



# DAILY EDITORIAL ANALYSIS

TOPIC

---

**STRENGTHENING CORE  
PRINCIPLES OF INSOLVENCY AND  
BANKRUPTCY CODE (IBC)**

---

[www.nextias.com](http://www.nextias.com)

## STRENGTHENING CORE PRINCIPLES OF INSOLVENCY AND BANKRUPTCY CODE (IBC)

### Context

- Recent developments suggest that the effectiveness of the **Insolvency and Bankruptcy Code (IBC)** is under strain, with concerns about delays, judicial interventions, and deviations from its original intent.

### About the Insolvency and Bankruptcy Code (IBC) in India

- It was **enacted in 2016**, designed to consolidate and streamline the insolvency resolution process in India.
- It replaced a fragmented legal framework with a unified, time-bound mechanism aimed at improving the ease of doing business and strengthening creditor rights.

### Evolution of the IBC

- Mechanisms **prior to the IBC** were often slow and ineffective, leading to **mounting Non-Performing Assets (NPAs)** and eroding lender confidence. These include:
  - The Sick Industrial Companies Act (SICA);
  - The Recovery of Debts Due to Banks and Financial Institutions Act (RDDBFI), and
  - The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI).

### Core Principles of IBC

- Time-Bound Resolution:** The IBC mandates that insolvency cases be resolved within a strict timeline—180 days, extendable to 330 days in exceptional cases.
  - It ensures that value erosion of assets is minimized and economic activity is restored quickly.
- Creditor-in-Control Model:** IBC empowers creditors to take charge of the resolution process, unlike earlier frameworks where debtors retained control.
  - It has improved credit discipline and borrower accountability.
- Maximization of Asset Value:** IBC emphasizes maximizing the value of assets during resolution, whether through restructuring or liquidation.
  - It ensures that stakeholders recover the highest possible value from distressed assets.
- Equitable Treatment of Stakeholders:** IBC provides a structured hierarchy for claim settlement, ensuring fair treatment of financial and operational creditors.
  - The **Supreme Court** has upheld this structure in key rulings like Essar Steel.
- Promoting Entrepreneurship and Fresh Start:** IBC encourages entrepreneurial risk-taking and allows for a 'fresh start' without long-term stigma, by offering a clean exit to failed businesses.
- Institutional Support and Transparency:** Institutions like the **Insolvency and Bankruptcy Board of India (IBBI)** and **National Company Law Tribunal (NCLT)** play a central role in ensuring transparency, accountability, and consistency in the resolution process.
  - NCLT** aims to adjudicate insolvency resolutions for companies.
  - Debt Recovery Tribunal (DRT)** aims to adjudicate insolvency resolutions for individuals.

### Do You Know?

- NCLT was **conceived in 1999** based on the **Eradi Committee's** recommendations and operationalized in 2016.
- Its structure reflects the economic realities of a **bygone era**, leaving it ill-equipped to meet contemporary demands.

### Present Status

- Over 30,000 cases involving defaults worth ₹13.8 trillion were settled before formal admission, and creditors have recovered around 32.8% of their claims through the process.

### Challenges Facing the IBC

- **Delays in Resolution Process:** Despite the IBC's mandate for time-bound resolution, cases **often exceed the 330-day limit**, with some taking over 717 days to close.
  - ♦ It erodes asset value and discourages investor confidence.
- **Declining Corporate Insolvency Resolution Cases:** The number of insolvency cases initiated under the IBC has declined significantly, from 1,262 cases in FY23 to 723 cases in FY25.
- **Low Recovery Rates for Creditors:** Creditors have recovered only 31-32% of their claims in recent years.
- **Judicial and Regulatory Challenges:** Frequent Supreme Court interventions have altered the resolution landscape, sometimes reopening settled cases.
  - ♦ Additionally, regulatory uncertainties and inconsistent tribunal rulings have created unpredictability in insolvency proceedings.
- **Institutional Capacity Issues:** NCLT has struggled with vacancies, affecting the speed of case resolutions.
  - ♦ While recent efforts have improved staffing, the backlog remains a concern.
- **Shift in Creditor Preferences:** Financial creditors are increasingly exploring alternative mechanisms like securitization of stressed assets instead of referring cases to the IBC.

### Path Forward

- **Timely Resolution:** Cases must be processed within the prescribed timelines to maintain investor confidence.
- **Creditor Rights Protection:** The original framework prioritizing creditor claims should be upheld.
- **Judicial and Executive Alignment:** Courts and regulators must work in harmony to preserve the IBC's intent.

Source: BS

### Mains Practice Question

[Q] How do judicial delays and government interventions impact the effectiveness of the Insolvency and Bankruptcy Code (IBC) in resolving financial distress, and what measures can ensure its long-term success?

