



BUDGET PROPOSALS ON IBC

Budget Proposal

The Hon'ble Finance Minister in her Budget 2024 Speech has announced the setting up of an Integrated Technology Platform for improving the outcomes under the Insolvency and Bankruptcy Code (IBC) to achieve consistency, transparency, timely processing, and better oversight for all stakeholders.

The Budget Speech also highlighted that IBC has resolved more than 1,000 companies, resulting in direct recovery of over INR 3.3 lakh crores to creditors. In addition, 28,000 cases involving over INR 10 lakh crores have been disposed of, even prior to admission.

Appropriate changes to the IBC, reforms, and strengthening of the tribunal and appellate tribunals will be initiated to speed up insolvency resolution. Additional tribunals will be established, some of which will be notified to decide cases exclusively under the Companies Act. As regards Debt Recovery, steps for reforming and strengthening debt recovery tribunals will be taken, with additional tribunals established to speed up recovery.

Impact

The Budget proposals are set to have a transformative impact on the IBC ecosystem. The introduction of an Integrated Technology Platform is expected to streamline processes, enhance transparency, and provide better oversight, which are crucial for timely and effective insolvency resolutions. Strengthening and adding more tribunals dedicated to insolvency and company law matters will alleviate the burden on existing tribunals and expedite case resolutions, addressing the current backlog and delays.

Additionally, the reforms in debt recovery processes and tribunals will enhance the efficiency of debt recovery, ensuring that financial creditors can recover dues more swiftly. Overall, these measures will contribute to a more robust, efficient, and transparent insolvency framework, fostering greater confidence among investors and stakeholders.

ELP's Insights

The Insolvency and Bankruptcy Code, 2016 (IBC), introduced in India, represents a significant reform aimed at streamlining the resolution of distressed assets and maximizing their value.

However, several areas require urgent attention to enhance its effectiveness. Reports of substantial value erosion due to unchecked delays in the approval of resolution plans and increasing costs highlight the need for swift action.

The misuse of IBC primarily as a recovery tool rather than a resolution mechanism is detrimental to the industry, particularly affecting high-tech and innovative enterprises where genuine disputes are admitted, leading to value destruction.

There are several critical areas that need addressing:

Interim Moratorium: Section 96 of the Code provides for an interim moratorium, allowing guarantors to stall recovery actions by merely filing an application. This provision is being exploited by guarantors to delay the recovery process.

Look-back Period: The look-back period for avoidance transactions in personal insolvency starts from the initiation of the bankruptcy process, unlike in CIRP where it starts from the application admission date. This discrepancy results in many transactions falling outside the scope due to delays in initiating the bankruptcy process.

Avoidance transactions have also shown inefficiencies. A substantial amount of INR 370,942 crores is involved in 1,237 cases of avoidance transactions. However, only 293 cases have been disposed of, with a meagre recovery of INR 6,599 crores. This indicates inefficiencies in handling avoidance transactions.

Pre-Packaged Insolvency Resolution Process (PPIRP), introduced in 2021, has seen limited uptake with only four cases filed in four years. Factors such as additional processes, preference for OTS, restrictions on haircuts, and the balance of debtor vs. creditor control contribute to its limited success.

Addressing these issues by ensuring timely processing, reducing litigation delays, and focusing on resolution rather than mere recovery is essential. The proposed reforms and the establishment of additional tribunals are steps in the right direction, but continuous monitoring and adaptive measures will be crucial to achieving the desired outcomes and making the IBC an effective resolution tool. By implementing targeted measures to reduce delays, streamline processes, and improve recovery rates, the IBC can better serve its intended purpose of resolving insolvency efficiently and effectively.



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