



KAMARAJ IAS ACADEMY
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Insolvency and Bankruptcy code

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Why in news?

The Supreme Court had has revived the insolvency case against Byju's, suspending the National Company Law Appellate Tribunal's order that had quashed bankruptcy proceedings against the company.

About IBC, 2016:

- It is the *bankruptcy law of India* which seeks to *consolidate the existing framework by creating a single law for insolvency and bankruptcy*.
- It provides for *a time-bound process to resolve insolvency*.
- **Applicability:** The provisions of the Code are *applicable to companies, limited liability entities, firms, and individuals* (i.e. all entities other than financial service providers).

Timeframe for completion of the exercise:

- Companies have to *complete the entire insolvency exercise within 180 days* under the IBC. The *deadline may be extended* if the creditors do not raise objections to the extension.
- For *smaller companies, including startups with an annual turnover of Rs 1 crore, the whole exercise of insolvency must be completed in 90 days*, and the *deadline can be extended by 45 days*.
- If debt *resolution doesn't happen*, the company goes for *liquidation*.

Who regulates the IBC proceedings?

- The *Insolvency and Bankruptcy Board of India (IBBI)* has been appointed as a **regulator** and it can oversee these proceedings.
- IBBI has *10 members appointed by the Central Government*.
- IBBI *regulates insolvency professionals, insolvency professional agencies, and information utilities set up under the Code*.

Who facilitates the insolvency resolution?

- A licensed professional administers the resolution process, manages the assets of the debtor, and provides information for creditors to assist them in decision-making.

Who adjudicates over the proceedings?

- The proceedings of the resolution process will be *adjudicated by the National Companies Law Tribunal (NCLT) for companies and the Debt Recovery Tribunal for individuals*.
- The courts approve initiating the resolution process, appointing the insolvency professional, and giving nod to the final decision of creditors.

What is the procedure to resolve insolvency under the Code?

- When a default occurs, the resolution process may be initiated by the debtor or creditor.

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- The insolvency professional administers the process.
- The professional provides financial information of the debtor from the information utilities to the creditor and manages the debtor's assets.
- This *process lasts for 180 days*, and any legal action against the debtor is prohibited during this period.

What does the committee of creditors do?

- A committee consisting of the *financial creditors* who lent money to the debtor is formed by the insolvency professional.
- The creditors' committee *decides the future of the outstanding debt* owed to them.
- They may choose to revive the debt owed to them by changing the repayment schedule or selling the assets of the debtor to get their dues back.
- If a *decision is not taken in 180 days, the debtor's assets go into liquidation*.

What happens under liquidation?

- If the debtor goes into liquidation, an *insolvency professional administers the liquidation process*.
- *Proceeds from the sale of the debtor's assets are distributed in the following order:*
- First, insolvency resolution costs, including the remuneration to the insolvency professional;
- second, secured creditors, whose loans are backed by collateral; and third, dues to workers, other employees; forth, unsecured creditors