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Accelerating Corporate Recovery: A Critical Study of the Fast-track Insolvency Mechanism in India

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Abstract

The Fast-Track Corporate Insolvency Resolution Process (Fast Track CIRP) is a notable advancement in India's insolvency framework, introduced through the Insolvency and Bankruptcy Code of 2016. This mechanism originated from the suggestions of the Bankruptcy Law Reforms Committee, which sought to address the distinct needs of specific categories of corporate debtors for whom the standard 180-day Corporate Insolvency Resolution Process (CIRP) could be overly lengthy. The Committee acknowledged that smaller businesses, start-ups, and simpler entities could benefit from a more rapid and efficient resolution timeline, thus minimising costs, preserving value, and improving the overall effectiveness of the insolvency system. To address this necessity, the legislature established the Fast Track CIRP, which requires that the resolution process be completed within 90 days, allowing for a single extension of up to 45 days in exceptional situations. The criteria for qualifying for this streamlined process include start-ups (excluding partnerships), unlisted firms with assets not exceeding ₹1 crore, and small companies as defined by the Companies Act of 2013. This framework provides a practical and timely alternative for entities that do not require the detailed examination typically involved in insolvency proceedings. This research paper critically examines the underlying concepts, legislative purpose, procedural structure, and practical outcomes of the Fast Track CIRP in India. It assesses whether this mechanism has met its goal of speeding up corporate recovery while ensuring transparency and protecting stakeholders. By analysing its operational success and pinpointing existing challenges, the paper provides insights into the changing landscape of insolvency resolution and the possibilities for further reform.

Keywords: *Corporate Recovery and Underutilization, Fast-Track CIRP, Insolvency and Bankruptcy Code (IBC), MSMEs (Micro, Small, and Medium Enterprises).*

1.0 Introduction

The Insolvency and Bankruptcy Code, 2016 (IBC), is a significant piece of legislation in India's legal framework, designed to simplify and accelerate the resolution of insolvency and bankruptcy cases. It provides a consolidated legal structure for managing the insolvency processes of individuals, partnerships, and corporate entities. Passed in May 2016 with the consent of both houses of Parliament and the President, the code officially took effect on 1 December 2016, replacing the previously disjointed laws that addressed insolvency issues in the country.

One of the primary reasons behind establishing the IBC was to enhance India's ranking in the global "Ease of Doing Business" index. The former insolvency system was characterised by inconsistencies, lengthy procedures, and poor coordination, often deterring investment and obstructing business activities. To tackle these challenges, the IBC was developed to create a time-sensitive framework

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for insolvency resolution. The process must be completed within 180 days from its initiation, with the possibility of a 90-day extension in exceptional circumstances.

The main goal of the IBC is to foster entrepreneurship and assist financial institutions by offering a strong, efficient, and predictable system for resolving insolvency. It aims to optimise asset value, safeguard creditor interests, ensure prompt resolutions, and rejuvenate corporate debtors wherever possible. Compared to the previous system, the IBC provides a more organised and effective strategy, including provisions for managing cross-border insolvency. Its implementation represented a crucial advancement in modernising India's corporate rescue and debt recovery methods, which were historically plagued by inefficiencies and legal shortcomings (Gattani *et al.*, 2016).

The commencement of a Fast Track Insolvency Resolution Process (FTIRP) is contingent upon specific criteria regarding the financial condition of the corporate debtor, which includes aspects such as assets, revenue, creditor composition, and the total amount of debt. These eligibility criteria are detailed in the Insolvency and Bankruptcy Board of India (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017. These regulations regulate the entire procedure from applying for the eventual endorsement of the resolution plan by the National Company Law Tribunal (NCLT). This process is intended to be completed in 90 days, although the NCLT may grant an extension of up to 45 days if there is sufficient justification. The Ministry of Corporate Affairs has enacted Sections 55 to 58 of the Insolvency and Bankruptcy Code, which regulate the Fast Track Process. As per these provisions, the process is relevant to specific corporate debtors. These include small companies as defined in clause (85) of Section 2 of the Companies Act, 2013; startups, excluding partnership firms, as per the definition in the Ministry of Commerce and Industry's notification dated 23 May 2017; and unlisted companies with total asset values not greater than ₹1 crore, according to the financial statements from the most recent financial year[1].

Before implementing the Insolvency and Bankruptcy Code (IBC), India's framework for insolvency and bankruptcy was characterised by a fragmented mix of overlapping laws and various adjudicatory bodies. These included legislations such as the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act of 2002, the Recovery of Debts Due to Banks and Financial Institutions Act of 1993, and the Companies Act of 1956, along with its amendment in 2013. Despite the specific goals of these laws, they collectively struggled to provide effective outcomes for lenders in asset recovery or for distressed companies in restructuring. A prominent weakness of the framework before the IBC was the absence of a clear and cohesive jurisdiction; cases were adjudicated in numerous venues, including the Board for Industrial and Financial Reconstruction (BIFR), Debt Recovery Tribunals (DRTs), civil courts, and High Courts. These entities often interpreted the law differently, resulting in inconsistent rulings and additional delays in resolution. Moreover, the escalating issue of Non-Performing Assets (NPAs) highlighted the urgent need for reform, as insolvency processes were notoriously prolonged and ineffective. The launch of the IBC represented a crucial advancement towards refining India's insolvency system. Its purpose was to reform the Corporate Insolvency Resolution Process (CIRP) to ensure swifter, more transparent, and timely methods for addressing financial distress. By consolidating several laws related to insolvency into a singular piece of legislation, the Code simplified legal procedures and made winding-up processes for companies more efficient. Additionally, it aimed to change the emphasis from liquidation to rehabilitation, enabling creditors to follow a structured approach to either reclaim debts or assist in restructuring viable enterprises. As stated in its Preamble, the Code focuses on reorganising and promptly resolving insolvency, aiming to enhance credit flow, attract foreign investment, and improve the overall ease of business in India (Verma, 2020).

An individual or entity can file a request to start the fast-track corporate insolvency resolution process, which can be done either by a financial or operational creditor or the corporate debtor itself. This request must be supported by credible documentation demonstrating a default occurrence. Acceptable forms of such evidence may include records from an information utility or any other documentation approved by the Insolvency and Bankruptcy Board of India (IBBI). Additionally, the submission must contain all necessary information that the IBBI requires to establish that the corporate debtor qualifies to initiate the fast-track resolution process. This process is governed by Section 57 of the Insolvency and

[1] Companies Act, No.18 of 2013, § 2(85) (India)

Bankruptcy Code, 2016.[2]According to Regulation 37(3) of the IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017, which was added on 7 November 2017, the resolution plan must include comprehensive information about the resolution applicant and related parties[3]. This detail is crucial for the Committee of Creditors (CoC) to assess the trustworthiness and appropriateness of each applicant involved in the resolution process. The resolution professional is tasked with submitting all resolution plans that conform to the stipulations of the Code and the applicable regulations. Moreover, the professional must also provide reports regarding any detected preferential transactions per Section 43, undervalued transactions as specified in Section 45,[4] extortionate credit transactions mentioned in Section 50,[5] and fraudulent transactions. In addition, the professional needs to include copies of any orders issued by the adjudicating authority related to these transactions. This obligation is outlined in Regulation 38(2) of the IBBI regulations, which was modified and took effect on 7 November 2017.[6] Furthermore, the guidelines for carrying out the corporate insolvency resolution process, as detailed in Chapter II of Part II of the Insolvency and Bankruptcy Code, 2016, will also apply to cases within this fast-track process wherever applicable. Likewise, the regulations concerning offences and penalties presented in Chapter VII of Part II of the Code will apply, as indicated in Section 58.[7]

2.0 Understanding Corporate Insolvency Resolution Process

A company is deemed insolvent when it cannot settle its debts or meet its financial commitments to creditors. The assessment of corporate insolvency can be conducted using the following approaches:

1. Cash Flow Test: This method determines if a company will likely default on its debt obligations within the legally defined timeframe.
2. Balance Sheet Test: This approach analyses whether a company's liabilities surpass its assets, including expected or contingent liabilities, indicating financial hardship.

The Insolvency and Bankruptcy Code (IBC), 2016, empowers creditors to initiate the Corporate Insolvency Resolution Process (CIRP) against a defaulting debtor. The Code identifies 3 types of entities eligible to file for such proceedings: Financial creditors, operational creditors, and the corporate debtor itself.

Financial Creditor: As outlined in Section 5(7) of the IBC, a financial creditor is any person or institution, such as a bank or lender that has provided credit, loans, or other types of financial support.[8]

Operational Creditor: Per Section 5(20) of the IBC, an operational creditor is an individual or entity that has provided goods or services to the debtor.[9] This category also encompasses employees with outstanding payments or creditors with claims arising from statutory obligations owed to the central or state government.

Furthermore, a corporate debtor can voluntarily file for the initiation of the CIRP if it cannot meet its financial obligations and does not have enough capital to maintain its business operations. In contrast to other jurisdictions where creditors are not specifically categorised, Indian insolvency law differentiates between operational and financial creditors. This distinction was affirmed in the landmark case of Swiss Ribbons Pvt. Ltd. *v.* Union of India,[10] in which the Supreme Court held that the classification is based rationally and does not infringe upon Article 14 of the Constitution,[11] thereby validating its constitutional legitimacy.

Recognising who is eligible to start the Corporate Insolvency Resolution Process (CIRP) is crucial under the Insolvency and Bankruptcy Code (IBC), 2016. When a corporate debtor, defined as an individual or organisation that has taken loans from a creditor or financial institution,

[2] Insolvency and Bankruptcy Code, No. 31 of 2016, § 57(India)
[3] Insolvency and Bankruptcy Board of India. (2017), IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017, Regulation 37(3) (India)
[4] Insolvency and Bankruptcy Code, No. 31 of 2016, § 45 (India)
[5] Insolvency and Bankruptcy Code, No. 31 of 2016, § 50 (India)
[6] Insolvency and Bankruptcy Board of India. (2017), IBBI (Fast Track Insolvency Resolution Process for Corporate Persons) Regulations, 2017, Regulation 38(2)
[7] Insolvency and Bankruptcy Code, No. 31 of 2016, § 58 (India)
[8] Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(7) (India)
[9] Insolvency and Bankruptcy Code, No. 31 of 2016, § 5(20) (India)
[10] Swiss Ribbons Pvt. Ltd. v. Union of India, 2019 (4) SCC 17 (India)
[11] Constitution of India, art. 14 (1950)

fails to meet its repayment responsibilities, the CIRP can be activated by applying to the adjudicating authority following the designated procedure. Importantly, no barriers are preventing a financial creditor from triggering this process. The CIRP can be commenced by 3 parties under the Code: A financial creditor as per Section 7,[12] an operational creditor according to Section 9,[13] or the corporate applicant (which encompasses the corporate debtor itself) under Section 10.[14] Each of these sections allows different stakeholders to pursue insolvency resolution when a default occurs, thus ensuring wide access to remedies provided by the law.

The start of the CIRP can result in two primary outcomes: The revitalisation of the corporate debtor or its dissolution. The primary goal of the IBC, 2016, is to facilitate the recovery and ongoing operation of the business, thereby enhancing asset value. Revival can take several forms, such as reorganising the current corporate framework or instituting a new ownership strategy through a resolution process. Liquidation is deemed a last resort and is undertaken only when the revival of the company is impractical within the designated timeframe or if no resolution plan is approved. This structure reflects the Code's aim of fostering economic recovery and safeguarding viable businesses whenever possible (Mahawar, 2023).

The Corporate Insolvency Resolution Process (CIRP), established under the Insolvency and Bankruptcy Code, 2016, consists of three primary phases: The pre-admission phase, the post-admission phase, and, if necessary, the liquidation phase.

The pre-admission phase, regulated by Sections 3 to 11 of the Code, commences when an eligible entity requests the National Company Law Tribunal (NCLT) to begin the CIRP. This request may be filed by a financial creditor under Section 7, an operational creditor under Section 9, or the corporate debtor under Section 10. These provisions ensure that initiating insolvency processes is accessible to creditors and the debtor voluntarily when it cannot meet its financial obligations.

The post-admission phase, described under Sections 12 to 32A, starts once the NCLT has assessed and accepted the application. The Tribunal must either approve or reject the application within 14 days. If there are any deficiencies, the applicant has 7 days to correct them after receiving a notification from the NCLT. If approved, the date of acceptance is termed the "Insolvency Commencement Date". From this point onward, several necessary actions are initiated: A moratorium on legal actions is imposed as per Section 14, the Adjudicating Authority designates an Interim Resolution Professional (IRP), and the IRP makes a public announcement of the insolvency using Form A under the regulations set by the Insolvency and Bankruptcy Board of India (IBBI). The CIRP must be finished within 180 days from the commencement date, although a single extension of up to 90 days may be granted. Nonetheless, the entire process must not surpass 330 days; the company must move into liquidation if it does.

The liquidation phase is governed by Sections 33 to 42 and 52 to 54. The corporate debtor will undergo liquidation if a resolution plan is not accepted within the stipulated time frame or fails to comply with the necessary conditions. This stage involves the dissolution of the debtor's assets, with the proceeds distributed among stakeholders following the statutory waterfall mechanism. Liquidation serves as a final measure, only pursued when reviving the company through a resolution plan is not viable.

It is also crucial to recognise that the threshold for initiating CIRP is a default of over ₹1 crore, an increase from the previous threshold of ₹1 lakh. This change ensures that the CIRP mechanism addresses significant defaults, minimising frivolous submissions. In summary, the CIRP structure under the IBC aims to provide a time-sensitive and creditor-oriented approach for resolving insolvency while attempting to preserve the value of distressed companies when feasible.

The Insolvency and Bankruptcy Code, 2016, identifies several critical stakeholders who play distinct and vital roles in the Corporate Insolvency Resolution Process (CIRP). Among the most significant of these are the Interim Resolution Professional (IRP) or Resolution Professional (RP), the Committee of Creditors (CoC), the Resolution Applicant (RA), and the National Company Law Tribunal (NCLT).

The Interim Resolution Professional is one of the first key figures appointed once the insolvency process is initiated. Upon admission of the insolvency application,

[12] Insolvency and Bankruptcy Code, No. 31 of 2016, § 7 (India)

[13] Insolvency and Bankruptcy Code, No. 31 of 2016, § 9 (India)

[14] Insolvency and Bankruptcy Code, No. 31 of 2016, § 10 (India)

the IRP manages the corporate debtor. It is responsible for constituting the Committee of Creditors as per Section 21 of the Code.[15] This committee is comprised primarily of financial creditors. Subsequently, under Section 24, the CoC may confirm the appointment of the IRP as the permanent Resolution Professional or appoint a new one.[16] Once appointed, the RP prepares the Information Memorandum under Section 29 of the Code,[17] under Regulation 36 of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations.[18]

Another key participant is the Resolution Applicant, who proposes a resolution plan to the RP to revive the corporate debtor. However, the applicant must meet the eligibility criteria outlined under Section 29A of the Code before doing so.[19] This provision aims to prevent willful defaulters and ineligible persons from regaining control of the defaulting company. Along with the plan, the applicant must submit an affidavit confirming they are not disqualified under Section 29A.

The committee of creditors holds substantial power in the resolution process. It is responsible for evaluating the resolution plan submitted by the applicant. A resolution plan can only be approved if at least 66% of the CoC members, based on their voting share, vote in its favour. Once approved, the RP sends the plan to the NCLT for final confirmation.

The National Company Law Tribunal, serving as the adjudicating authority under the code, is crucial in overseeing the entire process. It is responsible for accepting or rejecting the resolution plan submitted. If the NCLT approves the plan, it becomes binding on all stakeholders, including the corporate debtor, its employees, creditors, members, guarantors, and other relevant parties.

One of the earliest and most notable successful resolution cases under the IBC was Synergies-Dooray Automotive Ltd., which set a precedent for effective insolvency resolution in India under the new legal framework (Upadhyay, 2017).

3.0 The Functions and Duties of Insolvency Professionals

Within the Insolvency and Bankruptcy Code, 2016 framework, insolvency professionals are pivotal to the Corporate Insolvency Resolution Process (CIRP). These qualified and regulated individuals are appointed Interim Resolution Professionals (IRPs) or Resolution Professionals (RPs) responsible for managing the corporate debtor's affairs throughout the resolution process. Their primary duty is to take control of the management and operations of the corporate debtor upon their appointment. They effectively substitute the board of directors, taking charge of the company's operations and ensuring that decisions prioritise all stakeholders interests. This entails overseeing day-to-day operations, making executive decisions, and proactively working to maintain the value of the company's assets. Insolvency professionals are also tasked with thoroughly assessing the corporate debtor's financial and operational condition. This due diligence involves an in-depth examination of financial statements, contractual obligations, and legal documents. Such evaluations provide essential insights for creating or assessing a resolution plan to address the company's economic struggles and restore its viability.

Another vital role is the management and safeguarding of the debtor's assets. Insolvency professionals must ensure these assets are not misappropriated or improperly sold during the CIRP. They may evaluate asset values, seek monetisation opportunities, and establish the best asset utilisation or sale approach as part of the broader resolution strategy. Professionals invite all creditors to submit their claims within a defined timeframe as part of the insolvency process. Upon receiving these claims, they verify their legitimacy and accuracy, creating a list of creditors and the corresponding amounts owed. This list is crucial for determining the voting rights of financial creditors when forming the Committee of Creditors (CoC). After the CoC is established, insolvency professionals organise and conduct its meetings. They facilitate discussions; provide relevant updates, and present issues for the committee's deliberation and approval. These meetings serve as a forum for financial creditors to discuss vital matters, such as evaluating

[15] Insolvency and Bankruptcy Code, No. 31 of 2016, § 21 (India)
[16] Insolvency and Bankruptcy Code, No. 31 of 2016, § 24 (India)
[17] Insolvency and Bankruptcy Code, No. 31 of 2016, § 29 (India)
[18] Insolvency and Bankruptcy Board of India. (2016). Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016, Regulation 36. (India)
[19] Insolvency and Bankruptcy Code, No. 31 of 2016, § 29A (India)

resolution plans and deciding the future of the corporate debtor.

Insolvency professionals are also essential communication intermediaries among the corporate debtor, creditors, the CoC, and the National Company Law Tribunal (NCLT). They ensure that all stakeholders are routinely updated on developments, decisions, and actions implemented during the CIRP. Effective communication is critical for maintaining transparency and coordination throughout the process. In addition to their management roles, insolvency professionals aid the CoC in assessing resolution plans proposed by potential resolution applicants. They provide an unbiased and expert evaluation of each plan, examining its viability, feasibility, and alignment with the objectives of the insolvency framework. This analysis is vital for enabling the CoC to select a plan that yields the most advantageous outcome for all parties involved. If a resolution plan receives approval, insolvency professionals oversee its execution. They are responsible for monitoring the plan's progress, ensuring adherence to its terms, and addressing any challenges or disputes that may emerge during implementation. Their oversight is essential to ensure that the restructuring or revival of the corporate debtor is carried out efficiently and effectively. Insolvency professionals must submit regular progress reports to the NCLT throughout the process. These reports offer updates on the status of the CIRP, the implementation of the resolution plan, and any significant developments. These reporting aids the NCLT in overseeing the resolution process and ensure that all actions align with the Code. Finally, insolvency experts are required to maintain the highest level of professional behaviour. They must function independently, with proper care, and remain unbiased in all areas of their position. Adherence to ethical principles is critical for preserving faith in the bankruptcy resolution process and ensuring that solutions are fair, transparent, and compatible with the IBC's goals.

4.0 Rights of Different Creditors during the CIRP

The Corporate Insolvency Resolution Process (CIRP), as outlined in the Insolvency and Bankruptcy Code, 2016, categorises creditors into 3 main types: Financial, operational, and government authorities. Each of these groups has distinct rights and responsibilities that shape their role and level of influence throughout the resolution process. Financial creditors have provided financial support to the corporate debtor through loans, credit lines, or other financial mechanisms. This category includes banks, lending institutions, bondholders, debenture holders, and similar organisations. Their significant financial interest in the debtor's assets and operations makes them a key player in the CIRP. In contrast, operational creditors are individuals or entities regularly supplying goods or services to the corporate debtor. This group may consist of suppliers, contractors, service providers, vendors, and employees owed payment for the services delivered or goods supplied. Although they do not have the same level of decision-making power as financial creditors, their involvement in the process is still crucial.

Government authorities comprise public bodies or agencies, including tax departments and regulatory authorities that may have claims against the corporate debtor for unpaid taxes, fines, or statutory dues. Their participation in the CIRP ensures consideration of public revenue interests as well. Throughout the CIRP, financial creditors enjoy a variety of rights. They can submit claims to the Insolvency Professional (IP) within the designated timeframe, supported by relevant documentation and details about outstanding payments. Financial creditors have voting rights and are active members of the Committee of Creditors (CoC), enabling them to participate in and influence important decisions, such as appointing the resolution professional and approving resolution plans. They also have the right to receive ongoing updates about the CIRP's progress, ensuring transparency and active engagement. When prospective applicants submit resolution plans, financial creditors have the authority to assess these proposals and vote on their approval based on their feasibility and to safeguard their economic interests. Once a resolution plan is implemented, financial creditors can recover their dues according to the terms set forth, which may involve repayments, debt restructuring, or other agreed-upon outcomes.

Operational creditors can submit their claims within a specified timeframe by providing pertinent invoices, contracts, or agreements. However, unlike financial creditors, they do not have voting rights within the CoC. They may attend meetings and keep informed about ongoing proceedings, but their role remains

more consultative. Even with their restricted influence in decision-making, operational creditors can express concerns and offer suggestions regarding the resolution plan. Although their feedback is non-binding, it is considered during CoC discussions and may impact the final decision. Like operational creditors, government authorities can submit claims for outstanding statutory dues, such as taxes or regulatory penalties. They also have the right to attend CoC meetings but lack voting rights. Nonetheless, they are entitled to receive updates about the status and developments of the CIRP, ensuring they are informed about how the debtor's affairs are being handled. Should regulatory compliance or public interest be at risk, government authorities can raise concerns or objections during meetings, and their input is factored into the overall resolution process.

The Insolvency and Bankruptcy Code emphasises the hierarchy of claims. It states that financial creditors take precedence over operational creditors regarding payment distribution from the profits of a resolution plan. Nonetheless, the Code provides specified rights to all creditors, regardless of type, to assure their involvement in the process and safeguard their distinct interests. This systematic strategy promotes justice, openness, and efficiency in settling corporate bankruptcy situations.

5.0 All about Fast Track Insolvency Mechanism

In the standard Corporate Insolvency Resolution Process (CIRP), legislation sets a maximum timeframe for concluding the proceedings. However, this time limit varies across different categories of corporate entities. Smaller businesses with limited revenue or fewer assets often struggle to take advantage of the extended timelines. The Bankruptcy Law Reforms Committee suggested introducing a fast-track procedure to rectify this imbalance. This system was designed for entities with simpler structures or smaller scales, enabling them to finalise the insolvency process more quickly. The intention was to ensure that less complicated cases were not subjected to the same lengthy resolution periods as larger, more complex entities. The fast-track process established under the Insolvency and Bankruptcy Code (IBC) is tailored specifically for corporate debtors engaged in small-scale operations, those with a simpler creditor landscape, and other categories of debtors as specified. These entities can apply for this expedited resolution procedure under Sections 55 to 58 of the IBC. Before pursuing this option, the entity needs to meet specific criteria and secure the consensus of all affected parties, confirming its suitability for fast-track resolution. The regulations can be found in Part II, Chapter II of the Code and are specifically designed to facilitate a more expedited resolution process for specific categories of corporate debtors. Before exploring the steps involved in the fast-track insolvency resolution, it is essential to determine which corporate debtors qualify for this procedure. According to the Code, a fast-track application may only be initiated against designated types of entities. These include companies deemed small under the Companies Act of 2013, start-ups, excluding partnership firms and unlisted companies with total assets, as shown in the financial records from the previous year, not exceeding one crore rupees. The fast-track insolvency process can be initiated by a creditor, whether monetary or operational, or by the corporate debtor. To substantiate the grounds for starting this process, the applicant is required to present certain supporting documents. These must include proof of default, usually documented in an information utility, along with any additional information necessary for the Insolvency and Bankruptcy Board of India to verify the eligibility and completeness of the application.

While the fast-track approach largely follows the standard CIRP's procedural guidelines, its timeline is unique; it must be completed within 90 days of insolvency initiation. Despite its speed, this process remains focused on transparency and collective decision-making, like the traditional CIRP. The principal factor driving the choice to utilise the fast-track process is the nature of the corporate debtor and the complexity of its financial situation. An essential step in the procedure is determining whether a corporate entity qualifies for fast-track resolution or should instead follow the regular CIRP route. The fast-track CIRP proves especially beneficial for smaller enterprises, as it facilitates faster resolution and lessens the strain of lengthy insolvency processes. While the conventional CIRP permits a completion timeframe of up to 270 days, this accelerated pathway relieves companies such as small businesses, unlisted entities, and start-ups with a net worth below ₹1 crore. The framework and eligibility criteria are detailed under Sections 55 to 58 of the IBC (IJLLR Journal, 2023).

Insolvency professionals are appointed as intermediaries in the process of resolving corporate

insolvency. These professionals are part of a regulated class that operates privately and must follow minimum ethical and professional behaviour standards. To take on this role, one must be enrolled with an insolvency professional agency and registered with the Insolvency and Bankruptcy Board of India. Entities recognised under the applicable regulations may also be designated insolvency professional entities. A resolution professional can be appointed if they, or the partners and directors of their affiliated entity, maintain independence from the corporate debtor. Additionally, neither the individual nor the entity should be subject to any restraining orders from the regulatory board. It is also essential for the professional to disclose relevant information at the time of their appointment and throughout the process, according to the Code of Conduct. Neither the individual nor their professional entity should have partners or directors representing other stakeholders in the same fast-track process. Operational creditors must present evidence of their claims to the interim resolution professional, which can be completed in person, by post, or electronically. Conversely, financial creditors are obligated to submit their claims electronically. Employees or workers can similarly submit their claims. Should there be claims from many workers or employees, an authorised representative is permitted to file a consolidated claim on their behalf.

All claims must be presented by the final deadline noted in the public announcement to either the interim resolution professional or the resolution professional. Each claim will be validated within seven days. The resolution professional is responsible for maintaining a record of these claims, including details such as the creditor's name, the amount claimed, the count of admitted claims, and any related security interests, and ensuring it is kept updated. During meetings of the Committee of Creditors, the resolution professional acts as the chairperson and must share the minutes with all attendees through electronic communication within 48 hours. A valid quorum for these meetings is achieved when members holding at least 33% of the voting rights are in attendance, either in person or *via* video or audio conferencing. If the meeting cannot proceed due to insufficient quorum and no prior decision has been made by the committee, it will automatically be adjourned to the same time and place the following day. The adjourned meeting will continue with whichever members are present, irrespective of the percentage of voting rights they represent. Within 24 hours of the voting conclusion or 48 hours of the meeting if electronic voting is not utilised, the resolution professional must relay the committee's decisions along with the names of those who voted for, against, or abstained, through electronic means. Within a week of their appointment, the resolution professional hires a registered valuer to assess the corporate debtor's fair and liquidation values. The professional must send out invitations to potential applicants to attract resolution plans. These invitations must outline the evaluation criteria and be issued at least 15 days before the submission deadline. Any changes to the invitation or the evaluation criteria must receive prior approval from the committee. Furthermore, a brief overview of the invitation should be available on the company's website, if one exists, and on the website designated by the regulatory board (Pandey, 2023).

A resolution plan should detail approaches designed to enhance the value of the corporate debtor's assets. These approaches may include transferring some or all assets to one or more individuals or companies, selling assets irrespective of any existing security interests, or substantially acquiring shares of the corporate debtor. The plan might also suggest merging or consolidating the corporate debtor with other businesses, addressing or modifying existing security interests, or resolving or forgiving violations of any debt-related commitments. Furthermore, it could recommend decreasing the amounts owed to creditors, extending the duration of loans, changing interest rates or other debt conditions, and revising the corporate debtor's constitutional documents. Additionally, the corporate debtor's issuance of securities, whether in exchange for cash, property, other securities, or for claims or interests, can be included. The plan may also involve altering the type of goods or services provided, enhancing current technology, and securing necessary permissions from relevant Central and State authorities (Gattani *et al*., 2016; Verma, 2020; Mahawar, 2023).

Once a resolution applicant formulates a resolution plan following the relevant legal guidelines, it must be given to the resolution professional. The resolution professional subsequently presents all eligible plans to the creditors committee for review. The committee can approve any of these plans, with or without adjustments, as deemed suitable. Following the committee's approval, the resolution professional must submit the final plan to the National Company Law Tribunal (NCLT) at least 15

days before the end of the maximum time frame allowed for the resolution process. After the NCLT renders its decision, either endorsing or rejecting the plan, a copy of the order is distributed to all stakeholders and the resolution applicant. It is crucial to understand that no legal action may be directed against the resolution professional for any actions taken by the corporate debtor before initiating the fast-track insolvency process. Once the adjudicating authority endorses the resolution plan, the individual tasked with managing the corporate debtor's affairs may request assistance from the local district administration to implement the approved plan. This assistance must be requested through an application submitted to the adjudicating authority.

6.0 Statutory Provisions Governing Fast Track CIRP

Section 55 of the IBC describes the fast-track Corporate Insolvency Resolution Process (CIRP). It specifies that this procedure applies to corporate debtors with minimal assets and income, those falling into specific creditor categories or debt thresholds, or other groups as may be specified by the Central Government. The Central Government can establish thresholds or criteria for entities qualifying for this expedited process.[20]

Section 56 defines the timeline for fast-track CIRP. This provision states that the entire process must be concluded within 90 days from its initiation. However, if the Committee of Creditors (CoC) adopts a resolution with a minimum of 75% voting share, the resolution professional can request an extension. The adjudicating authority may grant this extension if it determines that the matter cannot reasonably be completed within the initial 90 days. Nevertheless, any extension is limited to 45 additional days and permitted only once. This stringent timeline guarantees a prompt resolution while allowing for a narrow window for justified delays.[21]

Section 57 states that a creditor or the corporate debtor can begin the fast-track process. The application must include evidence of default, like records from an information utility, along with any other necessary documentation as mandated by the Insolvency and Bankruptcy Board of India (IBBI). These documents must validate the debtor's eligibility for the fast-track process.[22]

Section 58 ensures that the general procedures for CIRP found in Chapter II of the IBC and the provisions related to offences and penalties in Chapter VII apply to the fast-track process wherever appropriate. This integration guarantees consistency and accountability in the proceedings carried out under the fast-track process.[23]

Fast-track CIRP is a specialised pathway designed to resolve insolvency quickly for smaller or less complex corporate entities. While it emphasises speed and efficiency, the process remains aligned with the core principles of fairness, transparency, and creditor involvement under the IBC.

7.0 Comparative Analysis of Indian and the Use Regarding Fast-track Cirp

In the United States, insolvency and bankruptcy proceedings fall under a federal law known as the Bankruptcy Code, which is codified as Title 11 of the United States Code. Established through the Bankruptcy Reform Act of 1978, this legal structure delineates substantive and procedural elements surrounding insolvency, with further specifications in the Bankruptcy Rules. For many years, discussions took place within the U.S. Congress regarding the inclusion of small businesses into a specific reorganisation framework, aimed at enhancing their low rehabilitation and continuity rates. The underlying intention was to boost their likelihood of remaining viable business entities. However, this proposal encountered resistance from critics who contended that creating tailored provisions for debtor classifications could compromise the principle of equality within the insolvency process. Gradually, the benchmarks for categorising small businesses within the context of accelerated bankruptcy procedures have experienced notable transformations. To qualify for the streamlined framework, a debtor must engage in commercial activities and not exceed a stipulated threshold of non-contingent, liquidated debt, initially below $2 million. Once these criteria are met, the debtor can be recognised as a small

[20] Insolvency and Bankruptcy Code, No. 31 of 2016, § 55 (India)
[21] Insolvency and Bankruptcy Code, No. 31 of 2016, § 56 (India)
[22] Insolvency and Bankruptcy Code, No. 31 of 2016, § 57 (India)
[23] Insolvency and Bankruptcy Code, No. 31 of 2016, § 58 (India)

business under the code. Nonetheless, the ultimate decision on eligibility lies with the creditors' committee to whom the debtor is indebted.

When a U.S. business encounters financial difficulties, it can seek relief under Chapter 11 of the Bankruptcy code. This provision facilitates debt restructuring with the primary goal of preserving the company as a going concern, thus preventing liquidation. Chapter 11 permits the rescheduling of obligations and is intended to assist companies in reorganising their operations and capital structure while safeguarding asset value. This concept resembles the legal reforms implemented in the United Kingdom during the mid-1980s. Corporate entities predominantly utilise Chapter 11, but it is also accessible to partnerships, sole proprietorships, and in certain instances, individuals. Before establishing federal bankruptcy laws, individual states operated their own insolvency frameworks. Ultimately, the U.S. constitution granted Congress the authority to legislate uniformly on this subject. For small businesses, the American bankruptcy system provides two distinct fast-track options: The "Small Business Case" and the "Small Business Reorganisation Act" (SBRA). Unlike the Indian model, where the central government identifies eligible entities, the U.S. system determines eligibility mainly based on the size of debt. Businesses with total debts not exceeding approximately $2.73 million may be eligible for these expedited processes. Shortened timelines and expedited confirmation of reorganisation plans mark these methods. It is important to note that eligibility determination is rooted in financial thresholds rather than a set statutory definition. In these situations, instead of conducting an immediate creditors meeting, the court first organises a preliminary hearing to assess whether the debtor meets the criteria for the expedited process. To validate their eligibility, debtors must provide financial documentation, including balance sheets, debt statements, and income tax returns, demonstrating adherence to the prescribed debt limits. In contrast to India's fast-track procedure, which targets specific categories of entities such as small companies, start-ups, or those with limited assets as designated by the central government, the U.S. framework adopts a more functional approach. Eligibility is determined based on commercial engagement and financial benchmarks. Moreover, oversight by a government-appointed trustee guarantees that both the debtor and creditors participate in the process in a way that supports the company's survival. This dual-layered evaluation, rooted in the business and financial documentation, sets the U.S. system apart from India's more rigidly defined approach to fast-track insolvency resolution.

8.0 Conclusion

The Fast-Track Corporate Insolvency Resolution Process (Fast Track CIRP), established under Sections 55 to 58 of the Insolvency and Bankruptcy Code, 2016, represents a forward-thinking effort to expedite corporate recovery for businesses with relatively uncomplicated financial and operational frameworks. Specifically designed for small companies, start-ups, and unlisted firms with limited assets, this approach aligns to improve efficiency, lower costs, and facilitate better business practices in India. This analysis indicates that although the Fast Track CIRP provides a more efficient structure, its application has been infrequent and inconsistent. The eligibility requirements, while well-meaning, are still too restrictive and leave out numerous struggling MSMEs that could gain from expedited resolutions. Furthermore, factors such as limited awareness, procedural inflexibility, and capacity challenges within adjudicating bodies, and variable interpretations of eligibility criteria by tribunals have hindered the effectiveness of this mechanism. Even with its relatively low adoption rate, the Fast Track CIRP signifies an essential advancement toward differentiated insolvency approaches that acknowledge the diverse complexities among corporate debtors. Its focus on speed, transparency, and protection of creditors aligns with the recommended practices found in international insolvency systems, although it lacks scalability and accessibility.

9.0 Recommendations

1. Expand eligibility criteria: The existing asset and classification limits exclude many viable small enterprises. Broadening eligibility to encompass additional MSMEs, based on turnover and employee count, could lead to increased usage.
2. Enhance awareness and capacity development: Implementing targeted outreach and training initiatives for insolvency practitioners, creditors, and small business owners can foster greater engagement with the Fast Track CIRP.
3. Simplify procedural processes: Reducing documentation requirements and ensuring consistent

application of eligibility standards by NCLTs will minimise confusion and delays.

4. Provide institutional support and monitoring: Creating specialised benches or teams within the NCLTs to handle fast-track cases and establish effective tracking mechanisms can help ensure compliance with timelines.
5. Connect with pre-pack frameworks: Investigating the potential integration of the Fast Track CIRP with the pre-packaged insolvency resolution process (particularly for MSMEs) could offer more adaptable recovery solutions suited to the needs of debtors.
6. Learn from global best practices: India can gain insights from the U.S. Small Business Reorganisation Act (SBRA), which focuses on practical eligibility and financial benchmarks instead of strict classifications, enhancing efficiency and uptake.

By addressing these deficiencies, the Fast Track CIRP can transform into a genuinely effective instrument for speeding up corporate recovery and fostering a more robust, responsive insolvency environment in India.

10.0 References

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