



## Seven Years of the Insolvency and Bankruptcy Code

**For Prelims:** [Insolvency and Bankruptcy Code \(IBC\)](#), [National Company Law Tribunal](#), [Insolvency, Bankruptcy](#)

**For Mains:** Challenges faced by the IBC, Indian Economy and issues relating to planning, mobilization of resources, growth, development and employment.

**Source:** TH

### Why in News?

The [Insolvency and Bankruptcy Code \(IBC\)](#), introduced in 2016, has been a transformative tool in resolving **stressed assets and improving the credit culture** in India.

- However, a recent report by CRISIL Rating highlights certain challenges that are impacting the success of the IBC as it completes seven years.

### Note

- CRISIL Rating is a subsidiary of CRISIL Limited, a leading [credit rating agency](#) in India.
- It is a full-service rating agency that rates the entire range of debt instruments, from manufacturing companies to financial institutions.

### What's Hampering the IBC's Success?

- **Falling Recovery Rates:**
  - Recovery rates have witnessed a significant **decline from 43% to 32%** between March 2019 and September 2023.
    - The recovery rate is the percentage of the admitted claims that the creditors recover from the resolution or liquidation of the corporate debtor under the IBC.
  - **Root Causes:**
    - **Limited Judicial Bench Strength:** The IBC resolution process is impeded by a **shortage of judges**, resulting in a **deceleration of case processing**. This, in turn, contributes to prolonged resolution times.
    - **Delays in Default Identification:** Time-consuming processes for identifying and acknowledging defaults contribute to reduced recovery rates. It hampers the **timely initiation of resolution proceedings**, contributing to reduced recovery rates.
  - **Impact:**
    - Diminution in asset values.
    - Sub-optimal recoveries, affecting creditors and stakeholders.

### ▪ **Increased Resolution Time:**

- The average resolution time has surged from **324 to 653 days**, well beyond the stipulated 330 days.
  - Resolution time is the duration between the admission of the insolvency application and the approval of the resolution plan or the order of liquidation by the [National Company Law Tribunal \(NCLT\)](#).
- **Root Causes:**
  - **Prolonged Pre-IBC Admission Stage:** Significant delays in this stage, **lasting 650 days in fiscal 2022 (up from about 450 days in fiscal 2019)**.
- **Impact:**
  - Slower resolution processes.
  - Suppression of recovery rates due to delays in initiating proceedings.

## **What is the Insolvency and Bankruptcy Code (IBC), 2016?**

### ▪ **About:**

- The IBC, 2016 is the **bankruptcy law of India** that consolidates and amends the **existing laws relating to insolvency and bankruptcy** of corporate persons, partnership firms, and individuals.
  - Insolvency is a state where the **liabilities** of an individual or an organization **exceeds its asset** and that entity is unable to raise enough cash to meet its obligations or debts as they become due for payment.
  - Bankruptcy is when a person or company is **legally declared incapable of paying their due and payable bills**.
- The IBC aims to provide a time-bound and creditor-driven process for insolvency resolution and to improve the credit culture and business environment in the country.
- IBC resolves claims involving insolvent companies. This was intended to tackle the bad loan problems that were affecting the banking system.

### ▪ **Regulating Authority:**

- The Insolvency and Bankruptcy Board of India (IBBI) was established under the Insolvency and Bankruptcy Code, 2016.
- It is a statutory body, responsible for making and implementing rules and regulations for insolvency and bankruptcy resolution of corporate persons, partnership firms, and individuals in India.
- The IBBI has 10 members, representing the Ministry of Finance, the Ministry of Corporate Affairs, and the [Reserve Bank of India](#).

### ▪ **Adjudicating Authority:**

- [National Company Law Tribunal \(NCLT\)](#) has jurisdiction over companies, other limited liability entities.
- **Debt Recovery Tribunal (DRT)** has jurisdiction over individuals and partnership firms other than Limited Liability Partnerships.

### ▪ **Amendments in the IBC:**

- The IBC has undergone significant amendments in the past 12 months to address emerging challenges and enhance its effectiveness.
  - These amendments include the approval for the sale of assets or resolution plans on a segregated basis, an increase in the number of **NCLT benches to 16**, and extended timelines for filing claims.
  - Sector-specific amendments, provisions for the audit of corporate debtors, and modifications in Form G2 have been introduced to address unique challenges.

### ▪ **Achievements:**

- Since its inception in 2016, **IBC has resolved Rs. 3.16 lakh crore** of debt stuck in 808 cases in seven years, according to CRISIL.
- It has resolved a significant amount of stressed assets with **better recovery rates** compared to previous mechanisms like the Debt Recovery Tribunal, the [Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002](#) and [Lok Adalat](#).
- IBC has achieved higher recovery rates, with creditors realizing 32% of admitted claims on average and 169% of the liquidation value.
  - In contrast, other mechanisms had recovery rates ranging from 5-20%.

- IBC's deterrent effect is evident as borrowers, fearing the loss of companies, have proactively settled over Rs. 9 lakh crore in **debt before cases entered the insolvency process**.
  - This highlights a significant behavioral change among borrowers, showcasing the efficacy of the Insolvency and Bankruptcy Code in encouraging timely settlements.

## How Can the IBC Overcome Challenges?

- CRISIL Rating suggested a **CDE approach** to enhance the IBC's performance, where C stands for Capacity augmentation, D for Digitalisation and E for Expansion of pre-pack resolutions to large corporates.
  - Capacity augmentation involves **enhancing the infrastructure and human resources** of key institutions like the NCLT, responsible for IBC implementation.
    - This aims to boost case throughput, mitigating the backlog of 13,000 cases in different stages of resolution.
  - Digitalisation refers to creating a digital platform for **connecting all the stakeholders** involved in the IBC process.
    - This will help eliminate data asymmetry, enhance transparency, and facilitate faster decision-making.
  - Expansion of the pre-packaged insolvency resolution process (PPIRP) to large corporates will help in preventing value erosion due to time.

## Legal Insights:

Read comprehensively about [Important Institutions](#):

- [Debt Recovery Tribunal](#)
- [National Company Law Tribunal](#)

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## UPSC Civil Services Examination, Previous Year Question (PYQ)

### Prelims

**Q. Which of the following statements best describes the term 'Scheme for Sustainable Structuring of Stressed Assets (S4A)', recently seen in the news? (2017)**

- (a) It is a procedure for considering ecological costs of developmental schemes formulated by the Government.
- (b) It is a scheme of RBI for reworking the financial structure of big corporate entities facing genuine difficulties.
- (c) It is a disinvestment plan of the Government regarding Central Public Sector Undertakings.
- (d) It is an important provision in 'The Insolvency and Bankruptcy Code' recently implemented by the Government.

**Ans: (b)**

