

CHAPTER

21

INSOLVENCY

Covering-

- Concept of Insolvency, Bankruptcy and Liquidation
- Historical developments of insolvency laws in India
- The insolvency and bankruptcy code, 2016 – Introduction
- Structure/ framework of the code
- Pillars of insolvency and bankruptcy code, 2016 / scheme of the code
- Advance Your Knowledge

**EXPECTED
MARKS COVERAGE
(1 to 5)**

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

INSOLVENCY

CONCEPT OF INSOLVENCY, BANKRUPTCY AND LIQUIDATION

The word “bankruptcy” is widely believed to have originated from an Italian phrase “bancarotta”- “banca” means bench and “rotta” means broken

The words “**INSOLVENCY**” AND “**BANKRUPTCY**” are generally used *interchangeably* in common parlance but there is a marked distinction between the two. **Insolvency and bankruptcy are not synonymous.**

The term “**insolvency**” notes the state of one whose assets are insufficient to pay his debts; or his general inability to pay his debts. The term “insolvency” is used in a restricted sense to express the inability of a party to pay his debts as they become due in the ordinary course of business.

The word “**bankruptcy**” the condition of insolvency. It is a legal status of a person or an entity who cannot repay debts to creditors. The bankruptcy process **begins with filing of a petition** in a court or before an appropriate authority designated for this purpose. The debtor’s assets are then evaluated and used to pay the creditors in accordance with law.

Therefore, while **insolvency is the inability** of debtors to repay their debts,

the **bankruptcy**, on the other hand, is a **formal declaration of insolvency** in accordance with law of the land.

Insolvency describes a situation where the debtor is unable to meet his/her obligations and **bankruptcy** occurs when a court determines insolvency, and **gives legal orders** for it to be resolved.

Thus **insolvency is a state** and **bankruptcy is the conclusion**.

CONCLUSION AFTER INSOLVENCY

The term insolvency is used for individuals as well as organisations/ corporates.

If *insolvency is not resolved*,

it leads to **bankruptcy in case of individuals** and

liquidation in case of corporates.

BANKRUPTCY-DEFINITION

Section 79(4) of the Insolvency and Bankruptcy Code, 2016 defines the term “**bankruptcy**” as the state of being bankrupt.

According to Section 79(3) of the Code, “**bankrupt**” means

(a) a **debtor** who has been adjudged as bankrupt by a bankruptcy order under section 126;

(b) each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm; or

(c) any person adjudged as an **undischarged insolvent**.

LIQUIDATION, on the other hand, in its general sense, means closure or winding up of an corporation or an incorporated entity through legal process on account of its inability to meet its obligations or to pay its debts.

In order to clear the indebtedness, the **assets are sold at the most reasonable rates** by a competent liquidator appointed in this regard.

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

INSOLVENCY - CAUSES

Other than cases of outright fraud,

the **debtor may be insolvent because of**

- **Financial failure** - a persistent mismatch between payments by the enterprise and receivables into the enterprise, even though the business model is generating revenues, or
- **Business failure** - which is a breakdown in the business model of the enterprise, and it is unable to generate sufficient revenues to meet payments. Often, an enterprise may be a successful business model while still failing to repay its creditors.

HISTORICAL DEVELOPMENTS OF INSOLVENCY LAWS IN INDIA

The law of Insolvency in India owes its **origin to English law**. India being a colony of the United Kingdom, **followed the English insolvency system**.

Before the enactment of the Insolvency and Bankruptcy Code, 2016, the provisions relating to insolvency and bankruptcy were fragmented and **there was no single law** to deal with insolvency and bankruptcy in India.

Before the enactment of the Insolvency and Bankruptcy Code, 2016 **the following Acts dealt with insolvency and Bankruptcy in India**

(a) The Presidency Towns Insolvency Act, 1909
(b) Provisional Insolvency Act, 1920
(c) Indian Partnership Act, 1932
(d) The Companies Act, 1956
(e) The Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)
(f) The Recovery of Debts due to Banks and Financial Institutions Act, 1993 (RDDBFI Act)
(g) The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFESI Act, 2002)
(h) The Companies Act, 2013

Under the **Constitution of India** 'Bankruptcy & Insolvency' is provided in **Entry 9 of List III** (Concurrent List) in the Seventh Schedule to the Constitution. Hence **both the Centre and State Governments** are authorised to make laws on the subject.

THE INSOLVENCY AND BANKRUPTCY CODE, 2016 – INTRODUCTION

The Insolvency and Bankruptcy Code, 2016 extends to the **whole of India**. However, Part III of the Code does not extend to the State of Jammu and Kashmir.

Section 2 of the Insolvency and Bankruptcy Code, 2016 as amended vide the **Insolvency and Bankruptcy Code (Amendment) Act, 2018** provides that the provisions of the Code shall apply to –

- | |
|--|
| (a) any company incorporated under the Companies Act, 2013 or under any previous company law, |
| (b) any other company governed by any special Act for the time being in force, |
| (c) any Limited Liability Partnership incorporated under the Limited Liability Partnership Act, 2008, |
| (d) such other body incorporated under any law for the time being in force, as the Central Government may, by notification , specify in this behalf, |
| (e) personal guarantors to corporate debtors, |

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

(f) partnership firms and proprietorship firms; and
(g) individuals , other than persons referred to in clause
(h) <i>in relation to</i> their insolvency, liquidation, voluntary liquidation or bankruptcy , as the case may be.

KEY OBJECTIVES OF THE INSOLVENCY AND BANKRUPTCY CODE, 2016

The **objects clause** of the Insolvency and Bankruptcy Code lays down the following key objectives:

1. To consolidate and amend the laws relating to reorganisation and insolvency resolution of corporate persons, partnership firms and individuals
2. To provide for a time bound insolvency resolution mechanism
3. To ensure maximisation of value of assets ,
4. To promote entrepreneurship ,
5. To increase availability of credit
6. To balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and
7. To establish an Insolvency and Bankruptcy Board of India as a regulatory body
8. To provide procedure for connected and incidental matters.

STRUCTURE/ FRAMEWORK OF THE CODE

The code is divided into following five parts & eleven Schedules:

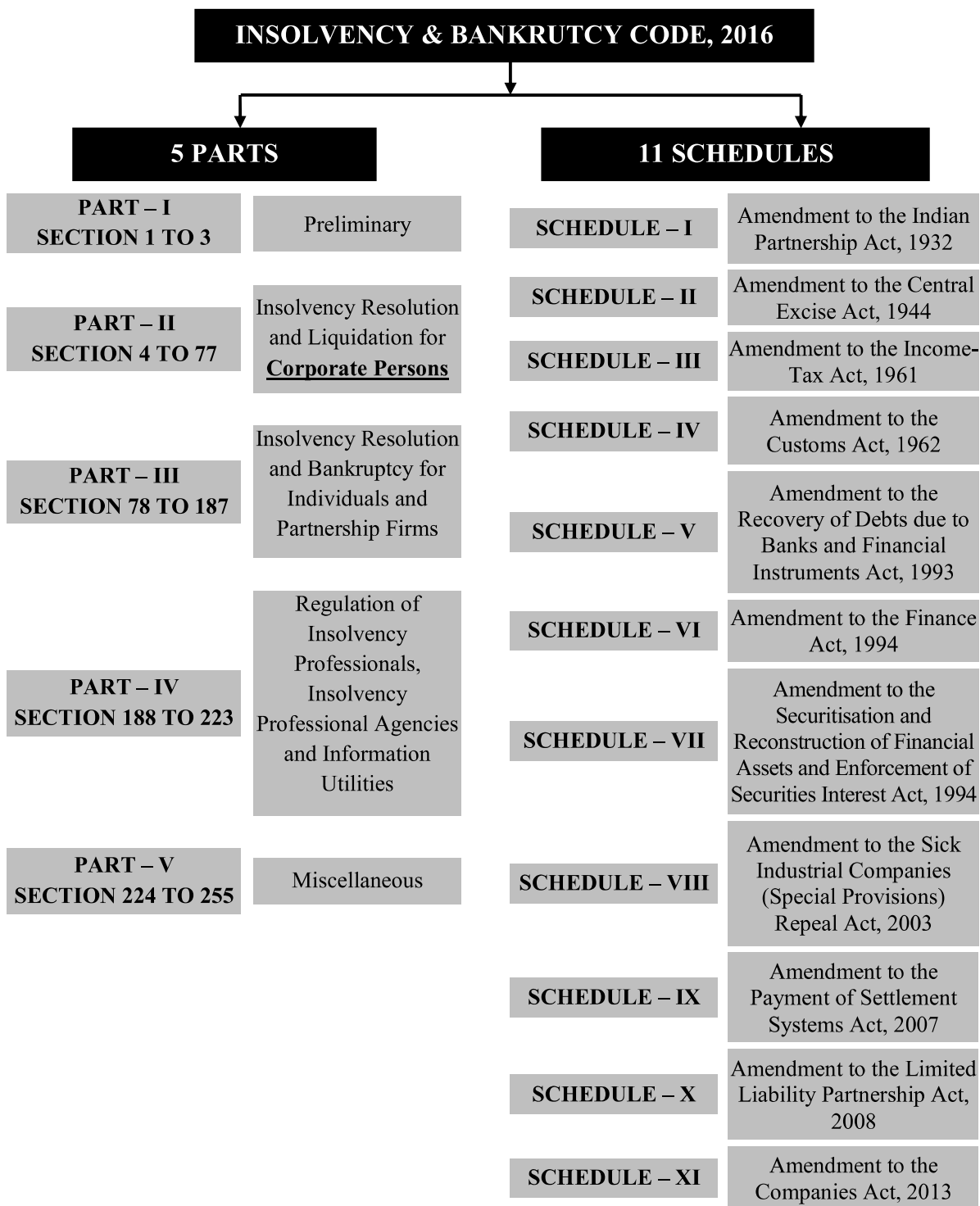
Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures



Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

PILLARS OF INSOLVENCY AND BANKRUPTCY CODE, 2016 / **SCHEME OF THE CODE**

1. INSOLVENCY AND BANKRUPTCY BOARD OF INDIA ('IBBI' OR 'BOARD')

The Code provides for establishment of the **Insolvency and Bankruptcy Board of India** (Board) by the Central Government. This Board is a body corporate, having perpetual succession, common seal, can enter into contracts, can sue or be sued and can hold property in its own name. The head office of the Insolvency and Bankruptcy Board of India has been set up in New Delhi.

COMPOSITION OF BOARD

The Board shall consist of the following members, who shall be appointed by the Central Government:

- | |
|--|
| 1. Chairperson |
| 2. Three members amongst the officers of the Central Government not below the rank of Joint Secretary or equivalent, one of each to represent the <u>Ministry of Finance, the Ministry of Corporate Affairs and Ministry of Law, <i>ex officio</i>.</u> |
| 3. One member nominated by the <u>Reserve Bank of India, <i>ex officio</i></u> |
| 4. Five other members to be nominated by the Central Government, out of which three shall be the whole-time members . |

QUALIFICATION

The Chairperson and the other members shall be **persons of ability, integrity and standing**, who have shown capacity in dealing with problems relating to insolvency or bankruptcy and have special knowledge and experience in the field of law, finance, economics, accountancy or administration.

The Board has been established on 1st October, 2016. **CS Madhusudan Sahoo** has been appointed as the **first Chairperson of IBBI**.

REMOVAL OF MEMBER FROM OFFICE

Section 190 empowers the Central Government to remove a member from office if he –

- | |
|--|
| (a) is an undischarged bankrupt as defined under Part III; |
| (b) has become physically or mentally incapable of acting as a member; |
| (c) has been convicted of an offence , which in the opinion of the Central Government involves moral turpitude ; |
| (d) has, so abused his position as to render his continuation in office detrimental to the public interest. |

Section 190 mandates that no member shall be removed under **clause (d)** unless he has been given a **reasonable opportunity of being heard in the matter**.

POWERS OF THE BOARD

The Board has the **same powers as are vested in a civil court** under the **Code of Civil Procedure, 1908**, while trying a suit, in respect of the following matters, namely:—

- | |
|---|
| (i) The discovery and production of books of account and other documents, at such place and such time as may be specified by the Board; |
| (ii) Summoning and enforcing the attendance of persons and examining them on oath; |
| (iii) Inspection of any books, registers and other documents of any person at any place; |
| (iv) Issuing of commissions for the examination of witnesses or documents. |

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

Function/ ROLE OF THE BOARD

1. Regulating all matters related to insolvency and bankruptcy process.
2. Register insolvency professional agencies, insolvency professionals and information utilities and renew, withdraw, suspend or cancel such registrations.
3. Promote the development of, and regulate , the working and practices of, insolvency professionals, insolvency professional agencies and information utilities and other institutions, in furtherance of the purposes of this Code.
4. Setting out eligibility requirements of insolvency intermediaries i.e., Insolvency Professionals, Insolvency Professional Agencies and Information Utilities.
5. Regulating entry, registration and exit of insolvency intermediaries.
6. Making model bye laws for Insolvency Professional Agencies.
7. Setting out regulatory standards for Insolvency Professionals.
8. Specifying the manners in which Information Utilities can collect and store data.

MODEL BYE-LAWS

Code further provides that the Board may make model bye-laws to be to adopted by **insolvency professional agencies which** may provide for:

(a) The minimum standards of professional competence of the members of insolvency professional agencies.
(b) The standards for professional and ethical conduct of the members of insolvency professional agencies.
(c) Requirements for enrolment of persons as members of insolvency professional agencies which shall be non-discriminatory.
(d) The manner of granting membership .
(e) Setting up of a governing board for internal governance and management of insolvency professional agency in accordance with the regulations specified by the Board.
(f) The information required to be submitted by members including the form and the time for submitting such information.
(g) The specific classes of persons to whom services shall be provided at concessional rates or for no remuneration by members.
(h) The grounds on which penalties may be levied upon the members of insolvency professional agencies and the manner thereof.

2. INSOLVENCY PROFESSIONAL AGENCY ('AGENCIES')

The Code provides for establishment of Insolvency Professional Agencies (Agencies).

Such Agencies shall be required to register with the Board and **obtain a certificate of registration** to be able to carry on its activity as an Agency

IBBI (Insolvency Professional Agency) Regulations, 2016 make provision for registration of Insolvency Professional Agency.

There can be more than one such Agencies registered with the Board.

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

FEATURES

(i) Agency should be incorporated as Section 8 Company .
(ii) It should have minimum net worth of Rupees Ten Crores and Paid-up Capital of Rupees Five Crores .
(iii) It should not be a subsidiary of company .
(iv) The Board shall specify model bye laws regulating such Agencies. Model Bye-Laws of Insolvency Professional Agency and provisions relating to Governing Board of Insolvency.
(v) Professional Agency has been specified in IBBI (Model Bye-Laws and Governing Board of Insolvency Professional Agency) Regulations, 2016 .

At present the following few Insolvency Professional Agencies are registered under section 8 of the Companies Act, 2013 and registered with Insolvency and Bankruptcy Board of India.

1. ICSI Institute of Insolvency Professionals .
2. Insolvency Professional Agency of Institute of Cost Accountants of India.
3. Indian Institute of Insolvency Professionals of ICAI.

FUNCTIONS

The Agencies shall have the following functions:

(a) Grant membership to persons, as Insolvency Professional, who fulfill all requirements or suspend or cancel membership;
(b) Lay down standards of professional conduct for its members and monitor their performance;
(c) Safeguard the rights, interests and privileges of insolvency professionals; and
(d) Redress consumer grievances.

3. INSOLVENCY PROFESSIONALS

Section 3(19) provides that '**Insolvency Professional**' means a person

enrolled under Section 206 of Insolvency Code, 2016 with an <u>Insolvency Professional agency</u> as its member and
registered with the <u>Board (IBBI)</u> as an insolvency professional under Section 207 of Insolvency Code, 2016.

The Insolvency and Bankruptcy Code, 2016 envisages a **very big role for insolvency professionals**. It is envisaged that **most of work relating to insolvency and bankruptcy** will be handled by Insolvency professionals. **First-tier control** over Insolvency Professionals will be of Insolvency Professional Agency. **Final control** will be of Board (IBBI).

Code of Conduct for Insolvency Professionals has been prescribed in First Schedule to IBBI (Insolvency Professionals) Regulations, 2016.

ENROLMENT AND REGISTRATION OF INSOLVENCY PROFESSIONALS

Section 206 lays down that **no person shall render his services as insolvency professional** under this Code without being **enrolled as a member** of an insolvency professional agency and **registered with the Board**.

Section 207(1) further lays down that every insolvency professional shall, **after obtaining the membership of any insolvency professional agency, register himself** with the Board within such time, in such manner and on payment of such fee, as may be specified by regulations.

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

FUNCTIONS OF INSOLVENCY PROFESSIONALS

Section 208(1) of the Code provides that where any insolvency resolution, fresh start, liquidation or bankruptcy process has been initiated, it shall be the function of an insolvency professional to take such actions as may be necessary, in the following matters, namely:—

- | |
|--|
| (a) a fresh start order process under Chapter II of Part III; |
| (b) individual insolvency resolution process under Chapter III of Part III; |
| (c) corporate insolvency resolution process under Chapter II of Part II; |
| (d) individual bankruptcy process under Chapter IV of Part III; and |
| (e) liquidation of a corporate debtor firm under Chapter III of Part II. |

CODE OF CONDUCT:—

Section 208(2) mandates that **every insolvency professional shall abide** by the following code of conduct:—

- | |
|---|
| (a) To take reasonable care and diligence while performing his duties. |
| (b) To comply with all requirements and terms and conditions specified in the bye laws of the Insolvency professional agency of which he is a member. |
| (c) To allow the insolvency professional agency to inspect his records . |
| (d) To submit a copy of the records of every proceedings before the <u>adjudicating authority</u> to the board as well as to the Insolvency professional agency of which he is a member. |
| (e) To perform his function in such manner and subject to such conditions as may be prescribed. |

Therefore, The Code provides for **insolvency professionals as intermediaries** who would play a key role in efficient working of the bankruptcy process. The Code contemplates **insolvency professionals as a class of regulated but private professionals** having minimum standards of professional and ethical conduct.

4. INFORMATION UTILITY

Section 3(19) provides that '**Information Utility**' means a person who is registered with the IBBI as an Information Utility under Section 210 of the Code.

The Information Utility shall provide services as may be specified by IBBI. Information Utility will collect, collates, authenticate and disseminate financial information to be used in insolvency, liquidation and bankruptcy proceedings.

With all information required in decision making being available with the Information Utility and accessible by the stakeholders, **either on a need basis or in public domain**, in effect creates a level playing field and remove all information asymmetry.

OBLIGATIONS OF INFORMATION UTILITY

- | |
|--|
| (a) <u>Collect, collate, authenticate and disseminate</u> financial information of debtors in a universally accessible format with in a centralised electronic databases. |
| (b) <u>Get the information received</u> from various persons authenticated by all concerned parties before storing such information. |
| (c) <u>Provide access to the financial information</u> stored by it to any person who intends to access such information. |
| (d) Have the ability to operate with other information utilities |

The Insolvency and Bankruptcy Board of India has framed the **IBBI (Information Utilities) Regulations, 2017**

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

WHO CAN BE INFORMATION UTILITY- ELIGIBILITY FOR REGISTRATION

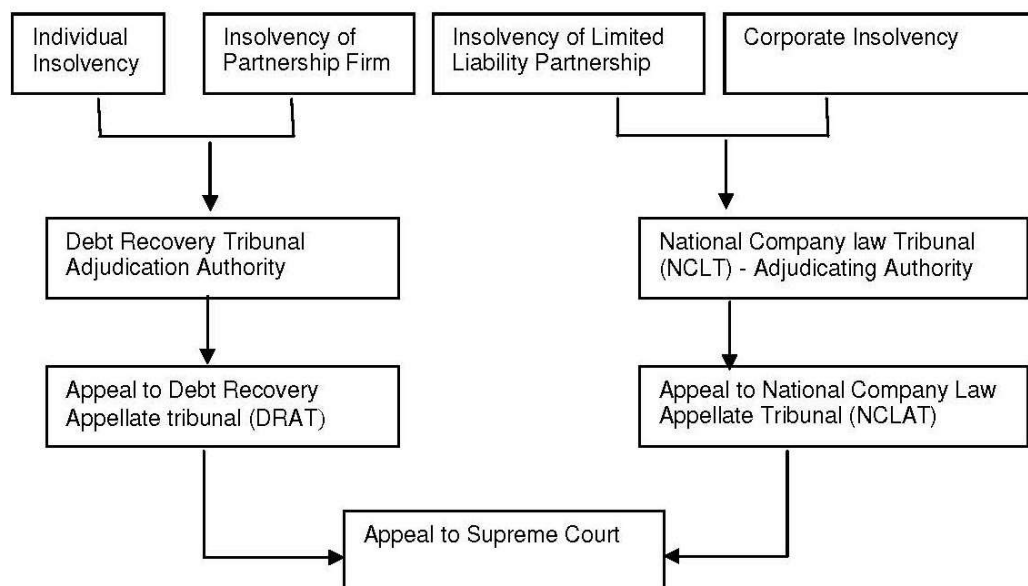
No person shall be eligible to be registered as an information utility **unless it is a public company** and

- | |
|---|
| (a) its sole object is to provide core services and other services under these Regulations , and discharge such functions as may be necessary for providing these services; |
| (b) its shareholding and governance is in accordance with Chapter III; |
| (c) its bye-laws are in accordance with Chapter IV; |
| (d) it has a minimum net worth of fifty crore rupees ; |
| (e) the person itself, its promoters, its directors, its key managerial personnel, and persons holding more than 5%, directly or indirectly, of its paid-up equity share capital or its total voting power, are fit and proper persons : |

5. ADJUDICATING AUTHORITIES

The code provides for the following adjudicating authorities:

- | |
|---|
| a. Debt Recovery Tribunal (DRT) dealing with insolvency and bankruptcy of <u>individuals and partnership firms</u> . Appeal from orders of DRT shall lie with the Debt Recovery Appellate Tribunal (DRAT); |
| b. NCLT dealing with insolvency, bankruptcy, winding up of <u>companies, LLP, corporate debtors</u> . Appeals from orders of NCLT lie with the NCLAT; |
| c. Appeals from orders of the Board pertaining to <u>Insolvency Professional Agencies, Insolvency Professionals and Information Utilities</u> shall lie with the NCLAT . |



As per Section 63, **jurisdiction of Civil Courts has been barred**. However, **writ jurisdiction of High Court and Special Leave Petition (SLP) powers of Supreme Court**, granted under Constitution of India, remain unaffected.

Space for

CHART NO.

Live Lecture



Space for
Additional Writing
Live Lectures

DEFINITIONS IN SECTION 3 OF THE CODE

Section 3 states that unless the context otherwise requires,

1. “Board” means the Insolvency and Bankruptcy Board of India established under sub-section (1) of section 188 [Section 3(1)].
2. “Bench” means a bench of the Adjudicating Authority [Section 3(2)].
3. “Bye-laws” mean the bye-laws made by the insolvency professional agency under section 205 [Section 3(3)].
4. “Charge” means an interest or lien created on the property or assets of any person or any of its undertakings or both, as the case may be, as security and includes a mortgage [Section 3(4)].
5. “Claim” means –
 - (a) a right to payment, whether or not such right is reduced to judgment, fixed, disputed, undisputed, legal, equitable, secured or unsecured;
 - (b) right to remedy for breach of contract under any law for the time being in force, if such breach gives rise to a right to payment, whether or not such right is reduced to judgment, fixed, matured, unmatured, disputed, undisputed, secured or unsecured [Section 3(6)].
6. “Corporate Person” means a company as defined in clause (20) of section 2 of the Companies Act, 2013, a limited liability partnership, as defined in clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008, or any other person incorporated with limited liability under any law for the time being in force but shall not include any financial service provider [Section 3(7)].
7. “Corporate Debtor” means a corporate person who owes a debt to any person [Section 3(8)].
8. “Core Services” means services rendered by an information utility for – (a) accepting electronic submission of financial information in such form and manner as may be specified; (b) safe and accurate recording of financial information; (c) authenticating and verifying the financial information submitted by a person; and (d) providing access to information stored with the information utility to persons as may be specified [Section 3(9)].
9. “Creditor” means any person to whom a debt is owed and includes a financial creditor, an operational creditor, a secured creditor, an unsecured creditor and a decree holder [Section 3(10)].
10. “Debt” means a liability or obligation in respect of a claim which is due from any person and includes a financial debt and operational debt [Section 3(11)].
11. “Default” means non-payment of debt when whole or any part or instalment of the amount of debt has become due and payable and is not [paid] by the debtor or the corporate debtor, as the case may be [Section 3(12)].

Section 3(12) of the Code was amended by the **Insolvency and Bankruptcy Code (Second Amendment) Act, 2018**. The aforesaid amendment substituted the word “repaid” with the word “paid” in section.

12. “Financial Information”, in relation to a person, means one or more of the following categories of information, namely:–
 - (a) records of the debt of the person;
 - (b) records of liabilities when the person is solvent;
 - (c) records of assets of person over which security interest has been created;
 - (d) records, if any, of instances of default by the person against any debt;

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

- (e) records of the balance sheet and cash-flow statements of the person; and
 - (f) such other information as may be specified [Section 3(13)].
13. “Financial Institution” means –
- (a) a scheduled bank;
 - (b) financial institution as defined in section 45-I of the Reserve Bank of India Act, 1934;
 - (c) public financial institution as defined in clause (72) of section 2 of the Companies Act, 2013; and
 - (d) such other institution as the Central Government may by notification specify as a financial institution [Section 3(14)].
14. “Financial Product” means securities, contracts of insurance, deposits, credit arrangements including loans and advances by banks and financial institutions, retirement benefit plans, small savings instruments, foreign currency contracts other than contracts to exchange one currency (whether Indian or not) for another which are to be settled immediately, or any other instrument as may be prescribed [Section 3(15)].
15. “Financial Service” includes any of the following services, namely:–
- (a) accepting of deposits;
 - (b) safeguarding and administering assets consisting of financial products, belonging to another person, or agreeing to do so;
 - (c) effecting contracts of insurance;
 - (d) offering, managing or agreeing to manage assets consisting of financial products belonging to another person;
 - (e) rendering or agreeing, for consideration, to render advice on or soliciting for the purposes of –
 - (i) buying, selling, or subscribing to, a financial product;
 - (ii) availing a financial service; or
 - (iii) exercising any right associated with a financial product or financial service;
 - (f) establishing or operating an investment scheme;
 - (g) maintaining or transferring records of ownership of a financial product;
 - (h) underwriting the issuance or subscription of a financial product; or
 - (i) selling, providing, or issuing stored value or payment instruments or providing payment services [Section 3(16)].
16. “Financial Service Provider” means a person engaged in the business of providing financial services in terms of authorisation issued or registration granted by a financial sector regulator [Section 3(17)].
17. “Financial Sector Regulator” means an authority or body constituted under any law for the time being in force to regulate services or transactions of financial sector and includes the Reserve Bank of India, the Securities and Exchange Board of India, the Insurance Regulatory and Development Authority of India, the Pension Fund Regulatory Authority and such other regulatory authorities as may be notified by the Central Government [Section 3(18)].
18. “Insolvency Professional” means a person enrolled under section 206 with an insolvency profession agency as its member and registered with the Board as an insolvency professional under section 207 [Section 3(19)].
19. “Insolvency Professional Agency” means any person registered with the Board under section 201 as an insolvency professional agency [Section 3(20)].
20. “Information Utility” means a person who is registered with the Board as an information utility under section 210 [Section 3(21)].

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

21. "Person" includes –
 - (a) an individual;
 - (b) a Hindu Undivided Family;
 - (c) a company;
 - (d) a trust;
 - (e) a partnership;
 - (f) a limited liability partnership; and
 - (g) any other entity established under a statute, and includes a person resident outside India [Section 3(23)].
22. "Property" includes money, goods, actionable claims, land and every description of property situated in India or outside India and every description of interest including present or future or vested or contingent interest arising out of, or incidental to, property [Section 3(27)].
23. "Secured Creditor" means a creditor in favour of whom security interest is created [Section 3(30)].
24. "Security Interest" means right, title or interest or a claim to property, created in favour of, or provided for a secured creditor by a transaction which secures payment or performance of an obligation and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement securing payment or performance of any obligation of any person: Provided that security interest shall not include a performance guarantee; [Section 3(31)].
25. "Transaction" includes an agreement or arrangement in writing for the transfer of assets, or funds, goods or services, from or to the corporate debtor [Section 3(33)].
26. "Transfer" includes sale, purchase, exchange, mortgage, pledge, gift, loan or any other form of transfer of right, title, possession or lien [Section 3(34)].
27. "Transfer of Property" means transfer of any property and includes a transfer of any interest in the property and creation of any charge upon such property [Section 3(35)].

DEFINITIONS IN SECTION 5 OF THE CODE

Section 5 belongs to Part II of the Code which lays down procedure for insolvency resolution and liquidation to be followed in case of **corporate persons**. Section 5 states that unless the context otherwise requires:

1. **"Adjudicating Authority"**, for the purposes of Part II, means National Company Law Tribunal constituted under section 408 of the Companies Act, 2013 [Section 5(1)].
2. **"Constitutional Document"**, in relation to a corporate person, includes articles of association, memorandum of association of a company and incorporation document of a Limited Liability Partnership [Section 5(4)].
3. **"Corporate Applicant"** means –
 - (a) corporate debtor; or
 - (b) a member or partner of the corporate debtor who is authorised to make an application for the corporate insolvency resolution process under the constitutional document of the corporate debtor; or
 - (c) an individual who is in charge of managing the operations and resources of the corporate debtor; or
 - (d) a person who has the control and supervision over the financial affairs of the corporate debtor c.
4. "Corporate Guarantor" means a corporate person who is the surety in a contract of guarantee to a corporate debtor [Section 5(5A)]. "Corporate Guarantor" was not defined in the original Code. This definition was added by the **Insolvency and Bankruptcy Code (Second Amendment) Act, 2018**.

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

5. **“Dispute”** includes a suit or arbitration proceedings relating to – (a) the existence of the amount of debt; (b) the quality of goods or service; or (c) the breach of a representation or warranty [Section 5(6)].
6. **“Financial Creditor”** means any person to whom a financial debt is owed and includes a person to whom such debt has been legally assigned or transferred to [Section 5(7)].
7. **“Financial Debt”** means a debt along with interest, if any, which is disbursed against the consideration for the time value of money and includes –
 - (a) money borrowed against the payment of interest;
 - (b) any amount raised by acceptance under any acceptance credit facility or its de-materialised equivalent;
 - (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
 - (d) the amount of any liability in respect of any lease or hire purchase contract which is deemed as a finance or capital lease under the Indian Accounting Standards or such other accounting standards as may be prescribed;
 - (e) receivables sold or discounted other than any receivables sold on nonrecourse basis;
 - (f) any amount raised under any other transaction, including any forward sale or purchase agreement, having the commercial effect of a borrowing;

Explanation – For the purposes of this sub-clause,

- (i) any amount raised from an allottee under a real estate project shall be deemed to be an amount having the commercial effect of a borrowing; and
- (ii) the expressions, “allottee” and “real estate project” shall have the meanings respectively assigned to them in clauses (d) and (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016.

[The above Explanation to clause (f) of Section 5(8) was added vide the **Insolvency and Bankruptcy Code (Second Amendment) Act, 2018**.

- (g) any derivative transaction entered into in connection with protection against or benefit from fluctuation in any rate or price and for calculating the value of any derivative transaction, only the market value of such transaction shall be taken into account;
 - (h) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, documentary letter of credit or any other instrument issued by a bank or financial institution;
 - (i) the amount of any liability in respect of any of the guarantee or indemnity for any of the items referred to in sub-clauses (a) to (h) of this clause [Section 5(8)].
8. **“Financial Position”**, in relation to any person, means the financial information of a person as on a certain date [Section 5(9)].
9. **“Information Memorandum”** means a memorandum prepared by resolution professional under sub-section (1) of section 29 [Section 5(10)].
10. **“Initiation Date”** means the date on which a financial creditor, corporate applicant or operational creditor, as the case may be, makes an application to the Adjudicating Authority for initiating corporate insolvency resolution process [Section 5(11)].
11. **“Insolvency Commencement Date”** means the date of admission of an application for initiating corporate insolvency resolution process by the Adjudicating Authority under sections 7, 9 or section 10, as the case may be [Provided that where the interim resolution professional is not appointed in the order admitting application under section 7, 9 or 10, the insolvency commencement date shall be the date on which such interim resolution professional is appointed by the Adjudicating Authority] [Section 5(12)].[The above proviso was added vide the **Insolvency and Bankruptcy Code (Second Amendment) Act, 2018**.

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

12. **“Insolvency Resolution Process Costs”** means –
- (a) the amount of any interim finance and the costs incurred in raising such finance;
 - (b) the fees payable to any person acting as a resolution professional;
 - (c) any costs incurred by the resolution professional in running the business of the corporate debtor as a going concern;
 - (d) any costs incurred at the expense of the Government to facilitate the insolvency resolution process; and
 - (e) any other costs as may be specified by the Board [Section 5(13)].
13. **“Insolvency Resolution Process Period”** means the period of one hundred and eighty days beginning from the insolvency commencement date and ending on one hundred and eightieth day [Section 5(14)].
14. **“Interim Finance”** means any financial debt raised by the resolution professional during the insolvency resolution process period [Section 5(15)].
15. **“Liquidation Cost”** means any cost incurred by the liquidator during the period of liquidation subject to such regulations, as may be specified by the Board [Section 5(16)].
16. **“Liquidation Commencement Date”** means the date on which proceedings for liquidation commence in accordance with section 33 or section 59, as the case may be [Section 5(17)].
17. **“Liquidator”** means an insolvency professional appointed as a liquidator in accordance with the provisions of Chapter III or Chapter V of this Part, as the case may be [Section 5(18)].
18. **“Operational Creditor”** means a person to whom an operational debt is owed and includes any person to whom such debt has been legally assigned or transferred [Section 5(20)].
19. **“Operational Debt”** means a claim in respect of the provision of goods or services including employment or a debt in respect of the payment of dues arising under any law for the time being in force and payable to the Central Government, any State Government or any local authority [Section 5(21)].
- The **Insolvency and Bankruptcy Code (Second Amendment) Act, 2018** substituted the word “repayment” with “payment” in Section 5(21) of the Code.
20. **“Personal Guarantor”** means an individual who is the surety in a contract of guarantee to a corporate debtor [Section 5(22)].
21. **“Personnel”** includes the directors, managers, key managerial personnel, designated partners and employees, if any, of the corporate debtor [Section 5(23)].
22. **“Related Party”, in relation to a corporate debtor**, means –
- (a) a director or partner of the corporate debtor or a relative of a director or partner of the corporate debtor;
 - (b) a key managerial personnel of the corporate debtor or a relative of a key managerial personnel of the corporate debtor;
 - (c) a limited liability partnership or a partnership firm in which a director, partner, or manager of the corporate debtor or his relative is a partner;
 - (d) a private company in which a director, partner or manager of the corporate debtor is a director and holds along with his relatives, more than two per cent. of its share capital;
 - (e) a public company in which a director, partner or manager of the corporate debtor is a director and holds along with relatives, more than two per cent. of its paid-up share capital;
 - (f) anybody corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

- (g) any limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, acts on the advice, directions or instructions of a director, partner or manager of the corporate debtor;
- (h) any person on whose advice, directions or instructions, a director, partner or manager of the corporate debtor is accustomed to act;
- (i) a body corporate which is a holding, subsidiary or an associate company of the corporate debtor, or a subsidiary of a holding company to which the corporate debtor is a subsidiary;
- (j) any person who controls more than twenty per cent. of voting rights in the corporate debtor on account of ownership or a voting agreement;
- (k) any person in whom the corporate debtor controls more than twenty per cent. of voting rights on account of ownership or a voting agreement;
- (l) any person who can control the composition of the board of directors or corresponding governing body of the corporate debtor;
- (m) any person who is associated with the corporate debtor on account of –
 - (i) participation in policy making processes of the corporate debtor; or
 - (ii) having more than two directors in common between the corporate debtor and such person; or
 - (iii) interchange of managerial personnel between the corporate debtor and such person; or
 - (iv) provision of essential technical information to, or from, the corporate debtor [Section 5(24)].

23. “Related Party”, in relation to an individual, means –

- (a) a person who is a relative of the individual or a relative of the spouse of the individual;
- (b) a partner of a limited liability partnership, or a limited liability partnership or a partnership firm, in which the individual is a partner;
- (c) a person who is a trustee of a trust in which the beneficiary of the trust includes the individual, or the terms of the trust confers a power on the trustee which may be exercised for the benefit of the individual;
- (d) a private company in which the individual is a director and holds along with his relatives, more than two per cent. of its share capital;
- (e) a public company in which the individual is a director and holds along with relatives, more than two per cent. of its paid-up share capital;
- (f) a body corporate whose board of directors, managing director or manager, in the ordinary course of business, acts on the advice, directions or instructions of the individual;
- (g) a limited liability partnership or a partnership firm whose partners or employees in the ordinary course of business, act on the advice, directions or instructions of the individual;
- (h) a person on whose advice, directions or instructions, the individual is accustomed to act;
- (i) a company, where the individual or the individual along with its related party, own more than fifty per cent. of the share capital of the company or controls the appointment of the board of directors of the company.

Explanation. For the purposes of this clause, –

- (i) “relative”, with reference to any person, means anyone who is related to another, in the following manner, namely: –
 - (i) members of a Hindu Undivided Family,
 - (ii) husband,
 - (iii) wife,
 - (iv) father,
 - (v) mother,
 - (vi) son,
 - (vii) daughter,

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

- (viii) son's daughter and son,
- (ix) daughter's daughter and son,
- (x) grandson's daughter and son,
- (xi) granddaughter's daughter and son,
- (xii) brother,
- (xiii) sister,
- (xiv) brother's son and daughter,
- (xv) sister's son and daughter,
- (xvi) father's father and mother,
- (xvii) mother's father and mother,
- (xviii) father's brother and sister,
- (xix) mother's brother and sister; and

(ii) wherever the relation is that of a son, daughter, sister or brother, their spouses shall also be included **[Section 5(24A) added by the Insolvency and Bankruptcy Code (Second Amendment) Act, 2018]**.

24. **"Resolution Applicant"** means a person, who individually or jointly with any other person, submits a resolution plan to the resolution professional pursuant to the invitation made under clause (h) of sub-section (2) of section 25 [Section 5(25)]. The above definition of "Resolution applicant" was provided by **the Insolvency and Bankruptcy Code (Amendment) Act, 2018**. Originally, the definition of "resolution Applicant" was as follows: "Resolution Applicant" means any person who submits a resolution plan to the resolution professional.
25. **"Resolution Plan"** means a plan proposed by **resolution applicant** for insolvency resolution of the corporate debtor as a going concern in accordance with Part II [Section 5(26)].
26. **"Resolution Professional"**, for the purposes of this Part, means an insolvency professional appointed to conduct the corporate insolvency resolution process and includes an interim resolution professional [Section 5(27)].
27. **"Voting Share"** means the share of the voting rights of a single financial creditor in the committee of creditors which is based on the proportion of the financial debt owed to such financial creditor in relation to the financial debt owed by the corporate debtor [Section 5(28)].

DEFINITIONS IN SECTION 79 OF THE CODE

Section 79 belongs to Part III of the Code which lays down procedure for insolvency resolution and bankruptcy for **individuals and partnership firms**. Section 79 states that unless the context otherwise requires:

- (1) **"Adjudicating Authority"** means the Debt Recovery Tribunal constituted under sub-section (1) of section 3 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 [Section 79(1)].
- (2) **"Associate"** of the debtor means –
- (a) a person who belongs to the immediate family of the debtor;
 - (b) a person who is a relative of the debtor or a relative of the spouse of the debtor;
 - (c) a person who is in partnership with the debtor;
 - (d) a person who is a spouse or a relative of any person with whom the debtor is in partnership;
 - (e) a person who is employer of the debtor or employee of the debtor;
 - (f) a person who is a trustee of a trust in which the beneficiaries of the trust include a debtor, or the terms of the trust confer a power on the trustee which may be exercised for the benefit of the debtor; and

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

- (g) a company, where the debtor or the debtor along with his associates, own more than fifty per cent. of the share capital of the company or control the appointment of the board of directors of the company.

Explanation – For the purposes of this sub-section, “relative”, with reference to any person, means anyone who is related to another, if –

- (i) they are members of a Hindu Undivided Family;
(ii) one person is related to the other in such manner as may be prescribed [Section 79(2)].

(3) **“Bankrupt”** means –

- (a) a debtor who has been adjudged as bankrupt by a bankruptcy order under section 126; (b) each of the partners of a firm, where a bankruptcy order under section 126 has been made against a firm; or (c) any person adjudged as an undischarged insolvent [Section 79(3)].

(4) **“Bankruptcy”** means the state of being bankrupt [Section 79(4)].

(5) **“Bankruptcy Debt”**, in relation to a bankrupt, means – (a) any debt owed by him as on the bankruptcy commencement date; (b) any debt for which he may become liable after bankruptcy commencement date but before his discharge by reason of any transaction entered into before the bankruptcy commencement date; and (c) any interest which is a part of the debt under section 171 [Section 79(5)].

(6) **“Bankruptcy Commencement Date”** means the date on which a bankruptcy order is passed by the Adjudicating Authority under section 126 [Section 79(6)].

(7) **“Bankruptcy Order”** means an order passed by an Adjudicating Authority under section 126 [Section 79(7)].

(8) **“Bankruptcy Process”** means a process against a debtor under Chapters IV and V of this Part [Section 79(8)].

(9) **“Bankruptcy Trustee”** means the insolvency professional appointed as a trustee for the estate of the bankrupt under section 125 [Section 79(9)].

(10) **“Committee of Creditors”** means a committee constituted under section 134; [Section 79(11)].

(11) **“Debtor”** includes a judgment-debtor [Section 79(12)].

(12) **“Discharge Order”** means an order passed by the Adjudicating Authority discharging the debtor under sections 92, 119 and section 138, as the case may be [Section 79(13)].

(13) **“Excluded Assets”** for the purposes of this part includes – (a) unencumbered tools, books, vehicles and other equipment as are necessary to the debtor or bankrupt for his personal use or for the purpose of his employment, business or vocation, (b) unencumbered furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of the bankrupt and his immediate family; (c) any unencumbered personal ornaments of such value, as may be prescribed, of the debtor or his immediate family which cannot be parted with, in accordance with religious usage; (d) any unencumbered life insurance policy or pension plan taken in the name of debtor or his immediate family; and (e) an unencumbered single dwelling unit owned by the debtor of such value as may be prescribed [Section 79(14)].

(14) **“Excluded Debt”** means – (a) liability to pay fine imposed by a court or tribunal; (b) liability to pay damages for negligence, nuisance or breach of a statutory, contractual or other legal obligation; (c) liability to pay maintenance to any person under any law for the time being in force; (d) liability in relation to a student loan; and (e) any other debt as may be prescribed [Section 79(15)].

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

- (15) **“Firm”** means a body of individuals carrying on business in partnership whether or not registered under section 59 of the Indian Partnership Act, 1932 [Section 79(16)].
- (16) **“Immediate Family”** of the debtor means his spouse, dependent children and dependent parents [Section 79(17)].
- (17) **“Partnership Debt”** means a debt for which all the partners in a firm are jointly liable [Section 79(18)].
- (18) **“Qualifying Debt”** means amount due, which includes interest or any other sum due in respect of the amounts owed under any contract, by the debtor for a liquidated sum either immediately or at certain future time and does not include– (a) an excluded debt; (b) a debt to the extent it is secured; and (c) any debt which has been incurred three months prior to the date of the application for fresh start process [Section 79(19)].
- (19) **“Repayment Plan”** means a plan prepared by the debtor in consultation with the resolution professional under section 105 containing a proposal to the committee of creditors for restructuring of his debts or affairs [Section 79(20)].
- (20) **“Resolution Professional”** means an insolvency professional appointed under this part as a resolution professional for conducting the fresh start process or insolvency resolution process [Section 79(21)].
- (21) **“Undischarged Bankrupt”** means a bankrupt who has not received a discharge order under section 138 [Section 79(22)].

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

Humble Appeal to:

COC, RP, NCLAT, IBBI AND NCLT

**From: ADMITTED OPERATIONAL CREDITORS
(NOT RELATED TO PROMOTERS) OVER RUPEES 1 CRORE
In the matter of: ESSAR STEEL**

This is further to our Appeal dated 20.3.2019 which can be downloaded from

https://drive.google.com/file/d/1Bs_NAfigBzKTb4j8fUSJjwdXhVNV3cp/view?this=true&fbclid=IwAR3GV0YxPe6GfVxGy13fzyjTl4KPaE0Z38dZSClvTU9v0rWnVvTTHclFWPA

If IBC Code 2016 is followed in "letter and spirit", then interests of all stakeholders are sought to be balanced and not only almost entirely of COC which is monopolized by Financial Creditors (FCs). COC has no doubt been empowered in IBC, yet there are caveats and guidelines sort of checks and balances, which are implied, pertinent and corollaries, accompanying the responsibility and authority provided to COC. Notwithstanding, COC is also expected to respect the fundamentals of "noblesse oblige", which is a key sacrosanct principle which comes with the privilege and honour of being granted empowerment. COC also has a responsibility to treat say all Admitted Operational Creditors (AOCs) "not related to promoters of Essar Steel" similarly.

For instance, COC cannot arbitrarily, whimsically and blatantly discriminate between such AOCs 'under' Rs 1cr and AOCs 'over' Rs 1cr. How has COC decided the cut-off figure of Rs 1cr between the same class of AOCs? Has this figure "come out of a Hat" or was it like in roulette, the dice throw a cut-off figure of Rs 1cr? That AOCs under Rs 1cr will get 97% (approx) of their claims and AOCs over Rs 1cr zero (Re 1/- each) ! Where is logic in all this? Is this a lottery? Such behaviour of COC is clearly not in line with the 'letter and spirit' of the larger objective of IBC. Such blatant discrimination is also an insult to 'equality' enshrined in The Indian Constitution.

COC is interpreting IBC in the narrowest, totally self-serving and one-sided un-balanced manner and consequently arrogated draconian powers for itself for unilaterally maximizing the proceeds almost entirely for FCs, leaving nothing for AOCs over Rs 1 cr. COC has assumed so much arrogance that COC have not even paid any heed to the just, balanced and sagacious suggestions of NCLT, which were subsequently also supported by NCLAT.

COC has in its Resolution Plan given 92% (Approx.) of the dues (Principal + interest) of FCs, Nil to AOCs "over" Rs 1cr and 97% (approx) of dues to AOCs "under" Rs 1cr. Subsequently, as reported, paying merely "lip service" to the suggestions of NCLT (duly supported by NCLAT), COC wish to offer a paltry sum of Rs 1000 cr to AOCs over Rs 1 cr. This effectively means as follows:

- Paying only 21% (Approx.) of the dues of the AOCs over Rs 1 cr, which implies 79% (Approx) haircut to AOCs over Rs 1cr on their principal amount
- Paying 97% (approx) of the dues of AOCs under Rs 1 cr
- Paying 90% (Approx.) of dues of FCs (where FCs recover not only the entire principal amounts but also significant part of interest thereon)

Such is the greed and hubris of COC that COC is almost totally ignoring the principles and spirit of fairness and balance as also indicated by NCLT/NCLAT that:

- AOCs are an oppressed lot
- There can be no discrimination as all AOCs are similarly placed and equal
- COC must implement NCLT Ahmedabad suggestions in letter and spirit

AOCs over Rs 1cr (not related to promoters) are extremely nervous, feeling devastated and traumatized. COC is not treating similar AOCs equally by splitting otherwise similar AOCs based on arbitrary, discriminatory, illogical and self-serving mischievous cut-off figure of Rs 1 cr.

COC is obviously being most cunning. Dues of AOCs under Rs 1cr are very meagre (approx. Rs 200 cr) and total dues of AOCs over Rs 1cr amount to approx. Rs 4900 cr (which includes AOCs related to promoters; neither we are privy to the actual amount nor do we hold any brief for AOCs related to promoters).

So our humble request only pertains to AOCs that are not related to promoters. Therefore it appears that the admitted claims of AOCs over Rs 1cr, excluding those related to promoters (if any) may be substantially lower. Therefore it is extremely simple to treat such AOCs over Rs 1cr (not related to promoters) similar to AOCs under Rs 1cr.

On the contrary, COC wants to pay 97% (approx) of the small amount of AOCs under Rs 1cr and a blatantly unfair, illogical and unreasonable as well as miserly, only 21% (Approx.) for AOCs over Rs 1cr.

COC has again arbitrarily pulled a figure of Rs 1000 cr "out of a hat" without any logic. COC continues mockery by treating AOCs over Rs 1cr as if AOCs over Rs 1cr are in a "lottery" or at a roulette table. COC should not be so avaricious that they grossly misuse the responsibility, faith and trust reposed in them.

By even a token adjustment in the interest component on the principal amounts of FCs, COC will save many thousands of AOCs from deep distress and quite a few of them even from shutting down. NCLT too had suggested that a sacrifice in the interest component on the part of the financial lenders will help AOCs in a reasonable and fair manner.

We are left with no option but to appeal in the public domain as almost entire proceedings before NCLT/NCLAT was monopolised by design or otherwise by high profile influential lawyers of COC and others. Relatively, AOCs over Rs 1cr (not related to promoters) have effectively not been able to receive sufficient hearings in the proceedings due to reasons of logistics and the pressure of 270 days of resolution time prescribed. So everyone is in a sort of "rush and hurry" which risks, for instance, fair and judicious treatment of faultless AOCs (not related to promoters) over Rs 1cr.

**Our humble appeal is that AOCs over Rs 1cr (not related to promoters)
be treated similarly to AOCs under Rs 1cr.**

Forum of Admitted Operational Creditors over Rs 1cr (not related to Promoters) of Essar Steel.

Email ID: credit.op33@gmail.com

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures

FORM G INVITATION FOR EXPRESSION OF INTEREST (Under Regulation 18A(1) of the Insolvency and Bankruptcy (Insolvency Resolution Process for Corporate Entities) Regulations, 2016)	
RELEVANT PARTICULARS	
1. Name of the Corporate Debtor	DIVINE ALLOYS & POWER CO. LIMITED
2. Date of Incorporation of Corporate Debtor	06.09.2004
3. Authority under which Corporate Debtor is incorporated / registered	Registrar of Companies, Kolkata
4. Corporate identity number / Unique entity identification number of Corporate Debtor	122102WEL2004PC009981
5. Address of the Registered Office and Principal Office (if any) of Corporate Debtor	Registered Office : Room A, 135, Rajesh Estate, 176/41/19 Rajpur Road, Kolkata - 700092, West Bengal Principal Office : Ganga House, Ganga Road, Bhubaneswar-751015, Odisha
6. Incidence commencement date of the Corporate Debtor	7th March, 2019 vide order passed by NCLT, 565 T, Kolkata Bench
7. Date of initiation of Expression of Interest	13th May, 2019
8. Eligibility for Resolution Applicants under section 25(2) (i) of the Code is available at	www.dnaindia.com/power
9. Names of the eligible applicants under section 25A are available at	www.dnaindia.com/power
10. Last date for receipt of expression of interest	4th June, 2019
11. Date of issue of provisional list of prospective Resolution Applicants	10th June, 2019
12. Last date for submission of objections to provisional list	15th June, 2019
13. Date of issue of final list of prospective Resolution Applicants	17th June, 2019
14. Date of issue of information memorandum, evaluation matrix and request for Resolution Plans to prospective Resolution Applicants	19th June, 2019
15. Manner of obtaining request for resolution plan, evaluation matrix, information memorandum and further information	It will be made up to all prospective resolution applicants within 10 days under regulation 26(1) of IBC (IRPCP, Regulation, 2016)
16. Last date for submission of Resolution Plans	19th July, 2019
17. Manner of submitting Resolution Plans to Resolution Professional	Details shall be provided in the IRPP documents
18. Estimated date for submission of Resolution Plans to the Adjudicating Authority for approval	14th August, 2019
19. Name and registration number of the Resolution Professional	Rajesh Kumar Agrawal IBBI/IPA-001/IP-P00300/2017-18/10544
20. Name, Address and e-mail of the Resolution Professional as registered with the Board	Rajesh Kumar Agrawal 1, Ganga Chandra Avenue, R No. 301, 3rd Floor, Kolkata-700015, email: rka@rka.com
21. Address and e-mail to be used for and correspondence with the Resolution Professional	Rajesh Kumar Agrawal 1, Ganga Chandra Avenue, R No. 301, 3rd Floor, Kolkata-700015, email: rka@rka.com
22. Further Details are available at or with	www.divinealloyspower.in Call will be obtained by sending a request at email ID as mentioned in para 20 and 21 above
23. Date of publication of Form G	13th May, 2019

Rajesh Kumar Agrawal, Resolution Professional
For DIVINE ALLOYS & POWER CO. LIMITED
IBBI/IPA-001/IP-P00300/2017-18/10544
1, Ganga Chandra Avenue, R No. 301, Kolkata-700 015

Date : 13th May 2019
Place : Kolkata

FERRO ALLOYS CORPORATION LIMITED

(Under Corporate Insolvency Resolution Process)

INVITATION FOR RESOLUTION PLAN

Proposals are invited from potential investors/ consortium of investors having adequate financial and technical capabilities to submit resolution plan for M/s Ferro Alloys Corporation Limited (FACOR) for which Corporate Insolvency Resolution Process was initiated by NCLT Kolkata in respect of Company Petition (I.B.) No. 251/KB/2017.

FACOR is producer and exporter of Ferro Chrome, an essential ingredient of special steel and stainless steel. The Company, through its Subsidiary, Facor Power Limited, has a Captive Power Plant with a capacity of 100 MW. Company's net sales were Rs. 427.73 crore (excluding interunit sales) and profit before tax was Rs. 41.08 crore for the nine months ended on 31st December, 2018. The Company is listed on BSE.

Interested applicants may refer to the 'Expression of Interest for submission of Resolution Plan' document uploaded on the Company's website (www.facorgroup.in). More detailed information about the company will be provided to the interested parties upon signing of the confidentiality agreement, format of which is included in the EOI, uploaded on the said website.

Last date for submission of the Expression of Interest is 14th March, 2019 (by 5 PM).

Interested applicants to contact:

K.G. Somani
IBBI/IPA-001/IP-P00300/2017-18/10544

Resolution Professional

Email: kgsomani@gmail.com

Registered Address of IP with IBBI

K.G. Somani & Co.,
3/15, 4th Floor, Asaf Ali Road New Delhi- 110002

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures



PUBLIC ANNOUNCEMENT

FOR THE ATTENTION OF THE CREDITORS OF THE BELOW LISTED IL&FS GROUP ENTITIES

Pursuant to the "Third Progress Report - Proposed Resolution Framework for IL&FS Group" dated January 10, 2019 ("Resolution Framework Report") submitted by Infrastructure Leasing & Financial Services Limited ("IL&FS") to the Ministry of Corporate Affairs, Government of India which, in turn, was filed with the Hon'ble National Company Law Appellate Tribunal ("NCLAT"), the creditors of the below listed IL&FS Group entities are invited to submit their claims with proof on or before 5 June, 2019 to Grant Thornton India LLP, the Claims Management/Advisor appointed in respect of the below listed IL&FS Group entities.

Name of the Company	Date of Incorporation	Corporate Identity No./Limited Liability Identification No.	Address of the Registered Office
Infrastructure Leasing & Financial Services Ltd	03/08/1987	U65900MH1987PLC044571	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Education & Technology Services Ltd	18/12/1997	U86220MH1997PLC1715356	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Cluster Development Initiative Ltd	14/09/2006	U70195DL2006PLC153767	3-114, Okha Industrial Area, Phase-I, New Delhi-110020, India
IL&FS Skills Development Corporation Ltd	28/01/2011	U80840DL2011PLC211335	3-114, Okha Industrial Area, Phase-I, New Delhi-110020, India
Soil Training Assessment and Remediation Partner Ltd	28/12/2006	U86903MH2006PLC284821	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Energy Development Company Ltd	21/03/2007	U40300DL2007PLC163679	4th Floor, Dr. Gopabandhu Bhawan, 28 Barabhumra Road, Connaught Place New Delhi-110001, India
IL&FS Tamil Nadu Power Company Ltd	26/09/2006	U65926DL2006PLC051160	4th Floor, OPJS Tower, Old No.21, New No.2, 1st Street, Sabari Baa Avenue, College Road, Chennai-600008, Tamil Nadu, India
IL&FS Wind Energy Ltd	21/08/2012	U46106DL2012PLC007520	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Envision Solar Ltd	08/02/2011	U46107MH2011PLC222673	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Super Power Ltd	26/08/2010	U46300MH2010PLC207079	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Wind Power Services Ltd	23/04/2013	U71420MH2013PLC242327	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Kaze Energy Ltd	25/02/2013	U46300MH2013PLC241121	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Khandwa Wind Energy Private Ltd	21/08/2012	U46300MH2012PLC254746	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Lajpur Wind Energy Private Ltd	30/09/2011	U46300MH2011PLC222366	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Manikund Wind Energy Ltd	04/01/2014	U74699MH2014PLC256870	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Rajesh Wind Power Private Ltd	31/12/2007	U46104MH2007PLC176359	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Saga Wind Energy Ltd	21/07/2011	U46300MH2011PLC220054	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Tadas Wind Energy Private Ltd	27/01/2011	U46300MH2011PLC220233	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Wind Ujja India Private Ltd	21/08/2012	U46104MH2012PLC254709	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Financial Services Ltd	28/09/1995	U65900MH1995PLC030241	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Investment Managers Ltd	10/01/1998	U65900MH1998PLC147781	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Andhra Pradesh Urban Infrastructure Asset Management Ltd	15/07/2016	U65999AP2016PLC103863	"Co. Andhra Pradesh Urban Infrastructure Asset Management Ltd", Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Asset Advisors Ltd	28/12/2005	U71420MH2005PLC158418	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Messengers Realty Advisors Private Ltd	23/07/2007	U71420MH2007PLC175569	402, Himalaya Business Plaza, Sant Dnyaneshwar Marg, Opp. Gun. Narayn Hospital, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Asian Infrastructure Managers Ltd	27/04/2008	U66020MH2008PLC161439	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Infra AMC Trustee Ltd	04/12/2012	U67160MH2012PLC238473	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Infra Asset Management Ltd	08/07/2013	U65191MH2013PLC238438	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Securities Services Ltd	27/01/2006	U74692MH2006PLC163337	"IL&FS House, Rajaji Vihar, Chandivli, Andheri (East), Mumbai - 400072, Maharashtra, India"
IL&FS Urban Infrastructure Managers Ltd	24/02/2006	U67160MH2006PLC163433	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Infrastructure and Transactor Services Ltd	03/12/2010	U67160MH2010PLC217682	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
IL&FS Maritime Infrastructure Company Ltd	27/11/2008	U45201MH2008PLC163803	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Porto Novo Maritime Ltd	19/03/2012	U74699MH2012PLC229437	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Gujarat Integrated Maritime Services Ltd	27/03/1996	U86172GJ1996PLC028713	Unit No. 402, 3rd Floor, 2-11, 1st Floor, Ring Road, Near Shivajinagar Cross Road, Gandhinagar-382002, Rajkot, Gujarat, India
Hill Country Properties Ltd	20/05/2005	U46300MH2005PLC048307	Hill Country, Bhatnagar, Mumbai Road, After Keshavnagar Bus Depot, Hyderabad-500080, Telangana, India
IL&FS Technologies Ltd	09/02/1993	U74699MH1993PLC007074	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India
Bhopal e-Governance Ltd	15/02/2013	U72200MH2013PLC040356	3rd Floor, Anandapada Corporate Tower, Anandapada Mall, Anandapada Island, Rajkot-382002, Rajkot, Gujarat, India
LIVIA Risk Ltd	01/04/2008	U72500MH2008PLC191389	The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India

The creditors of the above listed IL&FS Group entities are hereby called upon to submit their claims with proof by electronic means on or before 5 June, 2019 in respect of facilities due up to and including 15 October, 2018. The financial creditors shall submit their claims with proof by electronic means only. All other creditors may submit their claims with proof in person, by post or by electronic means. The financial creditors shall submit their claims with proof by post or email. They may access and download the relevant claim forms from the link mentioned below. The physical claim forms, with proof shall be posted to "Claims Management/Advisor". The IL&FS Financial Centre, Plot C-22, G Block, Bandra Kurla Complex, Bandra (East), Mumbai-400051, Maharashtra, India only, in order to file a claim electronically please select the following link: <http://www.ilands.com>. Please note that you are a debenture holder in a class of debentures where there is an appointed trustee in respect of such debentures, you should submit your claim only via your Trustee. Please note that you are a creditor of a company, you should submit your claim via the IT department of IL&FS by email (see above link for details). Please note that you are a creditor in a class, as understood in the context of section 2(16A) (b) of the Insolvency and Bankruptcy Code, 2016, the concerned IL&FS group entity may facilitate the appointment of a representative for such class of creditors for the purpose of any committee of creditors constituted for that IL&FS group entity and shall communicate with the representative.

Date and Place: 22 May 2019, Mumbai

Space for

CHART NO.

Live Lecture



Space for

Additional Writing

Live Lectures



Answers to be analysed in Classroom

Q. 1.

Answer to Question No. 1:-

CS NITESH KR JAISWAL



Answers to be analysed in Classroom

Q. 2.

Answer to Question No. 2:-

CS NITESH KR JAISWAL