



DAILY EDITORIAL ANALYSIS

TOPIC

**INDIA NEEDS A NATIONAL
INSOLVENCY TRIBUNAL**

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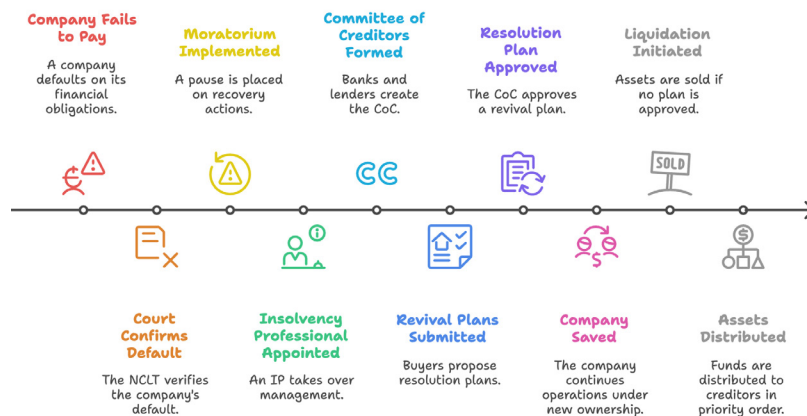
Context

- India urgently needs a **National Insolvency Tribunal** to uphold the promise of swift and effective resolution under the **Insolvency and Bankruptcy Code (IBC)**, as the current system is struggling to meet the **IBC's time-bound mandates**.

Overview of India's Insolvency Framework

- India's insolvency regime underwent a transformative shift with the enactment of the **Insolvency and Bankruptcy Code (IBC), 2016**, which consolidated and streamlined laws related to **insolvency and bankruptcy for companies, partnerships, and individuals**.
- Key Features of the IBC:**
 - Time-bound resolution:** The IBC mandates a 180-day resolution period (extendable to 330 days), aiming to preserve asset value and ensure swift outcomes.
 - Creditor-in-control model:** Creditors, through the Committee of Creditors (CoC), take charge of the resolution process, replacing the earlier debtor-in-possession model.
- Institutional Framework:**
 - Insolvency and Bankruptcy Board of India (IBBI):** The apex regulatory body overseeing insolvency professionals, agencies, and information utilities.
 - National Company Law Tribunal (NCLT):** The adjudicating authority for corporate insolvency cases.
 - Debt Recovery Tribunals (DRTs):** Handle individual and partnership insolvency cases.

Insolvency and Bankruptcy Code Process



Current Challenges With IBC

- Dual Mandate of the NCLT:** The NCLT, originally created under the **Companies Act, 2013**, was tasked with adjudicating company law disputes.
 - However, within months of its formation, it was designated as the primary adjudicating body for corporate insolvency under the IBC.
 - The NCLT is **handling both company law and insolvency matters**, creating a **severe structural imbalance** and demands for the establishment of a **dedicated National Insolvency Tribunal**.
- Systemic Inefficiency of IBC:** According to the **Insolvency and Bankruptcy Board of India's Q2 2025–26 Newsletter**:
 - The **average time** from initiation to approval of a resolution plan is **821 days** (or **688 days**, excluding excluded periods).
 - 78% of ongoing CIRPs** have exceeded the **statutory 270-day limit**, while **61% have crossed two years**.

- **Capacity Constraints:** Parliamentary Standing Committee on Finance has recognized issues of **resource shortages and procedural delays**, highlighting gaps in **institutional design** and operational efficiency.
- **Delays in Resolution:** Many cases exceed the prescribed timelines due to overburdened tribunals and procedural inefficiencies.
- **Cross-border Insolvency:** India lacks a comprehensive framework for handling cross-border cases, which is increasingly critical in a globalized economy.

Case for a National Insolvency Tribunal (NIT)

- A **dedicated National Insolvency Tribunal** represents the next logical step in the evolution of India's insolvency framework. Such a body needs to focus on:
 - ♦ **Exclusively on insolvency and bankruptcy** cases;
 - ♦ Allow the development of **specialized expertise** and consistent jurisprudence;
 - ♦ Enable **faster resolution** and **predictable outcomes**; and
 - ♦ Improve investor and creditor confidence in the insolvency process.
- **International experience** supports the **NIT model**, like the **US Bankruptcy Courts** demonstrate how specialization enhances both **consistency and efficiency**.

Reassigning Company Law Matters to High Courts

- The **establishment of a National Insolvency Tribunal** calls for **transfer company law matters**, particularly those relating to oppression, mismanagement, and capital restructuring, to the **commercial divisions of the High Courts**.
 - ♦ These courts already handle complex, high-value commercial disputes within structured timelines and are better suited for **detailed, fact-intensive adjudication**.
 - ♦ This reallocation would:
 - Relieve pressure on the NCLT;
 - Ensure that company law matters receive adequate judicial attention, and;
 - Restore clarity in the jurisdictional roles of each adjudicatory body.

Transition and Implementation

- Transitioning from the current dual-forum model **needs amendments to Sections 408–434 of the Companies Act, 2013**, alongside relevant rule changes.
- Earlier, India has successfully executed such structural shifts in 2016 as the **Company Law Board** and **High Courts** to the **NCLT**.
- A **phased implementation strategy**, similar to that precedent, would ensure continuity and stability during the transition.

Conclusion

- India's insolvency framework remains conceptually robust. The challenge lies not in the Code itself but in aligning its institutional machinery with its underlying intent.
- The creation of a **National Insolvency Tribunal** aims to mark a decisive step towards realizing the IBC's original vision, a fast, predictable, and value-maximizing insolvency regime.

Daily Mains Practice Question

[Q] Examine the need for establishing a National Insolvency Tribunal in India. How would such an institution address the challenges faced by the current insolvency resolution framework under the IBC.

Source: BL

