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Corporate Winding-Up: Analysis of Companies Act 2013 and IBC 2016

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Winding up refers to the process of liquidating a company, which leads to its dissolution and the distribution of its assets among creditors and shareholders. Once a petition for dissolution is filed, the Board of Directors loses its authority, which transfers to a liquidator. The liquidator takes control of the company's affairs, collects and assesses its assets, settles outstanding liabilities, and distributes any remaining surplus among members according to their legal rights. This paper examines the legal framework governing corporate winding-up under the Companies Act, 2013, and the Insolvency and Bankruptcy Code (IBC), 2016. It explores key statutory provisions in both legislations and analyses their application in corporate insolvency proceedings. The study incorporates the landmark case of Committee of Creditors of Essar Steel India Limited v Satish Kumar Gupta and Others to evaluate how these legal frameworks function in practice. The paper further assesses the IBC's impact on streamlining corporate insolvency resolution and its effectiveness in addressing challenges that exist under company law. It also outlines the procedural role of courts in winding up proceedings, including the dismissal of petitions, issuance of interim orders, and appointment of provisional liquidators to oversee the company's affairs until the process is completed. Additionally, it discusses how courts ensure the equitable distribution of assets among all stakeholders. In some contexts, the term liquidation is used interchangeably with winding up, although their legal implications may differ.

Keywords: *winding up, liquidation, dissolution, liquidator, petition.*

INTRODUCTION

The winding-up process, also called liquidation, forms the legal process through which a company's financial issues are settled, its assets liquidated to cash, and any excess monies distributed to the creditors and members or shareholders. The process forms the final stage in a company's life cycle, clearing all the outstanding debts and liabilities before the company is wound up as a legal person. Pennington states that the winding-up process entails the realisation of the assets of a company in cash through a liquidator[1], payment of its debts and liabilities, and distribution of any surplus assets to its members or shareholders. The process can be undertaken voluntarily at the instigation of the company or compulsorily at the behest of a court or tribunal in instances relating to insolvency, mismanagement, or issues of public interest.

Winding-up is a formal procedure of dissolution of a company; yet, legal ambiguity and procedural defects have been impediments to its application for centuries. The Companies Act of 2013, which initially governed corporate winding-up in India, was criticised for its long and complex procedures, absence of effective creditor involvement, and judicial intervention.[2]. The multi-stage sanction mechanism of the Act led to unnecessary delays, aggravating the financial distress of corporations and lowering recovery for the creditors. In addition, the absence of a resolution procedure with defined time limits made effective business restructuring difficult, thus leading to a loss of value of assets.

To combat these inefficiencies, the Insolvency and Bankruptcy Code (IBC) of 2016 was brought into force as an all-encompassing legal regime to expedite insolvency procedures, promote creditor rights, and make the process of liquidation equal and transparent. The IBC implemented a creditor-driven resolution process that accorded financial creditors priority in decision-making. However, some of these issues persist, including issues of operational creditors' rights, slippage of the timeline of resolution, and issues of enforcement action by the Committee of Creditors (Coc). The case of Essar Steel Ltd[3] is one such example that exposed the complexity of the IBC regime, particularly concerning the distribution of

[1] Robert R. Pennington, *Company Law* (8th edn, Oxford University Press 2001)
[2] *Ibid*
[3] *Committee of Creditors of Essar Steel India Limited v Satish Kumar Gupta & Ors* (2019) SCC Online SC 1478

proceeds between different classes of creditors and the resolution professional's discretion powers.[4]

The current study undertakes a critical examination of the principle of corporate winding up under the Companies Act, 2013, and the Insolvency and Bankruptcy Code, 2016, and highlights the consequent legal, procedural, and economic concerns in the case of corporate dissolution. It critically examines judicial rulings on insolvency law, the case of Essar Steel Ltd, specifically to establish the pros and cons of the existing insolvency regime. The comparative examination by the current study aims to ascertain loopholes in the existing legal regime, assess the effectiveness of the IBC, and propose possible reforms for enhancing corporate insolvency resolution in India.

METHODS OF WINDING UP UNDER THE COMPANIES ACT, 2013

The Companies Act, 2013 provides for different methods of winding up a company, ensuring a systematic and legally compliant dissolution of corporate entities. Winding up is the process through which a company's existence is brought to an end, and its assets are liquidated to pay off debts and distribute the remaining assets to its members. The Act primarily recognises two modes of winding up: Winding Up by the Tribunal and Voluntary Winding Up. Additionally, there exist other mechanisms such as Compulsory Liquidation under the Insolvency and Bankruptcy Code, 2016, and Striking Off by the Registrar of Companies. These mechanisms can be categorised as;

WINDING UP BY THE TRIBUNAL

Winding up by the Tribunal is a compulsory process where the National Company Law Tribunal (NCLT) intervenes to dissolve the company under specific legal grounds. The process begins with filing a petition before the NCLT, and if the Tribunal finds merit in the petition, it may pass an order for winding up. Thus, there are various grounds on which a Tribunal may call for the winding up of a Corporate Debtor.

1. Insolvency of the Company: If a company is unable to pay its debts, it may be wound up by the Tribunal. This is generally determined if the company fails to pay a creditor's dues exceeding ₹1 lakh within 21 days of a statutory demand (Section 271(1)(a)). In the case of

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[4] Pennington (n 1)

Madhusudan Gordhandas & Co. v Madhu Woollen Industries Pvt. Ltd[5], the Supreme Court held that the inability to pay debts is a valid ground for winding up a company.

2. Special Resolution by Shareholders: A company may voluntarily pass a special resolution in its general meeting, requesting the Tribunal to wind up the company (Section 271(1)(b)). In the case of Manish Kumar v Union of India (2021), it was reaffirmed by the Supreme Court of India that a voluntary resolution for winding up must be genuine and in the best interests of all stakeholders.

3. Acts Against National Security and Public Interest: If a company engages in activities that threaten the security of India, international peace, or public safety, the Tribunal can order its dissolution (Section 271(1)(c)).

4. Fraudulent or Misconduct-Based Incorporation: If it is found that the company was incorporated through fraudulent activities or misconduct, the Registrar or an authorised representative of the Central Government may apply for its winding up (Section 271(1)(d)). In the case of Official Liquidator v P.A. Tendolkar (1973), the Supreme Court emphasised that fraudulent practices justify the dissolution of a company.

5. Non-Filing of Financial Statements and Returns: If a company has not submitted its annual returns and balance sheets for five consecutive financial years, it may be wound up by the Tribunal (Section 271(1)(e)).

6. Just and Equitable Grounds: The Tribunal has the discretion to order winding up if it finds it just and equitable to do so (Section 271(1)(f)). In the case of Hind Overseas Pvt. Ltd. v Raghunath Prasad Jhunjhunwala (1976)[6], the Court held that deadlock in management and oppression of minority shareholders are valid just and equitable grounds for winding up.

VOLUNTARY WINDING UP

Voluntary winding up is initiated by the company itself without the intervention of the Tribunal. The Companies Act, 2013, earlier had specific provisions for voluntary winding up, but after the introduction of the Insolvency and Bankruptcy Code (IBC), voluntary winding

[5] *Madhusudan Gordhandas & Co v Madhu Woollen Industries Pvt Ltd* (1972) 42 Comp Cas 125
[6] *Hind Overseas Pvt Ltd v Raghunath Prasad Jhunjhunwala* (1976) 46 Comp Cas 91

up is now governed by Section 59 of the IBC, 2016. The process of voluntary winding up can be categorised in the following manner:

1. Declaration of Solvency: The directors must declare that the company has no debts or that it will be able to pay its debts within a specified period (not exceeding 12 months from the start of winding up).

2. Passing of Special Resolution: For a company to initiate voluntary winding up, a special resolution must be passed by the shareholders in a general meeting. This resolution must be approved by at least three-fourths of the members present and voting. The resolution signifies the collective will of the shareholders to dissolve the company and commence the liquidation process. Once passed, the company must notify the Registrar of Companies (ROC) within the prescribed time frame.

3. Appointment of a Liquidator: Following the approval of the special resolution, the company is required to appoint a liquidator who will be responsible for administering the winding-up process. The liquidator takes charge of the company's assets, assesses outstanding liabilities, and ensures fair and transparent distribution of assets among the creditors and shareholders. The appointment must also be approved by the members and, in certain cases, by the creditors, depending on whether the company is solvent or insolvent.

4. Creditor's Approval (in case of debts): If the company owes any debts, it must convene a meeting of the creditors. During this meeting, the creditors are informed of the winding-up decision and the proposed appointment of the liquidator. The creditors may either approve the company's nominee or appoint their own liquidator. The consent and cooperation of creditors are crucial, especially in cases where the company is unable to meet its liabilities in full. Their approval ensures that their interests are safeguarded during the winding-up process.

5. Final Dissolution: After the liquidator has realised the company's assets, paid off its debts, and distributed the remaining surplus (if any) among the shareholders, a final account is prepared. This report contains details of the liquidation proceedings and how the company's property was disposed of. A general meeting is then called, during which the liquidator presents this final report. Upon approval, the liquidator files the report with the Registrar of

Companies. Once the Registrar is satisfied, the company is officially dissolved, and its name is struck off from the register of companies.

COMPULSORY LIQUIDATION UNDER THE 2016 CODE

The IBC, 2016, introduced a structured mechanism for corporate insolvency resolution and liquidation. Under this, a company may face compulsory liquidation if the Corporate Insolvency Resolution Process (CIRP) fails.

Process of Liquidation under IBC 2016:

1. As mentioned before, within 330 days, the CIRP process is terminated. Within the said period, the NCLT seeks to restructure the company by getting a thorough resolution done for the same. However, when there is a failure in restructuring the company or inviting a resolution applicant for the same, the company has to, as a mandate, go through the liquidation process. Such a process is ordered by the tribunal since there are many parties, including the secured creditors, government, workmen, shareholders, etc., who are yet to be paid their due rights in monetary terms.

2. Once the Corporate Insolvency Resolution Process (CIRP) fails and liquidation is ordered under Section 33 of the IBC[7], 2016, the Adjudicating Authority (i.e., the National Company Law Tribunal) appoints the Resolution Professional (RP) who was managing the CIRP as the Liquidator, unless replaced for valid reasons. The Liquidator assumes control of the corporate debtor's assets and operations and is entrusted with the responsibility of conducting the liquidation by the provisions laid down in the Code.

3. After being appointed, the Liquidator forms the liquidation estate, which includes all assets and properties of the corporate debtor. These assets are then sold through auctions or private sales, as per the Liquidation Regulations. The proceeds generated from the sale are distributed in a specific order of priority defined under Section 53 of the IBC[8]. This waterfall mechanism ensures that insolvency resolution costs are paid first, followed by secured

[7] Insolvency and Bankruptcy Code 2016, s 33
[8] Insolvency and Bankruptcy Code 2016, s 53

creditors and workmen's dues, then unsecured creditors, and finally, shareholders and partners, if any surplus remains.

4. Once all assets have been liquidated and the proceeds distributed as per the statutory mechanism, the Liquidator prepares a final report detailing the liquidation process and accounts. This report is submitted to the NCLT under Section 54 of the IBC[9]. If the NCLT is satisfied with the completion of the liquidation, it passes an order for the dissolution of the company. Upon such order, the corporate debtor ceases to exist as a legal entity, and the process of liquidation is considered complete.

STRIKING OFF BY THE REGISTRAR OF COMPANIES (ROC)

Apart from the formal processes of winding up and liquidation, the Companies Act, 2013 provides for the removal of a company's name from the register of companies through a process known as striking off. This is governed by Section 248 of the Act and may be initiated either by the company itself (voluntarily) or by the Registrar of Companies (ROC), subject to certain conditions. The process is generally quicker and more cost-effective than traditional winding up, but applies only to companies with no outstanding liabilities. A company may be struck off the register on the following grounds:

1. Failure to Commence Business within One Year of Incorporation: If a company has been incorporated but has not commenced any business activity within one year from the date of its incorporation, the Registrar may initiate action to strike off its name from the register. This provision is intended to remove shell companies or entities formed without the intention of operating any real business, thereby maintaining the integrity of the corporate registry.

2. Non-Operation for Two Consecutive Financial Years without Applying for Dormant Status: When a company has not carried out any business or commercial operations for the immediately preceding two financial years and has not applied for the status of a dormant company under Section 455 of the Companies Act, 2013, the ROC may proceed with striking off its name. In such cases, continued listing of the company on the register serves no practical purpose. However, the company must have no outstanding liabilities, and the process cannot be used as a means to escape financial obligations.

[9] Insolvency and Bankruptcy Code 2016, s 54

INABILITY TO PAY DEBT

Under Section 271(1) of the Companies Act, 2013, a Tribunal can order the winding-up of a company that is unable to pay its financial dues.[10]. If a company owes a creditor an amount exceeding Rs. 1 lakh and the creditor serves a formal notice to the registered office of the company by post or by some other accepted method requesting payment, the company must pay the debt within 21 days.

Failure to do so is a good reason for initiating winding-up action. Additionally, if any execution or other proceedings initiated by a court order in favour of a creditor remain wholly or partly unfilled, or if the Tribunal, for any reason whatsoever, finds the financial health of the company to be in jeopardy, these circumstances form part of the reasons for initiating winding-up action.

Section 272 of the Companies Act, 2013 defines the parties who are allowed to file a petition for winding up. The petition can be filed by the company itself, a creditor or creditors (including those with future or contingent claims), or any contributory. Further, the petition can also be filed by a joint venture of the foregoing parties, the Registrar of Companies, any person appointed by the Central Government, or even the Central or State Government, particularly in situations where the company's business is hazardous to the sovereignty or integrity of India.

Sections under Section 274 also extend the powers to third parties, other than the company itself, to file such a petition. After the filing of a petition, the court is also empowered to issue a notice to the company, which allows an initial timeframe of 30 days, along with the chance to extend the timeframe for an additional 30 days in specified situations. This framework guarantees the presence of adequate mechanisms for resolving the financial insolvency of a firm while protecting the interests of creditors and other stakeholders.

WINDING UP CHANGES POST-2016 INSOLVENCY AND BANKRUPTCY CODE

The definition and process of winding up under the Companies Act, 2013, and the Insolvency and Bankruptcy Code (IBC), 2016, changed the procedures hitherto in place. The Previous

[10] Companies Act 2013, s 271(1)

tribunal-based methods under Section 270 of the Companies Act, 2013, have now been replaced. A tribunal can wind up a company if it violates principles such as sovereignty, integrity, security, or public morality, as outlined in Section 271[11].

The new IBC procedure includes the following steps:

1. Filing of Declaration of Solvency: The voluntary winding-up process begins with a declaration from the majority of the directors of the company, supported by an affidavit. This declaration states that the company has no debts or will be able to pay its debts in full from the proceeds of the liquidation of its assets. It must also affirm that the winding up is not being undertaken to defraud any person. This declaration is filed with the Registrar of Companies (ROC) and the Insolvency and Bankruptcy Board of India (IBBI).

2. Passing of Special Resolution within Four Weeks: Within four weeks from the date of the declaration of solvency, the company is required to convene a general meeting of shareholders to pass a special resolution approving the voluntary winding up. This resolution must also include the appointment of a liquidator who will manage the entire process. If the company owes any debts, approval from the creditors representing two-thirds in value is also required.

3. Public Announcement in Newspapers: Within five days of passing the special resolution, the liquidator must make a public announcement regarding the commencement of the liquidation process. This announcement is to be published in one English and one regional language newspaper with wide circulation at the location of the company's registered office. The purpose is to invite claims from creditors and inform the public of the liquidation.

4. Intimation to the Registrar of Companies (ROC): The resolution for winding up, along with the appointment of the liquidator, must be filed with the ROC within seven days. This step ensures that the official records reflect the company's change in status and the initiation of the liquidation process.

5. Preparation of Assets and Liabilities Statement: Within 45 days of commencement, the liquidator is required to prepare a detailed report estimating the value of the company's

[11] *Ibid*

assets and liabilities. This statement forms the basis for realising assets, settling claims, and distributing the remaining funds among shareholders, if any.

6. Realisation of Assets and Distribution of Proceeds: The liquidator takes steps to realise uncalled capital (if any), recover dues, and sell the assets of the company. After settling all claims and obligations, the remaining amount is distributed among shareholders. This must be completed within six months from the liquidation commencement date, and a final report of the liquidation process must be submitted to the ROC and IBBI within four weeks thereafter.

RELEVANT CASES

Srijan Anant and Aayushi Mishra (2019):[12] The study referred to the IBC as one of India's most transformational legal developments. The authors contend that the IBC has not only fortified the country's legal infrastructure but, more importantly, given India a special status in the global sphere of things. They emphasised the fact that the IBC consolidates several bankruptcy laws into one framework and hence straightforwardly simplifies all insolvency processes. In addition, the authors scrutinise the Code's legal foundations and discuss its implications for India's macroeconomic environment more generally.

Nishith Desai Associates (2019): This paper considers the IBC's influence on India's developing debt market. The authors observe that there have been numerous difficulties facing the implementation of the Code, but also point out that judicial interpretations and useful amendments have resolved several complex issues. They discuss the responsive role of IBBI in creating public awareness and thereby proper regulation. Analysing important decisions, the authors concluded that it is a positive development for the economy as well as the nation that corporate India focuses on refurbishing loss-making entities.

Javish Valecha and Ankita Anupriya Xalxo (2017): The authors identify the IBC as revolutionary legislation that is likely to transform the insolvency and bankruptcy landscape in India.[13] They highlight that the Code provides for a time-bound resolution process,

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[12] Srijan Anant and Aayushi Mishra, 'A Study Of Insolvency And Bankruptcy Code And Its Impact On Macro Environment Of India' (2019) 7(3) International Journal of Engineering Development and Research <https://rjwave.org/ijedr/papers/IJEDR1903007.pdf> accessed 09 March 2025

[13] N. L. Vijaya and S. Muralidhar, 'A Study On Efficacy Of Ibc Over Other Debt Recovery Channels – With Special Reference To Recovery Of Npa's Of Scheduled Commercial Banks In India' (2021) 4(2) International

aligning it with international best practices. Though the researchers believe the IBC to be an important implementer for improving India's ease of doing business ranking, they point out that such success would depend on effective implementation and adherence to the procedural framework of the Code.

Josiah Wamwere-Njoroge (2017): Comparing the Indian IBC with the UK and France insolvency regimes, this research study concludes that the IBC is the most promising and efficient insolvency regime. It identifies that an effective framework of insolvency must have a balance in both the rights of creditors, including secured as well as unsecured, and debtors. On the other hand, the cost of proceedings in India, though relatively low, is another weakness with the potential to discourage stakeholders from misusing this system for personal gratification.

Akshaya Kamalnath (2019): The researcher looks at the IBC's launch in 2016 as a means of effective restructuring and corporate rescue. The research commends the infrastructure of the Code, including the demarcation of specialised company law tribunals, a dedicated regulator, and strict time frames. However, within two years of its actual launch, the researcher finds that problems remain, including the failure of directors of companies to apply for the process due to an apprehension of losing control. Another development discussed includes the Modified Revlon Duty, which encourages promoters to revive companies instead of allowing directors to retain control in the process of liquidation.

CASE STUDY: COMMITTEE OF CREDITORS OF ESSAR STEEL INDIA LIMITED (THROUGH AUTHORISED SIGNATORY) V SATISH KUMAR GUPTA AND OTHERS

In Committee of Creditors of Essar Steel India Limited v Satish Kumar Gupta and Ors,[14] the significant corporate insolvency development was the case in which financially struggling Essar Steel was bought out by ArcelorMittal and Nippon Steel. In the said case, with the passing of the order in March 2019, the National Company Law Tribunal approved ArcelorMittal's resolution plan, integrating an upfront payment of ₹42,000 crore to financial creditors and an investment of ₹8,000 crore into the company. The plan was challenged again as this plan looked to give importance to financial creditors, the Appellate Tribunal for

Journal of Advanced Research In Commerce, Management & Social Science <https://www.inspirajournals.com/uploads/Issues/1514993499.pdf> accessed 09 March 2025

[14] *Committee of Creditors of Essar Steel India Ltd v Satish Kumar Gupta and Ors* (2020) 8 SCC 531

National Company Law (NCLAT) modified that plan to ensure equal recoveries between both financial and operational creditors, which was later overturned by the Supreme Court while upholding financial creditor supremacy through the Committee of Creditors (CoC). The Supreme Court clarified that financial creditors have the right to decide how their funds are allocated, thereby reinforcing their superior claims over secured and unsecured operational creditors.[15] It removed ambiguity in the interpretation of the IBC and set a precedent for future insolvency cases. By restructuring the processes and reinforcing creditor priorities, greater clarity and efficacy in the resolution of insolvency and liquidation matters are ensured by these legal provisions.

Issues Involved: The central issue surrounding this case was the Resolution Applicants' eligibility to file their resolution plans. This was largely because they were supposed to be disqualified, according to Section 29a of the Insolvency and Bankruptcy Code (IBC). [16]This enumerates the reasons for disqualification. The legal issue presented before the bench was whether the applicants' antecedent conduct disqualified them.

Judgment: The Supreme Court held that under the IBC, the Committee of Creditors can approve and negotiate a resolution plan whose view it considers fit, no matter if the restructuring with such a plan provides different strata structures for pay across various creditor classes. In effect, this judgment insisted that the Coc should be vested with commercial judgment and that the residual equity jurisdiction of no court is to review decisions made by the Coc. In other words, courts are not authorised to intervene in Coc business judgments.

The Court also ruled that the principle of equality cannot be made absolute in insolvency matters because equality in the treatment of all creditors, be they financial or operational, would serve to defeat the IBC objectives. Financial creditors were thus given preference in the distribution of funds, further confirming their claim of superiority over operational creditors.

[15] Akshaya Kamalnath, 'Corporate Insolvency Resolution Law in India – A Proposal to Overcome the 'Initiation Problem'' (2019) SSRN <https://ssrn.com/abstract=3387001> accessed 09 March 2025
[16] Insolvency and Bankruptcy Code 2016, s 29A

The Supreme Court significantly amended the resolution timeline of 330 days for the application mandated by the IBC. As much as the timeline acts as a guiding benchmark, the Court has ruled that adjudicating authorities can allow additional time in cases where a resolution plan is nearing finalisation. Such flexibility provides against early dismissal of cases and yields more practical resolutions in complex insolvency matters.

IMPACT OF THE JUDGMENT

This judgment has significant implications for the insolvency landscape in India. In the first place, this suggests that banks recover some of the significant outstanding amounts since, as per this case, financial creditors would obtain ₹42,000 crore, amounting to approximately 85% of their claims. It is substantially higher than the average recovery rate in cases similar to this one, hence bolstering the financial health of lending institutions and improving their capital adequacy ratios.

The relaxation of the 330-day timeline provides much-needed flexibility in the insolvency proceeding to align better with the complexities of each case, while still keeping to the overarching goal of the expedition. This judgment is likely to attract investors who were sceptical to date about the efficiency and predictability of India's insolvency framework. Further, the ruling cuts down on confusion and fights between operational creditors and financial creditors as regards the priority of the resolution plan regarding fund distribution. It also strengthens the Coc at the centre of decision-making in insolvency cases, thus eliminating superfluous litigation and streamlining the process. Thus, this landmark judgment strengthens the framework of the IBC by balancing efficiency, creditor priorities, and procedural flexibility. It addresses key legal ambiguities; therefore, it fosters investor confidence and aligns the resolution process with the IBC's fundamental objective of efficiently resolving distressed assets.

CONCLUSION

The inefficiencies and delays associated with the winding-up process at that time under the old laws of India were seen to be crying out for reform. As early as 1999, the Justice Eradi Committee Report showed that 473 winding-up cases had been pending for over 25 years.[17]

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[17] Justice V Balakrishna Eradi, *Report of the High-Level Committee on Law Relating to Insolvency and Winding Up of Companies* (1999)

The Department of Financial Services ' 2015 data also recorded[18] that 1,479 winding-up cases were pending for more than 20 years. The alarming statistics underscored wide systemic inadequacies in the management of financial distress and bad debts, which eventually led to the new Insolvency and Bankruptcy Code (IBC), 2016. The IBC was intended to achieve a time-bound process for dealing with insolvency and the effective resolution of debt obligations.[19] What the previous processes under the Companies Act 1956 missed was a structured approach toward the appointment of liquidators, along with an interminable length of time. The old regime presented various situations and issues related to voluntary winding up, with proper eligibility criteria for liquidators not defined and undefined guidelines. Realising these facts, the government brought in new rules under IBC, and it looked at streamlining the procedure by providing a comprehensive and modern framework for winding up businesses.

One very basic characteristic of the IBC is an efficient resolution process, including the timely settlement of debts and the prioritisation of financial creditors. In this way, recovery by the creditors would be more effective, which has been a long-standing issue in the banking sector in the case of non-performing assets. The IBC has made sure that the process of winding up is not only transparent but also more efficient, as it mandated the appointment of professional liquidators coupled with the structured timeline of the insolvency resolution.

The Code further strengthened the role of the Coc in decision-making by giving control over the resolution plans to the financial creditors. Such a process has streamlined things with limited scope for unnecessary litigation, and courts have become constrained in their jurisdiction over interfering in the business judgments of Coc. It gives the rightful clarity in the IBC establishing creditor claims hierarchy and emphasising fairness in their distribution so that creditors and operational creditors, and other stakeholders are dealt with appropriately based on their claims.

The IBC also offers flexibility in the right measures. For instance, whereas the Code introduced a time limit of 330 days to dispose of insolvency cases, the Supreme Court has given flexibility in such situations wherein the adjudicating authority can extend the same in

[18] Ministry of Finance, *Status Report on Pending Winding-Up Cases* (2015)
[19] *Ibid*

appropriate circumstances. Hence, in trying to balance efficiency with the concern for the complexities of individual cases, it makes the IBC is a workable and flexible law. In addition to the resolution of systemic delays, the IBC has further enhanced investor confidence in the Indian insolvency framework. The Code has been robust and more than capable of dealing with significant and complex insolvency matters like the case of Essar Steel. Insofar as it granted precedence to financial creditors, added operational creditors, and provided a clear mechanism for distribution, the insolvency process in India has been made more robust and attractive to investors.

The IBC, 2016, thus represents a distinct step forward in the Indian context toward an approach to resolving insolvency and orderly winding up. This statute not only bridges the lacunae existing in the earlier frameworks but also ensures that the process of resolution is equally balanced, efficient, and time-bound. Even at this emerging stage, its impact on the insolvency landscape, on the time taken, and on the confidence of various stakeholders is discernible. Through structured processes and an emphasis on fairness, the IBC has laid down a solid foundation to tackle financial stress in India.