IMPACT OF THE INSOLVENCY AND BANKRUPTCY CODE ON THE INSOLVENCY RESOLUTION LANDSCAPE IN INDIA

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ABSTRACT

In the economy, corporate entities at times, or rather not so infrequently, fail and those whose money is invested in such entities are at the receiving end as they seldom are able to salvage what they had invested. Insolvency resolution is the process which tries to recover what best is possible in such circumstances, while also trying to avoid any sudden death of the enterprise. Before the enactment of the IBC, 2016, there was no comprehensive framework of the insolvency and bankruptcy law in India. The introduction of the Code has led to a substantial impact on the issue of resolution of such problems. However, as the courts are called upon to clarify various issues which arise in the implementation of the Code, one can see that the process has to keep on evolving to deal with the myriad variations of the problem. This is what has been studied and analysed in this paper.

1. INTRODUCTION

1.1. Preface:

Insolvency is the state of a legal person being unable to pay back its debts when partly or fully due. Insolvency can be due to the debtor's cash flow situation, or due to his stressed balance sheet. The inability to liquidate his assets and repay the creditors renders the debtor insolvent. This might further lead to bankruptcy, which is a legal declaration of the inability of the debtor to pay his debts.

Insolvency resolution is the process by which efforts are made to revive the debtor entity such that it becomes solvent in a specified time-frame. If this is not deemed possible, then the assets of the debtor are liquidated and the proceeds are distributed to the creditors in a specified ratio in accordance with the procedure laid down.

Insolvency law is based on the principle cessio bonorum, i.e., the debtor surrenders his goods for the creditors' benefit in return for immunity from court process[1]. The purpose of

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insolvency laws is to provide a structure that would enable the person suffering from insolvency to pay off his debts in a way that would minimise damage and loss to assets. In the long run, the economic forces will then function to reallocate the resources from these insolvent persons to viable initiatives that would then send such assets into the economic cycle again, thereby making the economy an effective and efficient one.

Corporate insolvency law seeks to balance the interest of the public with that of the stakeholders, because there are many parties that have an interest in the continued existence of the corporations, and these interests are often conflicting. The assets of the corporations as well as the liabilities incurred thereby affect the public at large because, most often, the public financial institutions are the prominent and heavily impacted creditors in such cases.

Corporate insolvency is looked at from two perspectives, i.e. the traditionalist perspective, and the proceduralist perspective[2]. These two schools differ in their view on various aspects of insolvency and bankruptcy law, such as the role of the law in reorganising and rescuing insolvent businesses, the rights of various types of creditors inter se, and the role of judges in interpreting disputes regarding insolvency.

1.2. Research Problem:

To explore whether the introduction of the IBC, 2016 has actually led to an improvement in the insolvency and bankruptcy resolution in India and whether the institutions including the courts, that are called upon to deal with the issue, have acquitted themselves well on the issue.

1.3. Research Objectives:

- To discuss key concepts such as insolvency and its resolution.
- To analyse the legal position of such processes, before and after the enactment of the Insolvency and Bankruptcy Code, 2016.
- To highlight the changes made in the insolvency resolution process with the enactment of the Insolvency and Bankruptcy Code, 2016.
- To analyse the impact of the IBC on the insolvency resolution landscape in India.

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[1] Law Commission of India, 26th Report on Insolvency Laws (February, 1964)
[2] Medha Shekar and Anuradha Guru, "Theoretical Framework of Insolvency Law" *available at*: https://www.ibbi.gov.in/uploads/resources/158497d3735f154918648288e56dfebc.pdf (last visited on October 29, 2020)

1.4. Research Hypothesis:

It is hypothesised that the IBC has really transformed the insolvency resolution landscape of India as all the stakeholders in the process, including the judiciary, have put in their sincere effort in resolving any procedural issues that could spoil the execution of this landmark legislative initiative of the Central government.

1.5. Research Questions:

The following questions arise for our consideration:

1. Has the IBC had an overriding effect on other statutes in practice too?
2. Have the objectives laid out in the IBC been achieved, with respect to the time-frame for resolution of bad debts?
3. What is the change brought about by the IBC in the inter se precedence of various types of creditors, so as to achieve the end result?

1.6. Research Design:

Nature of research: Doctrinal.

Method of data collection: Perusal of judicial decisions and reports of the Law Commission of India.

2. INSOLVENCY AND BANKRUPTCY LAW IN INDIA

2.1. History:

In India, insolvency law was first felt necessary during the period when the British carried on their trade in the presidency-towns of Calcutta, Bombay and Madras. Thus, the law of insolvency owes its origin to English law, under the common law system. In contrast, bankruptcy law was a creature of statute, and not arising from the common law[3].

The Insolvent Debtors, East Indies Act of 1828 was the first insolvency legislation in India, by way of which insolvency courts were established in presidency-towns. In 1848, the Indian Insolvency Act was passed. The courts established by the Act of 1828 for the relief of insolvent debtors were continued. As societal conditions changed, the Act of 1848 was felt to

[3] *Id.* at 1

be inadequate, but it remained in force till the Presidency-towns Insolvency Act was enacted in 1909. The latter, as well as the Provincial Insolvency Act, 1920 also contained provisions related to insolvency and bankruptcy of individuals.

Post-independence, the Law Commission of India submitted its twenty-sixth report on insolvency laws in February, 1964, wherein it recommended changes in the existing insolvency resolution framework. Before the enactment of the IBC, 2016, there was no single law in India, dealing with insolvency and bankruptcy comprehensively.

The Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debt Due to Banks and Financial Institutions Act, 1993, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) and the Companies Act, 2013 were some of the statutes wherein existed provisions relating to insolvency and bankruptcy of companies. They provided for creation of multiple fora, such as the Board of Industrial and Financial Reconstruction (BIFR), Debts Recovery Tribunal (DRT) and National Company Law Tribunal (NCLT) and their respective Appellate Tribunals. For liquidation, the power to adjudicate was with the High Courts.

It was the inadequacy and inefficiency presented by the existing framework, along with the undue delay in resolving insolvency matters, which necessitated the enactment of a new statute consolidating the insolvency laws[4].

2.2. Insolvency and Bankruptcy Code, 2016 (IBC):

The IBC is an Act to consolidate and amend the laws relating to reorganisation and insolvency resolution in a time-bound manner for the maximisation of the value of assets of such persons. The Preamble of IBC gives an insight into what is sought to be achieved by the Code. The IBC was enacted to achieve the following objectives[5]:

1. To provide for an effective legal framework for the timely resolution of insolvency and bankruptcy of corporate persons and individuals, so as to support the development of credit markets and encourage entrepreneurship.

2. To improve the Ease of Doing Business, and facilitate more investments, thereby leading to higher economic growth and development.

[4] The Insolvency and Bankruptcy Code, 2016 (Act 31 of 2016), Statement of Objects and Reasons
[5] *Ibid*.

3. To designate the NCLT and the DRT as the adjudicating authorities for the resolution of insolvency, liquidation and bankruptcy of corporate persons and individuals, respectively.

4. To separate the commercial aspects of insolvency and bankruptcy proceedings from the judicial aspects thereof.

5. To establish the IBBI for the regulation of insolvency professionals, insolvency professional agencies, and information utilities.

6. To establish the Insolvency and Bankruptcy Fund of India.

Ultimately, the interests of all stakeholders are looked after as the corporate debtor itself becomes a beneficiary of the resolution scheme – workers are paid, the creditors in the long run will be repaid in full, and shareholders/investors are able to maximize their investment. Timely resolution of a corporate debtor who is in the red, by an effective legal framework, would go a long way to support the development of credit markets. Since more investment can be made with funds that have come back into the economy, business then eases up, which leads, overall, to higher economic growth and development of the Indian economy.

The Preamble does not, in any manner, refer to liquidation, which is only availed of as a last resort if there is either no resolution plan or the resolution plans submitted are not up to the mark. Even in liquidation, the liquidator can sell the business of the corporate debtor as a going concern[6].

In *Binani Industries Ltd. v. Bank of Baroda & Anr.*[7], it was emphatically held by NCLAT that the objective of the IBC is resolution. The purpose of resolution is maximisation of value of assets of the 'corporate debtor' and thereby for all creditors. It is not maximisation of value for a 'stakeholder' or 'a set of stakeholders' such as creditors, and to promote entrepreneurship, availability of credit and balance the interests. The first order objective is "resolution". The second order objective is "maximisation of value of assets of the corporate debtor" and the third order objective is "promoting entrepreneurship, availability of credit and balancing the interests". This order of objectives is sacrosanct.

In the matter of *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*[8], the Supreme Court observed that "the 'corporate debtor' consists of several employees and workmen whose

[6] *Swiss Ribbons Pvt. Ltd. v. UOI*, (2019) 4 SCC 17
[7] 2018 SCC OnLine NCLAT 521
[8] (2019) 2 SCC 1

daily bread is dependent on the outcome of the corporate insolvency resolution process (CIRP). If there is a resolution applicant who can continue to run the corporate debtor as a going concern, every effort must be made to try and see that this is made possible".

In 2021, the Code was amended to provide for an alternate insolvency resolution process for micro, small, and medium enterprises (MSMEs). Termed as the pre-packaged insolvency resolution process (PIRP), it may be initiated only by debtors, unlike CIRP.

3. JUDICIAL PRONOUNCEMENTS

The following judicial pronouncements and their observations are relevant:

1. *M/s Innoventive Industries Ltd. v. ICICI Bank & Anr.*[9]:

The IBC is an exhaustive code on the subject-matter of insolvency, enacted by the Parliament under Entry 9 of List III of the Seventh Schedule, with the objective of providing a framework for expeditious and time-bound insolvency resolution. Thus, it has primacy over state enactments, in the instant case the Maharashtra Relief Undertakings (Special Provisions Act), 1958. It is repugnant to the IBC, which shall hence prevail over it.

2. *Leo Edibles & Fats Ltd. v. The Tax Recovery Officer (Central), Income Tax Department, Hyderabad & Ors.*[10]:

Tax dues, being an input to the Consolidated Fund of India and of the states, come within the ambit of S. 53(1)(e) and are in the nature of unsecured dues. The Income Tax Department must necessarily submit its claim to the liquidator for consideration as and when the distribution of assets is taken up. The priority in the distribution of assets cannot be disturbed, merely because the order of attachment by the Income Tax Department was long before the initiation of liquidation proceedings under the IBC. Even if the order of attachment constitutes an encumbrance on the property, it is not taken out of the purview of S. 36(3)(b), and the said order cannot hinder a sale under the liquidation proceedings.

3. *Principal Commissioner of Income Tax v. Monnet Ispat And Energy Ltd.*[11]:

[9] (2018) 1 SCC 407
[10] 2018 SCC OnLine Hyd 193
[11] (2018) 18 SCC 786

From S. 238 it is obvious that the Code overrides anything inconsistent therewith in other provisions. This includes the Income Tax Act. Thus, any sovereign dues cannot take precedence over secured creditors.

4. *Binani Industries Ltd. v. Bank of Baroda & Anr.*[12]:

Resolution plans are complex financial structures requiring analysis by commercial minds for the maximisation of the value of assets. They are not the same as a sale or auction where only monetary value is of essence. Interests of all stakeholders must be balanced and, while making the resolution plan, if any discrimination against a stakeholder or set of stakeholders is seen, the plan is contrary to the provisions of the Code.

5. *Kitply Industries Ltd. v. Assistant Commissioner of Income Tax (TDS) & Anr.*[13]:

S. 14(1)(a) prohibits suits or other proceedings of a judicial or quasi-judicial nature against the corporate debtor, when the insolvency resolution process commences. Freezing of the corporate debtor's bank accounts is a proceeding of a quasi-judicial nature and is thus illegal, owing to the prohibition under S. 14(1)(a).

6. *Swiss Ribbons Pvt. Ltd. & Anr. v. UOI & Ors.*[14]:

The classification of creditors as financial and operational creditors under the IBC is valid, and not against Article 14 of the Constitution, since equality is only among equals. There is no fault with the policy that a person who is unable to service his own debt beyond the grace period of one year is ineligible to become a resolution applicant. The Court should feel more inclined to give judicial deference to legislative judgement in the field of economic regulation than in other areas where fundamental human rights are involved.

7. *Principal Director General of Income Tax (Admn. & TPS) v. M/s Synergies Dooray Automotive Ltd. & Ors.*[15]:

'Operational debt' under S. 5(21) of the IBC includes statutory dues such as income tax, sales tax, value added tax, etc. and thus statutory authorities claiming the same are operational creditors of the corporate debtor.

[12] CA (AT) (Ins.) 82/2018 & Ors.
[13] 2018 SCC OnLine NCLT 4164
[14] (2019) 4 SCC 17
[15] CA (AT) (Ins.) No. 205 of 2017 and connected matters

8. *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta & Ors.*[16]:

A successful resolution applicant cannot suddenly be faced with 'undecided' claims after the resolution plan submitted by him has been accepted, because this will lead to uncertainty in the amounts payable by him. All claims must be submitted to and decided by the resolution professional so that the prospective resolution applicant is fully aware of what must be paid in order for it to take over and run the business of the corporate debtor.

9. *Aircel Limited, In Vijaykumar V. Iyer v. UOI & Dishnet Wireless Limited, In Vijaykumar V. Iyer v. UOI*[17]:

For a resolution applicant to be interested in the business of the corporate debtor, the latter must hold a license, which would be its only valuable asset. Thus, the license or spectrum is sine qua non for getting a good resolution plan, and should not be cancelled.

10. *T. R. Ravichandran, RP (For Kiran Global Chem Ltd.) v. The Asst. Commissioner (ST) Kilpauk Assessment Circle & 12 Ors.*[18]:

Being an operational creditor, tax authorities are free to make their claims before the resolution professional, instead of insisting upon him to pay the pre-admission dues before accepting tax liabilities arising during the CIRP period.

11. *JSW Steel Ltd. v. Mahender Kumar Khandelwal & Ors.*[19]:

From S. 32A(1) and (2) of the IBC, it is clear that the Directorate of Enforcement and other investigating agencies do not have the powers to attach the assets of the corporate debtor once the resolution plan is approved, and any criminal investigations against the corporate debtor stand abated. S. 32A does not distinguish between those resolution plans that have been approved and those that are yet to be approved, and the benefit of the section is not only for such resolution plans that are yet to be approved. Moreover, the intent and purpose of the section is to provide certainty to the resolution applicant that the proposed assets would be available to him as offered at the time of submission of his bid.

12. *Rajendra K. Bhutta v. Maharashtra Housing and Area Development Authority & Anr.*[20]:

[16] (2020) 8 SCC 531
[17] 2019 SCC OnLine NCLT 751
[18] MA 1298/2019 in IBA/130/2019
[19] CA (AT) (Ins.) No. 957/2019 & Ors.

A question arose as to the interpretation of S. 14(1)(d) of the IBC, when it was alleged that property belonging to a creditor can be taken possession of when the corporate debtor has gone into CIRP. The Supreme Court held that the instant section does not refer to the rights or interests in the property, but refers to the actual physical occupation of the property. Thus, any property that is in the possession of the corporate debtor cannot be taken possession of once the CIRP has been initiated and, in any clash of statutes, the IBC prevails.

13. *Tata Steel BSL Limited & Anr. v. UOI & Anr.*[21]:

Once the CIRP commences, the corporate debtor cannot be tried for any offence committed prior to such commencement, because S. 32A of the IBC discharges the corporate debtor from such action. However, this does not affect the prosecution of any erstwhile promoters or any officers who may be responsible for committing the offence.

14. *Ultra Tech Nathdwara Cement Ltd. v. UOI & Ors.*[22]:

Any fresh demand notice issued to the corporate debtor after the implementation of the resolution plan would be illegal and arbitrary.

15. *Om Prakash Agarwal v. Tax Recovery Officers 4 & Anr.*[23]:

The monies of the corporate debtor lying in bank accounts shall be construed to be its assets. Hence, even if an attachment order is passed against the same by the Income Tax Department, the bank must defreeze the accounts. S. 178 of the Income Tax Act, 1961 has been amended to allow the IBC to have an overriding effect, and thus the contention that money attached by the Income Tax Department is no longer an asset of the corporate debtor must fail.

16. *State of Haryana v. Uttam Strips Ltd.*[24]:

An approved resolution plan is binding on all stakeholders and they must abide by its terms. Moreover, a successful resolution applicant cannot be burdened by past liabilities, as that would make it impossible to run the business. Thus, if a creditor fails to file a claim before the resolution professional, such dues cannot later be claimed from the resolution applicant.

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[20] 2020 SCC OnLine SC 292
[21] W.P. (Crl.) 3037/2019
[22] 2020 SCC OnLine Raj 1097
[23] Item No. 301, IA-992/2020 in CP/294/2018
[24] CA (AT) (Ins.) No. 319/2020

17. *Vidarbha Industries Power Ltd. v. Axis Bank Ltd.*[25]:

S. 7(5)(a) of the IBC, which empowered the Adjudicating Authority (NCLT) to admit an application, if it is satisfied that a default has occurred, and the application is complete, and there is no disciplinary proceeding against the proposed Resolution Professional. If any of these conditions are not satisfied, NCLT may reject such application, after giving the applicant opportunity to rectify the defeat.

The Court held that S. 7(5)(a) contains the word 'may' in respect of an application for CIRP initiated by a financial creditor against a corporate debtor, in contrast to the expression 'shall' in S. 9(5) which relates to the initiation of CIRP by an operational creditor, but is otherwise identical. This conscious differentiation by the legislature shows the innate difference between financial creditors, in the business of investment and financing, and operational creditors in the business of supply of goods and services. The discretionary power of the NCLT under S. 7(5)(a) cannot be exercised arbitrarily or capriciously.

18. *Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd. & Ors.*[26]:

The Court discussed Section 53 of the IBC, which contains the 'waterfall mechanism' with respect to the order of distribution of assets. As per the legislative scheme, secured creditors who have relinquished security rank higher in priority than secured creditors who have not relinquished security. This shift in the procedure takes a nuanced approach, which shows that the provisions of IBC involve much consideration; if the secured creditors choose to relinquish security at the outset of the liquidation process, its dues rank high. Choosing not to relinquish security interest, and seeking to enforce it, means the secured creditor has to stand lower in priority and await distribution of assets, by the liquidator, upon the realisation of the liquidation estate. Thus, the IBC gives various options to secured creditors, and balances their interests with those of other creditors in a liquidation proceeding.

4. FINDINGS

Based on the research, it is found that the IBC has impacted the insolvency resolution landscape in various ways, as follows:

[25] CA No. 4633 of 2021
[26] 2023 INSC 625

1. Eleven legislations were amended; listed in Part V of the Code from Ss. 245–255. These include the Indian Partnership Act, 1932, the Central Excise Act, 1944, Customs Act, 1962, Income-Tax Act, 1961, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, the Finance Act, 1994, the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, the Sick Industrial Companies (Special Provisions) Repeal Act, 2003, the Payment and Settlement Systems Act, 2007, the Limited Liability Partnership Act, 2008, and the Companies Act, 2013. Their manner of amendment is specified in Schedules I to XI of the Code.

2. The amendment of the Companies Act, 2013 led to a change in the provisions that govern voluntary winding up of companies. The Code now deals with the same.

3. The Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920 stand repealed.

4. The Code enjoys primacy over any law wherein provisions inconsistent with the former exist. This is evident from S. 238 of the Code, which provides that the provisions of the Code are to override other laws, as well as various judgments to the same effect.

5. Government dues are ordinarily recognised as operational debts under the Code, with the government being an operational creditor. The government or its agencies can be a financial creditor, in the event that the nature of the debt is such that it is a financial debt.

6. The rights and duties of various types of creditors are secured, with there being a waterfall system in the payment of debts. The priority in distribution of assets is not to be disturbed.

7. All claims by creditors must be submitted in a timely manner. Any claim entertained after the approval of a resolution plan would defeat the objective of the IBC, by discouraging prospective resolution applicants from submitting resolution plans.

8. During the period of moratorium, institution or continuation of suits or other proceedings against the corporate debtor are prohibited. Moreover, successful resolution applicants are protected from being liable for any offence committed by the

corporate debtor prior to the commencement of the CIRP, if the resolution plan has resulted in the change in the management or control of the corporate debtor by an unrelated person. Similarly, no action can be taken against the property, in order to protect the bona fide resolution applicant. However, persons responsible for any misconduct or offence prior to the commencement of the CIRP will continue to be liable in their individual capacity.

9. Goods and services which are critical for keeping the corporate debtor as a going concern are prohibited from being discontinued, suspended, or terminated during the period of moratorium, subject to the condition that there is no default of payment of current dues arising from usage or continuation of such goods and services during the moratorium period.

10. Money of the corporate debtor lying in bank accounts is treated as an asset and cannot be attached. When any property is occupied by or in possession of the corporate debtor, its recovery by an owner or lessor is prohibited by the IBC.

11. In the World Bank report of 2015, it was observed that, while insolvency resolution took one year in the United Kingdom and 1.5 years in the United States on an average, in India the same took 4.3 years. Delay in court proceedings and the lack of clarity when it came to the resolution framework were some of the reasons why insolvency resolution took so long. After the enactment of the IBC, the time taken in corporate insolvency resolution has been reduced to 1.6 years[27].

12. The NCLT had approved resolution plans for 94 stressed assets by March 2019, the value of which was accounted at Rs. 1.75 lakh crores. Of this amount, 43% had already been recovered, totalling to Rs. 0.75 lakh crores. India's ranking on Resolving Insolvency Index has improved from 108 in 2018 to 52 in 2019[28].

13. Till March 2023, 678 corporate debtors were rescued through resolution plans, 1/3rd of which were in deep distress when they were admitted to CIRP. The conclusion of

[27] Ministry of Corporate Affairs, Year End Review–2019, *available at*: https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1596523 (last modified on December 15, 2019)
[28] *Ibid.*

the process took an average of 512 days. 2030 corporate debtors were referred for liquidation, which took 456 days on an average for conclusion.[29]

14. India's ranking in ease of doing business was 130 in 2016[30], and moved to 67 in 2020[31] (before it was discontinued as of September 2021). One of the major factors which led to this change was the IBC, since it provided for an effective framework to deal with insolvency resolution, thereby making India a more attractive investment destination for foreign investors. This was reiterated in the Economic Survey 2022-23 on the enhancement of the ease of doing business. The efficiency and effectiveness of the Code is further improved by new initiatives for resolution of stress under the Code.

15. Faster insolvency resolution has also led to a renewed interest in the financial sector, like mergers and acquisitions and private equity deals, which further deepen the financial strength of the country.

16. The IBC has also led to interest of bidders to acquire stressed assets in particular industries, such as steel, infrastructure and power. For instance, in 2018, one of the largest acquisitions was of Bhushan Steel by TATA Steel. Similarly, Essar Steel was acquired in December 2019 by ArcelorMittal.

17. Many non-performing assets have also been addressed due to the introduction of the IBC, which leads to betterment in the asset quality of banks. This promotes new investments and again leads to economic growth.

18. Identification of insolvency and initiation of the resolution process has also improved drastically, with the earlier mechanisms being replaced by an effective and a quicker one.

19. The introduction of the IBC has also led to better financial discipline among corporate borrowers, as now they are aware that their corporate entities would be snatched away from them in case of financial inefficiency or misconduct.

20. The rights of the creditors have also been recognised in a better way under the IBC. The creditor, whether financial or operational, has been empowered to initiate a

[29] IBBI, Annual Report 2022-23 (March, 2023).
[30] Doing Business 2016: Measuring Regulatory Quality and Efficiency (October, 2015)
[31] Doing Business 2020 (October, 2019)

resolution proceeding in the event of the corporate debtor hurtling towards insolvency.

21. The facilitation of the insolvency process has also led to invocation of the same by operational as well as other creditors for measly dues, that too in some cases against giant companies (including even government companies, which cannot become insolvent unless the government itself goes bankrupt). This has led to demands for restricting such attempts so that entities which are otherwise quite solvent are not harassed by petty creditors who intend to use the IBC merely as a means of recovery.

22. As of May 2024, it is reported that India has witnessed around 43% year-on-year jump in the successful resolution of cases under the IBC, with the number of outputs increasing from the number of inputs, and a reduction in the pendency of cases in the NCLT benches across the country.[32]

5. CONCLUSION

The IBC has made a significant impact on the insolvency resolution landscape in India. Its provisions have also been clarified time and again in various decisions so as to make the process smoother.

From the action taken in the cases recommended by the RBI, we can see that the IBC has been effective in resolving cases of bad debts and has led to releasing the money for circulation in the economy in the larger interest of the society, as intended by the IBC.

Under the previous Acts, the frameworks envisioned did not allow much for the possibility of protecting the insolvent person (corporate or otherwise). Projects were also made unviable due to the low recovery rate from such processes.

The resolution process has now attained a greater economic dimension than a judicial one, which was one of the objectives of the IBC. Better access to credit will create greater economic dynamism by increasing competition.

[32] India witnesses 43% surge in successful insolvency resolutions, pendency declines in FY24, *available at*: https://www.thehindubusinessline.com/economy/india-witnesses-43-surge-in-successful-insolvency-resolutions-pendency-declines-in-fy24/article68140014.ece (last modified on May 04, 2024)

While there is still scope for improvement in the IBC and its procedures, it is believed that the effort already undertaken has invigorated the area of insolvency resolution and further improvements are destined to happen as and when any hurdles are encountered.

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