

Insolvency and Bankruptcy News



भारतीय विवाला और शोधन अक्षमता बोर्ड
Insolvency and Bankruptcy Board of India

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LEVERAGING

BEHAVIOURAL

CHANGE



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‘हमारी कोशिश है जिन्होंने देश को लूटा है, उनको लौटाना पड़े, वो स्थिति हम पैदा करें’

Shri Narendra Modi, Hon'ble Prime Minister, during his address on 76th Independence day at Red Fort, New Delhi on August 15, 2022.

‘The pro-business reforms unleashed by Prime Minister Modi in the last eight years like reduction in compliance requirements, removal of retrospective taxation, simplification of the corporate tax rate structure, Insolvency and Bankruptcy Code (IBC) have improved India's rank in ease of doing business from 142 in 2014 to 63 in 2022, as per World Bank report’

Dr. Jitendra Singh, Union Minister of State (I/C) Ministry of Science and Technology; Minister of State (I/C) Ministry of Earth Science; MoS of Prime Minister's Office and Ministry of Personnel, Public Grievances & Pensions, during his interaction with Indian Diaspora at New York on September 25, 2022.

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‘The Insolvency and Bankruptcy Code (IBC) also played a big part in “improving the health of the banking system” which had high NPAs due to the financial crisis of 2008’

Dr. V Anantha Nageswaran, Chief Economic Advisor, during a virtual seminar organised by Swadeshi Research Institute on September 26, 2022.

Leveraging Behavioural Change

The Insolvency and Bankruptcy Code, 2016 (IBC/Code) was enacted to provide for insolvency resolution of distressed entities in a time bound manner. To keep the unprecedented reform abreast with the upcoming challenges, the Government has amended the Code six times during the last six years. The Insolvency and Bankruptcy Board of India (IBBI), the Regulator, has also made 84 amendments to its 18 regulations made under the Code, out of which around 22 amendments have been made in the past one year alone. The Code has led to behavioural change in the debtor-creditor relationship. The fear of losing control of the firm on initiation of corporate insolvency resolution process (CIRP), is nudging debtors to settle their dues with the creditors as soon as possible. Till September, 2022, 23,417 applications for initiation of CIRPs, having underlying default of ₹ 7.31 lakh crore were resolved before their admission. This is attributed to the behavioural change effectuated by the Code.

However, there is a concern that the Code is losing its sheen due to excessive delays and loss of value in the resolution process. The performance of the Code during the past six years has been better than the previous regimes, but there is a great scope for improvement. We need to learn from our experience in the last six years and make the Code more effective in terms of processes and more result oriented. The Government and the Regulator are working in tandem, to roll out next generation reforms in the insolvency space.

It has to be borne in mind that amendments in the Code and/or regulations may not suffice. The performance of the Code is based on the collective participation of all stakeholders in a non-adversarial manner. From early identification of distress to value maximizing insolvency resolution, each stage and activity in the processes under the Code needs constant engagement, willingness and commitment of all the stakeholders. There is a need to ensure that all stakeholders keep their respective act for the successful implementation of the Code.

Let us take admission of a CIRP as an example to understand the importance of behavioral aspects in the Code. Section 7 of the Code provides initiation of CIRP by a financial creditor (FC) when a default has occurred. Banks declare an account as non-performing asset (NPA) in ninety days after occurrence of default in repayment obligations/ persistent irregularities as per Income Recognition and Asset Classification norms set by the Reserve Bank of India (RBI). It is perhaps in the interest of banks to file CIRP applications as soon as default occurs. However, it is noticed that more than a year is being taken by FCs in filing CIRP applications post occurrence of default. This delay leads to erosion in value of assets. Thus, the creditors need to change their behaviour and submit the CIRP application

early as soon as default has occurred. They invariably have the option to withdraw the application before it is admitted. Even where the application has been admitted, in case they arrive at a satisfactory settlement with the corporate debtor (CD), FCs still have the option of withdrawal under section 12A of the Code.

Further, for the Adjudicating Authority (AA) to expeditiously verify the existence of such default, the Report of the Bankruptcy Law Reforms Committee had envisaged that the CIRP application should rely on information of default furnished by registered Information Utility (IU). This will allow for the speedy commencement of insolvency proceedings, owing to the undisputed information that is made available by the IU. The provisions under section 7(3), *inter alia*, obligates the FC to furnish a record of default of an IU as part of their application for initiation of CIRP. Section 7(4) requires the AA to ascertain the existence of a default from the records of an IU. However, it is observed that substantial time of the AA is consumed in ascertaining 'existence of debt' and 'occurrence of default' due to examination of voluminous and at times irrelevant documents. Therefore, it is necessary that the creditors must adapt to mandatory submitting the record of default as a proof of existence of default so that the AA can accept the same as sufficient proof of default.

Furthermore, it has also been observed that interlocutory applications are filed during the admission process on grounds of principle of natural justice not being followed, the application being barred by limitation, inaccuracy of default amount etc. There are numerous documents exchanged between the FC and the CD regarding restructuring/settlement etc. before taking a recourse under the Code. The IU is also mandated to send at least three notices to the CD before issuing record of default. The CIRP application by banks are generally within limitation period of three years and are filed after several notices extended by the creditors to the debtors. These documentary evidences establish that the principle of natural justice is inbuilt and rigorously followed to establish existence of default. Additionally, there is no requirement of determination of the exact amount of default or adjudication of dispute at admission stage provided that the threshold default amount of ₹ 1 crore is met. Thus, the creditors need to file their applications in time, enclosing certificate of record of default issued by the IU, pre-exchanged correspondences with debtor along with the CIRP application so that the examination by AA is facilitated and thereby, time taken in admission is reduced. This requires behavioural change at all levels.

To sum up, mere amendments in the Code/regulations may not suffice and it is necessary for all the stakeholders to take actions in a time bound manner in accordance with the spirit of the Code that reduces delays and maximises the value of the CD.

(Ravi Mital)

IBBI Updates

Governing Board

Mr. Jayanti Prasad took charge as Whole-time Member (WTM) of the IBBI on July 5, 2022. He is a 1986 batch Indian Audit and Accounts Service officer, superannuated as Deputy Comptroller & Auditor General (Human Resources and International Relations). Before joining the IBBI, he had accomplished thirty-five years of experience in the civil services, national and international assignments, having held key positions within the Office of Comptroller and Auditor General of India and in the United Nations. He also served as the Custodian under the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 in the Department of Financial Services, Ministry of Finance, Government of India.



Mr. Jayanti Prasad, WTM

Mr. Prasad has been designated as WTM (Registration & Monitoring Wing). His responsibilities include Complaints and Grievance Redressal, Inspection, Investigation, Surveillance, Service Provider Divisions, Human Resources, Establishment, Finance & Accounts, Research & Publications, Examinations, Graduate Insolvency Programme, Advocacy among others.

Training programme for Indian Corporate Law Service Trainee Officers

The IBBI organised a three-day, classroom based, training programme for Indian Corporate Law Service (ICLS) trainee officers, of the 2020 batch, from July 11 to July 13, 2022. Mr. Sudhaker Shukla, WTM, IBBI in the presence of Mr. Jayanti Prasad, WTM, IBBI inaugurated the training programme. The sessions covered overview of the Code, broad overview of professionalization of insolvency services and role of the regulator, the IBBI. It also covered the concepts, duly supplemented by way of practical case studies related to various processes under the Code. The working of grievance redressal and disciplinary mechanism of the Board was explained to the trainees. Further, the participants were introduced to various components of the IBC ecosystem. The drafting and vetting of regulations, emerging jurisprudence, impact on stressed asset market and socio-economic outcomes of the Code were also covered. The frontier areas of insolvency regime like group insolvency, cross-border insolvency and individual insolvency were also covered in the sessions. Certificates were awarded to the ICLS trainee officers on conclusion of the training programme.

Parliamentary Committee Meeting on Hindi

Visit/Inspection of first sub-committee of the Committee of Parliament on Official Language was held on July 15, 2022 at Vigyan Bhawan, New Delhi. The WTMs along with other officers of the IBBI attended the meeting and briefed the committee regarding implementation of *Rajbhasha* policy in the IBBI.



Meeting of the Parliamentary Committee on Hindi, July 15, 2022

2nd International Research Conference

The IBBI, in collaboration with the Indian Institute of Management, Bangalore (IIMB) has announced organising of Second International Research Conference on Insolvency and Bankruptcy from February 23, 2023 to February 25, 2023 at the IIMB campus. Acknowledging that deep research can bring together evidence to support policy makers in achieving real world outcomes, the three-day conference calls upon academicians & researchers, lawyers, economists, regulators, to submit research proposals. The conference aims at understanding the importance and impact of IBC in its totality through the multidisciplinary research papers.

Human Resources

Har Ghar Tiranga Campaign

'*Har Ghar Tiranga*' is a campaign under the aegis of *Azadi Ka Amrit Mahotsav* to encourage people to bring the *Tiranga* home and to hoist it to mark 75th year of India's independence. Aiming to instill a feeling of patriotism in the hearts of all and reminisce the contribution of those who tirelessly worked for national building, all officers and staff of the IBBI were facilitated and encouraged to actively participate in the campaign and post their selfies with the *Tiranga* online.



Har Ghar Tiranga Campaign, August 15, 2022

Swachh Bharat Abhiyan

A *Swachhata* Pledge was conducted by the Secretary, Ministry of Corporate Affairs on August 16, 2022. The office also carried out a special drive in the month of August, 2022 and a committee was constituted to identify files / documents which may be weeded out.



Swachh Bharat Abhiyan, August, 2022

Hindi Pakhwada

The IBBI celebrated *Hindi Pakhwada* from September 14, 2022 to September 27, 2022. It conducted various activities during this period to maximize the use of Hindi as the official language of the Union of India and to promote its further use in official work. The employees participated in various activities such as the *karyshala*, *pratiyogita* etc, in Hindi, with great enthusiasm and won prizes.



Celebration of Hindi Pakhwada, September, 2022

MoUs with IIMV and NLU Odisha

In order to develop a credible partnership to sensitize the stakeholders, in the emerging field of Insolvency and Bankruptcy, the IBBI signed two Memorandum of Understanding (MoU) in September, 2022 for cooperation in advocacy initiatives with:

- Indian Institute of Management–Visakhapatnam (IIMV); and
- National Law University, Odisha (NLU Odisha)

These MOUs are initially for a period of three years, extendable further by mutual consultation. Conduct of Certificate Courses, Diploma, Postgraduate Programmes, Case Studies, Training, Conferences, Seminars, Moot Competition, Continuing Professional Education (CPE), etc. are few of the proposed areas of cooperation under the MOUs.

Employee Trainings and Workshop

The IBBI organised the following workshops and trainings for its officers through video-conference:

Date	Nature of the programme / Subject	Faculty
30-09-2022	Overview of Insolvency Framework of United Kingdom	Professor Kristin Van Zwieten, Professor of law and finance, University of Oxford

The members and officers of the IBBI attended the following workshops and training programmes:

Date	Organised by	Nature of the programme / Subject	No. of Officers
24-08-2022	GRR	GRR Singapore Live 2022	4
07-09-2022	INSOL	8 th Annual Seminar	1
26-09-2022	IAIR	IAIR Annual Conference and AGM 2022	2



Participation at GRR Singapore Live 2022, August 24, 2022



Participation at IAIR Annual Conference, September 26, 2022

Legal and Regulatory Framework

Central Government

Appointment of Ms. Anita Shah Akella as Ex-officio member in the IBBI

The Central Government vide notification dated July 5, 2022 had appointed Ms. Anita Shah Akella, Joint Secretary, Ministry of Corporate Affairs as ex-officio member in the IBBI to represent the said Ministry in the Board.

Regarding Fast track CIRP

The Central Government vide notification dated August 30, 2022 has amended its earlier issued notification dated June 14, 2017 pertaining to applicability of fast track CIRP. The amended notification provides that an application for fast track CIRP may be made in respect of a startup (other than the partnership firm) as defined in the notification of the Government of India in the Ministry of Commerce and Industry number G.S.R. 127(E), dated February 19, 2019 and as amended from time to time.

IBBI

Amendment to IP Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Amendment) Regulations, 2022 on July 4, 2022. The amended regulations provide for disciplinary proceedings to be conducted in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017. It further provides for additional clauses in the First Schedule to the Regulations regarding relationship disclosures, communication with stakeholders, raising of bills or invoices, and compliance with applicable laws.

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Second Amendment) Regulations, 2022 on September 13, 2022. The amended regulations prohibit an Insolvency Professional (IP) from accepting/sharing any fees or charges from any professional and/or support service provider who are appointed under the processes.

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Third Amendment) Regulations, 2022 on September 20, 2022. The amended regulations *inter alia* provide for revision in fees in relation to IPs and Insolvency Professional Entities (IPEs). It also provides for submission of new Form EA by IPs and revised Form G by IPEs. The amendment is effective from October 1, 2022.

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Professionals) (Fourth Amendment) Regulations, 2022 on September 28, 2022. The amended regulations *inter alia* provide that an IPE, recognised by

the Board, can seek registration as an IP with the Board. However, it shall allow only its partner or director, as the case may be, who is an IP and holds a valid Authorisation for Assignment (AFA), to sign and act on behalf of it.

Amendment to IPA Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Professional Agencies) (Amendment) Regulations, 2022 on July 4, 2022. The amended regulations provide for disciplinary proceedings to be conducted in accordance with the provisions of the Insolvency and Bankruptcy Board of India (Inspection and Investigation) Regulations, 2017.

Amendment to Employee Service Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Employees' Service) (Amendment) Regulations, 2022 on July 6, 2022. The amended regulations make modifications in Schedule-I to the Regulations which specifies the method of recruitment and eligibility for various grades and positions.

Amendment to CIRP Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Third Amendment) Regulations, 2022 (Amendment Regulations) on September 13, 2022. The salient features of the amendments are as under:

(a) The fee of the interim resolution professional (IRP) or the resolution professional (RP), appointed on or after October 1, 2022 shall be decided by the applicant or committee in accordance with the said amendment regulations.

(b) An IP shall be paid minimum fixed fee in the range of one lakh rupees to five lakh rupees, per month, depending on the quantum of claims admitted, as specified under Table-I of Schedule-II of the said amendment regulations. However, the applicant or committee may decide to fix higher amount of fees than the said minimum fixed fee, after taking into consideration market factors such as size and scale of business operations of the CD, business sector in which CD operates, level of operating economic activity of CD and complexity related to process.

(c) For the resolution plan approved by the committee on or after October 1, 2022, the committee may decide to pay, after approval of such resolution plan by the AA on commencement of payment to creditors by the resolution applicant, performance-linked incentive fee, not exceeding a total of five crore rupees;

- a. for timely submission of resolution plan to the AA, as specified under Table-2 of Schedule-II to the said amendment regulations, and/or
- b. for value maximisation, at the rate of one per cent of the amount by which the realisable value is higher than the liquidation value, or
- c. other than a. or b. above, as the committee may deem necessary.

(d) The fee under amendment regulations may be paid from the funds, available with the CD, contributed by the applicant or members of the committee and/or raised by way of interim finance and the same shall be included in the insolvency resolution process cost.

The IBBI notified the IBBI (Insolvency Resolution Process for Corporate Persons) (Fourth Amendment) Regulations, 2022 on September 16, 2022. The amended regulations (a) enable the RP and the committee of creditors (CoC) to issue request for resolution plan a second time for sale of one or more of assets of the CD in cases where no resolution plan has been received for the CD as a whole; (b) enable marketing of assets of the CD; (c) change timeline for filing application for preferential and other transactions on or before 130th day of insolvency commencement date (ICD) and to provide a copy of the said application to the prospective resolution applicants to enable them to account for such information while proposing the resolution plan; (d) change the timeline for submission of information memorandum (IM) to on or before 95th day from the ICD from 54th day and also mandates the additional information to be provided in the IM; (e) enable the CoC to examine whether it wants to explore option of compromise

or arrangement and file such recommendation with the AA while applying to the AA for liquidation order; (f) provide for a common email address to be used throughout the CIRP or liquidation period; (g) provide for the IRP/RP to make the public announcement and invite claims from the creditors of the CD, as per the last available books of accounts; and (h) clarify that a meeting of CoC can be convened till resolution plan is approved or an order for liquidation is passed and matters which do not affect the resolution plan can be decided upon.

The IBBI notified the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) (Fifth Amendment) Regulations, 2022 on September 20, 2022. The amended regulations provide for (a) a regulatory fee to be payable to the Board at the rate of 0.25 per cent of the realisable value to the creditors under the approved resolution plan, where such realisable value is more than the liquidation value and (b) a regulatory fee calculated at the rate of 1 per cent of the cost being booked in insolvency resolution process costs in respect of hiring any professional or other services by the IRP/RP, for assistance in a CIRP. The amendment is applicable where resolution plans are approved on or after October 1, 2022.

Amendment to Liquidation Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Liquidation Process) (Second Amendment) Regulations, 2022 on September 16, 2022. To enable better participation of stakeholders and to streamline the liquidation process to reduce delays and realise better value, the amendment makes modifications in the constitution of stakeholders' consultation committee (SCC), meetings and scope of SCC, claims verification, process of compromise or arrangement, timelines for auction process, and continuation of avoidance applications after closure of liquidation proceedings. It further lays down the manner and period of retention of records relating to liquidation of a CD.

Amendment to Voluntary Liquidation Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Voluntary Liquidation Process) (Second Amendment) Regulations, 2022 on September 16, 2022. The amended regulations lay down the manner and period of retention of records relating to voluntary liquidation of a corporate person.

Amendment to IU Regulations

The IBBI notified the Insolvency and Bankruptcy Board of India (Information Utilities) (Second Amendment) Regulations, 2022 on September 20, 2022. The amended regulations provide for the revised fee structure for making an application for registration as an IU as well as during the continuity of registration. The amendment is effective from October 1, 2022.

Circulars

Revision of fees for Limited Insolvency Examination and Valuation Examinations

The IBBI vide its circular dated August 31, 2022 revised the fee applicable for Limited Insolvency Examination and Valuation Examinations from ₹ 1,500 plus applicable GST to ₹ 5,000 plus applicable GST. The revised fee is applicable for enrolment for examinations on or after October 1, 2022.

Details of matters pending with Supreme Court of India and various High Courts

The IBBI vide its circular dated September 13, 2022 advised the IPs to inform the Board about any important issues relating to vires, interpretation and applicability of the provisions of the Code, Rules and Regulations made thereunder which are being contested before the High Courts (HCs) and the Supreme Court of India (SC), in respect of any assignment handled by them as on date. Further, for any future case, the information as above shall be submitted by IPs as and when any such case is filed before the Hon'ble SC and HCs.

Guidelines

Amendments to Online Delivery of Educational Course and Continuing Professional Education Guidelines

The Insolvency and Bankruptcy Board of India (Online Delivery of Educational Course and Continuing Professional Education by Insolvency Professional Agencies and Registered Valuers Organisations) (Amendment) Guidelines, 2022 were notified on September 30, 2022. The amendment specifies that the number of participants to be enrolled through online mode by an Insolvency Professional Agency (IPA) / Registered Valuer Organisation (RVO) for a continuing educational course shall not exceed 200.

Orders

Supreme Court

Vidarbha Industries Power Limited Vs. Axis Bank Limited [Civil Appeal No. 4633 of 2021]

The Hon'ble SC made the following observations:

- When AA is satisfied that a default has occurred and the application of an FC is complete in all respects as per requirements, it may by order admit the application. Legislature intended section 9(5)(a) to be mandatory as it uses the word 'shall' and section 7(5)(a) of the Code to be discretionary as Legislature has, in its wisdom, chosen to use the expression 'may' in section 7(5)(a) of the Code. Had it been the legislative intent that section 7(5)(a) of the Code should be a mandatory provision, Legislature would have used the word 'shall' and not the word 'may'.
- In case of a section 7 application, the AA might examine the expedience of initiation of CIRP, taking into account all relevant facts and circumstances, including the overall financial health and viability of the CD. The AA may in its discretion not admit the application of a FC. If facts and circumstances so warrant, the AA can keep the admission in abeyance or even reject the application. It is certainly not the object of the Code to penalize solvent companies, temporarily defaulting in repayment of its financial debts, by initiation of CIRP.
- The SC noted a word of caution holding that even though section 7(5)(a) may confer discretionary power on the AA, such discretionary power cannot be exercised arbitrarily or capriciously.

The SC while dismissing the review petition filed in respect of the above judgement, observed that it is well settled principle that judgments and observations in the judgments are not to be read as provisions of statute. Judicial utterances and/or pronouncements are in the setting of the facts of a particular case. It clarified that the elucidations in its judgment were made in the context of the case at hand.

Asset Reconstruction company (India) Ltd Vs. Tulip Star Hotels Ltd. & Ors. [Civil Appeal 84-85 of 2020]

The SC observed that the time of 14 days in section 7(4) of the Code to ascertain the existence of a default is apparently directory not mandatory. An application to the AA under section 7, in the prescribed form, cannot be compared with the plaint in a suit, and cannot be judged by the same standards, as a plaint in a suit, or any other pleadings in a court of law. The application cannot be dismissed, without complying the requisites of the proviso to section 7(5) i.e., non-occurrence of default, or incomplete application and non-pendency of disciplinary proceedings against the IP.

As regards the limitation, the SC held that entries in books of accounts and/or balance sheets of a CD would amount to an acknowledgment under section 18 of the Limitation Act, 1963. Accordingly, if there were an acknowledgement of the debt by the CD before expiry of the period of limitation of three years, the period of limitation would get extended by a further period of three years. Further, there is no bar to the filing of documents at any time until a final order either admitting or dismissing the application has been passed.

Sundaresh Bhatt, Liquidator of ABG Shipyard Vs. Central Board of Indirect Taxes and Customs [Civil Appeal No. 7667 of 2021]

The SC observed that the Customs Act, 1962 (Customs Act) and the Code act in their own spheres. In case of any conflict, the Code overrides the Customs Act. The Customs Act and the Code can be read in a harmonious manner wherein authorities under the Customs Act have a limited jurisdiction to determine the quantum of operational debt. The Code would prevail over the Customs Act, to the extent that moratorium is imposed in terms of sections 14 or 33(5) of the Code. Post assessment of tax, the customs authority has to submit its claims timely (concerning customs dues/operational debt) in terms of the procedure laid down under the Code. The customs authority cannot enforce a claim for recovery or levy of interest on the tax due during the period of moratorium. They cannot transgress such boundary and proceed to initiate recovery in violation of sections 14 or 33(5) of the Code.

The IRP, RP or the liquidator, as the case may be, has an obligation to ensure that assessment is legal, and he has been provided with sufficient power to question any assessment, if he finds the same to be excessive. The IRP/RP/liquidator, in any case, can immediately secure goods from the customs authority to be dealt with appropriately, in terms of the Code.

R.K. Industries (Unit-II) LLP Vs. H.R. Commercial Private Limited and Other [Civil Appeal No. 7722 of 2021]

The SC considered two issues i.e., whether the liquidator was justified in discontinuing the second swiss challenge process for the sale of a part of the assets of the CD and opting for a private sale process through direct negotiations in respect of the composite assets of the CD? and if so, was the Appellate Tribunal justified in directing the liquidator to restart the entire process of private sale after issuing an open notice to prospective buyers instead of confining the process to those parties who had participated in the process earlier.

The SC noted that as per the anchor bid document and the second swiss challenge process document, the prospective bidders were informed that the liquidator had reserved the right to abandon/cancel/terminate/waive the said process and/or part thereof at any stage. The SC observed that anchor bidder has no vested right beyond the right of first refusal. The Code has left it to the discretion of the liquidator to explore the best possible method for selling the assets of the CD including private sale through direct negotiations for maximizing the value of the assets offered for sale. The insolvency regime introduced under the Code has placed fetters on the power of interference by the AA and the NCLAT. Courts may not question the judiciousness of the decision taken by the liquidator to enhance the value of assets of the CD. It was observed that once the liquidator applies to the AA for appropriate orders/directions, including the decision to sell the tangible assets of the CD by adopting a particular mode of sale and the AA grants approval to such a decision, there is no provision in the Code that empowers the NCLAT to *suo motu* conduct a judicial review of the said decision.

K. Parmasivam Vs. The Karur Vysya Bank Ltd. & Anr. [Civil Appeal No. 9286 of 2019]

The SC, referring to its decision in the matter of *Laxmi Pat Surana*, held that the FC can proceed against the guarantor without first initiating CIRP in respect of the principal borrower.

State Tax Officer Vs. Rainbow Papers Limited with other appeal [Civil Appeal No. 1661 and 2568 of 2020]

An appeal was made against an order of the NCLAT, rejecting the application filed by the Sales Tax Officer and holding that the government cannot claim first charge over the property of the CD, as section 48 of the Gujarat Value Added Tax Act, 2003 (GVAT Act), which provides for first charge on the property of a dealer in respect of any amount payable by the dealer on account of tax, interest, penalty etc., cannot prevail over section 53 of the Code.

While setting aside the order of NCLAT, the SC observed that if the resolution plan ignores the statutory demands payable to any state government or a

legal authority, altogether, the AA is bound to reject the resolution plan. If a company is unable to pay its debts, which should include its statutory dues to the government and/or other authorities and there is no plan which contemplates dissipation of those debts in a phased manner, the company would necessarily have to be liquidated and its assets sold and distributed in the manner stipulated in section 53 of the Code. Under section 53(1)(b)(ii), the debts owed to a secured creditor, which would include the State under the GVAT Act, are to rank equally with other specified debts including debts on account of workmen's dues for a period of 24 months preceding the liquidation commencement date. The State is a secured creditor under the GVAT Act. Section 3(30) of the Code defines secured creditor to mean a creditor in favour of whom security interest is created. Such security interest could be created by operation of law.

Tech Sharp Engineers Pvt. Ltd. Vs. Sanghvi Movers Limited [Civil Appeal No. 296 of 2020]

The SC observed that proceedings in good faith before a forum which lacks jurisdiction may save limitation. Similarly, acknowledgment of liability may have the effect of commencing a fresh period of limitation. The SC noted that in the instant case, the last acknowledgment was in 2013 and the Madras HC wherein the winding up proceedings against the CD were filed on July 4, 2015 and there is continuous cause of action, the claim is within the period of limitation and did not suffer from any defect of jurisdiction. It held that the pendency of the proceedings in Madras HC, filed by the operational creditor (OC), saves the limitation for filing an application under section 9 of the Code.

Maitreya Doshi Vs. Anand Rathi Global Finance Ltd. and Anr. [Civil Appeal No. 6613 of 2021]

Relying on its decision in *Lalit Kumar Jain v. Union of India*, the SC held that the approval of a resolution in respect of one borrower cannot certainly discharge a co-borrower under the Code. If there are two borrowers or if two corporate bodies fall within the ambit of CDs, there is no reason why proceedings under section 7 of the Code cannot be initiated against both the CDs. If the dues are realised in part from one CD, the balance may be realised from the other CD being the co-borrower. Once the claim of the FC is discharged, there can be no question of recovery of the claim twice.

High Court

Vishnu Oil Mill Private Ltd. Vs. Union of India & Ors. [D.B. Civil Writ Petition No. 2507/2022]

The question for consideration was, whether a group of FCs can jointly trigger CIRP without adhering to the requirement of default threshold of ₹ 1 crore in individual capacity? The Rajasthan HC observed that section 7 clearly stipulates that the application for triggering CIRP may be initiated by a FC either individually or jointly with other FCs. It can easily be envisaged that in cases of micro, small and medium enterprises (MSMEs), there may not exist FCs whose individual debt is ₹ 1 crore or above. It held that the statute and the amendment made therein makes it clear that the same was formulated in such a manner so as to provide a means of efficacious redressal to the smaller FCs and to give them an opportunity of availing the speedy remedy under the Code rather than being relegated to other onerous proceedings for securing their money. Therefore, a group of FCs can converge and join hands to touch the financial limit of ₹ 1 crore as stipulated under the Code so as to initiate a CIRP.

NCLAT

The Regional Provident Fund Commissioner Employees Provident Fund Organisation Vs. Mr. Vasudevan Resolution Professional & Liquidator of M/s. Titanium Tantalum Products Limited [Company Appeal (AT) (CH) (INS) No. 182 of 2022 & IA No. 415 of 2022]

Employees Provident Fund Organisation had filed an interlocutory application before the AA seeking an order in directing the RP to make provision in the IM and corresponding resolution plan if any, for the payment

of claim due to the applicant by condoning the delay of 936 days in claiming the dues under the Employees Provident Funds & Miscellaneous Provisions Act, 1952. In appeal against AA order of rejection of such application, the NCLAT held that the law of limitation being harsh, will affect a litigant, but it has to be pressed into service with all its vigour and rigour. An unpardonable lackadaisical approach / attitude of the party in pursuing a matter before the Tribunal is not to be accepted. An application for condonation of delay undoubtedly creates a jurisdictional fetter against consideration of tangible / substantive matter on merits. While dismissing the appeal, it was observed that just because the appellant is a statutory organisation, no indulgence or latitude can be shown, since the law applies to one and all in a level playing field. The officials must act with as much diligence as is expected from a litigant.

Mr. Prashat Agarwal Vs. Vikash Parasrampur & Anr. [Company Appeal (AT) (Ins) No. 690 of 2022]

The issue of maintainability of application on the grounds of threshold limit, came up for consideration. In this case, out of nine invoices raised by the OC, the CD had paid only three. The AA admitted the section 9 application for initiation of CIRP. The admission order was challenged on the grounds that principal amount of debt is only ₹ 97,87,220/- which is below the prescribed threshold limit. The NCLAT noted that all nine invoices clearly stipulated provision of interest on delayed payment, this will entitle for 'right to payment' as per section 3(6) and will form part of 'debt' under section 3(1) of the Code. It held that the interest on delayed payment gets included with the principal debt to form part of the total claim.

Pooja Finlease Ltd. Vs. Auto Needs (India) Pvt. Ltd. & Anr. [Company Appeal (AT) (Insolvency) No. 103 of 2022]

The NCLAT held that as one of the clauses in the settlement terms contemplated revival of CIRP in the event of any breach of the terms on the part of CD, the FC is entitled to revive the section 7 application in event of any breach of the settlement terms.

Dolphin Vintrade Private Limited Vs. Ashray Vyapaar Private Limited & Anr. [Company Appeal (AT) (Insolvency) No 320 of 2022 & I.A. No. 1066 & 1082 of 2022]

Order of admission passed by the AA in a section 7 application, was challenged on the grounds that CD was already under liquidation in terms of the provisions of the Sick Industrial Companies (Special Provisions) Act, 1986. The NCLAT while allowing the appeal and setting aside the admission order observed that CD was in liquidation and all its assets were *custodial legis* (in the custody of the law) and in the control and possession of the official liquidator. When liquidation process has commenced way back in 1997, how the default could have been committed by the CD? It held that although, pendency of winding-up petition before the HC may not preclude filing of section 7 application, but, when there are various orders passed by Company Judge, which has relevance and consequence on section 7 application, the orders passed in company petition ought to have been adverted by the AA before admitting the application. The NCLAT imposed a cost of ₹ 10 lakhs on the FC to be deposited with the official liquidator.

Sudip Dutta Vs. State Bank of India [Company Appeal (AT) (Insolvency) No. 807 of 2021]

The issues for consideration before the NCLAT in this case were, whether a personal guarantee stands extinguished, once the personal guarantor (PG) acquires foreign citizenship after execution of guarantee deed, and whether the Central Government was required under section 234 of the Code to enter into agreement for expediting the matter against the PG. The NCLAT while dismissing the appeal filed against order of AA admitting the application against the PG, observed that the statutory scheme of the Code does not contain any indication that the PG of a CD can escape from its liability under the personal guarantee deed merely on the ground that he is now residing in another country and acquired citizenship of another country and is no more an Indian citizen, as this will allow such PGs to wash off from their obligation under the guarantee deed. It further observed that the provision

under section 60(1) of the Code makes it clear that the residence of PG is not taken into consideration when proceedings against the PG are initiated. When an application is filed against PG, whether residing in India or residing outside India, the jurisdiction shall be before the AA in whose territorial jurisdiction the registered office of the corporate person is located. As regards applicability of section 234, it was observed that applicability of section 234 arises only in a case where assets or property of PG are situated at any place in a country outside India.

CA Rita Gupta Vs. M/s. Shilpi Cable Technologies Ltd. & Ors. [Company Appeal (AT) (Insolvency) No. 10 of 2020]

The question that arose for consideration was, whether the liquidator has the jurisdiction to decide the fee of the RP as the CoC is no longer in existence? The NCLAT observed that by virtue of section 5(13)(e) of the Code, the fees and expenses incurred by the RP comes under the ambit of insolvency resolution process cost and therefore the liquidator cannot adjudicate upon the insolvency resolution process cost. Regulation 34 of the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 (CIRP Regulations), specifies that the CoC shall fix the expenses which are incurred by the RP. The liquidator can only verify and adjudicate the claims as defined under the Code. The fees of an RP cannot be a 'claim' as defined under section 3(6) of the Code. Since the amount of fees payable to an RP is not a 'claim', the same cannot be determined or verified by the liquidator. It is the AA which has to decide fees in the absence of a CoC and the RP cannot be directed to prefer a 'claim' before the liquidator.

Rakesh Kumar Jain Vs. Jagdish Singh Nain & Ors. [Company Appeal (AT) (Ins.) No. 425 of 2022]

The NCLAT considered the issue, whether AA is competent to pass order under section 66 of the Code during the currency of moratorium under section 14. It held that section 14(1)(a) of the Code interdicts institution of suits and continuation of pending suits and proceedings against the CD including execution of any judgment decree or order of any court of law, Tribunal, Arbitration Panel or other authority. Thus, it prohibits institution and prosecution of any proceedings against the CD but does not prohibit passing any order by the AA during CIRP or liquidation process against CD and its suspended directors or related parties. No doubt prohibition is only against the proceedings in any other Courts or Tribunals etc. but not a prohibition against passing of any order in the pending CIRP or liquidation process against the CD. On the other hand, section 66 permits the AA to pass appropriate orders on application of any person when any transaction was entered into fraudulently. Further, the provisions of sections 14 and 66 are independent, incorporated for different purposes. Section 14 is intended to prevent fictitious claims by third parties to realise the amount by execution of the orders, decrees etc. whereas section 66 is intended to prevent fraudulent trading or business by CD through its RP or suspended directors, during CIRP or liquidation process. These two provisions have to be read independently to achieve the object of the Code.

Vikas Dahiya Vs. Arrow Engineering Limited & Anr. [Company Appeal (AT) (Insolvency) No. 699 of 2022]

The NCLAT held that principle of *res judicata*, though a part of Civil Procedure Code, would be applicable to a proceeding under the Code. This is to prevent the abuse of process of law and give a finality to any proceeding, or orders, and to avoid an endless litigation to frustrate the very object of enacting the Code. It was further observed that a judgment obtained by playing fraud on the AA or judgment or order passed without inherent jurisdiction is *non est* in the eyes of law and the same can be challenged in a collateral or incidental proceeding.

Somesh Choudhary Vs. Knight Riders Sports Private Limited & Anr. [Company Appeal (AT) (Insolvency) No. 501 of 2021]

The CD entered into a licensing agreement with the OC, whereby the OC granted the license and right to use its trademark on the licensed products manufactured and sold by the CD, in lieu of Minimum Guaranteed Royalties (MGRs) as compensation. OC raised the invoices for an aggregate sum of

₹ 40,60,147/- towards the MGRs payable by the CD under the licensing agreement and in lieu of which the CD made the payment of ₹ 17,69,835/-. On CD's failure to pay the remaining balance, OC filed a section 9 application which was admitted by the AA. The NCLAT observed that section 7 of the Central Goods and Services Tax Act, 2017 permits the use or enjoyment of any Intellectual Property Right as a 'supply of service'. The NCLAT noted that the CD was permitted to use the trademark in relation to its licensed products, so, there was temporary transfer/permission to use, constituting 'provision of service' rendered by the OC and, therefore, it falls within the definition of service and any amounts 'due and payable' arising out of such service is an 'operational debt' within the ambit of section 5(21) of the Code.

Adjoin Built & Developers Vs. Aditya Kumar & Ors. [Company Appeal (AT) (Insolvency) No. 769-770 of 2021]

The appeal in the case was filed by the IBBI against AA's order directing the IBBI not to initiate any enquiry against an IP till further orders, and if any enquiry is initiated, the same be halted till further directions of the AA. The NCLAT placed reliance on the SC's decision in *K. Sashidhar v. Indian Overseas Bank & Ors.*, and its previous orders in the matters of *Mohan Gems & Jewels Pvt. Ltd. v. Vijay Verma & Ors.* and *Insolvency and Bankruptcy Board of India v. Shri Rishi Prakash Vats & Ors.* and set aside the order of the AA. It held that neither the Code, nor the rules framed thereunder confer any power to the AA to interfere with the process of inspection and investigation initiated by the Board, nor does it have the power to direct the Board to take or not to take actions.

Sumat Kumar Gupta Vs. Committee of Creditors of M/s Vallabh Textiles Company Ltd. [Company Appeal (AT)(Insolvency) No.1037 of 2022]

The NCLAT considered the issue whether RP should be given opportunity of being heard in case of his replacement? The NCLAT held that the scheme of section 27 of the Code does not indicate that RP is to be made party and is to be issued notice before taking decision to appoint another RP. The NCLAT relied on the judgement of *Punjab National Bank v. Kiran Shah, IRP of ORG Informatics* and held that the replacement of RP is complete when required decision is taken by the CoC in its meeting with requisite majority and held that the erstwhile RP is not entitled for hearing.

Shri Alok Kaushik, RP of Cheema Spintex Ltd Vs. Cheema Spintex Ltd & Ors. [Company Appeal (AT) (Insolvency) No.896 of 2022]

The issue for consideration was, whether RP was justified in carrying on CIRP and adding to CIRP costs during the pendency of the withdrawal application under section 12A of the Code. The NCLAT held that since the section 12A application was filed by the IRP before the AA, well before the constitution of the CoC, the IRP's continuance with the CIRP without making adequate efforts to seek pointed clarification from the AA on whether to proceed with the CIRP or not, does not reflect well on his conduct. It observed that the IRP cannot afford to be unmindful of the fact that he is the driving force and the nerve-center in the resolution process and is expected to assist in the CIRP in a fair and objective manner in the best interest of all stakeholders. Simply by registering presence on each date of hearing before the AA without seeking clear guidance on CIRP modalities cannot in itself become a sufficient ground for the IRP to proceed with the CIRP in full throttle.

White Stock Limited Vs. Prajay Holdings Private Limited [Company Appeal (AT)(CH) (Ins) No. 271 of 2022 & I.A. Nos. 581 & 582 of 2022]

The question involved in this case was, whether the AA can refer section 7 application for mediation under section 442 of the Companies Act, 2013? Relying upon its judgment in *Sodexo India Services Pvt. Ltd. v. Chemizol Additives Pvt. Ltd.* in which it had held that under section 442 of the Companies Act, 2013, the AA cannot refer the parties to arbitration or mediation for the proceedings pending under the Code, NCLAT set aside the order of AA. It held that once the default is established, the AA does not have the power to refer the parties to an arbitration, since it becomes an *in-rem* insolvency proceedings and held that the proceedings under section 442 of the

Companies Act, 2013 are limited to the Companies Act, 2013 and not to the proceedings under the Code.

Ocean Deity Investment Holdings Ltd. Vs. Suraksha Asset Reconstruction Ltd. [Company Appeal (AT) (Insolvency) No. 795 of 2021 & I.A. No. 1332 of 2022]

The order of admission passed by AA was challenged before the NCLAT on the grounds of debt being collusive in nature. The NCLAT found that in view of the overwhelming evidence and conclusion by statutory bodies which are independent agencies, the financial transactions have to be examined on the touchstone of the ratio laid down by the SC in *Phoenix ARC Private Limited v. Spade Financial Services Ltd. & Ors.*, (2021) 3 SCC 475, wherein the SC has observed that 'collusive transaction' does not lead to a creation of 'financial debt' under section 5(8) of the Code. The NCLAT found that the subject commercial transactions were collusive in nature and do not fall within the ambit of the definition of 'financial debt' and therefore Suraksha, the Assignee, cannot be termed as a 'FC' as defined under section 5(7). It observed that – *"The chequered history of the loan transactions and collusive arrangements indulged by Yes Bank demonstrate that the Term Loans disbursed in the name of Mack Star is an 'eye-wash' and Yes Bank has disbursed these loans with an ulterior motive. Having observed so, we hold that the Assignment to Suraksha is not a bona fide one, peculiar to the facts of the attendant case and the loan amounts do not satisfy the essential requisites of a 'Financial Debt' as envisaged under the Code. This Tribunal observed that the fundamental scope & objective of IBC is 'Resolution' and 'Maximization of Assets' and not 'Recovery' of loans which do not strictly fall within the definition of 'Financial Debt' as defined under Section 5(8) of the Code"*.

Punjab National Bank Vs. Supriyo Kumar Chaudhuri & Ors. [Company Appeal (AT) (Insolvency) No. 657 of 2020]

The NCLAT considered as to whether margin money deposited by way of fixed deposit receipts against a letter of credit (LC) construes, a 'security' and whether this margin money can be appropriated by the bank during the period of moratorium on the ground that it does not form a part of the assets of the CD? LC Agreements, in this case, specified that the goods and services received by way of the LC transactions would be 'security' for the whole LC amount including margin money. It was observed that LC is akin to a contract of guarantee, as it is a contingent liability of the CD which gets crystallized on the happening of a future event. It was further observed that margin money has the character of the Trust for the benefit of the beneficiary as long as the LC is alive and the same cannot amount to an asset of the CD. The NCLAT held that margin money can in no manner be said to be a 'security interest' under section 3(31) of the Code, and the banks having appropriated the said money during the period of moratorium is justified as the amount is not an asset of the CD.

Reliance Commercial Finance Ltd. Vs. Darode Jog Builder Pvt. Ltd. [Company Appeal (AT) (Insolvency) No. 1005 of 2022]

The AA allowed the request of the CD to pay the debt of FC within 45 days and has also granted liberty to the FC to continue with section 7 application if the amount is not paid within 45 days. FC challenged this order as it had expressed its unwillingness to settle the matter and the course adopted by the AA is impermissible. The NCLAT dismissed the appeal of the FC. It held that the AA has only given an opportunity to the CD to deposit the entire defaulted amount for which section 7 application was filed within 45 days with liberty, reserved to the FC to revive the section 7 application in event the amount is not deposited. It observed that – *"In event, in consequence of the Order of the Adjudicating Authority, the Corporate Debtor deposits the entire defaulted amount whether still the Adjudicating Authority was required to necessarily admit the Section 7 Application. The answer would be obviously no. When the Corporate Debtor has complied to deposit the entire defaulted amount of the Financial Creditor as permitted by the Adjudicating Authority, no purpose and occasion shall survive to still proceed with the Insolvency Resolution of the Corporate Debtor"*.

Namdeo Ramchandra Patil & Anr. Vs. Vishal Ghisulal Jain & Anr. [Company Appeal (AT) (Insolvency) No. 821 of 2022]

The issue for consideration was whether allotment of flats and commercial units to the landowners, by virtue of arrangement between them and the developer falls within the definition of 'financial debt'? The NCLAT held that the provision of section 5(8)(f) lays a pre-condition for 'financial debt', that is disbursement against the time value of money and when any amount is raised from an allotment under real estate, such transaction is covered under section 5(8)(f). The pre-condition for application of explanation (i) of section 5(8)(f) is raising of an amount from allottee. In the present case, no amount has been raised from the landowners/FCs. Hence, it does not make the present transaction of allotment of flats and commercial units a 'financial debt' within the meaning of section 5(8)(f) of the Code.

Prasanth Chandra Rath & Ors Vs. Surya Kanta Satapathy and Ors. [Company Appeal (AT) (Insolvency) No. 869 of 2022 with Company Appeal (AT) (Insolvency) No. 850 of 2022]

Suspended directors of the CD filed an appeal against the order of AA that held them responsible for the fraudulent and undervalued transactions under section 66 of the Code. The appellants contended that the application filed by the RP was not within the time limit prescribed under regulation 35A of the CIRP Regulations. Relying on the SC decision in *Surendra Trading Company v. Juggilal Kamlapat Jute Mills Company Limited and Ors.*, the NCLAT held that regulation 35A of the CIRP Regulations is not mandatory and the requirement for approaching the AA for appropriate relief on or before 135th day of the ICD is only directory. The NCLAT noted that the delay was for various reasons like the CIRP having been stalled on the ground of the appellants' entering into one-time settlement (OTS) with one of the creditors, lack of cooperation by the suspended directors, delay on the part of the CD to furnish requisite documents/registers to the transaction auditor and COVID-19 pandemic.

NCLT

Infinity Infotech Parks Limited Vs. Electroparts (India) Private Limited & Anr. [I.A (IBC) No.907 /KB/2021 in C.P. (IB) No. 140/KB/2021]

An interlocutory application was filed by the shareholder of the CD against the FC for obtaining the order of admission on the basis of fraudulent and manufactured documents for a fictitious and imaginary transaction in collusion with unknown third parties claiming to represent the CD without any authority. Besides, the admission was on the basis of default date being December 15, 2020 which is directly hit by section 10A of the Code. The AA observed that FC and the CD had obtained orders of CIRP fraudulently and in complicity with each other by filing a collusive petition and later on settled the matter by payment of ₹ 30 lakh through cheques, although given on behalf of the CD by some unknown person, were not encashed by the FC. In view of the glaringly fraudulent actions committed by FC and CD thereby committed fraud on the Tribunal in terms of section 65 of the Code, the AA imposed penalty of ₹ 50 lakh on FC and terminated the CIRP. Further the matter was referred to the Central Government.

Yadubir Singh Sajwan & Ors. Vs. M/s. Som Resorts Private Limited [Company Petition No. (IB)-67(ND)/2022]

In this real estate project case, petitioners deposited the money with the marketing agency (also a corporate entity) of CD on the strength of a builder buyer agreement whereby the home buyers to be given possession of the units within 36 months from the date of commencement of the construction of the project. However, CD neither delivered the possession of the units nor refunded the money deposited by the home buyers with marketing agency of CD. Subsequently, a memorandum of settlement was executed between the CD, its marketing agency and the homebuyers, on the assurance of the CD to construct the project within 18 months from the date of handing over of the property by the official liquidator and it was agreed to refund the entire amount along with an interest to the home buyers in case of failure to complete the project.

Home buyers filed application seeking to initiate the CIRP against the CD for its failure to honour its commitment. The AA noted that promoter of the CD was appointed as a director on the board of marketing agency and that the CD and marketing agency were being managed either directly or indirectly by the same person. Further, the home buyers are not privy to the agreement between the CD and its marketing agency and that they cannot be punished for the misdeeds of the marketing agency. It was observed that where CD fails to fulfil its legal obligations, piercing of corporate veil is vital to ensure that the principle of distinct corporate personality is not misused. The AA lifted the corporate veil of the CD and admitted the application. The 'doctrine of distinct legal entity' plea as claimed by the CD and its marketing agency with respect to non-refund of the money deposited by the home buyers could not be accepted.

State Bank of India Vs. Krishidhan Seeds Pvt Ltd [TP 82 of 2019 [CP(IB) 500 of 2018]

M/s. Krishidhan Seeds Pvt. Ltd. committed default of ₹ 89.42 crore and account slipped into NPA on June 10, 2014. FC filed section 7 application against the CD on September 19, 2018. The AA vide order dated September 16, 2020, rejected the application holding that the claim of the FC is barred by time. The AA's order was challenged before the NCLAT, which dismissed the appeal. The SC by its order dated April 18, 2022 set aside both the orders directing AA to adjudicate afresh. FC contended that CIRP is being used for the welfare and benefit of the CD and only because the CD deposited ₹ 6 crores in OTS of one of the creditors is not sufficient to hold that the company started reviving back.

The AA noted that the CD had paid a debt of ₹ 2 crore to ICICI Bank and has also deposited a sum of ₹ 6 crore in the loan account of creditor towards the part payment of the settlement. The AA further observed that there are thousands of employees and workmen working with the CD and the CD has generated revenue of ₹ 175 crore in the last year. Placing reliance on the SC judgement in the *Vidarbha Industries* case and taking into consideration the submissions made by the CD that its management is trying hard to take the company out of the debt trap, the AA has kept the proceeding in abeyance for six months. The AA further observed that if the CD fails to settle the debts, it will pass further orders and directed it not to sale the mortgaged assets without consent of the FC.

IBBI

During the quarter, the Disciplinary Committee/Authorised Officer of the IBBI disposed of 25 show cause notices issued to the IPs/RVOs for contravention of the provisions of law by passing suitable orders.

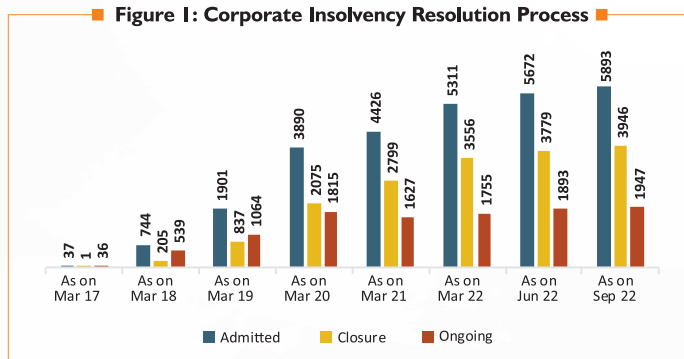
Corporate Processes

The data provided in this section regarding corporate processes is provisional, as it is getting revised on a continuous basis depending on the flow of updated information as received from IPs or the information in respect of process changes. For example, a process may ultimately yield an order for liquidation even after approval of resolution plan or may ultimately yield resolution plan even after an order for liquidation.

Insolvency Resolution

The provisions relating to CIRP came into force on December 1, 2016. A total of 5893 CIRPs have commenced by the end of September, 2022 as presented in Figure 1. Of these, 3946 have been closed. Of the CIRPs closed, the CD was rescued in 2139 cases, of which 846 have been closed on appeal or review or settled; 740 have been withdrawn; and 553 cases have ended in approval of resolution plans; while 1807 have ended in orders for liquidation (Figure 2). Sectoral distribution of CDs under CIRP is presented in Figures 3-6.

Figure 1: Corporate Insolvency Resolution Process



Notes:

These CIRPs are in respect of 5721 CDs.

This excludes 1 CD which has moved directly from BIFR to resolution.

Source: Compilation from website of the NCLT and filing by IPs.

Figure 2: Mode of Closure of CIRPs

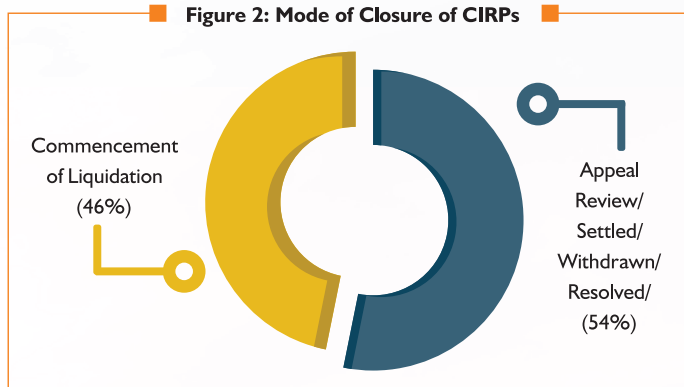


Figure 3: Sectoral Distribution of CIRPs: Admission

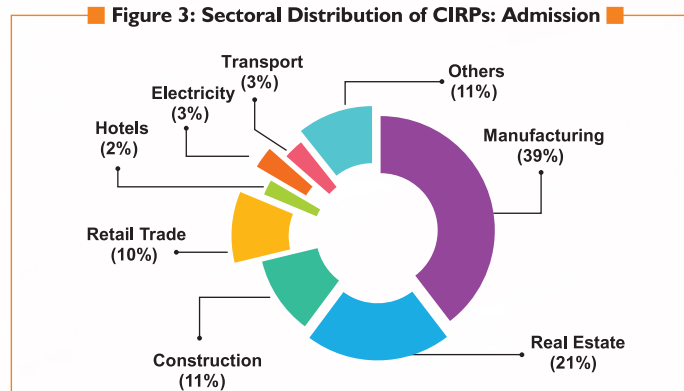


Figure 4: Sectoral Distribution of CIRPs: Appeal/Review/Settled/Withdrawn

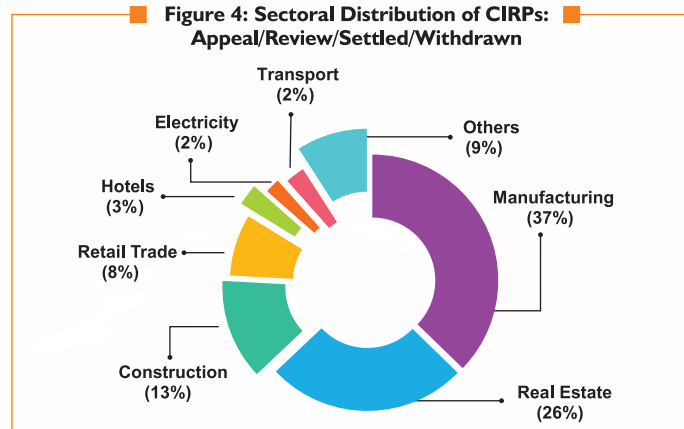


Figure 5: Sectoral Distribution of CIRPs: Resolution Plans

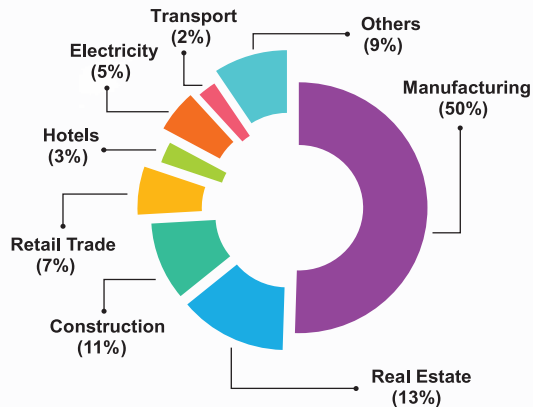
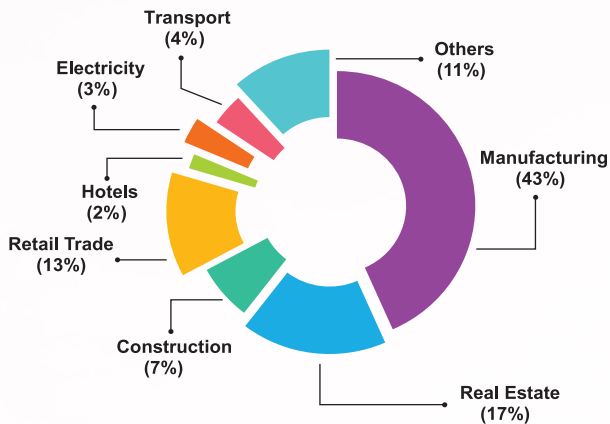
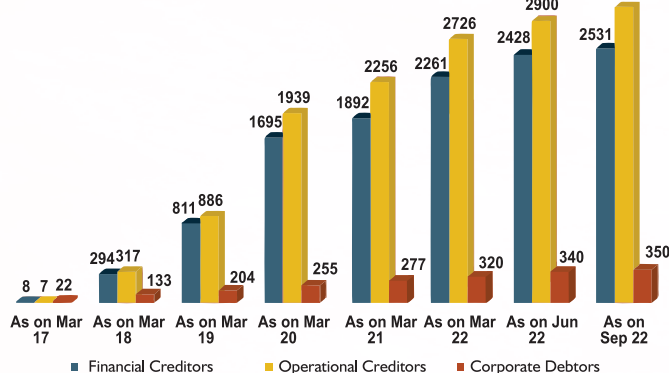


Figure 6: Sectoral Distribution of CIRPs: Commencement of Liquidation



The distribution of stakeholder-wise initiation of CIRPs is presented in Figure 7. OCs triggered 51.08% of the CIRPs, followed by about 42.98% by FCs and remaining by the CDs. It is observed that about 80% of CIRPs having an underlying default of less than ₹ 1 crore were initiated on applications by OCs while about 80% of CIRPs having an underlying default of more than ₹ 10 crore were initiated on applications by FCs. The share of CIRPs initiated by CDs is declining over time. They usually initiated CIRPs with very high underlying defaults.

Figure 7: Stakeholder-wise Distribution and Trends of Initiation of CIRPs



Note: This excludes four cases wherein applications filed by RBI were admitted u/s 227 of the Code.

The outcome of CIRPs, initiated stakeholder-wise, as on September 30, 2022 is presented in Table 1. Of the OC initiated CIRPs that were closed, more than 53% were closed on appeal, review, or withdrawal. Such closures accounted for around 72% of all closures by appeal, review, or withdrawal.

Table 1: Outcome of CIRPs, initiated Stakeholder-wise, as on September 30, 2022

Outcome	Description	No. of CIRPs Initiated by			
		FCs	OCs	CDs	Total
Status of CIRPs	Closure by Appeal/Review/Settled	234	605	7	846
	Closure by Withdrawal u/s 12A	198	535	7	740
	Closure by Approval of Resolution Plan	313	188	51	552
	Closure by Commencement of Liquidation	812	803	192	1807
	Ongoing	974	877	93	1944
	Total	2531	3008	350	5889
CIRPs yielding Resolution Plans	Realisation by creditors as % of Liquidation Value	201.0	120.1	147.2	177.6
	Realisation by creditors as % of their Claims	33.0	16.5	18.3	30.8
	Average time taken for Closure of CIRP	567	561	521	561
CIRPs yielding Liquidations	Liquidation Value as % of Claims	6.6	9.2	9.2	7.3
	Average time taken for Closure of CIRP	457	429	388	437

Note: This excludes four cases wherein applications filed by RBI were admitted u/s 227 of the Code.

Resolution Plans

Till June, 2022, 517 CIRPs had yielded resolution plans as presented in the last newsletter. 15 more CIRPs were later reported as yielding resolution plans during that period, as presented in Part A of Table 2. During July - September, 2022, 23 CIRPs yielded resolution plans with different degrees of realisation as compared to the liquidation value as presented in Part B of Table 2. Two CDs which had earlier yielded resolution have since moved into liquidation.

Till September 30, 2022, the creditors have realised ₹ 2.43 lakh crore under the resolution plans. The fair value of the assets available with these CDs, when they entered the CIRP was estimated at ₹ 2.14 lakh crore and liquidation value of ₹ 1.37 lakh crore against the total claims of the creditors worth ₹ 7.91 lakh crore. The creditors have realised 177.55% of the liquidation value and 84.00% of the fair value (based on 456 cases where fair value have been estimated). The haircut for creditors relative to the fair value of assets was less than 16%, while relative to their admitted claims is of around 69%. It may be noted that the realisable value does not include the CIRP cost, and many probable future realisations such as equity, realisation from corporate and personal guarantees, funds infused into the CD including capital expenditure by the resolution applicants, and recovery from avoidance applications.

About 35% of the CIRPs (193 out of 547 for which data are available), which yielded resolution plans, were earlier with Board for Industrial and Financial Reconstruction (BIFR) and/or defunct (Figure 8). In these CDs, the claimants have realised 21.27% of their admitted claims and 169.56% of liquidation value.

Figure 8: CIRPs Yielded Resolutions: State of CD at the commencement of CIRP



Note: Data awaited in 6 cases

Table 2: CIRPs Yielding Resolution Plans

Sl.	Name of CD	Defunct (Yes / No)	Date of Commence- ment of CIRP	Date of Approval of Resolution Plan	CIRP initiated by	Amount (in ₹ crore)				Realisable Value as % of		
						Total Admitted Claims	Liquidation Value	Fair Value	Total Realisable value	Admitted Claims	Liquidation Value	Fair Value
Part A: For Prior Period (Till June 30, 2022)												
1	Varron Aluminium Private Limited	No	06-11-19	19-01-22	OC	2292.53	27.48	47.25	27.25	1.19	99.16	57.67
2	K K Kadri Paper Mills Private Limited	NA	25-07-19	15-02-22	FC	NA	NA	NA	NA	NA	NA	NA
3	Delhi Baroda Road Carrier Private Limited	No	24-09-19	21-02-22	FC	374.16	58.29	94.65	62.91	16.81	107.92	66.47
4	Concept Eduventures Private Limited	Yes	26-02-20	24-03-22	OC	2.81	0.71	0.77	0.80	28.47	112.68	103.90
5	Sikka Papers Limited	Yes	24-04-19	01-04-22	FC	206.70	8.35	11.93	8.15	3.94	97.57	68.32
6	Patna Highway Projects Limited	No	03-01-20	10-05-22	FC	1312.62	329.87	513.08	931.36	70.95	282.34	181.52
7	Venta Realtech Private Limited	Yes	20-05-19	30-05-22	FC	365.67	137.77	172.84	207.18	56.66	150.38	119.87
8	PMT Machines Limited	No	22-10-18	03-06-22	FC	790.25	245.17	362.66	264.99	33.53	108.08	73.07
9	Soni Realtors Private Limited	NA	27-02-18	10-06-22	FC	NA	NA	NA	NA	NA	NA	NA
10	South East U. P. Power Transmission Company Limited	No	16-07-20	15-06-22	FC	4406.23	1496.30	2030.90	3251.00	73.78	217.27	160.08
11	Diamond Power Infrastructure Limited	Yes	24-08-18	20-06-22	FC	3270.55	364.53	587.76	481.00	14.71	131.95	81.84
12	Southern Batteries Private Limited	Yes	19-02-20	24-06-22	FC	272.32	115.04	184.65	120.77	44.35	104.98	65.40
13	Landmark Housing Projects Chennai Private Limited	No	29-04-21	27-06-22	OC	79.00	202.77	263.35	79.00	100.00	38.96	30.00
14	Neptune Inflatables Limited	Yes	01-02-22	27-06-22	FC	0.05	0.24	0.29	0.05	100.00	22.54	18.65
15	Sterling Lam Limited	Yes	10-11-20	29-06-22	OC	26.80	7.82	11.49	6.42	23.96	82.10	55.87
Part B: For July - September, 2022												
1	Victory Vision Home Appliances Private Limited	Yes	13-11-19	01-07-22	CD	3.54	1.12	1.63	0.64	18.08	57.14	39.26
2	Surya Exim Limited	No	03-02-21	01-07-22	FC	345.86	33.21	47.33	42.86	12.39	129.06	90.56
3	Jhabua Power Limited	No	27-03-19	06-07-22	OC	5133.63	1884.29	2827.00	1847.39	35.99	98.04	65.35
4	Starlite Infracon Private Limited	No	16-03-20	06-07-22	FC	23.76	0.02	0.03	20.50	86.25	102734.53	77050.90
5	Phadnis Resorts And Spa India Limited	Yes	14-03-19	08-07-22	FC	51.82	15.88	17.42	12.64	24.40	79.62	72.58
6	Divya Jyoti Industries Limited	Yes	04-12-20	08-07-22	FC	49.56	11.96	15.71	14.85	29.96	124.19	94.53
7	MSP Metalics Limited	No	25-11-21	11-07-22	FC	2714.73	347.03	495.21	500.00	18.42	144.08	100.97
8	ALM Metals And Alloys Limited	Yes	05-04-21	13-07-22	OC	18.29	2.35	3.22	2.38	12.84	101.31	73.84
9	Vicor Stainless Private Limited	No	12-03-20	26-07-22	OC	16.62	4.57	6.89	6.35	27.51	138.88	92.12
10	R K Jain Construction India Private Limited	Yes	03-10-19	27-07-22	FC	46.48	14.77	21.58	20.50	44.10	138.79	95.00
11	Unicorn Organics Limited	NA	13-08-21	29-07-22	CD	NA	NA	NA	NA	NA	NA	NA
12	Monarch Multilayers Private Limited	No	04-08-21	02-08-22	FC	17.01	3.40	6.40	4.30	25.28	126.57	67.16
13	Mataji Dyeing Mills Private Limited	NA	07-10-20	05-08-22	OC	NA	NA	NA	NA	NA	NA	NA
14	Rajahmundry Godavari Bridge Limited	No	27-02-20	10-08-22	FC	985.12	372.77	386.34	421.75	42.81	113.14	109.16
15	Megha Granules Private Limited	No	05-05-21	12-08-22	FC	198.64	15.70	22.09	17.25	8.68	109.88	78.09
16	Navya Agro Products Private Limited	No	26-08-21	12-08-22	CD	7.31	2.22	3.25	2.92	39.96	131.79	89.85
17	Laxme Saai Steel Private Limited	Yes	18-01-22	16-08-22	FC	30.51	4.21	6.01	11.77	38.56	279.74	195.61
18	DHSL Textiles (India) Limited	Yes	04-10-21	17-08-22	OC	1.22	0.01	0.01	0.69	56.37	5591.84	5591.84
19	Rajpal Abhikaran Private Limited	Yes	26-03-21	25-08-22	OC	113.95	18.39	23.19	22.31	19.58	121.31	96.19
20	NRS Projects Private Limited	No	25-07-19	30-08-22	FC	104.05	26.70	44.55	72.99	70.15	273.37	163.84
21	Sri Lakshmi Srinivasa Jute Mills Private Limited	No	16-03-22	01-09-22	OC	212.14	21.41	24.57	21.27	10.02	99.32	86.55
22	B D Overseas And Fiscal Services Limited	Yes	20-01-20	20-09-22	OC	21.29	4.27	6.43	4.05	19.02	94.75	63.00
23	Flora Dyeing House Private Limited	Yes	07-04-21	20-09-22	OC	25.93	8.95	11.69	7.05	27.19	78.75	60.32
Total (July - September, 2022)						10121.47	2793.23	3970.57	3054.44	30.18	109.35	76.93
Total (Till September, 2022)						790626.22	137118.81	213951.79	243452.45	30.79	177.55	84.00*

Notes:

- In 553 resolved CDs, 131 applications in respect of avoidance transactions to the tune of ₹ 36,701 crore have been pending before AA.
- CIRPs in 20 matters which yielded resolution plans and were reported earlier in this table have since moved into liquidation. The CIRPs have restarted in 20 cases and CIRPs in 2 matters, where liquidation orders were passed earlier, have yielded resolution plans.
- There are 3 CIRPs where the realisable value was less than the liquidation value of the CD. While realisable value is significantly influenced by the value of asset of the CD while entering the resolution process and time taken for resolution, it is also the outcome of a market determined price discovery process and commercial wisdom of the CoC.

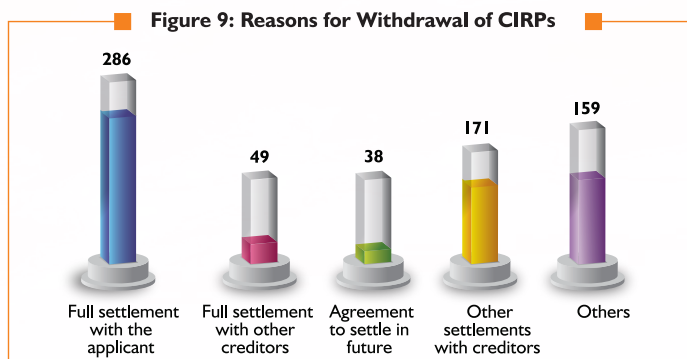
* Based on 456 cases where fair value have been estimated

NA: Not Available

NC: Not calculated

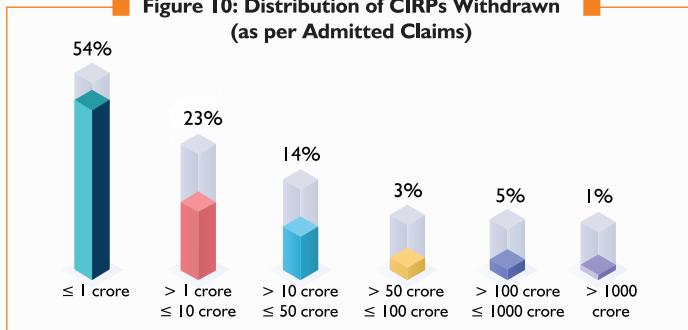
Withdrawals under Section 12A

Till September, 2022, a total of 740 CIRPs have been withdrawn under section 12A of the Code. The reasons for withdrawal and distribution of claims in these CIRPs are presented in Figures 9 and 10. Almost three fourth of these CIRPs had claims of less than ₹ 10 crore.



Note: Data awaited in 37 CIRPs

Figure 10: Distribution of CIRPs Withdrawn (as per Admitted Claims)



Note: Data awaited in 37 CIRPs

Liquidation

Till June, 2022, a total of 1703 CIRPs had yielded orders for liquidation, as presented in the previous newsletter. 21 more CIRPs were later reported as yielding orders for liquidation during that period. During the quarter July - September, 2022, 84 CIRPs ended in orders for liquidation, taking the total CIRPs ending in liquidation to 1807, excluding 1 case where liquidation order has been set aside by NCLT. Of these, final reports have been submitted in 429 cases. There are 1378 ongoing liquidation processes, whose status as on September 30, 2022 is presented in Figure 11.

Till June, 2022, 247 liquidation processes were closed by dissolution / going concern sale / compromise or arrangement as presented in the last newsletter. Dissolution of 9 more CDs, which happened during the earlier period were reported later, as presented in Part A of Table 3. During July - September, 2022, 2 more liquidation processes were closed, taking total number of closures by dissolution/sale as going concern/compromise or arrangement to 258. The details of the same are presented in Table 3. At the end of September, 2022, 232 liquidations were closed by dissolution, 18 by going concern sale and 8 by compromise / arrangement.

Table 3: Details of Closed Liquidations

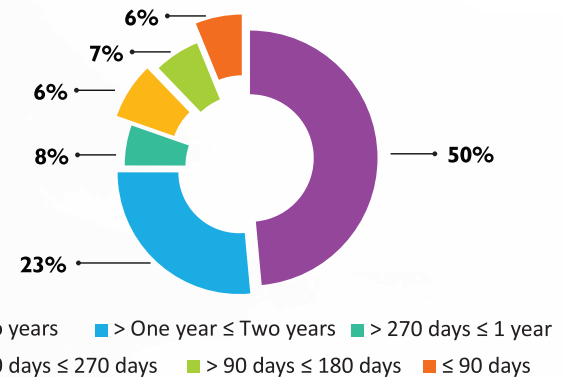
Sl.	Name of CD	Date of Order of Liquidation	Amount (in ₹ crore)				Date of Order of Dissolution/ Closure
			Admitted Claims	Liquidation Value	Sale Proceeds	Distributed to Stakeholders	
Part A: For Prior Period (Till June 30, 2022)							
1	Ashapuri Metals Private Limited	02-07-20	0.07	0.09	0.09	0	07-04-21
2	Subhlaxmi Dyeing and Printing Mills Private Limited	10-03-21	0.05	-	-	-	21-06-21
3	Liners India Limited	27-08-19	63.52	35.03	27.63	24.61	25-10-21
4	Bala Techno Industries Limited	15-02-21	59.95	2.07	1.73	1.16	25-01-22
5	Liveminds Solutions Private Limited	12-02-21	0.07	-	-	-	04-03-22
6	Thomson Nusa Metals Private Limited	26-08-19	469.45	1.53	2.28	2.02	11-03-22
7	Radheshyam Fibers Private Limited	15-01-18	87.15	11.91	13.39	12.65	16-03-22
8	Free Culture Apparels Private Limited	16-07-18	4.24	0.03	0.02	0.02	23-03-22
9	Saka Limited	23-02-21	0.20	0	-	-	25-04-22
Part B: For July - September, 2022							
1	Bookawheel Technologies Private Limited	18-09-18	1.34	0.10	0.24	0.10	04-07-22
2	Fashionara Enterprises Private Limited	09-10-18	0.08	-	-	-	29-08-22
Total (July - September, 2022)			1.42	0.10	0.24	0.10	NA
Total (Till September, 2022)			58704.67	2213.08	2158.75	2050.05	NA

Notes:

NA means Not realisable/ saleable, or No asset left for liquidation or Not applicable

'0' means an amount below two decimals.

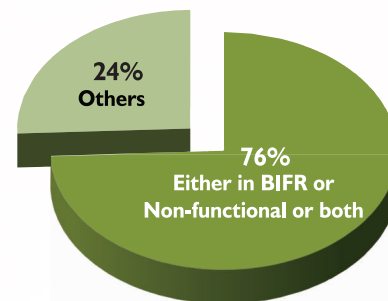
Figure 11: Timeline: Ongoing Liquidations



Note: This excludes 18 cases where liquidation order has been set aside by NCLAT / SC.

About 76% of the CIRPs ending in liquidation (1349 out of 1774 for which data are available) were earlier with BIFR and/or defunct (Figure 12). The economic value in most of these CDs had almost completely eroded even before they were admitted into CIRP. These CDs had assets, on average, valued at less than 8% of the outstanding debt amount.

Figure 12: CIRPs ending with Order of Liquidation: State of CD at the Commencement of CIRP



Notes:

- There were 99 CIRPs, where CDs were in BIFR or non-functional but had resolution value higher than liquidation value.
- Includes cases where no resolution plans were received and cases where liquidation value is zero or not estimated.
- Data of 33 CIRPs is awaited.

Sale as Going Concern

Till September 30, 2022, 18 CDs were closed by sale as a going concern under liquidation process. These 18 CDs had claims amounting to ₹ 16,422.06 crore, as against the liquidation value of ₹ 527.69 crore. The liquidators in these cases realised ₹ 600.84 crore and companies were rescued.

The AA passes an order for liquidation under four circumstances. As on September 30, 2022, 1807 orders for commencement of liquidation have been passed. The details of liquidation in these circumstances are presented in Figure 13.

Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 requires the liquidator to make a public announcement calling upon stakeholders to submit their claims as on the liquidation commencement date (LCD), within 30 days from the LCD. The details of the claims admitted by the liquidators in 1653 liquidations, for which data are available, are presented in Table 4.

Figure 13: Reasons for Liquidations

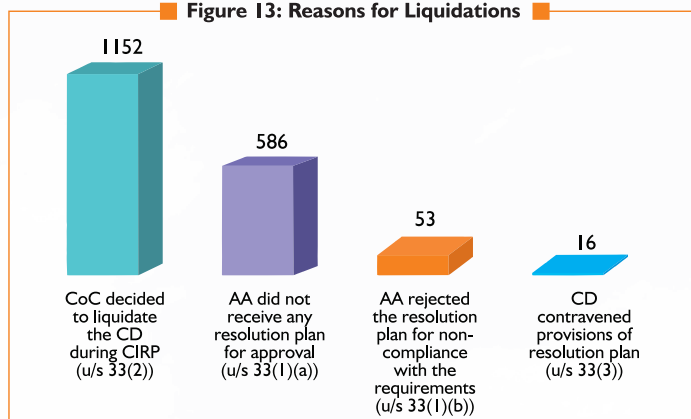


Table 4: Claims in Liquidation Process

Stakeholders under Section	Number of Claimants	Amount (in ₹ crore)			
		Admitted Claims	Liquidation Value	Sale Proceeds#	Distributed to Stakeholders
429 Liquidations where Final Report Submitted					
52	53	2074.30	290.48	345.11	334.28
53 (I) (a)	NA	NA	3284.13	2961.13#	175.22
53 (I) (b)	2705	69993.64			2630.86
53 (I) (c)	2823	83.05			9.07
53 (I) (d)	512	3775.17			45.84
53 (I) (e)	385	3816.78			20.78
53 (I) (f)	4859	4240.92			82.38
53 (I) (g)	0	0			0
53 (I) (h)	142	40.88			2.83
Total (A)	11479	84024.74	3574.61	3306.24#	3301.26
Ongoing 1224 Liquidations*					
53 (I) (a)	NA	NA	40190.36 **	Not Applicable	Not Applicable
53 (I) (b)	42851	639391.43			
53 (I) (c)	33360	1335.42			
53 (I) (d)	13070	136421.53			
53 (I) (e)	2867	35993.85			
53 (I) (f)	1979810	96234.19			
53 (I) (g)	68	880.64			
53 (I) (h)	106069	3487.62			
Total (B)	2178095	913744.68			
Grand Total (A+B)	2189574	997769.42	43764.97		

Inclusive of unclaimed proceeds of ₹ 4.98 crore under liquidation.

*Data for other liquidations are not available.

**Out of 1378 ongoing cases, liquidation value of only 1325 CDs is available.

Liquidation value of 867 CDs taken during liquidation process is ₹ 40,190.36 crore and liquidation value of rest of the 458 CDs captured during CIRP is ₹ 9,767.36 crore.

Timeline of Ongoing CIRPs

The status of ongoing CIRPs as of September, 2022 in terms of time taken is presented in Figure 14.

Twelve Large Accounts

Resolution of 12 large accounts were initiated by banks, as directed by the RBI. They had an aggregate outstanding claim of ₹ 3.45 lakh crore as against liquidation value of ₹ 73,220 crore. Of these, resolution plan in respect of eight CDs were approved and orders for liquidations were issued in respect of two CDs. Thus, CIRPs in respect of two CDs and liquidation in respect of two CDs are ongoing and are at different stages of the process. The status of the 12 large accounts is presented in Figure 15.

Figure 14: Timeline: Ongoing CIRPs

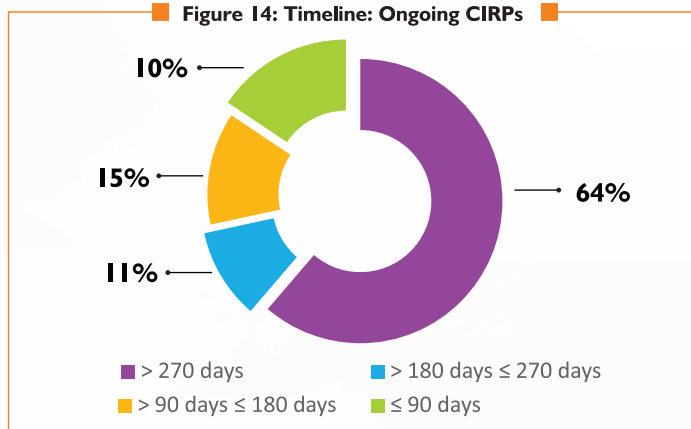
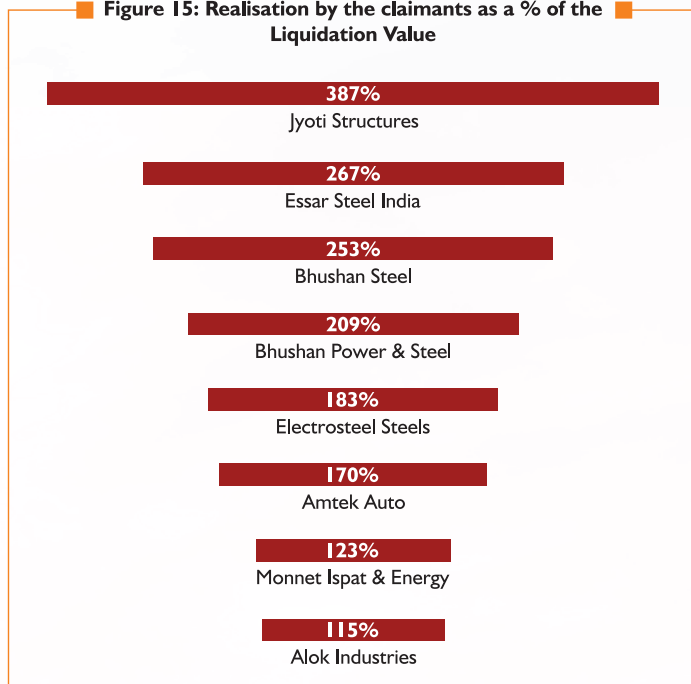


Figure 15: Realisation by the claimants as a % of the Liquidation Value



Large Cases (Admitted Claims > ₹ 1,000 crore)

Of the 553 CDs rescued under the Code, 97 had admitted claims of more than ₹ 1,000 crore. Till June, 2022, 91 such CDs have yielded resolution plans with realisable value of ₹ 2.17 lakh crore i.e., 184.81% of the liquidation value. During July - September, 2022, 6 such CDs have yielded resolution plans. The realisable value of the assets available with these 97 CDs, when they entered the CIRP, was only ₹ 1.22 lakh crore, though they owed ₹ 7.17 lakh crore to the creditors. Till September 30, 2022, realisation by the claimants under resolution plans in comparison to liquidation value is 184.46%, while the realisation by them in comparison to their claims is 31.33%. These realisations are exclusive of realisations that would arise from value of equity holdings post-resolution, resolution of PGs to CDs, and from disposal of applications for avoidance transactions.

Of 1807 CDs, ending up with orders for liquidation, 160 had admitted claims of more than ₹ 1,000 crore. Till June, 2022, 151 such CDs have ended with orders of liquidation. During July - September, 2022, nine more CDs has ended with order for liquidation. These CDs had an aggregate claim of ₹ 6.70 lakh crore. However, they had assets, on the ground, valued only at ₹ 0.40 lakh crore.

Avoidance Transactions

The Code read with Regulations require the RPs and Liquidators to file applications for avoidance of transactions, with the AA seeking appropriate directions. 809 applications seeking avoidance of transactions have been filed with the AA till September 30, 2022, as presented in Table 5.

Table 5: Details of avoidance applications and disposal

(Amount in ₹ crore)

Sl.	Nature of transactions	Applications Filed		Applications Disposed		
		Number of transactions	Amount involved	Number of transactions	Amount involved	Amount clawed back
1	Preferential	127	14438.63	27	568.63	30.86
2	Undervalued	16	884.73	1	351.64	0
3	Fraudulent	146	27518.43	15	470.86	3.69
4	Extortionate	3	70.68	-	-	-
5	Combination	517	186020.07	55	16764.07	29.78*
	Total	809	228932.54	98	18155.20	64.33*

*In the matter of Jaypee Infra, possession of 758 acres out of total 858 acres of land was given back to the CD. The 858 acres of land was earlier valued at ₹ 5,500 crore.

Resolution of FiSPs

CIRP against Dewan Housing Finance Corporation Ltd., was admitted on December 3, 2019, under the Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) Rules, 2019, which were notified on November 15, 2019. The AA, vide order dated June 7, 2021, approved the resolution plan submitted by Piramal Capital and Housing Finance Ltd.

Subsequently, CIRPs have been initiated for three below mentioned financial service providers (FiSPs): -

Table 6: Details of applications admitted for FiSPs

S. No.	Name of the FiSP	Date of Admission
1	Srei Equipment Finance Limited	08-10-2021
2	Srei Infrastructure Finance Limited	08-10-2021
3	Reliance Capital Limited	06-12-2021

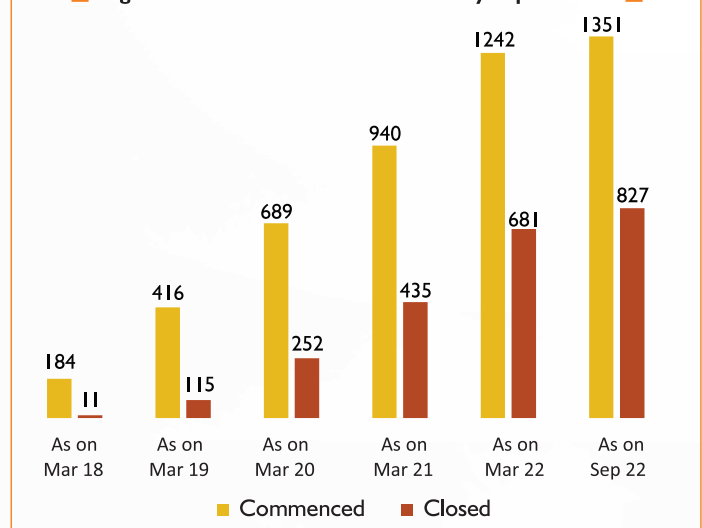
CIRPs in respect of aforementioned FiSPs are underway, as per the provisions of the Code.

Voluntary Liquidation

A corporate person may initiate voluntary liquidation proceeding if majority of the directors or designated partners of the corporate person make a declaration to the effect that (i) the corporate person has no debt or it will be able to pay its debts in full, from the proceeds of the assets to be sold under the proposed liquidation, and (ii) the corporate person is not being liquidated to defraud any person. At the end of September 30, 2022, 1351 corporate persons initiated voluntary liquidation (Figure 16). Final reports in respect of 814 voluntary liquidations have been submitted and 13 processes have been withdrawn by September 30, 2022. The status of 524 ongoing voluntary liquidations is presented in Figure 17.

Of the 1338 corporate persons that initiated voluntary liquidations till September 30, 2022, the reasons for these initiations are available for 1230 cases, which are presented in Figure 18. Most of these corporate persons are small entities. 774 of them have paid-up equity capital of less than ₹ 1 crore. Only 170 of them have paid-up capital exceeding ₹ 5 crore. The corporate persons, for which details are available, have an aggregate paid-up capital of ₹ 8,706 crore (Table 7).

Figure 16: Commencement of Voluntary Liquidations



Note: Vide order dated February 02, 2021, the Hon'ble NCLT has recalled its order dated September 28, 2018 which suspended the voluntary liquidation process of M/s Central Inland Water Transport Corporation Limited.

Figure 17: Timeline of Ongoing Voluntary Liquidations

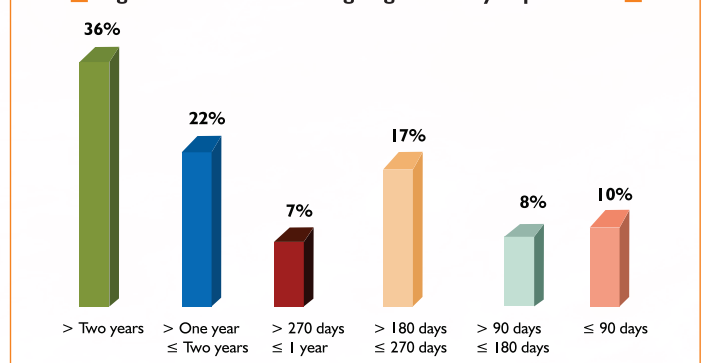
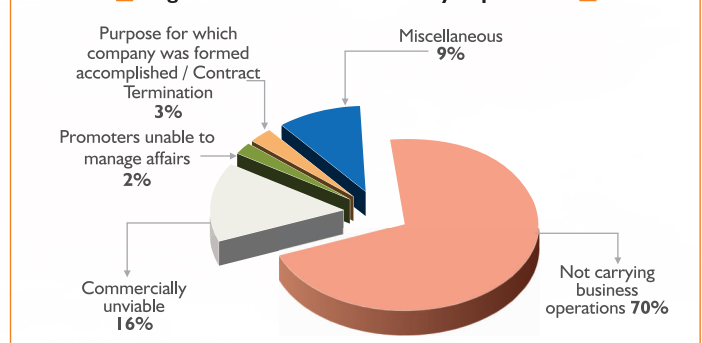


Figure 18: Reason for Voluntary Liquidation



It was reported in the last newsletter that dissolution orders were passed in respect of 365 voluntary liquidations. Dissolution orders in respect of 12 more voluntary liquidations, which were issued during the earlier period, were reported later, as indicated in Part A of Table 8. During the quarter July - September, 2022, dissolutions orders in respect of 31 voluntary liquidations were issued taking the total dissolutions to 408. These 408 corporate persons owed ₹ 24.70 crore to creditors and through voluntary liquidation process, they were paid full amount.

Table 7: Details of 1338 Voluntary Liquidations (Excluding thirteen Withdrawals)

Details of	No. of Liquidations	Amount (in ₹ crore)				
		Paid-up capital*	Assets	Outstanding debt	Amount paid to creditors	Surplus
Liquidations for which Final Reports submitted	814	4759	5328***	61	61	4704
Ongoing Liquidations	524	3939#	2822#	**		
Total	1338	8698	8150	**		

Notes:

* Paid up capital is not available in case of three companies as they are limited by guarantee companies where there exist no shareholders and paid-up capital.

**For ongoing liquidations, outstanding debt amount is not available.

*** Assets of 8 cases are not available.

Paid up capital and assets of 415 and 405 cases, respectively, are available.

Table 8: Realisations under Voluntary Liquidations

Sl.	Name of Corporate Person	Date of Commencement	Date of Dissolution	Amount (in ₹ crore)				
				Realisation of Assets	Due to Creditors	Paid to Creditors	Liquidation Expenses	Surplus
Part A: For Prior Period (Till June 30, 2022)								
1	M. P. Designs Private Limited	23-09-19	02-09-21	1.63	-	-	0.35	1.28
2	Framework Systems and Solutions Private Limited	22-12-20	16-11-21	0.30	0.21	0.21	0.09	-
3	Chhayabani Balaji Entertainment Private Limited	22-10-20	11-04-22	0.11	0.02	0.02	0.05	0.05
4	Visva Import Export Private Limited	05-05-18	13-04-22	0.23	0.00	0.00	0.01	0.22
5	Ocean Harvest Fisheries Private Limited	15-09-21	25-04-22	3.65	-	-	0.04	3.61
6	Space-Time Insight India Private Limited	01-07-19	28-04-22	0.20	-	-	0.06	0.14
7	Greatway Publicity Private Limited	10-12-18	11-05-22	0.60	-	-	0.02	0.58
8	New Enterprise Associates (India) Private Limited	27-03-20	06-06-22	9.01	-	-	0.62	8.38
9	Credit Market Services Limited	08-03-21	22-06-22	0.09	-	-	0.03	0.06
10	Quintiles Phase One Clinical Trials India Private Limited	30-09-20	24-06-22	4.66	0.21	0.21	0.21	4.23
11	Rio Tinto Exploration and Mining (India) Private Limited	27-09-18	30-06-22	1.82	0.09	0.09	0.25	1.48
12	NGM Consulting Solutions Private Limited	27-05-19	30-06-22	0.02	0.01	0.01	0.01	-
Part B: For July - September, 2022								
1	BSE Sammaan CSR Limited	11-06-21	01-07-22	0.22	-	-	0.03	0.19
2	Dunwell Enterprises Private Limited	13-11-19	04-07-22	0.16	-	-	0.01	0.15
3	Aashrayam Estates Private Limited	13-01-20	06-07-22	0.03	-	-	0.02	0.00
4	Experis Solutions Private Limited	08-03-21	08-07-22	0.08	0.01	0.01	0.01	0.06
5	Yantra Digital Services Private Limited	30-09-20	13-07-22	1.05	-	-	0.14	0.92
6	Reine Chemicals Private Limited	01-01-21	13-07-22	0.32	-	-	0.04	0.29
7	Albemarle Chemicals Private Limited	20-12-18	14-07-22	2.09	-	-	0.74	1.35
8	Sipal Engineering Private Limited	11-11-19	18-07-22	1.30	0.04	0.04	0.12	1.14
9	Mesh7 Private Limited	29-09-21	18-07-22	0.99	-	-	0.21	0.78
10	Sime Darby Edible Products India Private Limited	08-03-19	22-07-22	0.50	0.08	0.08	0.12	0.31
11	Tarkett Industries Limited	20-10-20	22-07-22	0.02	-	-	0.02	-
12	Trichy Sri Amman Finance Private Limited	05-11-20	22-07-22	9.55	-	-	0.12	9.43
13	Elec Power Private Limited	06-01-18	27-07-22	0.49	0.00	0.00	0.00	0.48
14	Zepetto India LLP	13-01-20	27-07-22	1.61	-	-	0.09	1.52
15	WigWag Networks India Private Limited	15-02-21	28-07-22	0.02	-	-	0.02	-
16	Nuberg Zirax Engineering Private Limited	25-03-21	28-07-22	0.69	-	-	0.04	0.66
17	Auviz Systems India Private Limited	26-02-20	29-07-22	0.11	0.00	0.00	0.04	0.08
18	Auspicious Securities & Leascon Private Limited	21-02-22	12-08-22	2.11	-	-	0.02	2.09
19	Huawei Telecom Services (India) Private Limited	01-05-19	22-08-22	2.50	0.02	0.02	0.04	2.44
20	World Cat Sourcing India Private Limited	17-03-22	23-08-22	0.00	-	-	0.00	-
21	Ishwarya Lakshmi Finance Private Limited	16-11-20	26-08-22	0.24	-	-	0.01	0.23
22	Inclov Technologies Private Limited	28-02-21	26-08-22	0.02	-	-	0.02	-
23	Acuta Infotech Private Limited	26-12-19	29-08-22	1.87	-	-	0.19	1.69
24	Takasago Engineering India Private Limited	31-03-20	29-08-22	6.71	-	-	2.93	3.78
25	Limnea Technologies Private Limited	23-09-20	29-08-22	0.68	0.06	0.06	0.01	0.61
26	Hellmann Transportation India Private Limited	27-09-19	01-09-22	1.77	-	-	0.11	1.66
27	Serco Integrated Transport Private Limited	27-07-18	13-09-22	0.40	0.13	0.13	0.15	0.12
28	Oyster Holdings Private Limited	19-03-21	13-09-22	1.81	-	-	0.03	1.78
29	Nadhi Information Technologies Private Limited	10-02-22	13-09-22	1.07	-	-	0.26	0.81
30	Neo Milk Products Private Limited	19-04-21	14-09-22	0.11	-	-	0.11	-
31	Nefa Road Carrier Private Limited	17-01-22	16-09-22	5.41	-	-	0.03	5.38
Total (July - September, 2022)				43.95	0.34	0.34	5.68	37.93
Total (Till September, 2022)				3443.15	24.70	24.70	83.67	3334.75

Time For Conclusion of Process

The average time taken for completion of various processes is presented in Table 9.

Table 9: Average Time for Approval of Resolution Plans/Orders for Liquidation

Time (In days)

Sl.	Average time	As on March, 2021			As on March, 2022			April, 2022 to September, 2022		
		No. of Processes covered	Time		No. of Processes covered	Time		No. of Processes covered	Time	
			Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time		Including excluded time	Excluding excluded time
CIRPs										
1	From ICD to approval of resolution plans by AA	353	464	406	496	535	450	57	785	679
2	From ICD to order for Liquidation by AA	1287	352	NA	1628	414	NA	180	650	NA
Liquidations										
3	From LCD to submission of final report under Liquidation	267	424	NA	384	480	NA	45	715	NA
4	From LCD to submission of final report under Voluntary Liquidation	426	383	NA	669	427	NA	145	338	NA
5	From LCD to order for dissolution under Liquidation	146	398	NA	235	518	NA	23	906	NA
6	From LCD to order for dissolution under Voluntary Liquidation	233	515	NA	333	586	NA	75	745	NA

Corporate Liquidation Accounts

The Regulations require a Liquidator to deposit the amount of unclaimed dividends, if any, and undistributed proceeds, if any, in a liquidation process along with any income earned thereon into the corporate liquidation account before he submits an application for dissolution of the corporate person. It also provides a process for a stakeholder to seek withdrawal from the said account. Similar provisions exist for voluntary liquidation processes. The details of these accounts at the end of September, 2022 are presented in Table 10.

Table 10: Corporate Liquidation Accounts as on September, 2022

(Amount in ₹ lakh)

Period	Opening Balance	Deposit during the period	Withdrawn during the period	Balance at the end of the period
Corporate Liquidation Account				
2019 - 20	0.00	476.26	0.21	476.05
2020 - 21	476.05	116.18	0.00	592.23
2021 - 22	592.23	25.93	4.84	613.32
Apr - Jun, 2022	613.32	8.36	0.00	621.68
Jul - Sep, 2022	621.68	222.01	0.00	843.69
Corporate Voluntary Liquidation Account				
2019 - 20	0.00	109.70	0.00	109.70
2020 - 21	109.70	112.06	0.00	221.76
2021 - 22	221.76	127.94	0.03	349.67
Apr - Jun, 2022	349.67	2.02	10.42	341.27
Jul - Sep, 2022	341.27	3.79	0.00	345.06

Pre-Packaged Insolvency Resolution Process

The Central Government enacted the Insolvency and Bankruptcy Code (Amendment) Act, 2021 on August 11, 2021 which was deemed to have come into force on April 4, 2021 introducing the Pre-packaged Insolvency Resolution Process (PPIRP) for corporate MSMEs. On April 9, 2021, the Central Government notified the Insolvency and Bankruptcy (Pre-packaged Insolvency Resolution Process) Rules, 2021 prescribing the manner and form of making application to initiate PPIRP and the IBBI notified the IBBI (Pre-packaged Insolvency Resolution Process) Regulations, 2021. The Regulations provide for manner of carrying out certain processes and tasks under PPIRP. As per the information available with the Board, two applications have been admitted as on September 30, 2022. The details are in Table 11.

Table 11: List of cases admitted for PPIRP as on September 30, 2022

Sl.	Name of the CD	Date of admission	Name of the NCLT Bench
1	GCCL Infrastructure & Projects Ltd.	14-09-21	Ahmedabad
2	Loonland Developers Pvt. Ltd.	29-11-21	Principal Bench, New Delhi

Summary of Outcomes

(a) The primary objective of the Code is rescuing lives of CDs in distress. The Code has rescued 2139 CDs (553 through resolution plans, 846 through appeal or review or settlement and 740 through withdrawal) till September, 2022. It has referred 1807 CDs for liquidation. The resolved CDs had assets valued at ₹ 1.37 lakh crore, while the CDs referred for liquidation had assets valued at ₹ 0.60 lakh crore when they were admitted to CIRP. Thus, in value terms, around 70% of distressed assets were resolved. Of the CDs sent for liquidation, three-fourth were either sick or defunct and of the firms resolved, one-third were either sick or defunct.

(b) The realisable value of the assets available with the 553 CDs rescued, when they entered the CIRP, was only ₹ 1.37 lakh crore, though they owed ₹ 7.91 lakh crore to creditors. The resolution plans realised ₹ 2.43 lakh crore, which is around 178% of the liquidation value of these CDs. Any other option of recovery or liquidation would have recovered at best ₹ 100 minus the cost of recovery/liquidation, while the creditors recovered ₹ 178 under the Code. The excess recovery of ₹ 78 is a bonus from the Code. Though recovery is incidental under the Code, the FCs recovered 32.95% of their claims, which only reflects the extent of value erosion by the time the CDs entered CIRP, yet it is the highest among all options available to creditors for recovery. Resolution plans on average are yielding 84.00% of fair value of the CDs. These realisations are exclusive of realisations that would arise from value of equity holdings post-resolution, resolution of PGs to CDs, and from disposal of applications for avoidance transactions.

(c) The 1807 CDs ending up with orders for liquidation had an aggregate claim of ₹ 8.28 lakh crore. However, they had assets, on the ground, valued only at ₹ 0.60 lakh crore. Till September, 2022, 429 CDs have been completely liquidated. Many of these CDs did not have any job or asset when they entered the IBC process. These included the likes of Ghotaringa Minerals Limited and Orchid Healthcare Private Limited, which owed ₹ 8.163 crore, while they had absolutely no assets and employment. These 429 CDs together had outstanding claims of ₹ 84,024.74 crore, but the assets valued at ₹ 3,574.61 crore. ₹ 3,306.24 crore were realised through liquidation of these companies.

(d) A distressed asset has a life cycle. Its value gradually declines with time if distress is not addressed. The credible threat of the Code, that a CD may change hands, has changed the behaviour of debtors. Thousands of debtors are resolving distress in early stages of distress. They are resolving when default is imminent, on receipt of a notice for repayment but before filing an application, after filing application but before its admission, and even after admission of the application, and making best effort to avoid consequences of resolution process. Most companies are rescued at these stages. Till September, 2022, 23417 applications for initiation of CIRPs of CDs having underlying default of ₹ 7,31,472.77 crore were resolved before their

admission. Only a few companies, who fail to address the distress in any of earlier stages, pass through the entire resolution process. At this stage, the value of the company is substantially eroded, and hence some of them are rescued, and others liquidated. The recovery may be low at this stage, but recovery in other stages of distress is much higher, and it is primarily because of the Code.

(e) The Code endeavours to close the various processes at the earliest. It prescribes timelines for some of them. The 553 CIRPs, which have yielded resolution plans by the end of September, 2022 took on average 473 days (after excluding the time excluded by the AA) for conclusion of process. Similarly, the 1807 CIRPs, which ended up in orders for liquidation, took on average 437 days for conclusion. Further, 429 liquidation processes, which have closed by submission of final reports took on average 505 days for closure. Similarly, 814 voluntary liquidation processes, which have closed by submission of final reports, took on average 411 days for closure.

(f) Till September, 2022, a total of 553 CIRPs have yielded resolution plans. The cost details are available in respect of 529 CIRPs. The cost works out on average 1.12% of liquidation value and 0.61% of realisable value.

Individual Processes

Insolvency Resolution Process

The provisions relating to insolvency resolution and bankruptcy relating to PGs to CDs came into force on December 1, 2019. As per the information received from the applicants, IPs, and data collected from various benches of NCLT and Debt Recovery Tribunal (DRT), 1403 applications have since been filed as of September 30, 2022. Out of them, 136 applications have been filed by the debtors and 1267 applications by the creditors under sections 94 and 95 of the Code, respectively. Among them 18 have been filed before different benches of DRT and 1385 have been filed before different benches of NCLT (Table 12).

Table 12: Insolvency Resolution of Personal Guarantors

(Amount in ₹ crore)

Period	Applications filed by				Total		Adjudicating Authority	
	Debtors (u/s 94)		Creditors (u/s 95)					
	No.	Debt Amount	Num-ber	Debt Amount	No.	Debt Amount	NCLT	DRT
2019 - 20	3	49.66	20	3256.87	23	3306.53	22	1
2020 - 21	20	2485.94	220	36760.35	240	39246.29	234	6
2021 - 22	82	3039.20	783	59717.90	865	62757.10	854	11
Apr - Jun, 2022	15	698.73	134	5721.66	149	6420.39	149	0
Jul - Sep, 2022	16	942.82	110	12165.91	126	13108.73	126	0
Total	136	7216.35	1267	117622.69	1403	124839.04	1385	18

Notes: The data are provisional. These are getting revised on continuous basis as further information is received.

Debt data not available in 267 cases

Of the 1403 applications, 53 applications have been withdrawn / rejected / dismissed before the appointment of RP and RPs have been appointed in 597 cases. After the appointment of RP, 18 cases have been withdrawn / rejected / dismissed and 123 cases have been admitted. The details are given in Table 13.

Table 13: Status of filed applications for initiation of Insolvency Resolution Process of PGs to CDs (Number)

Period	No. of applications filed	Before appointment of RP		No. of cases where RPs have been appointed	After appointment of RP		No. of cases Admitted
		No. of Applications with-drawn	No. of Applications dismissed/ rejected		No. of Applications with-drawn	No. of Applications dismissed/ rejected	
2019 - 20	23	0	0	2	0	0	0
2020 - 21	240	6	1	34	2	1	9
2021 - 22	865	14	10	330	0	6	24
Apr - Jun, 2022	149	3	14	134	2	4	65
Jul - Sep, 2022	126	0	5	97	3	0	25
Total	1403	23	30	597	7	11	123

Bankruptcy Process

On failure of the insolvency resolution process, an application for initiation of the bankruptcy process can be filed either by the PG or by creditor(s) within three months from the date of the order passed by the AA in three scenarios- (a) rejection of an application for initiation of insolvency process; (b) rejection of the repayment plan; or (c) premature closure of repayment plan.

As per the information available with the Board, the first application for initiation of the bankruptcy process of a PG namely Mr. Rohit Nath has been filed before DRT Chennai.

Service Providers

Insolvency Professionals

An individual, who is enrolled with an IPA as a professional member and has the required qualification and experience and passed the Limited Insolvency Examination, is registered as an IP. An IP needs an AFA to take up an assignment under the Code with effect from January 1, 2020.

The IBBI made available an online facility from November 16, 2019 to enable an IP to make an application for issuance / renewal of AFA to the concerned IPA. Thereafter, an IPA processes such applications electronically. The details of IPs registered as on September 30, 2022 and AFAs held by them, IPA-wise, is presented in Table 14.

Table 14: Registered IPs and AFAs as on September 30, 2022

City / Region	Registered IPs				IPs having AFAs			
	IIIP	ICSI IIP	IPA ICAI	Total	IIIP	ICSI IIP	IPA ICAI	Total
New Delhi	474	278	91	843	282	183	59	524
Rest of Northern Region	499	211	73	783	283	129	39	451
Mumbai	417	150	41	608	239	84	25	348
Rest of Western Region	353	127	48	528	230	88	23	341
Chennai	152	88	20	260	89	51	14	154
Rest of Southern Region	428	226	86	740	247	138	61	446
Kolkata	229	42	24	295	149	22	14	185
Rest of Eastern Region	79	28	11	118	44	16	8	68
Total Registered	2631	1150	394	4175	1563	711	243	2517

Of the 4205 IPs registered till date, registrations of 7 IPs have been cancelled through disciplinary action, and registrations of 2 IPs have been cancelled on failing to fulfil the requirement of fit and proper person status. As per information available, 21 IPs have passed away. The registrations and cancellations of registrations IPs, quarter wise, till September 30, 2022 are presented in Table 15.

Table 15: Registration and Cancellation of Registration of IPs

Year / Quarter	Registered at the beginning of the period	Registered during the period	Cancelled during the period on account of			Registered at the end of the period
			Disciplinary Process	Failing to fulfil the continuing requirement of 'fit and proper person' status	Death	
2016 - 17 (Nov - Dec) #	0	977	0	0	0	977
2016 - 17 (Jan - Mar)	0	96	0	0	0	96
2017 - 18	96	1716	0	0	0	1812
2018 - 19	1812	648	4	0	0	2456
2019 - 20	2456	554	0	1	5	3004
2020 - 21	3004	506	0	1	5	3504
2021 - 22	3504	549	1	0	8	4044
Apr - Jun, 2022	4044	56	2	0	2	4096
Jul - Sep, 2022	4096	80	0	0	1	4175
Total	NA	4205	7	2	21	4175

Registration with validity of six months. These registrations expired by June 30, 2017.

An individual with 10 years of experience as a member of the ICAI, ICSI, ICMAI or a Bar Council or 10 years of experience in the field of law, after receiving a Bachelor's degree in law or 10 years of experience in management, after receiving a Master's degree in Management or two year full time Post Graduate Diploma in Management or 15 years of experience in management, after receiving a Bachelor's degree is eligible for registration as an IP on passing the Limited Insolvency Examination.

The Graduate Insolvency Programme (GIP) is the first of its kind programme for those aspiring to take up the profession of IP as a career without having to wait for acquiring the specified 10/15 years of experience. At Indian Institute of Corporate Affairs, the first batch (2019-21) and the second batch (2020-22) have successfully completed the course. The third batch (2021-23) has proceeded with internships while the fourth batch (2022-24) commenced classes from July 1, 2022. In respect of National Law Institute University, Bhopal, classes for the first batch of students commenced from July 25, 2022. The IBBI has granted 23 registrations based on this qualification, until September 30, 2022.

Table 16 presents distribution of IPs as per their eligibility (an IP may be a member of more than one Institute) as on September 30, 2022. Of the 4175 IPs as on September 30, 2022, 408 IPs (constituting about nine per cent of the total registered IPs) are female.

Table 16: Distribution of IPs as per their Eligibility as on September 30, 2022

Eligibility	No. of IPs		
	Male	Female	Total
Member of ICAI	2106	206	2312
Member of ICSI	580	125	705
Member of ICMAI	184	19	203
Member of Bar Council	227	31	258
Managerial Experience	648	26	674
GIP Qualified	22	1	23
Total	3767	408	4175

The Regulations provide that an IP shall be eligible to obtain an AFA if he has not attained the age of 70 years. Table 17 presents the age profile of the IPs registered as on September 30, 2022.

Table 17: Age Profile of IPs as on September 30, 2022

Age Group (in years)	Registered IPs				IPs having AFAs#			
	IIPI	ICSI IIP	IPA ICAI	Total	IIPI	ICSI IIP	IPA ICAI	Total
≤ 30	12	7	0	19	5	2	0	7
≤ 40	255	68	20	343	160	44	11	215
> 40 ≤ 50	949	387	53	1389	587	258	31	876
> 50 ≤ 60	774	324	97	1195	471	209	64	744
> 60 ≤ 70	593	320	203	1116	340	198	137	675
> 70 ≤ 80	45	38	18	101	NA	NA	NA	NA
> 80 ≤ 90	2	6	3	11	NA	NA	NA	NA
> 90	1	0	0	1	NA	NA	NA	NA
Total	2631	1150	394	4175	1563	711	243	2517

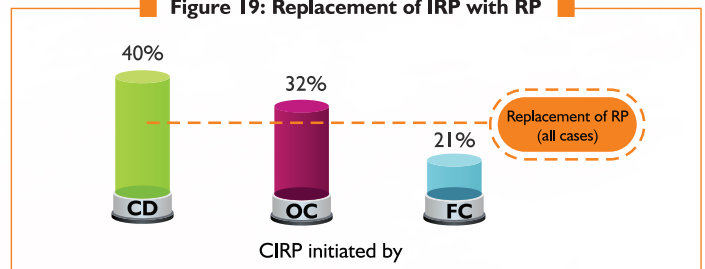
Excluding 610 AFAs which are expired / not renewed.

NA: Not Applicable.

Replacement of IRP with RP

Section 22(2) of the Code provides that the CoC may, in its first meeting, by a majority vote of not less than 66% of the voting share of the FCs, either resolve to appoint the IRP as the RP or to replace the IRP by another IP to function as the RP. Under section 22(4) of the Code, the AA shall forward the name of the RP, proposed by the CoC, under section 22(3)(b) of the Code, to IBBI for its confirmation and shall make such appointment after such confirmation. However, to save time in such reference, a database of all the IPs registered with the IBBI has been shared with the AA, disclosing whether any disciplinary proceeding is pending against any of them and the status of their AFAs. While the database is currently being used by various Benches of the AA, in a few cases, the IBBI receives references from the AA and promptly responds to it. Till September 30, 2022, as per updates available, a total of 1259 IRPs have been replaced with RPs. It is observed that IRPs in about 40% of CIRPs initiated by CD are replaced by RPs, in 32% of CIRPs initiated by OCs and in 21% of CIRPs initiated by FCs, as shown in Figure 19.

Figure 19: Replacement of IRP with RP



Insolvency Professional Entities

During the quarter under review, two IPEs were recognised, and one IPE was derecognised. As on September 30, 2022, there were 96 IPEs (Table 18).

Table 18: IPEs as on September 30, 2022

Quarter	No. of IPEs		
	Recognised	Derecognised	At the end of the Period
2016 - 17 (Jan - Mar)	3	0	3
2017 - 18	73	1	75
2018 - 19	13	40	48
2019 - 20	23	2	69
2020 - 21	14	0	83
2021 - 22	10	2	91
Apr - Jun, 2022	4	0	95
Jul - Sep, 2022	2	1	96
Total	142	46	96

Insolvency Professional Agencies

IPAs are front-line regulators and responsible for developing and regulating the insolvency profession. They discharge three kinds of functions, namely, quasi-legislative, executive, and quasi-judicial. The quasi-legislative functions cover laying down standards and code of conduct through byelaws, which are binding on all members. The executive functions include monitoring, inspection, and investigation of professional members on a regular basis, addressing grievances of aggrieved parties, gathering information about their performance, etc., with the overarching objective of promoting best practices and conduct by IPs. The quasi-judicial functions include dealing with complaints against members and taking suitable disciplinary actions.

As on September 30, 2022, there are three IPAs registered in accordance with the Code and Regulations. The IBBI interacts with the Managing Directors (MDs) of the IPAs and the IU every month, to obtain feedback on areas of concern for the profession of IPs and discuss the resolutions and the way forward. Table 19 presents the details of activities by the IPAs. Table 20 gives details of number of CPE hours earned by IPs.

Table 19: Activities by IPAs

Period	Number of					
	Pre-reg- istration courses conducted	CPE Pro- grammes conducted	Training Workshops for IPs	Other Workshops/ Webinars/ Round- tables/ Seminars	Disci- plinary Orders Issued	Com- plaints (Forward- ed by IBBI) Disposed
2018 - 19	16	-	7	100	4	11
2019 - 20	11	30	9	157	9	127
2020 - 21	14	193	66	102	42	102
2021 - 22	13	133	56	81	23	12
Apr - Jun, 2022	02	44	30	60	80	-
Jul - Sep, 2022	02	40	22	29	NIL	16
Total	58	440	190	529	158	268

Table 20: CPE Hours earned by the IPs

Period	Number of CPE Hours earned by members of			
	IIIP	ICSI IIP	IPA ICAI	Total
2019 - 20	1160	695	320	2175
2020 - 21	18465	8746	4647	31858
2021 - 22	14123	7890	3872	25885
Apr - Jun, 2022	1651	2205	820	4676
Jul - Sep, 2022	1338	947	818	3103
Total	36737	20483	10477	67697
Average CPE hours				
per registered IP	13.96	17.81	26.59	16.21

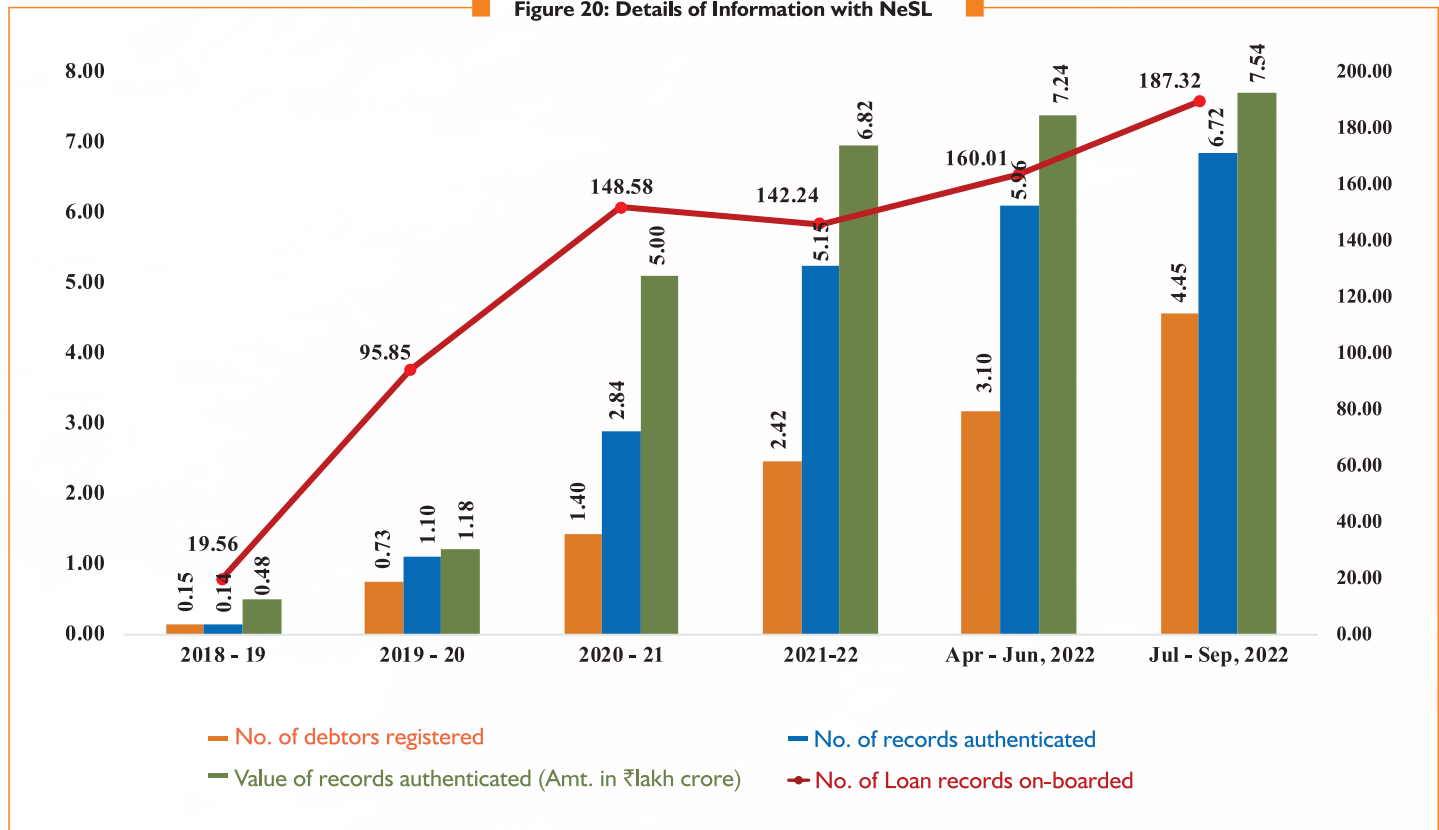
Information Utility

There is one IU, namely, the National E-Governance Services Limited (NeSL) that provides authenticated financial information to the users. The IBBI interacts with the MD & CEO of the IU along with the MDs of IPAs every month to discuss the issues relating to receipt and authentication of financial information. During interaction in this quarter, IPAs were requested to encourage their members to make use of the information stored with the IU for verification of claims during CIRP. Figure 20 provides details of the registered users and information with NeSL, as submitted by it.

Registered Valuer Organisations

The Companies (Registered Valuers and Valuation) Rules, 2017 (Valuation Rules) made under section 247 of the Companies Act, 2013 provide a unified institutional framework for development and regulation of valuation profession. Its remit is limited to valuations required under the Companies Act, 2013 and the Code. The IBBI performs the functions of the Authority under the Valuation Rules. It recognises RVOs and registers RVs and exercises regulatory oversight over them, while RVOs serve as front-line regulators for the valuation profession.

Figure 20: Details of Information with NeSL



An individual having specified qualification and experience needs to enrol with an RVO, complete the educational course conducted by the RVO, clear the examination conducted by IBBI, before seeking registration with IBBI as an RV. There are currently 16 RVOs, Assessors and Registered Valuers Foundation being the latest RVO recognised, as on September 30, 2022. The IBBI meets MDs / CEOs of RVOs every month to discuss the issues arising from the valuation profession, to resolve queries of the RVOs and to guide them in discharge of their responsibilities. The details of individual RVs, RVO-wise, as on September 30, 2022, are given in Table 21. A total of 4892 individuals have active registrations, three of them are registered for all three asset classes, 75 are registered for two asset classes and the balance 4814 are registered for one asset class. As on September 30, 2022, the registration of two RVs have been cancelled and registration of 1 individual and 1 entity is under suspension.

Table 21: Registered Valuers as on September 30, 2022

Sl.	Registered Valuer Organisation	No. of registration granted in each Asset Class			
		Land & Building	Plant & Machinery	Securities or Financial Assets	Total
1	RVO Estate Managers and Appraisers Foundation	79	14	15	108
2	IOV Registered Valuers Foundation	1436	227	168	1831
3	ICSI Registered Valuers Organisation	0	0	233	233
4	IIV India registered Valuers Foundation	166	46	54	266
5	ICMAI Registered Valuers Organisation	38	29	298	365
6	ICAI Registered Valuers Organisation	NA	NA	973	973
7	PVAI Valuation Professional Organisation	311	55	128	494
8	CVSRTA Registered Valuers Association	207	60	NA	267
9	Association of Certified Valuators and Analysts	NA	NA	4	4
10	CEV Integral Appraisers Foundation	131	38	3	172
11	Divya Jyoti Foundation	79	19	56	154
12	Nandadeep Valuers Foundation	3	0	1	4
13	All India Institute of Valuers Foundation	8	3	17	28
14	International Business Valuers Association	3	1	15	19
15	All India Valuers Association	2	0	0	2
16	Assessors and Registered Valuers foundation	23	9	21	53
	Total	2486	501	1986	4973

Note: NA signifies that the RVO is not recognised for that asset class.

RVs are permitted to form an entity (Partnership / Company) for rendering valuation services. There are 74 such entities registered as RVs as on September 30, 2022, as presented in Table 22. 30 of them are registered for three asset classes, 12 are registered for two asset classes and 32 are registered for one asset class. The registration of RVs till September 30, 2022 is given in Table 23.

As on September 30, 2022, 1289 RVs (constituting 26% of the total RVs registered) are from metros, while 3684 RVs (constituting 74% of the total RVs registered) are from non-metro locations. The region wise detail of RVs is given in Table 24.

The average age of RVs as on September 30, 2022 stood at 47 years across asset classes. It was 49 years for Land & Building, 54 years for Plant & Machinery and 43 years for Securities or Financial Assets (Table 25). Of the 4973 RVs as on September 30, 2022, 490 RVs (constituting about 10% of the total RVs) are females.

Table 22: Registered Valuers (Entities) as on September 30, 2022

Registered Valuer Organisation	Number of Entities	Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets
RVO Estate Managers and Appraisers Foundation	5	4	3	4
IOV Registered Valuers Foundation	23	20	17	20
ICSI Registered Valuers Organisation	4	0	0	4
IIV India Registered Valuers Foundation	1	1	1	0
ICMAI Registered Valuers Organisation	13	7	7	13
ICAI Registered Valuers Organisation	14	0	0	14
PVAI Valuation Professional Organisation	2	2	2	2
CVSRTA Registered Valuers Association	1	1	1	0
CEV Integral Appraisers Foundation	1	1	1	0
Divya Jyoti Foundation	2	1	1	2
All India Institute of Valuers Foundation	1	1	1	1
International Business Valuers Association	6	5	4	4
Total	73	43	38	64

Note: The registration of 1 entity is under suspension.

Table 23: Registration of RVs till September 30, 2022

Year / Quarter	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
2017 - 2018	0	0	0	0
2018 - 2019	781	121	284	1186
2019 - 2020	848	204	792	1844
2020 - 2021	409	82	446	937
2021 - 2022	302	67	303	672
Apr - Jun, 2022	48	6	52	106
Jul - Sep, 2022	100	21	110	231
Total	2488	501	1987	4976

Note: The registration of 2 RVs has since been cancelled and registration of 1 RV is under suspension.

Table 24: Region wise RVs as on September 30, 2022

City / Region	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
New Delhi	83	35	237	355
Rest of Northern Region	401	81	351	833
Mumbai	115	53	299	467
Rest of Western Region	709	137	332	1178
Chennai	116	44	144	304
Rest of Southern Region	987	126	471	1584
Kolkata	32	18	114	164
Rest of Eastern Region	43	7	38	88
Total	2486	501	1986	4973

Table 25: Age profile of RVs as on September 30, 2022

Age Group (in years)	Land & Building	Plant & Machinery	Securities or Financial Assets	Total
≤ 30	129	3	101	233
> 30 ≤ 40	471	76	755	1302
> 40 ≤ 50	509	103	635	1247
> 50 ≤ 60	977	149	309	1435
> 60 ≤ 70	353	115	173	641
> 70 ≤ 80	42	52	12	106
> 80	5	3	1	9
Total	2486	501	1986	4973

Complaints and Grievances

The IBBI (Grievance and Complaint Handling Procedure) Regulations, 2017 enable a stakeholder to file a grievance or a complaint against a service provider. Beside this, grievance and complaints are received from the Centralised Public Grievance Redress and Monitoring System (CPGRAMS), Prime Minister's Office (PMO), Ministry of Corporate Affairs (MCA), and other authorities. The receipt and disposal of grievances and complaints till September 30, 2022 is presented in Table 26.

Table 26: Receipt and Disposal of Grievances and Complaints till September 30, 2022 (Number)

Year / Quarter	Complaints and Grievances Received						Total		
	Under the Regulations		Through CP-GRAM/PMO/MCA/Other Authorities)		Through Other Modes		Re-ceived	Dis-posed	Under Examination
	Re-ceived	Dis-posed	Re-ceived	Dis-posed	Re-ceived	Dis-posed			
2017 - 2018	18	0	6	0	22	2	46	2	44
2018 - 2019	111	51	333	290	713	380	1157	721	480
2019 - 2020	153	177	239	227	1268	989	1660	1393	747
2020 - 2021	268	260	358	378	990	1364	1616	2002	361
2021 - 2022	276	279	574	570	611	784	1461	1633	189
Apr - Jun, 2022	61	74	89	110	59	131	209	315	83
Jul - Sep, 2022	62	50	84	58	75	49	221	157	147
Total	949	891	1683	1633	3738	3699	6370	6223	147

Examinations

Limited Insolvency Examination

The IBBI publishes the syllabus, format, etc. of the examination under regulation 3(3) of the IBBI (Insolvency Professionals) Regulations, 2016. It reviews the same continuously to keep it relevant with respect to dynamics of the market. It has successfully completed six phases of the Limited Insolvency Examination. Sixth phase of the examination concluded on February 28, 2022 and seventh phase commenced on March 01, 2022. It is a computer based online examination available on daily basis from various locations across India. The details of the examination are given in Table 27.

Table 27: Limited Insolvency Examination

Phase	Period	Number of Attempts (some candidates made more than one attempt)	Successful Attempts
First	Jan, 2017 - Jun, 2017	5329	1201
Second	Jul, 2017 - Dec, 2017	6237	1112
Third	Jan, 2018 - Oct, 2018	6344	1013
Fourth	Nov, 2018 - Jun, 2019	3025	505
Fifth	Jul, 2019 - Dec, 2020	5860	1016
Sixth	Jan, 2021 - Feb, 2022	2741	474
Seventh	Mar, 2022 - Jun, 2022	548	55
	Jul, 2022 - Sep, 2022	555	65
Total		30639	5441

Valuation Examinations

The IBBI, being the authority, under the Valuation Rules, commenced the Valuation Examinations for asset classes of: (a) Land and Building, (b) Plant and Machinery and (c) Securities or Financial Assets, on March 31, 2018. It reviews these examinations continuously to keep it relevant with the changing times. The third phase of the examinations concluded on June 30, 2022 and the fourth phase commenced from July 1, 2022. It is a computer based online examination available from several locations across India. The details of the examinations are given in Table 28.

Table 28: Valuation Examinations

Phase	Period	Number of Attempts (some candidates made more than one attempt) in Asset Class			Number of Successful Attempts in Asset Class		
		Land & Building	Plant & Machinery	Securities or Financial Assets	Land & Building	Plant & Machinery	Securities or Financial Assets
First	Mar, 2018 - Mar, 2019	9469	1665	4496	1748	324	707
Second	Apr, 2019 - May, 2020	3780	757	4795	380	95	656
Third	Jun, 2020 - Jun, 2022	8370	2015	8377	620	139	781
Fourth	Jul, 2022 - Sep, 2022	2487	504	1478	211	38	128
Total		24106	4941	19146	2959	596	2272

Building Ecosystem

Committees and Groups

Advisory committee on Service Providers

The 9th meeting of the Advisory Committee on Service Providers was held on July 11, 2022 through e-mode. Mr. T. V. Mohandas Pai, Chairperson of the Committee, chaired the meeting. The Committee discussed and made its recommendations on issues of remuneration of IPs, enabling entities to become IPs and financial self-sufficiency of the IBBI.

Advisory committee on Corporate Insolvency and Liquidation

The 10th meeting of the Advisory Committee on Corporate Insolvency and Liquidation was held on July 16, 2022 through e-mode. Mr. Uday Kotak chaired the meeting. The Committee deliberated on two discussion papers namely: (a) Changes in the CIRP to reduce delays and improve the resolution value; and (b) Streamlining the liquidation process.

Research Guidance Group

The 4th meeting of the Research Guidance Group (RGG) was held on July 21, 2022 in hybrid mode under the chairmanship of Dr. K. P. Krishnan. The group was briefed on the first International Research Conference organised by the Board in collaboration with Indian Institute of Management, Ahmedabad (IIMA) from April 30, 2022 to May 1, 2022 at IIMA campus. The group further discussed on data dissemination guidelines, IBC-21 and webinars for researchers. The RGG members provided valuable suggestions for organising research conferences in future.



4th meeting of RGG, July 21, 2022

Roundtables

During the quarter, the IBBI organised roundtables with stakeholders as presented in Table 29:

Table 29: Roundtables with stakeholders

S. No.	Date	Particulars	In Association with
1	04-08-2022	Interactive meeting of the officials of various Banks and IBA to discuss reg. proposed amendments/reforms in the Code	Indian Banks' Association
2	10-08-2022	Roundtable with select IPs/IPEs as nominated by IPAs to discuss reg. proposed amendments/reforms in the Code	Three IPAs

IP Workshops

The IBBI has been organising workshops for registered IPs with the aim to deliver specialised and deep level learning through a classroom, non-residential mode. It organised three Advanced Workshops during the quarter through online mode. The details of the workshops conducted till September 30, 2022, is given in Table 30.

Table 30: Capacity Building Programmes for IPs till September 30, 2022

Year / Period	Basic Workshops	Advanced Workshops	Other Workshops	Webinars	Round-tables	Trainings	Total
2016 - 17	1	-	-	-	8	-	9
2017 - 18	6	-	-	-	44	-	50
2018 - 19	7	-	-	-	22	-	29
2019 - 20	4	6	5	1	22	-	38
2020 - 21	1	2	6	29	18	2	58
2021 - 22	7	7	-	21	12	3	50
Apr - Jun, 2022	-	-	-	1	4	-	5
July - Sep, 2022	-	3	-	2	2	-	7
Total	26	18	11	54	132	5	246



18th Advanced Workshop for IPs, September 27, 2022

CoC Workshops

The Board in association with the State Bank of India (SBI) and the Indian Banks' Association (IBA), organised two, one-day workshops, in hybrid mode, on the subject titled 'Committee of Creditors: An Institution of Public Faith' on July 21, 2022 and August 24, 2022 at Mumbai and Gurugram, respectively. These were the eleventh and twelfth such workshops, in the series of events organized by IBBI, for the benefit of officers of scheduled commercial banks and financial institutions who represent FCs on the CoC, under the IBC. Over one hundred senior officers (Assistant General Manager and above) representing scheduled commercial banks and financial institutions participated in each of the workshops.



16th Advanced Workshop for IPs, July 29, 2022



One-day CoC workshop at Mumbai, July 21, 2022



17th Advanced Workshop for IPs, August 23, 2022

Advocacy and Awareness

Essay Competition

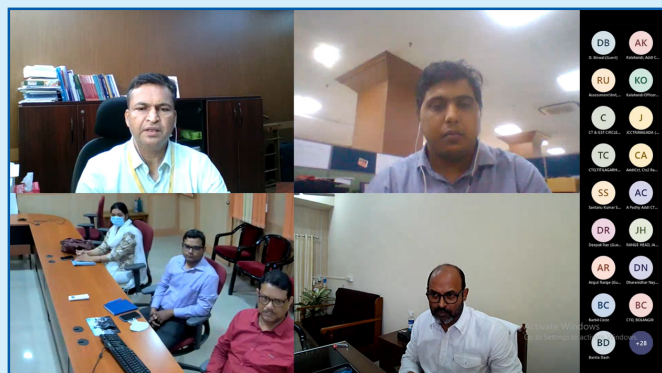
The IBBI, in its endeavor to create awareness about the insolvency and bankruptcy regime amongst the students of Institutes of higher learning, conducts essay competitions for the students. During the quarter, one such competition was concluded at the National Law University, New Delhi (NLU Delhi) on topic 'Five years of the Insolvency and Bankruptcy Code, 2016: Chief issues and way forward'. The essay by Mr. Nipun Kalra was adjudged as the best essay and the essay jointly authored by Ms. Aditi Gupta and Mr. Uday Yashvir Singh was adjudged as the second best essay in the competition.

Other Programmes

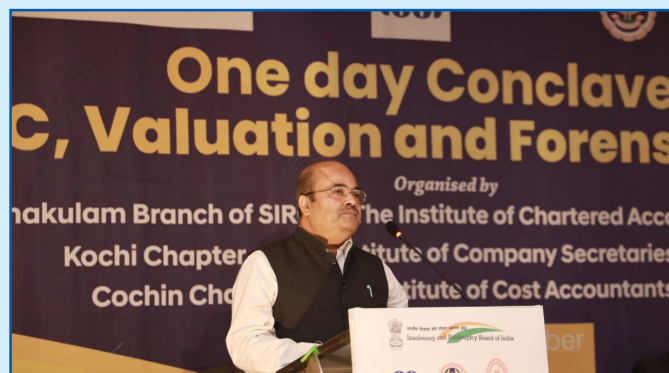
The IBBI in association with various stakeholders, organised advocacy and awareness programmes as presented in Table 31.

Table 31: Advocacy and Awareness Programmes, July - September 30, 2022

S. No.	Date	Particulars	Topic	In Association With
1	06-07-2022	Session on Gyandarshan TV Channel by Mr. Vinay Goel, MD CEO, IOVRVF	Valuation under IBC - Land and Building; Plant and Machinery; and Securities & Financial Assets	IGNOU
2	06-07-2022	Session on Gyandarshan TV Channel by Mr. Mayank Mehta, AGM, IBBI and Ms. Medha Shekar, Manager, IBBI	Grievance Redressal Mechanisms of the IBBI	IGNOU
3	08-07-2022	Interactive Meeting of IPs at ICAI, BKC, Mumbai	Recent Developments in IBC and IBBI's Discussion Papers	ICAI
4	20-07-2022	Orientation programme for officers of GST, Commercial Tax and Mines Department of Odisha Government	IBC, 2016	-
5	20-07-2022	Session on Gyandarshan TV Channel by Mr. Debajyoti Ray Chaudhuri, MD, NeSL	Information Utility: A key pillar of IBC ecosystem	IGNOU
6	20-07-2022	Session on Gyandarshan TV Channel by Mr. Vinod Kumar Kothari, IP	Liquidation: Liquidator's Role, functions and distributive justice under section 53	IGNOU
7	23-07-2022 to 24-07-2022	Certificate Course on Law and Practice of Insolvency and Bankruptcy	IBC, 2016	NLU Delhi
8	29-07-2022	International Valuation Conference	Curating Future Ready Registered Valuers	ICMAI RVO
9	29-07-2022	Workshop on Valuation	Emerging Valuation Ecosystem- A way forward	IOV RVF
10	03-08-2022	Session on Gyandarshan TV Channel by Mr. Om Prakash, Manager, IBBI	Sale as Going Concern during Liquidation under the Code	IGNOU
11	03-08-2022	Session on Gyandarshan TV Channel by Mr. Raghav Maheshwari, Manager, IBBI	IBC: Introduction to Frontier Areas	IGNOU
12	17-08-2022	Session on Gyandarshan TV Channel by Mr. Vikram Bajaj, IP	Liability for prior offences under Section 32A of the IBC	IGNOU
14	17-08-2022	Session on Gyandarshan TV Channel by Mr. Deepak Rao, GM, IBBI and Mr. Deeptanshu Singh, Manager, IBBI	Role of State Agencies under IBC	IGNOU
15	31-08-2022	Session on Gyandarshan TV Channel by Mr. Ritesh Kavdia, ED, IBBI and Ms. Pooja Singla, Manager, IBBI	Overview of Individual Insolvency including Fresh Start Process	IGNOU
16	31-08-2022	Session on Gyandarshan TV Channel by Mr. Sushanta Kumar Das, DGM, IBBI and Mr. Abhishek Mittapally, Manager, IBBI	Individual Insolvency Resolution Process and Bankruptcy Process for PGs to CDs	IGNOU
17	14-09-2022	Session on Gyandarshan TV Channel by Mr. Rajesh Kumar Gupta, CGM, IBBI and Ms. Namisha Singh, Manager, IBBI	Development of Profession of IPs	IGNOU
18	14-09-2022	Session on Gyandarshan TV Channel by Mr. Rajesh Tiwari, GM, IBBI and Mr. Aniket Sharma, Manager, IBBI	Group Insolvency	IGNOU
19	16-09-2022	Webinar on Valuation	Valuation: Perspectives and Prospects	ICMAI RVO
20	17-09-2022	One Day Conclave at Kochi	IBC, Valuation & Forensic Audit	ICSI, ICAI & ICMAI Kochi Chapter
21	17-09-2022	Webinar on Valuation	Valuation of Intangible Assets	AARVF RVO
22	22-09-2022	Webinar for Bankers	Recent Developments in Regulatory Framework under the Code	IBA
23	23-09-2022	Training Programme for Officers of Karnataka State Finance Corporation at Bengaluru	IBC, 2016	-
24	26-09-2022	Webinar for IPs	Recent Amendments in IBBI Regulations	ICSI IIP
25	28-09-2022	Session on Gyandarshan TV Channel by Mr. Rahul Khanna, AGM, IBBI; and Mr. Pankaj Dhapodkar, Manager, IBBI	Use of Technology in IBC Ecosystem	IGNOU
26	28-09-2022	Session on Gyandarshan TV Channel on topic by Dr. Risham Garg, Associate Professor, NLU Delhi	IBC and Corporate Governance	IGNOU
27	29-09-2022	Webinar for IPs	Recent Developments in Regulatory Framework under the Code	IIIP



Orientation programme for officers of GST, Commercial Tax and Mines Department of Odisha Government, July 20, 2022



Conclave on IBC, Valuation & Forensic Audit at Kochi, September 17, 2022



Webinar for Bankers on Recent Developments in Regulatory Framework under the Code, September 22, 2022



Webinar for IPs on Recent Developments in Regulatory Framework under the Code, September 29, 2022

Senior officers of IBBI participated as guests and faculty in several programmes during the quarter, the details of which are presented in Table 32.

Table 32: Participation of Senior Officers in Programmes

Sl.	Date	Organiser	Subject	Participation
1	07-07-22	RBI	State Finance Secretaries Meeting	Mr. Garg, ED
2	23-08-22	ICSI IIP	Panel discussion on 'Making IBC more effective'	Mr. Shukla, WTM and Mr. Pradhan, ED
3	05-09-22	SBI Academy, Gurugram	IBC, 2016	Mr. Gupta, CGM
4	12-09-22	SBI Academy, Gurugram	IBC, 2016	Mr. Gupta, CGM
5	16-09-22	ASSOCHAM	9th International Summit	Mr. Garg, ED



Session on overview of IBC, 2016 at Gurugram, September, 2022



9th International Summit by ASSOCHAM at New Delhi, September 16, 2022

List of Abbreviations

AA	Adjudicating Authority	IP Regulations	IBBI (Insolvency Professionals) Regulations, 2016
AFA	Authorisation for Assignment	IPA/IPAs	Insolvency Professional Agency/ Agencies
ARC	Asset Reconstruction Company	IPA ICAI	Insolvency Professional Agency of Institute of Cost Accountants of India
BIFR	Board for Industrial and Financial Reconstruction	IPA Regulations	IBBI (Insolvency Professional Agencies) Regulations, 2016
CD	Corporate Debtor	IPE/IPEs	Insolvency Professional Entity/ Entities
CEO	Chief Executive Officer	IRP	Interim Resolution Professional
CGM	Chief General Manager	IU/IUs	Information Utility/ Utilities
CIRP	Corporate Insolvency Resolution Process	IU Regulations	IBBI (Information Utility) Regulations, 2017
CIRP Regulations	IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016	LC	Letter of Credit
CoC	Committee of Creditors	LCD	Liquidation Commencement Date
CPE	Continuing Professional Education	Liquidation Regulations	IBBI (Liquidation Process) Regulations, 2016
CPGRAMS	Centralised Public Grievance Redress and Monitoring System	MCA	Ministry of Corporate Affairs
Customs Act	The Customs Act, 1962	MD	Managing Director
DRT	Debt Recovery Tribunal	MGRs	Minimum Guaranteed Royalties
ED	Executive Director	MoU	Memorandum of Understanding
EPFO	Employees Provident Fund Organisation	MSME	Micro, Small and Medium Enterprise
FC/FCs	Financial Creditor / Creditors	NCLAT	National Company Law Appellate Tribunal
FiSP/FiSPs	Financial Service Provider/ Providers	NCLT	National Company Law Tribunal
GIP	Graduate Insolvency Programme	NeSL	National e-Governance Services Limited
GVAT Act	Gujarat Value Added Tax Act, 2003	NLU Delhi	National Law University, Delhi
GST	Goods and Services Tax	NLU Odisha	National Law University, Odisha
HC	High Court	NPA	Non-performing Asset
IBA	Indian Banks' Association	OC/OCs	Operational Creditor/ Creditors
IBBI / Board	Insolvency and Bankruptcy Board of India	OTS	One-time Settlement
IBC / Code	Insolvency and Bankruptcy Code, 2016	PG/PGs	Personal Guarantor/ Guarantors
ICAI	Institute of Chartered Accountants of India	PMO	Prime Minister's Office
ICD	Insolvency Commencement Date	PPIRP	Pre-Packaged Insolvency Resolution Process
ICLS	Indian Corporate Law Service	RBI	Reserve Bank of India
ICMAI	Institute of Cost and Management Accountants of India	RGG	Research Guidance Group
ICSI	Institute of Company Secretaries of India	RP	Resolution Professional
ICSI IIP	ICSI Institute of Insolvency Professionals	RV/RVs	Registered Valuer/ Valuers
IGNOU	Indira Gandhi National Open University	RVE/RVEs	Registered Valuer Entity/ Entities
IIMA	Indian Institute of Management, Ahmedabad	RVO	Registered Valuer Organisation
IIMB	Indian Institute of Management, Bangalore	SBI	State Bank of India
IIMV	Indian Institute of Management - Visakhapatnam	SC	Supreme Court of India
IIP ICAI	Indian Institute of Insolvency Professionals of ICAI	SCC	Stakeholders' Consultation Committee
IM	Information Memorandum	Valuation Rules	The Companies (Registered Valuers and Valuation) Rules, 2017
IOV RVF	IOV Registered Valuers Foundation	Voluntary Liquidation Regulations	IBBI (Voluntary Liquidation Process) Regulations, 2017
IP/IPs	Insolvency Professional/ Professionals	WTM	Whole-time Member



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