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Corporate Haircuts, Creditor Rights and Value Maximisation: A Corporate Law Perspective on Insolvency Resolution in India

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Abstract
The Insolvency and Bankruptcy Code, 2016 (IBC) was introduced with the objective of consolidating India's fragmented insolvency framework and establishing a time-bound mechanism for resolving financial distress. At the centre of this framework lies the objective of value maximisation, which seeks to preserve the value of distressed enterprises while ensuring an effective distribution of proceeds among creditors and other stakeholders. One of the most debated consequences of the corporate insolvency resolution process (CIRP) is the substantial "haircut" accepted by creditors on their admitted claims. Although a haircut is not, by itself, evidence of failure, increasingly high haircuts raise important questions concerning creditor rights, valuation practices, commercial wisdom, corporate governance and the effectiveness of the insolvency framework. This article examines corporate haircuts from a corporate law perspective, focusing on the relationship between creditor decision-making and the statutory objective of value maximisation. It analyses the role of the Committee of Creditors (CoC), the scope of its commercial wisdom, judicial approaches to resolution plans, and the consequences of prolonged insolvency proceedings on enterprise value and creditor recovery. The article also considers the unequal position of financial and operational creditors and the need to maintain a balance between creditor autonomy and institutional accountability. Recent data concerning recovery rates, resolution timelines and liquidation outcomes demonstrate that delays and deterioration of distressed assets continue to affect the effectiveness of the IBC. The article argues that the legitimacy of a haircut should be assessed not merely by its percentage but by the circumstances in which it occurs, the quality of valuation, the competitiveness of the resolution process, and whether the resolution plan genuinely promotes value preservation and maximisation. It concludes by proposing greater transparency, stronger valuation safeguards, institutional capacity building and limited but effective judicial oversight without undermining the commercial discretion of creditors.

Keywords: Insolvency and Bankruptcy Code, Corporate Haircuts, Creditor Rights, Value Maximisation, Committee of Creditors, Corporate Governance, CIRP.

1. Introduction

The enactment of the Insolvency and Bankruptcy Code, 2016 marked a significant transformation in the manner in which corporate financial distress is addressed in India. Before the introduction of the Code, insolvency and debt recovery were governed by a fragmented collection of statutes and institutional mechanisms. Proceedings could remain pending for several years, while the value of distressed businesses and their underlying assets continued to deteriorate. The absence of a unified and time-bound insolvency framework frequently resulted in uncertainty for creditors, debtors, employees, investors and other stakeholders. The IBC sought to respond to these structural deficiencies by creating a consolidated framework centred on insolvency resolution, revival of viable enterprises, value maximisation and balancing the interests of stakeholders.

The central philosophy of the IBC is not merely the recovery of debt. It is the resolution of financial distress in a manner that preserves economic value. The corporate insolvency resolution process therefore attempts to provide a distressed company with an opportunity for revival rather than immediately treating insolvency as a terminal event requiring liquidation. The objective becomes particularly important because a functioning enterprise may possess a value greater than the aggregate liquidation value of its individual assets. Preservation of the going-concern value can consequently result in a better outcome for creditors, employees and the wider economy. Despite these objectives, one of the most controversial features of the Indian insolvency regime has been the extent of haircuts accepted by creditors during resolution. A haircut represents the difference between the amount admitted as owed to a creditor and the amount ultimately recovered under an approved resolution plan. For example, where a creditor has an admitted claim of ₹100 crore but receives ₹33 crore under the resolution plan, the creditor has effectively suffered a haircut of 67 per cent. Haircuts therefore represent the extent to which admitted claims remain unrecovered through the insolvency process.

A haircut, however, cannot automatically be equated with a failure of the IBC. In a financially distressed company, the value available for distribution may already be substantially lower than the total amount of claims admitted against the corporate debtor. The purpose of resolution is consequently to maximise the value that can realistically be recovered rather than to guarantee complete repayment of every creditor. A resolution plan offering a substantial haircut may therefore be commercially preferable to liquidation if it preserves the enterprise as a going concern and produces a higher recovery than the liquidation alternative. The difficulty arises when substantial haircuts are caused not by the economic condition of the corporate debtor but by weaknesses within the resolution process itself. Excessive delay, deterioration of assets, inadequate valuation, limited participation by prospective resolution applicants, repeated litigation and institutional deficiencies may substantially reduce the value available to creditors. In such circumstances, the haircut may represent not merely the consequences of business failure but also the consequences of an inefficient insolvency process. Recent developments demonstrate the importance of this distinction. As the IBC approaches a decade of operation, the insolvency framework has produced significant recoveries and facilitated the resolution of numerous distressed companies. At the same time, concerns have emerged regarding prolonged resolution periods, declining recovery rates and increasing creditor haircuts. Available data indicates that the average resolution period has substantially exceeded the statutory timeline in a significant number of cases, thereby creating a direct relationship between procedural delay and erosion of enterprise value. The longer a distressed enterprise remains under insolvency proceedings without an effective resolution, the greater the possibility that its assets, market position, customer relationships, workforce and intangible value will deteriorate. It argues that creditor recovery cannot be evaluated solely through the numerical percentage of claims recovered. Instead, the legitimacy and effectiveness of a haircut should be assessed in relation to the circumstances of the insolvency, the value available at the relevant stage, the quality and independence of valuation, the competitiveness of the resolution process, the duration of CIRP and the extent to which the resolution plan preserves or maximises the value of the corporate debtor. The article further argues that the success of the IBC should not be measured exclusively by the number of resolution plans approved or the aggregate amount recovered. A comprehensive assessment must also consider whether the insolvency system is capable of initiating resolution at an early stage, preventing avoidable value destruction and ensuring that creditor decisions are made through transparent and accountable processes. The increasing debate over haircuts therefore provides an important opportunity to examine whether the corporate insolvency framework has sufficiently achieved the balance between creditor autonomy, corporate revival and value maximisation.

2. Evolution of Insolvency Law in India and the Emergence of the IBC

The development of insolvency law in India has historically been characterised by fragmentation. Different categories of creditors were required to rely upon different statutes and forums for the recovery of their claims. The Companies Act, 1956, the Sick Industrial Companies (Special Provisions) Act, 1985, the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 each addressed particular aspects of corporate distress and debt recovery. Although these laws provided mechanisms for dealing with financial difficulties, the absence of a unified insolvency framework frequently resulted in overlapping proceedings and considerable delays. The consequences of this fragmented framework were significant. Insolvency proceedings could remain unresolved for extended periods, during which the assets of distressed enterprises frequently lost value. A business that might have been capable of revival at the beginning of financial distress could become commercially unviable by the time a final order was passed. The delay therefore had consequences beyond procedural inconvenience. It directly affected the amount ultimately available for distribution to creditors.

The Bankruptcy Law Reforms Committee recognised the importance of time in insolvency proceedings. Its approach was based on the understanding that the value of a distressed enterprise is closely connected to the speed with which financial distress is addressed. A functioning business possesses relationships with employees, suppliers, customers, lenders and other stakeholders. Prolonged uncertainty may weaken these relationships and diminish the value of the enterprise as a going concern. The IBC was consequently enacted with the objective of consolidating the legal framework governing insolvency and bankruptcy and providing a time-bound mechanism for insolvency resolution. The Code introduced the CIRP for corporate debtors and placed the Committee of Creditors at the centre of commercial decision-making. Instead of allowing individual creditors to independently pursue competing recovery strategies, the framework seeks to create a collective process in which creditors participate in determining the future of the distressed enterprise. The shift from individual debt recovery to collective resolution represents one of the most important conceptual changes introduced by the IBC. Insolvency is no longer treated merely as a dispute between a creditor and a debtor. It is treated as a collective economic problem in which the value of the corporate debtor must be preserved and distributed according to the statutory framework.

3. Understanding Corporate Haircuts under the IBC

The concept of a corporate haircut is central to understanding the practical functioning of the insolvency resolution process. A haircut, in the context of insolvency proceedings, refers to the reduction in the amount ultimately recovered by a creditor in comparison with the creditor's admitted claim. If a financial creditor has an admitted claim of ₹100 crore and receives ₹30 crore under an approved resolution plan, the creditor has effectively suffered a 70 per cent haircut. The concept therefore represents the portion of the admitted debt that remains unrecovered after completion of the resolution process. Haircuts are not unique to the Indian insolvency system. They are a common feature of corporate restructuring because insolvency necessarily involves a situation in which the liabilities of a corporate debtor exceed the value that can realistically be recovered from its assets or continuing business operations. The existence of a haircut should therefore not automatically be interpreted as evidence that the insolvency process has failed. The relevant question is whether the recovery secured through the resolution plan represents the maximum value reasonably available in the circumstances. The distinction between a commercially justified haircut and an avoidable haircut is particularly important. Where a corporate debtor is already severely distressed, the market value of its assets may have declined considerably before the commencement of CIRP. In such circumstances, insisting upon complete recovery of the original debt may not be commercially realistic. The CoC may instead accept a resolution plan that provides a lower recovery but preserves the corporate debtor as a going concern. The objective is therefore not necessarily to recover the entire amount originally advanced but to maximise the value available at the time of resolution.

This approach is consistent with the broader philosophy of the IBC. The Code is designed to facilitate resolution rather than merely provide another mechanism for debt collection. The research identifies several factors that may influence creditors in accepting substantial haircuts, including market conditions, industry trends, the need for quicker resolution, sustainable debt requirements and the time value of the corporate debtor’s assets. It also recognises that managing distressed assets for a prolonged period may itself impose additional burdens and that early identification of financial stress can help prevent further depletion of enterprise value.

4. Haircuts, Delay and Erosion of Enterprise Value

One of the strongest relationships emerging from the material is between the duration of insolvency proceedings and the extent of creditor haircuts. The IBC was designed around the principle that insolvency resolution must occur within a prescribed period because delay can destroy the value of the corporate debtor. The longer a distressed enterprise remains under insolvency proceedings, the greater the possibility of deterioration in its physical assets, loss of customers, disruption of supplier relationships, departure of employees and deterioration of market confidence. The connection between delay and haircut can be understood through the concept of going-concern value. A corporate enterprise is not merely a collection of physical assets. Its value may include intellectual property, customer relationships, brand reputation, contracts, skilled employees, licences and future earning potential. When insolvency proceedings continue for an extended period, these components of value may gradually disappear. By the time a resolution applicant submits a final plan, the enterprise may be worth substantially less than it was at the commencement of CIRP. Delay therefore has a compounding effect. First, the underlying financial distress reduces the value of the enterprise. Second, procedural delay may further reduce that value. Third, the reduced enterprise value results in a lower resolution offer. Finally, the lower resolution offer produces a higher haircut for creditors. The haircut therefore becomes a consequence of the original financial distress and partly a consequence of value destruction occurring during the insolvency process[1].

[1] Das, A., Agarwal, A. K., Jacob, J., Mohapatra, S., Hishikar, S., Bangar, S., Parekh, S., Basu, S., & Sinha, U. K. (2020). Insolvency and Bankruptcy Reforms: The Way Forward. Vikalpa, 45(2), 115-131. https://doi.org/10.1177/0256090920953988

The institutional capacity of adjudicating authorities is an important component of this problem. The research indicates that the NCLT was operating below full capacity, with substantial vacancies and a significant case backlog. Such institutional constraints contribute to delays in resolving applications and disputes arising during CIRP. The issue is therefore not capable of being addressed solely by imposing a formal statutory deadline. A time limit is meaningful only when the institutions administering the process possess adequate judicial, administrative and technical capacity. Where applications remain pending, resolution plans face prolonged litigation and valuation disputes remain unresolved, the formal existence of a statutory timeline cannot by itself preserve enterprise value. The consequences are particularly serious for creditors. Financial creditors may initially possess a claim based upon the amount advanced, together with contractual interest and other charges. However, insolvency proceedings do not guarantee recovery of that contractual entitlement. Their recovery ultimately depends upon the value generated or preserved through the resolution process. When that value deteriorates, creditors bear the resulting loss through the haircut[2].

5. The Legal Framework and the Committee of Creditors

The Committee of Creditors occupies a central position in the architecture of the IBC. The Code adopts a creditor-in-control model under which financial creditors collectively exercise significant decision-making authority during CIRP. Sections 28, 30 and 31 of the Code provide important statutory foundations for the CoC's role in relation to resolution proceedings. The research identifies these provisions as central to the CoC's authority in determining the fate of a corporate debtor. The CoC's role becomes particularly significant when a resolution plan proposes a substantial haircut. Creditors are required to assess whether the plan offers a commercially viable outcome and whether the amount proposed is preferable to the likely recovery under liquidation or alternative scenarios. This assessment necessarily involves consideration of valuation, future cash flows, market conditions, the feasibility of the plan and the capacity of the resolution applicant.

The Supreme Court has repeatedly recognised the commercial wisdom of the CoC. In *K. Sashidhar v. Indian Overseas Bank,* the Court emphasised the importance of respecting the commercial decision-making authority of the CoC where the statutory framework has been followed. The research records this position and states that courts cannot ordinarily question the commercial rationale of the CoC when the decision complies with legal requirements. The principle was further developed in Committee of Creditors of *Essar Steel India Ltd. v. Satish Kumar Gupta*[3]. The Supreme Court reinforced the importance of limited judicial intervention while also emphasising the statutory framework governing the treatment of creditors. The research accordingly identifies Essar Steel as a significant authority concerning minimal judicial interference and CoC autonomy[4].

The doctrine of commercial wisdom is important because insolvency decisions often involve economic assessments that courts are not institutionally equipped to undertake in the same manner as financial creditors. Banks and financial institutions participating in the CoC may possess information concerning the debtor's financial condition, sectoral prospects, security position and recovery alternatives. Excessive judicial intervention in such commercial decisions could prolong proceedings and consequently

[2] Valecha, J., & Xalxo, A. A. (2017). Overview of the Insolvency and Bankruptcy Code, 2016 & the Accompanying Regulations. Journal on Contemporary issues of Law, 3.

[3] (2020) 8 SCC 531.

[4] Abhiman Das et al., "Insolvency and Bankruptcy Reforms: The Way Forward," 45 Vikalpa: The Journal for Decision Makers 115-31 (2020).

undermine the very objective of timely resolution. However, commercial wisdom cannot be treated as an unlimited or unaccountable power. The CoC remains subject to the statutory requirements of the IBC. A resolution plan must comply with the Code and applicable regulations, and the adjudicating authority retains a role in determining whether those legal requirements have been satisfied.

6. Corporate Haircuts and Creditor Recovery

A corporate haircut represents the reduction between the amount admitted as payable to a creditor and the amount ultimately recovered under an insolvency resolution process. In practical terms, a haircut arises when the resolution plan provides an amount substantially lower than the claims admitted against the corporate debtor. For instance, where a creditor has an admitted claim of ₹100 crore but receives ₹33 crore under the approved resolution plan, the creditor has effectively suffered a haircut of 67%. Haircuts therefore represent the economic loss borne by creditors when the value available for distribution is substantially lower than the aggregate claims of creditors.

The concept of a haircut must, however, be understood within the broader objectives of the Insolvency and Bankruptcy Code, 2016. The Code does not proceed on the assumption that every creditor will necessarily recover the entire amount of its admitted claim. Instead, it establishes a framework for resolving insolvency in a manner that seeks to preserve the corporate debtor as a going concern, maximise the value of its assets and balance the interests of stakeholders. A reduction in the admitted claims may therefore be commercially acceptable where the resolution plan provides a better outcome than the alternative of liquidation or continued deterioration of the corporate debtor. The significance of haircuts has increased with the growth of the insolvency resolution mechanism in India. The material considered for this study indicates that the IBC has resulted in substantial recoveries since its introduction. More than 1,419 resolution plans have reportedly been approved, with recoveries exceeding ₹4 lakh crore for creditors. At the same time, the aggregate recovery in resolved cases demonstrates that creditors continue to suffer substantial reductions in their admitted claims. The available figures indicate recovery of approximately ₹3.99 lakh crore against admitted claims of around ₹12.31 lakh crore, resulting in an overall recovery rate of approximately 32% and, correspondingly, a haircut of about 68% for creditors as a whole[5].

Haircuts must also be examined in relation to the size of insolvency cases. The material indicates that large cases, involving admitted claims exceeding ₹1,000 crore, accounted for approximately 95% of recovery amounts while representing only around 8% of resolution plans. This concentration demonstrates that a relatively small number of large-value insolvency cases can significantly influence aggregate recovery figures. Consequently, headline recovery statistics may conceal substantial differences between individual CIRPs. A high recovery in a few large cases does not necessarily mean that smaller creditors or creditors involved in smaller insolvency proceedings are receiving comparable outcomes. One of the principal reasons for substantial haircuts is the financial condition of the corporate debtor at the time of commencement of CIRP. Insolvency proceedings cannot restore value that has already been completely destroyed. Where a company enters CIRP only after exhausting its available resources, accumulating significant liabilities and losing its market position, the resolution professional and prospective resolution applicants may have limited scope to restore the original value of the enterprise. In such circumstances, creditors may be compelled to accept a substantial haircut because the alternative outcomes are even less favourable. This highlights the importance of timely initiation of insolvency proceedings. The longer a

[5] Nageswaran & Arora. (2022). Insolvency and bankruptcy code: A path well-travelled. IBC, Idea, Impressions and Implementation. Insolvency and Bankruptcy Board of India.

financially distressed company remains outside an effective restructuring mechanism, the greater the possibility that its assets, business relationships and going-concern value will deteriorate. Creditors may consequently recover a smaller proportion of their claims even where the eventual resolution process is conducted in accordance with the statutory framework[6].

The issue of corporate haircuts therefore lies at the intersection of creditor rights and value maximisation. A creditor's objective is naturally to maximise recovery, while the objective of the insolvency process is broader: to preserve the value of the corporate debtor and facilitate a resolution that produces the best possible outcome for stakeholders. These objectives generally complement each other, but conflicts may arise where maximising immediate creditor recovery could threaten the long-term viability of the business. The appropriate approach is therefore not to treat every haircut as an undesirable outcome. Instead, the legitimacy of a haircut should be assessed according to the circumstances in which it arises. A haircut resulting from a transparent and competitive resolution process, supported by realistic valuation and approved through the commercial wisdom of the CoC, may constitute an acceptable consequence of insolvency. In contrast, a high haircut caused primarily by prolonged proceedings, inadequate valuation, asset deterioration or institutional delay raises more serious concerns regarding the effectiveness of the insolvency framework. The central challenge for the IBC is consequently to minimise avoidable haircuts while recognising that some reduction in creditor claims may be unavoidable in genuine insolvency. The focus should be on early intervention, timely resolution, accurate valuation, effective participation of creditors and preservation of the corporate debtor's going-concern value. Only when these elements operate effectively can the Code achieve its underlying objective of value maximisation while providing meaningful protection to creditor interests.

7. Delays, Asset Erosion and Value Maximisation

The time-bound nature of the insolvency resolution process is one of the fundamental features of the Insolvency and Bankruptcy Code, 2016. The Code was introduced against the background of a fragmented insolvency regime in which proceedings frequently continued for several years, resulting in uncertainty for creditors and deterioration in the value of distressed enterprises. The objective of introducing a consolidated insolvency framework was therefore not merely to determine the rights of creditors after default but to ensure that insolvency is addressed at a stage when the corporate debtor still possesses sufficient economic and operational value to be revived.

Section 12 of the IBC establishes the statutory framework for completion of the Corporate Insolvency Resolution Process. The ordinary period prescribed for completion of CIRP is 180 days from the date of admission of the application. The Adjudicating Authority may grant a further extension of up to 90 days where the statutory requirements are satisfied and the Committee of Creditors approves the extension by the prescribed voting threshold. The Code further incorporates an overall limit of 330 days, including the period spent in legal proceedings, subject to the circumstances recognised by judicial interpretation. The purpose of this framework is to prevent insolvency proceedings from becoming indefinite and to ensure that the value of the corporate debtor is preserved during the resolution process. The significance of time in insolvency proceedings is fundamentally different from ordinary civil litigation. A financially distressed company does not remain economically static while its case is pending before the adjudicating authorities. Its assets may lose value, customers may move to competitors, employees may leave, business

[6] Kattadiyil.B & Mehboob P (2020) Corporate Insolvency in India and Other Countries - A comparative study, International Journal of Multidisciplinary Educational Research, ISSN: 2277-7881.

relationships may deteriorate and working capital requirements may become increasingly difficult to satisfy. Consequently, every additional period spent in CIRP may have an economic cost. Delay may therefore transform a potentially viable resolution into an eventual liquidation[7].

The Supreme Court's decision in *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*[8] is important in understanding the statutory emphasis on timely resolution. The Court recognised the significance of the time limits incorporated into the Code and examined the manner in which proceedings should operate within the statutory framework. The judgment reflects the legislative intention that insolvency resolution should not be permitted to continue indefinitely, particularly when prolonged proceedings can undermine the very objective of preserving value.

The connection between delay and haircuts is therefore significant. When the value of the corporate debtor decreases during CIRP, resolution applicants may revise their offers downward. Creditors may consequently be required to accept a larger reduction in their admitted claims. In this sense, delay can indirectly transfer part of the cost of institutional inefficiency to the creditor community. A creditor may initially have a claim against a business possessing considerable going-concern value, but prolonged proceedings can leave the creditor with a claim against a significantly weakened enterprise. The problem is further aggravated when the corporate debtor's assets are already deteriorating before admission into CIRP. Insolvency proceedings frequently commence after a considerable period of financial distress. By the time the resolution process begins, the corporate debtor may already have accumulated substantial debt, lost working capital, defaulted on suppliers, suffered employee attrition and experienced a decline in market confidence. The insolvency process therefore begins at a point when value preservation is already difficult[9].

Judicial proceedings constitute another important source of delay. While judicial review is necessary to protect legality and ensure that statutory requirements are complied with, repeated litigation may extend the duration of CIRP. Appeals, challenges to resolution plans, disputes concerning eligibility of resolution applicants, valuation issues and questions concerning distribution among creditors may remain pending before different forums. Such litigation must be balanced against the need for finality and speed in insolvency proceedings. The Supreme Court in *ArcelorMittal*[10] also dealt with the importance of maintaining the integrity of the resolution process and ensuring that ineligible persons do not regain control of distressed corporate debtors. Such judicial scrutiny serves an important purpose. However, the broader insolvency framework must ensure that legitimate legal challenges do not become a mechanism through which the resolution process is indefinitely postponed.

Institutional capacity is equally important. The National Company Law Tribunal occupies a central position in the insolvency framework, but the effectiveness of statutory timelines depends substantially upon the ability of adjudicating authorities to dispose of matters efficiently. A shortage of judicial and administrative resources can contribute to the accumulation of cases and delays in deciding applications connected with CIRP. Where adjudicatory capacity does not correspond with the volume and complexity of insolvency cases, statutory time limits may become difficult to achieve in practice. The problem is not merely procedural. Delay has a direct relationship with creditor recovery. If the corporate debtor's assets decline in value during the proceedings, the eventual resolution plan may provide significantly less than

[7] V. Kavya (2022) Insolvency and Bankruptcy Code and its Comparative Analysis, IJSDR, 7 (11) ISSN: 2455-2631.
[8] (2019) 2 SCC 1.
[9] Sivakumar, P. (2019). Insolvency and Bankruptcy Framework: India Perspective. KLRI Journal of Law and Legislation, 9(2). Stewardship behaviours", Article in Asia Pacific Journal of Management, Vol. 32 No. 4,
[10] Ibid at 8.

what could have been obtained through an earlier intervention. Thus, even where the insolvency process eventually produces a resolution, the outcome may involve a substantial haircut because the underlying value of the enterprise has diminished during the intervening period. The decision in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd*[11]. further illustrates the complexities surrounding admission of insolvency proceedings. The Supreme Court examined the discretion available to the Adjudicating Authority under Section 7(5)(a) of the Code in relation to applications filed by financial creditors. The judgment highlighted the significance of the financial circumstances of the corporate debtor while considering admission. Although the decision concerned the admission stage rather than the duration of CIRP itself, it demonstrates the broader tension between initiating insolvency proceedings and avoiding unnecessary proceedings against a company that may still possess the ability to address its financial obligations. At the same time, excessive caution at the admission stage can itself have consequences. Insolvency law operates most effectively when financial distress is addressed before the enterprise loses substantial value. Therefore, the legal framework must maintain a careful balance between preventing unnecessary insolvency proceedings and ensuring that genuine financial distress is addressed without undue delay. Delay also affects the interests of different categories of creditors differently. Financial creditors may have greater access to information and greater influence within the Committee of Creditors, while operational creditors may be particularly vulnerable to prolonged proceedings because their claims may remain unpaid while the business continues under financial distress. Suppliers and service providers may themselves face financial pressure because of delayed payments. Consequently, prolonged CIRP can have a cascading effect beyond the corporate debtor and its immediate creditors. The relationship between delay and liquidation is particularly important. Where a corporate debtor loses substantial value during CIRP, prospective resolution applicants may become unwilling to offer a viable resolution plan. If no acceptable plan is received, liquidation becomes increasingly likely[12]. Liquidation generally produces lower recovery because assets may be sold individually rather than valued as part of an operating enterprise. The distinction between resolution and liquidation therefore reinforces the importance of completing CIRP while the corporate debtor retains going-concern value. The objective of the 330-day framework should consequently not be understood merely as a procedural deadline. It reflects an economic principle: value diminishes with prolonged uncertainty. A time-bound insolvency process gives creditors, resolution professionals and potential resolution applicants a defined period within which the future of the corporate debtor can be determined. The longer that determination is postponed, the greater the possibility that the eventual recovery will be reduced.

A more effective approach to value maximisation therefore requires institutional reforms alongside statutory timelines. Increasing the capacity of the NCLT, strengthening insolvency infrastructure, improving the availability and quality of valuation professionals, reducing unnecessary procedural disputes and ensuring effective case management can contribute to faster resolution. Early identification of financially distressed companies is equally important because the success of resolution depends substantially on the condition of the corporate debtor at the time proceedings commence. Ultimately, the relationship between delay, asset erosion and creditor recovery demonstrates that time is itself an important economic factor in insolvency law. A resolution process may be legally valid and procedurally compliant, yet still fail to maximise value if it takes place after substantial deterioration of the corporate debtor. The

[11] (2022) 8 SCC 352.
[12] Shekar, M., & Guru, A. (2020). Theoretical Framework of Insolvency Law. Insolvency or Bankruptcy Regime in India–A Narrative, IBBI

effectiveness of the IBC must therefore be measured not only by the number of cases resolved but also by whether resolution occurs quickly enough to preserve the underlying value of the enterprise and minimise avoidable haircuts for creditors.

8. Value Maximisation and the Problem of Delayed Resolution

Value maximisation is one of the central objectives of the Insolvency and Bankruptcy Code, 2016 (IBC). The Code was introduced with the intention of replacing the fragmented and time-consuming insolvency framework with a structured, collective and time-bound process for dealing with financial distress. The underlying principle is that insolvency resolution should preserve the value of the corporate debtor as far as possible and enable creditors to recover the maximum amount available from the debtor's assets and future earning potential. However, the experience of the IBC demonstrates that value maximisation is closely connected with the speed at which insolvency proceedings are conducted. Delay in resolution can substantially reduce the value available for distribution and, consequently, increase the haircut suffered by creditors. Section 12 of the IBC reflects the importance attached to timely resolution. The Corporate Insolvency Resolution Process (CIRP) is ordinarily required to be completed within 180 days, with an extension of up to 90 days where the statutory requirements are satisfied. The Code further contemplated an overall outer limit of 330 days, including time consumed in legal proceedings. The objective of these timelines is not merely procedural efficiency. A distressed company generally loses value as financial uncertainty continues. Assets may deteriorate, customers and employees may leave, business relationships may weaken, and the possibility of successful revival may progressively diminish. Therefore, a resolution process that continues for years can defeat the very objective for which the insolvency framework was created.

The Supreme Court's decision in *ArcelorMittal India Pvt. Ltd. v. Satish Kumar Gupta*[13] illustrates the significance of the statutory timeline. The Court recognised the importance of completing the insolvency process within the prescribed framework, while also addressing the treatment of time consumed in litigation. The decision demonstrates that the time-bound character of the IBC is fundamental to its functioning. The longer the process continues beyond the intended period, the greater the possibility that the value available to creditors will deteriorate. The problem is particularly significant in light of the reported increase in the average period required for resolution. The material provided for this study indicates that, by March 2026, the average resolution period had increased to approximately 744 days, substantially exceeding the statutory framework of 330 days. A large proportion of admitted CIRP cases had also remained pending beyond 270 days. Such figures raise an important corporate law concern: whether a legal framework designed around speed and value preservation can achieve its objectives when institutional capacity is insufficient to process cases within the prescribed period.

The shortage of judicial capacity within the National Company Law Tribunal (NCLT) is an important factor contributing to these delays. Insolvency proceedings frequently involve complex questions relating to creditor claims, resolution plans, valuation, avoidance transactions, eligibility of resolution applicants and challenges before appellate and constitutional courts. When these disputes remain unresolved, the CIRP continues while the underlying business may simultaneously lose value. The delay therefore creates a circular problem: litigation intended to protect legal rights may, when prolonged, contribute to the erosion of the economic value that those rights are ultimately intended to protect. The Supreme Court's

[13] (2019) 2 SCC 1.

decision in *Vidarbha Industries Power Ltd. v. Axis Bank Ltd*.[14] also illustrates the complexities surrounding admission and commencement of insolvency proceedings. The judgment examined the discretion available to the adjudicating authority under Section 7(5)(a) of the Code. While such judicial consideration may protect financially viable companies from unnecessary insolvency proceedings, uncertainty at the commencement stage can also affect the predictability of the insolvency process. From a corporate law perspective, therefore, the objective should not simply be faster admission or faster disposal. The objective should be timely intervention at a stage when the corporate debtor still possesses sufficient economic value to make resolution meaningful.

The connection between delay and creditor haircuts is particularly important. A haircut represents the difference between the amount admitted as payable to a creditor and the amount actually recovered through the insolvency process. If a creditor has an admitted claim of ₹100 crore but ultimately receives ₹33 crore, the creditor has effectively suffered a 67 per cent haircut. Haircuts are not necessarily evidence of failure because the amount recoverable depends upon the actual value of the distressed enterprise and the competing claims against it. Nevertheless, exceptionally high haircuts may indicate that the insolvency process commenced after substantial value had already been lost or that the resolution process itself was unable to preserve sufficient value. The data referred to in the present study illustrates this concern. The IBC has reportedly resulted in recoveries of approximately ₹3.99 lakh crore against admitted claims of around ₹12.31 lakh crore, representing an overall recovery of approximately 32 per cent and consequently a substantial haircut for creditors. The situation was reportedly more difficult during FY 2025-26, when the recovery rate declined significantly. The third quarter of FY 2025-26 reportedly witnessed a haircut of approximately 80 per cent. These figures demonstrate why value maximisation cannot be separated from timely resolution. Value maximisation should therefore be understood as a combination of three elements: early intervention, procedural efficiency and commercially viable resolution. Merely prescribing a statutory timeline is insufficient if adjudicating authorities lack adequate manpower and infrastructure. Similarly, increasing creditor powers without ensuring timely adjudication may not substantially improve recovery. The effectiveness of the IBC ultimately depends upon the ability of its institutional structure to convert statutory rights into timely economic outcomes. The challenge for the next phase of insolvency reform is therefore to ensure that the principle of value maximisation operates in practice rather than remaining a statutory aspiration. Strengthening NCLT capacity, reducing avoidable procedural delays, improving valuation mechanisms, facilitating early identification of financial distress and ensuring effective implementation of resolution plans are essential to this objective. The central corporate law lesson is that value lost through delay cannot ordinarily be recovered merely through a stronger legal claim. In insolvency, time itself has economic value. A creditor may possess a legally enforceable claim for ₹100 crore, but if the enterprise deteriorates during prolonged proceedings, the eventual economic recovery may be only a fraction of that amount. Thus, timely resolution is not merely an administrative requirement of the IBC; it is an essential condition for protecting creditor rights and achieving genuine value maximisation[15].

[14] (2022) 8 SCC 352.

[15] Mann, Y. N. & Mann, K. N. (2019). Corporate Insolvency Law in India: Provisions and Effectiveness. In A. Kashyap (Ed.), Corporate Insolvency Law and Bankruptcy Reforms in the Global Economy (pp. 74-87). IGI Global. https://doi.org/10.4018/978-1-5225-5541- 4.ch004

9. Reforming the Insolvency Framework: Balancing Resolution and Creditor Recovery

The experience of the Insolvency and Bankruptcy Code, 2016 demonstrates that insolvency resolution cannot be assessed only by the number of companies rescued or the speed with which resolution plans are approved. The ultimate effectiveness of the insolvency framework also depends upon whether the process preserves enterprise value and provides a meaningful recovery to creditors. The continuing problem of substantial haircuts indicates the need to strike a more appropriate balance between revival of distressed companies and protection of creditor interests. One of the principal areas requiring reform is the reduction of delays in the Corporate Insolvency Resolution Process. Section 12 of the Code establishes a time-bound framework, with the ordinary period of 180 days and a further extension of 90 days, subject to the statutory requirements. The overall legislative objective is that insolvency should be resolved before the value of the corporate debtor deteriorates substantially. However, prolonged proceedings have resulted in many cases continuing far beyond the intended period. The increasing resolution period therefore undermines the fundamental objective of value maximisation. Strengthening the judicial infrastructure of the National Company Law Tribunal, increasing the availability of adjudicating members and improving case-management mechanisms are essential to prevent avoidable erosion of value.

The Committee of Creditors also occupies a central position in maintaining the balance between resolution and recovery. The commercial wisdom of the Committee of Creditors has repeatedly received judicial recognition, particularly in relation to evaluation and approval of resolution plans. However, creditor decision-making should operate within a framework that encourages informed assessment of the actual value of the corporate debtor. A resolution plan involving a substantial haircut should not automatically be regarded as successful merely because it has received the required voting approval. The Committee should have access to reliable valuation reports, adequate financial information and realistic assessments of the debtor's potential for revival.

The framework should also encourage early intervention. Where insolvency proceedings commence only after substantial depletion of assets and business value, even an efficient resolution process may produce limited recovery. The principle of value maximisation therefore requires creditors and other stakeholders to initiate appropriate proceedings before the financial condition of the corporate debtor becomes irretrievable. The experience highlighted in Essar Steel demonstrates the importance of preserving the value of the enterprise rather than merely distributing whatever remains after prolonged financial distress. Greater emphasis should also be placed on preventing unnecessary liquidation. The substantially lower recovery associated with liquidation, compared with successful resolution, demonstrates the importance of preserving viable businesses as going concerns. At the same time, resolution should not become a mechanism through which creditors are compelled to accept disproportionately low recoveries merely to avoid liquidation. The objective should be to identify the option that produces the highest realistic value for stakeholders. Finally, insolvency reform must address institutional capacity, valuation practices, professional expertise and procedural delays simultaneously. A stronger insolvency ecosystem requires adequate infrastructure, specialised professionals and predictable judicial processes. The objective should not simply be faster insolvency proceedings, but timely proceedings that preserve enterprise value while ensuring that creditor rights remain meaningful.

7. Conclusion

The Insolvency and Bankruptcy Code, 2016 has fundamentally transformed India's approach to corporate insolvency by replacing a fragmented and prolonged insolvency regime with a structured, time-bound resolution framework. Its emphasis on resolution, revival, value maximisation and creditor participation represents a significant shift in Indian corporate law. The Code has also strengthened the position of financial creditors through the Committee of Creditors and has created a mechanism through which distressed businesses can be rescued rather than immediately liquidated. However, the experience of the first decade of the Code demonstrates that legislative objectives do not always translate into effective outcomes. The increasing duration of insolvency proceedings, declining recovery rates and substantial creditor haircuts raise important questions concerning the effectiveness of the existing framework. A haircut may sometimes be commercially justified where the alternative is liquidation and further destruction of value. It becomes problematic, however, when large losses arise primarily because of delayed admission, prolonged litigation, inadequate valuation, deterioration of assets or weaknesses in institutional capacity. The central issue is therefore not whether haircuts should be eliminated. Insolvency necessarily involves situations in which creditors may be unable to recover the entirety of their admitted claims. The more important question is whether the haircut represents the best possible outcome under the circumstances or whether it is the consequence of preventable deficiencies in the insolvency process. Creditor recovery and value maximisation should consequently be treated as complementary objectives rather than competing principles. The Supreme Court's decisions, particularly in Committee of Creditors of *Essar Steel India Ltd. v. Satish Kumar Gupta*[16] and *Swiss Ribbons Pvt. Ltd. v. Union of India,* emphasise the importance of resolution and the commercial wisdom of creditors within the statutory framework. At the same time, the continuing delays demonstrate that commercial wisdom alone cannot compensate for institutional weaknesses. Efficient adjudication, timely resolution, accurate valuation and preservation of the corporate debtor as a going concern are necessary for the effective exercise of creditor rights. The next phase of insolvency reform must therefore focus on institutional strengthening and procedural efficiency. Increasing NCLT capacity, reducing avoidable litigation, improving valuation mechanisms and encouraging early resolution can substantially reduce the erosion of enterprise value. Equally, the framework must ensure that resolution plans do not become instruments for disproportionate sacrifice by creditors where better alternatives are realistically available. Ultimately, the success of the IBC should not be measured merely by the number of resolution plans approved. It should be evaluated by whether viable enterprises are preserved, whether value is maximised, whether insolvency is resolved within a reasonable period and whether creditors receive a fair and commercially justified recovery. The objective of the next decade should therefore be to develop an insolvency system in which speed, revival, creditor protection and value maximisation operate together. Only such a balanced approach can ensure that the IBC fulfils its broader corporate law objective of providing an effective and credible framework for dealing with financial distress in India.

[16] (2020) 8 SCC 531.