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The Bankruptcy of Certainty: The Clean Slate Doctrine

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ABSTRACT

The "clean slate doctrine" is the principle that a successful resolution applicant under the Insolvency and Bankruptcy Code, 2016, acquires the corporate debtor free of all claims and liabilities that are not provided for in the court-approved resolution plan. This paper traces the doctrine's conceptual and theoretical foundations, maps the statutory architecture from which courts have derived it, and analyses its progressive judicial elaboration through Essar Steel (2020), Ghanashyam Mishra (2021), Ebix Singapore (2022), and the Supreme Court's 2025 trilogy. The paper aims to unravel four critical knots in the doctrine. The unresolved conflict between Ghanashyam Mishra and Rainbow Papers on the treatment of government dues as "secured" claims; the effective silencing of operational creditors and small suppliers; the ambiguous interface with the Prevention of Money Laundering Act, 2002; and the deeper constitutional question of democratic accountability that arises when a general insolvency code deliberately extinguishes legislative first charges. The paper argues that the doctrine is analytically sound in its Ghanashyam Mishra formulation and that Rainbow Papers should be referred to a larger Bench for reconsideration. It concludes with a legislative proposal modelled on Section 1129(a)(9) of the United States Bankruptcy Code as the most principled path to resolving the government-dues impasse without surrendering the Code's structural uniformity.

I. INTRODUCTION

When the Supreme Court of India first confronted the question of what happens to claims that are not adjudicated during a Corporate Insolvency Resolution Process, Justice R.F. Nariman reached for a striking image by asserting that a successful resolution applicant, he warned, could not be confronted with "undecided" claims that pop up "like a hydra head" after the resolution plan has been accepted. That image captures precisely the commercial problem that the clean slate doctrine is designed to solve.

A rudimentary, yet central principle of Corporate Insolvency Law is to rehabilitate a financially distressed enterprise without making that rehabilitation so costly that no rational investor would

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attempt it. One of the antidotes in such cases is what courts and practitioners have come to call the "clean slate doctrine." This principle holds that a successful resolution applicant acquires the corporate debtor free of claims and liabilities not explicitly provided for in the court-approved resolution plan. There is no statutory codification of this principle, but it has been articulated by the courts through several interlocking provisions of the IBC, most prominently Section 31,[1] and it has been progressively elaborated through a series of Supreme Court decisions that together constitute one of the most significant strands of Indian insolvency jurisprudence.[2]

For an investor without certainty that approved plans extinguish residual claims, the threat lingers that resolution applicants would price in unlimited tail-risk, depress bids, or exit the process entirely. The clean slate doctrine is the legal system's answer to that threat. Yet the doctrine is not without its tensions, most acutely where government and statutory creditors are concerned. This is a problem that the judiciary has thus far been unable to resolve with the consistency that commerce requires.

II. Statutory framework under the IBC

The clean slate doctrine has no single statutory home as it is a judicial synthesis of multiple provisions of the IBC, whose combined effect courts have treated as extinguishing all claims against the corporate debtor not provided for in an approved resolution plan.

The most direct anchor is Section 31(1), which provides that the Adjudicating Authority shall by order approve the resolution plan, and that such plan shall be binding on the corporate debtor and its employees, members, creditors, including the Central Government, any State Government or any local authority to whom a debt in respect of the payment of dues arising under any law for the time being in force is owed.[3]

In this express reference to government creditors, the legal impact is twofold: the approved plan freezes the universe of claims that can be made against the corporate debtor, and all claims not mentioned in the plan are extinguished from the date of approval, as per the Supreme Court's observation in *Ghanashyam Mishra*.[4] The effect of Section 31 is therefore both binding and extinguishing.

Section 30 operates as the intake mechanism. Section 30(2) simultaneously defines the outer

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[1] Insolvency and Bankruptcy Code § 31(1) (2016) (India) [hereinafter IBC].
[2] *Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, (2021) 9 SCC 657 (India).
[3] IBC § 31(1), *as amended by* Insolvency and Bankruptcy Code (Amendment) Act, 2019 (India).
[4] *Ghanashyam Mishra*, (2021) 9 SCC 657, *at* paras. 89–91.

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boundary of claims that can be extinguished and imposes a constraint that prevents the extinguishment from operating as a windfall for the resolution applicant at the expense of participating creditors. This provides a minimum distribution to operational creditors and secured financial creditors.

The moratorium under Section 14 is the procedural forerunner to the doctrine. Section 14 prohibits the institution or continuation of suits, executions, security enforcement, and alienation of assets during the CIRP, thereby creating the safe harbour within which the resolution plan is negotiated and approved. Once the plan is approved under Section 31, the moratorium is lifted, but claims that have been substantively extinguished under the plan are not revived, as confirmed in the 2025 decision in *Electrosteel Steel Ltd. v. Ispat Carrier Pvt. Ltd.*[5] The clean slate doctrine thus serves as a substantive extension of the procedural protection that the moratorium provided during it.

Section 32A, inserted by the 2020 Amendment, extends the doctrine into the domain of criminal proceedings.[6] It provides that a corporate debtor shall not be prosecuted for offences committed on or before the initiation of the CIRP, and that its property shall not be attached, seized, or confiscated in relation to such offences, if the resolution plan results in a change of management or control to a person other than the promoter or a related party. In *Manish Kumar v. Union of India*, the Supreme Court upheld the constitutionality of Section 32A, holding that the Code's rehabilitative purpose must prevail, in a limited way, over the deterrence rationale of criminal prosecution once the wrongdoers have been effectively removed from the corporate debtor.[7]

The non-obstante clause in Section 238 provides that the Code shall prevail "notwithstanding anything inconsistent therewith contained in any other law for the time being in force." This clause has been invoked to override a range of special legislation, including the Tea Act, 1953, the Customs Act, 1962, and the Electricity Act, 2003, that might otherwise allow government authorities to assert priority or recover dues outside the IBC's framework. The placement of Section 238 reflects a deliberate legislative choice: the State, as creditor, is subordinated within the Code's liquidation waterfall and cannot, through sector-specific legislation, engineer a priority that the Code does not confer.

Sections 31, 30, 14, 32A, 238, and 53 collectively constitute the statutory architecture from which the clean slate doctrine is an expression of judicial construction.

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[5] *Electrosteel Steel Ltd. v. Ispat Carrier Pvt. Ltd.*, 2025 INSC 525, *at* para. 18 (India).
[6] IBC § 32A, *inserted by* Insolvency and Bankruptcy Code (Amendment) Act, 2020 (India).
[7] *Manish Kumar v. Union of India*, (2021) 5 SCC 1, *at* para. 182 (India).

III. Concept and theoretical basis of the clean slate doctrine

The clean slate doctrine rests on a dual rationale, in which one is grounded in commercial certainty and the other in distributive fairness. They together explain both what the doctrine does and why it is structured the way it is.

The clean slate doctrine proceeds from the economic premise that a distressed business is worth more as a going concern than as a liquidating one, and that realising this surplus requires convincing assurances from the legal system that the acquirer will not be burdened with unassertable or unquantifiable liabilities beyond those provided for in the resolution plan. Without such assurance, the going-concern premium is destroyed by the uncertainty that would otherwise attend any corporate restructuring. At its core, the doctrine is a legal mechanism to preserve that premium.

This argument goes back to the foundational policy documents of the IBC. The Bankruptcy Law Reforms Committee Report of 2015, chaired by Dr T.K. Viswanathan, identified the absence of a time-bound, definitive resolution process as the central defect of the pre-IBC regime.[8] The Code was conceived to address this by providing a structured process with a fixed outer limit, a single adjudicatory forum, and a defined endpoint, Section 31 approval, beyond which the reorganised enterprise commences on a clean slate.

The doctrine is grounded in two distinct but related rationales. The first is the rationale of *certainty*: resolution applicants must be able to commit to a precisely stated outlay, covering future payments to creditors, capital requirements, and operating expenses, without exposure to unquantified future claims. The second is the *distributive* rationale: the IBC's priority waterfall under Section 53 and the minimum-payment guarantees under Section 30(2) ensure that the extinguishment of unrecognised claims does not benefit the resolution applicant at the expense of creditors who participated in the CIRP. The doctrine is therefore not a denial of creditor rights but a mechanism to channel those rights through a singular, centralised, and time-limited process.

The underlying logic finds support in comparative insolvency law, though with important structural differences that illuminate the doctrine's distinctive character. Section 1141(d)(1) of the United States Bankruptcy Code provides, upon confirmation of a Chapter 11 plan, a broad extinguishment of pre-petition debts, which are analogous in effect to the clean slate.[9] Crucially,

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[8] Bankr. Law Reforms Comm., *Report of the Bankruptcy Law Reforms Committee*, vol. I, chs. 2–3 (2015) (India) [hereinafter BLRC Report].

[9] 11 U.S.C. §§ 1141(d)(1), 1129(a)(9).

however, Chapter 11 does not allow this extinguishment to operate against all government claims without qualification: Section 1129(a)(9) requires that a confirmable plan must provide for payment in full of priority tax claims, creating a mandatory carve-out that the Indian Code currently lacks.[13] The English law equivalent is less direct: Company Voluntary Arrangements under the Insolvency Act 1986 bind only creditors entitled to participate and cannot impair secured creditors without their consent, leaving the extinguishment considerably narrower in scope.[10]

The Indian doctrine is, in this respect, more absolute in its extinguishing effect than either the American or English model in their treatment of government creditors. The Indian courts have gone further than Chapter 11 or CVA jurisprudence in extinguishing even unasserted statutory dues. That very absolutism, as the following parts will demonstrate, is the source of the doctrine's greatest tension. The gap that the American model fills through Section 1129(a)(9) is a mandatory condition of plan confirmation requiring payment of priority governmental claims, which is precisely the gap that Indian insolvency law currently lacks. This paper returns to that comparison in its concluding legislative proposal.

IV. JUDICIAL DEVELOPMENT OF THE DOCTRINE

The judicial evolution of the clean slate doctrine may be viewed as proceeding through three identifiable phases: an initial articulation in *Essar Steel* (2020); a crystallisation in *Ghanashyam Mishra* (2021) and *Ebix Singapore* (2022); and a phase of extension and reaffirmation through the Supreme Court's rulings of 2025.

The foundational articulation of the doctrine occurred in *Committee of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*,[11] decided by a three-Judge Bench led by Justice R.F. Nariman. The case arose from the resolution of Essar Steel India Limited, which is one of the most consequential CIRPs in the Code's history and presented the question of whether claims not adjudicated during the CIRP could be revived and referred to other fora under Section 60(6) of the IBC. The Court held that they could not, and coined the now-canonical "hydra head" metaphor: a successful resolution applicant cannot be suddenly confronted with "undecided" claims after the resolution plan has been accepted, as amounts payable by a prospective resolution applicant would thereby be thrown into doubt. The Court held that all claims must be submitted to and decided by the resolution professional, and that "this the successful

[10] Insolvency Act 1986, c. 45, §§ 1–7A (U.K.).
[11] *Comm. of Creditors of Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 531, *at* paras. 54–57 (India).

resolution applicant does on a fresh slate."[12] Although *Essar Steel* did not use the language of "government dues" or "statutory claims," those categories were treated as covered by the broad language of extinguishment. The decision's importance lay not merely in its outcome but in its reasoning: for the first time, the Court characterised the CIRP not merely as a moratorium on enforcement, but as a claims-resolution process, a characterisation that provided the doctrinal foundation for all subsequent developments.

The doctrine was crystallised by a three-Judge Bench comprising Justices Nariman, Gavai, and Hrishikesh Roy in *Ghanashyam Mishra and Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*[13] The cases before the Court involved State governments and statutory authorities seeking to recover pre-CIRP dues from resolution applicants who had acquired corporate debtors under approved plans. The Court made three precise propositions: first, that all claims not addressed by the resolution plan are extinguished upon approval by the Adjudicating Authority; second, that the 2019 amendment to Section 31 was clarificatory and retrospective, effective from the date of the Code's commencement; and third, that statutory dues, including tax liabilities owed to any government, were equally extinguished.[14]

The courts have characterised the 2019 amendment as declaratory rather than a substantive one. This in my opinion warranted closer examination than the judgment itself. The standard for treating a legislative amendment as clarificatory, and therefore retrospective in operation, requires that the amendment merely restates what the law always meant, rather than altering it. Critics have observed that the 2019 amendment to Section 31, which for the first time expressly brought Central and State Government dues within the binding effect of an approved plan, appears on its face to be a substantive change rather than a clarification of pre-existing legislative intent. If accepted at face value, the declaratory characterisation in *Ghanashyam Mishra* forecloses any challenge to the retrospective extinguishment of government dues under plans approved before 2019. This is a consequence of considerable magnitude that the Court addressed through legislative history rather than rigorous textual analysis. While the Court's reliance on the Statement of Objects and Reasons and the Finance Minister's Rajya Sabha speech of 29 July 2019 is a defensible interpretive tool, the more analytically careful position would have been to acknowledge the amendment's substantive dimension and address its retrospective operation directly, rather than characterising it away through the declaratory label.

A complementary but distinct principle was established in *Ebix Singapore Pvt. Ltd. v.*

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[12] *Id.* at para. 4.5 (Nariman J.).
[13] *Ghanashyam Mishra & Sons Pvt. Ltd. v. Edelweiss Asset Reconstruction Co. Ltd.*, (2021) 9 SCC 657 (India).
[14] *Id.* at para. 91.

Committee of Creditors of Educomp Solutions Ltd.[15] While this decision did not directly address the extinguishment of creditor claims, it established the important principle of bilateral plan finality: a resolution plan approved by the CoC cannot be withdrawn or modified by the applicant, even while the plan remains pending before the Adjudicating Authority. The Court reasoned that the IBC is a "self-contained code" and that a plan is not a contract capable of being frustrated by mistake, impossibility, or subsequent impossibility. Read alongside the clean slate doctrine's imposition of finality on creditors, *Ebix Singapore* established a symmetry: if the resolution applicant cannot exit the plan, the argument that creditors cannot opt out of the plan's extinguishing effect has a principled moral basis. This symmetry lends doctrinal coherence to the clean slate's creditor-side finality, but it should not be overstated. It is pertinent that the cases operate on different planes, and *Ebix Singapore*'s primary significance remains the applicant-side dimension of plan irrevocability.

In recent years, the Supreme Court has applied and extended the doctrine to more complex factual settings. In *Vaibhav Goel v. Deputy Commissioner of Income Tax*,[16] the Court held that upon plan approval, all income-tax demands for pre-CIRP years, including those that had not yet been raised by the tax authorities at the time of plan approval, ceased to exist. This represents the doctrine's farthest reach to date: the extinguishing effect extends to claims of which the relevant authority may have had little or no knowledge at the point of plan approval. The Court set aside the NCLT and NCLAT orders, indicating that any lower tribunal that allows post-approval recovery proceedings under a fiscal statute acts in direct contravention of settled law.

In *JSW Steel Ltd. v. Pratishtha Thakur Haritwal*,[17] the Court went further, treating actions taken by the Chhattisgarh Commercial Tax Department against JSW Steel as contempt of the Court's earlier order in *Ghanashyam Mishra*. The Court stressed that the doctrine applies equally to stakeholders who did not participate in the CIRP at all. In *Electrosteel Steel Ltd. v. Ispat Carrier Pvt. Ltd.*, a two-Judge Bench applied the doctrine to post-plan arbitral proceedings, ruling that the West Bengal MSME Facilitation Council had no jurisdiction over an operational creditor's claim once the Vedanta resolution plan had been approved by the NCLT. The arbitral award thereafter rendered was held to be a nullity, unenforceable even under Section 47 of the Code of Civil Procedure, 1908, notwithstanding a pending challenge under Section 34 of the Arbitration and Conciliation Act, 1996. The ruling substantially contracts the remedial space for excluded creditors and hence limits them in practical terms to a challenge under Section

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[15] *Ebix Singapore Pvt. Ltd. v. Comm. of Creditors of Educomp Solutions Ltd.*, (2022) 2 SCC 401 (India) (Chandrachud and M.R. Shah, JJ.).
[16] *Vaibhav Goel v. Deputy Comm'r of Income Tax*, 2025 INSC 375 (India) (Oka and Bhuyan, JJ.).
[17] *JSW Steel Ltd. v. Pratishtha Thakur Haritwal*, 2025 INSC 401 (India) (Gavai and Masih, JJ.).

61(3) of the IBC within the statutory time limit.

Having surveyed the doctrine's judicial evolution through these three phases, it is necessary to assess the tensions these decisions have generated and to evaluate whether the doctrine, in its current form, calibrates the competing interests of resolution applicants, creditors, and the State with sufficient analytical precision.

V. Critical analysis and contemporary issues

The decisions surveyed above have generated a commercially purposeful clean slate doctrine that provides real certainty to resolution applicants, maximises value realisation from distressed assets, and imposes a disciplined framework for creditor participation. These are genuine strengths. However, the doctrine also generates significant tensions and, notably, several of these tensions have been exacerbated by the Supreme Court's own inconsistencies.

A. The Rainbow Papers Conflict: Government Dues and the Definition of "Secured Creditor"

The most acute doctrinal tension arises from the decision in *State Tax Officer v. Rainbow Papers Ltd.*,[18] delivered in September 2022 by Justices Indira Banerjee and A.S. Bopanna. The Court held that where State legislation provides for a "first charge" on a debtor's property in favour of government dues, the State qualifies as a "secured creditor" within the meaning of Sections 3(30) and 3(31) of the IBC, and a resolution plan that fails to account for such dues is liable to be rejected. This holding stands in direct conflict with *Ghanashyam Mishra*'s categorical extinguishment of government dues not addressed in an approved plan, and with the explicit subordination of government claims under the Section 53 waterfall.

The conflict was partially addressed in *Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd.*,[19] where Justices S. Ravindra Bhat and Dipankar Datta held that Section 238 of the IBC supersedes the Electricity Act, 2003, and that *Rainbow Papers* had incorrectly applied the waterfall mechanism under Section 53. Review petitions against *Rainbow Papers* were, however, dismissed without substantive consideration in October 2023,[20] leaving two coordinate Bench decisions in irreconcilable conflict.

Engaging analytically with which decision is the better-reasoned one: the preponderance of the argument favours the *Ghanashyam Mishra* and *Paschimanchal* position. The definitional route

[18] *State Tax Officer v. Rainbow Papers Ltd.*, (2022) 9 SCC 545 (India).
[19] *Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd.*, 2023 SCC OnLine SC 842 (India) (Bhat and Datta, JJ.).
[20] *Sanjay Kumar Agarwal v. State Tax Officer*, Review Petition (Civil) No. 1620 of 2023 (S. Ct. Oct. 31, 2023) (India).

adopted in *Rainbow Papers* conflates the concept of security interest under the Code with a statutory charge created under State law. This in turn, leads to treating a State legislative first charge as creating "security interest" within the IBC's definition. The IBC defines "security interest" in Section 3(31) as a right, title, or interest or a claim to property created in favour of a secured creditor *by a transaction* which secures payment or performance of an obligation. This is a language that connotes a consensual or transactional origin, not a unilaterally imposed legislative charge. Moreover, if *Rainbow Papers* is applied consistently across all State legislation, each State Legislature would be able to engineer a "first charge" that effectively jumps the Section 53 waterfall. This would render the Code's priority structure contingent on the legislative choices of thirty-odd State assemblies, and subvert the uniformity that Section 238 was expressly designed to preserve. The Bankruptcy Law Reforms Committee had identified that uniformity was a bedrock departure from the pre-IBC patchwork of creditor hierarchies.[21] A doctrine of extinguishment that can be unpicked State by State through targeted legislation is, in the result, no doctrine at all. The IBBI's own 2023 Discussion Paper and a growing academic consensus have called for reference to a larger Bench,[22] a call that has yet to be answered.

B. Operational Creditors and the Problem of Effective Exclusion

A second tension concerns the position of operational creditors and workmen. Where the corporate debtor has no liquidation value, i.e. where its assets would not suffice to satisfy claims in the priority order of the Section 53 waterfall, a plan may validly provide for zero payment to operational creditors, provided the floor established by Section 30(2)(b) is met. Taken together with the 2025 ruling in *Electrosteel v. Ispat Carrier*, which extinguishes even adjudicated arbitral claims, a small supplier or contractor may find its entire claim wiped out with no meaningful opportunity to participate, no advance notice of plan terms, and no post-approval remedy beyond the thirty-day limitation period in Section 61(2) of the IBC. That limitation period is, in many cases, onerous for parties who may only recently have learned of the CIRP proceedings at all. The doctrine's extinguishing force thus falls most heavily upon the class of creditors least equipped to challenge it, which is a distributional outcome that has attracted criticism from academic commentators and from the NCLAT, which has in several decisions, called for legislative reconsideration of the position.

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[21] BLRC Report, *supra* note 12, at para. 2.4.1.

[22] Insolvency & Bankr. Bd. of India, *Discussion Paper on Proposed Amendments to the IBBI (Insolvency Resolution Process for Corporate Persons) Regulations, 2016* (Jan. 2023); Aditya Kashyap & Arnika Dwivedi, *Decoding the Finality of the IBC Clean Slate*, IBC Laws (2024).

C. Section 32A and the PMLA Interface

A third tension concerns the interface between Section 32A and the Prevention of Money Laundering Act, 2002. Section 32A's immunity from attachment and prosecution is conditioned on a change of management or control, but the provision does not expressly address the situation in which the Enforcement Directorate has issued an attachment order *before* plan approval. Whether a pre-existing attachment survives the clean slate afforded by Section 32A, or is dissolved along with other pre-CIRP claims, there remains an open question that creates uncertainty precisely in the category of resolution cases where the rehabilitative intent of the Code is most urgently needed. The resolution of this ambiguity requires either a larger Bench determination or, preferably, a targeted legislative amendment to Section 32A that addresses pre-approval ED attachments expressly.

D. Democratic Accountability and the Limits of Section 238

The fourth tension is the most constitutionally fundamental. The clean slate doctrine, as elaborated through *Ghanashyam Mishra* and its progeny, produces the result that statutory dues which Parliament or State legislatures have deliberately chosen to create may be extinguished by operation of a general insolvency code based on a resolution applicant's commercial proposal. Justice Indira Banerjee's reasoning in *Rainbow Papers* puts this challenge at its sharpest: Section 238 is a non-obstante clause directed at *inconsistency* between statutory regimes, not at the deliberate legislative creation of priority rights; and a first charge created by express legislative act ought not, on that view, to yield to the commercial judgment of a creditors' committee and a resolution applicant.

This is a serious argument, and it deserves a serious response. The counter-position is that if every deliberately created first charge under any Central or State law is capable of surviving plan approval as a "secured" claim, then the Section 53 waterfall becomes a default that any legislature can override at will, reducing the Code's priority scheme to a residual arrangement rather than a mandatory one. That reading would make the uniformity that the IBC was designed to establish illusory. The constitutionality of the IBC's overall scheme, including the differential treatment of financial and operational creditors and the priority ordering under Section 53, was upheld by the Supreme Court in *Swiss Ribbons Pvt. Ltd. v. Union of India*,[23] a decision that provides textual and constitutional support for the *Ghanashyam Mishra* position. The real objection from a democratic accountability standpoint is not that the Code extinguishes deliberately created priorities, but that the Code does so *without providing a substitute*

[23] *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17 (India) (Nariman and Navin Sinha, JJ.).

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mechanism that ensures government creditors receive something in proportion to their statutory priority. That is the gap that the American model fills with its mandatory payment-in-full condition for priority tax claims under Section 1129(a)(9). The absence of an equivalent provision in Indian law is not a defect in the clean slate doctrine itself; it is a defect in the legislature's failure to design an adequate substitute.

VI. Conclusion

The clean slate doctrine is the IBC's answer to a hard question: what does a resolution applicant pay to acquire a distressed enterprise, and who bears the residual obligations that fall outside that price? The doctrine's answer is legally coherent, commercially purposeful, and consistent with both the text of the Code and its underlying policy objectives. Through *Essar Steel*, *Ghanashyam Mishra*, *Ebix Singapore*, and the 2025 trilogy, the Supreme Court has acted with considerable consistency in prioritising enterprise value maximisation and commercial certainty over the residual claims of creditors who have not effectively engaged with the CIRP process.

The doctrine is not, however, without its limits, and the Court's own decisions have contributed to the uncertainty. The conflict between *Ghanashyam Mishra* and *Rainbow Papers* remains the most significant unresolved question in Indian insolvency law. A doctrine that extinguishes all unrecognised claims but then admits an undefined category of "secured government creditors" contingent on the content of State legislation falls short of the certainty it is designed to provide. If applied consistently, *Rainbow Papers* permits each State Legislature to engineer statutory priority that undermines the Code's uniform structure. This is an outcome incompatible with the structural ambitions of the IBC.

This paper's submission is as follows. The doctrine should stand in its *Ghanashyam Mishra* formulation. *Rainbow Papers* should be distinguished on its facts and referred to a larger Bench for reconsideration. The only exceptions to extinguishment should be those expressly provided by Parliament within the IBC itself. To address the legitimate concern of government creditors, Parliament should enact a legislative amendment modelled on Section 1129(a)(9) of the United States Bankruptcy Code,[24] mandating that resolution plans provide for payment of certain categories of government dues (such as tax arrears above a prescribed threshold) as a condition of Section 31 approval. Such an amendment would provide government creditors with a principled and predictable minimum without disturbing the uniformity of the Code's overall scheme. This is not a priority that disrupts the entire waterfall, but a guaranteed floor. It would

[24] 11 U.S.C. § 1129(a)(9) (requiring payment in full of priority tax claims as a condition of Chapter 11 plan confirmation).

resolve the democratic accountability objection without conceding the point that State legislatures can override the IBC's priority structure through targeted statutory first charges.

That it would afford a just solution meeting the financial interests of the State without subordinating the Code's structural integrity to ad hoc legislative variation. This is ultimately a legislative task, and the continuing uncertainty in the courts is a measure of Parliament's failure to perform it.

The clean slate doctrine is, at the end of the day, a wager that certainty produces better outcomes than flexibility in corporate distress resolution. Indian insolvency law is sufficiently nascent, and its empirical record sufficiently short, that this wager cannot yet be validated with confidence. The task for the judiciary in the coming years is not to insulate the doctrine from criticism but to sharpen its boundaries, so that resolution applicants, creditors, and the State can each plan their conduct with reasonable confidence. That precision is presently lacking. Achieving it through a larger Bench determination, a legislative amendment, or preferably both, is among the most urgent items on the agenda of Indian commercial law.

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