'Bestowing a Fresh Lease of Life to Corporates' -

The Insolvency and Bankruptcy Code 2016
IBC: A PROGRESS REPORT
LONG TITLE: OBJECTIVES

• Maximisation of Value of Assets
• Promote Entrepreneurship
• Promote Availability of Credit
• Balance the interests of all the Stakeholders
CONSTITUENTS

• Oversight and Facilitation
  ➢ NCLT and NCLAT
  ➢ IPs and IPAs
  ➢ IBBI
  ➢ IUs

• Stakeholders
  ➢ Debtors and Creditors
  ➢ Committee of Creditors
  ➢ Resolution Applicants
STRATEGY

- Resolve Viable
- Liquidate Unviable
- Not Recovery
- Start Early
- Complete Early
- Going Concern
- Collectively
- As a Team
- Best Plan
- Cost, Time, Recovery, Transparency
IMMEDIATE OUTPUT

- IPs Regulations, 2016
- IPAs Regulations, 2016
- Model Bye-laws of IPAs Regulations, 2016
- Information Utilities Regulations, 2017
- Inspection and Investigation Regulations, 2017
- Grievances & Complaints Regulations, 2017
IMMEDIATE OUTPUT

• Adjudicating Authority Rules, 2016
• Registered Valuers and Valuation Rules, 2017
• CIRP Regulations, 2016
• Fast Track CIRP Regulations, 2017
• Liquidation Process Regulations, 2016
• Voluntary Liquidation Process Regulations, 2017
IMMEDIATE OUTPUT

- Amendments in Regulations
  - Claim Form
  - Interest of Stakeholders
  - Disclosures
- Ordinance
  - Classification
  - Debarment
  - Penalty
INTERMEDIATE OUTPUT

• Institutional Infrastructure
  • Constitution of NCLT
  • Establishment of IBBI
• Service Providers
  • IPs: 1300
  • IPEs: 51
  • IPAs: 3
  • IU: 1
  • Valuers: ???
• Examination
  • Limited Insolvency Examination
  • Valuers’ Examination
INTERMEDIATE OUTPUT

• Transactions
  ➢ Admitted: 480
  ➢ Operational Creditors: 200
  ➢ Financial Creditors: 175
  ➢ Corporate Debtor: 105
  ➢ High Court: 53
  ➢ Default: 1.3 lakh crore
  ➢ Voluntary Liquidation: 100
In Innoventive Industries Ltd.

“we thought it necessary to deliver a detailed judgment so that all Courts and Tribunals may take notice of a paradigm shift in the law. Entrenched managements are no longer allowed to continue in management if they cannot pay their debts.”
In DF Duetsche Forfait AG and Anr.

“if we start looking at this draconian law gobbling up the companies and branding orders as harsh, then we remain where we are, perhaps will go down further, ……… but for the sake of this reason, we cannot wish away the mandate of this nation come through Parliament.”

“no pleading or defending party, the terminology like petitioner/respondent or plaintiff/defendant is not present under this Code…. It is not an adversarial proceeding.
AA PERSPECTIVE

In Magicrete Buildings Solution Pvt. Ltd.;
“It is hereby made clear that all citizens of the country are bound by the statute governing people of this country”.

In Prabodh Kumar Gupta;
“..the position of present petitioner is undisputedly of stakeholders. Therefore, the IRP appointed by this Court in respect of the corporate debtor company is equally expected to consider and take care of the interests of the petitioner….”
AA PERSPECTIVE

In Parker Hannifin India Private Limited;
“once admitted, other creditors have a right to file their claims. The nature of insolvency petition changes to representative suit and the lis does not remain only between a creditor and the corporate debtor.”

In Surendra Trading Company;
“time is the essence of the Code and the timeline of 180 days for creditors to complete a corporate insolvency resolution process is mandatory.”
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<thead>
<tr>
<th>Sl.</th>
<th>Firsts</th>
<th>Matter</th>
<th>Date</th>
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<tbody>
<tr>
<td>1.</td>
<td>1st CIRP by FC</td>
<td>ICICI Bank Ltd. Vs. M/s. Innoventive Industries Ltd</td>
<td>17th January, 2017</td>
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<td>2.</td>
<td>1st CIRP by CD</td>
<td>Nicco Corporation Limited &amp; UB Engineering Limited</td>
<td>18th January, 2017</td>
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<td>1st CIRP by OC</td>
<td>Shyam Indofab Private Limited vs. Midas Touch Export Private Limited</td>
<td>17th February, 2017</td>
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<td>1st Voluntary Liquidation Filed</td>
<td>Nilgai Furniture</td>
<td>7th April, 2017</td>
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<td>5.</td>
<td>1st CIRP by Employees</td>
<td>Zeel Global Projects Private limited</td>
<td>27th April, 2017</td>
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<td>6.</td>
<td>1st CIRP against a PSU</td>
<td>Burn Standard Co. Ltd.</td>
<td>31st May, 2017</td>
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<td>1st Resolution Plan approved</td>
<td>Synergy Dooray Automotive Limited</td>
<td>2nd August, 2017</td>
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<td>8.</td>
<td>1st Liquidation</td>
<td>Bhupen Electronics</td>
<td>9th August, 2017</td>
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<td>9.</td>
<td>1st Voluntary Liquidation</td>
<td>Ray Hospitality Private Ltd</td>
<td>…………</td>
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FINAL OUTPUT

- Resolution Plan: 6
- Liquidation: 20
- Voluntary Liquidation: 1
- Resolution vs. Liquidation
- Resolution vs. Recovery
- Operational Creditors
- Home-buyers
ISSUES

• Resolution vs. Liquidation
• Resolution vs. Recovery
• Interest of Stakeholders
• Resolution Plan
• Resolution Applicant
• Markets:
  ▫ Interim Finance
  ▫ Resolution Plan
  ▫ Liquidation Assets
• Large Number of Creditors
• Cross Border Insolvency
FACILITATION

- Government Commitment
  - Its Dues
  - NCLT, IBBI
  - Clarification
  - Ordinance
- IBBI
- IPs, IUs
- Competition Law
- Securities Laws
- Taxation Laws
- Transfer of Licenses
- Companies Act
- Awareness
NEXT STEPS

• Individual Insolvency
  ▫ Guarantors
  ▫ Businesses
  ▫ Individuals
• Operationalisation of IUs
• Review of Regulations
• Valuers
• Data Dissemination
THANK YOU