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# Resolution Plans vs. Liquidation: Assessing Value Creation under the IBC Framework

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## ABSTRACT

*In order to optimize value for stakeholders, India's bankruptcy system was reorganized with the implementation of the Bankruptcy and Bankruptcy Code, 2016 (IBC), giving corporate resolution precedence over liquidation. Facilitating a time-bound Corporate Insolvency Resolution Process (CIRP) that guarantees the recovery of troubled companies while defending the interests of creditors is the main goal of the IBC. However, a significant portion of corporate bankruptcy cases still end in liquidation, despite the IBC's emphasis on resolution. This raises questions regarding the efficacy and efficiency of the resolution process.*

*The comparative value generation of resolution plans and liquidation within the IBC framework is critically examined in this study. Through the examination of empirical data from the Reserve Bank of India (RBI) and the Insolvency and Bankruptcy Board of India (IBBI), as well as landmark judicial pronouncements, this paper evaluates whether resolution consistently results in higher recoveries, faster resolutions, and better economic outcomes than liquidation. The results show that whereas liquidation results in far lower recoveries, sometimes less than 10%, resolution programs produce an average recovery rate of 35–45% for financial creditors. Resolution is the recommended option under the IBC since it also contributes to job preservation, economic activity sustainability, and investor confidence.*

*Despite its benefits, cases are frequently forced into liquidation due to CIRP delays, protracted litigation, and a lack of potential settlement candidates. In order to improve India's bankruptcy resolution process, this paper suggests policy changes and analyses the main legal, regulatory, and procedural obstacles preventing resolution plans from succeeding. In order to enhance resolution results and reduce needless liquidations, the study emphasises the significance of bidder engagement, court efficiency, and pre-packaged insolvency processes.*

**Keywords:** *Liquidation, Resolution Plans, Value Maximisation, Recovery Rates, Insolvency Law, Financial Creditors, National Company Law Tribunal (NCLT), Judicial Precedents, Policy Reforms, Insolvency and Bankruptcy Code (IBC), and Corporate Insolvency Resolution Process (CIRP).*

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## I. INTRODUCTION

India's poor bankruptcy resolution procedures, which previously led to excessive delays, loss of economic value, and ineffectual debt collection, were revised with the implementation of the 2016 Bankruptcy Code (IBC). In order to maintain sustainable enterprises and maximise value for all parties involved—financial creditors, operational creditors, workers, and shareholders—the IBC's main goal is to enable a time-bound and structured Corporate Insolvency Resolution Process (CIRP).<sup>3</sup> By offering a framework for financially troubled enterprises to be resurrected by a resolution plan submitted by eligible candidates in accordance with IBC Section 29A, the Code encourages resolution over liquidation.<sup>4</sup> However, the corporate debtor faces liquidation under Section 33 if no workable resolution plan is authorised within the allotted time.<sup>5</sup>

Because they assist maintain firms' going-concern value, avoid economic disruptions, protect jobs, and guarantee higher financial recovery for creditors, resolution plans are frequently chosen over liquidation.<sup>6</sup> Compared to liquidation, which involves selling assets in pieces, frequently at distressed values, empirical data indicates that successful resolution strategies have produced larger realisations for stakeholders.<sup>7</sup> In *Swiss Ribbons Pvt. Ltd. v. Union of India*, the Supreme Court reaffirmed that resolution should take precedence over liquidation, stressing that the main goal of IBC is to save viable enterprises rather than only collect debts.<sup>8</sup> The efficiency of the resolution mechanism is called into question, nonetheless, as a significant portion of cases under the IBC still result in liquidation despite these goals.<sup>9</sup> Whether resolution strategies continuously generate more value than liquidation under the IBC framework is rigorously evaluated in this article. It assesses a number of factors, such as economic ramifications, regulatory actions, empirical recovery rates, and court rulings. The study also examines the difficulties in the resolution process, which frequently result in the liquidation of corporate debtors. These difficulties include litigation, delays, and a lack of investor interest.<sup>10</sup> Lastly, policy suggestions are offered to improve the resolution framework's efficacy and reduce needless liquidations.

### (A) Research Problem

The main goals of the Insolvency and Bankruptcy Code, 2016 (IBC) were to maximise value

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<sup>3</sup> Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016.

<sup>4</sup> *Ibid.*, s. 29A.

<sup>5</sup> *Ibid.*, s. 33.

<sup>6</sup> IBBI, "Quarterly Newsletter: January 2023," available at [www.ibbi.gov.in](http://www.ibbi.gov.in).

<sup>7</sup> RBI Report on Trends and Progress of Banking in India, 2022.

<sup>8</sup> Supreme Court, *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

<sup>9</sup> IBBI, Annual Report 2021-22.

<sup>10</sup> NCLT Order, *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*, (2019) 8 SCC 531.

for stakeholders and assist in the resolution of insolvent businesses. Nonetheless, actual data indicates that a sizable portion of instances still end in liquidation as opposed to a successful resolution. Since liquidation frequently results in significant asset depreciation, job losses, and lower recoveries for creditors, the efficacy of resolution strategies in generating greater value creation in comparison to liquidation is still a crucial study question. Why do many corporate insolvencies result in liquidation, even though the IBC prefers resolution? Is liquidation always a superior option, or does it really destroy value? This paper evaluates whether resolution strategies consistently provide better value than liquidation and discusses the legal, economic, and structural constraints driving insolvency outcomes within the IBC framework.

### **(B) Literature Review**

Numerous academics, decision-makers, and legal analysts have examined how well the IBC handles company distress.

- **Value Maximisation and Resolution:** T.R. Andhyarujina (2018) claims that the IBC places a strong emphasis on resolution as the ideal result, guaranteeing that companies continue to operate and lessening the negative effects of liquidation on the economy.<sup>11</sup>
- **Implementation Challenges:** According to Shroff and Mehta (2021), the Corporate Insolvency Resolution Process (CIRP) delays, creditor litigation, and a dearth of qualified resolution applicants make resolution plans less successful.<sup>12</sup>
- **Empirical Research on Recovery Rates:** According to a Reserve Bank of India (RBI) research from 2022, businesses that go through resolution often collect between 35 and 45 percent of claims, but liquidation frequently yields recoveries as low as 5 to 10 percent.<sup>13</sup>
- **Legal and Policy Interventions:** By reiterating that resolution must always come before liquidation, the Supreme Court's ruling in *Swiss Ribbons Pvt. Ltd. v. Union of India* brought attention to the legislative intent of the IBC.<sup>14</sup>

### **(C) Scope of the Study**

The efficiency of resolution plans in comparison to liquidation within the Indian Business Corporation (IBC) structure is the main emphasis of this study. The study is restricted to:

- An empirical examination of Indian insolvency cases under IBBI reports from 2017 to

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<sup>11</sup> T.R. Andhyarujina, *Bankruptcy and Corporate Rescue in India*, Oxford University Press, 2018.

<sup>12</sup> Shroff & Mehta, "The Challenges in Implementing IBC," *Indian Journal of Insolvency Law*, Vol. 3, 2021.

<sup>13</sup> RBI, *Trends and Progress of Banking in India*, 2022.

<sup>14</sup> Supreme Court, *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

2023.

- The effects of regulatory actions and court rulings on bankruptcy outcomes.
- A comparison of recovery rates in liquidation and resolution.
- Implementation issues, including regulatory gaps, bidder interest, and litigation delays.
- Suggestions for policies to strengthen the framework for resolution.

#### **(D) Objectives of the Study**

The following are the main goals of this study:

1. To determine if, in accordance with the IBC, resolution strategies regularly generate more value than liquidation.
2. To contrast resolution strategies with liquidation in terms of recovery rates, time efficiency, and economic impact.
3. To investigate how judicial and regulatory elements affect the results of insolvency.
4. To determine the obstacles to effective settlement and the rise in liquidation cases.

#### **(E) Research Questions**

1. When compared to liquidation, do resolution plans result in larger recovery for creditors?
2. Does liquidation result in a major loss of value, or is it occasionally a good substitute?
3. What are the main reasons why resolution plans fail and are delayed?
4. How can policy changes and court rulings impact the results of insolvency proceedings?

#### **(F) Hypothesis**

1. Null Hypothesis ( $H_0$ ): The value recovered through resolution plans and liquidation within the IBC framework do not differ significantly.
2. Alternative Hypothesis ( $H_1$ ): Compared to liquidation, resolution plans provide more value for creditors, workers, and the economy.

#### **(G) Research Methodology**

This study combines qualitative and quantitative analysis as part of a mixed-methods research methodology.

##### **a. Research Design**

The paper evaluates insolvency outcomes under the IBC using both an empirical and doctrinal

approach.

### **b. Data Collection Methods**

- **Primary Data:**
  - Analysis of case law (rulings from the Supreme Court and NCLT).
  - Official reports on the results of insolvency resolution from the RBI, MCA, and IBBI.
- **Secondary Data:**
  - Books, research papers, and journal articles about bankruptcy and insolvency.
  - A comparison between liquidation and settled cases from 2017 to 2023.

### **c. Data Analysis Techniques**

- **Comparative Analysis:** Economic effect, recovery rates, and time efficiency of resolution vs liquidation.
- **Statistical Analysis:** Average recovery rates are evaluated using descriptive statistics.
- **Case Study Methodology:** Examination of historic IBC insolvency cases.

### **(H) Limitations of the Study**

- reliance on insolvency data that is made publicly available, which could not include all private settlements.
- The IBC framework's dynamic character, which results in regular policy modifications.

## **II. CONCEPTUAL FRAMEWORK: RESOLUTION VS. LIQUIDATION**

The primary goal of the 2016 Insolvency and Bankruptcy Code (IBC) was to maximise value for all parties involved by giving distressed company resolution precedence over liquidation.<sup>15</sup> The Corporate Insolvency Resolution Process (CIRP), which is a structured process made possible by the Code, enables resolution applicants to put forward strategies for reviving the debtor as a continuing concern.<sup>16</sup> However, if the Committee of Creditors (CoC) rejects a viable resolution plan within the 330 days (as per the 2019 amendment), the company would be liquidated under Section 33 of the IBC.<sup>17</sup>

A resolution plan is a proposal that outlines methods for restructuring, repayment, and

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<sup>15</sup> Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016.

<sup>16</sup> Ibid., s. 6.

<sup>17</sup> Ibid., s. 33.

revitalising a distressed firm and is provided by a qualifying applicant.<sup>18</sup> The preservation of going-concern value, which guarantees that assets are used effectively rather than being sold piecemeal at distressed rates, is the main benefit of resolution versus liquidation.<sup>19</sup> Resolution is the recommended course of action under the IBC as it also preserves economic contributions, avoids job losses, and increases recoveries for creditors.<sup>20</sup> Companies going through resolution have, on average, recovered 35–45% of their claims, based on factual information made public by the Indian Bankruptcy & Insolvency Board (IBBI). In contrast, liquidation frequently yields returns as low as 5–10%.<sup>21</sup> Well-known cases such as *Essar Steel India Ltd. v. Satish Kumar Gupta* demonstrated how a well considered resolution strategy ensured increased creditor recovery as well as industry stability.<sup>22</sup>

Conversely, liquidation is perceived as a value-destructive procedure in which the corporate debtor's assets are sold to satisfy creditors in line with the order of precedence set out in Section 53 of the IBC.<sup>23</sup> As demonstrated by instances such as *Amtek Auto Ltd.*, when liquidation produced less than ideal recoveries, liquidation frequently results in large employment losses, interruptions to supply chains, and adverse effects on economic growth.<sup>24</sup> Additionally, because of legal complications, the liquidation process is typically drawn out and lasts for years, which makes it less desirable from the standpoint of maximising value.<sup>25</sup>

The Supreme Court reaffirmed in *Swiss Ribbons Pvt. Ltd. v. Union of India* that the primary objective of the IBC is resolution and that liquidation ought to be the last option.<sup>26</sup> Even still, a sizable portion of bankruptcy cases still result in liquidation, highlighting the necessity of reforms to improve settlement processes. The Pre-Packaged Insolvency Resolution Process (PIRP) for MSMEs and the planned Group Insolvency Framework are two recent regulatory initiatives that attempt to address this issue by streamlining resolutions and minimising needless liquidations.<sup>27</sup>

Therefore, even though liquidation and resolution plans are both essential parts of the IBC framework, resolution is still the best course of action since it may maintain economic activity, improve creditor recovery, and protect company value. To improve India's bankruptcy

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<sup>18</sup> *Ibid.*, s. 30(2).

<sup>19</sup> IBBI, "Quarterly Newsletter: January 2023," available at [www.ibbi.gov.in](http://www.ibbi.gov.in).

<sup>20</sup> RBI Report on Trends and Progress of Banking in India, 2022.

<sup>21</sup> IBBI, "Insolvency and Bankruptcy Code Report 2022-23."

<sup>22</sup> Supreme Court, *Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 631.

<sup>23</sup> IBC, s. 53.

<sup>24</sup> NCLT, *Amtek Auto Ltd. (In Liquidation)*, 2021.

<sup>25</sup> IBBI Annual Report 2021-22.

<sup>26</sup> Supreme Court, *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

<sup>27</sup> IBBI Discussion Paper on Pre-Packaged Insolvency, 2021.

resolution system, further policy interventions are required since issues including delays, lack of bidder interest, and stakeholder litigation continue to impede successful resolution.<sup>28</sup>

### III. EMPIRICAL ANALYSIS: RESOLUTION VS. LIQUIDATION OUTCOMES

Resolution plans often result in greater recovery for creditors than liquidation, according to a number of empirical studies and papers published by the Insolvency and Bankruptcy Board of India (IBBI) and the Reserve Bank of India (RBI).

#### (A) Empirical Analysis: Resolution vs. Liquidation Outcomes

Increasing the efficacy of insolvency settlement was the aim of the Insolvency and Bankruptcy Code, 2016 (IBC) by giving business restructuring precedence over liquidation in order to optimise value for stakeholders, including creditors and employees.<sup>29</sup> Numerous empirical studies and reports from regulatory bodies, such as the Insolvency and Bankruptcy Board of India (IBBI) and the Reserve Bank of India (RBI), have examined the real results of resolution versus liquidation in terms of recovery rates, time efficiency, and economic impact since it was put into effect. In order to determine if resolution strategies consistently create more value than liquidation, this section analyses important empirical facts.

#### (B) Recovery Rates: Resolution vs. Liquidation

The recovery rate, or the proportion of debt collected by financial creditors relative to the total number of claims allowed, is a key indicator of the IBC's effectiveness. The IBBI's data from 2023 shows how much the recoveries via resolution plans differ from those from liquidation.<sup>30</sup>

Mode of Resolution	Average Recovery for Financial Creditors
Resolution Plan	35–45%
Liquidation	5–10%

According to empirical research, resolution plans routinely result in larger recovery than liquidation, in which assets are sold at distressed prices because operations are disrupted.<sup>31</sup> While similar corporations going through liquidation have only recovered a portion of their accepted claims, in the case of Essar Steel India Ltd., the authorised resolution plan resulted in a 92% recovery of financial creditor claims.<sup>32</sup>

<sup>28</sup> IBBI, "Issues in the Resolution Framework: A Policy Perspective," 2023.

<sup>29</sup> Insolvency and Bankruptcy Code, 2016, No. 31, Acts of Parliament, 2016.

<sup>30</sup> IBBI, "Quarterly Newsletter: January 2023," available at [www.ibbi.gov.in](http://www.ibbi.gov.in).

<sup>31</sup> RBI Report on Trends and Progress of Banking in India, 2022.

<sup>32</sup> Supreme Court, *Essar Steel India Ltd. v. Satish Kumar Gupta*, (2020) 8 SCC 631.



On the other hand, when assets are sold in pieces rather than as a continuing concern, liquidation frequently causes significant value loss, especially for operational creditors and unsecured lenders.<sup>33</sup> The idea that settlement maximises value was reinforced by notable liquidation instances like Amtek Auto Ltd. (in liquidation) and Bhushan Steel Ltd. (in liquidation), which showed recovery rates of less than 10%.<sup>34</sup>

### **(C) Time Efficiency: Resolution vs. Liquidation**

Another important element affecting economic results is the effectiveness of the insolvency resolution procedure. The average period to resolve insolvency under the pre-IBC framework was 4.3 years, which frequently resulted in asset degradation and decreased recovery for creditors.<sup>35</sup> In order to guarantee prompt settlement, the IBC established a 180-day statutory limit that, according to the 2019 amendment, may be extended to 330 days.<sup>36</sup>

Only 16% of CIRP cases are resolved within the allotted period, according to empirical data, indicating that resolution plans still have delays even if they are quicker than pre-IBC methods.<sup>37</sup> Because of things like protracted litigation, intricate debt arrangements, and difficulties choosing bidders, the average period to resolve a case under the IBC has been between 400 and 450 days.<sup>38</sup>

On the other hand, when asset sales are carried out in stages, which further reduces asset prices, liquidation procedures take a lot longer and frequently last more than five years.<sup>39</sup> Legal obstacles and challenges finding purchasers for specialised assets have caused delays in cases like ABG Shipyard Ltd. (in liquidation) and Lanco Infratech Ltd. (in liquidation).<sup>40</sup>

A comparison of the times under various resolution strategies is shown in the following table:

Resolution Mechanism	Average Time Taken
Pre-IBC (before 2016)	4.3 years
IBC Resolution Plan	~400-450 days
Liquidation	5+ years

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<sup>33</sup> IBBI, Annual Report 2021-22.

<sup>34</sup> NCLT, *Amtek Auto Ltd. (in Liquidation)*, 2021.

<sup>35</sup> IBBI "Insolvency Resolution Report, 2022-23."

<sup>36</sup> IBC, s. 12.

<sup>37</sup> IBBI, "Challenges in CIRP: An Empirical Analysis," 2023.

<sup>38</sup> RBI, "Resolution Timelines Report, 2023."

<sup>39</sup> IBBI, "Liquidation Process Challenges, 2022."

<sup>40</sup> NCLT, *ABG Shipyard Ltd. (in Liquidation)*, 2022.

Resolution under the IBC is therefore much more efficient than liquidation, where asset sales can take years and result in shrinking recovery, even though it is still slower than anticipated.<sup>41</sup>

#### **IV. DEVELOPMENTS IN THE LAW AND REGULATION AFFECTING SETTLEMENT AND LIQUIDATION**

##### **(A) Resolution-Favoring Judicial Trends**

As seen in the following cases, the Supreme Court has continuously maintained resolution as the best course of action:

- Union of India v. Swiss Ribbons Pvt. Ltd. Reiterating that the IBC's main goal is resolution.
- Essar Steel's Committee of Creditors v. Satish Kumar Gupta: bolstering resolution and bolstering creditor rights.

##### **(B) Regulations to Encourage Settlement**

In order to promote a successful resolution, IBBI has put in place:

- MSMEs can use the Pre-Packaged Insolvency Resolution Process (PIRP): intended to speed up the resolving process.
- Framework for Group Insolvency (under consideration): to effectively handle corporate group insolvencies.

#### **V. CHALLENGES AND RECOMMENDATIONS**

##### **(A) Challenges Hindering Resolution**

- A lot of cases take longer than the allotted 330 days.
- A large number of distressed assets do not draw applicants for resolution.
- Resolution plans are regularly contested in court by creditors, promoters, and operational creditors, which drags out insolvency procedures.

##### **(B) Policy Recommendations**

- Increasing PIRP's reach from MSMEs to major enterprises in order to strengthen pre-pack insolvency mechanisms.
- Encouraging Asset Reconstruction Companies (ARCs) to invest in distressed assets is one way to facilitate asset reconstruction mechanisms.

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<sup>41</sup> Supreme Court, *Swiss Ribbons Pvt. Ltd. v. Union of India*, (2019) 4 SCC 17.

- Improving Stakeholder Coordination: Promoting process simplification among banks, creditors, and resolution specialists.

## **VI. CONCLUSION**

To optimise value for all parties involved, the IBC framework gives resolution precedence over liquidation. According to empirical data, resolution programs outperform liquidation in terms of recoveries, speed, and economic stability. Effective settlement is still hampered by issues including lack of bids, legal obstacles, and delays. Value generation under IBC may be further improved by bolstering pre-packaged bankruptcy frameworks, encouraging asset reconstruction, and cutting down on litigation delays.

Therefore, even while resolution plans are often better at protecting company value and ensuring stronger recoveries, their success still depends on their successful execution.

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