YourLawArticle

Open Access Law Journal, ISSN (O): 3049-0057

Editor-in-Chief – Prof. (Dr.) Amit Kashyap; Publisher – Reet Parihar

Crypto-Assets And Insolvency: Uncharted Territories In The IBC Framework

Dhara Verma, B.A.LL.B (4th Year) , Lovely Professional University

Published on: 19th October 2025

Abstract

Crypto-assets, the digital currencies that became fashionable along with the blockchain, not only altered the functioning of financial systems but also posed new challenges to insolvency regimes in different countries. India is one such country where because of the legal imbroglio, there is hardly any guidance on dealing with virtual digital assets (VDAs) under the existing 2016 Insolvency and Bankruptcy Code (IBC). What is ironical is that while the law stands confused, the stakeholders are left to fend for themselves in a whirlpool of legalities. This article attempts an exposition of the Indian dilemma via the route of regulatory inadequacies, behaviours of the courts, and best international practices. It emphasizes the urgent need for the IBC to define crypto-assets, which would provide not just legal clarity but also equitable treatment to all affected stakeholders.

Keywords*: cryptocurrency insolvency, virtual digital assets, IBC challenges, asset valuation, cross-border insolvency*

1. Introduction

Cryptocurrencies and blockchain-based assets have brought about drastic change in the financial landscape. Companies are increasingly investing in crypto-assets, and therefore, insolvency proceedings will have to face a few challenges in terms of assessing their values, recovering them, or determining their legal statuses. The Indian IBC, which is an innovative landmark in corporate distress resolution, has at present no explicit provisions for VDAs leading to very ambiguous status concerning their legal status in crypto-rich entities.

Insolvency laws across the world are now being reframed to recognize and enable the use of digital assets. The major economies like US, UK, and Singapore are gradually defining crypto-assets under property and will allow their distribution in bankruptcy process. In contrast, India is now in a phase of indecision, and accumulation of vague regulatory environment and unwillingness of the courts to rule is hampering the functioning.

2. Understanding Crypto-Assets

2.1 Definition and Classification

Cryptographic assets are the digital valuables based on blockchain technology. These include:[1]

- Cryptocurrencies (e.g. Bitcoin, Ethereum)
- Stablecoins (backed by fiat currencies)
- Non-Fungible Tokens (NFTs) (which are unique digital collectibles)
- Utility and Security Tokens

The Income Tax Act, India classes them under "virtual digital assets" for the purposes of taxation; however, there is yet to be a clear legal definition of or framework for such classification. [1] This obscurity clouds the treatment of these assets in insolvent, tax, and law-enforcement instances.

2.2 India's Legal Status

They cannot be called banned, yet there seems to be no acceptance of their position as a currency recognized by law. The RBI is worried about individuals being protected and financial stability.[2] Partial acceptance was implied by the Finance Act, 2022, which imposed a 30% tax on gains from VDAs and a 1% TDS on transfers. On the other hand, no legislation exists to address ownership rights, transferability, or dispute settlements.

3. Overview of the Insolvency and Bankruptcy Code (IBC)

The IBC brings a time-limited ingenious redress mechanism in the hands of distressed firms and persons. Its few salient elements are:

[1]Finance Act, 2022, § 115BBH, Income Tax Act, 1961 (India).

• Committee of Creditors (CoC)

• Resolution Professional (RP)

• Moratorium on claims

• Liquidation and distribution waterfall

However, the IBC has kept silent about digital assets which causes a lack of guidance for RPs and courts on how to deal with it.[3] This absence of a legal framework leads to confusion regarding asset identification, valuation, and recovery.

4. Difficulties in Including Crypto-Assets in IBC

4.1 Identification and Recovery of Assets

The tracing and recovery of crypto assets after insolvency is further complicated by the pseudonymous and decentralized characteristics of crypto assets. RPs that have lost the private keys may never claim those assets.[4] Moreover, assets on foreign exchanges or in cold wallets are in a more difficult-to-recover state.

4.2 Complexities of Valuation

The unpredictable nature of the crypto markets brings about heightened volatility. The sudden developments stemming from the variation in price of its assets, if considered by the creditors for evaluation in a settlement plan or winding-up scenario, could lead to an unfavourable settlement. Whereas traditional goods are deliberated upon for value over a longer duration, digital currencies are priced at lightning speed, thus making it an absolute necessity for real-time quoting tools and forensic analysis by in-house experts.

4.3 Ambiguity in Jurisdiction

Such scope has been limiting in terms of adjudication and enforcement of claims on the legal frame, particularly when the assets are dispersed in several wallets or platforms and if transactions are international. Added to this complex scoping is the fact that cross-border insolvency rules are not in IBC.

4.4 The Vacuum of Regulation

The Indian courts have already faced complications while solving a case, i.e., the WazirX hack case, one among various cases regarding cryptocurrency exchanges, wherein asset recovery and rights of creditors remain embittered, mainly due to the absence of specific law under IBC or laws related thereto, leading to divergent treatment.

5. Comparative Law

5.1 United States

Chapter 11 of the Bankruptcy Code provides for the treatment of cryptocurrency as property. Judges in the Celsius Network and FTX cases permitted the distressed companies to hold or liquidate

cryptocurrency provided that valuation is performed and creditors consent. The [23]U.S.[4] Trustee Program is also providing guidance on transparency and secure storage of digital assets.

5.2 United Kingdom

The courts in the United Kingdom declared that crypto-assets fall within the realm of common law property. In AA v. Persons Unknown, the High Court conferred property status upon Bitcoin by way of a proprietary injunction. The resolution of these assets will fall on the administrators in bankruptcy, working under the supervision of the FCA and in accordance with industry protocols.

5.3 Singapore

The MAS believes that cryptocurrencies must be treated as intangibles. The law governing both insolvencies and mergers and acquisitions regards them as the assets that are subject to liquidation. As the judges indicated, the manner of treating digital items or assets must be surveyed with very strict criteria such as those of transparency, disclosing, and sufficiency of technology knowledge.

6. India's Judicial Trends

This has become a part of a training program that ends in October 2023. Indian courts can hear all disputes related to cryptocurrencies; however, not all of those fall within the ambit of IBC. For example, asset freezes and investigations are permitted under the laws of defrauding others. Otherwise, the case law regarding insolvency moves at a snail's pace.

The WazirX case was the case in the spotlight, highlighting the hurdles of asset recovery, jurisdiction enforcement, and inter-regulatory collaboration. Courts are demanding more specific laws and inter-agency cooperation, though movement is slow.

7.International best practices

The international leader in this sector has established a benchmark for everyone to follow:

• **Custody Protocols:** Dual-digital wallets and cold storage represent the primary custodianship foundations by which cryptoassets are maintained for safekeeping.[13]

• **Disclosure requirements:** Digital assets will be included as part of insolvency proceedings in regard to their being reported.

• **Valuation Standards:** Valuations will be determined by real-time pricing tools together with the independent valuers' expertise in the marketplace.

• **Cross-border coordination:** The basis of international collaboration would be covered by the UNCITRAL Model Law and accordingly bilateral treaties on enforcement.

[2] Insolvency and Bankruptcy Code, 2016, § 3(2), No. 31, Acts of Parliament, 2016 (India).
[3] Alokita Tangri & Akshat Sinha, Crypto Assets and Insolvency, IBC Laws (2023), https://ibclaw.in/crypto-assets-and-insolvency-by-alokita-tangri-and-akshat-sinha/..
[4]IIMA Working Paper, Virtual Digital Assets Service Providers under Indian Insolvency Framework (2024), https://www.iima.ac.in/publicationvirtual-digital-assets-service-providers-under-indian-insolvency-framework.

So far, countries including Japan, Germany, and Switzerland have already included cryptocurrencies as assets in the ladders to be climbed in case of insolvency. India could take lessons from the models created by these countries and come up with its version.[14]

8. Recommendations

8.1 Legislative Amendments

The proposed amendments in the IBC are:

• Redefine 'Virtual Digital Assets' as 'assets' for purposes of Section 3(2).

• Compulsory reporting of cryptocurrency assets.

• Granting access and control to RPs to the digital wallets.

• It will also classify cross-border recovery of crypto assets as a legal issue.

8.2 Coordination of Regulations

In the first place, there is also coordination between the Insolvency and Bankruptcy Board of India (IBBI), the Reserve Bank of India (RBI), and the Securities and Exchange Board of India (SEBI) in deciding about the regulations for managing cryptocurrencies. A joint group creating law, monitoring compliance, and handling conflicts will take it to the next level. Foo[5]

8.3 Integration of Technology

RPs should know the basics of blockchain forensics and asset recovery. By using tools like Chain analysis and Elliptic, it will be much easier to trace back transactions and freeze individual crypto-assets. Protocols for digital evidence and cybersecurity must be part of insolvency proceedings as a standard.

8.4 Global Collaboration

By adopting the UNCITRAL Model Law on Cross-Border Insolvency, India would take a stupendous stride in addressing the jurisdictional challenges posed by the engagement of different legal systems with cryptocurrencies. It could then think about developing agreements to allow treaty-making with the crypto-friendly countries so as to ease enforcement and recovery.

8.5 Building Judicial Capacity

Judges and insolvency experts must acknowledge the nuances that distinguish the different types of crypto-assets. The establishment of specialized benches or training programs would not only boost legal skills but also ensure uniformity in jurisprudence.

[5] UNCITRAL Model Law on Cross-Border Insolvency, U.N. Doc. A/52/17 (1997).

9. Conclusion

The good and the bad that crypto-assets bring into the Indian insolvency law system are two sides of the same coin. The changes to the existing bankruptcy law will ensure that the legal status is certain and protect the rights of creditors without disrupting the resolution processes. With some reforms and innovations, India can take Centre-stage and bring in innovations in the insolvency law covering the digital assets.[6]

Constitutional foresight, regulatory flexibility, and technological intelligence are the imperatives for advancement. By working together, India may build an insolvency framework strong enough to deal with the issues presented by the digital economy.

[6] In re Celsius Network LLC, No. 22-10964 (Bankr. S.D.N.Y. 2022).

References

- Alokita Tangri & Akshat Sinha, Crypto Assets and Insolvency, IBC Laws (2023), https://ibclaw.in/crypto-assets-and-insolvency-by-alokita-tangri-and-akshat-sinha/
- IIMA Working Paper, Virtual Digital Assets Service Providers under Indian Insolvency Framework (2024), https://www.iima.ac.in/sites/default/files/2025-10/WP%20No.2025-10-01.pdf
- Digital Assets and Arbitration in Insolvency Proceedings, IJLR (2025), https://ijlr.iledu.in/wp-content/uploads/2025/01/V5I16.pdf
- Clifford Chance, Custody of Cryptoassets: Moving Towards Industry Best Practice (2023), https://www.cliffordchance.com/content/dam/cliffordchance/briefings/2023/06/custody-of-cryptoassets.pdf
- Oxford Law Blog, The Treatment of Digital Assets in Insolvency Proceedings (2025), https://blogs.law.ox.ac.uk/oblb/blog-post/2025/10/treatment-digital-assets-insolvency-proceedings
- RSRR, Cryptocurrencies Decrypted: Deciphering the Riddle of Insolvency Laws (2025), https://www.rsrr.in/_files/ugd/24e493_08f10daa239d42259ec51567b94991b8.pdf