

Key Takeaways of IBC Webinar held on 7th August, 2021

The Indian Institute of Banking of Finance (IIBF), under its Member Education Series, conducts seminars / webinars on contemporary topics for the knowledge enrichment of the banking fraternity. These seminars / webinars are conducted at the corporate office of IIBF at Mumbai and at its zonal offices [known as Professional Development Centres (PDCs)] at New Delhi, Chennai and Kolkata.

One of the webinars organised by PDC, New Delhi on 7th August 2021 was on Pre-Packaged Insolvency Resolution Process (PPIRP) for Corporate MSMEs. The webinar included a Panel discussion on IBC-2016, including PPIRP.

The Insolvency and Bankruptcy Code 2016, enacted to radically change the process of resolution of stressed assets, is keenly watched by economists and jurists as well as businessmen and investors. The objective of code is maximization of value of assets of the persons to promote entrepreneurship, enhance availability of credit, and balance the interests of all stakeholders. The law is evolving and various amendments have been carried out from time to time.

Micro, Small, and Medium Enterprises (MSMEs) are critical for India's economy. They contribute significantly to the gross domestic product (GDP) and provide sizeable employment to a sizeable population. The COVID-19 pandemic has impacted the business operations and exposed many of the MSMEs to financial stress. Resolution of their stress requires different treatment. Hence, Pre-Packaged Insolvency Resolution Process(PPIRP) for Corporate MSMEs was introduced on 4th April, 2021.

PPIRP is built on trust and honors the honest MSME owners by enabling resolution while the company remains with them. The objective is to ensure quicker, cost effective and value maximizing for all stakeholders, in a manner which is least disruptive to the continuity of their businesses, and which preserve jobs.

PPIRP is applicable to MSMEs borrowers who have committed a default of at least Rs10 lakh.

To have more clarity on both the laws and specially PPIRP, a webinar was organized wherein, the following dignitaries were present during the webinar and they also participated in panel discussion on the above subject.

1. Mr Sudhakar Shukla-Whole Time Member-IBBI
2. Mr Ritesh Kavdia-ED, IBBI
3. Mr Krishan Singh Barguzar -CGM-SBI
4. Mr Ashish Makhija -Managing Attorney of AMC Law Firm, New Delhi
(Leading Practitioner-Insolvency & corporate matters)

180 participants joined the webinar.

The important takeaways from the webinar were as under:

1. IBC code has brought the behavioral changes due to fear of losing the ownership of business and since its enactment. Recoveries could be possible from the difficult accounts also, maintaining the economic value of asset.
2. As per the data published by IBBI, only 13% of the closed cases have ended up with Resolution Plan. However, the accounts where liquidation has been initiated, almost 75% of the cases related to defunct companies only and hence IBC has achieved the purpose of Value maximization to a greater extent through this Code.
3. As regards avoidance transactions, RP should identify such transactions and report the same for necessary action. In case assets are transferred to individual trusts etc, to avoid the impact of IBC code, the same can be ascertained through observations of Credit Audit report, stock and receivable audit report and forensic audit report. Same can also be reported to Fraud Registry of RBI, can be declared willful defaulter or can be reported to external agencies also.
4. As regards following time line for resolution of assets, it was opined that it is the duty of all stakeholders to ensure that approval of plan is not postponed on a routine basis. Judiciary may take its time. However, there are efforts to increase the NCLT benches for timely disposal.
5. For all practical purposes, COC is the authority which can speedily approve the resolution plan which will help the compliance of time line for the resolution of plan.
6. For implementation of PPIRP package, banks should come forward and a message should be spread among MSME borrowers to use this platform.
7. Bank should come out with SOP at the earliest for resolution of the accounts under PPIRP. It is one of the finest schemes and can be the first line of defense towards resolution of the stressed assets of the MSMEs.
8. Under PPIRP, there should be no impairment to the operational creditors. It does not mean that operational creditors have to be paid 100% upfront. They can be paid over the time period also.
9. PPIRP is better than OTS as it is a collective decision, responsibility is spread out and it is approved by the Adjudicating Authority and no questions are raised later on as it is resolved by following a legal mechanism.
10. Under PPIRP, the first opportunity is given to the promoters for submission of the resolution plan and in case, it is not accepted, then RP will call for EOI and Evaluation of plan will be done by COC under a transparent evaluation matrix for selection of the bidder.
11. The RP is not an entrepreneur; hence the role of COC is critical like any Board of any company.
12. Larger objective of IBC code is achieved but always, there is room for improvement