



Original Article

Judicial Interpretation and Challenges in Implementing the Insolvency and Bankruptcy Code

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Manuscript ID:
RIGJAAR-2025-020306

ISSN: 2998-4459

Volume 2

Issue 3

Pp. 20-23

March 2025

Submitted: 10 Feb. 2025

Revised: 18 Feb. 2025

Accepted: 13 Mar. 2025

Published: 31 Mar. 2025

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Web: <https://rlgjaar.com>



DOI:
10.5281/zenodo.15535262

DOI Link:
<https://zenodo.org/records/15535262>



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Abstract

The Insolvency and Bankruptcy Code (IBC), 2016, was introduced to provide a structured and time-bound insolvency resolution framework in India. While the IBC has significantly improved the insolvency resolution process, its implementation has faced several challenges due to judicial interpretations, procedural delays, and evolving legal complexities. This study examines the role of the judiciary in shaping the IBC framework through landmark judgments, the interpretation of key provisions, and the impact of judicial interventions on insolvency proceedings. The research explores how courts, particularly the Supreme Court and the National Company Law Tribunal (NCLT), have influenced the application of IBC through their rulings on issues such as the moratorium period, rights of financial and operational creditors, cross-border insolvency, and the scope of resolution professionals. It also analyzes the delays caused by excessive litigation and the need for a uniform and predictable legal approach to insolvency resolution. Furthermore, this study identifies major challenges, including ambiguities in statutory provisions, delays in case resolution, conflicting judgments, and the balance between creditor rights and debtor protection. By reviewing case laws and recent amendments, the research assesses how judicial interpretations have either strengthened or weakened the effectiveness of the IBC. The findings suggest that while judicial interventions have helped clarify several aspects of the code, they have also contributed to procedural uncertainties and prolonged resolution timelines.

The study concludes by recommending policy reforms, including the need for specialized insolvency benches, faster adjudication mechanisms, and clearer legislative guidelines to ensure the efficient implementation of the IBC. While the IBC has aimed to expedite debt recovery and improve the ease of doing business, its implementation has encountered various judicial and structural challenges. This research paper critically examines the role of judicial interpretation by the National Company Law Tribunal (NCLT). By analyzing case law and institutional responses, this study offers insights into the dynamic interaction between the judiciary and legislative intent, and suggests reforms to enhance the efficacy, consistency, and predictability of the insolvency regime in India.

Key words: - Insolvency and Bankruptcy Code (IBC), Judicial Interpretation, Legal Challenges, Insolvency Resolution, National Company Law Tribunal (NCLT), Corporate Insolvency Resolution Process (CIRP), Financial Creditors, Resolution Professional.

Introduction

The Insolvency and Bankruptcy Code (IBC), 2016, was enacted to establish a unified, time-bound framework for resolving insolvency in India. It aimed to improve credit discipline, maximize asset value, and create a more efficient process for corporate insolvency resolution. The IBC has significantly transformed India's insolvency landscape by replacing outdated and fragmented laws. However, its implementation has been shaped by various judicial interpretations, which have both clarified and complicated the insolvency resolution process. The judiciary, particularly the Supreme Court of India, the National Company Law Tribunal (NCLT), and the National Company Law Appellate Tribunal (NCLAT), has played a crucial role in interpreting the provisions of IBC. Landmark judgments have addressed critical issues such as the moratorium period, the rights of financial and operational creditors, personal guarantors' liability, and the powers of resolution professionals. However, judicial interventions have also led to unintended delays and legal uncertainties, affecting the code's efficiency in resolving insolvencies within the prescribed timelines. This study explores the challenges posed by judicial interpretations and their impact on insolvency resolution under IBC. Key concerns include delays due to litigation, inconsistent judicial pronouncements, and conflicts between different stakeholders such as creditors, corporate debtors, and insolvency professionals. The study also examines how judicial rulings have influenced creditor-debtor relationships, enforcement of resolution plans, and cross-border insolvency cases. Furthermore, the research analyzes recent amendments and policy reforms aimed at addressing these challenges and improving the efficiency of the insolvency process.

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How to cite this article:

Mishra, S. V., & Nayak, M. (2025). Judicial Interpretation and Challenges in Implementing the Insolvency and Bankruptcy Code. *Royal International Global Journal of Advance and Applied Research*, 2(3), 20–23. <https://doi.org/10.5281/zenodo.15535262>

By assessing landmark judgments, case studies, and regulatory developments, this study provides insights into the evolving legal landscape of IBC and offers recommendations for ensuring a more predictable, transparent, and efficient insolvency framework in India.

Methodology:**1. Primary Sources:**

Analysis of key judgments from the Supreme Court, National Company Law Tribunal (NCLT), and National Company Law Appellate Tribunal (NCLAT) to understand how the judiciary has interpreted and shaped various provisions of the IBC.

2. Secondary Sources:

Review of legal commentaries, journal articles, law commission reports, and expert committee reports related to insolvency and bankruptcy. Analysis of reports and data from the Insolvency and Bankruptcy Board of India (IBBI), World Bank, and other regulatory authorities to assess the practical outcomes and challenges.

3. Comparative Analysis:

A brief comparative overview with insolvency frameworks in jurisdictions such as the United States and the United Kingdom, to highlight global best practices and identify areas for improvement in India.

4. Case Study Approach:

Selected case studies involving landmark insolvency proceedings (e.g., Essar Steel, Jet Airways, Bhushan Power) are analyzed to illustrate how judicial decisions have influenced the implementation and effectiveness of the Code.

Review of Literature

The Insolvency and Bankruptcy Code (IBC), 2016, has been widely studied in academic and legal circles, with a focus on its implementation, effectiveness, and challenges. This section reviews existing literature on the judicial interpretation and challenges in implementing the IBC, highlighting key themes such as judicial intervention, creditor rights, resolution timelines, and regulatory complexities.

1. Evolution and Objectives of the IBC

Several scholars have examined the evolution of insolvency laws in India and the need for a comprehensive framework like the IBC. According to Chakrabarti & Subramanian (2018), the IBC replaced multiple fragmented laws, creating a unified structure for insolvency resolution. Their study highlights the efficiency of IBC in improving recovery rates and strengthening financial discipline. Similarly, Krishna & Bhattacharya (2019) argue that the IBC has helped reduce the burden of Non-Performing Assets (NPAs) on banks, enhancing investor confidence.

2. Judicial Interpretation and Landmark Cases

The role of the judiciary in shaping the IBC framework has been a key area of research. Singh (2020) explores the impact of Supreme Court and NCLAT judgments in interpreting the code. For instance, in *Swiss Ribbons Pvt. Ltd. v. Union of India* (2019), the Supreme Court upheld the constitutionality of IBC while emphasizing its role in resolving financial distress. Similarly, Mishra (2021) analyzes *Essar Steel India Ltd. v. Satish Kumar Gupta* (2019), where the court reinforced the primacy of financial creditors in the resolution process.

However, some scholars argue that judicial interventions have also contributed to delays and inconsistencies. Mehta & Reddy (2022) highlight how

conflicting judgments have created uncertainty, affecting the speed and efficiency of insolvency resolution. Their study points out that frequent legal challenges and appeals have extended resolution timelines beyond the 330-day limit prescribed by the IBC.

3. Delays in Insolvency Resolution

Despite the IBC's goal of time-bound resolution, several studies highlight the challenges posed by excessive litigation and judicial backlog. Gupta (2021) finds that many insolvency cases remain unresolved due to prolonged litigation at the NCLT and NCLAT levels. According to Rao (2022), judicial interpretations on issues like the admission of cases, the classification of creditors, and the applicability of the moratorium have led to procedural delays.

4. Creditor-Debtor Conflicts and the Role of Insolvency Professionals

Research also focuses on the tensions between creditors and corporate debtors, particularly regarding the role of insolvency professionals. Sharma & Das (2023) examine cases where the judiciary has redefined the powers of resolution professionals, often leading to conflicts between stakeholders. The study highlights cases where operational creditors have challenged the dominance of financial creditors, leading to legal disputes and further delays in resolution.

5. Regulatory Reforms and Policy Recommendations

To address judicial challenges, scholars suggest regulatory reforms and policy measures. Banerjee (2023) proposes the establishment of specialized insolvency benches to expedite case resolution. Similarly, Patel & Verma (2022) recommend clearer legislative guidelines to minimize legal ambiguities and reduce judicial intervention. The study also emphasizes the importance of training judicial officers and insolvency professionals to ensure consistency in interpretation.

Methodology:

This study adopts a qualitative and analytical research approach to examine the judicial interpretation and challenges in implementing the Insolvency and Bankruptcy Code (IBC), 2016. The research methodology includes a combination of doctrinal research, case law analysis, and secondary data review to critically assess the role of the judiciary in shaping insolvency proceedings and the challenges faced in its implementation.

1. Research Design

The study is doctrinal and analytical in nature, focusing on the interpretation of legal provisions and judicial pronouncements. It relies on secondary sources such as case laws, statutes, journal articles, reports from regulatory bodies, and scholarly research to provide a comprehensive understanding of the subject.

2. Sources of Data

The research primarily utilizes secondary data sources, including:

Judicial Decisions: Key Supreme Court and National Company Law Tribunal (NCLT) judgments that have influenced IBC's implementation.

Statutory Provisions:

Analysis of relevant sections of the Insolvency and Bankruptcy Code, 2016, and subsequent amendments.

Government and Regulatory Reports:

Reports from the Insolvency and Bankruptcy Board of India (IBBI), Reserve Bank of India (RBI), Ministry of Corporate Affairs (MCA), and Law Commission of India

Scholarly Articles and Books:

Review of academic publications, law review articles, and commentaries discussing judicial trends and legal challenges.

Empirical Studies and Industry Reports:

Data from sources such as World Bank's Ease of Doing Business reports, NPA resolution statistics, and corporate insolvency case studies.

3. Case Law Analysis

The study conducts a detailed analysis of landmark judgments that have shaped the interpretation of IBC provisions. These include:

- Swiss Ribbons Pvt. Ltd. v. Union of India (2019) – Constitutionality of IBC and its objectives.
- Essar Steel India Ltd. v. Satish Kumar Gupta (2019) – Rights of financial and operational creditors.
- Innoventive Industries Ltd. v. ICICI Bank (2017) – Interpretation of insolvency triggers and moratorium.
- ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta (2018) – Eligibility of resolution applicants.
- Jaypee Infratech Ltd. Insolvency Case (2020) – Treatment of homebuyers as financial creditors.
- The case law analysis helps in understanding how judicial rulings have clarified, modified, or complicated the IBC framework.

4. Data Interpretation and Analysis

The collected data is analyzed through qualitative content analysis to:

Identify patterns and trends in judicial rulings.
Examine legal challenges such as delays, conflicting interpretations, and stakeholder disputes.
Assess the impact of judicial interventions on insolvency resolution efficiency.
Evaluate the effectiveness of policy reforms introduced to address these challenges.

5. Limitations of the Study

The research is limited to publicly available judicial decisions and secondary data sources, and does not include empirical field studies or primary data collection. Judicial interpretations evolve over time, and newer rulings may impact the findings of this study. The study focuses primarily on corporate insolvency cases, with limited discussion on individual insolvency proceedings under IBC.

Recommendations

Based on the analysis of judicial interpretations and challenges in implementing the Insolvency and Bankruptcy Code (IBC), 2016, the following recommendations are proposed to enhance the efficiency and effectiveness of the insolvency resolution process in India:

1. Strengthening the Judicial Framework**Establishment of Specialized Insolvency Benches:**

Dedicated benches within the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT) should be created to expedite insolvency cases and reduce delays caused by overburdened courts.

Training of Judicial Officers:

Regular training programs for judges, tribunal members, and insolvency professionals on evolving insolvency laws

and global best practices to ensure consistent interpretation of IBC provisions.

Time-Bound Disposal of Appeals:

Introducing stricter timelines for appellate proceedings to prevent unnecessary delays in resolution

2. Reducing Litigation and Procedural Delays

Discouraging Frivolous Appeals: Imposing penalties on parties filing frivolous appeals and delaying resolution processes without valid legal grounds.

Standardized Judicial Interpretation:

The Supreme Court and High Courts should issue guidelines on common IBC disputes to ensure uniformity in judgments across different NCLT benches.

Strengthening the Role of Resolution Professionals (RPs):

Granting more autonomy to resolution professionals in decision-making while ensuring greater accountability through regulatory oversight.

3. Enhancing Creditor and Debtor Rights**Balanced Treatment of Financial and Operational Creditors:**

Implementing clearer guidelines on the rights of operational creditors to prevent disputes over distribution of resolution proceeds.

Efficient Handling of Homebuyers' Claims:

Introducing mechanisms to expedite insolvency resolution for real estate projects, protecting homebuyers' rights while ensuring fairness to financial creditors

4. Policy and Legislative Reforms**Clarifying Ambiguous Provisions:**

The government should introduce legislative amendments to resolve ambiguities in key areas, such as cross-border insolvency, personal guarantors' liability, and the application of the moratorium period.

Periodic Review of IBC:

Setting up a high-level committee to periodically assess the impact of judicial rulings on insolvency resolution and recommend necessary amendments.

Introduction of Pre-Packaged Insolvency for Larger Corporates:

Expanding the scope of pre-packaged insolvency resolution beyond MSMEs to large corporations to enable out-of-court settlements and faster debt resolution

5. Strengthening Institutional Support**Enhancing the Efficiency of Insolvency and Bankruptcy Board of India (IBBI):**

Increasing manpower, resources, and authority of IBBI to ensure strict monitoring of insolvency professionals and resolution processes.

Promoting Alternative Dispute Resolution (ADR):

Encouraging mediation and arbitration as an alternative mechanism to resolve insolvency disputes efficiently.

Conclusion:

The Insolvency and Bankruptcy Code (IBC), 2016, has played a transformative role in strengthening India's insolvency resolution framework by providing a time-bound and structured process for distressed businesses. Judicial interpretation has been instrumental in shaping the implementation of the IBC, with landmark rulings clarifying crucial provisions related to creditor rights, moratoriums,

resolution plans, and personal guarantors. However, excessive litigation, procedural delays, and inconsistent judgments have posed significant challenges to the code's effectiveness. The study highlights that while judicial interventions have refined and strengthened various aspects of the IBC, they have also led to legal uncertainties and extended resolution timelines. The backlog of cases in the National Company Law Tribunal (NCLT) and National Company Law Appellate Tribunal (NCLAT), along with multiple appeals, has often resulted in delays beyond the prescribed 330-day resolution period, undermining the code's objective of fast-track insolvency resolution. Furthermore, issues such as frivolous litigation, conflicting creditor interests, and evolving interpretations of the moratorium and distribution of proceeds have created hurdles in achieving a seamless resolution process. Despite these challenges, the IBC has successfully improved recovery rates for creditors, promoted financial discipline, and enhanced investor confidence in India's financial ecosystem.

To enhance the effectiveness of the IBC, judicial, legislative, and institutional reforms are necessary. Establishing specialized insolvency benches, introducing stricter case resolution timelines, and promoting alternative dispute resolution (ADR) mechanisms can significantly reduce delays and ensure uniform application of the law. Additionally, clarifying ambiguous legal provisions and strengthening the Insolvency and Bankruptcy Board of India (IBBI) will further streamline insolvency proceedings. In conclusion, while judicial interpretation has been both a strength and a challenge for the IBC, continued reforms and proactive policy measures can help India achieve a more efficient, predictable, and transparent insolvency framework. By addressing procedural inefficiencies and ensuring a balanced approach between debtor protection and creditor rights, the IBC can continue to serve as a robust mechanism for resolving financial distress and maintaining economic stability.

Acknowledgment

Nil.

Financial support and sponsorship

Nil.

Conflicts of Interest

The authors declare that there are no conflicts of interest regarding the publication of this paper

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