Corporate Insolvency Resolution under the Insolvency and Bankruptcy Code, 2016 - A New Regime

Dr. Ashim Paul *

Before independence, the Indian economy was basically dependent upon agriculture and industrialization gained importance mainly in the post-independence era. But, the dismal story is that since inception, industrialization in India has suffered from varying degrees of sickness in both public and private sectors, and the Indian Government has been attempting to enact a number of legislations from time to time in order to ensure a healthy and favorable industrial environment and reduce the menace of industrial sickness from the economy to the extent possible. As a result, the legal framework for corporate insolvency resolution in India has passed through a series of enactments, along with a number of legislative and administrative changes, but surprisingly it did not have a comprehensive one, until the introduction of the "Insolvency and Bankruptcy Code, 2016", on 28th May, 2016. The present paper, therefore, tries to briefly narrate India's journey towards a single and comprehensive framework for corporate insolvency resolution thereby identifying the loopholes of the earlier system, if any, and exploring the impact of the new framework relating to corporate insolvency resolution in India, in recent times.

Key words: Insolvency and Bankruptcy Code – Insolvency and Bankruptcy Board of India – Interim Resolution Professional – Corporate Insolvency Resolution Process – Ease of Doing Business Ranking

1. Introduction

Prior to the *Insolvency and Bankruptcy Code, 2016* – the framework for corporate insolvency resolution in India – consisting of different administrative bodies and statutes with a few overlapping provisions (amended a number of times), was basically complex

* *Assistant Professor (Commerce), Goenka College of Commerce and Business Administration, Kolkata.*
Email : ashim.paul06@gmail.com

in nature, but not a comprehensive one. There is no denial of the fact that soon after the independence, the *Industrial Policy Resolution* of *1948* introduced some basic changes into the Indian economy, which got further boost with the introduction of the *Companies Act, 1956* and the *New Economic Policy (NEP) 1991*, respectively. Nevertheless, the incidence of sickness among industrial units in India could not be controlled to a large extent with the then existing framework. A need had been felt for a long time to revoke this existing complex system, but the task was not so easy; rather it was quite enormous and difficult, risky and time-consuming task. It was difficult and risky because the manner in which similar corporate failures or corporate bankruptcies were being treated then in the developed economies, could not be followed in/by India yet in her early phase of development. Now the questions that inevitably arise are: (a) What caused the enormous changes to be introduced into the Indian economy overnight? (b) How did the *Insolvency and Bankruptcy Code, 2016*, get enacted, which was not possible to be implemented during the last *60-65* years of independence. The answers lie elsewhere. However, it was neither done overnight nor was it done suddenly. It took almost a quarter of a century after the economic liberalization of the Indian economy, in *1991*, to introduce the various financial sector reforms and effect the desired huge transformations, affecting almost every sphere of economic activity and the society in order to initiate and develop an efficient industrial climate and accelerate its economic growth.

Now, as India progresses on all fronts, she marks her presence felt in the world economy because of its consistent approach in bringing in comprehensive changes in the existing corporate laws and the financial system to make it comparable with the world's leading economics. Therefore, what India required was a separate comprehensive bankruptcy code to administer corporate insolvencies, similar to that of the developed economics. Thus, the historical journey of development of the corporate insolvency framework continued to evolve in India, since independence. This story may broadly be divided into two phases:

A. The pre-liberalization phase *(1947 to 1990)* and

B. The post-liberalization phase *(1991 onwards....*

Therefore, this paper is organized as follows. *Section 2* tries to explain the evolution of the corporate insolvency resolution framework in India, dividing it into two *sub-parts,* namely, *Part A* - Developments during the pre-liberalization era, and *Part B* - Developments in the post-liberalization era. *Section 3 narrates the details* of the new resolution framework under the *Insolvency and Bankruptcy Code, 2016*, in order to resolve corporate insolvencies, and *Section 4* attempts to explore the impact of the same, by reviewing its success stories so far, and finally, conclusions are drawn in *Section 5*.

2. The Evolution of Corporate Insolvency Resolution Framework in India

This section has been divided into two sub-parts, viz. *Part A* narrates the developments during the years from *1947 to 1990*, i.e. the pre-liberalization period, and, *Part B* emphasizes the advancements that took place post-*1991* onwards and up to the introduction of the long-awaited *Insolvency and Bankruptcy Code in 2016*, to depict the progress during the post-liberalization period.

Part A

Developments during the period 1947 to 1990 – The Pre-Liberalization Era

The pre-liberalization phase witnessed the establishment of several institutions and enactments of a number of legislations to deal with the issues relating to corporate insolvency in India. The journey started with setting up of the *Industrial Finance Corporation of India (IFCI)* in 1948 to provide medium and long-term credit facility to the public limited companies. To supplement the works and activities of IFCI, the *State Financial Corporation (SFC)* was set up in the year 1951 for promoting the financial institutions in the different states with an objective to provide financial assistance at concessional rates to the industrial units. In the same year, the *Industrial Development and Regulation Act (IDRA)* was enacted to control industrial sickness to the extent possible. Thereafter, in the year 1956, *the Companies Act, 1956*, became operational. This Act outlined the legal provisions for corporate bankruptcies along with the insolvency resolution process for such entities in India as well (Srinivasan, 2012). The procedures for 'Revival', and 'Winding Up' of 'Sick Companies' in India are mentioned under Sections 424 to 560 in Parts VIA to VII of this Act. These provisions of the Companies Act, 1956, worked as the bases of corporate bankruptcy norms in India for a long time until the enactment of the *Insolvency and Bankruptcy Code, 2016*. Further, in the pre-liberalization phase, the *Industrial Reconstruction Corporation of India (IRCI)* was set up in *1971* with some specific objectives like revival of sick industrial units, with the assurance of various financial and managerial assistance to the industrial units in need. In the same year, the IDRA was amended further to empower the Central Government to take over the industrial units that have become 'sick'. *The Sick Textile Undertaking Nationalization Act, 1974*, was enacted to take over the sick textile units in India and reorganize and rehabilitate them for the "common good" of the nation. In 1975, the Reserve Bank of India (RBI) set up the Tandon Committee to recommend and implement the provisions on participation of the commercial banks in the management of various sick industrial units in India. Thereafter, the RBI took some revolutionary steps such as introduction of the *Soft-Loan Scheme (1976), Merger Policy (1977), Policy*

Guidelines on Sick Units (1978) and setting up of various legal and advisory committees for dealing with the sick industrial units in India. The *Soft-Loan Scheme (1976)* was introduced mainly to facilitate financial assistance to the small scale industries like jute, cotton, cement, sugar, fertilizer, etc.; but in *1984*, this scheme got modified further and was unlocked for all kinds of industries in India for their modernization and restructuring. The *Merger Policy* in 1977 added some extra mileage to it by allowing sick units to be merged with the healthy ones. The *Policy Guidelines on Sick Units (1978)* recommended the respective state governments and its State Financial Corporation (SFC) to work jointly for the revival and rehabilitation of the sick industrial units belonging to the state concerned. Thereafter, the *Industrial Reconstruction Bank of India Act, 1984, (IRBI)* was passed with the basic objective to provide financial backing to the industrial units which have either become sick or were susceptible to sickness for their revival or smooth functioning; but, unfortunately, this Act did not last long. In this context, it becomes imperative to mention that over the years, the processes of administering corporate bankruptcies in India were entrusted with the high courts and the provisions of the Companies Act, 1956, but actual facts indicate that the then prevailing system often got stuck with procedural delays plaguing other judicial actions, thereby leading to major constraints, especially for the creditors. Thereafter, in its attempt to control sickness among industrial units and speedy recovery of the accumulated debts, the Government of India appointed the Tiwari Committee in 1981 and on its recommendation, the Central Government ratified the *Sick Industrial Companies (Special Provisions) Act (SICA), 1985*, to ensure 'timely detection of sick and potentially sick' industrial units and determine the 'preventive, ameliorative, remedial and other measures' with respect to such units.

The main objective behind this enactment was to create a standardized system for the revival of 'sick industrial' companies in India through two dedicated tribunals, namely, Board for *Industrial and Financial Reconstruction (BIFR)* and the *Appellate Authorities for Industrial and Financial Reconstruction (AAIFR)*. Accordingly, the BIFR was set up in January 1987. Its roles, as conferred by the *SICA*, were:

a) timely detection of sick and potentially sick companies;

b) determination of the various measures to be taken in respect of the sick company; and

c) enforcement of such measures *(Malla, H., 2011)*.

Thereafter, the *AAIFR* was constituted in April 1987 to appeal against or confirm or modify or reserve BIFR's order or to send the matter back to the BIFR for fresh

considerations. The *SICA (1985)* provided clarifications and gave guidelines to a number of important issues relating to corporate insolvency.

1. Definition of a sick industrial company *[Section 3(1)(o)]:*
2. Clarification and effects of accumulated losses *[Section 23(1)];*
3. Definition of industrial company *[Section 3(e)];*
4. Meaning of industrial undertakings *[Section 3(f)];*
5. Referential and working status verification norms of a sick unit *[Section 15];*
6. Evaluate whether an industrial company has actually become a sick industrial unit, or it has indulged in manipulation to falsify and pretend sickness or not *[Section 16]* along with *Sub-clauses 1 and 2;*
7. Preparation and sanction of schemes, *[Section 17];*
8. Provide financial assistance where the scheme relates to preventive, ameliorative, remedial and other measures with respect to any sick industrial company *[Sections 19(1) to 19(3)];*
9. Suspension of legal proceedings against a sick industrial company *[Sections 16 and 25]*.

These are some of the important provisions, to mention a few, of the SICA with which it has been working since 1985 to administer and control the incidence of industrial sickness in India. But, since its inception, SICA has also been facing criticisms regarding its working and procedural delays. Its lengthy process, unwanted procedural delays and poor enforcement system crushed the basic purpose of the Act. And due to these inherent flaws, SICA (1985) was not completely successful in combating industrial sickness in India, and, so a need was felt to revoke the Act, which got materialized during the post-liberalization era of Indian economy in 1991.

Part B

Developments during the Post-liberalization Period – 1991 onwards

In 1993, soon after the Indian Government rolled out the *New Economic Policy (NEP)* (liberalization), SICA was further amended to bring government companies under its purview. This was the first major step taken to regulate corporate bankruptcy regime after the introduction of the New Economic Policy (NEP), and with such an amendment, a new phase of corporate bankruptcy resolution began in India.

Furthermore, the establishment of the Company Law Board was another important step. The Central Government, as per *Section 10(E)* of the *Companies Act, 1956*, established the *Company Law Board (CLB)*, with effect from the 31st May, 1991, to work as a quasi-judicial body, exercising equitable jurisdiction as regards corporate insolvency in India, which was earlier executed by the relevant High Courts or the Central Government. The Company Law Board framed the *Company Law Board Regulations, 1991*', prescribing the procedure for filing the insolvency applications before it. Thereafter, several committees have been formed by the government to invite and decide on the next step to improve the then existing framework. The first committee, headed by V. B. Eradi in 1999, made some recommendations in terms of:

a) creation of a new tribunal for a centralized winding-up process,

b) harmonization of Indian corporate bankruptcy norms with international norms.

The second committee, headed by N. L. Mitra, recommended in 2001 the termination of the BIFR/AAIFR, and the consolidation of the existing insolvency laws into a single and comprehensive bankruptcy code to administer the corporate insolvency cases in India (Srinivasan, 2012). On the basis of the recommendations of the Eradi Committee, the Government of India, modified the Companies Act replacing it with the *Companies (Second Amendment) Act, 2002*, to deal with the 'revival and rehabilitation of sick industrial units'.

The Next enactment made was the *Sick Industrial Companies (Special Provisions) Repeal Act, 2003*, to rescind the Sick Industrial Companies (Special Provisions) Act, 1985. This new Act removed certain limitations and ambiguities of the earlier Act. It mainly aimed at reducing the instances of industrial sickness by ensuring that companies henceforth would not take an escapist route from the legal provisions of the new Act and access various financial benefits or assistance, in case of financial failure. It suggested the elimination of the Board for Industrial and Financial Reconstruction (BIFR) and Appellate Authority for Industrial and Financial Reconstruction (AAIFR) and the creation of the *National Company Law Tribunal (NCLT)* and *National Law Appellate Tribunal (NCLAT)*, respectively. However, the tribunal started facing a lot of difficulties in respect of its constitutionality and functioning. As a result, the *Companies Act, 1956,* and the SICA, 1985, regained their credence and supremacy, as well. Consequently, the BIFR and AAIFR too became operational again, as before.

Other reforms that took place during this regime were the introduction of the *Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002*, and the enforcement of the guidelines on *Corporate Debt*

Restructuring by the RBI. Next, on the basis of the recommendations made by the J. J. Irani Committee (2005), the *Companies Bill, 2008*, was introduced on 23rd October, with the expectation to bring in some changes in the then existing Companies Act, 1956, regarding the rehabilitation and revival of the sick industrial units, but the *Companies Bill, 2008*, lapsed due to dissolution of Lok Sabha and was reintroduced on 3rd August, 2009 as the *Companies Bill, 2009*, with some modifications, and finally, the bill became the *Companies Act, 2013,* after two subsequent revisions on *14th December, 2011, and 18th December, 2012*.

The main revolutionary change that the Companies Act, 2013, brought in was that it clarified the structure and judicial powers of the *National Company Law Tribunal* and *Appellate Tribunal* in Chapter XXVII. Moreover, the Companies Act, 2013, suggested the abatement of all the matters pertaining to the sick industrial companies before the BIFR and AAIFR by registering the matter before the NCLT. However, surprisingly, the 2013 Act did not specify any date on and from which the two judiciary bodies – NCLT and Appellate Tribunal would start functioning, and, therefore, the provisions of the Companies Act, 2013, on corporate insolvency could not be enforced. Thereafter, on 28th May, 2016, India ultimately became successful in implementing the long-awaited ***Insolvency and Bankruptcy Code (IBC), 2016.*** With this Act a new era of corporate bankruptcy regulation has begun overriding all other existing laws and matters pertaining to corporate insolvency and bankruptcy in India. Thereafter, on 1st June, 2016, the Ministry of Corporate Affairs (MCA), Government of India issued a notification to constitute the NCLT and NCLAT with immediate effect. There is no denying the fact that formation of the NCLT and NCLAT was meant for the settling of corporate disputes speedily and thereby fostering the business environment in India. The following section shows how the new framework for corporate insolvency resolution in India has been set under the IBC, 2016, and the recent developments thereafter.

3. Corporate Insolvency Resolution and the Insolvency and Bankruptcy Code, 2016

Basically, the Insolvency and Bankruptcy Code, 2016, is

> *"an Act to consolidate and amend the laws relating to reorganization and insolvency resolution of corporate persons, partnership firms and individuals in a time-bound manner for maximization of value of assets of such persons, to promote entrepreneurship, availability of credit and balance the interests of all the stakeholders including alteration in the order of priority of payment of Government dues and to establish an Insolvency and Bankruptcy Board of India, and for matters*

connected therewith or incidental thereto." (No. 31, Insolvency and Bankruptcy Code, 2016).

The salient features of the corporate insolvency resolution, as specified under the Insolvency and Bankruptcy Code, 2016, are briefly discussed below.

a) Adjudicating Authority

According to the Insolvency and Bankruptcy Code, 2016, the NCLT acts as the adjudicating authority for corporate insolvency cases in India and appeals from the NCLT may be vested with the NCLAT, if required, while, Insolvency and Bankruptcy Board of India (IBBI) plays the role of the chief regulatory body. This new framework is thus expected to resolve the corporate insolvency cases in India in an adequate, effective and timely manner, eliminating the unwanted procedural delays that plagued the earlier system.

b) Amount of Default

The amount of default relating to *'insolvency resolution and liquidation for corporate persons'* are mentioned in Chapter I of Part II of the Insolvency and Bankruptcy Code, 2016, wherein it is mentioned that in the case of *'corporate debtors'*, the minimum amount of default is 1 (one) lakh rupees which can be of higher value, but not more than 1 (one) crore rupees, and, that it is to be notified by the Central Government Section 4(1), Insolvency and Bankruptcy Code, 2016.

c) Application for Corporate Insolvency Resolution

Under Chapter II of Part II of the Insolvency and Bankruptcy Code, 2016, the financial creditor, the operational creditor and even a corporate debtor, are themselves allowed to file an application before the NCLT, and the Adjudicating Authority, for insolvency resolution due to non-payment of debt. On receiving an application, it comes under the purview of the NCLT either to accept or reject the application based, on certain criteria, within 14 days from the date of such application, and, if such application gets accepted, the whole insolvency resolution process is to be completed within 180 days from the date of acceptance of such application by the NCLT. If such process is not completed within 180 days, an extension of 90 days can be availed only once, subject to certain conditions mentioned under the Code.

d) Public Announcement

Section 13 allows the NCLT to make a public announcement of the corporate insolvency resolution process and such announcement shall contain the *"name and*

address of the corporate debtor, name of the authority with which the corporate debtor is incorporated or registered, the last date for submission of claims, details of the interim resolution professional who shall be vested with the management of the corporate debtor and be responsible for receiving claims, penalties for false or misleading claims, and the date on which the corporate insolvency resolution process shall close". Section 15(1), Insolvency and Bankruptcy Code, 2016.

e) Declaration of the Moratorium

Further, the NCLT is empowered to issue a moratorium, i.e. suspension on the operations of the defaulter debtor during the period of the insolvency resolution process, soon after the acceptance of the application and such suspension shall continue until the completion of the insolvency resolution process. This period of moratorium is known as *'calm period'* (Wadhwa, 2016).

f) Appointment and Tenure of Interim Resolution Professional

As mentioned under Section 16(1), the NCLT appoints an interim resolution professional within 14 days from the date of commencement of corporate insolvency process and his tenure should not exceed 30 days from date of his appointment. As per Section 16(5) Insolvency and Bankruptcy Code, 2016, the interim resolution professional is empowered to take full control and supervision over the management of the affairs of the defaulting debtor.

g) Formation of Committee of Creditors and Meeting

According to Section 21(1) of the Insolvency and Bankruptcy Code, 2016, the interim resolution professional, after receiving the claim against the corporate debtor and assessing the financial position of the corporate debtor, constitutes a *Committee of Creditors (COC)* comprising the financial creditors of the corporate debtor. The first meeting of the committee is to be held within 7 days of the constitution of the committee and each of its decisions must satisfy 75 percent voting share of the financial creditors. Here, in this context, it should be mentioned that the committee has the right to replace the insolvency resolution professional with another resolution professional [Sections 22 (1&2), Insolvency and Bankruptcy Code, 2016].

h) Preparation of Information Memorandum

The insolvency resolution professional prepares an information memorandum containing relevant information relating to the financial position of the corporate debtor, disputes, if any, by or against the corporate debtor and any other matter so related [Section 29(1), Insolvency and Bankruptcy Code, 2016].

i) Submission and Approval of the Resolution Plan

Under Section 30(1), Insolvency and Bankruptcy Code, 2016, on analyzing the information memorandum, the resolution applicant has to submit a resolution plan to the insolvency resolution professional who shall finally present the plan before the committee of creditors for its necessary approval. After, accepting or rejecting the plan by exercising their voting rights, the committee may or may not approve the plan to be submitted to the NCLT. Once the plan is submitted to the NCLT and gets it approval, it becomes binding upon the employees, members, creditors, guarantors and other stakeholders. On the contrary, if the NCLT (a) *"does not receive a resolution plan* under sub-section (6) of Section 30, or (b) *rejects the resolution plan* under Section 31 for the non-compliance of the requirements specified therein" [Section 33(1)], Insolvency and Bankruptcy Code, 2016, then it may issue an order of liquidation of the defaulting debtor and require such order to be sent to the authority with which the corporate debtor is registered.

Formation of Fast Track Corporate Insolvency Resolution Process

Fast track corporate insolvency resolution process is described in Chapter IV of Part II of the Code, and it may be made in respect of the following corporate debtors, namely, "*(a) a corporate debtor with assets and income below a level as may be notified by the Central Government, or (b) a corporate debtor with such class of creditors or such amount of debt as may be notified by the Central Government, or (c) such other category of corporate persons as may be notified by the Central Government" [Section 55(2.a, 2.b and 2.c)], Insolvency and Bankruptcy Code, 2016.* As mentioned under *Section 56 (1), Insolvency and Bankruptcy Code, 2016*, the duration of the fast track corporate insolvency resolution shall be *90 days* from the date of commencement, and it may further be extended up to *45 days* but not more than that.

j) Voluntary Liquidation

Matters pertaining to voluntary liquidation of corporate persons are explained in Chapter V, wherein it is stated that, *"a corporate person, who intends to liquidate itself voluntarily and has not committed any default, may initiate voluntary liquidation proceedings under the provisions of this Chapter"* [Section 59(1), Insolvency and Bankruptcy Code, 2016].

In this context it should be mentioned that since its inception, the Insolvency and Bankruptcy Code, 2016, has been amended quite a few times to incorporate some changes or modifications necessary to make it more comprehensive, reliable and

practical; and the most recent one has come in the form of the *Insolvency and Bankruptcy Code (Second Amendment) Act, of 2020.* The major amendments that have been included in respect of corporate insolvency resolution in India, are:

1. Increase in the duration of corporate insolvency resolution process from 180 days plus a 90 days grace to *330* days [Insolvency and Bankruptcy Code *(Amendment) Act, 2019, w.e.f. 16th August, 2019];*

2. Inclusion of Financial Service Providers (FSPs) or categories thereof, under the purview of the Code, in terms of exercising the power of the Central Government (mentioned under *Section 227*, Insolvency and Bankruptcy Code, 2016) to provide an interim framework or mechanism for Corporate Insolvency Resolution Process of FSPs until the introduction of any comprehensive mechanism for financial resolution of FSPs by bringing in some general modifications (e.g. 'Corporate Debtor', in this context, should mean 'Financial Service Provider' and 'Insolvency Professional'/'Interim Resolution Professional'/'Resolution Professional'/ 'Liquidator', should mean 'Administrator') and special modifications in respect of 'Initiation of Corporate Insolvency Resolution Process', 'Moratorium', 'Advisory Committee' and 'Resolution plan', as well in the existing Code [*Insolvency and Bankruptcy* (Insolvency and Liquidation Proceedings of Financial Service Providers and Application to Adjudicating Authority) *Rules, 2019*, *w.e.f. 15th November, 2019];*

3. The date of appointment of interim resolution professional should be the same as that of the commencement of the insolvency resolution process [Insolvency and Bankruptcy Code *(Amendment) Act, 2020, w.e.f. 28th December, 2019];*

4. To offer immunity to the corporate debtor (after change of management or control) against any prosecution involving earlier management. This amendment has been done in the existing Code [Insolvency and Bankruptcy Code *(Amendment) Act, 2020, w.e.f. 28th December, 2019];*

5. Reduction in the voting threshold of the COC to 66 percent from 75 percent for a number of issues, like approval of resolution plan, extension of CIRP period, etc. [Insolvency and Bankruptcy Code *(Second Amendment) Act, 2018, w.e.f. 6th June, 2018];*

6. Insertion of new provisions for the restructuring of the corporate debtor, including merger, amalgamation and demerger, etc., which were not clearly specified in the earlier Code. [Insolvency and Bankruptcy Board of India *(Insolvency Resolution*

Process for Corporate Persons) (Third Amendment) Regulations, 2019, w.e.f. 27th November, 2019];

7. Keeping in view the ongoing *COVID-19* situation, the Central Government by its power has taken two major steps :

   a) increase the minimum amount of default for initiating a corporate insolvency resolution process to one crore rupees, and

   b) suspension on filing of applications for initiation of corporate insolvency resolution process with regard to the defaults arising within the period of one year starting from 25th March, 2020, and up to 24th March, 2021 [the Insolvency and Bankruptcy Code [(*Amendment) Ordinance, 2021, w.e.f. 4th April, 2021].*

The next part, therefore, tries to explore how the Code with all its amendments is impacting the corporate insolvency resolution in India in recent times.

4. Impact of the New Framework

The new framework for corporate insolvency resolution undoubtedly helps a corporate entity to find an insolvency resolution on becoming a defaulter in a timely manner. Earlier, the corporate insolvency framework in India was more debtor-friendly but recently, the mechanism has become creditor-inclined. With NCLT as the main adjudicating authority, NCLAT and the Supreme Court as the two appellate authorities, and the Insolvency and Bankruptcy Board of India as the regulator, the new framework exercises its control upon the defaulting debtor with the help of insolvency resolution professionals and thus reduces the intervention of the court while solving corporate resolution cases and thereby balances the interests of all stakeholders with ease.

The advantages of this new framework are manifold. It has vastly improved the legal environment of doing business in India with greater ease. The new framework has efficiently reduced the time taken for resolving '*winding up*' cases in India from 4 *years to less than one year* (www.ibef.org/research/india-study/insolvency).

Besides, it has been successful in introducing a better and faster debt recovery mechanism in the country This fact becomes evident from the recent report of the World Bank on 'Ease of Doing Business', wherein India has been placed among the top *10* countries thus showing the most notable improvement in 'Doing Business Indicators' during 2018-19. Moreover, India's rank in the 'Ease of Doing Business

Ranking' list has gone up from *130th* position in *2016* to 63rd position, at present.

Next, the amendments in the Insolvency and Bankruptcy Code, 2016, regarding new provisions for the restructuring is expected to bring about positive changes in mergers and acquisitions, amalgamation and demerger, etc., in the coming years. For example, Tata Steel's acquisition of Bhushan Steel, ONGC's acquisition of HPCL, Reliance Jio's acquisition of Reliance Communications Ltd., Adani's acquisition of Reliance Infrastructure Ltd. (Mumbai Power Business) and Bharti Infratel Ltd's merger with Indus Towers Ltd may be mentioned as some of the few top 10 deals of merger and acquisition during the new corporate insolvency resolution regime in India (Kothari, 2018). The impact of the new framework upon corporate insolvency resolution in India can more easily be understood by reviewing the 'Corporate Insolvency Resolution Process (CIRP) Reports' from 2017 to 2021, as shown in the table below.

Table: Status of the CIRPs

Status of the CIRPs	*2017*	*2018*	*2019*	*2020*	*2021*
Admitted	37	743	1899	3877	4376
Closure	1	206	836	2039	2653
Percentage of Closure upon Admitted	.027	.027	.440	.525	.606
Ongoing	36	537	1063	1838	1723
Percentage of Ongoing upon Admitted	.973	.973	.560	.475	.394

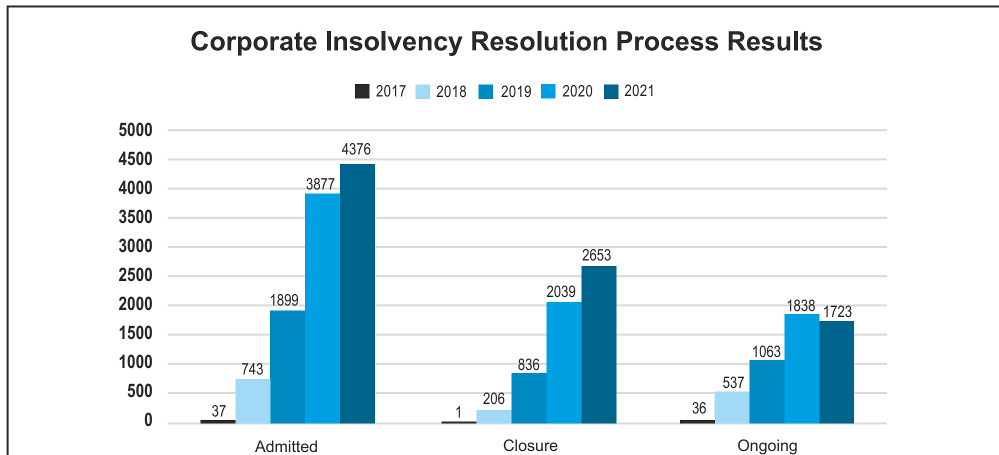
Source: Compiled from the Quarterly Newsletter of the Insolvency and Bankruptcy Board of India, 31st March, 2021.

The table of Status of CIRPs above has been prepared considering the year-end (31st March) for each of the 5 years (i.e. 2017-2021) on the basis of *three* parameters, namely, Admitted CIRPs, CIRPs Closed and Ongoing CIRPs. It is quite pertinent to mention here that the norms relating to CIRPs became effective from December 1, 2016 in our country. So, the initial year-end results (i.e. as on 31st March, 2017), the numbers in respect of the 3 parameters are really nominal in comparison to that of the successive years. But, what seems satisfactory is that as time progresses, the numbers in respect of admitted cases and closed cases has grown significantly. This achievement ultimately indicates the success story of the Code in recent times.

Furthermore, the year-wise percentages of Closed CIRPs (increasing) and Ongoing CIRPs (decreasing) are also revealing as satisfactory results, thereby establishing the

fact that the procedural delays that often paralyzed the earlier system (before the introduction of the Code), while resolving corporate insolvency cases in India, now has been controlled to a large extent. A clustered bar chart representation of the above 3 parameters may provide a further understanding on the above scenario as shown in the following exhibit.

Exhibit: Status of the CIRPs



Source: The Quarterly Newsletter of the Insolvency and Bankruptcy Board of India, 31st March, 2021

In the above *exhibit*, the 3 sets of 'Colum bars' represent the *three* parameters, namely, Admitted Closed and Ongoing CIRPs for the period under study, i.e. 2017-2021, to portray the year-wise comparison. It reveals that, since its introduction in the year *2017,* a total number of 4376 CIRPs have been admitted by the end of *March, 2021* and out of these, 2653 CIRPs have successfully been closed. Besides, the year-wise increments in the number of CRPs Admitted and Closed indicate the positive side of the story in terms of keeping faith in the present Code's framework. In the case of Ongoing CIRPs, the scenario under the period of study is also satisfactory because by the end of March 2021, the total number of pending cases stands at 1723 which is 115 (i.e. 1838-1723) points below the number in comparison to that of the previous year *2020*.

Furthermore, the data collected from the "Newsletter of the Insolvency and Bankruptcy Board of India", dated 31st March, 2021, also reveals that out of the total number (2653) of CIRPs closed as of March, 2021, 617 cases have been closed either on appeal or review or settled; 411 cases have been withdrawn; 1277 cases have ended in orders for liquidation and 348 have ended in approval of resolution plans (https://www.ibbi.gov.in). All these clearly substantiate the success story of the

Code's implementation in letter and spirit in solving corporate insolvency resolution cases in India.

5. Conclusions

An efficient framework for solving insolvency cases in general (i.e. individual level, firm level etc.), and corporate insolvency particularly, is always desirable for an economy. Such a framework does not only ease the way of doing business, but also improves the overall economic scenario of a country by bringing in stability in the financial system. The recent framework of corporate insolvency resolution is, therefore, expected to drive India's economy to a new age by enhancing the stakeholders' confidence in the CIRPs. Besides, it provides India a fresh start and further recognition in the international context with regard to curbing the menace of industrial sickness. It secures the rights of the creditors at one end and creates a 'binding' upon the defaulting debtors at the other, through insolvency resolution professionals while, attempting to resolve the corporate insolvency cases, in a time-bound manner. Since insolvency professionals play a major role in the totality of the resolution process under the new regime, the IBBI keeps on arranging limited insolvency examination, valuation examination, workshops and conclaves at different venues from time to time for enhancing the skills and abilities of such professionals.

It has been approximately four-and-half years since the new framework has come into force in India, and the way it has been working so far, is certainly progressive and a matter to be lauded. As with every beginning, some challenges yet remain to be fine-tuned and so is the new Code.

Thus the present study has delved into the history of evolution of corporate insolvency framework in India to date, identified the loopholes of the earlier system and procedures and explored the impact of the new framework of corporate insolvency resolution in India by reviewing its historic evolution, enactments, subsequent amendments and success so far.

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