



# Insolvency and Bankruptcy code

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## Why in news?

The Supreme Court had has revived the insolvency case against Byju's, suspending the National Company Law Appellate Tribunal's order that had quashed bankruptcy proceedings against the company.

## About IBC, 2016:

- It is the *bankruptcy law of India* which seeks to *consolidate the existing framework by creating a single law for insolvency and bankruptcy*.
- It provides for *atime-bound process to resolve insolvency*.
- **Applicability:** The provisions of the Code are *applicable to companies, limited liability entities, firms, and individuals* (i.e. all entities other than financial service providers).

## Timeframe for completion of the exercise:

- Companies have to *complete the entire insolvency exercise within 180 days* under the IBC. The *deadlinemay be extended* if the creditors do not raise objections to the extension.
- For *smaller companies, including startups with an annual turnover of Rs 1 crore, the whole exercise of insolvency must be completed in 90 days*, and the *deadline can be extended by 45 days*.
- If debt *resolution doesn't happen*, the company goes for *liquidation*.

## Who regulates the IBC proceedings?

- The *Insolvency and Bankruptcy Board of India (IBBI)* has been appointed as a **regulator** and it can oversee these proceedings.
- IBBI has *10 members appointed by the Central Government*.
- IBBI *regulates insolvency professionals, insolvency professional agencies, and information utilities set up under the Code*.

## Who facilitates the insolvency resolution?

- A licensed professional administers the resolution process, manages the assets of the debtor, and provides information for creditors to assist them in decision-making.

## Who adjudicates over the proceedings?

- The proceedings of the resolution process will be *adjudicated by the National Companies Law Tribunal (NCLT) for companies and the Debt Recovery Tribunal for individuals*.
- The courts approve initiating the resolution process, appointing the insolvency professional, and giving nod to the final decision of creditors.

## What is the procedure to resolve insolvency under the Code?

- When a default occurs, the resolution process may be initiated by the debtor or creditor.

- The insolvency professional administers the process.
- The professional provides financial information of the debtor from the information utilities to the creditor and manages the debtor's assets.
- This ***process lasts for 180 days***, and any legal action against the debtor is prohibited during this period.

### What does the committee of creditors do?

- A committee consisting of the ***financial creditors*** who lent money to the debtor is formed by the insolvency professional.
- The creditors' committee ***decides the future of the outstanding debt*** owed to them.
- They may choose to revive the debt owed to them by changing the repayment schedule or selling the assets of the debtor to get their dues back.
- If a ***decision is not taken in 180 days, the debtor's assets go into liquidation.***

### What happens under liquidation?

- If the debtor goes into liquidation, an ***insolvency professional administers the liquidation process.***
- ***Proceeds from the sale of the debtor's assets are distributed in the following order:***
- First, insolvency resolution costs, including the remuneration to the insolvency professional;
- second, secured creditors, whose loans are backed by collateral; and third, dues to workers, other employees; fourth, unsecured creditors