



**Overview and Journey of the Insolvency and Bankruptcy Code, 2016**

**Organised by Nagpur Branch of ICAI of WIRC**

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## 1. Ancient India (c. 1500 BCE – 600 CE) refers to beginning of Vedic Period post Indus Valley Civilization

### ❑ Sources

- **Dharmashastras** (Manusmriti, Yajnavalkya Smriti, Narada Smriti)
- **Arthashastra of Kautilya**

### ❑ How Insolvency Was Treated

- **No formal concept of “bankruptcy”** as discharge from debts.
- **Debt repayment was a moral and legal obligation.**
- Failure to repay could result in:
  - Forced labour
  - Attachment of property
  - Social sanctions
- **Debts survived death** and could be enforced against heirs.

## Key Features regarding ancient Period Insolvency Process

- King/state acted as **arbiter and enforcer**
- Different treatment based on:
  - Caste / Occupation / Nature of debt (commercial vs personal)
- **Interest regulation existed**, but debtor protection was minimal.
- **Debtor-centric protection was almost absent; creditor rights dominated.**

## 2. Early Medieval India (600–1200 CE)

- Smritis and regional **customary laws**
- Guild (**Shreni**) **rules self-governing**, democratic associations of merchants and artisans that established rigorous rules for trade, quality control, price, and membership conduct.

### Role of Guilds ( Shreni )

- Merchants were part of **trade guilds**
- Insolvency handled **internally**:
  - Guild mediation
  - Collective repayment
  - Exclusion from trade in extreme cases
- Early form of **collective resolution**, but **no discharge** of debt.

### 3. Medieval India – Sultanate & Mughal Period (1200–1757)

#### Legal Influence included:

- **Islamic law** (Sharia) for Muslims
- **Hindu law** continued for Hindus
- **Commercial customs** governed traders.

#### Treatment of Insolvency

- **Islamic Law** recognized *insolvency (Iflas)*:
  - Temporary protection from coercive recovery
  - Creditors restrained until debtor regained means
- **No concept of corporate bankruptcy**
- State intervention mainly to:
  - Protect revenue & Prevent fraud
  - Some humanitarian relief for debtors, but **no systematic insolvency law**.

#### 4. Early British Period (1757–1850)

##### ➤ ⚖️ Introduction of English Concepts :

British courts brought in **English bankruptcy ideas**, but selectively.

##### ➤ **Key Developments**

- Presidency towns (Calcutta, Bombay, Madras) had special laws.
- **Debtors' prisons** were common.
- Insolvency seen as:
  - Moral failure
  - Commercial misconduct

##### ➤ **Early Laws**

- Insolvent Debtors Acts (1828, 1848)
- Presidency Towns Insolvency Acts.
- First **formal legal recognition of insolvency**, but harsh and creditor-oriented.

## 5. Late Colonial Period (1850–1947)

### ➤ Major Statutes:

- **Presidency Towns Insolvency Act, 1909 &**
- **Provincial Insolvency Act, 1920**

### ➤ Features: Applied mainly to **individuals and firms** & Introduced

- Adjudication of insolvency
- Vesting of property in Official Assignee
- Limited discharge after compliance

### ➤ Limitations:

- No mechanism for: Corporate rescue & Reorganization
- Companies dealt under **Companies Acts** (winding up only)
- Focus was **liquidation, not revival.**

## UNDERSTANDING THE PRESENT IBC REGIME

### 1. Background: Pre-IBC Regime

Before the enactment of the IBC, India had a **fragmented and inefficient insolvency framework**, spread across multiple laws, such as:

- Sick Industrial Companies Act, 1985 (SICA)
- Recovery of Debts Due to Banks and Financial Institutions Act, 1993
- SARFAESI Act, 2002
- Companies Act (Winding Up Provisions)

#### Key issues:

- Multiplicity of forums (BIFR, DRTs, High Courts)
- Inordinate delays in resolution.
- Low recovery rates for creditors.
- Weak credit discipline.
- These shortcomings adversely impacted the banking system and overall ease of doing business.

## 2. Enactment of the IBC

- The Insolvency and Bankruptcy Code, 2016 was enacted based on the recommendations of the **Bankruptcy Law Reforms Committee (BLRC)** chaired by **Dr. T.K. Viswanathan** which was formed in August 2014.
- *Just for the sake of comparison* GST working started in year 2000 during Atal Bihari regime but it took 17 years to start.
- The Code came into force in a **phased manner from 2016 onwards**.

□ **Core philosophy:** *Shift from “debtor-in-possession” to “creditor-in-control”*

## 3. Objectives of the IBC

The IBC aims to:

- Consolidate and amend insolvency laws relating to **corporate persons, partnership firms, and individuals**
- Ensure **time-bound resolution** of insolvency
- **Maximise value** of assets
- Promote **entrepreneurship**
- **Improve** availability of credit
- Balance **interests of all stakeholders**

## 4. Institutional Framework under IBC

The Code introduced a robust institutional ecosystem:

- **Adjudicating Authorities**
  - NCLT (01.06.2016)– Corporate Persons
  - DRT (1993)– Individuals and Firms
- **Insolvency and Bankruptcy Board of India (IBBI)** – Regulator
- **Insolvency Professionals (IPs)**
- **Information Utilities (IUs)** from 24.06.2016

## 5. Corporate Insolvency Resolution Process (CIRP)

- First case admitted in *January 2017- Innoventive Industries Ltd. vs. ICICI Bank & Anr.* Before NCLT, Mumbai, which also became the *first* case decided by *Hon'ble Supreme Court*.
- Key features: Initiation by Financial Creditors, Operational Creditors, or Corporate Debtor
- Statutory time limit of **180 days + 90 days extension** (now largely strict)
- Formation of **Committee of Creditors (CoC)**
- Resolution plan approval by **66% voting share**
- Liquidation as a last resort

**Table 1 : Details of CIRP Cases as on December 31<sup>st</sup>, 2025**

Status of CIRPs	No. of CIRPs
Admitted	8833
Closure:	6954
Withdrawn under section 12A	1260
Closed on appeal or review or settled	1366
Resolution plans approved	1376
Liquidation orders passed	2952
Ongoing CIRP cases	1879
<p>Note: This excludes 1 CD which has moved directly from Board for Industrial and Financial Reconstruction (BIFR) to resolution.</p>	
<p>Source: Compilation from website of the NCLT and filing by IPs.</p>	

**Table 2: Corporate Insolvency Resolution Process**

Year / Quarter	CIRPs at the beginning of the Period	Admitted	Closure by				CIRPs at the end of the Period
			Appeal/Review/ Settled	Withdrawal under Section 12A	Approval of Resolution Plan	Commencement of Liquidation	
2016 - 17	0	37	1	0	0	0	36
2017 - 18	36	707	96	0	18	91	538
2018 - 19	538	1157	162	97	74	305	1057
2019 - 20	1057	1992	351	221	131	537	1809
2020 - 21	1809	536	92	168	119	348	1618
2021 - 22	1618	892	130	203	141	339	1697
2022 - 23	1697	1262	195	231	186	405	1942
2023 - 24	1942	1003	164	168	260	441	1912
2024 - 25	1912	734	120	86	259	290	1891
Apr - Jun, 2025	1891	187	14	30	63	75	1896
July-Sep, 2025	1896	163	29	30	45	71	1884
Oct-Dec, 2025	1884	163	12	26	80	50	1879
Total	NA	8833	1366	1260	1376	2952	1879

Note: These CIRPs are in respect of 8403 CDs.

This excludes 1 CD which has moved directly from Board for Industrial and Financial Reconstruction (BIFR) to resolution.

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

**Table 3: Registered IPs and AFAs as on December 31, 2025**

City / Region	Registered IPs				IPs having AFA			
	IIP ICAI	ICSI IIP	IPA of ICMAI	Total	IIP ICAI	ICSI IIP	IPA of ICMAI	Total
New Delhi	509	298	96	903	230	144	45	419
Rest of Northern Region	527	220	93	840	219	105	33	357
Mumbai	449	158	44	651	200	72	17	289
Rest of Western Region	387	146	59	592	197	69	24	290
Chennai	159	92	24	275	66	39	13	118
Rest of Southern Region	458	242	98	798	178	100	48	326
Kolkata	250	44	29	323	130	17	18	165
Rest of Eastern Region	82	37	12	131	31	20	8	59
Total (Individual)	2821	1237	455	4513	1251	566	206	2023
Total (IPE as IP)	55	17	26	98	37	12	15	64
<b>Grand Total</b>	<b>2876</b>	<b>1254</b>	<b>481</b>	<b>4611</b>	<b>1288</b>	<b>578</b>	<b>221</b>	<b>2087</b>

## 6. Evolution and Amendments (Journey)

Since its introduction, IBC has undergone **continuous refinement through amendments and judicial interpretation:**

### ❑ Early Phase (2016–2018)

- Surge in NPA resolutions
- Landmark cases like *Innoventive Industries, Essar Steel*
- Recognition of financial creditor supremacy
- Introduction of **Section 29A** (ineligible resolution applicants)

### ❑ Strengthening Phase (2019–2020)

- Emphasis on **commercial wisdom of CoC**
- Homebuyers recognised as financial creditors

### ❑ COVID & Flexibility Phase (2020–2021)

- Suspension of Sections 7, 9 & 10
- Introduction of **Pre-Packaged Insolvency Resolution Process (PPIRP)** for MSMEs

### ❑ Maturity Phase (2022 onwards)

- Focus on **Faster resolutions** - Avoidance transactions - Going concern sales - Asset-wise and group insolvency discussions

## 7. Impact of the IBC

### Positive outcomes:

- Improved recovery rates compared to earlier regimes:
  - IBC 30% to 35%**
  - SARFAESI 22%**
  - DRT 7%**
  - Lok Adalat 3%
- Enhanced credit discipline
- Shift in borrower behaviour
- Strengthened creditor confidence

### Challenges:

- Delays beyond statutory timelines
- Capacity constraints at NCLT
- Haircuts in some large resolutions
- Limited success in group insolvency so far

**Table 4: Outcome of CIRPs initiated Stakeholder-wise, as on December 31, 2025**

Outcome	Description	CIRPs initiated by				
		FCs	OCs	CDs	FiSPs	Total
Status of CIRPs	Closure by Appeal/Review/Settled	445	908	13	0	1366
	Closure by Withdrawal u/s 12A	397	853	10	0	1260
	Closure by Approval of Resolution Plan	854	427	91	4	1376
	Closure by Commencement of Liquidation	1394	1238	320	0	2952
	Ongoing	1121	644	113	1	1879
	<b>Total</b>	<b>4211</b>	<b>4070</b>	<b>547</b>	<b>5</b>	<b>8833</b>
CIRPs yielding Resolution Plans	Realization by creditors as % of Liquidation Value	186.03	149.32	146.83	134.9	171.54
	Realisation by creditors as % of their Claims	31.93	25.53	18.01	41.4	31.63
	<b>Average time taken for Closure of CIRP</b>	<b>745</b>	<b>751</b>	<b>623</b>	<b>677</b>	<b>739</b>
CIRPs yielding Liquidations	Liquidation Value as % of Claims	5.44	8.37	7.46	-	6.1
	<b>Average Time taken for order of Liquidation</b>	<b>533</b>	<b>539</b>	<b>452</b>	<b>-</b>	<b>527</b>

## ❑ Capacity constraints of NCLT & NCLAT

- Shortage of judicial and technical members.
- As of late 2024 and early 2025 data, the National Company Law Tribunal (NCLT) had a total deficiency of approximately of 19 members against its **sanctioned** strength of **63 Members** **.(1 President and 62 members)**.
- The breakdown of the deficiency is as follows:

	Sanctioned Strength	Working Strength	Deficiency
President	1	1	0
Judicial Members	31	(approx. 21-22)	~9-10
Technical Members	31	(approx. 21-22)	~9-10
Total	63	~43	~19
Note: Precise, real-time numbers can fluctuate with retirements and new appointments.			

- High volume of insolvency, company law, and other matters filed under the same forum.
- Resulting **backlog affects time-bound resolution**, the central feature of IBC.

## ❑ High-Profile Cases with Large Haircuts

- **Videocon Industries:** Reported a **94% to 99% haircut** in some analyses, with **debt of ₹46,000 crore+** settled for **₹2,900 crore**.
- **Alok Industries:** ₹30,000 crore debt **settled** for **₹5,000 crore**.
- **Lanco Industries:** ₹47,000 crore debt **settled** for **₹5,300 crore**.
- **Reliance Communications:** ~₹47,500 crore debt transferred for a reported **₹457 crore**.
  
- According to the **Economic Survey 2025-26 Report** published by the Ministry of Finance, Government of India, the **recovery rate through the IBC improved from 28.3% in FY24 to 36.6% in FY25**.
- However, **ICRA reports suggest** that while large account resolution has driven better recovery recently, the **overall trend still reflects steep haircuts** due to the high volume of legacy and defunct cases.

## ❑ Implementation Milestones

- The **first CIRP order** for approval of Resolution Plan came in *Synergies-Dooray Automotive Ltd. (2017)*,
- Followed by **landmark Hon'ble Supreme Court Cases** like *Innoventive Industries v. ICICI Bank*.
- Amendments in 2017 *barred willful defaulters* from resolution plans;
- Amendments in 2019 *capped* timelines at *330 days*;
- High-value resolutions include **Essar Steel** (₹42,000 crore recovery in 2019) and **Bhushan Steel** (₹36,400 crore, 2018)

## 8. Conclusion

- The Insolvency and Bankruptcy Code represents a **paradigm shift in India's insolvency framework**,
- moving from liquidation-oriented laws to a **resolution-first approach**.
- While evolving through amendments and jurisprudence, the **IBC has significantly transformed India's credit and**
- **Insolvency landscape** and continues to **mature** as a **key economic reform**.
- Further is a **chronological list of landmark IBC case laws**, arranged **year-wise**, highlighting the **principle laid down** in each case.

## ➤ Important IBC Case Laws Chronological Journey

### 2017: Foundation Year

#### 1. **Innoventive Industries Ltd. v. ICICI Bank (SC)**

- *Principle:* IBC has **overriding effect** over all other laws (Section 238).
- Established **trigger test:** existence of default is sufficient.
- Marked the start of creditor-centric regime.

#### 2. **Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (SC)**

- *Principle:* Meaning of “**pre-existing dispute**” under Section 9.
- If a **plausible** dispute exists, **Section 9** application must be **rejected**.

### 2018 : Clarity on Creditors & Resolution

#### 3. **Swiss Ribbons Pvt. Ltd. v. Union of India (SC)**

- *Principle:* **Constitutional validity of IBC upheld.**
- Differential treatment of financial and operational creditors is valid.
- Emphasised **resolution over liquidation.**

#### 4. **Binani Industries Ltd. v. Bank of Baroda (NCLAT)**

- *Principle:* **Equality among similarly placed creditors.**
- Resolution plan must be fair and equitable.

## 2019 – Commercial Wisdom Era

### 5. **Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta (SC)**

- *Principle: Commercial wisdom of CoC is paramount and non-justiciable.*
- NCLT/NCLAT cannot interfere with business decisions of CoC.
- Distribution mechanism left to CoC.

### 6. **ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta (SC)**

- *Principle: Interpretation of Section 29A (ineligibility).*
- Promoters in control of defaulting entities barred unless NPAs cleared.

## 2020 – Homebuyers & Time Limits

### 7. **Pioneer Urban Land & Infrastructure Ltd. v. Union of India (SC)**

- *Principle: Homebuyers are financial creditors.*
- Their inclusion in CoC is constitutionally valid.

### 8. **Committee of Creditors of Amtek Auto Ltd. v. Dinkar T. Venkatasubramanian (SC)**

- *Principle: Strict adherence to IBC timelines.*
- Courts should not grant equity-based extensions.

## 2021: Judicial Restraint Reinforced

### **9. Jaypee Kensington Boulevard Apartments Welfare Assn. v. NBCC (India) Ltd. (SC)**

- *Principle:* Courts cannot rewrite resolution plans.
- Commercial wisdom prevails even in complex real estate cases.

### **10. Laxmi Pat Surana v. Union Bank of India (SC)**

- *Principle:* CIRP can be initiated against **corporate guarantor** even if borrower is not a corporate person.

## 2022 : Resolution Finality

### **11. Ebix Singapore Pvt. Ltd. v. Committee of Creditors of Educomp (SC)**

- *Principle:* Resolution plan, once approved by CoC, **cannot be withdrawn or modified.**
- Emphasised **certainty and finality** in CIRP.

## 2023–2024 : Liquidation & Asset Sale Focus

### 12. Gujarat Urja Vikas Nigam Ltd. v. Amit Gupta (SC)

- *Principle*: NCLT has jurisdiction over **termination of essential contracts** during CIRP if it impacts going concern.

### 13. Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat (SC)

- *Principle*: **Government dues do not override secured creditors** under IBC waterfall (Section 53).

## 2025: Speculative vs. Genuine Homebuyers

speculative vs. genuine homebuyers (*Mansi Brar Fernandes*), enforcing strict timelines for CIRP leading to liquidation if missed (*Kalyani Transco*), and clarifying mandatory CCI approval for resolution plans (*AGI Greenpac*). Other key rulings covered IBC's supremacy over customs laws, the limits of the moratorium period in personal insolvency, and ensuring liquidation assets are properly distributed.

## FINAL TAKEAWAY

- The Insolvency and Bankruptcy Code (IBC), 2016, consolidates India's fragmented insolvency laws into a *single framework* for companies, partnerships, and individuals, prioritizing timely resolution over liquidation;
- Enacted to *address delays and low recovery* rates in prior systems;
- It promotes *business revival* through *time-bound processes and*
- It promotes *creditor control*.