

Resolving Insolvency In India

April 04, 2018

Today we attended a CII Conference on Resolving Insolvency and must admit that the time was well invested in listening to and interacting with entire spectrum of stakeholders. All the sessions were well conducted by luminaries and in professional manner giving multiple take aways for anyone who cared to carry. Due to our limited capabilities and very limited comprehension, it is difficult to cover all of these in a single post. We, therefore, are restricting to top three, not in any particular order of priorities.



1. ENGAGEMENT:

For the first time in any regulatory process we found the complete engagement of all the stakeholders, who come from very diversified and extremely specialized background. We were delighted to see the government authorities & regulators encouraging the executors' inputs. Equally satisfying was the mature approach displayed by eminent players in sharing their concerns and appreciating the fact that IBC is a new law that is intended to and actually bringing in, paradigm shift. The professionals were game enough to admit that everybody in the ecosystem is on a learning curve; teething troubles exist, expected and welcomed, reaffirming their continued support to the authorities & regulator. While the speed of enactment & implementation – including amendments – were lauded, & justifiably so, caution against being complacent was equally forthright

2. RESPECT:

There was a clear respect for & by every stakeholder on full display. Banker going out of their usual way to support the Resolution Professional, Lawyers advising the Accountants, Regulators valuing the inputs from the executors, a rare show of camaraderie, particularly among the intellectuals. In addition to supporting the people involved, there was an almost unanimous nod for the respect for the process itself. Stakeholders were convinced, and were quite forthcoming in expressing themselves in maintain the sacrosanct sanctity of the process, even at the cost of short term loss or pain to some of the stakeholders. Whether it was respecting the timelines or withdrawal of proceedings or entertaining the superplayers or circumventing the rules / regulations, everybody was supporting the view that more than the letter, the spirit of act must be followed

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3. OPTIMISM:

Seeing almost everybody optimistic about the future was a rare sight when there is so much turbulence in every sphere of life. Even when most of the Resolution Professionals are still struggling to get their first assignment and inspite of rather harsh threshold of IPEs (both in terms of Net Worth & their ability to serve the RPs), the mood was of “Aachhe Din”. People were willing to stretch and quite confident the future is bright. While there was skepticism with respect to the ability and limited resources available with NCLT and sanctity of RBI latest circular on mandatory reference to IBC for defaulting accounts, everybody was upbeat about the prospects.

Lest this post becomes an advertisement, let us share what we believe was missed, again limiting the wish list to three:

1. Participation from RBI – an important stakeholder, and the guiding / driving one.

2. More support for the need of:

a. Criticality of sector expertise with Resolution Professional

b. Representation of Creditors by Resolution Professional in CoC

c. Categorization of Resolution Professionals based on the expertise & complexities

d. Presentation of live Insolvency Case Study, sharing lessons learnt and best practices deployed.

We would not be doing the justice with critical subject like this without sharing what we found lacking. The basic premise that Corporate Debtor must be treated & managed by RP as an Ongoing Concern requires that RP must have a bird's eye view and hands on experience of managing complex businesses. It is well understood, appreciated and acknowledged that no one RP can have deep expertise in all functions that are critical for Business Turnaround, namely; Finance, Legal & Operations. Accordingly, the IBC permits RP to engage specialized services in respective sectors. It would, however, be worth the efforts if IBBI & IPAs encourage professionals with real hands on expertise in managing & turning the business around to become Insolvency Professionals, either by incentivizing through premium fee or by prioritizing while allocating complex assignments.

We appreciate the initiative of continuing the skills upgradation for IPs as well as designing Graduate Program for IPs that should lure young professionals into the profession and continue building competencies for the stakeholders.

We would be delighted to have your feedback on our thoughts and, depending upon your inputs, would decide whether, & in what manner, to make this an interactive series with live inputs from the stakeholders.

Please do let us know what you think!