

Indian Bankruptcy Code 2016: Impact On Cross-Border Insolvency, an Analysis

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Abstract : India has been tackling with less than sophisticated legislations when it comes to recovery of debt and bankruptcy situations for a while now. There were multiple overlapping laws and adjudication forums dealing with financial failures and insolvency of companies/individuals in India without really aiding the timely recover of defaulted assets. It remained dicey for businesses to invest in India since there was a lack of legal and institutional machinery for dealing with debt defaults as per the global standards. After much deliberation, the Indian Draft Insolvency code received the presidential assent on May 28, 2016 bringing the Bankruptcy and Insolvency Code, 2016 into existence. The Code is expected to bring about great progress for the country and specifically has the two standout developments. The first is that it calls for resolution of corporate insolvency within a period of 180 days extendable by 90 days hence bringing about security in the minds of investors. Second is that it calls for the creation of a new class of insolvency professionals whose primary function shall be helping sick companies and banks with their takeovers, provides for setting up an Insolvency and Bankruptcy Board to regulate the same and provides for a two stage process of liquidation. The Code is estimated to help India move up its ranking on the World Bank's ease of doing business index. It is currently ranked at the 130th position lower than some of the sub-saharan African countries. Besides this, however, there are various areas in which the Code falls short such as lack of provisions for aiding the issue of cross-border insolvency, impact on Medium and Small Enterprises in India etc. This paper aims to analyze the provisions of the new Bankruptcy and Insolvency Code, 2016 and its contribution in making India a more desirable location for doing business. It shall also emphasize on the cross-border insolvency issues, practices followed by other countries to resolve the same and the way forward for India to strengthen its Bankruptcy and Insolvency framework.

Keywords : bankruptcy and insolvency code 2016, cross-border insolvency provisions in the 2016 code, Ease of doing business and bankruptcy code, highlights of the new Indian bankruptcy code 2016

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