

NOTES

Basics of Insolvency and Bankruptcy Code(IBC) Framework

Hanspal Bakul · 16 Oct 2026

The [Insolvency and Bankruptcy Code, 2016](#) replaced a scattered set of laws (SICA, the Recovery of Debts Act, and parts of the Companies Act) with a single code. This is the basic IBC framework relevant to CLAT PG which you must read which shifts the focus from penalizing debtors to maximizing the value of assets, ensuring entrepreneurship thrives while safeguarding the rights of stakeholders.

Its preamble aims at time-bound resolution, maximisation of asset value, promoting entrepreneurship and credit availability, and balancing the interests of all stakeholders. The **Code's core idea is that insolvency should be resolved through a collective, creditor-driven process and not through individual recovery suits.**

Structure of the Code

- **Part I:** preliminary and definitions.
- **Part II:** insolvency resolution and liquidation of corporate persons.
- **Part III:** individuals and partnership firms.
- **Part IV:** regulation of insolvency professionals, agencies and information utilities (this part also creates the IBBI).
- **Part V:** miscellaneous provisions.

Institutions under the Code

- **NCLT (Adjudicating Authority):** handles corporate insolvency; appeals go to the NCLAT and then the Supreme Court.
- **DRT:** handles individual and firm insolvency.
- **IBBI:** the regulator, set up under Section 188.

- **Insolvency Professionals (IPs):** run the process through IRP, RP and liquidator roles.
- **Information Utilities:** store and verify financial records of debt, which helps prove default.

Who Can Initiate CIRP

- **Financial creditor (Section 7):** On default of a financial debt.
- **Operational creditor (Sections 8 and 9):** After serving a demand notice and the corporate debtor failing to repay or dispute within 10 days.
- **Corporate debtor (Section 10):** Voluntary filing.

The minimum default threshold is ₹1 crore. A default means non-payment of a debt that has become due and payable.

Stages of CIRP (Part II)

1. **Application and admission:** the AA admits the application and appoints an Interim Resolution Professional (IRP).
2. **Moratorium (Section 14):** suits, enforcement, recovery and transfers of assets are barred, so the debtor's assets stay together.
3. **Public announcement and claims:** creditors submit claims to the IRP.
4. **Constitution of the Committee of Creditors (Section 21):** only financial creditors vote, and related parties are excluded.
5. **Resolution plan (Section 30):** invitations are issued, plans are evaluated and put to vote. Approval needs a 66% voting share.
6. **Approval by the AA (Section 31):** once approved, the plan binds all stakeholders, including the Central and State Governments.

The overall time limit is 180 days, extendable by 90 days, with an outer limit of 330 days including litigation time.

Section 29A: Who Cannot Be a Resolution Applicant

This section bars promoters and others from regaining control of a failed company cheaply. It applies to wilful defaulters, persons with NPA accounts, undischarged insolvents, disqualified

directors, and their related parties. It is tested often because it connects to [ArcelorMittal-type disputes](#) and to the balance between recovery and fairness.

Liquidation (Sections 33 to 54)

If no resolution plan is approved, or the CoC resolves to liquidate, the AA orders liquidation. **A liquidator takes charge, realises the assets and distributes the proceeds. The Code treats liquidation as the last resort and not the first option.**

Waterfall Mechanism ([Section 53](#))

Proceeds are distributed in this order:

1. Insolvency resolution and liquidation costs.
2. Workmen's dues (24 months) together with secured creditors.
3. Employees' dues (12 months).
4. Unsecured financial creditors.
5. Government dues and the remaining debts of secured creditors.
6. Other debts.
7. Preference shareholders.
8. Equity shareholders.

Avoidance Transactions and Wrongful Trading

The RP can challenge transactions that harm creditors before commencement of insolvency.

These are preferential transactions ([Section 43](#)), undervalued transactions ([Section 45](#)), and extortionate credit ([Section 50](#)). [Section 66](#) covers fraudulent and wrongful trading, where directors continued the business knowing insolvency was unavoidable. Courts can order recovery and make responsible persons contribute to the assets.

Operational vs Financial Creditors

Financial creditors lend money for a time value of money and control the CoC. Operational creditors are owed for goods and services and have no vote. The Supreme Court upheld this

classification in **Swiss Ribbons** because the two groups differ in their commercial interests and in how they assess the debtor's viability.

IBC (Amendment) Act, 2026

The IBC (Amendment) Act, 2026 (Act No. 6 of 2026) received Presidential assent on 6 April 2026 and is described as the biggest overhaul of the insolvency framework since 2016. The Ministry of Corporate Affairs notified 26 May 2026 as the date on which many of its provisions came into force.

- **CIIRP:** a new Chapter IV-A (Sections 58A to 58K) creates an out-of-court, debtor-in-possession resolution process started by creditors.
- **Group and cross-border insolvency:** new provisions enable coordinated resolution of group companies and set up a framework for cross-border insolvency.
- **Look-back period:** the period for preferential, undervalued and extortionate credit transactions now runs from the date the insolvency application is filed, and not only from admission.
- **Penalties:** the criminal offences in Sections 74 and 76 are replaced by a civil penalty regime.
- **Mandatory admission:** the Amendment is reported to restore the mandatory character of admission under Section 7 and to confirm the waterfall's primacy over ad hoc claims to secured status.

Locus Classicus

- **Innoventive Industries Ltd v. ICICI Bank:** once default is established, the AA must admit the application. *The Code is a complete code and overrides state laws on conflicting points.*
- **Mobilox Innovations v. Kirusa Software:** an operational creditor's claim can be rejected *only if a pre-existing dispute exists.*
- **Swiss Ribbons v. Union of India:** the Code, including the FC/OC distinction and Section 29A, is constitutional.
- **Pioneer Urban Land v. Union of India:** *homebuyers are financial creditors.*

- **Essar Steel v. Satish Kumar Gupta**: the CoC's commercial wisdom is not justiciable, and the **AA cannot rewrite a plan**.
- **Vidarbha Industries Power v. Axis Bank**: the AA has discretion at the Section 7 admission stage, **which the 2026 Amendment is reported to restrict**.
- **State Tax Officer v. Rainbow Papers**: The **IBC Amendment Act, 2026** explicitly overrules *State Tax Officer v. Rainbow Papers Ltd.*, solidifying that statutory government dues cannot claim "secured creditor" shortcuts and must remain lower in the waterfall.



Basic IBC Framework – CLAT PG



— Resolve • Reorganise • Rebuild —

1 Background & Objective

- Replaced SICA, RDB Act & part of Companies Act with a single code (2016).
- Time-bound resolution, value maximisation, entrepreneurship, credit availability.
- Collective, creditor-driven process (not individual recovery suits).



2 Structure of the Code

- Part I** – Preliminary & definitions
- Part II** – Corporate insolvency & liquidation
- Part III** – Individuals & partnership firms
- Part IV** – IPs, agencies, information utilities (also creates IBBI)
- Part V** – Miscellaneous provisions

3 Institutions under the Code

- NCLT** – corporate insolvency (appeals: NCLAT → SC)
- DRT** – individual & firm insolvency
- IBBI** – regulator (Sec. 188)
- IPs** – IRP, RP, liquidator
- Information Utilities** – store & verify financial records.



4 Who Can Initiate CIRP

- Financial creditor** (Sec. 7) – on default of financial debt.
- Operational creditor** (Ss. 8 & 9) – after demand notice + 10 days.
- Corporate debtor** (Sec. 10) – voluntary filing.

Minimum default threshold: ₹1 crore.
Default = non-payment of a due debt.



5 Stages of CIRP (Part II)

- Application & admission – AA admits, appoints IRP.
- Moratorium (Sec. 14) – no suits/enforcement/transfers; assets stay together.
- Public announcement & claims – creditors submit claims.
- CoC (Sec. 21) – only financial creditors; related parties excluded.
- Resolution plan (Sec. 30) – 66% voting share.
- AA approval (Sec. 31) – binds all stakeholders.

Time limit: 180 days + 90 days (max 330 days).



6 Section 29A

Who Cannot be a Resolution Applicant

- Promoters & related parties
- Wilful defaulters
- NPA account holders
- Undischarged insolvents
- Disqualified directors

Applies to ArcelorMittal-type disputes – balances recovery & fairness.



7 Liquidation (Ss. 33 to 54)

- If no plan approved or CoC resolves to liquidate, AA orders liquidation.
- Liquidator realises assets & distributes proceeds.
- Last resort, not the first option.



8 Waterfall Mechanism (Sec. 53)

- Resolution & liquidation costs.
- Workmen's dues (24 months) + secured creditors.
- Employees' dues (12 months).
- Unsecured financial creditors.
- Government dues + remaining secured debts.
- Other debts.
- Preference shareholders.
- Equity shareholders.

Priority order



9 Avoidance Transactions & Wrongful Trading

- Preferential (S. 43)
- Undervalued (S. 45)
- Extortionate credit (S. 50).
- Fraudulent & wrongful trading (S. 66).

RP can challenge transactions and recover assets.



10 Operational vs Financial Creditors

- Financial creditors**: lend money; control CoC.
- Operational creditors**: owed for goods/services; no vote.
- Swiss Ribbons upheld the distinction.



11 IBC (Amendment) Act, 2026

- CIIRP** (Ch. IV-A) – out-of-court, debtor-in-possession.
- Group & cross-border insolvency.
- Look-back period from filing date.
- Penalties → civil regime.
- Mandatory admission (Sec. 7) & waterfall over ad hoc claims.



12 Locus Classicus

- Innovative** – must admit (overrides state law).
- Mobilox** – reject OC claim only if pre-existing dispute.
- Swiss Ribbons** – constitutional.
- Pioneer Urban Land** – homebuyers are FCs.
- Essar Steel** – CoC's wisdom not justiciable.
- Vidarbha** – AA discretion (2026 limits).
- State Tax Officer** – 2026 Act overrules it.



IBC – not just a code, but a second chance for businesses.