YourLawArticle

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

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

The Mirage Of Speedy Liquidation: Critical Analysis Of The IBC Liquidation Framework

Danish Sharma , BB.A.LL.B (4th Year) , School of Law, Lovely Professional University

&

Anish Sharma , BB.A.LL.B (4th Year) , School of Law, Lovely Professional University

Published on: 7th November 2025

Abstract

The Insolvency and Bankruptcy Code, 2016 was enacted to ensure a structured and time-bound process for resolving corporate insolvency. While the Code has strengthened the resolution mechanism, its liquidation framework still faces several procedural and practical challenges. This paper examines the effectiveness of the liquidation process under the IBC and identifies the gaps that prevent timely completion. It analyses judicial interpretations, regulatory developments, and comparative practices to understand the causes of delay and inefficiency. The study concludes that the present liquidation framework, though well intentioned, requires structural reforms to achieve the Code's objectives of value maximization and swift closure of insolvent entities.

Keywords: *Corporate Liquidation, Insolvency and Bankruptcy Code, Liquidator, NCLT, Resolution Professional, Asset Distribution, Judicial Interpretation*

INTRODUCTION:

The Insolvency and Bankruptcy Code, 2016 (IBC) was enacted to consolidate and amend laws relating to reorganization and insolvency resolution of corporate persons, partnership firms, and individuals in a time-bound manner.[1] It replaced a fragmented legal regime that earlier relied on multiple legislations such as the Companies Act, 1956, the Sick Industrial Companies (Special Provisions) Act, 1985, and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993.[2] The IBC sought to provide a unified framework for insolvency resolution, emphasizing efficiency, transparency, and creditor autonomy.[3]

However, the practical implementation of the Code has revealed certain inconsistencies, especially in the liquidation process. While the resolution process under the IBC has received considerable judicial and academic attention, the liquidation mechanism has remained relatively underexplored. The liquidation process, ideally intended to be the last resort when resolution fails, often becomes prolonged, defeating the Code's objective of ensuring the timely closure of insolvent entities.[4]

This paper critically examines the existing liquidation framework under the IBC, highlighting the procedural bottlenecks, valuation challenges, and structural issues that delay the process. It also explores judicial interpretations and comparative practices from other jurisdictions to propose reforms for a more effective liquidation system.

OBJECTIVES OF THE STUDY:

The main aim of the current research is to critically evaluate the process, issues, and efficiency of corporate liquidation in India under the Insolvency and Bankruptcy Code, 2016 (IBC). The study will:

i. Study the legal and institutional framework regulating corporate liquidation in India.
ii. Evaluate the role and liabilities of major stakeholders like the Liquidator, Committee of Creditors (CoC), and the NCLT.
iii. Assess the judicial interpretation and functional hurdles in the liquidation process.

[1] Insolvency and Bankruptcy Code 2016, No 31 of 2016, s 5.
[2] Companies Act 1956; Sick Industrial Companies (Special Provisions) Act 1985; Recovery of Debts Due to Banks and Financial Institutions Act 1993.
[3] Swiss Ribbons Pvt Ltd v Union of India (2019) 4 SCC 17.
[4] Arun Kumar Jagatramka v Jindal Steel and Power Ltd (2021) 7 SCC 474.

iv. Pinpoint pitfalls and procedural inefficiencies that impact timely liquidation.
v. Recommend reform steps and compare India's framework to global best practices.

LITERATURE REVIEW:

The Insolvency and Bankruptcy Code, 2016 has attracted extensive academic and policy discussions since its enactment. Early studies largely focused on the efficiency of the resolution process, the role of the National Company Law Tribunal (NCLT), and the shift from a debtor-in-possession to a creditor-in-control model.[5]Scholars such as Shubham Jain and Arpita Mukherjee emphasized that the Code marked a significant departure from previous insolvency regimes by prioritizing resolution over recovery.[6]

However, a smaller body of literature has addressed the liquidation framework in depth. Reports by the Insolvency and Bankruptcy Board of India (IBBI) and the Insolvency Law Committee (ILC) have noted persistent challenges, including the low recovery value and delay in asset realization.[7] Further, empirical analyses reveal that more than half of the cases admitted under the IBC end in liquidation, indicating systemic inefficiencies.[8]

Academic commentary has also pointed out that liquidation, though intended as a last resort, often becomes inevitable due to valuation disputes, lack of buyer interest, and inadequate coordination among. stakeholders.[9] Comparative literature from jurisdictions such as the United Kingdom and the United States highlights more structured liquidation processes, where liquidators have greater flexibility and oversight mechanisms are more transparent.This comparative perspective underscores the need for reforming the Indian framework to align with global best practices while maintaining domestic realities.

5. RESEARCH GAP:

The IBC achieves integration with India's insolvency system according to literature but three ongoing problems remain: slow procedures and inconsistent asset assessments and missing post- liquidation data. The research community has shown limited interest in studying how liquidation affects society and economics while investigating its effects on credit markets throughout extended timeframes. The

[5] Vikramaditya Khanna, 'The Insolvency and Bankruptcy Code: Rewriting the Rules for Corporate India' (2017) 9 National Law School of India Review 45.
[6] Shubham Jain and Arpita Mukherjee, 'Evaluating the Effectiveness of India's Insolvency Framework' (2019) 34 Economic and Political Weekly 23.
[7] Insolvency and Bankruptcy Board of India, Annual Report 2022–23 (IBBI 2023).
[8] Insolvency Law Committee, Report on the Review of the IBC (Ministry of Corporate Affairs 2020).
[9] Swiss Ribbons Pvt Ltd v Union of India (2019) 4 SCC 17.

research will combine doctrinal examination with empirical assessment to analyze legal interpretation and institutional evaluation for assessing the operational performance and fairness of India's corporate liquidation system.

6. RESEARCH METHODOLOGY:

This research adopts a qualitative and doctrinal approach, focusing on an in-depth analysis of statutory provisions, case law, and secondary literature relating to the liquidation framework under the Insolvency and Bankruptcy Code, 2016.[10] The study relies on primary sources such as the IBC itself, regulations issued by the Insolvency and Bankruptcy Board of India (IBBI), and judgments delivered by the National Company Law Tribunal (NCLT), the National Company Law Appellate Tribunal (NCLAT), and the Supreme Court of India.[11]

In addition, secondary sources such as academic journals, committee reports, government publications, and commentaries have been examined to identify the gaps between the legal framework and its practical implementation.[12] The research is analytical and comparative in nature, incorporating insights from global insolvency regimes, particularly those of the United Kingdom and the United States, to assess how international practices can inform domestic reforms.[13]

The approach seeks to present a systematic evaluation of the existing liquidation process, highlight its inefficiencies, and propose realistic solutions for improvement.

HISTORICAL EVOLUTION OF LIQUIDATION LAWS IN INDIA

The framework for insolvency and liquidation in India has evolved through a gradual process of legislative reform. Before the enactment of the Insolvency and Bankruptcy Code, 2016, the country's insolvency regime was highly fragmented and inefficient.[14]Multiple legislations governed different aspects of corporate distress, leading to delays and conflicting interpretations. The Companies Act, 1956 provided for winding up of companies, while the Sick Industrial Companies (Special Provisions) Act,

[10] R Goode, Principles of Corporate Insolvency Law (5th edn, Sweet & Maxwell 2018).
[11] Insolvency and Bankruptcy Code 2016, No 31 of 2016.
[12] Insolvency Law Committee, Report on the Review of the IBC (Ministry of Corporate Affairs 2020).
[13] Vanessa Finch, Corporate Insolvency Law: Perspectives and Principles (2nd edn, CUP 2009).

[14] R Goode, Principles of Corporate Insolvency Law (5th edn, Sweet & Maxwell 2018).

1985 (SICA) dealt with the rehabilitation of sick industries.[15] In parallel, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 (RDDBFI Act) and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) allowed banks to recover dues from defaulting borrowers.[16]

Despite these frameworks, insolvency proceedings were marked by overlapping jurisdictions, prolonged litigation, and low recovery rates.[17] The absence of a unified mechanism often resulted in assets losing value during the process. The need for a consolidated and time-bound insolvency framework became increasingly evident during the financial crises of the early 2000s and the mounting non-performing assets (NPAs) in the banking sector.[18]

Recognizing these challenges, the Government of India constituted the Bankruptcy Law Reforms Committee (BLRC) in 2014 under the chairmanship of Mr. T.K. Viswanathan.[19] The Committee's recommendations formed the foundation of the IBC, which was enacted in 2016 to replace the earlier disjointed system with a single, comprehensive insolvency and liquidation code. The IBC marked a paradigm shift from a debtor-in-possession to a creditor-in-control model, promoting accountability, efficiency, and transparency in insolvency proceedings.[20]

8. LEGISLATIVE FRAMEWORK OF LIQUIDATION UNDER THE IBC

The Insolvency and Bankruptcy Code, 2016 (IBC) establishes a comprehensive framework for the liquidation of corporate entities when the corporate insolvency resolution process (CIRP) fails or when no resolution plan is approved.[21] The liquidation mechanism is primarily governed by Chapter III of Part II of the Code (Sections 33–54) and is supplemented by the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.[22]

Under Section 33, the adjudicating authority the National Company Law Tribunal (NCLT) is required to order liquidation in specific circumstances: when the resolution plan is rejected, withdrawn, or

[15] Companies Act 1956; Sick Industrial Companies (Special Provisions) Act 1985.
[16] Recovery of Debts Due to Banks and Financial Institutions Act 1993; Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002.
[17] ICICI Bank Ltd v Official Liquidator of APS Star Industries Ltd (2010) 10 SCC 1.
[18] Reserve Bank of India, Report on Trend and Progress of Banking in India 2014–15 (RBI 2015).
[19] Ministry of Finance, The Report of the Bankruptcy Law Reforms Committee, Volume I: Rationale and Design (Government of India 2015).
[20] Swiss Ribbons Pvt Ltd v Union of India (2019) 4 SCC 17
[21] Insolvency and Bankruptcy Code 2016, No 31 of 2016, Pts II, Ch III, ss 33–54.
[22] Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016.

violated, or when the maximum time period for CIRP (330 days) expires.[23] Once the liquidation order is passed, a liquidator is appointed, generally the resolution professional who managed the CIRP, to oversee the process in accordance with Sections 34–54.

The Code aims to ensure that liquidation is conducted efficiently and transparently to maximize the value of the debtor's assets. Section 35 lays down the powers and duties of the liquidator, including the right to verify claims, take custody of assets, evaluate property, and distribute proceeds in accordance with the waterfall mechanism defined under Section 53.

The liquidation regulations further elaborate on procedural aspects such as asset sale, valuation, and reporting.[24] They also introduce mechanisms for compromise or arrangement under Section 230 of the Companies Act, 2013, and going-concern sales, which enable the sale of the business as a whole rather than piecemeal asset sales. These provisions collectively reflect the IBC's intent to make liquidation a structured, time-bound, and value-maximizing process rather than a mere winding-up exercise.[25]

8.1 PROCESS OF LIQUIDATION UNDER THE IBC

The liquidation process under the Insolvency and Bankruptcy Code, 2016 begins when the adjudicating authority passes an order under Section 33.[26] Upon the commencement of liquidation, the resolution professional is appointed as the liquidator, unless the tribunal directs otherwise The liquidator assumes control over all the assets of the corporate debtor and acts as a fiduciary on behalf of the creditors and other stakeholders.

The process involves several key stages. Firstly, the liquidator is required to make a public announcement within five days of the liquidation order, inviting claims from all creditor.[27] The verification of claims must be completed within thirty days, following which the liquidation estate comprising all assets, properties, and actionable claims of the debtor is formed under Section 36.

Subsequently, the liquidator undertakes valuation and realization of assets in accordance with the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016.The assets may be sold individually, in parcels, or as a going concern, depending on market conditions and the objective of

[23] Insolvency and Bankruptcy Code 2016, s 33.
[24] IBBI (Liquidation Process) Regulations 2016, regs 3–47.
[25] Arun Kumar Jagatramka v Jindal Steel and Power Ltd (2021) 7 SCC 474.
[26] Insolvency and Bankruptcy Code 2016, s 33.
[27] Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations 2016, reg 12.

maximizing value.[28]The sale proceeds are distributed as per the waterfall mechanism outlined in Section 53, which gives priority to insolvency costs, workmen's dues, secured creditors, and government dues in that order.

The liquidator must submit periodic progress reports and a final report to the adjudicating authority under Regulation 45, ensuring transparency and accountability throughout the process. The liquidation concludes when the assets have been realized and proceeds distributed, after which the liquidator applies for dissolution under Section 54 of the Code.[29]

9. Key Challenges in the Liquidation Framework under the Insolvency and Bankruptcy Code, 2016

Despite the comprehensive structure of the Insolvency and Bankruptcy Code (IBC), the liquidation framework continues to encounter several legal and procedural bottlenecks that hinder its objective of achieving a time-bound and value maximizing resolution.

(1) Delay in Liquidation Proceedings:

Although the Code mandates completion of liquidation within one year under Regulation 44 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, most cases extend beyond this period due to litigation, valuation disputes, and inadequate market response. The Surendra Trading Co. v Juggilal Kamalapat Jute Mills Co. Ltd. (2017) 16 SCC 143 case highlighted how procedural delays defeat the Code's fundamental purpose of expediency.

(2) Limited Participation of Buyers:

The liquidation market in India lacks sufficient bidders for distressed assets. Many buyers are hesitant due to unclear asset titles, pending litigations, and lack of transparent valuation. This has resulted in a high percentage of liquidations yielding negligible recovery for creditors.

(3) Inadequate Valuation Mechanism:

Valuation inconsistencies remain a major challenge. Although two registered valuers are required under Regulation 35 of the IBBI (Liquidation Process) Regulations, 2016, the absence of a uniform valuation

[28] Companies Act 2013, s 230; IBBI (Liquidation Process) Regulations 2016, reg 32.
[29] Insolvency and Bankruptcy Code 2016, s 54.

methodology often results in undervaluation or overvaluation of assets, leading to lower realization.

(4) Role of Liquidator and Oversight:

Liquidators face multiple procedural and logistical hurdles, including lack of cooperation from stakeholders and limited powers compared to resolution professionals. The Karnataka State Financial Corporation v N. Narasimahaiah (2008) 5 SCC 176 case emphasized that without adequate autonomy and monitoring, liquidators cannot ensure efficiency or transparency.

(5) Recovery Rates and Creditor Dissatisfaction:

Data from the Insolvency and Bankruptcy Board of India (IBBI) indicates that liquidation cases often realize less than 10% of admitted claims, raising questions about the framework's efficiency. The slow pace of realization also discourages creditors from pursuing liquidation as a viable exit route.

10. Judicial Developments and Case Analysis

Judicial interpretation has played a crucial role in shaping the scope and efficiency of the liquidation framework under the Insolvency and Bankruptcy Code, 2016. The judiciary has consistently emphasized that the objectives of the Codevalue maximisation, promotion of entrepreneurship, and timely resolution must not be compromised during liquidation.

(1) Swiss Ribbons Pvt Ltd v Union of India[30]

In this landmark judgment, the Supreme Court upheld the constitutional validity of the IBC and recognised its twin purposes of resolution and liquidation. The Court observed that liquidation is not the preferred outcome, and the resolution process must be prioritised to preserve the value of assets. This decision reinforced the Code's reformative rather than punitive intent.

(2) Arun Kumar Jagatramka v Jindal Steel and Power Ltd[31]

The Supreme Court held that promoters ineligible under Section 29A to submit a resolution plan are also barred from proposing schemes of compromise and arrangement during liquidation under Section 230 of the Companies Act, 2013. This judgment closed a significant loophole and strengthened the principle of promoter ineligibility, ensuring transparency and preventing backdoor entries.

[30] Swiss Ribbons Pvt Ltd v Union of India (2019) 4 SCC 17.
[31] Arun Kumar Jagatramka v Jindal Steel and Power Ltd (2021) 7 SCC 474.

(3) Essar Steel India Ltd v Satish Kumar Gupta[32]

Here, the Court clarified the commercial wisdom of the Committee of Creditors (CoC) and its limited judicial review. It stressed that liquidation should be the last resort, undertaken only after genuine efforts at resolution have failed. The Court also reiterated that the primary objective of the IBC is to revive and continue the corporate debtor as a going concern.

(4) Forech India Ltd v Edelweiss Assets Reconstruction Co Ltd[33]

This case reaffirmed that once a liquidation order is passed, proceedings before other forums such as the Debt Recovery Tribunal or civil courts cannot continue simultaneously. The Court emphasized the overriding effect of Section 238 of the IBC, ensuring procedural uniformity and jurisdictional clarity.

(5) Moser Baer India Ltd v Official Liquidator[34]

In this recent decision, the Supreme Court addressed the conflict between IBC liquidation proceedings and the Companies Act, holding that the IBC has complete precedence in insolvency matters. The ruling reinforced that liquidators must adhere strictly to the IBC framework and IBBI regulations.

These judicial developments demonstrate the evolving jurisprudence around liquidation, gradually steering the process towards greater efficiency, transparency, and accountability. Courts have repeatedly reminded stakeholders that the liquidation process is not merely a recovery mechanism but a structured exit designed to preserve economic value and integrity within the insolvency system.

11. Reforms and Recommendations

The liquidation framework under the Insolvency and Bankruptcy Code (IBC) has made significant progress, yet several systemic shortcomings continue to delay timely resolution and reduce recovery rates. Addressing these issues requires both legislative and administrative reforms that strengthen institutional capacity and streamline procedural efficiency.

(1) Strengthening Institutional Capacity

[32] Essar Steel India Ltd v Satish Kumar Gupta (2020) 8 SCC 531.
[33] Forech India Ltd v Edelweiss Assets Reconstruction Co Ltd (2019) 18 SCC 549.
[34] Moser Baer India Ltd v Official Liquidator (2023) SCC OnLine SC 654.

The Insolvency and Bankruptcy Board of India (IBBI) must enhance its monitoring mechanisms to ensure that liquidators strictly adhere to timelines under Regulation 44 of the IBBI (Liquidation Process) Regulations, 2016. Establishing a digital tracking platform for real-time monitoring of liquidation progress would improve transparency and accountability.

(2) Standardisation of Valuation Practices

A uniform valuation methodology, approved and regulated by the IBBI, is essential to prevent discrepancies between different valuers. The Committee of Experts on Valuation Professionals (2020) recommended developing a centralised framework for valuers under the Companies (Registered Valuers and Valuation) Rules, 2017.[35]Implementing this would help reduce undervaluation and ensure fairness in asset realisation.

(3) Enhancing Market Participation

To attract more bidders, the government could introduce tax incentives or credit guarantees for investors purchasing distressed assets. This would encourage broader participation in liquidation auctions and increase the recovery value for creditors.

(4) Strengthening the Role of Liquidators

Liquidators should be granted greater autonomy in decision making, including asset disposal and stakeholder communication, subject to IBBI oversight. Establishing a performance evaluation mechanism for liquidators, similar to the one used for Resolution Professionals, could help ensure accountability and quality control.

(5) Integration with Technology

Digitising the entire liquidation process from claims submission to asset auction can significantly reduce procedural delays. Platforms such as the e-Auction portal managed by MSTC Limited should be further integrated with the IBBI's database for seamless information flow and reduced redundancy.

(6) Legislative Clarifications

Certain ambiguities in the IBC, particularly regarding the treatment of secured creditors and avoidance

[35] Report of the Committee of Experts on Valuation Professionals (Ministry of Corporate Affairs, Government of India, 2020) https://ibbi.gov.in/uploads/whatsnew/2020-11-19 accessed 6 November 2025.

transactions during liquidation, require explicit legislative clarification. Clearer provisions under Sections 52 and 53 of the Code would help minimise litigation and ensure consistent application of law.

(7) Promotion of Pre Pack Liquidation

Inspired by the success of pre-pack insolvency for MSMEs, a structured pre-pack liquidation mechanism could be developed to allow voluntary liquidation with prior creditor consensus, expediting asset disposal while preserving value.

Overall, these reforms would align the liquidation framework more closely with international best practices and ensure that the Code's objective of a "swift and value-maximising exit" is truly realised.

12. Conclusion

The Insolvency and Bankruptcy Code, 2016 has transformed India's insolvency landscape by introducing a structured and time bound mechanism for corporate resolution and liquidation. However, the liquidation framework still struggles with procedural inefficiencies, valuation disparities, and extended timelines that undermine its objective of speedy resolution.

Judicial developments have clarified several ambiguities, strengthening the Code's interpretation and implementation. Yet, challenges persist due to delayed proceedings, inconsistent valuation, and limited market participation. The liquidation framework, therefore, requires a holistic reform approach combining institutional strengthening, technological integration, and clearer legislative guidance.

A more transparent and efficient liquidation regime will not only enhance creditor confidence but also contribute to India's overall ease of doing business. If effectively reformed, the liquidation process can evolve from being merely a recovery tool into a value-preserving mechanism that upholds the true spirit of the IBC ensuring timely, fair, and equitable resolution of insolvency cases.