7 TREATMENT OF CROWN DEBTS IN INDIAN INSOLVENCY: PERSPECTIVES AND WAY FORWARD

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'The law must clearly lay out the priority of distributions in bankruptcy to all stakeholders. The priority must be designed so as to incentivise all stakeholders to participate in the cycle of building enterprises with confidence'.

– Bankruptcy Law Reforms Committee[1]

EXECUTIVE SUMMARY

The Insolvency and Bankruptcy Code, 2016 (IBC) was enacted to overhaul India's existing insolvency laws in several respects. In particular, the legislation revised the priority of payment to creditors in the event of the corporate debtor (CD) being liquidated (liquidation waterfall), providing for secured creditor dues to be paid in precedence to dues owed to statutory authorities (referred to as crown debts). In the context of crown debts, the liquidation waterfall has been subject to differing interpretations by the judiciary, most notably in the recent Supreme Court decision in *State Tax Officer (1) v. Rainbow Papers Limited*[2] (Rainbow Papers). The focus of this article is to analyse the treatment of crown debts under IBC, the interpretations by judiciary thereof, and make suggestions for reform.

Keywords: IBC, Crown Debts, Statutory Dues, CIRP.

INTRODUCTION

Treatment of crown debts prior to IBC in India

Prior to the enactment of IBC, the treatment of crown debts was addressed under the Companies Act, 1956, and the Companies Act, 2013, by providing for a waterfall for priority of payment to different classes of creditors from the liquidation estate of the company undergoing liquidation.

The waterfall mechanisms under section 529, 529A and 530 of the erstwhile Companies Act, 1956, and sections 326 and 327 of Companies Act, 2013, both provide for:

a) First, payment of workmen dues and payment to secured creditors; and

b) Second, payment of statutory dues to the Central Government or State Government or to a local authority, which has ranking *pari passu* with:

- wages or salary of employees for a period not exceeding four months;
- accrued holiday remuneration payable to employees;
- employer's contributions payable under the Employees' State Insurance Act, 1948;
- compensation under the Workmen's Compensation Act, 1923;

- sums due to any employee from the provident fund, pension fund, gratuity fund or any other fund for the welfare of the employees, maintained by the company;
- expenses of any investigation insofar as they are payable by the company, in priority to payment to all other classes of creditors apart from workmen and secured creditors.

In other words, payments to secured financial creditors (FCs) clearly ranked over payment of crown debts, and the payment of statutory debts was in priority to payment to unsecured FCs.[3]

Treatment of crown debts in the UK

Section 1 of the Preferential Payments in Bankruptcy Act, 1888 first introduced the concept of 'preferential payments'. The Preferential Payments in Bankruptcy Amendment Act, 1897 (61 Vict. c.19) amended the category of 'preferential payments' for rates, taxes and wages, to take priority over a floating charge in an insolvent company's assets. The preferential debts consisted of a category of claims that had been in various enactments granted statutory priority, including obligations to pay employees' wages, pension contributions and holiday pay, certain rates and various claims of the crown in respect of unpaid tax.[4]

These provisions were restated in the Companies (Consolidation) Act, 1908, the Companies Act, 1929 and the Companies Act, 1948. Section 319 of Companies Act, 1948 provided that in a winding up of a company, statutory dues were to be paid in priority to all other debts owed by the company.[5]

The UK insolvency underwent an overhaul with the introduction of the UK Insolvency Act, 1986. Section 386 read with Schedule 6 (*The Categories of Preferential Debts*) of the UK Insolvency Act, 1986 established priority of payment of debts due to Inland Revenue and debts due to Customs and Excise over payment of other debts of a company, creating a 'crown preference'.

This construct was once again amended with the introduction of sections 251 and 252 of the Enterprise Act, 2002, effectively abolishing the crown preference and instilling a new waterfall mechanism whereby the payment for – (a) debts owed to secured creditors, (b) insolvency costs, (c) costs of any petitioning creditor in a winding up, (d) office holders costs (subject to creditor's approval) and (e) debts owed to preferential creditors – would all be in priority to the payment of crown debts to tax authorities (i.e. His Majesty's Revenue & Customs or the HMRC).

Thereafter, the Finance Act, 2020 was passed whereby it was provided that HMRC will be considered a secondary preferential creditor, and the UK Government published the Insolvency Act, 1986 (HMRC Debts: Priority on Insolvency) Regulations, 2020.[6] The new law partially reverses the effect of the Enterprise Act, 2020, whereby from December 1, 2020, HMRC will rank ahead of floating charge holders and unsecured creditors in respect of certain taxes that the relevant company collects on behalf of HMRC (termed as priority taxes).

Treatment of crown debts under UNCITRAL Model Law

UNCITRAL's Legislative Guide on Insolvency Law suggests that prioritizing payment of government dues should be minimized to avoid complications and inequities. It may encourage government authorities to delay collection of dues due to the comfort of priority under insolvency, and such '*failure to collect taxes can compromise the uniform enforcement of tax laws and may constitute a form of state subsidy that undermines the discipline than an effective insolvency regime is designed to support.*'[7]

Reforms introduced under IBC

To appreciate the intentions behind the introduction of IBC, it is relevant to bear in mind the economic background in which the IBC was enacted. The Indian banking sector witnessed an increase in stressed

assets during the mid-2010s. Many overleveraged Indian companies started defaulting on repayments, resulting in piling up of non-performing assets (NPAs) with the banks. In 2015, India had net NPAs amounting to ₹ 3.5 lakh crore.[8] In fact, after the Reserve Bank of India (RBI) intervention in 2016 whereby more stringent norms were put in place for banks to detect and classify NPAs,[9] the net NPA ratio shot up to 6% in 2017,[10] reflecting a more accurate picture of stress faced by the Indian banking sector. To address this, the Government introduced a recapitalization plan to infuse additional capital in banks for meeting stabilization requirements.[11]

Coupled with the problem of rising NPAs was the inadequacies associated with recoveries. During the period 2015-2017, the average recovery ratio of Indian banks was a meagre 26.4%, with public sector banks (PSBs) recovering only around half of what the private sector banks could recover.[12] The Indian banking sector has historically been dominated PSBs. For instance, in 2015 PSBs accounted for 74.3% of all credit lent, 75.9% of all deposits held by scheduled commercial banks,[13] and amounted to 72.1% of the total banking sector assets in the country.[14] The Government had infused over ₹ 700 billion in PSBs between 2007-2015.[15] The stress in the banking sector thereby implied direct consequences for the Government as the majority stakeholder.

The stress faced by PSBs, and the minimal recovery rates buttressed the requirement to revamp the extant legal mechanisms for banks to initiate recovery. The Bankruptcy Law Reforms Committee (BLRC) in its interim report to the Government of India dated February, 2015 (BLRC Interim Report) emphasized that a proper functioning insolvency system would create a robust market for credit through rehabilitation of distressed assets and maximization of recovery for lenders where such rehabilitation is not viable.[16] In this regard, the BLRC Interim Report noted that priority of payments towards crown debts over secured creditors hampers the recoveries made by banks in an event of the debtor being wound-up:

> Allowing crown debt (whether state or central) to prevail over the security interest of secured creditors is problematic for several reasons- (i) it leads to uncertainty for secured creditors regarding the sums that would be payable to them in the event of a company's insolvency; (ii) it may slow or otherwise complicate the exercise of out-of-court enforcement rights by secured creditors and increase costs; (iii) the cost of credit for the debtor company may increase as secured creditors may ultimately pass on the risks arising from these to the debtor through higher interest rates; and (iv) it may reduce the attractiveness of certain kinds of security interests that would otherwise generate positive externalities, as where they encourage monitoring ex ante.
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> Moreover, the dues payable to the Government in such circumstances are unlikely to be significant when compared to total government receipts, whereas the impact of non-payment on commercial creditors (including public sector banks) is likely to be substantial and may even lead to their insolvency and systemic issues for the economy.[17]

The BLRC also highlighted that while the Government has other avenues for enforcing its debt (such as imposition of penalties), private commercial creditors do not have such recourse.[18] The BLRC also noted the economic benefits associated with the subordination of crown debts:

> The Committee has recommended to keep the right of the Central and State Government in the distribution waterfall in liquidation at a priority below the unsecured financial creditors in addition to all kinds of secured creditors for promoting the availability of credit and developing a market for unsecured financing (including the development of bond markets). In the long run, this would increase the availability of finance, reduce the cost of capital, promote entrepreneurship and lead to faster economic growth. The government also will be the beneficiary of this process as economic growth will increase revenues. Further, efficiency enhancement and

> consequent greater value capture through the proposed insolvency regime will bring in additional gains to both the economy and the exchequer.[19]

Thus, the BLRC in its recommendations suggested secured creditors take precedence over crown debts in the priority of payments on winding-up/liquidation of the company in distress.

Treatment of crown debts under IBC

The recommendations of BLRC formed the bedrock for the formulation of the IBC. The IBC does not define the term 'crown debts', however section 3(21) of IBC stipulates any dues arising under any law in force and payable to the Government or local authority shall be treated as operational debt. Thus, the Central Government, any State Government and any local authority to whom such an operational debt is owed would come within the ambit of operational creditor (OC).[20]

The treatment prescribed for crown debts has been enshrined in section 30 and section 53 of IBC. Section 30(1) of IBC states that a resolution plan submitted must provide for payment of debts of OCs such that it is not less than the higher of the amount that would have been paid to such creditors (i) in the event of liquidation and (ii) if the amount to be distributed under the resolution plan had been distributed in accordance with the order of priority under section 53(1) of IBC.

Section 31 of IBC provides that the if the Adjudicating Authority (AA) is satisfied that a resolution plan as approved by the committee of creditors (CoC) meets the requirements under section 30(2) of IBC, it shall approve the resolution plan which will be binding on all creditors and stakeholders, including the Central Government, any State Government or any local authority to whom statutory dues are owed.[21]

Section 53 of IBC provides for the priority / waterfall as per which the proceeds of the liquidation estate are to be dispersed to stakeholders. This waterfall places the payment of statutory debts at a relatively lower priority compared to the previous legislations such as the Companies Act, 1956 and the Companies Act, 2013. While the payment of crown debts would still be in priority to certain creditors such as preference or equity shareholders, payment of financial debts owed to unsecured FCs would be in priority to payment of statutory debts.

JUDICIAL INTERPRETATION OF CROWN DEBTS PRIOR TO RAINBOW PAPERS

Whether crown debts amount to operational debt

As mentioned above, crown debts are treated as operational debt under IBC. Specific instances on the treatment of crown debts are provided as follows: In relation to tax dues payable by the CD, the National Company Law Appellate Tribunal (NCLAT) in *Pr. Director General of Income Tax (Admn. & TPS) and Ors. v. Synergies Dooray Automotive Ltd. & Ors.,*[22] has held that since statutory dues arising out of the existing law such as Income Tax and Value Added Tax arise when the company is operational, such statutory dues have direct nexus with the operation of the company. Therefore, all such statutory dues would come within the meaning of operational debt. The same interpretation has been adopted in other cases such as *Electrosteel Steels Limited v. State of Jharkhand & Ors.*[23]

In relation to crown debts in the form of spectrum dues payable by the CD to the Government under a telecom license, the NCLAT in *Union of India v. Vijayakumar V. Iyer & Ors.,*[24] has held that admitted claims of Telecom Licensors qua the operational debts would have to be settled as the part of the approved resolution plan or in liquidation, as the case may be. The Court included dues of 'Licensor-DoT' under operational debt payable to the Government.

In *Ultra Tech Nathdwara Cement Ltd. v. Union of India and Ors.,*[25] the Rajasthan High Court held that

once the resolution plan is accepted and approved by the appropriate authority, the same is binding on all creditors owed statutory dues, and no right of audience can be given to such creditors in the resolution proceedings.

Priority of crown debts in pay-outs under IBC

In *Leo Edibles and Fats Ltd. v. Tax Recovery Officer and Ors.,*[26] the High Court of Telangana, on the question of priority of tax dues, held that when an assessee-company is being liquidated, the Income-tax Department must take recourse to distribution of assets as per section 53 of the IBC since it is not a secured creditor. The Court iterated that tax dues clearly come within the ambit of section 53(1) of the IBC which provides the order of priority for such distribution, wherein such dues are assigned the fifth position in the order of priority.

In *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs*,[27] addressing the conflicting treatment and priority of customs dues under the Customs Act, 1962 (Customs Act) and the IBC, the Supreme Court held that the IBC overrides the Customs Act due to its comparative recency. The Court referred to section 142A of the Customs Act and section 238 of the IBC which recognizes the IBC overriding the Customs Act in case of any conflict. Accordingly, the Supreme Court upheld that customs dues would have lower priority than secured FC's dues.

In *Jalgaon Janta Sahakari and Ors. v. Joint Commissioner of Sales Tax, Nodal-9, Mumbai and Ors.,*[28] the High Court of Bombay held that a debt which is secured or becomes a 'first charge' on a property must be held to prevail over a crown debt, which is an unsecured one. The Court stated that, '*The law, as it stands even today, is that a Crown debt enjoys no priority over secured debts.*' With regard to the priority of secured creditors as per the SARFAESI Act over the relevant department of the Government in appropriating the amount realized from the sale of a secured asset, the Court held that, subject to the IBC and Central Registry of Securitisation Asset Reconstruction and Security Interest of India (CERSAI) registration, the dues of a secured creditor would rank superior to dues of the relevant department of the State Government.

RAINBOW PAPERS JUDGEMENT

The primary point of contention in *Rainbow Papers* was whether the liquidation waterfall under section 53, IBC overrides section 48 of Gujarat Value Added Tax Act, 2003 (GVAT Act) which provides the Government a first charge over the payer's property in relation to their dues under the legislation. The respondent, a company owed tax dues to the sales tax authorities under the GVAT Act and had initiated recovery proceedings to recover dues. Pending such proceedings, the respondent was admitted to the corporate insolvency resolution process (CIRP) under IBC upon an application filed by one of the OCs. The resolution plan submitted for the resolution of the respondent had sought to waive all dues payable to the appellant. Aggrieved, the appellant filed an application before the NCLT Ahmedabad Bench challenging the validity of the resolution plan on the ground that the appellant was to be treated as a secured creditor and thereby owed its claims in full.

The NCLT rejected the application on grounds on maintainability since the appellant had raised the claim after approval of the resolution plan. On appeal, the NCLAT upheld the decision, opining the appellant cannot be construed a 'secured creditor' under IBC by interpreting section 53 of IBC to override section 48 of GVAT Act. On subsequent appeal, the Supreme Court took a contrary position, opining that the debt owed to the Government under the GVAT Act is a secured debt given the statutory lien creates a 'security interest' under section 3(31) of IBC and the appellant would be a secured creditor as per section 3(30) of IBC. The Supreme Court held that since the appellant would have priority in the liquidation waterfall as a secured creditor, there would be no inconsistency between

section 48 of GVAT Act and section 53 of IBC. Thereby, it set aside the resolution plan as approved by the CoCs for not having made requisite provisions for payment of statutory creditors like the appellant.

Issues in the Rainbow Papers rationale

The Supreme Court has equated the first charge under section 48 of GVAT Act to be 'security interest' under section 3(31) of IBC. Notably, the definition of security interest only covers rights, interests or title created by a transaction which secures payment or performance of an obligation. Section 48 of GVAT Act does not contemplate any commercial transaction which creates such a statutory charge (rather, has deeming provisions implying such charge).

On the contrary, section 77(3) of the Companies Act, 2013 prescribes a *non-obstante* clause stating no charge created by a company shall be taken into account by a liquidator or creditor unless the charge has been duly registered with the Registrar of Companies (ROC) and a certificate of registration has been issued by the ROC in accordance with section 77.

In the event of liquidation, the secured creditor is required to prove the existence of a charge as per regulation 21 of the IBBI (Liquidation Process) Regulations, 2016 (Liquidation Regulations). The existence of a security interest may be proved on the basis of: (a) records with the information utility; (b) certificate of registration of charge issued by ROC (as mentioned above); or (c) registration of charge with the CERSAI.

In this context, section 48 of GVAT Act does not provide for getting the first charge registered with the ROC or as per the Liquidation Regulations. In view of the absence of a valid security interest created and registered as per the IBC and the Companies Act, 2013, which are the determinative provisions of law, there are strong arguments that the Supreme Court had erred in interpreting the appellant to be a secured creditor under section 3(30) of the IBC.

Additionally, the Supreme Court in its decision passed the following observation: '*52. If the Resolution Plan ignores the statutory demands payable to any State Government or a legal authority, altogether, the Adjudicating Authority is bound to reject the Resolution Plan.*' This observation may lead to an interpretation whereby even crown debts that are not secured in any manner may require priority payment under a resolution plan. This falls foul of the liquidation waterfall which explicitly subordinates the treatment of crown debts.

Implications of the Rainbow Papers judgement

With the ostensible aim to instil fairness in recovery, the decision in *Rainbow Papers* has ended up opening the pandora's box for treatment of crown debts. For instance, the NCLT Chandigarh Bench in its recent order, relying on the rationale in *Rainbow Papers* has rules for income tax liabilities under rule 93 of Par VI (Miscellaneous) of the Second Schedule of the Income Tax Act, 1961 to be treated as secured debt under IBC.[29] As mentioned above, such interpretations are contrary to the treatment as per the liquidation waterfall and the scheme of the IBC.

The scheme of IBC requires a time-bound resolution of distressed companies and all prospective resolution applicants are given a limited opportunity to conduct a due diligence on the CD. It is often the case that statutory authorities do not submit their proof of claims within stipulated timelines (as evidenced in *Rainbow Papers*). The uncertainty will create an increase in the transactional cost to be expended by the resolution applicants on due diligence to apportion the adequate payment to statutory authorities and even then, there is no certainty on the quantum of crown debts outstanding or eventually payable. To counter this risk, applicants will look to caveat their bids or plans with an

option to reduce or modify the bid amounts on an *ex-post facto* basis, which not a desirable option for both the CoCs and the timely resolution of the CD.

Further, as mentioned above, PSBs are the dominant market players in the Indian banking sector and one of the objectives of introducing IBC was to alleviate the stress faced by PSBs. If larger chunks of resolution proceeds are sought to be diverted from financial creditors to the statutory authorities, this will end up diminishing the returns for PSBs. As highlighted above, statutory authorities have other avenues to recover their dues, while PSBs do not have the same benefit.

Given the economic landscape, the BLRC's recommendations and explicit provisions under IBC, the Supreme Court's decision in *Rainbow Papers* amounts to an act of judicial overreach. As a general principle, the Supreme Court has held in numerous decisions that the judiciary should exercise greater restraint in interfering with economic legislations. In *BALCO Employees' Union v. Union of India*,[30] the Supreme Court opined that:

> Laws, including executive action relating to economic activities should be viewed with greater latitude than laws touching civil rights such as freedom of speech, religion, etc. that the legislature should be allowed some play in the joints because it has to deal with complex problems which do not admit of solution through any doctrine or straitjacket formula and this is particularly true in case of legislation dealing with economic matters, where having regard to the nature of the problems greater latitude require to be allowed to the legislature.

This rationale was approved and squarely applied by the Supreme Court in *Swiss Ribbons (P) Ltd. v. Union of India*,[31] wherein constitutionality of IBC, the liquidation waterfall and treatment of OCs (including treatment of crown debts) under IBC was upheld. The decision in *Rainbow Papers* contravenes this principle insofar as it alters the liquidation waterfall without due regard to the legislative intent.

RECENT DEVELOPMENTS AND RECOMMENDATIONS

The recoveries made by creditors under the IBC process have reduced over the years, with the recovery rate being 30.6% in the second quarter of financial year 2022-2023 based on analysis by CARE Ratings Ltd. of data published by the Insolvency and Bankruptcy Board of India (IBBI).[32] As general practice, most recoveries by OCs (including statutory authorities) range around the liquidation value, which is a negligible amount. Given such low recoveries, there have been demands from industry bodies for allotting OCs a larger portion of the resolution or liquidation proceeds than what is currently provided.[33] From an international perspective, in the UK, the Finance Act, 2020 and the amendment to the Insolvency Act, 1986 in the UK has also rejigged the payment waterfall by priority in pay-out distribution to crown debts owed to HMRC, as mentioned above.

We believe that even if there is any policy or commercial justification for reconsidering the position of crown debts in the priority of payments under IBC, such changes must necessarily be undertaken by way of legislative amendments and not through judicial overreach. If such decisions are left to judicial discretion, we may be confronted with inconsistent outcomes based on the subjective notions of individual judges across judicial fora.

To break the *impasse* in treatment of crown debts, we suggest two routes that the Government may adopt by way of legislative amendments:

Option 1: Expressly exclude crown debts from the ambit of secured debts under IBC

The Government may consider amending the IBC along with relevant rules and regulations thereunder

to clarify that secured debts do not include crown debts. This may be undertaken by inserting the following proviso to section 3(31) of IBC:

> Provided further that security interest shall not include any right, title or interest or a claim to property, created pursuant to or by operation of any law in favour of, or provided for securing payment or performance of any obligation or debt in respect of dues arising under any law in force owed to any authority including the Central Government, any State Government or any local authority and includes mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement created pursuant to or by operation of any law in favour of, or provided for securing payment or performance of any obligation or debt in respect of dues arising under any law in force owed to any authority including the Central Government, any State Government or any local authority.

Further, section 53(1) of IBC may be amended in the following manner:

- Section 53(1)(b)(ii) be revised to state that the priority shall be given only to financial debts owed to secured FCs who have relinquished their security in the manner set out in section 52 of IBC;
- Section 53(1)(d) be revised to state that the priority shall be given only to financial debts owed to unsecured FCs;
- Section 53(1)(e)(i) be revised to state:

  any amount due to the Central Government and the State Government and local authorities including (a) the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any; or (b) any such amount secured by any mortgage, charge, hypothecation, assignment and encumbrance or any other agreement or arrangement created pursuant to or by operation of any law for securing payment or performance of any obligation or debt in respect of dues arising under any law owed to any authority including the Central Government, any State Government or any local authority or secured by any right, title or interest or a claim to property, created pursuant to or by operation of any law in favour of, or provided for securing payment or performance of any obligation or debt in respect of dues arising under any law owed to any authority including the Central Government, any State Government or any local authority;

Option 2: Distribution of proceeds up to liquidation value and pro-rata distribution of surplus resolution amount

Alternatively, if the intent is to optimize recoveries to OCs as a class, we suggest an amendment to the liquidation waterfall under section 53 of IBC to provide for a distribution framework similar to what is followed in the resolution of IL&FS Ltd. and its group companies (IL&FS resolution framework). The IL&FS resolution framework stipulates the financial bid amount shall be distributed in the order of priority laid down in section 53 of IBC, up to the liquidation value of each class of creditors.[34] Any surplus remaining after making these payments shall then be distributed *pro-rata* to the creditors' remaining debt.[35] This mechanism provides a better opportunity for OCs (including statutory authorities) to recover amounts beyond their liquidation value.

CONCLUSION

The IBC has proven to be a dynamic law and the Central Government has been alive to changing policy needs and market perspectives. It is imperative that any change in interpretation or application of the clear letter of the law is only driven through the Parliament and not through courts. The BLRC

Report clearly captures the economic rationale for subordinating crown debts in favour of bolstering recoveries for the banking sector. Depending on the gravity of the loss being suffered by statutory authorities the Government may consider one of the options set out above to address the issue conclusively.

[1] The Report of the Bankruptcy Law Reforms Committee, Volume 1: Rationale and Design, November 4, 2015, p. 29.

[2] *State Tax Officer (1) v. Rainbow Papers Limited*, 2022 SCC OnLine SC 1162.

[3] Section 327(7) of Companies Act, 2013 specifically provided that sections 326 and 327 would not be applicable in the event of liquidation under the IBC.

[4] Insolvency Law Review Committee (1982), Ch 32, Keay and Walton (1999).

[5] Section 319, The Companies Act, 1948.

[6] The Insolvency Act, 1986 (HMRC Debts: Priority on Insolvency) Regulations, 2020.

[7] Management of Proceedings, UNCITRAL's Legislative Guide on Insolvency Law (2004), Part two (V), para 74.

[8] RBI, "Database on Indian Economy".

[9] Vishwanathan N. (2016), "Asset Quality of Indian Banks: Way Forward, Reserve Bank of India Bulletin", October.

[10] Supra Note 8.

[11] RBI, "Insolvency and Bankruptcy Code and Bank Recapitalisation", December 17, 2017.

[12] *Ibid*.

[13] RBI, "Basic Statistical Returns of Scheduled Commercial Banks in India", Vol. 44, March, 2015.

[14] RBI, "Operations and Performance of Scheduled Commercial Banks", December 23, 2015.

[15] Supra Note 11.

[16] Interim Report of the Bankruptcy Law Reform Committee, February, 2015, pp. 35-36.

[17] *Ibid*., p. 95.

[18] *Ibid.*, p. 96.

[19] Supra Note 1, p. 14.

[20] *Ghanashyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited*, (2021) 9 SCC 657.

[21] *Ibid.*

[22] *Pr. Director General of Income Tax (Admn. & TPS) and Ors. v. Synergies Dooray Automotive Ltd. & Ors*., 2019 SCC OnLine NCLAT 691.

[23] *Electrosteel Steels Limited v. State of Jharkhand & Ors*., 2020 SCC OnLine Jhar 454.

[24] *Union of India and Ors. v. Vijaykumar V. Iyer and Ors.*, 2021 SCC OnLine NCLAT 355.

[25] *Ultra Tech Nathdwara Cement Ltd. v. Union of India and Ors*., 2020 SCC OnLine Raj 1097.

[26] *Leo Edibles and Fats Ltd. v. Tax Recovery Officer and Ors.,* 2018 SCC OnLine Hyd 193.

[27] *Sundaresh Bhatt, Liquidator of ABG Shipyard v. Central Board of Indirect Taxes and Customs*, 2022 SCC OnLine SC 1101.

[28] *Jalgaon Janta Sahakari and Ors. v. Joint Commissioner of Sales Tax, Nodal-9, Mumbai and Ors*., 2019 SCC OnLine Bom 1552.

[29] *Assistant Commissioner of Income Tax Department v. Mr. Anil Goel, Monitoring Agrncy & Ors*., CA No.1123/2019 in CP (IB) No.07/Chd/Hry/2017 (Admitted).

[30] *BALCO Employees' Union v. Union of India*, (2002) 2 SCC 333.

[31] *Swiss Ribbons (P) Ltd. v. Union of India*, (2019) 4 SCC 17.

[32] "Recovery rate of insolvency cases resolved at NCLT stood at 30.6% in June quarter", India Infoline News Service, September 8, 2022.

[33] Prasad R. and Iyer S. (2022), "A raw deal for operational creditors in IBC", *Hindustan Times*, 9 August.

[34] *Union of India v. Infrastructure Leasing & Financial Services Limited & Ors*., Company Appeal (AT) No. 346 of 2018 With I.A.3616, 3851, 3860,3962, 4103,4249 of 2019,182,185 of 2020, Company Appeal (AT) No. 347 of 2018 With I.A. No. 3850, 3859 of 2019 & Company Appeal (AT) No. 256 of 2019.

[35] *Ibid.*