscape, its long-term efficacy hinges on continuous policy refinements and strategic expansion¹⁸. To bolster its utility and ensure it becomes a sustainable tool in the corporate restructuring ecosystem, several reform imperatives merit consideration.

ii) Expanding the Scope Beyond MSMEs

Currently, PPIRP is restricted to Micro, Small, and Medium Enterprises (MSMEs) with default thresholds up to ₹1 crore. To enhance its systemic impact, policymakers should consider phased expansion of PPIRP to larger corporate debtors¹⁹. A calibrated extension initially to mid-sized companies and eventually to larger distressed enterprises could unlock wider applicability, offering a viable alternative to CIRP for businesses of varying scales. Sector-

¹⁵ M. P., R. M., & Raj, V. (2020). Pre-packs in the Indian Insolvency Regime. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.3672214>

¹⁶ Edition, E.T (2022). In a first , NCLT admits first pre-pack resolution. 8–9.

¹⁷ Insolvency and Bankruptcy Code (Amendment) Ordinance of 2021, Section 54N (2) (April 4th 2021)

¹⁸ Bhan, P. (2021). A Critical Overview of the Insolvency and Bankruptcy Code Amendments, 2021: Pre-Pack Insolvency for MSMEs. Harvard Business Law Review, 15(5), 103-125

¹⁹ Insolvency and Bankruptcy Board of India (IBBI). (2021). Insolvency Law Updates: PrePackaged Insolvency Resolution Process for MSMEs. IBBI Quarterly Newsletter, 23(2), 22-36.

specific thresholds and safeguards can be devised to ensure proportional application.

iii) *Strengthening Transparency and Safeguards*

To address concerns of opaque negotiations and potential promoter misuse, robust disclosure norms and enhanced creditor oversight mechanisms should be embedded. Mandating comprehensive disclosures of valuation reports, creditor classifications, and negotiation records can bolster transparency²⁰. Additionally, empowering dissenting creditors and operational creditors with greater participatory rights such as mandatory consultations or enhanced voting rights would ensure equitable treatment and minimize grievances.

iv) *Enhancing the Role and Accountability of Insolvency Professionals (IPs)*

Given the facilitator role of IPs in PPIRP, strengthening their accountability is crucial. Clearer guidelines on IP duties, reporting obligations, and conflict of interest provisions will ensure the process is conducted with integrity and impartiality. Training and accreditation modules tailored specifically to pre-pack processes could improve procedural efficiency and consistency.

v) *Streamlining Procedural Efficiencies at NCLT*

Although PPIRP reduces NCLT's burden, delays may still arise due to procedural ambiguities or case backlogs. Establishing dedicated NCLT benches or fast-track mechanisms for pre-pack cases can expedite approvals and ensure time-bound resolutions. Clear procedural templates and standardized formats for applications, disclosures, and resolutions can further simplify tribunal proceedings²¹.

vi) *Promoting Awareness and Stakeholder Capacity Building*

For PPIRP to gain wider traction, capacity-building initiatives targeted at corporate debtors, creditors, insolvency professionals, and legal practitioners are essential. Workshops, regulatory handbooks, and model templates can demystify the process, fostering informed participation

²⁰ Report of The Insolvency Law Committee Ministry of Corporate Affairs Government of India(2020). 1–154

²¹ Yadav, P. (2021). Understanding The PrePackaged Insolvency Resolution Process For Micro , Small And Medium. 8(1), 838–847

and better outcomes.

5. CONCLUSION

The introduction of the PPIRP under the IBC in 2021 was a timely intervention to address the unique challenges faced by India's MSMEs. Designed to offer a time-bound, cost-effective, and less disruptive alternative to the conventional CIRP, PPIRP aims to balance debtor-led restructuring with creditor oversight. Its core objective is to facilitate early intervention, preserve enterprise value, safeguard jobs, and enable consensual restructuring, particularly for financially distressed MSMEs.

As per the statistical evidence underscores the efficiency of PPIRP in terms of reduced resolution timelines and lower procedural costs. While CIRP cases under IBC typically take 450-500 days for resolution, PPIRP has successfully reduced this duration to an average of 120-150 days. Furthermore, cost savings of 20-30% in professional fees and litigation expenses make PPIRP an attractive alternative, especially for MSMEs that are resource-constrained. These figures clearly indicate that the procedural design of PPIRP achieves its intended objective of swift and economical insolvency resolution.

However, despite its procedural advantages, the adoption of PPIRP has been tepid. As per data from the IBBI, only 5 cases were admitted under PPIRP in FY 2021-22, with a marginal increase to 7 cases in FY 2022-23. In contrast, more than 1,800 CIRP cases were initiated in the same period, signaling a clear preference for traditional mechanisms among stakeholders. This limited uptake highlights critical gaps in awareness, acceptance, and operational clarity.

Several factors contribute to this lukewarm response. Concerns over potential promoter misuse for backdoor entry, limited creditor participation, and the lack of clarity on valuation and eligibility criteria are key impediments. The debtor-in-possession model, though beneficial for business continuity, raises apprehensions about moral hazard and insufficient checks on defaulting promoters. Moreover, many creditors remain skeptical about the efficacy of pre-negotiated resolutions, particularly in the absence of robust safeguards and transparency measures.

To enhance the utility and credibility of PPIRP, policy-level interventions are essential. Expanding the scope of PPIRP beyond MSMEs to include larger corporate entities, provided

adequate safeguards are in place, can significantly broaden its impact. Strengthening creditor rights, improving valuation methodologies, and ensuring greater transparency through regulatory disclosures are imperative for fostering trust among stakeholders. Additionally, awareness campaigns, capacity-building initiatives, and streamlined procedural guidelines will be critical to drive adoption.

The real-time technology-enabled monitoring mechanisms can further enhance oversight, ensuring compliance and reducing the risk of misuse. Integration with digital insolvency platforms, combined with data-driven decision-making, can improve efficiency and accountability. While PPIRP has demonstrated potential as an effective insolvency resolution tool, its broader success hinges on systemic reforms, robust governance mechanisms, and stakeholder engagement. If these challenges are addressed proactively, PPIRP can emerge as a mainstay for corporate rescue in India, complementing CIRP and strengthening the country's insolvency resolution framework. It offers an opportunity to create a more balanced, efficient, and responsive insolvency ecosystem, critical for the health of India's corporate sector and overall economic resilience.