**ENACTMENT OF INSOLVENCY AND BANKRUPTCY CODE, 2016**

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**Abstract**

The Insolvency and Bankruptcy Code, 2016 was enacted with the aim to resolve the issue of insolvency in India. Before this Code, there was issue of insolvency and non recovery of the debt which resulted into India being ranked number 108 in Insolvency by the World Bank. The Code was enacted with the aim to consolidate various laws related to insolvency and bankruptcy, as earlier, there were several pieces of legislation that dealt with the subject, which resulted in confusion and a lengthy period of time for resolution of the matter. The chapter will explore the enactment of Code resulting into amendments to various legislations such as Companies Act, 2013 and it also led to repeal of the legislations such as Sick Industrial Companies (Special Provision) Act, 1985. The solution before enactment of this Code was not much viable economically and was also time taking. This chapter would mention the priority of the Code with respect to sick companies, the process of liquidation to protect the interest of the creditors along with the interest of the debtors. This chapter would also discuss the objectives Code has been able to achieve after being enforced. Though the Code is new legislation but it has evolved according to the need. The Code has been amended after it came into force in order to overcome the lacunae which emerged after the Code came into force. The courts have also played important role in its implementation and through the decisions the grey areas of the Code have to be identified.

**Keywords-** insolvency, liquidation, revival, corporate insolvency resolution process.

**1. Introduction**

The most important functions of impenetrable system of insolvency are that its ability to save the failing business and to allow the exit to those which are not viable. This is how the Insolvency and Bankruptcy Code, 2016[[1]](#footnote-2) has been framed to save the sick companies. Earlier, before the enactment of the Code there was no proficient manner to save the corporate, also there was no suitable manner in which the corporate could exit the market. However, the enactment of Code brought the change in system and offered a proficient mechanism which provided a mechanism with a time frame to complete the process of resolving the insolvency.

The Code handles reorganization and insolvency of corporate debtor. Corporate debtor has been defined under section 3(8) of Code as "a corporate person who owes a debt to any person". That is the person who has not paid his debts. The Code provides exit mechanism not only to the defaulter but also to the corporate which has not defaulted via voluntary liquidation.

**2. The Structure of Code-**

The Code consisting of important organs which are responsible for the functioning of Code without any hindrance and smoothly, out of which four are described as follows-

**2.1. Insolvency Professionals-**

These professionals are licensed for managing the corporate insolvency resolution process or liquidation process of the corporate debtors. The Code requires appointment of a professional to deal with the process of insolvency and liquidation of a corporate which can only be done by insolvency professional. The services provided by insolvency professional can only be provided by a person who is a member of insolvency professional agency[[2]](#footnote-3) and is also required to be registered under insolvency and bankruptcy board of India.

Insolvency And Bankruptcy Board Of India (Insolvency Professionals) Regulations, 2016 provides regulations for the registration of insolvency professionals. The regulation specifies the eligibility criteria for insolvency professional. The individual shall be eligible if he has passed the exam and has completed pre-registration educational course and also has certain experience in the area mentioned under regulation 5.

**2.2. Information Utilities-**

Information utilities collect the financial information which are to be used in the resolution of insolvency and then bring those information together with the intention to relate it and authenticate it further and then circulate it with the others when required. The information is ought from information utilities during the process of liquidation. The need of such organ was there because in India the information has most of the time put a halt in the process of liquidation. As the creditors do not have sufficient information about the debtor and in order to collect the information the time is required which in turn delays the process. In order to get rid of such issue, with the enactment of Code, such body was created which would gather the information regarding finances of the debtor and would authenticate the same.

Section 3(21) of the Code defines information utilities as "a person who is registered with the Board as an information utility under section 210".

**2.3. Adjudicating Authorities-**

Adjudicating authorities adjudicate the matters arising under Code whose main function is to ensure that the insolvency and liquidation process is performed according the rules and regulation of Code. National Company Law Tribunal (NCLT)[[3]](#footnote-4) adjudicate under Code.[[4]](#footnote-5) Section 408 of Companies Act, 2013[[5]](#footnote-6) mentions about establishment of NCLT. The NCLT has been further endowed with the powers of Debt Recovery Tribunal.[[6]](#footnote-7) The NCLT also look into liquidation of personal guarantors of corporate debtors. The jurisdiction of NCLT is mention under section 60(5) of the Code. Debt Recovery Tribunal is also the adjudicating authority having jurisdiction under section 79(1) of the Code. The apex court in **Committee of Creditors of Essar Steel India Limited Through Authorized Signatory Vs. Satish Kumar Gupta & Others,**[[7]](#footnote-8) has held that all the question of fact or law arising under Code shall be decide by adjudicating authority.

Aggrieved party can make an appeal to NCLAT within 30 days, however, NCLAT may on being satisfied of the sufficient cause allow the appeal after expiry of the period, but not beyond 15 days.[[8]](#footnote-9) The appeal can be filed against the approval of resolution on the basis of the grounds mentioned under section 61(3) of the Code. Further appeal could be made to Supreme Court and the appeal shall be accepted only on the question of law and not on question of fact.[[9]](#footnote-10)

The Supreme Court in **M/s Embassy Property Developments Pvt. Ltd. Vs. State of Karnataka & Others**,[[10]](#footnote-11)held that NCLT is a special body dealing with specific provisions and only Supreme Court can deal with the topic of judicial review over an administrative action. Also, the civil court has no jurisdiction over any case that NCLT has authority over. The adjudicating authority has jurisdiction to penalize those who maliciously start insolvency or liquidation proceedings.

**2.4. Insolvency and Bankruptcy Board of India-**

The Board is established under IBC's section 188 to regulate the affairs and also accountable for implementation of IBC. The Board is responsible for regulating professional and transactional issues. Section 189 of the Code mentions Board shall consist of chairperson, 3 Central Government officers and 5 other members on the suggestion of Central Government.

**2.4.1. Functions of the Board-**

The Board's functions are explicitly mentioned in section 196(1) of the Code. They are carried out in conformity with the essential directives of the Central Government. The functions of Board under section 196 of the Code are as follows-

* To register, renew or cancel the registration of Insolvency Professional and Information Utilities.
* To charge fees and specify requirements for registration.
* To specify syllabus for conducting the exam for insolvency professionals.
* To inspect and investigate and monitor performance of agencies and professionals.
* To specify manner of storing information and disseminating the same.
* To develop professionals through education and training.
* To regulate CIRP process and practices involved in liquidation and insolvency.
* Exercise power similar to that of civil court in trying a suit.[[11]](#footnote-12)

**3. Corporate Insolvency Resolution Process(CIRP)-**

To initiate the process an application is made to the adjudicating authority by creditor or corporate debtor himself. An attempt shall be made by authority to save the corporate, if not possible then liquidate the same. This process is completely different from that which is specified for winding up of the companies under the Companies Act, 1956 as well as Companies Act, 2013. As both the Acts did not specify the resolution in initiating it.

The initiation of process shall result into the following-

* Receiving resolution plan which shall resolve the debtor on being approved and if not approved then debtor shall be resolved under section 33 of Code.
* If not received then resolve the debtor by order of liquidation under section 33.

**4. Initiation Process of Corporate Insolvency-**

The process of corporate insolvency has been described in detail in CIRP Regulation[[12]](#footnote-13). It can be initiated by financial creditor, operational creditor or corporate debtor on default of corporate debtor.[[13]](#footnote-14) Section 11 of Code specifies that a corporate debtor who is currently going CIRP or CIRP in its respect has been completed or who has not complied with conditions of resolution or for whom liquidation order has been passed cannot initiate the process. The Code does not have any provision for representing homebuyers in resolution proceedings.

**4.1. Application initiated by financial creditor**

The application for initiating the process against corporate debtor can be made by financial creditor along with other creditors when default has been made. The default here also includes the default made to non-applicant financial creditor.[[14]](#footnote-15) The application shall be consisting of the record about the default being made, name of proposed interim resolution professional and any other information which has been mentioned by the Board.[[15]](#footnote-16)

The application may be accepted or rejected by authority if there has been a default, application is complete. Before rejecting application on basis of defect, seven days notice shall be given to applicant to rectify it.

**4.2. Application initiated by operational creditor**

If the operational creditor does not receive any payment within 10 days of the debtor being informed then the process of insolvency resolution may commence by filing an application.[[16]](#footnote-17) The adjudicating authority may accept or the reject the application on the basis of it being complete or if the debt is not paid, or notice has not been delivered, or the creditor did not receive any notice of dispute.

**4.3. Application initiated by corporate applicant-**

When an application is initiated by the corporate applicant then it shall consist of books of account and name of proposed interim resolution professional along with the application.[[17]](#footnote-18) The authority shall accept or reject the application and before rejecting the application a notice of seven days shall be given to the applicant.

**4.4. Time bound procedure-**

The insolvency process should complete within 180 days and it may be extended by committee of creditors after a resolution is passed by majority of them, then application shall be made to authority about the same. If NCLT is satisfied that it would require more than 180 days then it shall extend the time as it deems fit but shall not exceed 90 days.[[18]](#footnote-19)

**5. Schema of CIRP Process**-

The stages of the process for initiating the CIRP in accordance with the Code are briefly stated in the following structural outline-



**6. Fraudulent or Malicious Initiation of** **Proceedings**

An insolvency process is said to be initiated with malicious intent when-

* Initiated with a purpose other than liquidation or
* Initiated with purpose other than insolvency resolution process

Then fine of rupees one lakh to one crore may be imposed by adjudicating authority. If the intention behind commencement of such process is to defraud someone then also fine of rupees one lakh to one crore may be imposed.[[19]](#footnote-20)

During the period of lockdown, regulation 40C was inserted in CIRP Regulations excluding lockdown period while calculating timeline of CIRP. Also, NCLAT passed an order that "period of lockdown, imposed by the Central Government and the state governments, shall be excluded when counting the period of a CIRP under section 12 of the Code".[[20]](#footnote-21)

**7. Moratorium and IRP-**

There is a significant change in the Code's "debtor in control" approach for debtors who are undergoing CIRPs. An IRP is used to maintain this level of command (and afterwards an RP). Powers of the board of directors are suspended on initiation of insolvency commencement date (ICD), and are exercised by IRP. In a similar fashion, IRP assumes administration of the Corporate Debtor (and later RP). For the duration of the CIRP period, this continues.

**7.1. Moratorium**

The term moratorium could be defined as momentary inactivity. This is calm period which was introduced in the Act with aim that centre point should remain on the process of resolution and should not be delayed by any other stress. However, the Bankruptcy Law Reforms Committee[[21]](#footnote-22) suggested moratorium over recovery actions over debtor and if debtor becomes unviable then process liquidation may began.

According to section 14 of the Code, moratorium shall be imposed which will be barring following-

* Initiating of suit against debtor
* Transfer of the assets of the debtor
* Recovery of an interest created by debtor with respect to property
* Recovery of property by owner of the same.

However, the moratorium shall not affect the following-

* Essential goods being supplied to the debtor.[[22]](#footnote-23)
* Transaction which Central Government has specified.[[23]](#footnote-24)

It gives time to corporate debtor to resolve and such opportunity is not hampered by initiation of any proceeding against it. In **Power Grid Corporation of India Limited Vs. Jyoti Structures Limited**,[[24]](#footnote-25) Delhi High Court held that the aim of Code is to provide a calm period where its assets are not reduced and such timeframe is used to improve its fiscal position.

The restriction imposed under section 14 of the Code is only with respect to the assets of the corporate debtor. During moratorium period the license, permit or registration cannot be cancelled by the authority and the dues during such period shall be paid to the authority. The definition of essential goods according to regulation 32 of CIRP Regulations includes electricity, IT services, services related to telecommunications and water. Subsection 2A says, when goods are so essential to manage debtor as going concern, its supply shall not be interrupted during moratorium period.

**8. Committee of Creditors-**

The committee of creditors is a body formed by the resolution professional after receiving claims from different creditors, consisting of all creditors of debtor. It has the responsibility to make sure that debtor becomes viable. But those who are related to debtor shall not be member of committee of creditor.[[25]](#footnote-26) After its formation, it would either confirm resolution professional as insolvency resolution professional or appoint another insolvency resolution professional. Its first meeting shall be held within seven days of its formation and the decision of appointment of resolution professional shall be made by 66% of the majority votes.[[26]](#footnote-27) According to regulation 22 of CIRP Regulations quorum of meeting is 33%, however, this quorum can be changed by committee for its meetings.

**9. Resolution Professional**

Resolution professional as defined in Section 5(27) is "an insolvency professional appointed to conduct the CIRP or the prepackaged insolvency resolution process, as the case may be, and includes an interim resolution professional". The time frame of the insolvency professional is till he has been confirmed by committee of creditors or he has been replaced by the committee. Issue of appointment of resolution professional shall be resolved by 66% of majority votes.[[27]](#footnote-28) If it does not replace the resolution professional then he shall continue to hold the position and perform his duties. According to regulation 3 of CIRP Regulations, resolution professional appointed shall be from the entity of resolution professional which is independent of corporate debtor.

In **Punjab National Bank Vs. Mr. Kirah Shah, IRP of ORG Informatics Ltd.**,[[28]](#footnote-29) NCLAT held that decision of committee to replace resolution professional shall not be subject to adjudicating authority unless it is believed that there was decision without jurisdiction.

**10. Resolution Plans-**

Resolution plan according to Section 5(26) of the Code is "a plan proposed by resolution applicant for insolvency resolution of the corporate debtor as a going concern in accordance with Part II".

When expression of interest has been received for the debtor then after confirming that it satisfies the conditions required it shall be able to access the information and only then can submit the resolution plan.[[29]](#footnote-30)

When expression of interest is received, then resolution professional takes necessary step and publish a list. With completion of process of receiving expression of interest, it resolution professional begin to call resolution plan.

These resolution plans are received from the proposed resolution applicants, who completely satisfy the criteria laid down for applicant by committee of creditors and also, they are not disqualified to be applicant according to section 29A of the Code.

***Submission of plan-***

The applicant may submit the plan accompanied by the affidavit of his eligibility as per section 29A. That affidavit must be equipped with the information memorandum. After receiving all the plans, it is the duty of the resolution professional to scrutinize the plans on the basis of requirements mentioned under section 30(1) of Code.

A resolution plan should consist of the procedures, which are required to maximize the value of assets of the debtor, which can be mentioned as[[30]](#footnote-31)-

* Sale or transfer of assets
* Merger or amalgamation or demerger of the debtor.
* Acquisition of the share of the debtor.
* Change in portfolio and technology of the debtor.
* Extension of maturity.

Along with that the plan must also consist of the contents which are mentioned in Regulation 38 of CIRP regulations. Then those plans complying to conditions of the section 30 of the Code, accompanied by particulars related to avoidance transaction[[31]](#footnote-32) is placed before committee of creditors to obtain their assent.

The committee shall evaluate those plans and record its practicality and vote accordingly.[[32]](#footnote-33) On receiving minimum vote of 66% the plan shall be considered as approved.[[33]](#footnote-34) The committee shall approve the plan on the basis of viability. While deciding on the resolution plan the committee shall consider the percentage of distribution to different stakeholders. According to Regulation 39(3) of the CIRP Regulations the committee shall while voting on the plan evaluate the plan, must keep a documentation about its viability, and should vote on them at the same time.

**11. Submission of the Plan to Adjudicating Authority-**

After the plan has been approved by the committee it shall be placed before the adjudicating authority as stated in section 30(6) of the Code. Further the regulation 39(4) of CIRP Regulations, mentions that plan must be submitted minimum 15 days before the completion of process. On being satisfied of the plan, adjudicating authority may approve it and once it has been approved, the plan shall be binding upon the debtors, creditors, guarantors etc who are involved in the plan.[[34]](#footnote-35)

The Central Government, any state government, or any local authority shall also be bound by the plan approved by adjudicating authority. Before amendment, these authorities were not accepting the manner in which the debt due to them were treated in the resolution plan, so an amendment was brought to bound them to the plan. When the order of approval of plan has been passed[[35]](#footnote-36)-

* Moratorium shall cease to effect.
* All records shall be sent to Board for its documentation by resolution professional.

If the authority is of the opinion that the plan does not comply the prerequisite mentioned under subsection 2 of section 30 of Code, it can be rejected by the authority. According section 31(2)of the Code, if authority is of opinion that plan does not comply the prerequisite mentioned under section 30(2) of Code, it can be rejected by the authority. If any person is aggrieved by the order of the adjudicating authority then appeal shall be made to the NCLAT.[[36]](#footnote-37)

**12. Execution of the Resolution Plan-**

Both the Act and the Regulations have given importance to the implementation of plan. Earlier, there were cases where, after approval of application, the applicant were withdrawing from plan. In order to get rid of such situation Regulation 39(4) of CIRP Regulation provides for submission of performance security along with the resolution plan along with the evidence of security. While under Regulation 38(1B) of CIRP Regulation, it is further stated that the plan should consist of a proclamation about failure or no failure of performance on the part of parties.

If a creditor is affected by non execution of the plan may apply to the adjudication authority and it may allow the extension of time for the implementation of plan.[[37]](#footnote-38) When the order of adjudicating authority is disregarded by the debtor, then those affected by such disregard may apply for liquidation under section 33(3) of Code

**13. Liquidation**

Before the enactment of Code, the process of winding up and liquidation was done in accordance with the provisions of Companies Act, 1956. The ground for winding of the company was its lack of ability to pay debt, as mentioned in section 433(e) of the Companies Act, 1956. However, with enactment of Code, when there is default, it is mandatory for a debtor to enter the process of corporate insolvency resolution and if unable to be revived through a resolution then liquidate the same. It can be said that the process of liquidation begins when the process of insolvency resolution has been completed and no plan has been approved.

The term liquidation can be defined as ending the life of company. After this company shall be under administration of liquidator and all its decision shall be taken by the liquidator to secure the interest of the creditors and stakeholders of the corporate debtor.

**13.1. Grounds for Initiating**

Liquidation of a corporate debtor begins when the corporate debtor has made a default and the process of insolvency resolution has been undergone. If grounds for liquidation mentioned under section 33 of Code are fulfilled then the adjudicating authority shall pass the order to liquidate the debtor, issuing public announcement for the same and sending the order to the authority to which the debtor is registered.

When the committee of creditors with 66% of majority decides to liquidate the corporate and the same has been communicated to the adjudicating authority before the approval of the resolution plan by the resolution professional, then the order of liquidation shall be passed by the authority.[[38]](#footnote-39) Any person other than the debtor whose interest has been affected by the infringement of plan, may file an application to liquidate the debtor. If the authority has sufficient reason to believe that infringement has been made by debtor, then it shall pass the order to liquidate the same.[[39]](#footnote-40)

The main aim of the Code is to save the firms who could be saved and liquidate those firms which are not viable. The creditors or the stakeholders under the Code are not given the opportunity to make an application to liquidate the firm. They can only make an application to initiate the insolvency resolution process. If this process fails to result into a resolution plan then only order for liquidation is passed.

The term liquidation has not been defined under Code but it defines the term winding up while specifying the amendment to Companies Act, 2013 under section 2(94A). The term winding up is inclusive of term liquidation. But the grounds for winding up in Companies Act, 2013 are unlike from those of liquidation under Code.

When order of liquidation has been passed by the authority no suit or proceedings can began against the debtor, there will be bar on initiation of the same.[[40]](#footnote-41) The exception to initiation of legal proceeding is given under section 33(6) of the Code.

In the case of **Reliance India Power Fund, Reliance Capital Vs. Mr. Raj Kumar Ralhan,**[[41]](#footnote-42) it was held by NCLAT that liquidator can decide not to defend any suit or proceeding initiated against the corporate debtor and he cannot be forced to submit to the action initiated by the applicant.

**13.2. Procedure of liquidation**

The process of liquidation should complete in one year, to be calculated from the date of commencement of process of liquidation. The liquidator shall form an estate which will be called as liquidation estate.[[42]](#footnote-43)

The assets which could not be sold because of being different in nature shall be allocated to the stakeholders equally. The liquidator may be sought to provide financial information to the creditors which is related to debtor in the manner which is precisely mentioned under section 37(2) of Code.

The claims of the creditor shall be received within 30 of beginning of liquidation.[[43]](#footnote-44) The creditor may submit claim along with providing the evidence of claim with information utility. If such claim is not in the records of information utility, then the creditor must, along with the claim submit the documents in support of the claim.[[44]](#footnote-45) Section 38(3) of Code mentions about submission of claim by the operational creditor in the approach mentioned by the Board. If the creditor who is partly a financial creditor and partly an operational creditor shall submit claims to the liquidator to the extent of his financial debt in the manner provided in section 38(2) and to the extent of his operational debt under section 38(3) of Code.

**14. Problems And Challenges-**

Various challenges have been faced by various organs of the Code and these challenges make it difficult for them to perform the function freely and in time bound manner. The important task here is complete the process in the time frame and it can be done if the information is readily available to creditors and such information need to accurate also. However, lack of information has been obstruction in recovery of dues. Also, it is seen that, there reluctance in sharing the information. Also, the information utility does not consolidate the existing repository.

The IBC does not favor the possession of debtor on the assets when the CIRP has been initiated. Insolvency professional is vested with the powers of the corporate debtor's board. This results in the conflict arising out of loyalty among the employees of the corporate debtor. As, they all have this belief that the insolvency professional is for time being and the promoters will be back in the board of directors and because of this the information required by insolvency professional is not gathered by him. This way the employees remain loyal toward corporate debtor.

Another challenge faced is that, it is not necessary that creditors will comply provisions of moratorium, they may initiate suits and proceeding against corporate debtor. There is need to create awareness about moratorium period.

Also, many times there is lack of sufficient fund to pay the cost of insolvency professional and he has to raise finance to meet the cost. The insolvency professional has to face various challenges while exercising control over corporate debtor. It would be less difficult to arrange funds from the existing creditors but the outside financers would not wish to enter into it, because of current situation of corporate debtor.

**15. Whether the Code is Effective?-**

The Code has helped the creditors to recover their debt. There is difference in the approach of Code to that of the legal regime which were present before its enactment. As the CIRP is different from the processes which were used in the previous laws. Also there was multiplicity of laws and the result was not at all helpful in making the corporate viable. Although all the expectations from the Act has not come to reality.

The Code was enacted with the motive that it would result into ultimate cure for treatment of corporate debtor. But when the market is dominated by the corporate where promoters are well settled, banks have been irresponsible in giving credits and most important corruption is rooted deeply, it was believed that new Code would be able to deceive all these.

Though the Code was believed to be enacted to overcome all flaws of previous laws but there are some flaws in this Code also. As there is ambiguity with respect to liquidation process, the liquidator has been given a lot of powers, the conduct of committee of creditors. The recovery of creditors has not been sufficient in comparison to claims, specially of the banks, but the banks have been reckless in lending the credit without even verifying the documents.

There is need to determine the value of asset on the basis of its demand. The accountability of the liquidators as well as committee of creditors is required to increased as it would result in betterment of interest of creditors. Also, committee of creditors should be given more power while appointing the resolution professional.

**16. Conclusion**

The Code was enacted as an original legislation, intended to consolidate laws related to insolvency and bankruptcy which were existing before. The Code has brought amendment to different existing laws and has made it easy for the creditors to recover their debts.

There are various objectives of this Code but the most important one is to provide effective manner in which the debts could be recovered by the creditor through different means. Before the enactment of this Code, the only manner in which debt could be recovered from a failing concern was by liquidating it. The enactment of Code has brought out the manner of CIRP, where attempt is made to revive the same and make it viable.

The main concern of the Code is to provide the opportunity to corporate to revive during insolvency resolution process. The focus of Code is to vest power with creditors, so that their interest are not undermined while resolving or liquidating the corporate debtor.

Also, the Code seeks to complete the process within a time frame, which was not possible in previous laws, because of multiple legislation and initiation of suit by or against the debtor. The Code has brought the change that there shall be moratorium imposed during the period of insolvency resolution process, thus, the process tend to be completed within the time frame.

When the corporate is unable to be revived through resolution the it shall be liquidated and that should also be done within a time frame in order to protect the interest of creditor which could be hampered by the delay. It has shifted the focus from rights of the debtor to the right of creditor by vesting powers with committee of creditors which was not there in previous legislation. The Code also mentions about voluntary liquidation as well as liquidation initiated when restructuring of the debtor is failed.

The code provide for completion of process within a time frame, but it is difficult with lack in number of NCLT in comparison to cases being initiated. This results in delay, which in turn defeats the purpose of Code. Also, large number of creditors may not smoothly run committee of creditors.

The way forward is to increase NCLT benches to resolve the issue, so that the purpose of IBC is served. To make the liquidator and resolution professional more accountable with the decisions take by them. There should be decentralization of power from committee of creditors and their accountability should also be increased.

1. Hereinafter mentioned as Code. [↑](#footnote-ref-2)
2. The Insolvency And Bankruptcy Code, 2016, No. 13, Acts of Parliament, 2016 (India) § 206. [↑](#footnote-ref-3)
3. Hereinafter mentioned as NCLT. [↑](#footnote-ref-4)
4. *Supra* note at 2, § 60(1). [↑](#footnote-ref-5)
5. The Companies Act, 2013, No. 18, Acts of Parliament, 2013 (India). [↑](#footnote-ref-6)
6. *Supra* note at 2, § 60(4). [↑](#footnote-ref-7)
7. Civil Appeal No. 8766-67 of 2019. [↑](#footnote-ref-8)
8. *Supra* note at 2, § 61(2). [↑](#footnote-ref-9)
9. Id., § 62(1). [↑](#footnote-ref-10)
10. 2019 SCC Online SC 1542. [↑](#footnote-ref-11)
11. *Supra* note at 2, § 196(3). [↑](#footnote-ref-12)
12. Insolvency And Bankruptcy Board Of India (Insolvency Resolution Process For Corporate Persons) Regulations, 2016. Hereinafter mentioned as CIRP Regulations. [↑](#footnote-ref-13)
13. *Supra* note at 2, §6. [↑](#footnote-ref-14)
14. *Supra* note at 2, § 7(1). [↑](#footnote-ref-15)
15. Id., §7(3). [↑](#footnote-ref-16)
16. Id., §9(1). [↑](#footnote-ref-17)
17. Id., §10(3). [↑](#footnote-ref-18)
18. Id., §12. [↑](#footnote-ref-19)
19. Id., § 65. [↑](#footnote-ref-20)
20. Company Appeal (AT) (Insol) No. 1 of 2020. [↑](#footnote-ref-21)
21. T. K. Viswanathan, *The Report of The Bankruptcy Law Reforms Committee Volume I: Rationale And Design*, (2015). [↑](#footnote-ref-22)
22. *Supra* note at 2, § 14(2). [↑](#footnote-ref-23)
23. Id., § 14(3). [↑](#footnote-ref-24)
24. 246 (2018) DLT 485. [↑](#footnote-ref-25)
25. I *Supra* note at 2, § 21(2). [↑](#footnote-ref-26)
26. Id., § 22(2). [↑](#footnote-ref-27)
27. Id., § 22. [↑](#footnote-ref-28)
28. CA (AT) (Ins) No. 749/2019 [↑](#footnote-ref-29)
29. *Supra* note at 12, Reg. 36A. [↑](#footnote-ref-30)
30. Id., Reg. 37. [↑](#footnote-ref-31)
31. Id., Reg. 39(2). [↑](#footnote-ref-32)
32. Id., Reg. 39(3). [↑](#footnote-ref-33)
33. *Supra* note at 2, § 30(4). [↑](#footnote-ref-34)
34. Id., § 31(1). [↑](#footnote-ref-35)
35. Id., § 31(3). [↑](#footnote-ref-36)
36. Id., § 61. [↑](#footnote-ref-37)
37. *Supra* note at 12, Reg. 39(9). [↑](#footnote-ref-38)
38. *Supra* note at 2, § 33(2). [↑](#footnote-ref-39)
39. Id., § 33(4). [↑](#footnote-ref-40)
40. Id., § 33(5). [↑](#footnote-ref-41)
41. CA(AT)(Ins) No. 318/2020. [↑](#footnote-ref-42)
42. Id., § 36(3). [↑](#footnote-ref-43)
43. Id., § 38(1). [↑](#footnote-ref-44)
44. Id., § 38(2). [↑](#footnote-ref-45)