

COMPANY NEWSLETTER

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Edition 3



Welcome Note from the Designated Partner

Dear Readers,

Welcome to the third edition of ARCK Newsletter. Through this platform, we share important updates, industry insights, and success stories from the insolvency and liquidation sector.

Thank you for your continued support.

Mr. Anil Kohli

(Founder and Designated partner)



Member of Bar Council and Qualified Chartered Accountant with more than 30 years of experience in the financial and legal sphere with expertise in banking stressed asset resolution. He, being Co-founder of ARCK group is best known in the banking industry for his practical approach to the complex & unwarranted situations arising in the course of recovery of NPAs.

COMPANY PROFILE



Who we are & What we do

ARCK Resolution Professionals LLP, an Insolvency Professional Entity (IPE) registered with IBBI, has successfully handled or is currently managing over 78 cases under the Insolvency and Bankruptcy Code (IBC), 2016. These cases span diverse industries, including hospitality, aviation, automotive and industrial components, oil and gas, edible oil, alloys, electronic equipment, engineering projects, software, technology and services, consumer products, FMCG, steel and power, infrastructure, renewable energy, financial and business services, healthcare and life sciences, transportation and logistics, travel, hospitality and leisure, media and entertainment, public sector services, and education, among others.



INSOLVENCY & BANKRUPTCY CODE

- Pre-IBC Damage Control & Pre-CIRP Services
- Insolvency Resolution
- Liquidation - Sale of Assets/Going Concern
- Voluntary Liquidation
- Pre-Packaged Insolvency



ENFORCEMENT UNDER SARFAESI

- Auction
- Assistance in enforcement of security interest
- Sale of core and non-core assets.
- One time settlement.
- Recovery
- Scouting for buyers and investors



PROCESS ADVISORY SERVICES

- Steering the entire resolution process along with the RPs
- Scouting for strategic investors and negotiations
- Assistance to FCs in evaluation of bids and vetting of plans
- Assistance in implementation of Resolution Plans

WHATS NEW IN IBC?

PROPOSED IBC AMENDMENT 2025



The Centre is preparing a sweeping overhaul of the Insolvency and Bankruptcy Code (IBC), 2016, through an Amendment Bill expected to be tabled during the upcoming monsoon session of Parliament. At the heart of the reform is a proposed shift from a Resolution Professional (RP)-centric framework to a Creditor-Led Resolution Process (CLRP), aimed at addressing delays and improving transparency in the Corporate Insolvency Resolution Process (CIRP). As per the news, these amendments respond to growing concerns that RPs—currently holding extensive powers as the first appointee and last relieved stakeholder in CIRP—have contributed to procedural inefficiencies and prolonged timelines. By reducing RP discretion and increasing the decision-making authority of financial creditors, the government seeks to promote a more accountable, commercially-driven resolution environment.

The proposed amendments will introduce a compressed 165-day resolution window, empower the Committee of Creditors (CoC) to lead negotiations, and expand the pre-packaged insolvency framework beyond MSMEs to include larger corporates. This is expected to reduce resolution costs and time by enabling pre-negotiated plans before formal insolvency proceedings begin. Further, the Bill seeks to incorporate group insolvency mechanisms, allowing companies within the same corporate family to undergo unified resolution, replacing the existing fragmented approach. The reduced role of RPs will shift greater responsibility to the CoC, Authorized Representatives (ARs), and the Insolvency and Bankruptcy Board of India (IBBI), which will also support the process through digital innovations. While the reforms have been welcomed by stakeholders for boosting creditor empowerment and resolution efficiency, legal experts caution that operational creditors and enforcement provisions still need stronger safeguards. Nonetheless, the proposed changes mark a significant step in evolving India's insolvency framework to be more streamlined, creditor-centric, and future-ready.

WHATS NEW IN IBC?

New Framework for Securitising Stressed Assets– RBI



The Reserve Bank of India (RBI) has introduced a transformative mechanism under its April 2025 monetary policy to address the mounting issue of stressed assets. Traditionally dominated by Asset Reconstruction Companies (ARCs), the space will now welcome a wider array of players, as banks and NBFCs can securitise and sell bad loans directly to investors via Special Purpose Entities (SPEs) set up by regulated financial institutions. This marks a major shift towards market-driven resolution strategies. A key innovation in this framework is the introduction of independent Resolution Manager (RM), tasked with overseeing recovery and resolution processes. RM's must be unaffiliated with the originating lender and can include RBI-regulated entities, insolvency professionals, or firms registered with financial regulators. This broadens access while ensuring objectivity and accountability in loan resolution. For pools of small business, personal, and retail loans, the RM must be an RBI-regulated entity, while other categories allow more flexibility.

The framework also introduces structured capital provisions, requiring lenders to incrementally provision for securitised notes over five years, with any remaining exposure marked down to INR 1 Recovery-based risk weights will apply, incentivising better quality in structuring deals. Notably, lenders are now empowered to bypass ARCs for mid-sized and retail distressed loans, challenging ARC dominance—especially as large exposures are increasingly routed through the National Asset Reconstruction Company Limited (NARCL). ARCs face additional pressure to increase their net owned funds to ₹300 crore by FY26, a compliance target many haven't met. By enabling competitive resolution strategies, improving price discovery, and diversifying investor participation, the RBI's new directions represent a strategic step toward deepening India's distressed debt market with greater efficiency and transparency.

WHATS NEW IN IBC?

LATEST IMPORTANT JUDGEMENTS



Mr. Dharit Shah v. Mr. Rameshbhai Tapubhai Bhoraniya

Key Issue

The central issue before the Hon'ble NCLT, Ahmedabad Bench, was the non-submission of a repayment plan by the Personal Guarantor, Mr. Dharit Shah, within the stipulated timeline after the initiation of the insolvency resolution process on 30.09.2024. Under Section 106 of the Insolvency and Bankruptcy Code, 2016, the debtor must submit a repayment plan, following which the Resolution Professional (RP) is to conduct a creditors' meeting and file a report. However, in this case, no repayment plan was submitted, making it procedurally unjustifiable to summon any meeting of creditors. The RP, therefore, rightly filed a report before the Adjudicating Authority stating the absence of a repayment plan, as permitted under the Code.

Summary

The Tribunal observed that the RP followed due process by not convening a creditors' meeting in the absence of any plan and filing an appropriate report instead. Citing the NCLT Delhi Bench ruling in Swatantra Kumar Singh v. Amul Gabrani, the Tribunal held that non-filing of a repayment plan has the same legal effect as its rejection under Section 114 of the IBC. Accordingly, the Tribunal granted liberty to creditors or the debtor to initiate bankruptcy proceedings under Sections 115(2) and 121. The moratorium under Section 101 was declared to cease from the date of the order, and the RP was discharged, retaining the right to recover CIRP costs from stakeholders.



WHATS NEW IN IBC?

LATEST IMPORTANT JUDGEMENTS



Subh Laxmi Investment Advisory Pvt. Ltd. v. Committee of Creditors of Sintex Plastics Technology Ltd. & Ors.

Key Issue

In this case, the primary question before the Hon'ble NCLAT, New Delhi Bench, was whether a Resolution Professional (RP) can file for liquidation under Section 33 of the Insolvency and Bankruptcy Code (IBC), 2016, when the extended CIRP period has expired without approval of any resolution plan. The appellant, Subh Laxmi Investment Advisory Pvt. Ltd. (an unsuccessful resolution applicant), challenged the NCLT Ahmedabad order that allowed the RP's liquidation application for Sintex Plastics Technologies Ltd., arguing that the Committee of Creditors (CoC) failed to properly consider its plan and misused the process to force liquidation.

Summary

The NCLAT upheld the NCLT's order, emphasizing that once the CIRP period expires and no resolution plan is approved, it becomes mandatory for the RP to file for liquidation. The tribunal observed that the CoC's abstention from voting is a valid form of exercising its commercial wisdom and does not invalidate the liquidation process. It further held that a discussion on liquidation and the CoC's request for nominating a liquidator is adequate compliance under Section 33 of the Code. Since the RP had secured the CoC's consent via email and filed the liquidation application in a timely manner, the appeal was dismissed. This decision reinforces the RP's obligation to act within the statutory timelines and upholds the sanctity of the CoC's commercial decisions.



Resolution Plan Approved

The National Company Law Tribunal (NCLT), New Delhi Bench (Court-II), has approved the Resolution Plan for K.V. Aromatics Pvt. Ltd., in the matter of ICICI Bank Vs. K.V. Aromatics Pvt. Ltd., under Section 30(6) of the Insolvency and Bankruptcy Code (IBC), 2016. This marks a significant milestone in the Corporate Insolvency Resolution Process (CIRP) and reaffirms the robust framework of the IBC in enabling distressed business revival and value maximization.

Resolution Plan Highlights:

- The Resolution Plan, submitted by Saket Agarwal & Fortuna Holdings Pvt. Ltd., received unanimous approval (100%) from the Committee of Creditors (CoC), highlighting strong stakeholder consensus.
- A total settlement of ₹25.75 crores will be paid to financial creditors as full and final satisfaction of their claims.
- Although there were no claims from workmen or employees, ₹20 lakhs has been provisioned for operational creditors, including statutory dues—demonstrating a fair and inclusive approach.

Implementation Strategy:

- The Monitoring Committee is established to oversee the implementation of the approved plan.
- Payment to secured creditors is being executed in two structured phases:
 - 20% within 15 days of NCLT approval
 - Remaining 80% within 60 days
- The entire resolution plan is slated for completion within 60 days, ensuring swift and efficient revival.

Clean Slate & Future Outlook:

- Corporate Debtor gets a fresh start under Section 32A
- Pending litigations and PUFER recoveries to be pursued as per the plan

Reversal of funds from Financial Creditors



- The matter is being handled by our Founder and Designated Partner, Mr. Anil Kohli, as the Liquidator of Vegan Colloids Ltd.
- The dispute revolved around Punjab National Bank (PNB) receiving ₹4.50 crore during liquidation, allegedly from corporate debtor's assets.
- PNB claimed the amount was received from guarantors under a One-Time Settlement (OTS) and was not part of the liquidation estate.
- However, the Liquidator argued that the funds reflected in the audited financials were recovered from trade receivables and borrowings, hence forming part of the Liquidation estate under Section 36 of the IBC, 2016.

NCLAT Ruling & Summary

- The NCLAT rejected PNB's claim, stating:
 - No sufficient documentary proof that the ₹4.50 crore came solely from guarantors.
 - PNB admitted to receiving ₹2.5 crore from a debtor's trade receivable, contradicting its defense.
- It held that the funds were part of the liquidation estate and must be refunded for distribution under Section 53 of IBC.
- PNB's unilateral recovery without the Liquidator's consent was deemed a violation of Sections 36 and 53.
- The judgment underscores:
 - Creditors must adhere to the IBC's waterfall mechanism.
 - The Liquidator's authority and fiduciary responsibility must be respected.
- A precedent-setting victory for insolvency professionals—validating the structured liquidation framework under the IBC.
- The outcome highlights the critical role played by our IPE in protecting stakeholder interests and upholding statutory compliance



Mr. Gian Chand Narang appointed as Bankruptcy Trustee in Three Personal Guarantor Matters

We are pleased to share that our esteemed partner Mr. Gian Chand Narang has recently been appointed as the Bankruptcy Trustee in three personal guarantors of Corporate Debtor - Advance Surfactants India Limited. These appointments reflect the continued trust placed in our firm's expertise in handling complex insolvency matters and further strengthen our standing in this evolving legal landscape.

We remain committed to providing strategic and effective resolution services and thank our clients and partners for their continued support.



Celebrating the Birthday of Our Founder and Designated Partner – Mr. Anil Kohli

At ARCK, we had the privilege of celebrating the birthday of our Founder and Designated Partner, Mr. Anil Kohli – a visionary whose leadership and unwavering dedication continue to shape the ethos and excellence of our firm.

From laying the cornerstone of ARCK to navigating its journey through transformative milestones, Mr. Kohli has exemplified integrity, innovation, and commitment in every endeavor. His guidance has been instrumental in positioning ARCK as a trusted name in insolvency, restructuring, and resolution.

On this special occasion, the entire ARCK family extends heartfelt wishes to Mr. Kohli for continued good health, happiness, and ever-growing success.

Here's to many more years of inspiring leadership and collective growth!

Thanks for reading!



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FOR ANY QUERIES

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