

## IBC 2016

**Insolvency** = state of being not able to pay off debts due to insufficient cash flow.

**Bankruptcy** = Legal declaration of Insolvency.

### Conclusion of Insolvency

→ For Non Corporates = Bankruptcy

→ For Corporates = Liquidation

### Objectives of the code =

1. Improve handling of conflicts between creditors and debtor.
2. Avoid destruction of value and maximize value.
3. Drawing the line between Malfeasance and Business failure.
4. Clearly allocate assets losses in macro economic environment / downturn.

## Structure of the code

No. of Parts = 5

Sections = 255

Schedules = 12

Part - 1 Preliminary (1-3)

Part - 2 Insolvency Resolution and Liquidation  
for Corporate Person (4-77)

Part 3 Insolvency Resolution and Bankruptcy  
for Individuals and Partnership Firm.  
(78-187)

Part 4 Regulation of Insolvency Professionals,  
Agencies and Information Utilities  
(188-223)

Part 5 Miscellaneous  
(224-255)

## Four Pillars of IBC 2016

- First Pillar - Judicial ~~Authority~~ Adjudicating authority & Appellate Authority
- Second Pillar - Regulator (Insolvency Bankruptcy Board of India)
- Third Pillar - Class of Regulated Persons by IBI (Insolvency Professional)
- Fourth Pillar - New Industry to electronically store facts about lenders and terms of lending.  
(Information Utilities)

## Section 1 Extent and Commencement

- 1.) It extends to whole of India.
- 2.) It came into force on 28/5/2016.

## Section 2 Applicability of Code

- 1) Companies under company law.
- 2) Companies governed under special law.
- 3) LLP
- 4) Body corporate incorporated under any law.
- 5) Personal guarantors to Corporate Debtors
- 6) Partnership and Proprietorship Firms
- 7) Individuals.

## Non applicability of the Code

→ Cooperates in Financial Sector.

Like: Bank, Finance Institutions, Insurance Company, Asset Reconstruction Company, Mutual Fund, Collective Investment Scheme or Pension Funds.

## Exception of the rule of Non applicability on Finance Sector [Section 227]

NBFC (including Housing Finance companies) with asset size of ₹ 500 crore or more, shall be covered under IBC 2016.

## Important Definitions

### 1) Board Section 3(1)

- means IBCI established under Section 189.
- It shall be a Body corporate.
- It shall have Perpetual succession, Separate legal entity, common seal.
- It will have powers of civil court.

### 2) Claim Section 3(b)

- Right to payment whether fixed, adjudged, disputed, undisputed, legal, equitable, secured or unsecured.
- Right to remedy for Breach of Contract.

### 3) Core Services Section 3(a)

It means services rendered by an Information Utility for :-

- a) Accepting electronic submission of financial information.
- b) Safe and accurate recording of financial information.
- c) Authenticating and verifying the financial information submitted by a person and
- d) Providing access to information stored with the information utility to persons as may be specified.

### 4) Creditor Section 3(10)

It means any person to whom a debt is owed and includes :-

- 1) Financial creditor
- 2) Operational creditor
- 3) Secured creditor
- 4) Unsecured creditor
- 5) Secured holder

## 5) Debt (Section 3(11))

It means a liability or obligation in respect of which a claim is due from any person and includes a

Financial Debt and

operational Debt

1. Money borrowed on interest
2. Amount raised by acceptance
3. Note purchase facility
4. Financial Lease
5. Receivable sold or discounted
6. Forward Sale/Purchase
7. Derivative financing
8. Counter indemnity obligation
9. Guarantee or Indemnity.

claim for provision of → Goods  
→ services  
including Employment  
or a debt under any other law.

Note:- Subscription money for purchase of shares is not a financial debt.



## Basic Process Flow

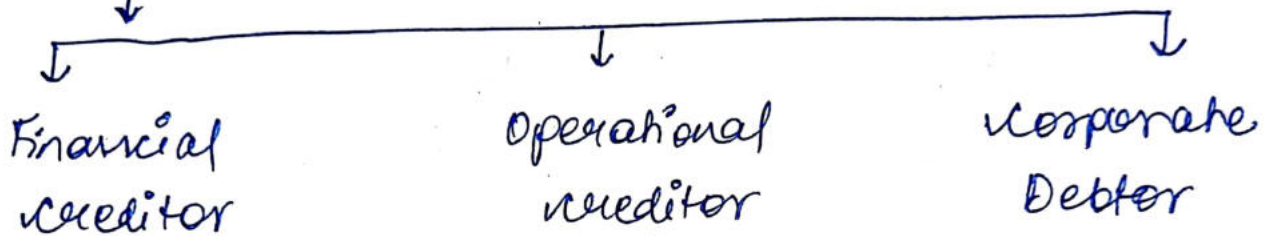
- ① Filing of Application before NCLT by Financial creditor, Operational creditor or corporate applicant.
- ② Adjudication :- Admission or Rejection
- ③ Moratorium and Public Announcement.
- ④ Appointment of IRP
- ⑤ Formation of Committee of Creditors
- ⑥ Appointment of RP
- ⑦ Taking control and managing the operations of corporate debtor by RP
- ⑧ Appointment of Registered Valuers.
- ⑨ Preparation of Information memorandum
- ⑩ Invitation for Expression of Interest and submission of Expression of Interest
- ⑪ Preparation of provisional and final list of resolution applicant by RP
- ⑫ Issue of Request for Resolution Plan, Information memorandum and Evaluation matrix to all prospective resolution applicant.
- ⑬ Submission of Resolution Plan by resolution applicants
- ⑭ CoC Decision
- ⑮ NCLT Decision

## Application to NCLT

Only when default occurs.

only when the amount of default  $\geq$  ₹ 1 crore.

Who can initiate CIRP



## CIRP by Financial Creditors

1. Application to NCLT by :-

100 creditors  
OR  
10% creditors } whichever is less

2. Same counting for eligibility in case of Real Estate Allottees.

3. Attachments of Application :-

1) Record of default

2) Name of Proposed Interim Resolution Professional.

3) Any other information as may be specified by Board.

4. Time Period for determination of default :-

→ 14 days from receipt of application

→ NCLT to determine whether default exists or not.

## 5. Admit / Reject application by NCLT

Admit when → 14 Days ← Reject when

1. Default exists → Does not exist
2. Application complete → Incomplete
3. No disciplinary Proceedings against Proposer IRP → Pending against IRP

## 6. Rectification of defect in application

- Notice to rectify by NCLT
- In 7 days of notice by NCLT.

## 7. Order of acceptance of application by NCLT

- If accepted, communicate to Financial creditor and Corporate Debtor
- If rejected, communicate to Financial creditor

## 8. Withdrawal of application

- Case 1: Before admission of application
- Case 2: After admission of application

Withdrawal

Before admission of application

↓  
Permission of AA (NCLT) is sufficient.

After admission of application

Before constitution of COC

↓  
Apply to AA through IRP

After constitution of COC

↓  
Application to withdraw shall be first considered by COC in 7 days of receipt  
withdrawal application approval by 90% majority of COC

Apply to AA through RP in next 3 days

After issue of invitation for EOI

↓  
Same as 2nd case along with Justifying withdrawal application

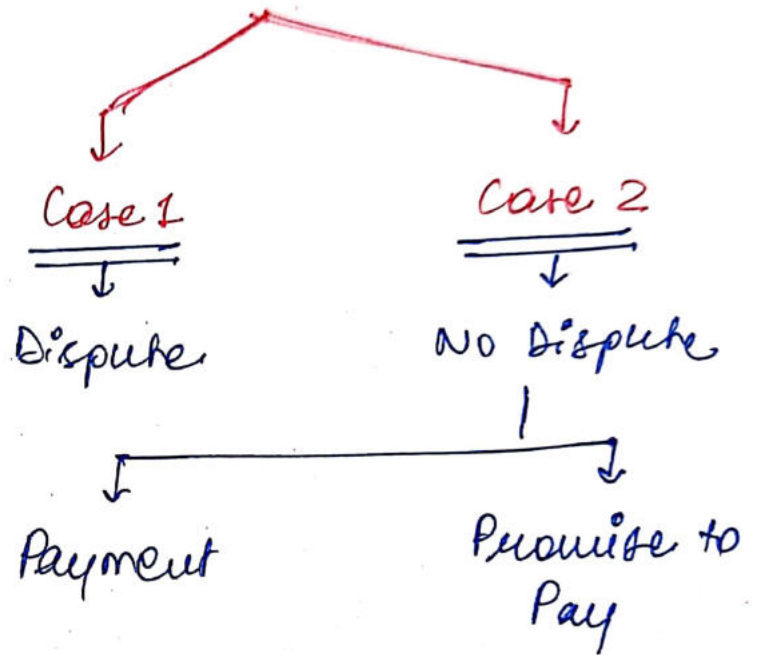
# CIRP by Operational Creditors

## 1. Issuing of demand notice :-

Notice by  
Operational  
Creditors

Demand Notice  
+  
Copy of Invoice

Reply by  
Corporate  
Debtor



10 Days

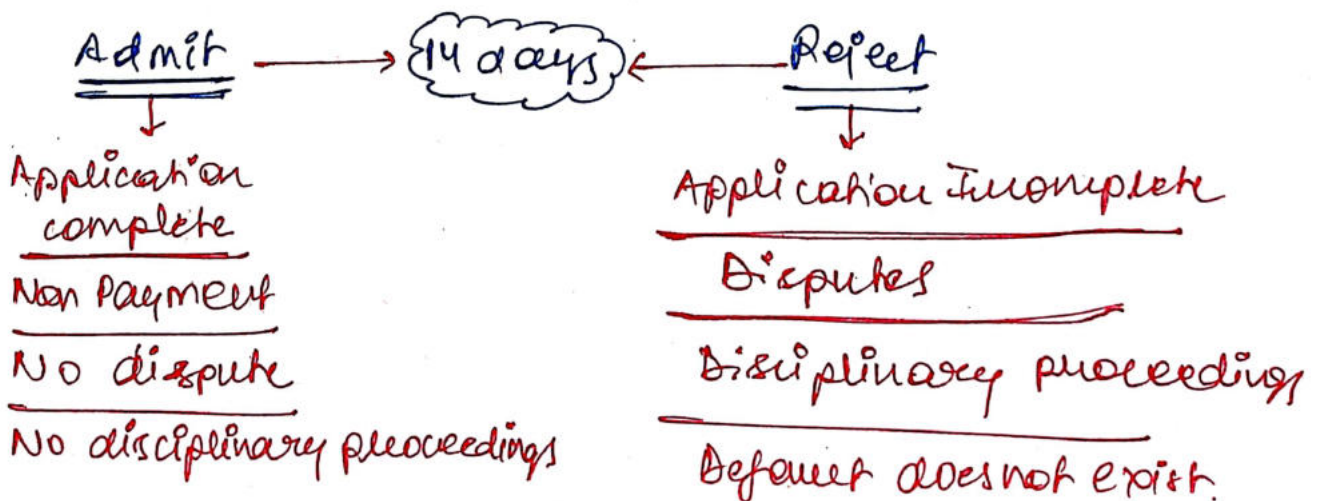
## 2. Application by operational creditor

- In case of No Reply
- OR, Unsatisfactory Reply.

## 3. Attachments of application

- Details of Proposed IRP
- Copy of Demand Notice
- Affidavit of No dispute
- Copy of certificate from FI evidencing non payment.
- Copy of record with information utility
- Any other document as may be prescribed.

## 4. Admit / Reject application by NCT



5. Rectification of defect of application

→ 7 days time to rectify defects

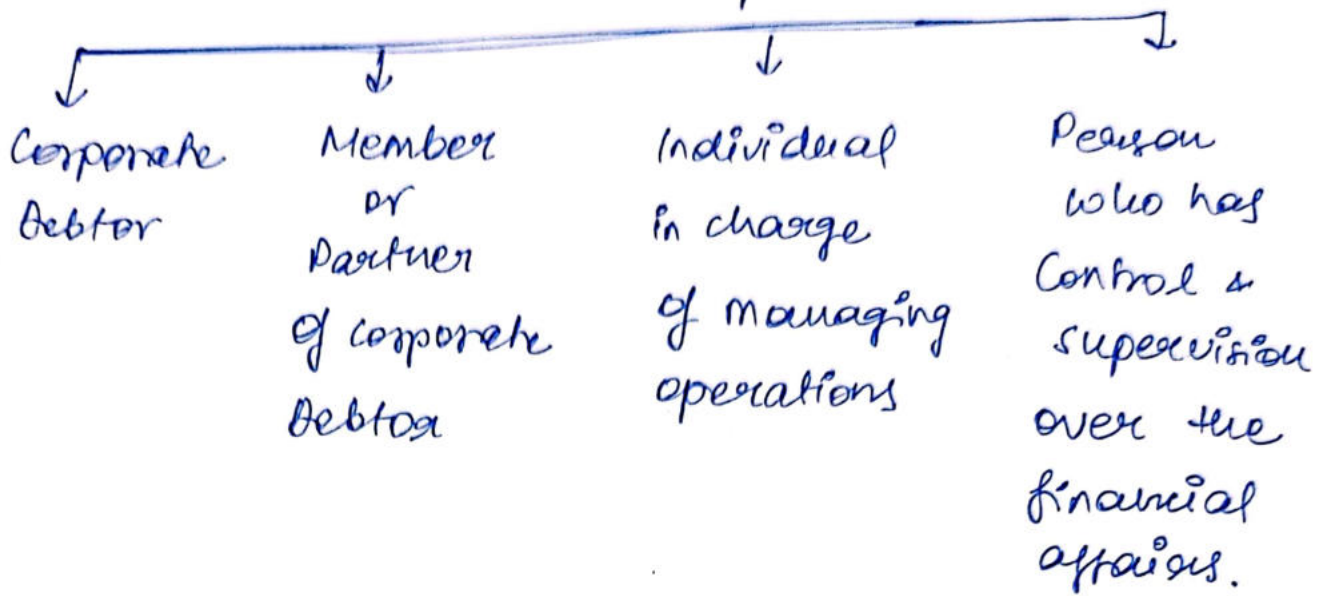
→ from the date of Notice of AA.

6. Withdrawal of application

→ Same as in case of Financial creditor.

§

# CIRP by Corporate Applicant



## 1. Application by Corporate Applicant

- Attachments :
1. Books of etc
  2. Proposed IRP
  3. SR

## 2. Admission / Rejection of application

Admit → 14 Days ← Reject

Complete

No disciplinary  
proceedings pending

Incomplete

Disciplinary  
proceedings

## 3. Defects in Application

7 days time is given.

## Persons not entitled to initiate CIRP

- ① Corporate Debtor already undergoing CIRP or PPIRP
- ② Financial creditor or operational creditor of a corporate Debtor undergoing CIRP or PPIRP
- ③ Corporate Debtor having completed CIRP / PPIRP in last 12 months.
- ④ Corporate Debtor / Financial creditor who has violated terms of Resolution Plan in last 12 months.
- ⑤ Corporate Debtor in respect of whom a liquidation order has been made.

## Time Limit for completion of CIR.P

180 Days + 90 Days

330 Days



270 Days

## Extension application

Application

By



RP

after 66%

approval of

CoC.

Application

To



NCLT

Frequency of

Extension

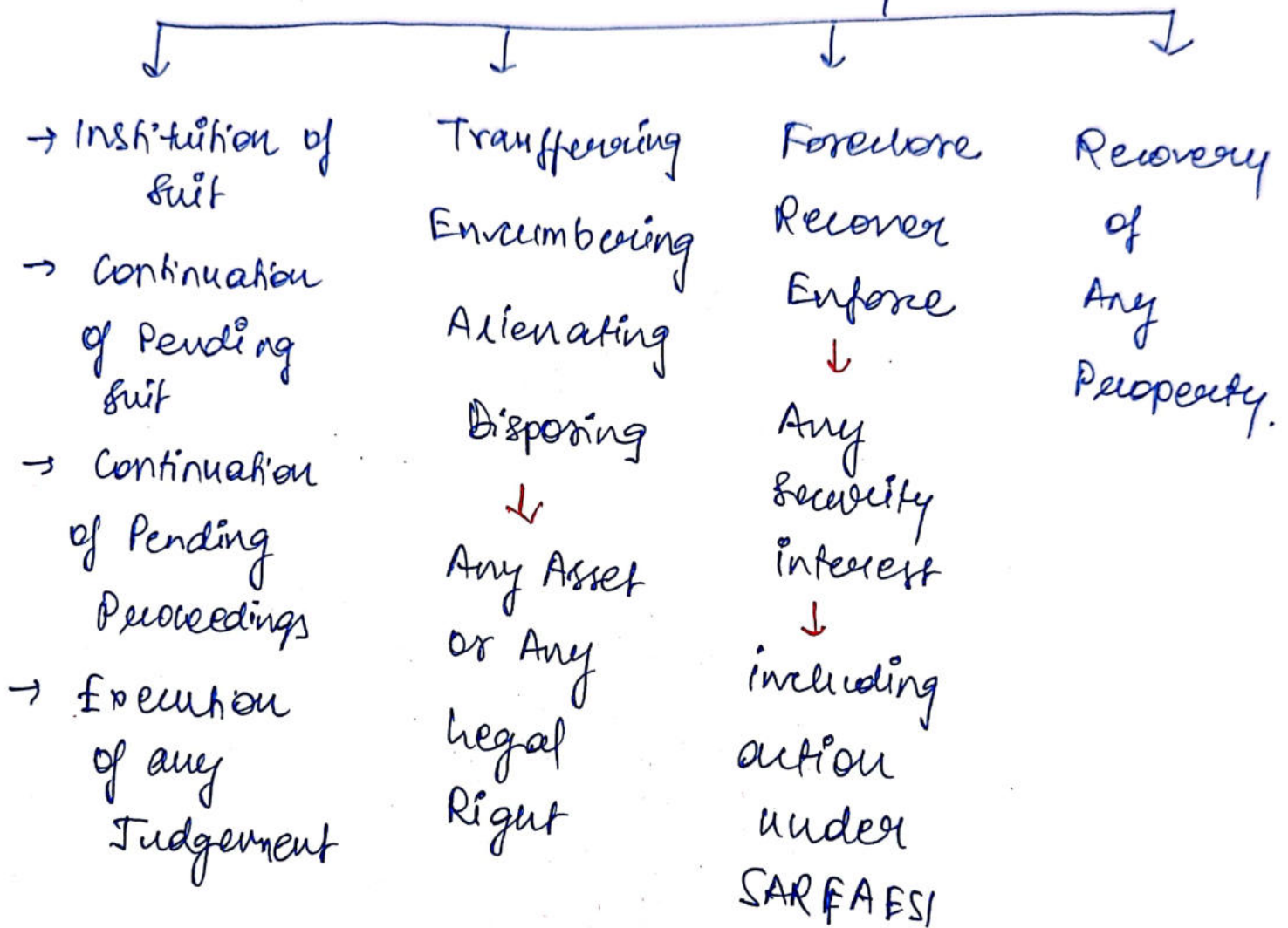


only once

Moratorium → Delay or suspension of an activity. (Basic)

↳ Temporary suspension of law to allow a legal challenge to be carried out. (Legal)

Moratorium means Prohibition on



## What is not covered in Moratorium?

1. Supply of essential goods or services to Corporate Debtor.
  2. Surety in a contract of guarantee
  3. License, Permit, Registration, Quota, Concession, clearance or similar grant or right given by Government.
  4. Sale of unencumbered asset upto 10% of total claims.
- When moratorium shall cease to exist?

→ Date of Approval of Resolution Plan  
OR  
→ Date of Liquidation order

As the case may be.

# Public Announcement

IRP shall make public announcement immediately after his appointment

↓  
within 3 days of appointment.

## Contents

1. Name and address of Corporate Debtor under CIRP
2. Name of authority under which registered.
3. Details of IRP
4. Inviting claims
5. Penalty for false claims
6. Last date of claim.
7. Date on which CIRP ends.

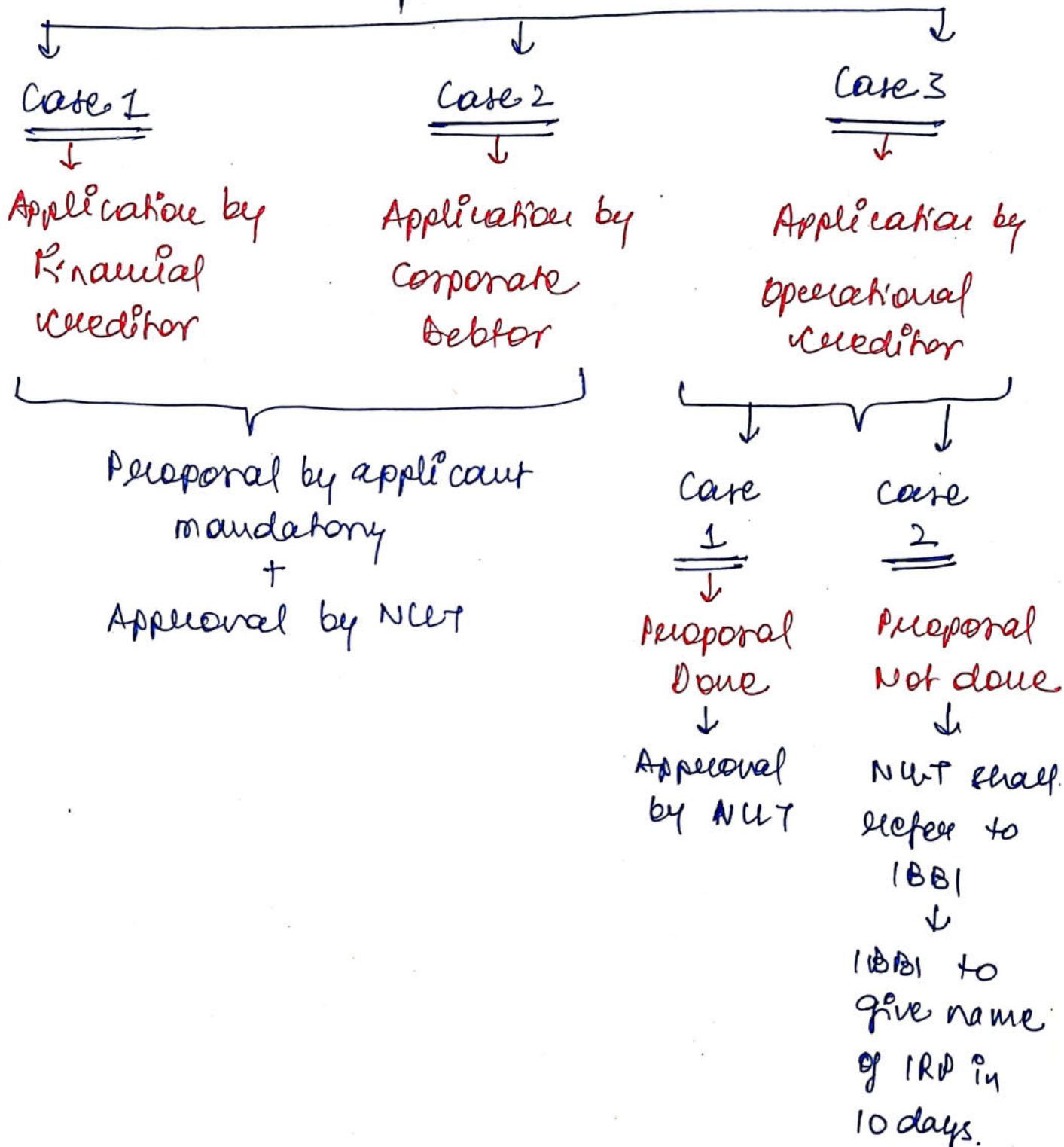
## Cost

Borne by Applicant

Reimbursement by CoC

# Interim Resolution Professional

IRP



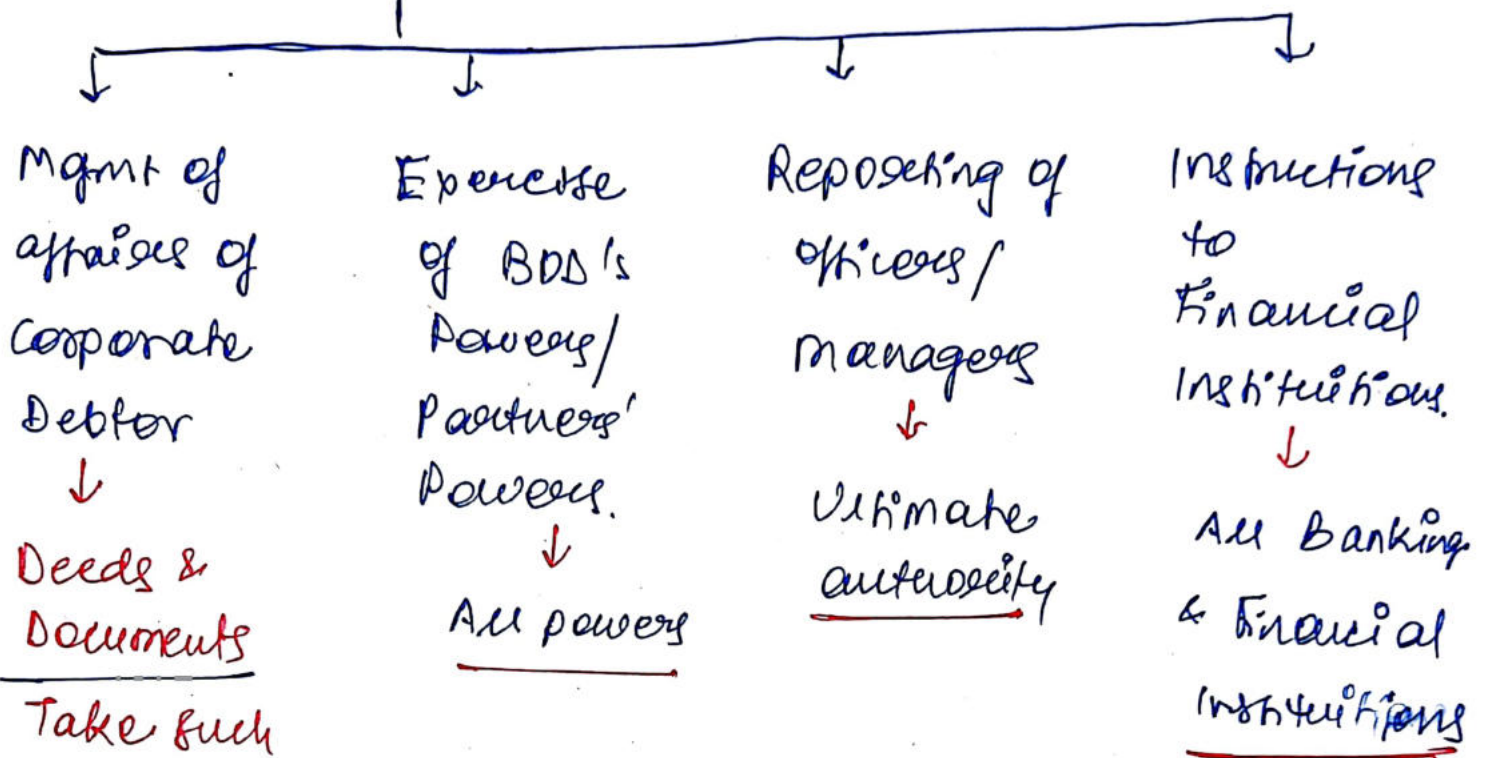
## Period of appointment of IRP

Till the appointment  
of RP.

## Key duties of IRP

- 1) Collect information to determine financial position of corporate debtor
- 2) Collation of claims
- 3) Constitution of CoC
- 4) Monitor the assets and manage the operations.
- 5) File information collected with information utility.
- 6) Take control and custody of all assets
- 7) Perform other duties as may be prescribed.

# Powers of IRP



Take such actions as specified by IBBI

Authority to access records from information utility

Access Books of A/c, records from accountant, authorities, auditors

Responsible for compliance of Law.

## Mgmt of operations of corporate debtor as going concern

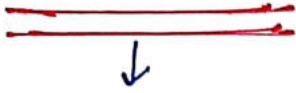
1. Protect and preserve value of property
2. Appoint professionals.
3. Enter into contracts
4. Raise interim finance\*
5. Issue instructions to staff
6. other steps.

\* = Mortgage / Pledge after consent of CoC

Exception: Property value  $\geq$  twice of debt value

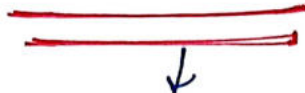
## Manner of submission of proof of claims to IRP

By Financial  
creditor



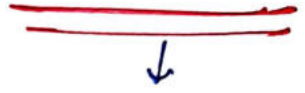
Form C

By operational  
creditor



Form B

By workmen  
and Employees



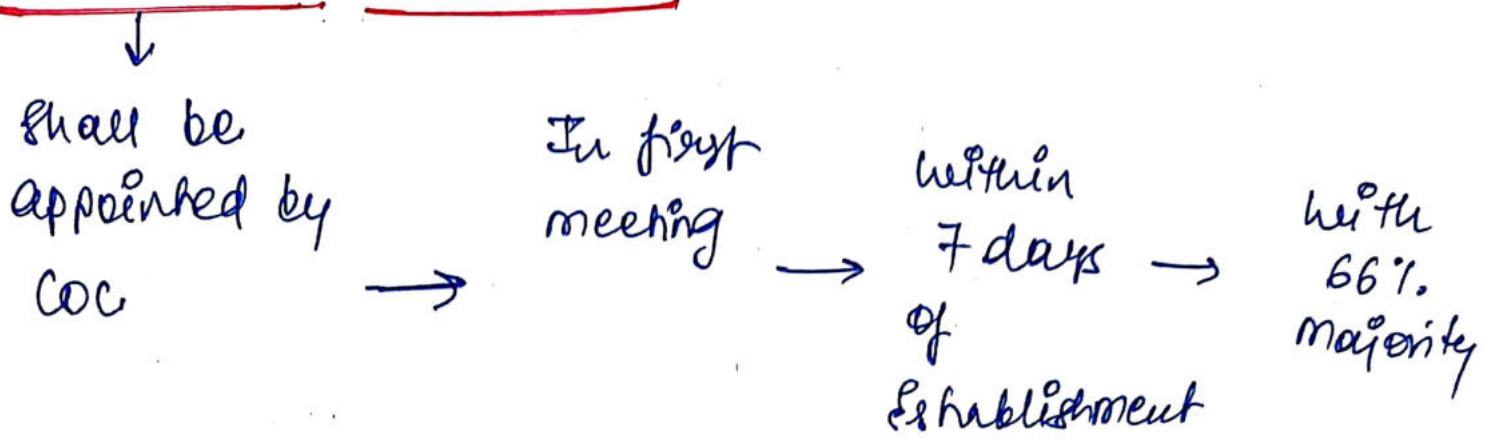
Form D.

Verification of claims :- In 7 days from end of claim period.

Report of this verification to NCLT :- In 2 days of such verification of claims.

Late submission by creditors :- In 90 days of commencement of CIRP.

# Resolution Professional



## Options of appointment

### Option 1

IRP = RP



only information  
to be sent to NCT

### Option 2

Some one else as RP



Application needs to  
be sent to NCT.

+

NCT shall take  
confirmation from

IBBI

+

IBBI to confirm  
in 10 days

+

In case of no confirmation,  
NCT shall direct  
IRP to act as RP  
till further notice.

## Role and Duties of RP

Primary role and Duty :-

1. Conduct CIRP
2. Preserve and Protect assets
3. Continue Business operations.

Activities needed to fulfill role :-

1. Take immediate custody and control of all assets & records.
2. Represent and act on behalf of corporate debtor.
3. Raise interim finance
4. Appoint accountants and other professionals
5. Maintain list of claims
6. Convene and attend all meetings of CoC.
7. Prepare information memorandum
8. Invite prospective resolution applicant.
9. Present all resolution plans at meetings of CoC.
10. File application for avoidance of certain transactions
11. Other actions as may be prescribed.

## Eligibility of RP

1. Independent of corporate debtor.
2. Eligible to be appointed as ID.
3. Should not be a related party.
4. Should not be Employee / Proprietor / Partner in last 3 F.Y. of
  - auditors
  - cost auditors
  - secretarial auditors.
5. Should not be Employee / Proprietor / Partner in last 3 F.Y. of
  - legal firm
  - consulting firm

} Transaction value  
≥  
5% of Gross T/O of  
such firm.

## Fee of RP

- shall be considered as CIRP cost.
- shall be paid in priority over other debts.

## Replacement of RP

- Opinion of CoB, then apply to NCLT
- 66% votes majority needed.
- NCLT to take confirmation from IBB/

## Preparation of ~~IRP~~ Information memorandum

1. Prepared by RP
  2. As per instructions/guidelines of IBB/
  3. Purpose is to facilitate formulating Resolution Plan.
- Information shall be shared with Resolution applicant.
  - Subject to declaration of confidentiality.

# Committee of Creditors

Constitution by :- Interim Resolution Professional

Members of CoC :- Financial Creditors

Restriction on Participation :- When FC or its authorised representative is a related party

One loan, Two creditors :- Both or all such FC shall be part of CoC

Same person financial & operational creditor :- Take part in CoC in the capacity of FC

Consortium arrangement of FC :- → Each FC can appoint an agent OR All can have Common agent.

→ Agent may or may not be Insolvency professional.

Decisions of CoC :- 51% vote share unless otherwise specified.

Demand of Financial Information :-  
→ CoC can demand  
→ RP will provide in 7 days.

Composition of CoC :- → only FC  
(when FC exist)

Composition of CoC :-  
(when FC does not exist or all of them are related Parties)

- ① 1 Representative elected by all workmen
- +
- ② 1 representative elected by all Employees
- +
- ③ 18 or total no. of OC, whichever is less.

Mode of Meeting of CoC :- Online Offline both allowed.

Meetings conducted by :- RP

Who can attend meetings of CoC :-

1. Members of CoC including authorised representative  
+

2. members of suspended BOD or partners  
+

3. Operational creditors or their representatives if amount of dues  $\geq$  10% of Total Debt.

Voting Rights :-

No voting right to non members.

First meeting of CoC :-

Within 7 days of filing report by IRP to NCLT.

Calling of Meeting :-  
of CoC

1. At the discretion of RP  
OR

2. Request by 33% voting right holder of CoC.

- Notice for meetings :-
- 5 Days advance notice
  - To all participants
  - 5 Days can be reduced to 24 hours  
(If no authorised representative present)
  - 5 Days can be reduced to 48 hours  
(If authorised representative exist)

Quorum for meetings :-

- 33% Voting Rights Holders
- CoC can change quorum requirement
- Next Day postponement in case of No Quorum.
- Quorum not needed in adjourned meeting.

# Authorised Representative

Corporate Debtor  
has more than or  
Equal to 10 FC in  
one class \*

Authorised Representative  
can be  
appointed.

Who can act  
as Authorised  
Representative?

Insolvency professional  
proposed by IRP  
approved by creditors.

Proposed by IRP

IRP shall offer 3 Professionals  
and creditors shall give  
their choice

Approved by  
creditors

choice of highest no. of  
creditors in the class

Conditions of  
Authorised  
Representative

- should not be related party
- Eligible to work as RP
- willingness

\* class :-

Includes:-

- Home Buyers
- Real Estate Allottees
- Deposit Holders
- Debenture Holders

Exclude :-

- Banks & FI

class of  
creditors from  
more than one  
state

} Must be from the state  
or UT which has highest  
no. of creditors in the class.

What if such  
state or UT  
does not have  
sufficient RP

} Approach nearby state  
or UT.

Approval by  
NCT

} IRP to apply to NCT  
within 2 days of verification  
of claims.

Meeting of COC  
and role of AR

AR shall have right  
to participate and vote  
on behalf of FC as per  
instructions of 51% FC

Instructions to AR  
and Preliminary  
views

- Instructions of FC  
mandatory
- No Instructions, No Voting
- FC to give Prelim. views  
in 12 Hours.
- Window to take views  
at least 24 Hours before  
voting starts.

Remuneration

No. of  
credits

Fee per  
meeting

10-100

15,000/-

101-1000

20,000/-

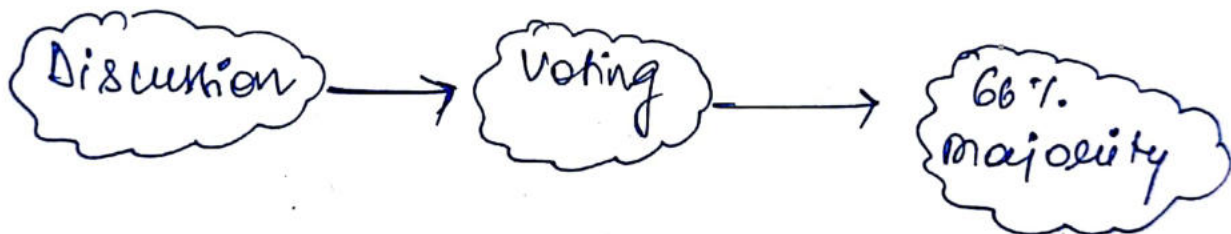
More than 1000

25,000/-

## Rights and Duties of Authorised Representative of FC

1. Right to vote and participate in CoC meetings.
2. Circulate agenda and minutes among FC
3. Act in the interest of FC
4. File voting instructions of FC with CoC

## Voting by FC and AR at CoC meetings



## Approval of CoC:

### Mandatory Matters

Resolution Professional shall take following actions only after approval of CoC (667.)

1. Raise item Finance beyond limit specified by CoC
2. create security interest
3. Change capital structure
4. Record any change in ownership interest
5. Give debit instructions to Banks.
6. Undertake related Party transaction.
7. Amend constitutional Document
8. Delegate authority to other person
9. Dispose shares ~~to~~ to third parties
10. Make changes in management
11. Transfer rights or financial debts or operational debts
12. Make changes in terms of specified staff
13. make changes in terms of auditors.

# Resolution Applicant

Following people cannot become Resolution Applicant

1. Undischarged insolvent
2. Wilful defaulter.
3. Person having an account classified as NPA (OR)  
Promoter of Corporate Debtor having NPA A/c (OR)  
Management of Corporate Debtor having NPA A/c (OR)  
Control of Corporate Debtor having NPA A/c
4. Person convicted for imprisonment of 2 years or more + 2 years cooling off
5. Disqualified to act as Director.
6. Prohibited by SEBI
7. Promoter/ Manager/ Controller of Corporate Debtor where following transactions were encountered :-
  - Preferential
  - Undervalued
  - Extortionate
  - Fraudulent

Not applicable if transactions took place before CIRP

8. Guarantor who defaulted in Payment.

9. Similar disability outside India.

10. Has a connected Person who is not eligible. → Connected Person

Mr. X & Mr. Y  
connected

Ineligible = Ineligible  
X Y

1) Promoter/manager/Controller of Resolution Applicant

2) Promoter/manager/Controller of Resolution prepared during implementation of Resolution Plan

3) Holding/sub/associate/related party of above Two.

Note :- Financial Entity always qualified to act as Resolution Applicant.

## Resolution Plan

Meaning = Plan proposed by Resolution Applicant.

Examination of Plan by = Resolution Professional

Examination done to ensure that =

1. Plan provides for Payment of CIRP costs
2. Payment to operational creditors
3. Payment to dissenting FC
4. Mgmt of corporate debtor in future
5. Implementation and supervision of plan
6. Does not contravene any law.
7. Conforms to other requirements prescribed by IBB1

Approval by CoC = 66% majority.

Attending meeting by Resolution Applicant :-   
 → Can attend   
 → cannot vote

Voting on Resolution Plan :-   
 → single Plan = 66%.   
 → multiple Plans = Highest but min 66%.   
 → Equality of votes = Tie-Breaker formula   
 → Again voting in case of NO approval.

Approval of NCT → After approval of CoC

Binding nature of Resolution plan :-   
 → Corporate debtor   
 → Its Employees   
 → members, creditors, guarantors   
 → Other stakeholders   
 → Govt   
 → Govt authorities.

Consequences of approval of CIRP :-

1. Moratorium will stop
2. RP shall forward all records to IBB

Necessary approval of NCT

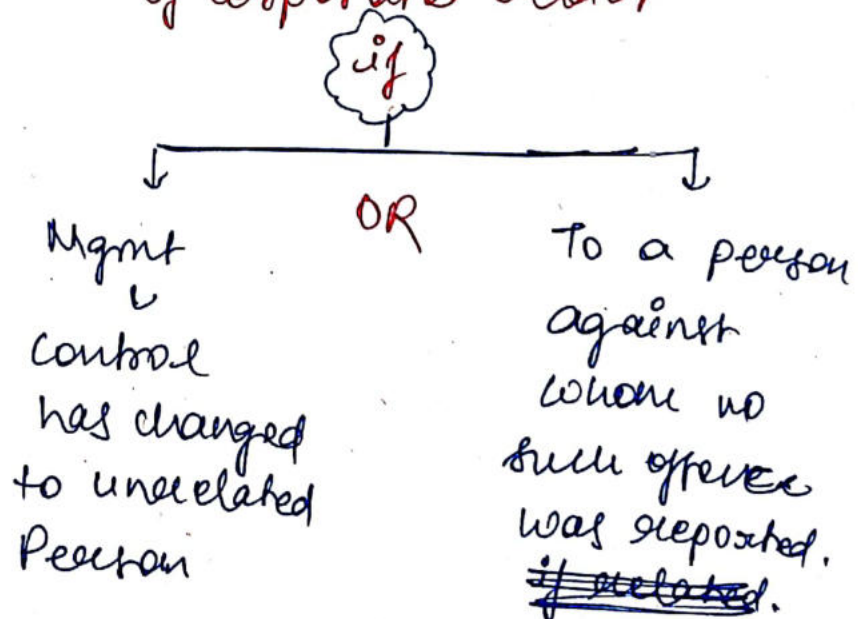
within 1 year of the approval of Resolution Plan.

Requirement of approval of competition commission of India :-

If needed, should be taken before approval of CoC or Resolution Plan.

Liability of Corporate Debtor for offence committed prior to commencement of CIRP :-

→ No further liability of Corporate Debtor



Personal  
Liability of Director/  
Designated Partner/  
Officers in Default

∴ shall continue.

Appeal against  
approval of  
Resolution Plan

### Grounds of Appeal

- ∴
1. Non compliance of Law
  2. Material irregularity in exercise of powers by RP
  3. No provision for OC
  4. No plan for CIRP costs
  5. Does not comply with criteria specified by IBC.

Consequences of  
Non submission :-  
of Resolution  
Plan

NLT may pass liquidation  
orders.

# LIQUIDATION PROCESS

## Initiation of Liquidation

1. Non submission of Resolution Plan
2. Rejection of Resolution Plan by NCLT.
3. Decision of COG to go for liquidation instead of resolution.
4. Contravention of orders of NCLT for the implementation of Resolution Plan
5. Failure in implementation of Resolution Plan.

## Consequences of Liquidation order :-

1. Bar on legal Proceedings
2. Discharge of officers, Employees and workmen when business is not continued by liquidator.

RP to act as Liquidator = unless replaced by NCLT.

Powers of BOD/ KMP = shall vest in Liquidator.

Staff compensation = Mandatory to be given to Liquidator.

Replacement of RP :- 1. When his place was rejected due to non compliance of requirements.

OR

2. Recommendations of IBBI

OR

3. RP doesnot submit written consent.

New Name of Liquidator :- Proposed by IBBI within 10 days of directions of NCLT.

Who may be Liquidator :- Insolvency Professional.

Fees of liquidator = → Decided by IBB  
→ Paid from proceeds of Liquidation Estate.

## Powers and Duties of Liquidator

1. Verify claim of creditors.
2. Take into custody all assets, property, etc.
3. Evaluate assets and report to IBB.
4. Take measures to protect and preserve assets and properties.
5. Carry on business for Beneficial Liquidation.
6. Sell property but not to any person who cannot be resolution applicant.
7. To deal with Negotiable Instruments.
8. To recover money from contributors.
9. Obtain Professional assistance.
10. Invite and settle claim of creditors.
11. Legal Proceedings.
12. Investigate financial affairs.
13. To take all steps needed for Liquidation.
14. Apply NCLT for approvals.
15. Other Functions Prescribed by IBB.

Power of liquidator  
to access information  
from :-

1. Information Utility
2. Credit Information System
3. Government agencies.
4. Information system for financial and nonfinancial liabilities
5. Information system for security interest
6. Database maintained by IBI
7. Any other source as may be specified by IBI.

Demand of creditors  
to get information  
from liquidator:-

Must be provided by  
liquidator within 7  
Days of request.

# Liquidation Estate

## Inclusions

1. Asset on which Corporate Debtor has ownership rights
2. Encumbered assets
3. Tangible and Intangible assets
4. Ownership of assets determined by court/authority
5. Assets or their value recovered through proceedings
6. Assets ~~included~~ issued as collateral over which creditors have relinquished rights
7. Property vested in Corporate Debtor at commencement of CIRP
8. Proceeds of Liquidation

## Exclusions

1. Assets owned by third party in possession of corporate debtor
2. Assets in security collateral held by financial service providers.
3. Personal assets of any shareholder / Partner of a corporate debtor, are not held on a/c of avoidance transactions.
4. Assets of any Indian or Foreign subsidiary of corporate debtor
5. Other assets specified by IBC.

## Consolidation of claims

1. Liquidator shall receive all claims in 30 days from commencement of liquidation.
2. Financial creditor shall submit claim with records of Information Utility.
3. Operational creditor shall submit claim with any supporting documents.
4. If a person is both operational and financial creditor, separate claims needed.

**Retraction in claim :-** Creditor can withdraw or vary in 14 days.

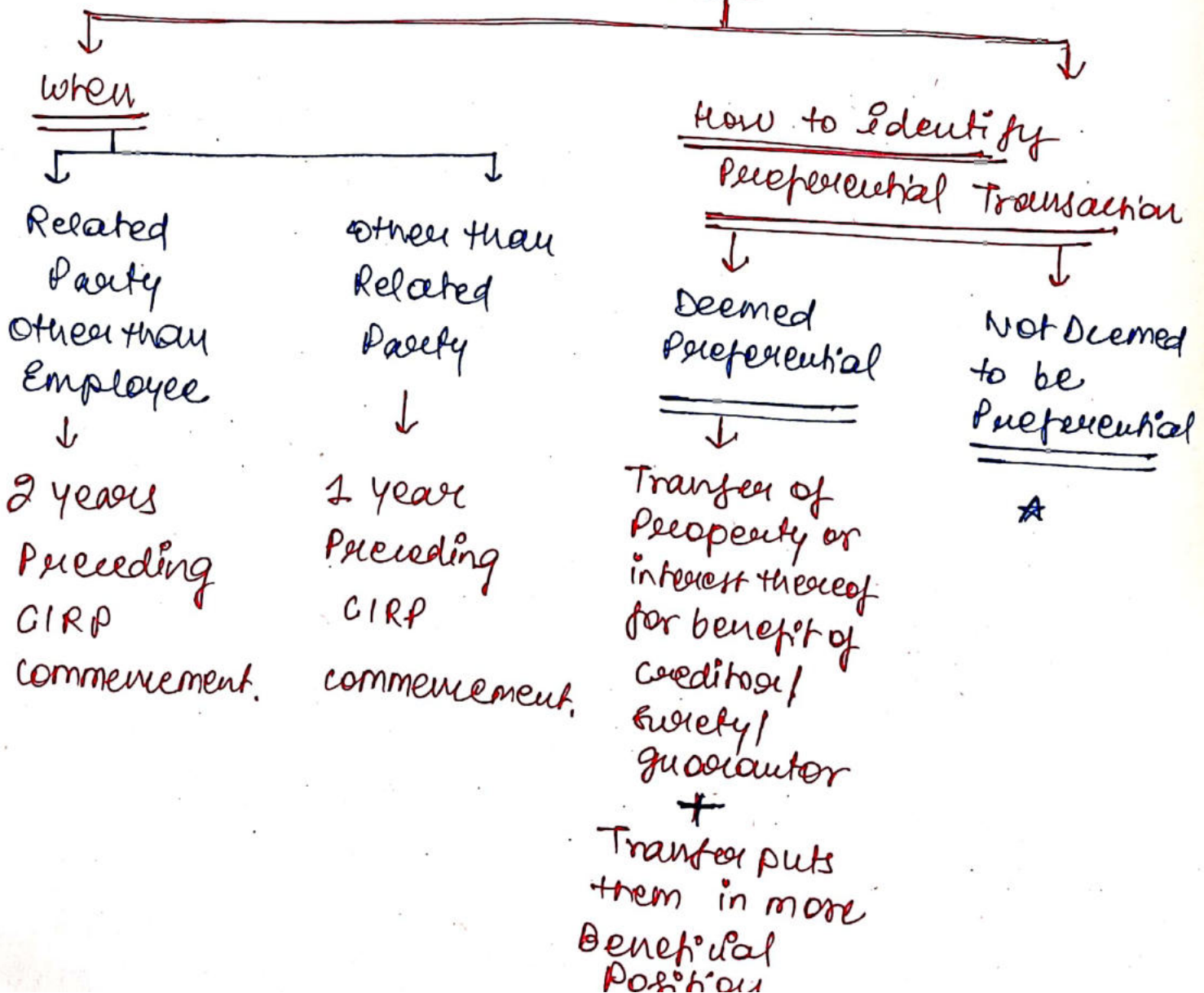
**Verification of claim :-** Liquidator to verify within 30 days of end of submission period.

**Admission / Rejection :-** Liquidator to inform within 7 days after verification.

Determination of value of claim - shall be done by Liquidator.

Appeal by creditor - In NCLT within 14 days.

Preferential Transactions - Liquidator/RP may apply to NCLT for avoidance of Preferential Transactions.



\* Following transfers shall not be preferred to as Preference Transaction

① Transfer made in ordinary course of Business.

② Transfer creating security interest in Property acquired by corporate debtor to the extent that

↓  
Security interest secures new value and was given at the time of OR after the signing of security arrangement that contains a description of such property as security interest and was used by corporate debtor to acquire such property.

↓  
Such transfer was registered with an information utility on or before 30 days after the corporate debtor receives possession of such property.

Orders of NCLT in  
Case of Preferential  
Transactions :-

1. Property transferred back to corporate debtor.
2. Release / Discharge of any security interest
3. Order Return back of undue Benefits.
4. Reinstate previous Position.

Undervalued  
Transactions :-

1. To be found out by RP/Liquidator
2. May apply to NCLT for avoidance.
3. Meaning of Undervalued Transaction :-

↓  
Gift to  
a Person  
other than  
in ordinary  
course

OR

↓  
Transfer of  
asset at  
significant  
lesser value.

4. Tenure :-

- 1 Year :- Other than Related Party
- 2 Years :- Related Party

If liquidator or RP  
does not report to  
NLT about undervalued  
Transaction

Following People may  
apply :-

- 1) Creditors
- 2) Member / Partner

Orders of NLT for  
undervalued  
transactions :-

1. Transfer back of the  
Property.
2. Release of security  
interest.
3. Order to pay back  
Benefit Received.
4. Order to pay consideration  
as determined by expert.

Transactions  
defrauding creditors :-

Grounds of Order

1. Keeping assets of corporate  
debtor beyond reach of  
creditors
2. Adversely affect interest  
of creditors.

Content of order

Restoring the original position.

## Extortionate credit Transactions

∴ Meaning

Transaction requiring corporate Debtor to make exorbitant Payments

OR

unconscionable under Principles of law relating to contracts.

Application to NUT :-

only if such transaction relates to period of -  
2 years preceding CIRP commencement.

orders of NUT regarding Extortionate Transactions :-

1. Restore the position
2. Set aside the debt
3. Modify terms of transaction
4. Order Repayment of Benefit unduly received
5. Relinquishment of security interest.

# Secured creditor in Liquidation Proceedings

1. Rights of secured creditor :- Relinquish security interest OR Realise security interest
2. Verification of security interest :- To be done by liquidator before realising.
3. Hindrance caused by Corporate Debtor :- secured creditor may approach NCLT
4. Yield of surplus :- Pay to liquidator and furnish accounts.
5. CIRP costs due from secured creditors :- shall be recovered from them.
6. Unpaid debts :- If proceeds of realisation falls short, such balance shall be put in the list of liabilities.

## Distribution of Assets

Requirements of distribution :-

- ① List of stakeholders and Asset memorandum to be filed with NCT.
- ② Payments within 90 days from receipt of realization.
- ③ CIRP costs and Liquidation cost shall be first deducted.

Liquidator fee :-

shall be deducted proportionately from the proceeds of each class of recipients.

Order of Distribution :-

As per Priority order defined by Law.

Liquidation Period :-

1 year. Else, apply to NCT for extension with status report.

## Order of Priority

1 → CIRP costs and Liquidation Cost

2 → Workmen Dues for last 24 months and secured creditor

Rank Equally

3 → Employee Dues of last 12 months

4 → Financial Debt owed to unsecured creditors.

5 → Govt Dues of Last 2 years and Debts owed to secured creditor pending even after realisation

Rank Equally

6 → All remaining debts and dues.

7 → Preference shareholders

8 → Equity shareholders / Partners.

## Dissolution of Corporate Debtor

Application of  
Dissolution :- By: Liquidator  
To: NCLT

When: Conclusion of Liquidation.

Date of Dissolution:- Date of order of  
Dissolution.

ROC Filing :- within 7 days of NCLT  
order.

# Pre-Packaged Insolvency Resolution Process

P P I R P

Eligible Corporate Debtor

:- Micro, small or Medium Enterprise. with default value min 10 Lakh.

Conditions of application for PIRP

- :-
1. No PIRP in last 3 years.
  2. Not undergoing CIRP
  3. No liquidation order
  4. Applicant should be eligible to be resolution applicant
  5. Name of proposed IRP approved by 66% of FC
  6. Declaration by majority directors/partners about
    - application for PIRP in 90 days
    - No intention of fraud
    - Proposed IRP/IRP is given
  7. Special Resolution
  8. Corporate Debtor to provide Base Resolution Plan to FC

## Attachments of application of PPIRP

1. Declaration, SR of members, partners, directors.
2. Approval Proof of FC
3. Details of Proposed RP and his report
4. Details of Books of a/c
5. Declaration regarding Fraudulent transactions.

## Accept / Reject of application by NUT

- Decision in 14 days
- Admit if application complete
- Reject if Incomplete.

## Time Limit to Complete PPIRP -

- 120 days
- Resolution Plan by RP within 90 days

## Duties of RP before initiation of CIRP :-

1. Prepare report about eligibility and compliance of conditions.
2. File such reports as specified by IBB.
3. Perform other duties as may be specified by IBB.

## Declaration of Moratorium and Public announcement :-

1. Moratorium same as CIRP
2. Public announcement by RP same as CIRP

## Duties and Powers of RP during CIRP

- | <u>Duties</u>                           | <u>Powers</u>                              |
|---|--|
| 1. Confirm list of claims.              | 1. Access A/c & records                    |
| 2. monitor mgmt.                        | 2. Access records with information utility |
| 3. Inform CoC for any Breach            | 3. Attend meetings                         |
| 4. Constitute CoC                       | 4. Appoint professionals                   |
| 5. Convene & attend meetings            | 5. Collect financial information           |
| 6. Preparation IM                       | 6. take other actions.                     |
| 7. Apply for avoidance of Transactions. |  |
| 8. Others.                              |  |

List of claims and  
Preliminary Information :-  
Memorandum

1. Corporate debtor will submit to RP in 2 days
  - List of claims
  - Preliminary info. memorandum.
2. List must be correct else liable to pay compensation.

Mgmt of affairs of  
Corporate Debtor

∴ Mgmt will not shift to RP. unless resolved by CoC and approved by NCLT.

CoC

- ∴
1. Constituted by RP
  2. within 7 days
  3. New members may be added.
  4. First meeting in 7 days of constitution.

≡

# Consideration and Approval of Resolution Plan

1. Corporate Debtor will give BRP to RP in 2 Days.

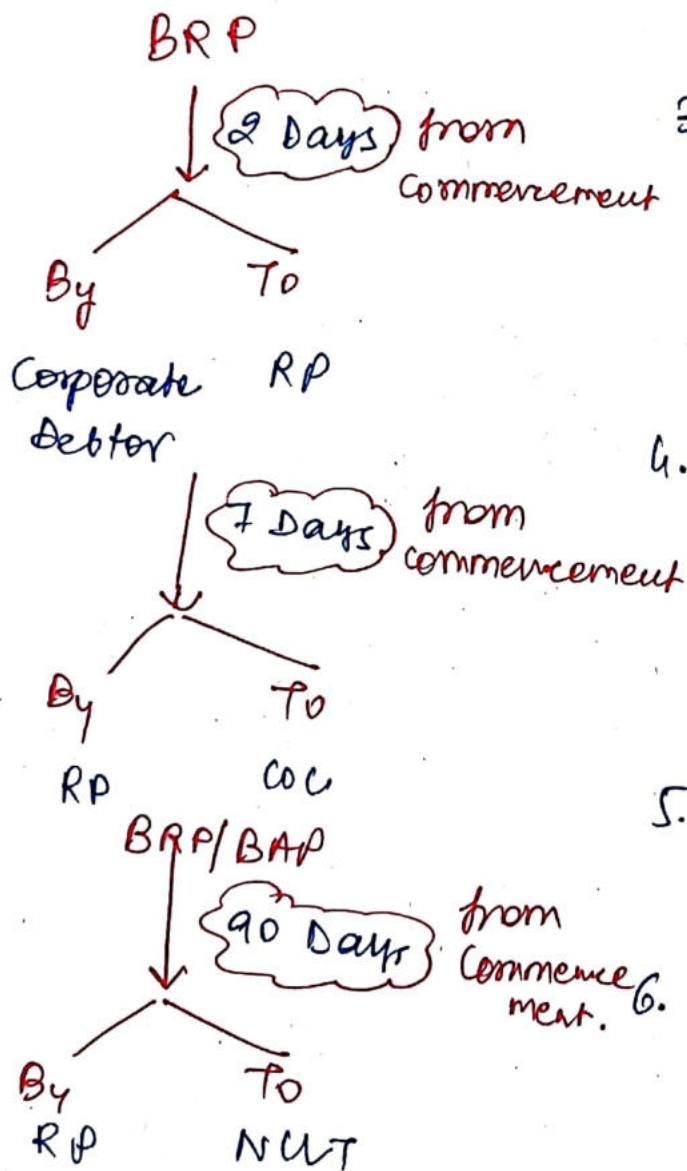
2. RP will give BRP to COC at first meeting.

3. COC may decide to approve BRP or may invite Alternate Plans/ More Plans.

4. RP to provide evaluation criteria and necessary information to Resolution Applicant.

5. COC to approve BRP or BAP. (66%.)

6. NCT to approve or reject Resolution Plan. within 30 days.



Appeal against  
Order of NCLT  
to approve Resolution  
Plan :-

### Grounds of Appeal

1. Contravention of Law
2. Material Irregularity in exercise of Powers by RP
3. No provision for OC
4. No Provision for PPIRP Costs
5. Does not meet other criteria prescribed by IBB.

Termination of  
PPIRP :-

- Apply by RP
- Orders by NCLT
- Consequence : Liquidation  
or  
Commencement  
of CIRP

MSME → can be Manufacturing OR services

Investment & Turnover criteria

In P&M/  
Equipment.

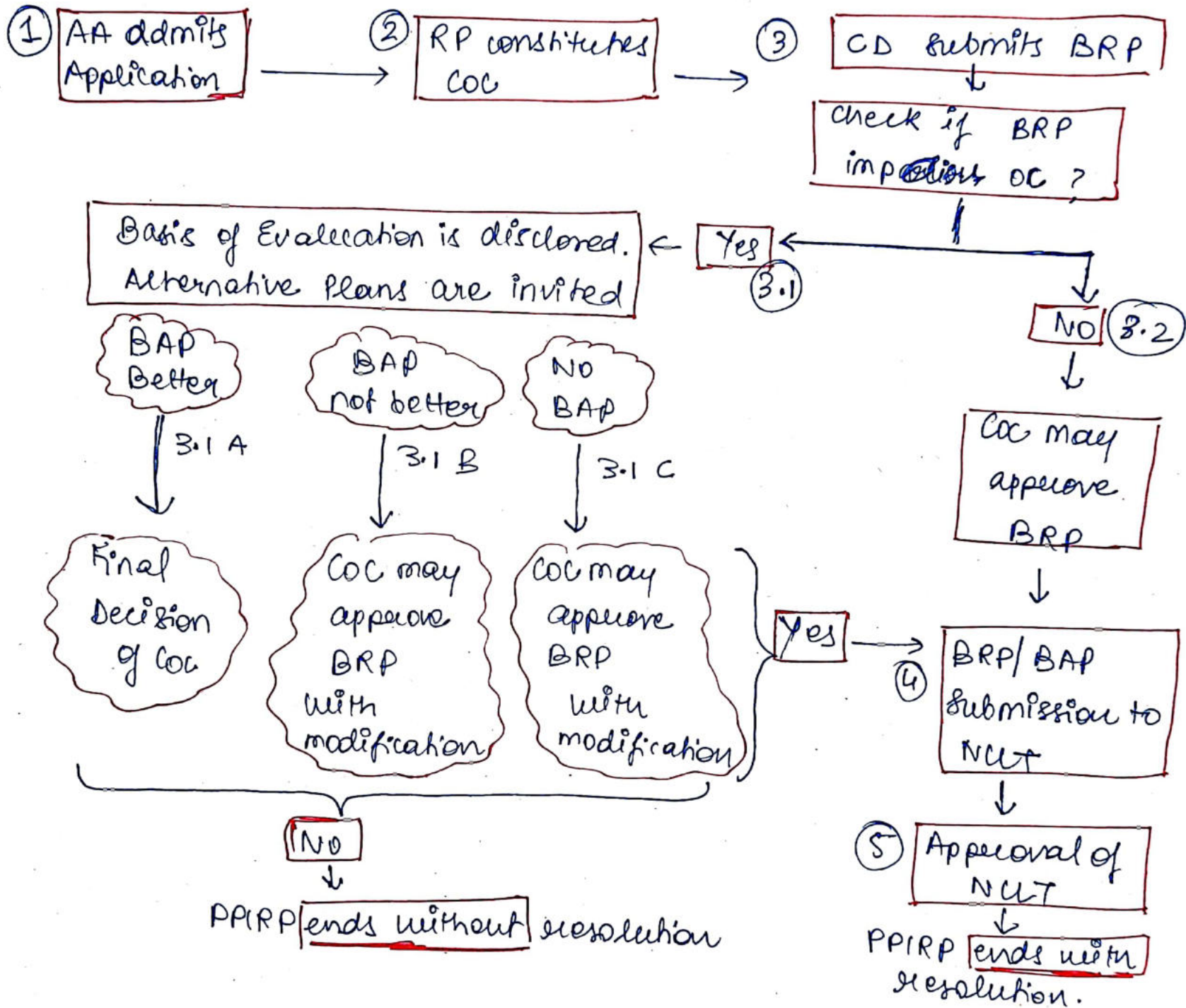
Investment + Turnover

Max 1 crore + Max 5 crore = Micro

Max 10 crore + Max 50 crore = Small

Max 50 crore + Max 250 crore = Medium

PAN Based  
Computation



# Fast Track Insolvency Resolution for Corporates

## Applicability

↓  
Small Co.  
or  
Start up  
excluding  
Partnership  
Firm  
or  
Unlisted Co.  
with Max  
Total Assets  
of 1 crore.

## Time Period

↓  
90 Days  
↓  
Extension  
upon request  
of RP  
after instruction  
from 759.  
creditors in  
CoC.  
↓  
Extension only  
once.

## Application By

↓  
CD OR Creditor  
+  
Along with  
Proof of  
default  
and  
Other  
prescribed  
documents.

# Voluntary Liquidation

Voluntary  
=  
No Default.

Requirements  
=  
Prescribed  
conditions  
★

Notification to  
=  
ROC & IBB  
Within 7 days of  
decision

Commencement  
Date  
=  
Date of  
Passing  
Resolution

Replacement  
of Liquidator  
=  
SR + Information  
to IBB in 3 days

Dissolution  
Application  
=  
To NCLT after  
Liquidation  
& ROC filing  
in 14 days of  
Order.

## ★ Conditions

1. Declaration by  
Directors about  
No debt &  
No default.

2. Attachments of  
declaration  
→ Financial statements  
+ of last 2 years  
→ Valuation Report

3. Within 4 weeks of Declaration

SR + Appoint  
↓ Liquidator  
4 weeks  
4 weeks

+ Approval of  
creditors  
2/3rd in 7 days

## INSOLVENCY AND BANKRUPTCY CODE, 2016

### Question 1.

Write short note on the following;

- (i) Applicability of Insolvency and Bankruptcy Code, 2016 (4 marks; 2018 - June)
- (ii) Persons who are not entitled to initiate insolvency resolution process (4 marks; 2018 - Dec)
- (iii) Rights and duties of authorised representative of financial creditors (4 marks; 2019 - June)
- (iv) Duties of Interim resolution Professionals. (4 marks; 2019 - Dec)
- (v) Replacement of resolution professional by Committee of creditors. (3 marks; 2021 - Dec)

### Question 2.

State the manner of initiation of corporate insolvency resolution process by financial creditor under the Insolvency and Bankruptcy Code, 2016. (5 marks; 2018 - June)

### Question 3.

The Insolvency and Bankruptcy Code, 2016 & is not applicable to corporates in finance sector Explain. (2 marks; 2018 - Dec)

### Question 4.

Mr. Ganesh, an operational creditor filed an application for corporate insolvency resolution process. He does not propose for appointment of an interim resolution professional in the application. State the provisions given by the code in the given situation. State the term of such appointed IRP. (3 marks; 2019 - June)

### Question 5.

Who can initiate insolvency resolution process? (2 marks; 2019 - June)

### Question 6.

How many times extension of the period of Corporate Insolvency Resolution process can be granted? (1 mark; 2019 - Dec)

### Question 7.

Who can initiate the insolvency resolution process? (3 marks; 2021 - Dec)

### Question 8.

Everlasting Ltd. went into Liquidation XYZ Bank Ltd. the secured, creditor, decided to realise its security interest by informing, liquidator of such security interest and identify assets subject to which such security interest has to be realised. Liquidator denied the XYZ bank Ltd. to enforce its security interest as said secured creditor is not a part of committee of creditors. Throw a light on the stated situation and examining on the validity of the stand taken by the liquidator.

(3 marks; 2021 - Dec) [Sec. C Four LAQ]

### Question 9.

Nature India Limited filed a petition under Insolvency and Bankruptcy Code 2016 with National Company Law Tribunal (NCLT) against Tulip Limited and the petition was admitted. After that, Nature India Limited wanted to withdraw the petition based on a settlement arrived between the parties. Whether it is permissible to withdraw the petition after it has been admitted? Decide.

Also explain the rules relating to the admission and rejection of application by an adjudicating authority under the Insolvency and Bankruptcy Code 2016. (4 marks; 2017 - Nov)

**Question 10.**

Standard International Ltd, who is a foreign trade creditor having its office in Hong Kong wanted to file a petition under Insolvency and Bankruptcy Code 2016 on default of the debtor in India. It moved a petition u/s 9 of the Code seeking commencement of insolvency process. The foreign company was not having any office or bank account in India. Because of this, it could not submit a "Certificate from a financial institution" as required under the Code. Whether the petition is permissible under the Insolvency and Bankruptcy Code 2016? Decide (4 marks; 2017 - Nov)

**Question 11.**

You are appointed as Interim Resolution Professional in XYZ Company Ltd. under the Insolvency and Bankruptcy Code, 2016. State the time limit to make Public Announcement. Also state the protocol for issuance of public notice. Who shall bear the expenses of public announcement? (4 marks; 2018 - May)

**Question 12.**

In view of the deep recession prevailing in the market for the past three years, M/s. Infra Limited (Corporate Debtor), which was facing the brunt of financial crisis, could not pay salaries and wages to its workmen and employees for the past 6 months. The workmen and the employees, who are the members of a recognized Trade Union. "Infra Labor Federation", made a complaint in this regard. Thereafter, the Trade Union approached and urged the Management of the Company in person and through representations in writing to settle the arrears of wages and salaries due to its members. The Corporate Debtor neither disputed nor took any actions to settle the amount. Under the circumstances, Infra Labor Federation filed an application before the Adjudicating Authority i.e. with the National Company Law Tribunal for initiating a Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016.

In the light of the provisions of the Insolvency and Bankruptcy Code, 2016, examine the following:

- (i) Validity of the Application
- (ii) What will be the "Initiation date" for initiating the Corporate Insolvency Resolution Process? (6 marks; 2019 - Nov)

**Question 13.**

The Committee of Creditors of M/s XYZ Limited proposes to appoint Mr. Ajit, an Insolvency Professional, as Insolvency Resolution Professional in the matter of corporate insolvency process of M/s XYZ Limited. Mr. Ajit was a promoter of M/s ABC Limited which is a holding company of M/s XYZ Limited. Examine and decide whether Mr. Ajit is eligible for appointment as an Insolvency Resolution Professional under the Provisions of Insolvency and Bankruptcy Code, 2016. (3 marks; 2019 - Nov)

**Question 14.**

Omega Limited is undergoing a Corporate Insolvency Resolution Process under the Insolvency and Bankruptcy Code, 2016 (IBC Code, 2016). Mr. Ravi was appointed as the Resolution Professional. On perusal of the books of accounts of Omega Limited, Mr. Ravi noted a few undervalued transactions had taken place during a period of six months preceding the insolvency commencement date. However, despite having sufficient information, he did not report such transactions to the Adjudicating Authority. Now, the members of Corporate Debtors propose to make an application to the Adjudicating Authority to report the undervalued transactions. Referring to the provisions of IBC Code, 2016, answer the following:

- (i) Whether the members of Corporate Debtors have a legal right to do so?
- (ii) What orders the Adjudicating Authority can pass in such a situation? (3 marks; 2021 - Jan)

**Question 15.**

SLX International Ltd., a foreign trade creditor, having its office in New York wants to file a petition under the Insolvency and Bankruptcy Code, 2016 on default of a debtor in India. It moved a petition under Section 9 of the Code seeking commencement of insolvency process. The foreign company was not having any office or bank account in India. Because of this, it could not submit a "certificate from financial institution" as required under the Code. Examine whether the petition is admissible under the Insolvency & Bankruptcy Code, 2016? (3 marks; 2021 - July)

**Question 16.**

ABC Limited is undergoing voluntary liquidation process under Section 59 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016). Mrs. Rita was appointed as liquidator by ABC Limited after complying with the provisions of the IBC, 2016. During the process, Mrs. Rita got occupied with other professional assignments, and hence ABC Limited decided to replace the liquidator with other insolvency professional. Referring to the provisions of IBC, 2016, answer the following:

- (i) Whether ABC Limited can replace Mrs. Rita with another liquidator?
- (ii) What will be the reporting requirements to be fulfilled by the newly appointed liquidator immediately after appointment under the IBC, 2016?
- (iii) What are the reporting requirements under IBC, 2016, after receiving the order of dissolution from the Adjudicating Authority? (3 marks; 2021 - Dec)

**Question 17.**

Rose Garden Ltd. was incurring continuous losses and its financial position went bad to worse. Black Stone (Private) Ltd., a trade creditor, issued notice under Sec. 271 of the Companies Act, 2013 for winding up of Rose Garden Ltd. on the ground that Rose Garden Ltd. was unable to pay its debts. After some time, Black Stone (Private) Ltd. being an operational creditor filed a petition before the Adjudicating Authority to initiate insolvency process under the Insolvency and Bankruptcy Code, 2016. Demand Notice and copy of invoice were not served to Rose Garden Ltd. since a notice was earlier issued for winding up. All other formalities were complied with. The Adjudicating Authority initiated Insolvency Resolution Process by admitting the application and appointed Resolution Professional. After complying required formalities, the Adjudicating Authority issued orders for moratorium and other relief within the stipulated time. Being aggrieved by the order of Adjudicating Authority, Rose Garden Ltd. (Corporate debtor) filed an appeal before NCLAT under the Insolvency and Bankruptcy Code, 2016. Determine will the Company succeed in its appeal? (6 marks; 2018 - May)

**Question 18.**

As on March 31, 2018, the audited balance sheet of M/s Sharp industries Limited, revealed total assets of industries Limited, in the capacity of a Corporate Debtor, filed an application on July 1, 2018 with the Adjudicating Authority for initiating a fast track corporate insolvency resolution process. Explain under the provisions of Insolvency and Bankruptcy Code, 2016 the following:

- (i) Whether the application made by M/s Sharp Industries Ltd. for initiating a fast track corporate insolvency resolution process is admissible?
- (ii) The time period including the extension of time period, if any, within which the fast track corporate insolvency resolution process shall be completed? (4 marks; 2018 - Nov)

**Question 19.**

XY Ltd. filed a petition under Insolvency and Bankruptcy Code, 2016 with NCLT against DF Ltd. (Corporate Debtor) and the petition was admitted. There were only three financial creditors including XY Ltd. During the Corporate Insolvency Resolution process, the Corporate Debtor settled the claims of all the 3 financial creditors. Whether such settlement agreement could be termed as a valid resolution plan? Also discuss whether a financial creditor in respect of whom there is no default can file an application before Adjudicating Authority (NCLT) for initiating corporate insolvency resolution process. Discuss. (6 marks; 2018 - Nov)

**Question 20.**

The following particulars relate to M/s. Star House (P) Limited which has gone into Corporate Insolvency Resolution Process (CIRP):

S. No.	Particulars	Rupees
1.	Amount realized from the sale of liquidation of Assets	7,00,000
2.	Secured Creditors who has relinquished the security	2,50,000
3.	Unsecured Financial Creditors.	2,00,000
4.	Income Tax Payable within a period of two years preceding the liquidation commencement date.	25,000
5.	Cess Payable to State Government within a period of one year preceding the liquidation commencement date.	10,000
6.	Fees payable to resolution professional.	37,500
7.	Expenses incurred by the resolution professional in running the business of M/s. Star House (P) Limited on going concern.	17,500
8.	Workmen salary payable for a period of thirty months preceding the liquidation commencement date. The workmen salary is equal per month.	1,50,000
9.	Equity Shareholders.	5,00,000

State the priority order in which the liquidator shall distribute the proceeds under the Insolvency & Bankruptcy Code, 2016. (6 marks; 2019 - May)

**Question 21.**

Continental Rubber Limited is a supplier of raw materials to Smooth Latex Limited. It filed a petition before the NCLT for the recovery of ₹ 10,00,000 from Smooth Latex Limited. Smooth Latex Limited, the Corporate Debtor, has other financial creditors to the extent of ₹ 1,50,00,000 and they also joined together and filed petitions to NCLT. The Corporate Debtor has a total of 40 financial creditors and 2 operational creditors. Further, all the financial creditors are having equal voting rights/shares.

**Question 22.**

Pursuant to Section 33 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016) a liquidation order was passed against Luci Soya Limited (LSL) (Corporate Debtor) by the Adjudicating Authority (NCLT), Mr. Solanki, was appointed as the liquidator by the NCLT. Upon resuming his mantle, Mr. Solanki started collecting claims from all the creditors within the time frame as prescribed in the IBC, 2016. While initiating the liquidation process as per provisions of the IBC, 2016. Mr. Solanki proposed to include the Equity shares of one of its subsidiary, as part of the liquidation estate in relation to the corporate debtor. Besides this, one of the unsecured financial creditor demanded that, at the time of distribution of liquidation proceeds, his dues may be paid before the government dues are paid. Mr. Solanki also observed that pending legal proceedings against the corporate debtor, 'A' Ltd, an operational creditor, has filed a case with the Arbitral Tribunal praying for an arbitral award against LSL.

On the basis of the above information and in the light of the Insolvency and Bankruptcy Code, 2016, answer the following:

- (i) Whether the proposal of Mr. Solanki to include the equity shares of the subsidiary Company of LSL as part of liquidation estate tenable?
- (ii) How should Mr. Solanki deal with the demand of the unsecured financial creditor?
- (iii) Whether 'A' Ltd will succeed in its prayer for an arbitral award against LSL?

(6 marks; 2020 - Nov)

**Question 23.**

Abhi Limited entered into an agreement with Atulya Gas Limited for purchase of natural gas, which is not specified as an essential supply. On failure of Abhi Limited to make payments, Atulya Gas Limited issued notice to Abhi Limited that further supply of gas would be stopped if payments are not made immediately. On further non-payment. Atulva Gas Limited filed a petition before NCLT for initiating Corporate Insolvency Resolution process against Abhi Limited. On 1<sup>st</sup> was admitted. On 30<sup>th</sup> April.2020, Atulya Gas Uimited disconnected gas supply to Abhi Limited for non-payment. As a result of disconnection of gas supply, operations of Abhi Limited came to a halt. The Hesolution professional filed a petition to NCLT seeking Atulya Gas Limited to resume the supply of natural gas, as natural gas was an important material for production of electricity by Abhi Limited.

Referring to the provisions of Insolvency and Bankruptcy Code, 2016, answer the following:

- (i) When the moratorium period will expire in this case?
- (ii) Whether Resolution Professional will be successful in his petition filed with NCLT?

(3 marks; 2020 - Nov)

**Question 24.**

As at 31st March, 2020, XYZ Limited had the following debts:

Creditors Name	Nature of Debt	Amount (INR in Lakhs)
A	Financial Debt	200
B	Financial Debt	250
C	Financial Debt (Related Party) - Not Regulated by the Financial Sector Regulator.	150
D	Operational Debt	150
E	Operational Debt	250
	Total	1000

Due to impact of heavy losses and liquidity crunch, XYZ Limited could not pay the above debts. Since the debts were overdue for a long time, creditor A filed an application with the Adjudicating Authority (NCLT) to initiate a Corporate Insolvency Resolution Process against XYZ Limited and the application was accepted. Stating the provisions of The Insolvency and Bankruptcy Code, 2016 answer the following with reference to the above financial data:

- (i) Who will all form part of the Committee of Creditors ('CoC') from the above list of Creditors?
- (ii) Whether the above Operational Creditors have a right to vote in CoC Meeting?
- (iii) What Is the compulsory agenda to be discussed in the first meeting of CoC?
- (iv) What shall be the quorum of the CoC meeting if it is conducted through video conferencing?

(6 marks; 2021 - Jan)

**Question 25.**

Mr. J was proposed to be appointed as a resolution professional for the Corporate Insolvency Resolution Process (CIRP) initiated against BMR Ltd. Mr. R, a relative of director of BMR Ltd is a partner in the insolvency professional entity in which Mr. J is a partner In the light of the given facts, examine whether Mr. J is eligible for appointment as Resolution Professional for the conduct of the CIRP as per the Insolvency and Bankruptcy Code, 2016?

(3 marks; 2021 - July)

**Question 26.**

Committee of creditors of XYZ Ltd. (Corporate Debtor) consists of financial creditors of ₹ 245 crore and operational creditors of ₹ 25 crore. They appointed a resolution professional Mr. P in their first meeting held on 5<sup>th</sup> Sep. 2020. Resolution professional issued a notice for a meeting to be held on 10th November to approve a resolution plan with respect to management of affairs of company but notice was not given to operational creditors. Meeting was conducted on 10<sup>th</sup> November and resolution plan was approved by committee of creditors by not less than 75% of financial creditors. Referring to the provisions of the Insolvency and Bankruptcy Code. 2016, examine:

- (i) Whether meeting was valid as notice was not given to operational creditors?
  - (ii) Whether resolution plan approved will be binding on all creditors and the corporate debtor?
- (3 marks; 2021 - July)

**Question 27.**

TIM Limited is undergoing Corporate Insolvency Resolution Process ("CIRP") under the jurisdiction of National Company Law Tribunal (NCLT), Delhi. During the CIRP process, the Resolution Professional needs the assistance of the District Collector due to non-cooperation from the directors of TIM Limited to take control of all the property, books of account or other documents and has approached NCLT, Delhi, regarding this matter. In the meanwhile, TIM Limited applied with High Court objecting the assistance from the District Collector.

Referring to the provisions of the Companies Act, 2013, examine whether the District Collector can deny the request of NCLT, Delhi and further comment whether the High Court has the power to question the act of the District Collector. (4 marks; 2021 - Dec)

**Question 28.**

Mr. Kush, an operational creditor, filed an application with the Adjudicating Authority (NCLT, Delhi) to initiate the Corporate Insolvency Resolution Process ("CIRP") against M Limited, and the application was accepted. On 10th July 2021, NCLT Delhi appointed Mr. Ajay to act as an Interim Resolution Professional of M Limited. After the appointment, Mr. Ajay issued the public announcement on 12th July 2021, of the initiation of CIRP process and call for the submission of claims. On 20th July 2021 the Committee of Creditors was constituted by Mr. Ajay. Thereafter, Mr. Kush wants to withdraw his application under Section 12A of the Insolvency and Bankruptcy Code, 2016. However, Mr. Ajay, denied filing a withdrawal application stating that the Committee of Creditors has already been constituted.

Referring to the provisions of the Insolvency and Bankruptcy Code, 2016 answer the following with reference to the above facts.

- (i) Is Mr. Ajay right to deny Mr. Kush to file a withdrawal application with NCLT, Delhi? Explain in detail.
- (ii) Would your answer differ in case the Committee of Creditors is not constituted?
- (iii) Who is the authority to pass the final order of withdrawal application?

(6 marks; 2021 - Dec)

**Question 29.**

Argum Infrastructure Project Private Limited [Corporate Debtor] is classified as a Small Enterprise under Sub-section (1) of Section 7 of the Micro, Small and Medium Enterprises Development Act, 2006, Act, 2006. It owes ₹ 60 Lakh to its creditors. In view of Covid-19 Pandemic situation, the Corporate Debtor was not in a position to recover money from Sundry Debtors as per the payment schedule and it commits default in settling dues to the Sundry Creditors. The Corporate Debtor decided to go for Pre-packaged Insolvency Resolution Process [PPIRP] under the provisions of the Insolvency and Bankruptcy Code, 2016 (IBC) and accordingly took the following steps to initiate PPIRP.

The Financial Creditors of the Corporate Debtor, not being its related parties, representing 66% in value of the financial debt due to them proposed Mr. Pure, the Insolvency Professional, to be appointed as Resolution Professional to conduct PPIRP.

The Majority of the Board of Directors of the Corporate Debtor have made a declaration that the PPIRP is not being initiated to defraud any person and nothing more is contained in the declaration. The Members of the Corporate Debtor passed an Ordinary Resolution approving the filing of an application for initiating PPIRP.

There were no further approvals obtained from the Financial Creditors/Board of Directors on any matters.

Referring to the provisions of the Insolvency and Bankruptcy Code 2016 advise on the following matters for filing an application before NCLT to initiate PPIRP.

- (i) Whether the act of Financial Creditors proposing the name of the Mr. Pure as Resolution Professional is valid?
- (ii) Whether the declaration made by the Board is in accordance with the Provisions of the IBC?
- (iii) Whether the resolution passed by the members of the company is in line with the requirements of the IBC?
- (iv) Are there any requirements to get the approval of the Financial Creditors/Board of Directors on any other matters? If so, state the relevant provisions of the IBC.

(6 marks; 2022 - May)

**Question 30.**

Ram, the financial creditor, was an investor and a debenture holder of 'Optionally Convertible Debenture Bond (OCDB)' payable on maturity with redemption premium, issued by Asset Limited (Corporate Debtor). The zero interest OCDB bonds amounted to ₹ 3 Crores was matured in 2016. The Corporate Debtor failed to discharge this liability on due date. Ram filed an application to initiate the Corporate Insolvency Resolution Process (CIRP) before the NCLT.

Advise, in the light of the given facts, the following situations referring to the provisions of the Insolvency and Bankruptcy Code, 2016:

- (i) Whether Ram is eligible for filing an application for initiation of CIRP?
- (ii) Whether the redemption of debenture bonds, payable on the maturity date, amounts to debt?

(3 marks; 2022 - May)

**Question 31.**

Mr. SP booked office space with Elegant Construction Limited. At the time of booking Rs. 3.6 crore was paid. Remaining amount of Rs. 1 crore was to be paid at the time of taking delivery. He entered into a Memorandum of Understanding (MoU) with the company having various terms and conditions of the sale/allotment. According to the MoU, Elegant Construction Limited was required to build and deliver the possession of the unit within 2 years from the date of execution of the MoU. It also stipulated payment of an assured return of Rs. 9,20,000 per month (subject to TDS u/s 194A of IT Act, 1961) till possession of the unit was delivered to Mr. SP. Elegant construction Limited failed to pay the assured return. Thereafter, Mr. SP filed an application for initiating insolvency resolution process. Decide about the validity of the said application in view of the provisions of Insolvency and Bankruptcy Code, 2016 as regards the definition of a 'financial creditor' under section 5(7) read with section 5(8) of the Code.

**[CA (Final) Nov. 2018 (Modified)]**

**Question 32.**

Best Bank, a financial creditor sent a demand notice for a claim of Rs. 10.2 crores on XYZ Limited, a corporate debtor on 6th February, 2018. When the petition was filed before NCLT under Insolvency and Bankruptcy Code, 2016, Best Bank claimed that the XYZ Limited has defaulted Rs. 29.8 crores instead of original amount of Rs. 10.2 crores. NCLT appointed an interim insolvency resolution professional. XYZ Limited made an appeal with NCLAT demanding that the Best Bank's claim is not maintainable as there is a difference in the amount mentioned in the demand notice and the application filed under the Code. Decide whether the contention of XYZ limited is correct. Also, state who can file Corporate Insolvency Resolution Process under the Code?

**[CA (Final) Nov. 2018]**

**Question 33.**

Explain the roles relating to the admission and rejection of application made by an operational creditor, by an adjudicating authority under the Insolvency and Bankruptcy Code, 2016.

**[CA (Final) Nov. 2017]**

**Question 34.**

M/s TAS Constructions Private Limited, an operational creditor, on 2nd April, 2018 being the default date issued a demand notice through speed post to M/s Dheeraj Constructions Private Limited, an unpaid operational/corporate debtor demanding payment of its invoice dated 19th March, 2018 for Rs. 5,60,00,000 (15 days payment terms) towards supply of certain works contract services as per the provisions of section 8(1) of the Insolvency and Bankruptcy Code, 2016 and rules framed thereunder.

Dheeraj Constructions Private Limited on receipt of the demand notice informed the operational creditor, that vide their e-mail dated 30th March, 2018, addressed to the company and all its directors, they have disputed the invoice on the quality of the services rendered and were withholding payment till the dispute is settled but without initiating any legal proceedings under any law for the time being in force. The operational creditor on expiry of the period of 10 days from the date of delivery, of the demand notice and non-payment of its dues approached the Adjudicating Authority for the initiation of the corporate insolvency resolution process under section 9(1) of the Insolvency and Bankruptcy Code, 2016. Will the application of the operational creditor filed under section 9(1) read with section 8(2)(a) of the Insolvency, and Bankruptcy Code, 2016 be permitted? [CA (Final) May 2018]

**Question 35.**

Venus Limited owes a sum Rs. 12 crore to Mr. Khan, who assigns this debt to his two creditors viz., Mr. Joseph to an extent of Rs. 4 crore and Mr. Pratap to an extent of Rs. 8 crore. Mr. Pratap makes a demand for his money from the company by giving a legal notice. The company could not meet Mr. Pratap's demand or otherwise satisfy him till the expiry of four weeks from the date of notice. Mr. Pratap, therefore, moves to NCLT with an application for initiation of insolvency of the company. Referring to the provisions of the Insolvency and Bankruptcy Code, 2016, decide whether Mr. Pratap's application can be accepted by the NCLT. [CA (Final) Nov. 2019 (Modified)]

**Question 36.**

Rose Garden Limited filed its financial statements for the year ending 31st March, 2017 with Registrar of Companies, Chennai which disclosed that the liabilities amounted to Rs. 3.87 crores as against the assets of Rs. 1.37 crores. On the basis of the scrutiny of the financial statements, the Registrar filed an application for Corporate Insolvency Resolution Process under Insolvency & Bankruptcy Code, 2016 against the company that the company is unable to pay its debts on the ground that the value of liabilities far exceeded the value of assets. Examine whether the company has any case to defend against the application filed by the Registrar. [CA (Final) Nov. 2019]

**Question 37.**

M/s Systemtek India Private Limited (Appellant-Corporate Debtor) has challenged the order dated 3rd July, 2011 passed by the Adjudicating Authority (National Company Law Tribunal) Mumbai Bench, Mumbai, in the National Company Law Appellate Tribunal (NCLAT).

NCLT had admitted the application preferred by appellant under Section 10 of the Insolvency and Bankruptcy Code, 2016 and an order of Moratorium was passed and Insolvency Resolution Professional was ordered to be appointed by the Ld. Adjudicating Authority (NCLT).

The only grievance of the appellant in its challenge is that the movable and immovable property of Guarantor (promoter) has been attached pursuant to a Corporate Insolvency Resolution Process initiated under section 10 against the Appellant by the Ld. Adjudicating Authority (NCLT) which is violative of section 14(1)(c) of the Insolvency and Bankruptcy Code, 2016 though the Code prescribes a Moratorium for certain types of transactions. Decide. [CA (Final) May 2018]

**Question 38.**

Mr. Atul was appointed as the Insolvency Resolution Professional for XYZ Ltd. An application to replace the insolvency resolution professional was filed before the Adjudicating Authority by some financial creditors. The financial creditors propose to appoint Mr. K as the insolvency professional instead of Mr. Atul Referring to the relevant provisions of the Insolvency and Bankruptcy Code 2016, decide whether Mr. Atul can be replaced and if so, state the procedure to be followed to appoint another IRP in place of existing one. [CA (Final) May 2010]

**Question 39.**

BDLK Limited decided to go for voluntary winding up and accordingly the Board of directors at a meeting of the Board are about to take the necessary steps to initiate the winding up proceedings. The Board of directors of the company approached you for guidance in this regard. Please list out the steps required under the Insolvency t Bankruptcy Code, 2016 before approval of such liquidation proposal with specific reference to meetings and actions of relevant stakeholders. [CA (Final) May 2018]

**Question 40.**

MF Capital Private Limited accepted inter corporate deposits from JS Financial Services Private Limited. MF Capital Private Limited is a Non-banking Financial Company which has obtained a certificate from the Reserve Bank of India for carrying on the business of providing financial services. As there was a default in repayment of deposits, JS Financial Services Private Limited filed an application with the NCLT under section 7 of the Insolvency and Bankruptcy Code, 2016. Examine the validity of the application. [CA (Final) May 2019]

**Question 41.**

State the circumstances when persons are not entitled to make an application to initiate corporate insolvency resolution process. Suppose a corporate debtor has committed a default and is undergoing a corporate insolvency resolution process. A corporate applicant Mr. X thereof files an application for initiating corporate insolvency resolution process with an Adjudicating Authority. State whether he (Mr. X) is entitled to make an application to initiate corporate insolvency resolution process?

**Question 42.**

Is there any time limit for completion of the Insolvency Resolution Process?

Or

Explain in the light of the Insolvency and Bankruptcy Code, 2016, time limit for completion of the Corporate Insolvency Resolution Process? [MTP-Oct. 18, Oct 20]

**Question 43.**

Wisdom Ltd. commits a default against the debts taken from the financial creditors. Mr. F, a financial creditor initiated the corporate insolvency resolution process (CIRP) against the Wisdom Ltd. Mr. X, another financial creditor, thereof files an application for initiating corporate insolvency resolution process with the Adjudicating Authority. Examine with reference to the validity as to the filing of an application by Mr. X for initiation of corporate insolvency resolution process? [RTP-May 18, MTP-Oct. 19]

**Question 44.**

Mr. Ramlal, an Insolvency professional was appointed as a resolution professional for a corporate insolvency process initiated against the corporate debtor, Monotech Ltd. Mr. Ramlal is a partner of consulting firm M/s Supervision and company which is entity recognized under the IBBI. It was discovered that M/s Supervision and company had a transaction with the Monotech Ltd. amounting to 11% of its gross turnover in the last financial year 2018-2019. Analyse the given situation as per the Insolvency and Bankruptcy Code, 2016, and advise on the validity of appointment of Mr. Ramlal as resolution professional against Monotech Ltd. What if, the creditor of the Monotech Ltd. opines that the resolution professional appointed is required to be replaced. [MTP-Aug. 18]

**Question 45.**

Mr. IP was proposed to be appointed as a resolution professional for the insolvency resolution process initiated against BMR Ltd. Mr. R, a relative of director of BMR Ltd. is a partner in the insolvency professional entity in which Mr. IP is partner. In the light of the given facts, examine the nature of the proposal of the appointment of Mr. IP for the conduct of the CIRP as per the Insolvency and Bankruptcy Code, 2016. [MTP-March 19, May 20, RTP-May 20]

**Question 46.**

Mr. Ram, an operational creditor filed an application for corporate insolvency resolution process. He does not proposed for appointment of an interim resolution professional in the application. State the provisions given by the Code in the given situation. State the period of IRP holding the said office. [MTP-March 19, May 20]

**Question 47.**

NYM Garments Limited was incorporated under the Companies Act, 1956. Now, the company is under the Insolvency proceedings and the application is pending before the Adjudicating Authority. AVR Fabrics Limited is the supplier to NYM Garments Limited and a sum of 10,00,000 is outstanding as on 31st January, 2020. A notice was issued by the advocate of AVR Fabrics Limited to NYM Garments on 1st February, 2020 to make the payments. The notice was delivered at the registered office of NYM Garments Limited on 4th February, 2020. AVR Fabrics Limited has not received any payment or reply from the corporate debtor, NYM Garments Limited till 13th February, 2020. The Corporate Creditor, AVR Fabrics Limited, seeks your advice regarding the admission of application by NCLT on the following issues:

- (i) The procedure for filing the application and the documents submitted to the Tribunal.
- (ii) If the Corporate Debtor, NYM Garments Limited, disputed the amount of claim by a reply on 25th February, 2020, stating the amount outstanding was 8,00,000 only and not Rs. 10,00,000 as claimed by AVR Fabrics Limited.
- (iii) If the Corporate Debtor, NYM Garments Limited, has paid an amount of Rs. 7,00,000 in full settlement of the outstanding due. [Nov. 20 - Old Syllabus (6 Marks)]

**Question 48.**

Oil & Gas Energy Limited (Corporate Debtor) borrowed a loan of Rs. 100 crore for its expansion project form State Bank of India (SBI), Bank of India (BOI) and Punjab National Bank (PNB) under the consortium arrangement in the proportion of 50%, 30% and 20% respectively. The corporate insolvency process has begun by order of the Tribunal on an application made by the Financial Creditor. The Interim Insolvency Resolution Professional (IIRP) constituted a Committee of Creditor (CoC) which noted that total financial debt owed by the Corporate Debtor is Rs. 500 crore in aggregate. You are requested to state which of the members of the consortium shall be the member of CoC and what shall be their voting share in the CoC as per the provisions of the Insolvency and Bankruptcy Code, 2016. [Jan. 21 - Old Syllabus (4 Marks)]

**Question 49.**

OLAF Limited (Corporate Debtor) borrowed a loan of Rs. 250 crore for expansion of his business under the consortium arrangement in the proportion of 50%, 30% and 20% from A, B & C Banks respectively. The corporate insolvency resolution process has begun by order of the Tribunal on an application made by the Financial Creditor. The Interim Insolvency Resolution Professional, constituted a Committee of Creditors (CoC) which noted that total financial debt owed by the Corporate Debtor is Rs. 500 crore in aggregate. Examine who shall be the member of CoC and what shall be their voting share in the CoC as per the provisions of the Insolvency and Bankruptcy Code, 2016. [MTP - April 21]

**Question 50.**

X Inc Ltd is a holding company of Y Infrastructure Ltd. Insolvency resolution process was initiated against the X Inc Ltd on 15th December 2020. In the meantime another financial creditor initiated CIRP against Y Infrastructure Ltd. Later X Inc Ltd filed an appeal contending that resolution process against Y Infrastructure Ltd. should not continue till CIRP is decided in the case of X Inc Ltd. on the basis of initiation of moratorium. Also, the Resolution plan of X Inc Ltd. approved by CoC, was still pending before the Adjudicating authority for its approval. In the light of given situation, examine whether CIRP initiated against the X Inc Ltd., can bar the CIRP initiated against the Y Infrastructure Ltd.?\_ [RTP - May 21]

**Question 51.**

Halogen Limited, is facing acute shortage of funds and owes huge sums of money to its financial and operational creditors.

- (i) When will the provisions of insolvency and liquidation of corporate persons be applicable on a corporate person?
- (ii) State with reasons whether the following persons can initiate insolvency resolution process against Halogen Limited:
  - Mr. Y, a person to whom an operational creditor of Halogen Limited has assigned his debt of Rs. 120 lakhs.
  - Mr. P is a financial creditor, to whom the company owes Rs. 80 lakhs.

[July 21 - Old Syllabus (4 Marks)]

**Question 52.**

The resolution plan of Ankush Ltd. was approved by the Adjudicating Authority under the provisions of the Insolvency and Bankruptcy Code, 2016. As a result of the implementation of the resolution plan, there was change in the entire management of Ankush Ltd. and its control has been handed over to persons who have not been its related parties and against whom no legal proceedings are going on under any statute.

Ankush Ltd. was liable for an offence committed under the provisions of the Prevention of Money Laundering Act, 2002, prior to the commencement of corporate insolvency resolution process, due to which one of its properties was liable to be attached by the Enforcement Director (ED) under the said Act. Such property has been covered under the resolution plan approved by the Adjudicating Authority.

Also, one another property of Ankush Ltd. was liable to be seized under the provisions of the Foreign Contribution Regulation Act, 2010, prior to the commencement of corporate insolvency resolution process. However, such property was acquired by Lavan Ltd. through the corporate insolvency resolution process, covered in the resolution plan.

In the context of aforesaid case-scenario, enumerate whether any actions can be taken against the two aforesaid properties of Ankush Ltd., one of which has been acquired by Lavan Ltd.? [MTP-Oct.21]

**Question 53.**

Financial creditor initiated CIRP which was admitted by the NCLT. Interim Resolution Professional was appointed. The Interim Resolution Professional (IRP) after collation of all the claims, constituted the Committee of Creditors (CoC) and meeting of the CoC was called on. The expression of interest was called on from the prospective resolution applicants. One Resolution Applicant named ABC Ltd., expressed its interest in owning the company. The IRP observed that ABC Ltd. is in the array of defaulters as announced by the RBI. Meanwhile the CoC thought to replace the IRP, since the present IRP was not able to invite sufficient number of prospective resolution applicants. Based on the above facts, whether CoC can replace the existing IRP with another Resolution Professional (RP)? Also state the manner of replacement of IRP with another RP. [MTP-Oct. 21]

**Question 54.**

The Adjudicating authority under the Insolvency and Bankruptcy Code, 2016, had received an application on 10th August from the Committee of Creditors of Bhisma Ltd. which proposed name of a resolution professional, Mr. Dev, to be appointed as a replacement of resolution professional, Mr. Kunal. A written consent from Mr. Dev was obtained for his appointment in form AA of the Schedule and then the CoC of Bhisma Ltd. had made such decision of replacing Mr. Kunal by a vote of 70% of the voting shares. Actually, Mr. Kunal had sanctioned for a transaction of Bhisma Ltd. with its associate company without seeking required approval from the CoC, due to which reason, the CoC of Bhisma Ltd. was aggrieved as Mr. Kunal had exceeded his scope of authority and accordingly, such a decision of replacing him was taken.

In the context of aforesaid case-scenario, please answer to the following questions:

- (i) Whether the application of the Committee of Creditors of Bhisma Ltd. can be maintained by the Adjudicating authority and when Mr. Dev would be considered to be appointed as the new resolution professional of Bhisma Ltd.?
- (ii) Whether Mr. Kunal can be said to have exceeded his scope of authority? [MTP-Nov. 21]

**Question 55.**

Jewar Ltd., a diamond manufacturing company, is undergoing Corporate Insolvency Resolution Process (CIRP). The CIRP had initiated on 1st January 2021. Mr. Shubh was acting as the Interim Resolution Professional who was later appointed as Resolution Professional by the Committee of Creditor. Mr. Shubh has been working hard since day 1 to get a resolution plan approved before the last day of the CIRP. However, due to external factors, as on 31st May, 2021, he realized that he is unable to decide as to which resolution plan can be taken to the committee of creditors for approval and also that he will need another 3 months to get a resolution plan approved. You are his partner in an Insolvency Professional Entity.

Advise as to:

- (i) The factors that need to be considered before taking the resolution plan to the committee of creditors
- (ii) Whether Mr. Shubh can seek an extension for completion of the CIRP? [RTP-Nov.21]

**Question 56.**

Mr. X, a Resolution professional in a liquidation process, on an examination of sale of property of Corporate debtor finds that a transaction was made by the corporate debtor to his relative within 6 months preceding the Insolvency Commencement date, was undervalued. Give the following answers in reference to the above situation:

- (a) State the validity of the conduct of such transaction by corporate debtor to his relative.
- (b) What will be the consequences when resolution professional determines such transactions undervalue and fails to report that same to NCLT?
- (c) What order NCLT shall pass when Corporate Debtor entered into an undervalued transaction? [MTP-April 18]

**Question 57.**

The following particulars relate to Big Rammy (Private) Ltd. which has gone into Corporate Insolvency Resolution Plan (CIRP)

Sr. No.	Particulars	Amount
1	Amount realized from the sale of liquidation of assets	14,00,000
2	Secured creditor who has relinquished the security	5,00,000
3	Unsecured financial creditors	4,00,000
4	Income-tax payable within a period of 2 years preceding the liquidation commencement date	50,000
5	Cess payable to state government within a period of one year preceding the	20,000

	liquidation commencement date	
6	Fees payable to resolution professional	75,000
7	Expenses incurred by the resolution professional in running the business of the Big Rammy (Private) Ltd. ongoing concern	25,000
8	Workmen salary payable for a period of 30 months preceding the liquidation commencement date. The workmen salary is equal p.m.	3,00,000
9	Equity shareholders	10,00,000

State the priority order in which the liquidator shall distribute the proceeds under the Insolvency and Bankruptcy Code. [MTP-Oct. 18]

**Question 58.**

Ever Lasting Ltd. went into liquidation. XYZ Bank Ltd. the secured creditor, decided to realize its security interest by informing liquidator of such security interest and identify assets subject to which such security interest has to be realized. Liquidator denied the XYZ Bank Ltd. to enforce its security interest as said secured creditor is not a part of Committee of creditors. Throw a light on the stated situation and examine on the validity of the stand taken by the Liquidator. [MTP-March 21]

**Question 59.**

Crown Industrial Conveyors Limited had advanced a loan of? 1 crore to M & Co. Private Limited whose office was functioning in a rented house property belonged to Mr. M, the Managing Director. The lending company intends to attach the property of Mr. M as liquidation asset and seeks your advice with regard to its position in a Liquidation proceeding initiated under the Insolvency and Bankruptcy Code 2016. [July 21 - Old Syllabus (4 Marks), MTP-Nov. 21]

**Question 60.**

Whether it is possible to go for a liquidation process before the submission of resolution plan. [July 21 - Old Syllabus (4 Marks)]

**Question 61.**

ABZ Ltd. an unlisted company with total assets of Rs. 1 crore as per financial statement as on 31<sup>st</sup> March, 2021, defaulted in the payment of the financial debt against the financial creditor X. X filed an application for initiation of insolvency process against ABZ Ltd. under the fast track CIRP on 31<sup>st</sup> May 2021. Discuss the relevancy for disposal through the mechanism of the fast track CIRP and the legal position of holding of fast track CIRP by X in the term of the IBC, 2016. Compute the time period for completion of fast track process in the said situation. [RTP-May 20]

**Question 62.**

XYZ Limited, an unlisted company with total assets of Rs. 90 lakh as per financial statement as on 31<sup>st</sup> March, 2021, defaulted in the payment of the financial debt against the financial creditor Mr. A. Mr. A filed an application for initiation of insolvency process against XYZ Limited under the fast-track corporate insolvency resolution process by 31<sup>st</sup> May, 2021. Discuss the relevancy for disposal through the mechanism of the fast-track corporate insolvency resolution process and the legal position of holding of fast-track corporate insolvency resolution process by Mr. A in terms of the IBC, 2016. Compute the time period for completion of the fast-track process in the said situation. [Jan. 21 - Old Syllabus (4 Marks)]

**Question 63.**

Defaulter Limited, an unlisted company registered in India with total assets amounting to Rs. 3 crore and turnover of Rs. 50 lakh as per financial statement immediately preceding the financial year was facing financial crisis. The financial creditors of the firm wanted to file a petition for initiating the insolvency resolution process with the Adjudicating Authority. The financial creditors want an early recovery of their dues. In view of the above position, state whether insolvency process can be initiated under fast-track process under the IBC and maximum period for the completion of process? [MTP - March 21]

**Question 64.**

X Ltd. was intending to initiate voluntarily liquidation proceedings. A declaration was made on affidavit of the some of the directors of the X Ltd. verifying full inquiry of the affairs of the company. They gave the opinion that the company will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation.

Analysing the given situation, comment whether X Ltd. can initiate voluntary liquidation proceeding in compliance with the conditions given in the Insolvency and Bankruptcy Code, 2016. What are the required documents to be accompanied with the declaration?

Also, state the consequences, where if the articles fixed the period of duration for which company may be carried and that period expires. [MTP-March 18]

**Question 65.**

Creative India Limited owes a sum of ₹ 2,80,000 to S, who assigns this debt to his two creditors, Mr. R - to the extent of ₹ 1,40,000 and Mr. M - to the extent of ₹ 1,40,000. Mr. M makes a demand for his money from the company by giving a legal notice. The company could not meet Mr. M's demand or otherwise satisfy him till the expiry of four weeks from the date of notice. Mr. M, therefore, moves to NCLT with an application for initiation of Insolvency and Bankruptcy Code, 2016, decide whether an application filed by Mr. M can be accepted by NCLT. **RTP (N 19)**

**Question 66.**

The financial creditor, Mr. Raman, was an investor and a debenture holder of 'Optionally Convertible Debenture Bond (OPDB)' payable on maturity, was issued by the M/s Asset Ltd. (corporate debtor). The zero interest OCD bonds amounted to 2 crore matured in 2016. The liability to redeem the debentures on maturity along with a redemption premium lay on the debtor, which was not made. Mr. Raman filed the Corporate Insolvency resolution process before the NCLT. Advise in the light of the given facts, the following situations: **RTP (M 19)**

- (i) State whether Mr. Raman is eligible for filing of application for initiation of CIRP?
- (ii) Do the redemption of debenture payable on the maturity date amounts to debt?

**Question 67.**

Notice was issued on 1<sup>st</sup> August, 2018 for the conduct of the first meeting to be held on 5<sup>th</sup> August, 2018 at a common venue. The meeting was attended by all 40 financial creditors and 2 operational creditors. A resolution was passed to appoint Mr. TK as a Resolution Professional. 25 of the financial creditors voted in favour of the resolution and 10 voted against the resolution and 5 financial creditors and 2 operational creditors abstained from voting. Decide whether the resolution passed is valid? In the light of the provisions of Insolvency and Bankruptcy Code, 2016 read with rules framed thereunder, explain the requirements of issue of notice and quorum for the conduct of the meeting.

**Question 68.**

Kirti, an Insolvency Professional, was appointed as a Resolution Professional for a CIRP initiated against the Corporate Debtor, Losers Ltd. Kirti is a Partner of the Consulting Firm M/s Kirtilal & Co. It was found that M/s Kirtilal & Co had a transaction with Losers Ltd amounting to 11% of its Gross Turnover in the last financial year. Examine the validity of appointment of Kirti as Resolution Professional in this case.

**Question 69.**

The following particulars relate to Closure Private Limited which has gone into Corporate Insolvency Resolution Process (CIRP). State the priority order in which the Liquidator shall distribute the proceeds of realization of the Entity's Assets ₹ 18,00,000 under the IBC.

Unsecured Financial Creditors	₹ 3,30,000
Secured Creditor who has relinquished the Security given to him	₹ 3,00,000
Income Tax Payable within a period of 2 years preceding the liquidation commencement date	₹ 1,00,000
Cess payable to State Government within a period of 1 year preceding the liquidation commencement date	₹ 10,000
Fees payable to Resolution Professional	₹ 1,00,000
Expenses incurred by the Resolution Professional in running the business of Company on going concern basis	₹ 20,000
Workmen Salary payable for a period of 30 months preceding the Liquidation Commencement Date. [Note: The Workmen Salary is equal per month]	₹ 3,00,000
Salary to Employees other than Workmen for a period of 18 months preceding the Liquidation Commencement Date. [Note: The Salary is equal per month]	₹ 3,60,000
Amount payable to Suppliers of Essential Goods and Services - (a) Prior to the liquidation commencement date ₹ 33,000, and (b) during the CIRP period ₹ 37,000	₹ 70,000
Equity Shareholders	₹ 10,00,000
Preference Shareholders	₹ 2,00,000

**Question 70.**

KLM Ltd was intending to initiate voluntarily liquidation proceedings. A Declaration was made on Affidavit of the some of the Directors of the Company, who gave the opinion that the Company will be able to pay its debts in full from the proceeds of assets to be sold in the voluntary liquidation. Comment whether the Company can initiate voluntary liquidation proceeding in compliance with the conditions given in IBC, 2016. What are the required documents to be accompanied with the declaration? Also, state the consequences, where if the AOA fixed the period of duration for which Company may be carried and that period expires.