

A study of Corporate Insolvency Resolution Process of Bhushan Steel Ltd. with reference to 'Insolvency and Bankruptcy Code 2016'

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ABSTRACT

Any economy's ability to expand depends on an effective bankruptcy legislation. Any insolvency law's primary goal should be to assist struggling businesses in reorganizing so they may start over, and if that is not possible, to provide a simple method for them to liquidate their assets and leave the market. The Government has a responsibility to make it simple for failing businesses to depart the market in order to maximize the utilization of economic resources. There was no efficient process in place to remove failing businesses from the Indian market. As business becomes easier, effective insolvency resolution encourages more investment in the economy. The Insolvency and Bankruptcy Code 2016 framework is intended to speed up the Corporate Insolvency resolution Process(CIRP) by concentrating on recovering a sizable sum of money from the corporate debtor within a predetermined time frame. If there is no settlement, the liquidation procedure is then started by maximizing the value of the assets.

The main flaw in the prior methods was their disregard for the deadlines for the resolution phase. As a result, the assets' value decreased, and the creditor received little or no compensation. Insolvency and Bankruptcy Code 2016 major goal is to maximize the value of the debtor's assets by allowing resurrection and resolution in a timely way. So it is important to study the IBC Code and give the procedure a closer look in order to ensure that this government endeavor does not suffer the same fate as prior projects.

The researcher examines the new code in relation to corporate insolvency proceedings and examines the financial impact that the new law will have on the collection of financial institutions' debts. This would make it easier for us to comprehend how effective IBC is in comparison to other earlier schemes. The summary of case study of Bhushan Steel Ltd. can show how the new code is operating and accomplishing its goals. The study's findings will reveal how effective the bankruptcy code is.

Keywords: Insolvency, Bankruptcy, Insolvency and Bankruptcy Code, IBC, Corporate Insolvency Resolution Process, CIRP, Liquidation

1. INTRODUCTION

With the adoption of the new Insolvency and Bankruptcy Code (IBC) law in 2016, India has begun a new era of insolvency resolution. Insolvency law in India has changed from "Debtor in Possession" to "Creditor in Control." The finance ministry referred to this as the "largest economic reform" in the nation. For the first time in Indian history, all of the post-independence insolvency laws have been consolidated under one roof. This code's primary goal is to quickly resolve stressed assets, which was highly challenging under previous insolvency regulations. The stressed assets were only growing because of the procedural delays in the preceding insolvency procedures. One of the primary causes of a surge in NPAs is India's inadequate insolvency laws. After insolvency and Bankruptcy Code 2016 the resolution process period is reduce to 1.6 years to 4.6 years and recovery rate has gone up from 26.5% to 71.5% , which reduced the NPA's of the Bank. Rank of India in ease of doing business also increases after the introduction of Insolvency and Bankruptcy Code 2016 from 142 in 2014 to 63 in 2022(World Bank Report)

This code is a radical move that gives banks much greater authority to recover their loans. They may now begin insolvency proceedings at the National Company Law Tribunal and declare loans to be in default (NCLT). The lenders can finally recover debts from defaulting borrowers and protect the hard-earned wealth of hundreds of millions of Indians.

2. Corporate Insolvency Resolution Process

The IBC provides the Corporate Insolvency Resolution Process (CIRP) for the resolution of corporate debtor (CDs) insolvency, either through resolution or liquidation. According to the IBC CIRP, if any CDs are in default, either the CD's creditor or the CD itself may petition to the Adjudicating Authority (AA) for the initiation of the CIRP. After applying to start the CIRP. Every effort is taken to resolve the CD after a CIRP is launched, and the CIRP may produce any of the following outcomes.

• Resolution:

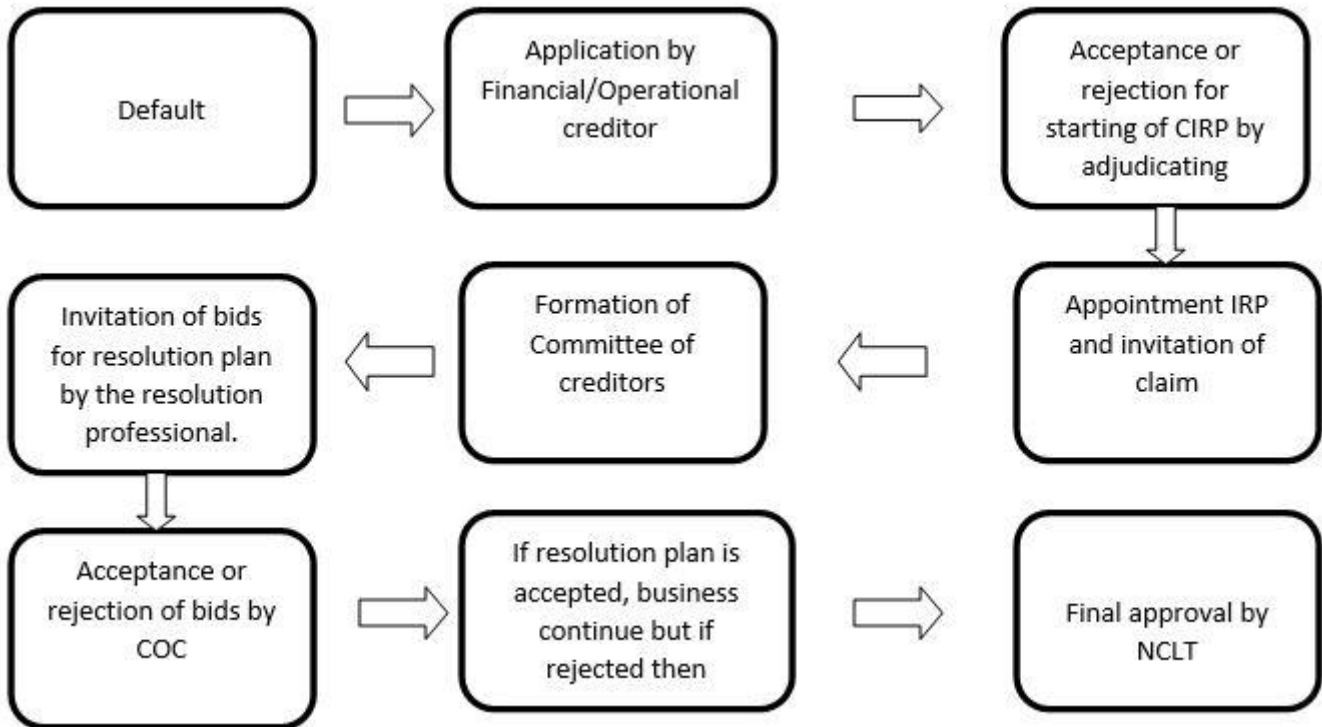
If a resolution plan is authorised by the AA and by a majority of the Committee of Creditors (CoC), the CD may be resolved.

• Liquidation:

If no resolution plan is received for the CD or if no resolution plan is approved by the majority of the CoC, the CD may be liquidated on the AA's orders.

Commencement of CIRP:

If the CD commits a default as specified in chapter II of part II of the IBC, one of the following parties may start a CIRP against it: a Financial Creditor (FC), an Operational Creditor (OC), or the Corporate Debtor (CD). The CD's default setting serves as the trigger for starting CIRP.



3. Research Problem

The Indian economy has struggled with the issue of bad loans. The Indian government has created a number of programmes to address the enormous issue of NPA in the economy, however it is clear that the programmes' goals were not met. With much enthusiasm, the Insolvency and Bankruptcy Code (2016) was introduced, and it is regarded as a significant reform in Indian history. The Insolvency and Bankruptcy Code, 2016, proposes to codify and update the rules pertaining to the resolution of insolvency for businesses and limited liability corporations, partnerships, and individuals that are spread across numerous enactments. This legislation's major goal is to maximise the value of the debtor's assets by allowing resurrection and resolution in a timely way. Studying the Code and taking a closer look at the procedure are required to ensure that this government endeavor does not suffer the same fate as prior programmes.

4. Research Objectives

1. To investigate the efficiency Corporate Insolvency Resolution Process of Insolvency and Bankruptcy Code in terms of timeliness.
2. To measure the level of financial distress of the companies that led them towards resolution under the new code.

5. Case Study

For the purpose of the study the researcher has selected NPA case of Bhushan Steel Ltd. which was sent for Corporate Insolvency Resolution Process (CIRP) to Insolvency and Bankruptcy Board of India (IBBI) for resolution.

5.1 Bhushan Steel Ltd.:

Bhushan Steel Ltd. was incorporated on 7th January 1983 by Neeraj Singal, Brij Bhushan Singal, Ritu Singal, Aishwarya Singal, and Brij Bhushan Singal HUF. Its registered office is in New Delhi, India. The company is manufacturing Specialized steel for automobile and white goods appliances, Cold Rolled Closed Annealed, Galvanized Coil and Sheet, High Tensile Steel Strapping, Color Coated Coils, Galume Sheets and Coils, Hardened & Tempered Steel Strips, Billets, Sponge Iron, Precision Tubes and Wire Rod, Production Capacity 2 million tonnes per annum. It has Manufacturing Units in Uttar Pradesh (Sahibabad Unit), Maharashtra (Khopoli unit), and Orissa Plant (Meramandali unit) in India. The company's main Term Lenders were :

- State Bank of India
- Punjab National Bank
- ICICI Bank Canara Bank
- Union Bank of India
- IDBI Bank

5.2 Why did Bhushan steel go bankrupt?

In 1987, when the steel industry was booming and the steel was at its highest point, Bhushan Steel opened for business. Bhushan Steel formerly had to import the majority of their steel, thus in order to solve this issue, they took out a loan for the construction of a new factory in Odisha, within the nation itself, in order to boost production and decrease reliance.

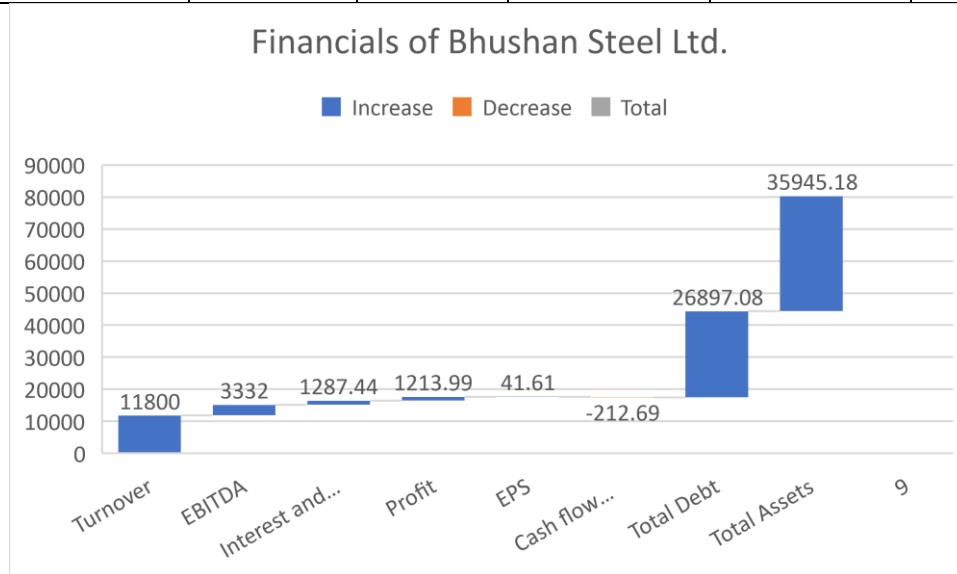
However, the 2008 financial crisis brought about a major catastrophe for the business. Steel's cost per tonne dropped from \$1,200 to \$300 as a result of the crisis. Additionally, the plant was never finished, and the bank had already begun to request a refund. Bhushan Steel's stock price dropped sharply as a result of its enormous debt, and the business eventually filed for bankruptcy.

5.3 Analyzing Finances

Even though sales increased from Rs 11800 cr. in 2013 to Rs 15027.30 cr. in 2017, according to an analysis of the financial statements for the five years from 2013 to 2017, the EBITDA decreased from Rs 3332 cr. to Rs 2187.47 in 2015 to Rs 1476.88 cr. Profits steadily decreased from 1213.99 crore in 2013 to 95.33 crore in 2014, and they reached a loss of Rs. 1253.82 crore in 2015 before rising to Rs. 3501.12 crore in 2017. The primary cause of the loss was the sharp rise in finance costs, which went from Rs 1287.44 cr. in 2013 to Rs 2494 cr. in 2015 and then to Rs 5427.76 cr. in 2017. The interest and other costs could not be covered by the EBITDA from 2015. The main cause of the debt obligations not being repaid is the fall in cash flow from activities, which went from Rs 2311.36 in 2014 to Rs 752.06 in 2017.

Table : Financials of Bhushan Steel Ltd.

Financial Indicators/Years	2013	2014	2015	2016	2017
Turnover	11800.00	10600.42	11735.01	13124.06	15027.30
EBITDA	3332.00	2722.59	2187.47	2136.17.	1476.88
Interest and Financial charges	1287.44	1633.29	2494.00	4601.28	5427.00
Profit	1213.99	95.33	-1253.82	-2839.36	-3501.12
EPS	41.61	2.23	-55.84	-147.00	-154.56
Cash flow operating activities	-212.69	2311.36	2173.22	922.88	752.0
Total Debt	26897.08	31839.18	38529.27	47234.37	46262.23
Total Assets	35945.18	40992.3	46409.83	49492.44	45018.57



5.4 Corporate Insolvency Resolution Process:

1. Financial creditors started the insolvency procedures by filing a claim, in accordance with the National Company Law Tribunal (NCLT) judgement dated July 26, 2017, which authorised the initiation of CIRP against Bhushan Steel.
2. The lead bank of the lender consortium, State Bank of India (SBI), filed the petition to begin the insolvency proceedings. A moratorium under Section 14 was put in place after the start of CIRP. The moratorium lasts while the corporate debtor is enrolled in CIRP, and it forbids the continuation or initiation of any legal proceedings against the corporate debtors, the transfer of those debtors' assets, the execution of security interests, the recovery of property as owner, as well as the suspension or termination of the provision of essential goods and services.
3. Mr. Vijay Kumar V. Iyer was chosen to serve as the company's Interim Resolution Professional (IRP). The board's authority was halted after the IRP was appointed.
4. The designated RP solicited the creditors' claims under Section 15 of the Code. The RP received claims totaling Rs. 56080 crores from 53 financial creditors, along with claims totaling Rs. 2846.52 crores from

751 operational creditors (including workers, employees, and statutory creditors), as well as Rs. 0.22 crores from 2 more creditors.

5. Prospective applicants for resolution were encouraged to submit their resolution proposals for the corporate debtor. Up to 22 prospective applicants for resolution expressed interest in submitting resolution plans for the corporate debtor.
6. In order to provide a fair and transparent system of evaluation and to ensure that the best resolution plan for the Corporate Debtor is chosen in the most transparent way possible, the RP produced an evaluation matrix for evaluating a resolution plan in line with the provisions of the code.
7. On December 15, 2017, the CoC extended the time frame past 180 days. On February 3, 2018, the final date for submitting resolution plans after two extensions, the RP received three resolution plans.
8. The first application deadline was on December 23, 2017. There were three bids submitted: one each from JSW Steel, Tata Steel, and Bhushan Employees.
9. The promoter of Corporate Debtor also submitted a bid in a sealed envelope, but it was not opened because promoters of defaulted companies were ineligible to bid.
10. The RP requested clarifications from the three bidders, but the third bidder, Bhushan Employees, did not respond.
11. As a result, only two of Tata Steel's and JSW's resolution plans were judged to be in compliance. Ultimately, Tata Steel emerged as the highest and most aggressive bidder, with 35,200 crore Indian rupees for Bhushan Steel.
12. The resolution plan for Tata Steel was approved by the Committee of Creditors (CoC) with an 99.80% of the vote was cast in favour on March 6, 2018. stated resolution strategy was then sent by the RP to the NCLT for approval in accordance with the code.
13. On May 15, 2018, the NCLT approved Tata Steel's resolution plan. Tata Steel asserted that shall carry out the Resolution Plan through BNPL, a wholly owned subsidiary of Bannipal Steel Ltd subsidiary controlled by Tata Steel.

5.5 Structure of the Agreement

In accordance with the Resolution Plan, BNPL made a settlement payment of Rs. 35200 crores to the Bhushan Steel's financial creditors. The money was exchanged for equity shares, and deposit between corporations.

Methods of Payment (Rs Crores)

Issue of shares to BNPL (Rs 2 each)	158.89
Treated as Inter Corporate Deposits	35073.69
TOTAL	35132.58

Source : Bhushan Steel Ltd Annual Report

Settlement of Claims

CIRP and employee's payment	32.58
Financial Creditors	35100.00
TOTAL	35132.58

Source : Bhushan Steel Ltd Annual Report

6. Conclusion

IBC has drastically transformed the insolvency system in India. The model timescale and the real timeline for insolvency resolution, however, differ. According to the report, the CIRP procedure has numerous steps for resolving bankruptcy, and the Code specifies a deadline for each stage. The code also established a rigorous deadline of 270 days for the process' completion, although it is clear from the case study that this is not actually the case in practise. The suggested timeline has not been followed. The regulator and the legislature both need to pay attention to delays at different levels. It was discovered

throughout the course of the study that the company had recovered considerably more than their liquidation value through resolution, which is the core of the Code,. The law is still in an evolving phase and is changing on its own in response to the situation at hand and the cases that are on the horizon, on the other hand. The timeline was extended from the original 180 days to 330 days. Property buyers are listed as financial creditors (FC). After 2016, the code changed quickly, and significant efforts were made to gather and publish statistics on how it was being used. This gave the code a foundation for careful examination. To the benefit of creditors, every effort is taken to maintain the asset's worth.

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