

SESSION 2:
IMPACT OF COVID-19 &
PROSPECTS OF A SUCCESSFUL
CAREER IN IBC

INSOLVENCY &
BANKRUPTCY CODE,
2016

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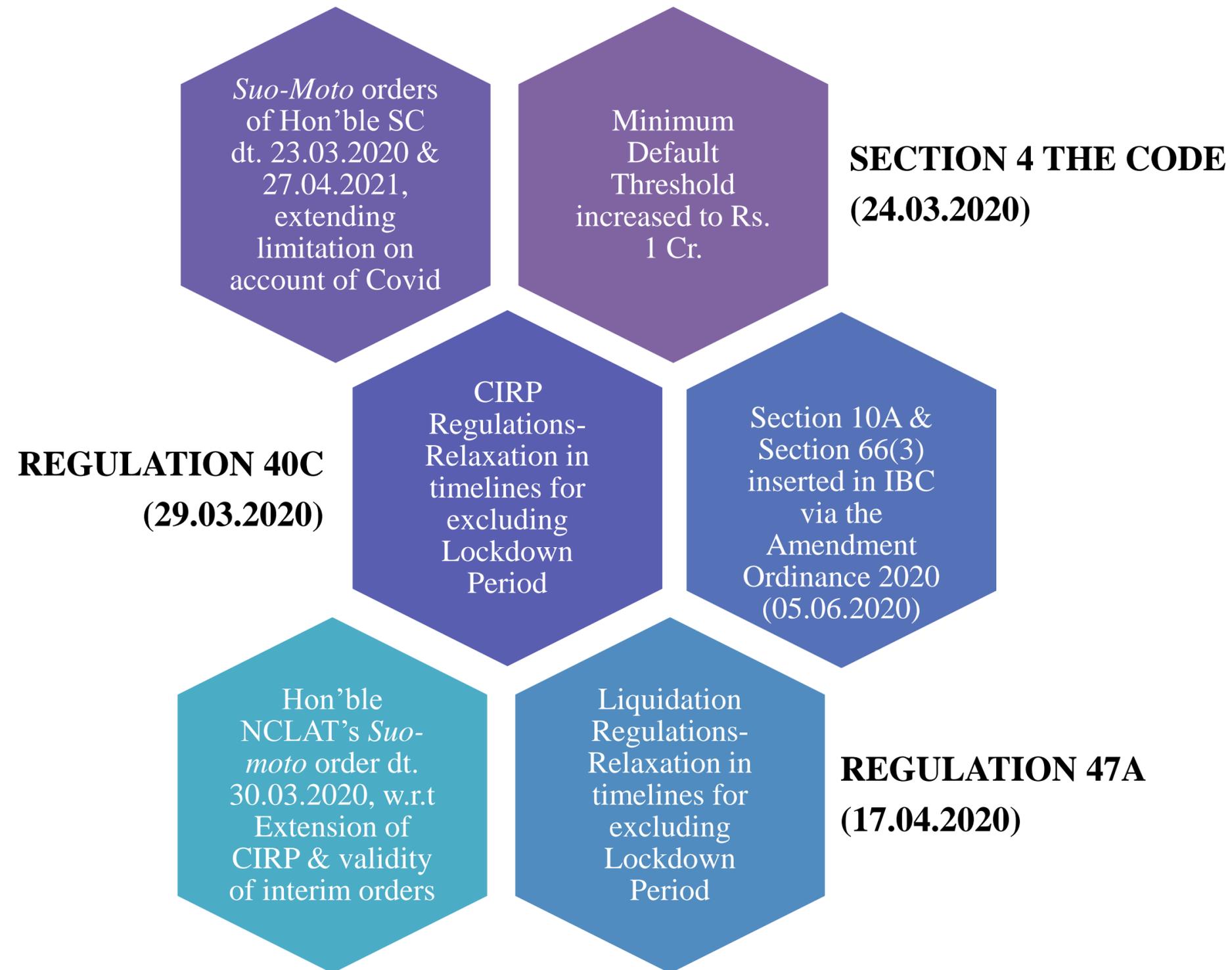
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**A. RELAXATIONS AND AMENDMENTS BROUGHT
UNDER THE IB CODE IN LIGHT OF COVID-19**

RELAXATIONS BROUGHT UNDER THE CODE IN LIGHT OF COVID-19



AMENDMENTS BROUGHT UNDER THE CODE

- **On 24.3.2020**, the threshold for initiation of Corporate Insolvency Resolution Process ('CIRP') under the Insolvency and Bankruptcy Code, 2016 ('IBC') against the erring companies was increased from **Rupees 1 Lakh** to **Rupees 1 Crore**, vide **MCA Notification No. S.O.1205(E)**.
- The decision was made in the light of the outbreak of the Covid-19 pandemic followed by a nationwide lockdown announced by the Prime Minister to curb the spread of the virus.
- The following Amendments were made under the IBC (Amendment) Act, 2020:
 1. **Section 4** of the IBC is contained under **Part-II** which deals with '**Insolvency Resolution & Liquidation for Corporate Persons**'. This part is divided into several Chapters, each of them dealing with separate subject matters. Chapter 1 titled as '*Preliminary*' reads as:

“This Part shall apply to matters relating to the insolvency and liquidation of corporate debtors where the minimum amount of the default is one lakh rupees. Provided that the Central Government may, by notification, specify the minimum amount of default of higher value which shall not be more than one crore rupees.”
- The **proviso** to Section 4 of the IBC empowers the Central Government to **issue notification** from time to time specifying times when the minimum threshold limit for default for initiation of insolvency and liquidation proceedings shall be Rs. 1 Cr.
- This is the first time the Central Government has exercised the power conferred on it by the Statute.

2. Section 10A: Suspension of Initiation of Corporate Insolvency Resolution Process. This section provides that no application for initiation of CIRP under Section 7, 9 & 10 of the Code be filed against a Corporate Debtor if the default occurs on or after 25th March 2020 for a period of 6 months extendable to 1 year upon notification by the government.

The government extended this suspension twice on 24th September, 2020 and 22nd December, 2020 for a period of 3 months each.

The said period stands finished as on 25.03.2021.

A *proviso* has also been added to the said Section, which reads:

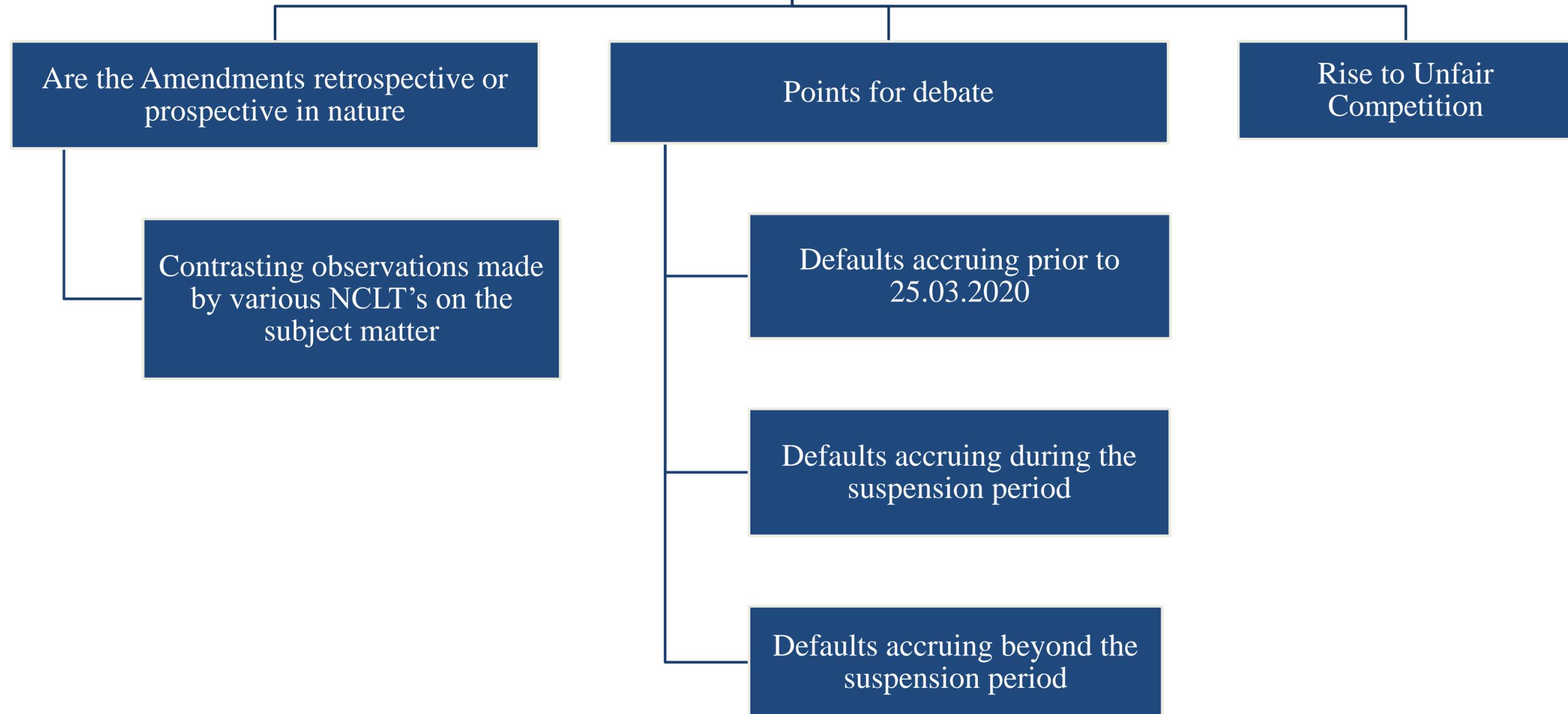
“no application shall ever be filed for initiation of corporate insolvency resolution process of a corporate debtor for the said default occurring during the said period.”

3. Section 66(3): Fraudulent Trading or wrongful trading: Sub section 3 was inserted in the Code vide the Amendment Act of 2020. It provides for the protection of partner/ director of a corporate debtor from any liability in case any defaults occurs when CIRP gets suspended under section 10A of the Code.

B. EMERGING ISSUES IN THE LIGHT OF COVID-19

EMERGING ISSUES IN THE LIGHT OF COVID-19

Issues Emerging under the Code post Covid-19



C. CHANGE IN MSME THRESHOLDS

CHANGE IN MSME THRESHOLD LIMIT

- The Government of India issued **notification number S.O.1702 (E)**, dated June 26, 2020 revising the guidelines and limit for classification of enterprises among Micro, Small and Medium Enterprises. These guidelines came into effect from July 1, 2020.

Classification	Investment Limit	Turnover Limit
Micro Enterprises	Does not exceed Rs.1 Crore	Does not exceed Rs. 5 Crore
Small Enterprises	Does not exceed Rs. 10 Crore	Does not exceed Rs. 50 Crore
Medium Enterprises	Does not exceed Rs.50 Crore	Does not exceed Rs. 250 Crore

- Owing to the current scenario which led the Government to adopt such measures, in the guise of the financial stress caused due to COVID-19 mayhem, it may be seen that this amendment might not be a *'temporary amendment'*.
- If this current increase of minimum amount of default, which is a **prerequisite** for both operational creditors and financial creditors for initiation of insolvency against a corporate debtor, is considered to be a permanent increase, it will go a long way in benefitting the Micro, Small, and Medium Enterprises (MSMEs) even post the lockdown period.

D. PRE-PACK INSOLVENCY FOR MSMEs

PRE-PACK INSOLVENCY FOR MSME

- Keeping in view the current scenario, the Ministry of Law and Justice, vide the Insolvency and Bankruptcy Code (Amendment) Ordinance dated 4th April 2021, has introduced a pre-packaged insolvency resolution process (PIRP) for the relief of the stressed entities in the Micro, small and medium enterprises (MSME) sector.
- **What are “pre packs”** – A pre-pack is an arrangement through which the promoters of a stressed company propose a resolution plan to the creditors before the company goes for bankruptcy proceedings. Under the pre-pack system, financial creditors will agree to terms with a potential investor & seek approval of the resolution plan from the NCLT.
- **Pre Packs Vs. Corporate Insolvency Resolution Process (CIRP)?** – One of the key criticisms of the CIRP has been its 270-day threshold period. The key reason behind the delays are prolonged litigations by erstwhile promoters & potential bidders.
- On the other hand, a pre pack is limited to a maximum of 120 days with only 90 days available to the stakeholders to bring the resolution plan to the NCLT.
- The purpose of a Pre pack is not only to have a timely and quick resolution mechanism but also to give legal sanction to a plan agreed upon between financial creditors, corporate debtors, and buyers. Another difference between pre packs and CIRP is that in pre packs, existing management retains control, while in the case of CIRP, a Resolution Professional takes control of the debtor as a representative of financial creditors.
- PIRP serves to promote the IBC objectives in achieving steady and smoother resolution of the distressed company; While presently, the Pre-Pack is limited to MSMEs, the Government plans to roll out it for other Corporate as well.

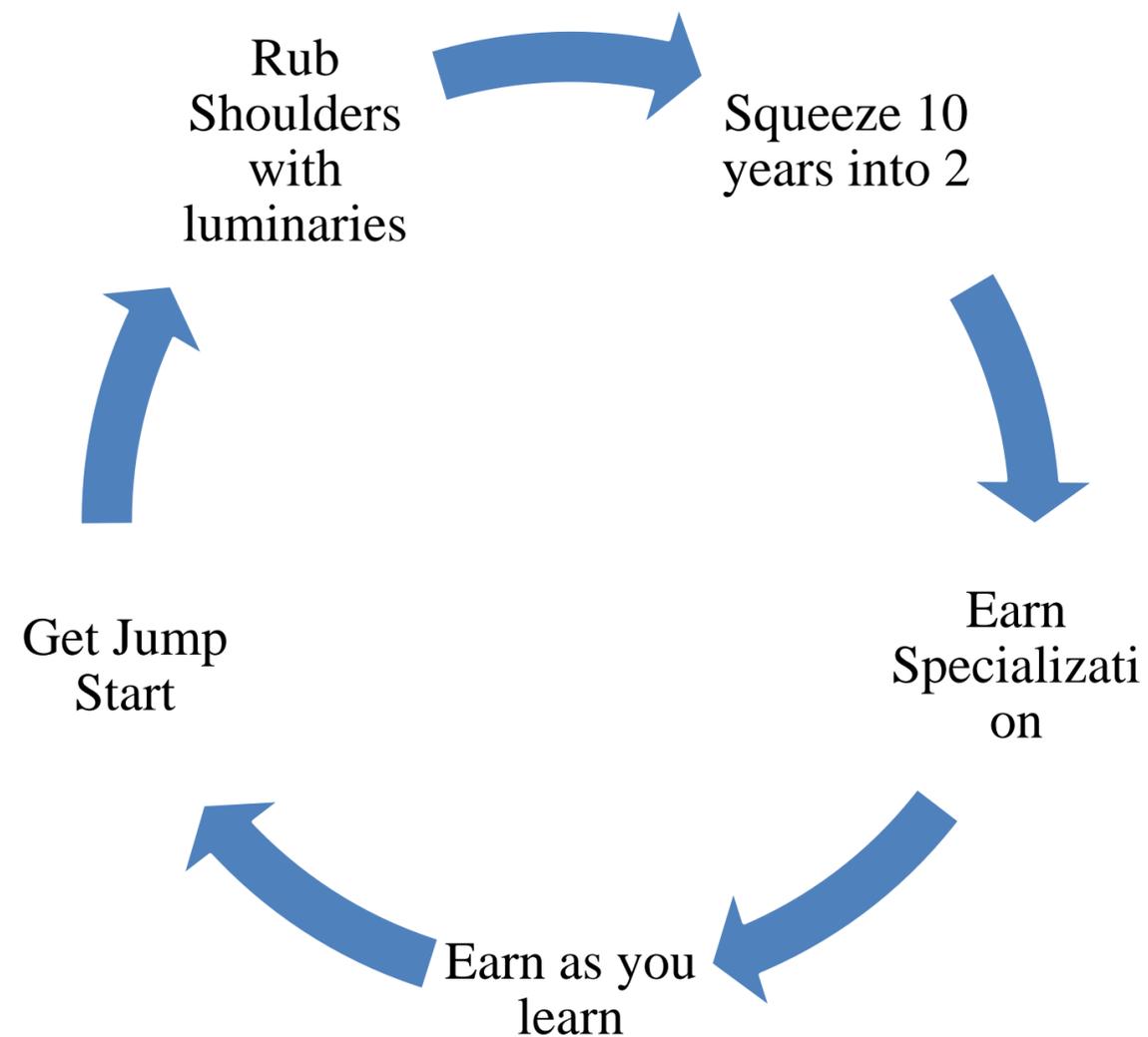
HIGHLIGHTS OF PRE-PACKAGES INSOLVENCY RESOLUTION PROCESS

- Chapter IIIA has been inserted in the IBC to deal with the Pre-Packaged Insolvency Resolution Process.
- Subjected to various conditions as enumerated in Section 54A an application for initiating pre-packed insolvency resolution can be made by a Corporate Applicant with the Adjudicating Authority in respect of Corporate Debtor classified as MSME
- As per the Ordinance, PIRP shall be initiated by an MSME for defaults of value up to INR 1,00,00,000/- or such higher amount as may be notified by GOI, subject to an approval received from the unrelated financial creditors of the MSME, representing not less than 66% value of the total financial debt due and payable by the MSME to such creditors.
- In order to initiate PIRP, the Corporate Debtor is required to file an application along with a fee of INR 15,000/- with the NCLT. The NCLT may either accept or reject the application within 14 days from the date of its receipt.
- The corporate debtor, i.e. the MSME is required to submit a base resolution plan to the RP within 2 days from the Pre Packaged Insolvency Commencement Date. The RP then present the resolution plan to the Committee of Creditors (COC). The resolution plan must be approved for submission to NCLT by a vote of the COC comprising not less than 66% of the voting shares.
- Further, if the NCLT is satisfied that the plan approved by CoC is in accordance with the Code requirements, it shall approve the resolution plan within 30 days from the date of receipt of such plan.

E. PROSPECTS OF A SUCCESSFUL CAREER IN IBC

1. GRADUATE INSOLVENCY PROGRAMME (GIP)

- Graduate Insolvency is a 2 years (24 months) **certification programme** by Indian Institute of Corporate Affairs (IICA) established by the Ministry of Corporate Affairs, Government of India.
- The Graduate Insolvency Programme (GIP) helps students to become eligible for registration as Insolvency Professional under the Insolvency and Bankruptcy Code, 2016, without having to wait to acquire the 10-year experience as required by the code at present.
- GIP will benefit students who aspire to become in-house counsels or serve as advisors to stakeholders in insolvency, liquidation, bankruptcy or turnaround process and will help at entry level as well as in career growth.
- GIP will also be of great value to those who elect to become academicians or researchers or work in media houses. \
- The total fee of the programme is Rs. 12,25,000/-. Student loan is also available for students who qualify the GIP subject to the candidate satisfying the prescribed terms.
- The programme is divided into 3 phases. The preparatory phase provides GIP students with a strong base of knowledge that will enable them to adapt to changing conditions, including the dynamic insolvency and bankruptcy regime in India. The Specialization subjects would impart a deep understanding of the Code and its evolution, along with the legal framework within which insolvency professionals are required to operate. This will empower GIP students to “hit the ground running” for their internships. The Personal Development phase focuses on developing all-round personalities of the students. Some of the topics covered are, Leadership, Problem Solver: Data Analysis, Consensus Building and Negotiation, Communication/ Writing Skills, Grooming/ Persona/ Gravitas, Thought Leadership, Emotional Intelligence, Self-Management, Time Management, Dealing with Stakeholders, Ethics and managing moral dilemmas and Assessment and readiness for internship.



- **DURATION:** 2 years
 - An intensive 1 year Residential Programme divided into **three** phases:
 - Preparatory Phase,
 - Specialization Phase, and;
 - Personal Development.
 - Hands-on Internship Programme for 12 months with Insolvency Professional, IBBI, Legal Firms and Banks/ Financial Institution
- **ELIGIBILITY:** Chartered Accountant, Advocate, Cost Accountant, Company Secretary, B.E./ B.Tech, Post Graduate with major subject in Economics, Finance, Commerce, Management and Insolvency with Aggregate 50% marks.
- **EXPERIENCE:** No requirement of any experience
- **AGE:** Should not be more than 28 years
- **RESERVATION:** For SC/ST, OBC as per government norms

For detailed information regarding the programme, the students can visit the official website of **Indian Institute of Corporate Affairs**.

- **SELECTION**

Eligible candidates will have to clear written examination. 1 Candidates will be selected based on their performance in the written examination. Selected candidates will be invited for Group Discussion and Personal Interview to be held under the oversight of observers who are experts in subject and members of faculty. 1 Personal Interview of shortlisted candidates.

- **BATCH SIZE:**

A maximum of 48 students only will be enrolled for effective learning.

- **SYLLABUS:**

Scope and coverage of questions under different subject areas:

- Ethics
- Domain Knowledge
- Legal Aptitude
- Financial Aptitude
- General Knowledge, Current Affairs
- Mathematics, Logical Reasoning and English including comprehension

2. VARIOUS COURSES LAUNCHED BY ICSI IIP

 **INSTITUTE OF INSOLVENCY PROFESSIONALS**
(Subsidiary of ICSI and Insolvency Professional Agency of IBBI)

 LITUP

Limited Insolvency Examination

Preparatory Virtual Classroom

Sept 03 - 05, 2021

Fees: INR 7500/- plus GST



Contact: mandavi.bhargava@icsi.edu;
+91 80905 60834, for more information

[For Registration, Click Here !](#)

- ICSI IIP (Institute of Insolvency Professionals) is a wholly owned subsidiary of ICSI (Institute of Company Secretary of India) and registered with IBBI. It is registered under Section 8 of the Companies Act 2013.
- It has been vested with the power to inter alia enroll, educate, train and also monitor the performance of its registered members as an Insolvency Professional.
- Recently, ICSI IIP has launched a the 3-Day Intensive Virtual Training Program for Preparation of "**Limited Insolvency Examination**" from **Sept 03-05, 2021**.
- This course covers all the major contents which forms part of the syllabus of the Limited Insolvency Examination ranging from a recap of the entire IBC Code along with Rules & Regulations contained therein, important portions of Companies Act, etc.

3. CERTIFICATE COURSE ON I&B CODE 2016

- A certified course has been jointly organized by the ICSI and ICSI IIP. The main focus of the course would be to refine the knowledge base of the existing professional as well as impart knowledge for the prospective Insolvency Professionals.
- The course offers a deep insight of the working of the IBC Code and is specifically designed for the members of ICSI, Students of CS executive Programme or higher as well as the Insolvency Professionals.
- The Registration for Batch 2 of the Certificate Course are now open.

Certificate Course on **INSOLVENCY & BANKRUPTCY CODE, 2016**

in association with Institute of
Insolvency Professionals, ICSI

Batch 2

15
Structured
CPE upon
Completion

ELIGIBILITY:

- Members of ICSI
- Student of CS Executive Programme or higher
- Insolvency Professionals

COURSE COVERAGE:

- Module I : Practical Concepts of IBC
- Module II : Various CIRP Drafting's Pleading etc.
- Module III: Stakeholders Process Management during CIRP
- Module IV : Monthly Compliances during CIRP
- Module V : Practical Liquidation Process -Flow
- Module VI : CIRP strategies and soft skills

MODE OF ASSESSMENT

- MCQ Based Assessment Test: 50% Weightage
- Project Report: 50% Weightage

ASSESSMENT AND PROJECT REPORT

Upon successful online training, candidate will be required to pass MCQ Based Assessment Test and to submit a project report.

AWARD OF CERTIFICATE: Certificate of Completion & CPE Hours will be awarded to all the candidates only upon successfully completion of course, passing of MCQ Based Assessment test & Project Report

COURSE FEES: Rs. 7,500/- plus GST

FOR REGISTRATION :
<https://www.icsi.edu/certificate-course/>

CS Nagendra D. Rao
President The ICSI

CS Manish Gupta
Council Member The ICSI &
Chairman PMQ Course Committee

Dr. Binoy J. Kattadiyil
Managing Director, ICSI IIP

CLARIFICATIONS/QUERIES : For any queries please write to us at certificatecourses@icsi.edu or call at 011-45341052/80 www.icsi.edu

4. SCOPE FOR OTHER ROLES UNDER IBC FOR PROFESSIONALS

- **As Valuer** : As per IBC code IRP need to appoint two valuers to determine liquidation value. Valuers also required for valuation of current assets (akin to stock audit) Valuer is also required for valuing the assets under liquidation. Chartered Accountants with over 10 years of practice are allowed to do valuation
- **Secretarial and legal work** : Corporate Insolvency Resolution Process (CIRP) requires huge amount of book keeping, holding of meeting, recording minutes, communication with NCLT etc. Insolvency Professionals (IP) are expected to take help of professionals in this regard
- **Stock Audit** : Most corporate Debtors enjoy working capital limits. It may be necessary to conduct periodic Stock Audit of the Corporate Debtors during the CIRP process
- **Internal / Concurrent Audit** : Resolution Professional can appoint Internal / Concurrent Auditors during the business under CIRP;
- **Management of borrower** : IRP/RP are required to manage business of the borrower on a going concern basis. They may engage with CAs and other professionals for assisting in management e.g. as CFO
- **Monitoring and Supervision of Resolution Plan** : IBC requires provision of Monitoring and Supervision of Resolution Plan after its approval by NCLT during its period. CAs can provide services of such monitoring and supervision

THANK YOU